

# Exhibit F

**CHAPTER 40B SUBSIDIZED HOUSING INVENTORY 2001**  
**NOTES TO ACCOMPANY DHCD'S CHAPTER 40B SUBSIDIZED HOUSING INVENTORY**

1. **Introduction** - This Inventory contains the number and percentage of low- or moderate-income housing units for purposes of Massachusetts General Laws Chapter 40B, §§ 20-23 (also known as the Comprehensive Permit). It does not list all subsidized, low- or moderate-income housing in the community (Units obtained using a Section 8 mobile voucher or a Massachusetts MRVP voucher do not qualify for the inventory). Chapter 40B authorizes a housing agency or developer to obtain a single comprehensive permit for the construction of subsidized low- or moderate-income housing. If a community in which less than 10% of its total year-round housing stock is subsidized low- or moderate-income housing, denies a comprehensive permit application, or imposes conditions that make a project uneconomic, the developer may appeal to the state Housing Appeals Committee for review of the local action. Under 760 CMR 31.04, DHCD is responsible for maintaining a Chapter 40B Subsidized Housing Inventory for purposes of determining each community's percentage of subsidized low- and moderate-income housing.
2. **Low- or Moderate-Income Housing** - The column in this Inventory labeled "Chapter 40B Units" shows the number of housing units which count toward the municipality's 10% threshold of low- or moderate-income housing. This includes both subsidized affordable units and market-rate units in certain eligible subsidized rental developments (If at least 25% of the units in a rental development are restricted to occupancy and occupied by individuals and families below 80% of median, the units in the entire development are counted toward the community's eligible "Chapter 40B Units").
3. **Use of the 2000 Census** - The column in this Inventory labeled "Percent Subsidized 2000 Base" shows the municipality's percentage of subsidized low- or moderate-income housing. This percentage has been calculated by dividing the number of Chapter 40B units by the number of "2000 Year-Round Housing Units" reported in the 2000 decennial census of the U.S. Department of Commerce, Bureau of the Census. While the Chapter 40B Unit figures and resulting percentages are presumed correct for purposes of Chapter 40B, a local zoning board of appeals or a developer may submit to DHCD more recent evidence or evidence which it believes is more accurate.
4. **Source Data** - Data for this Inventory is provided by DHCD, MassHousing, U.S. Department of Housing and Urban Development (HUD), USDA Rural Development, Massachusetts Housing Partnership (MHP) and various other federal and state agencies. The data in this Inventory are summary data based upon a project-by-project listing maintained by DHCD. Both this Inventory and the project listing upon which it is based replace the 1997 Chapter 40B Subsidized Housing.
5. **Qualifying Units and Programs** - Generally, housing affordable by low- or moderate-income individuals or families with long-term restrictions that ensure that it will remain affordable is counted toward a municipality's 10% threshold and included in this inventory. As a guide for the public, DHCD publishes a listing of Chapter 40B Low- or Moderate-Income Housing Programs, which lists programs that normally would qualify under the statute. (See Appendix A.) Though the listing is generally accurate as a reference, it is not conclusive as to whether individual projects or units will be counted toward the 10% goal.

DHCD, in consultation with the Housing Appeals Committee (HAC), has developed the criteria below for determining what housing is eligible to be counted and included in this Inventory. These criteria are based upon the statutory definition of low- or moderate-income housing, which is "any housing subsidized by the federal or state government under any program to assist the construction of low- or moderate-income housing as defined in the applicable federal or state statute, whether built or operated by any public agency or any nonprofit or limited divided organization." G.L. c. 40B, §20; also see 760 CMR 30.02. They also reflect policy decisions implementing the recommendations in the April, 1989 final report of the Special Legislative Commission Relative to Low- and Moderate-Income Housing Provisions. See 760 CMR 45.01.

**A. Eligible Development** - A PROJECT MUST MEET THE FOLLOWING CRITERIA TO BE ELIGIBLE FOR THE CHAPTER 40B SUBSIDIZED HOUSING INVENTORY:

(1) it has been approved or is approvable by the federal or state government under any program to assist the construction or substantial rehabilitation of housing which is affordable to people or families with incomes no higher than 80% of the median income for the MSA, PMSA, or the non-metropolitan county in which the unit is located, (see, e.g., 42 U.S.C. § 5302(a)(20))

(2) 25% or more of the units in the development,<sup>1</sup> are affordable, as defined above, and subject to use restrictions or re-sale controls to preserve its affordability as follows:

(a) for thirty years or longer from the date of subsidy approval or construction for new construction, (new units occupied before Oct. 1, 2001 can have a 15-year deed restriction to qualify for the inventory)

(b) for fifteen years or longer from the date of subsidy approval or completion for substantial rehabilitation, (rehabilitated units occupied before Oct. 1, 2001 can have a 5-year deed restriction to qualify for the inventory)

(3) It is subject to, or will be subject to a Regulatory Agreement or the equivalent between the developer and the subsidizing agency which adequately specifies material provisions for affordability, monitoring and enforcement.

(4) it is subject to or will be subject to an Affirmative Fair Marketing Plan approved by the subsidizing agency.

**IF A DEVELOPMENT IN YOUR COMMUNITY MEETS THOSE CRITERIA BUT DOES NOT HAVE A FEDERAL OR STATE SUBSIDY, YOU MAY APPLY TO THE LOCAL INITIATIVES PROGRAM (LIP) UNITS ONLY. IF LIP APPROVAL IS GRANTED, THE APPROVED LOCAL INITIATIVE UNITS WILL BE ADDED TO THE INVENTORY.**

For more information about LIP, call the Department of Housing and Community Development, Division of Private Housing at (617)727-7824.

**B. Counting of Units**

(1) Units in Eligible Developments - Unless the regulations governing the subsidy program provide otherwise, housing in an eligible development is counted as follows:

(a) Rental Units - All rental housing units are counted as low- or moderate-income housing (i.e., included in this inventory).

(b) Ownership Units - Only those ownership units which are affordable and restricted, as defined in § A(1) and A(2) above, are counted as subsidized low- or moderate-income housing and included in this inventory.

<sup>1</sup> Alternatively, 20% of the units may be set aside for those with incomes equal to or less than 50% of the median income.

Examples

i) In LIP rental developments, pursuant to 760 CMR 45.06(3), if a total of 20 units are built and nine are "affordable" all twenty units are counted.

ii) In LIP homeownership developments, pursuant to 760 CMR 45.06(3), if a total of 20 units are built and nine are "affordable" only the nine affordable units are counted.

(2) Local Initiative Units - Local Initiative Units as defined by the LIP regulations in 760 CMR 45.03 (even though not in an eligible development) are counted as low- or moderate-income housing pursuant to 760 CMR 45.06(1).

C. Time Limitations

(1) Inception - Units become eligible to be counted when they receive a comprehensive permit, a building permit, or become available for occupancy. 760 CMR 31.04(1)(a).

(2) Discontinuation - Unless the regulations governing the subsidy program provide otherwise, units are counted as low- and moderate-income housing for the period for which affordability is preserved (lock-in period) as described in the Regulatory Agreement or, if there is no Regulatory Agreement, in use restrictions, re-sale controls or similar legally binding documents. If an initial lock-in period is extended, the units continue to be counted during the extended period. If the use restrictions or re-sale controls are released or become void in a manner consistent with the subsidy program, the units continue to be counted for the remainder of the lock-in period.

Examples

(a) HOP re-sale controls are intended to be in effect in perpetuity. If an eligible purchaser cannot be located for a HOP affordable unit and the re-sale controls lapse in accordance with the program, the unit continues to be counted.

(b) LIP use restrictions are intended to be in effect in perpetuity. Nevertheless if they lapse, the unit is no longer counted because of the provisions of the program regulations. See 760 CMR 45.06 (1) , 45.06 (2).

6. Local Initiative Program - Affordable housing which is developed locally by housing trusts, land trusts, or other mechanisms, if subject to long-term affordability restrictions, will usually qualify for the LIP program. Affordable units may be counted either as individual Local Initiative Units or as part of an approved LIP project, as previously described in note 5.

7. Accuracy - This inventory is based upon the most accurate information available to DHCD as of the time of publication. Nevertheless, because of the diversity of sources drawn upon and multiple subsidies for some developments, inaccuracies may occur, not only in this inventory, but also in previous versions. Therefore, an increase or decrease in units in a particular community does not necessarily mean that the community gained or lost units, but may indicate corrections to the inventory.

Suggested corrections to the inventory may be submitted in writing by the municipality, a developer, or a member of the public to DHCD, 1 Congress Street, 10<sup>th</sup> Floor, Boston, MA 02114.

**Attention: Chapter 40B Subsidized Housing Inventory. Clerical errors will be noted immediately, and corrected figures will be issued with the next revision of this Inventory.**

Housing subsidized by programs which normally do not qualify under Chapter 40B (i.e., those in Category II of the listing) in most cases will be counted only if the units are independently approved as Local Initiative Units by DHCD under the Local Initiative Program (LIP), which requires long-term affordability restrictions and other requirements previously described in note 5.

In exceptional cases, the DHCD may determine that housing subsidized by a Category II program should be counted or that housing subsidized by a Category I program should not. Such a determination requires complex analysis of DHCD policy (e.g., the criteria contained in these notes), regulations, and statutes, and will be made by DHCD on a case by case basis upon consideration of all information available about the units and development. Meeting the criteria outlined in note 5 does not guarantee a positive determination. Decisions on such matters by DHCD are subject to review pursuant to 760 CMR 31.04 (1) (a).

**APPENDIX A****COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT****Listing of Chapter 40B Eligible Housing Programs****2001**

**Category I** - The following housing programs are low- or moderate-income housing programs<sup>1</sup> for purposes of G.L. c.40B, §§ 20-30, 760 CMR 30.02(k), 31.04 (1)(a).

**Eligible Active Programs****A. State Programs**

DHCD Chapter 689 (Special Needs Housing)

DHCD Chapter 167 (Special Needs Housing)

DHCD Chapter 705 (Family Low Income Housing)

DHCD Chapter 667 (Elderly/Handicapped Low Income Housing)

DHCD Low Income Housing Tax Credit Program

DHCD Affordable Housing Trust (AHT) (units affordable to people or families with incomes no higher than 80% of the median income)

DHCD Housing Innovations Fund (HIF) (Non-transitional housing only)

DHCD Housing Stabilization Fund (HSF)

DHCD Local Initiative Program (LIP)

DHCD Local Initiative Program (LIP) Units Only<sup>2</sup>

DHCD Individual Self Sufficiency Program (ISSI)

DMR Group Homes

DMH Group Homes

EOHHS Facilities Consolidation Fund (FCF)

DMR/DMH community-based housing (some uses)

Massachusetts Housing Partnership Fund (MHP)

MassHousing 80/20 Rental Housing

MassHousing Elder 80/20

MassHousing Elder Choice

MassHousing Expanding Rental Opportunities (ERA)

MassHousing Housing Starts

**B. Federal Programs<sup>3</sup>**

FHLB Affordable Housing Program

FHLB New England Fund (units will count if they meet affordability standards)

HUD HOME Program (Rental Production, Project-Based Homeownership, Homeowner Rehab)

HUD Section 811 (Supportive Housing for Persons with Disabilities)

HUD Low Income Housing Tax Credit Program (LIHTC)

HUD Section 202 (Supportive Housing for the Elderly)

HUD Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program

HUD Section 8 Project-Based Rental Certificate Program

HUD Shelter Plus Care (Project-Based Rental Assistance and SRO-Based Assistance only)

HUD CDBG Housing Development Support Program (HDSP) (most uses)

HUD CDBG Community Development Fund (CDF) (non-entitlement communities - some uses)

HUD Enhanced Voucher (Sticky)

USDA Rural Development Section 515 program

**Inactive Eligible Programs****A. Federal Programs**

Chapter 200 (Veterans' Housing)

Chapter 13A Interest Reduction Subsidy Program

MassHousing Multi-Family Rental

HUD Section 221(d)(3), 221(d)(4)

HUD Section 231

HUD Section 236

HUD Section 8 New Construction

HUD Section 8 Substantial Program

HUD Section 8 Moderate Rehabilitation Program

**B. State Programs**

HOP (Homeownership Opportunity Program)<sup>4</sup>

R-DAL (Rental Development Action Loan)

SHARP (State Housing Assistance for Rental Production)

TELLER (Tax Exempt Local Loans to Encourage Rental Housing)

Massachusetts Government Land Bank Residential Housing



**Category II** - The following programs, as well as programs not appearing anywhere on this listing are not usually deemed low- or moderate-income housing programs for purposes of G.L. c. 40B§ 20-23, 760 CMR 30.02(k), 31.04 (1)(a).<sup>6</sup>

**Ineligible Programs and Housing Types**

DHCD Alternative Housing Voucher Program (AHVP)

DHCD CDAG (Community Development Action Grant)

DHCD Massachusetts Rental Voucher Program (formerly Chapter 707 Program)

DHCD Mass Rental Voucher Program Program-Moderate Rehabilitation Program (project-based vouchers)

DHCD Soft Second Loan Program

EOHHS Shelter Plus Care (Tenant-Based Rental Assistance, Sponsor-Based Rental Assistance)

HUD Emergency Shelter Grants Program

HUD HoDAG (Housing Development Action Grant)

HUD HOME Program (Tenant Based Rental Assistance, Homeownership Purchaser Based)

HUD CDBG (entitlement communities – units not deed restricted for at least 15 years)

HUD HOPE (Home Ownership for People Everywhere)

HUD Section 8 Rental Certificate Program

HUD Section 8 Rental Voucher Program

HUD Section 8 Loan Management Set-Aside Program

HUD Section 8 Property Disposition Set-Aside Program

HUD Section 221(d)(2)

HUD UDAG (Urban Development Action Grant)

Manufactured Housing

Military Housing

Transitional Housing

Shelters

Prisons

USDA Rural Development Section 502 Program

<sup>1</sup> This listing does not provide a conclusive indication as to whether any housing development or housing unit is within the statutory definition of low- or moderate-income housing. Though this listing is generally accurate as a reference and is used by DHCD in making such determinations, the determinations are made as a formal matter under the criteria described in the notes to the DHCD Chapter 40B Subsidized Housing Inventory. Pursuant to 780 CMR 31.04(1)(a), such determinations are subject to review by the Housing Appeals Committee in the context of formal appeals concerning particular housing proposals. In addition, because of program changes and new programs, this list will be updated periodically to insure its accuracy. If you are aware of changes which should be reflected on the list, please contact the DHCD Director's Office at (617) 727-7765.

<sup>2</sup> Affordable housing which is developed locally by housing trusts, land trusts, or other mechanisms, and contains long-term affordability restrictions, will usually qualify for the LIP program. If the development is granted LIP approval, it will be counted as low- and moderate-income housing in the DHCD Chapter 40B Subsidized Housing Inventory.

<sup>3</sup> HUD is the U.S. Dept. of Housing and Urban Development; FHLB is the Federal Home Loan Bank; USDA Rural Development was the Farmers' Home Administration.

<sup>4</sup> New private HOP projects will qualify for the Chapter 40B Subsidized Housing Inventory.

<sup>5</sup> Because of the large number of programs related to housing (e.g. HUD, Program of HUD - 1992, which describes over 70 programs), this listing does not attempt to be all-inclusive. Rather, it lists programs which are most likely to be mistakenly considered within the Chapter 40B definition of low- or moderate-income housing.

<sup>6</sup> Housing subsidized by programs in this category in most cases will be counted as low- and moderate-income housing in the DHCD Chapter 40B Subsidized Housing Inventory only if the development is independently approved under the Local Initiative Program (LIP), which includes the long-term affordability restrictions and other requirements described in the Inventory.