

Notwithstanding any rental increases pursuant to the immediately preceding sentence, not less than 20% of the units, including the 58 units of the Framingham Housing Authority, shall be rented at all times to low-income persons or families at or below the adjusted rentals which are shown on said schedule provided however that during the term the Project is receiving subsidy loans pursuant to the Rental Housing Development Action Loan program ("RDAL") 25% of the units shall be rented at all times to lower income persons or families at the rentals and other requirements of Chapter 226 of the Acts of the Commonwealth of Massachusetts or 1987. In fulfilling this requirement the Owner will accept tenants from the Framingham Housing Authority, and will not unreasonably refuse occupancy to any prospective tenants so referred. Owner further agrees to fulfill this requirement by utilizing the Section 8 Rental Assistance Payments Program pursuant to the Section 8 Voucher program as committed in a letter to the Executive Director of the Framingham Housing Authority from the Regional Administrator of the United States Department of Housing and Urban Development ("HUD") dated September 30, 1988 or the Chapter 707 Rental Subsidy Program of the Commonwealth of Massachusetts or any and all other federal, state, local or private subsidy programs. In the event of the unavailability to the Project at any time while this Agreement is in effect of any of the Section 8 Programs or the Chapter 707 Program of the Commonwealth of Massachusetts Owner will use best efforts to secure assistance under any other presently or subsequently enacted federal or state program under which low income persons may be eligible for public assistance in paying for the cost of shelter. In the event of the unavailability of such housing subsidy programs at any time while this Agreement is in effect, Owner will make every reasonable effort to fulfill the Agency's statutory requirement that not less than 20% of the units in the Project if there is no RDAL be available to low-income persons or families at rents not exceeding 25% of their annual income, and not less than 25% of the units in RDAL-assisted projects be available to lower-income persons and families at rents not exceeding 30% of their annual income, unless a different percentage is required by any federal or state subsidy program, by upward adjustment of rentals for the units occupied by other than low income persons or any other means that are then available, and the adjusted rentals payable by the persons and families of low income occupying the statutorily required number of low income units will be increased only in the event of proof, to the Agency's reasonable satisfaction, that the only alternative to such increase would lead to Owner's inability to meet its obligation to amortize the permanent mortgage loan. In the event of any such increase, the rentals payable by said persons and families will be reduced again upon determination by the Agency that such additional rental

is no longer required to prevent said inability to amortize the loan. Income verifications satisfactory in form and manner to the Agency will be made at least every two (2) years for all subsidized tenants, or annually, if necessary, to comply with requirements of the Subsidy Documents. As used in this Agreement the term "low-income families" shall mean persons or families eligible at any given time for occupancy in public housing in the city or town in which the Project is located; the terms "adjusted rental," "below market rental", and "market rate rental" shall have the same meaning as in Section 1(e) of the Act.

2. Any and all other definitions of "rents" or "rentals" that may be applicable because of federal or state subsidy programs shall be determined by the rules and regulations of such subsidy programs. Rentals shall be determined pursuant to the HUD Use Agreement for HUD Project Nos. 023-55001 (Beaver Park) and 023-55108 (Beaver Gardens) recorded in said Registry herewith.
3. This Agreement, the Mortgage Note, the Mortgage, Security-Agreement and Assignment of Leases and Rents, the Construction Loan Agreement, the Land Use Restriction Agreement and Development Fund Agreement executed by the parties, all of even date and relating to the Project, and all agreements between the Owner and the Agency, or either of them, and the United States Department of Housing and Urban Development and/or the Commonwealth of Massachusetts, or any subdivision, relating to the provision of mortgage, rental or operating subsidies for the project (the "Subsidy Documents") shall be construed as a single agreement, and default by the Owner under the provisions of any one shall be deemed a default under each of the others. Said documents collectively shall be known as the "Contract Documents". The terms "Property" and "Project" are defined in the Mortgage.
4.
 - A. The Resident Selection Plan which has been approved by the Agency will be complied with. Said plan is hereby made a part of this Agreement, and is attached hereto as Appendix B. As between applicants equally in need and eligible for occupancy, preference shall be given in the leasing of units, in accordance with statutory requirements, to persons displaced by public action or natural disaster. There shall be no discrimination on the selection of tenants by reason of the fact that there are children in the family of the applicant except as otherwise permitted by Massachusetts General Laws Chapter 151B, Section 4.
 - B. Tenant Selection requirements of the Framingham Housing Authority are attached hereto as Appendix C. These requirements are to be utilized exclusively for the 58 units which the Framingham Housing Authority has leased. All other

units are to be rented pursuant to the Resident Selection Plan attached as Appendix B.

5. There shall be no discrimination upon the basis of race, creed, color, sex, handicap, or national origin in the lease, use, or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project. An Affirmative Action Plan with regard to advertising for, hiring and promoting employees of the Owner or of the management company hired by the Owner must be approved by the Agency. Contracts for services and goods will be subject to such Affirmative Action Plan.
6. All records, accounts, books, tenant lists, applications, waiting lists, documents, and contracts relating to the Project shall at all times be kept separate and identifiable from any other business of the Owner which is unrelated to the Project, and shall be maintained, as required by regulations issued by the Agency from time to time, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Agency. Failure to keep such books and accounts and/or make them available to the Agency will be a default pursuant to section 2.1 of the Mortgage.
7. Commencing September 1, 1989 Owner shall establish and maintain a reserve fund for replacements in an escrow account controlled by the Agency in an amount per month specified above. It is agreed by the Owner that the replacement reserve amount specified above shall be adjusted each year by the amount of the adjustment factor required by the Agency. The interest earned on the account shall remain in the Replacement Reserve for the benefit of the Project. Disbursements from such fund, whether for the purpose of effecting replacement of structural elements or mechanical equipment, may be made only after receiving the prior consent in writing of the Agency, which consent will not be withheld unreasonably. In the event of a default in the terms of the Mortgage whereby repayment of the loan is accelerated, the Agency may apply or authorize the application of the balance in such fund to the amount due on the Mortgage Debt as accelerated. In the event of prepayment of the loan pursuant to the provision of the Mortgage, the balance in such fund shall belong to the Owner.
8. Owner shall establish a Distribution Account, in accordance with the following requirements:
 - (a) Only such Project income from rents or other sources may be allocated to the Distribution Account as may remain after, and any amounts in the Distribution

Account shall always be available for, in the following order of priority: (i) payment of or adequate reserve for all sums due or currently required to be paid under the terms of the Mortgage and the Mortgage Note; and (ii) payment of or adequate reserve for all current obligations of the Project other than the mortgage loan, including escrows for real estate taxes and insurance and the Developer Loan Escrow and the Tenant Protection Escrow (as such terms are defined in the Development Fund Agreement between the Owner and the Agency of even date herewith); and (iii) deposit of all amounts required to be deposited in the reserve fund for replacements; and (iv) payments of expense loans from the distribution account by the general partners of the Owner for Project expenses, provided that the Owner shall have obtained prior Agency approval for such loans and shall have supplied the Agency with such evidence as the Agency may reasonably request as to the application of the proceeds of such operating expense loans to Project expenses. Distribution may be made from the Distribution Account only when all currently payable obligations of the Owner as identified in paragraphs (i), (ii), (iii) and (iv) above are paid as evidenced by a certificate provided by an independent accountant indicating that no such obligation are more than thirty days past due. Deposit for required escrows, including but not limited to, taxes, Replacement Reserve and insurance shall be made commencing September 1, 1989.

- (b) No additional amount shall be allocated to the Distribution Account, and no amount shall be paid out of said Account when a default for which notice has been issued exists under the Contract Documents, or when there has been failure to comply with the Agency's notice of any reasonable requirement for proper maintenance of the Project, or when there is outstanding against all or any part of the Project any lien or security interest on the Project assets other than the Mortgage unless provided for to the Agency's reasonable satisfaction by insurance, reserve, or in a similar manner. No amount shall be allocated to the Distribution Account which constitutes or is derived from the borrowed funds or from the sale of capital assets, except with the prior written authorization of the Agency.
- (c) Distribution to equity owners may be made from the Distribution Account, provided that no distribution for any fiscal year may exceed that percentage of the Owner's Equity in the Project which from time to time is permitted under the Act, and which, at the time of execution hereof, is six percent (6%). The equity

amount shall be subject to adjustment at the time of the final mortgage advance in the event that the difference between the amount of the mortgage loan and the total project cost as described in Section 5(d) of the Act, differs from said agreed amount. Distributions shall be permitted with respect to each fiscal year of the Project after Completion as defined in the Construction Loan Agreement, but not before all current and owed-to-date project expenses have been paid and reserves, then due or owing, have been funded. In the event that distributions are not made in any succeeding year to the maximum percentage permitted by law at the time with respect to such year, then in that event, but subject to the provisions of subsections (a) through (c), such deficiency may be made up without interest, out of amounts in the Distribution Account. Distribution may in no case be made from the Excess Rental Account established pursuant to paragraph 9 hereof. Distributions may be made only after all deposits required pursuant to Paragraph 8(a) have been made.

9. For those units not leased by the Framingham Housing Authority, all rentals, if any, received by the Owner in excess of the below-market rentals established for each unit and not necessary for Project operations shall be deposited in an Excess Rental Account. Funds from this Account may be applied pursuant to written Agency approval to reduce rentals so as to make more units available to low income persons and families.
10. Occupancy shall be permitted only upon execution of a lease in form satisfactory to the Agency. All units leased by the Framingham Housing Authority shall be leased in accordance with the Standard Lease for State-Aided Public Housing. All unit leases for units not leased by the Housing Authority shall be expressly subordinated to the Mortgage, and shall contain clauses, among others (though in the event such clauses are inconsistent with the Subsidy Documents, the Subsidy Documents will apply to those units for which there is a subsidy) wherein each individual Lessee:
 - (a) certifies the accuracy of the statements made in the application and income survey;
 - (b) agrees that the family income, family composition and other eligibility requirements, shall be deemed substantial and material obligations of his tenancy; that he will comply promptly with all requests for information with respect thereto from the Owner or the Agency, and that his failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his tenancy;

- (c) agrees that at such time as the Owner or Agency may direct, he will furnish to the Owner certification of then current family income, with such documentation as the Agency shall require.
- (d) agrees to such charges as the Agency has previously approved for any facilities and/or services which may be furnished by the Owner or others to such tenant upon his request, in addition to the facilities and services included in the approved Rental Schedule;

11. Except for the 99 year lease for 58 units with the Framingham Housing Authority, Owner shall not without the prior written approval of the Agency, which approval will not unreasonably be withheld, and any other governmental authority whose jurisdiction includes regulation of Owner, nor contrary to Agency law effective at the time in question:

- (a) convey, transfer, or encumber any of the mortgaged property including the grant of commercial leases, or permit the conveyance, transfer or encumbrance of such property (except for apartment leases).
- (b) assign, transfer, dispose of, or encumber any personal property of the Property, including rents, or pay out any funds other than: distributions with respect to equity expressly permitted hereunder, excess mortgage proceeds which are permitted to be distributed pursuant to the terms of the Construction Loan Agreement, reasonable operating expenses and necessary repairs, proceeds of the sale of ownership shares of the Owner, subject to the terms of the Development Fund Agreement, and repayment of loans which the Owner makes to the Project at such rates and upon such conditions as the Agency reasonably agrees are fair and reasonable to the Project, provided, however, that Owner is expressly permitted to assign, transfer, dispose of or encumber any tangible personal property to be replaced by or with other items of personal property of like quality and value, and free of superior title, liens and claims.
- (c) convey, assign, transfer, or permit the surrender or relinquishment of any interest in The Pelham Corporation, or any right to manage or receive the rents and profits of the Project, except with the Agency's prior written approval, and unless the transferees or assignees of the Owner assume the obligations of the Contract Documents by an instrument in writing satisfactory to the Agency;
- (d) substantially remodel, add to, reconstruct, or demolish

any part of the mortgaged property or substantially subtract from any real or personal property of the Project;

- (e) permit the use of the dwelling accommodations of the Project for any purpose except residences or permit commercial use greater than that originally approved by the Agency, if any;
- (f) incur any liability direct or contingent, out of the ordinary course of business in developing and operating a low and middle income residential housing Project;
- (g) except as stated expressly in the Contract Documents or otherwise approved by Mortgagee in writing, pay any compensation or make any distribution of income or other assets to any of the owners of shares of stock or of beneficial interest;
- (h) enter into any management contract;
- (i) modify or amend the Owner's charter, by-laws, partnership agreement, or other governing instrument or instruments, except as permitted by the Contract Documents;
- (j) if the Owner is a corporation, modify or amend the articles of organization, by-laws, or other governing instrument or instruments; nor shall any interest in stock be transferred. Members of the Board of Directors must be approved by both the Agency and the Executive Office of Community Development ("EOCD").

12. Owner shall provide for the management of the Project in a manner reasonably satisfactory to the Agency. Any management contract entered into by Owner shall contain a provision that it shall be subject to termination, without penalty and with or without cause, upon 30 days notice by the Owner if such termination is requested by the Agency and be terminable immediately by the Agency if Owner fails to implement such request by the Agency. Upon receipt of such request or notice of termination, Owner shall immediately make arrangements reasonably satisfactory to the Agency for continuing proper management of the Project. Any event of default under the Contract Documents shall be cause for termination of the management contract by the Agency. Owner, with the approval of the Agency, may retain the terminated management company for up to thirty days while a replacement management company is being selected. In the event that, subsequent to thirty days after the termination of the management contract by the Owner (whether or not such termination is pursuant to the provisions of this section), Owner has not made arrangements reasonably satisfactory to the Agency for continuing proper

management of the Project, the Agency shall have the right to designate a management agent for the Project. All notices of requests for change in the Management Company or the Management Agreement shall be sent to all parties listed in the Notice clause hereof.

13. Payment for services, supplies, or materials shall not exceed the amount ordinarily and reasonably paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.
14. Within the ninety (90) days following the end of each fiscal year of the Project, the Agency shall be furnished with a complete annual financial report for the Project based upon an examination of the books and records of the Owner containing a detailed, itemized statement of all income and expenditures, prepared and certified by a Certified Public Accountant in accordance with the reasonable requirements of the Agency which include (i) the income statement submitted on an Agency format, and (ii) the financial report on an accrual basis and in conformity with generally accepted accounting principles applied on a consistent basis. A duly authorized agent of the Owner must approve in writing such submission.
15. At the request of the Agency, the Owner shall furnish quarterly financial statements and occupancy reports and shall give specific answers to questions upon which information is reasonably desired from time to time relative to the ownership and operation of the Project.
16. All rents and other receipts of the Project shall be deposited in the name of the Owner or a nominee for the Owner in a bank or banks, whose deposits are insured by the F.D.I.C. The Agency shall at all times be advised of the names of the accounts and names of the banks. Such funds shall be withdrawn only in accordance with the provisions of this Agreement. Any person receiving funds of the Project other than as permitted by the Contract Documents shall immediately deposit such funds in a Project bank account, and failing to do so in violation of this Agreement, shall hold such funds in trust for the Project.

The Owner, its officers and directors, and the Managing Agent shall be responsible and account for any and all disbursements made from rents and receipts from the operation of the Project, and failure to account for any cash disbursements used for any purpose not permitted by the Contract Documents shall make the Owner, its officers and directors, and the Managing Agent personally liable to the extent of such unaccounted for disbursements. Project income may be used only for the purposes specified in Section 8(a)(i)-(iv)

and 8(c).

17. There shall be full compliance with the provisions of all state or local laws prohibiting discrimination in housing on the basis of race, sex, handicap, religion, color, national origin, age, marital status or ancestry, and providing for nondiscrimination and equal opportunity in housing. Failure or refusal to comply with any such provisions shall be a proper basis for the Agency to take any corrective action it may deem necessary including, but not limited to, the rejection of future applications for mortgage loans and the refusal to enter into future contracts of any kind with which the Owner or its shareholders, trustees, or beneficiaries are identified.
18. This Agreement shall bind, and the benefits shall inure to, respectively, the Owner and its successors and assigns, and the Agency and its successors and assigns, so long as the Mortgage continues in effect, whether or not the Agency shall continue to be the Owner of the Mortgage, provided, however, that this Agreement shall become a nullity upon payment and discharge of the Mortgage.
19. Owner warrants that it has not, and will not, execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations set forth and supersede any other requirements in conflict therewith.
20. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.
21. Notices shall be deemed delivered when mailed registered mail, return receipt requested, to the Owner at the above-referred-to address, to the Agency at 50 Milk Street, Boston, Massachusetts 02109, and to the Framingham Housing Authority, One John J. Brady Drive, Framingham, MA 01701 and to EOCD, 100 Cambridge Street, Boston, MA 02202 or to such other place as a party may designate in writing.
22. (i) No amendments will be made to the Owner's enabling documents which would affect the Agency's rights under any of the Contract Documents, without the Agency's prior written approval, (ii) in the event of retirement, death or insanity of an officer or director of the Owner, business will be continued by the remaining officers and directors, and (iii) no officer or director will voluntarily withdraw from the Owner without the Agency's prior written approval. Following completion of the Project, said approval will not be unreasonably withheld if there are one or more remaining or substitute


11

officers or directors who, in the Agency's reasonable opinion, are capable and competent to cause the Owner to have the capacity to effectively own and operate the Project.

IN WITNESS WHEREOF, the parties hereto have caused this Regulatory Agreement to be signed and sealed by their respective, duly authorized representatives, as of the day and year first written above.

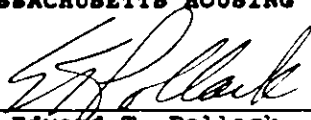
OWNER: THE PELHAM CORPORATION

By


Jeffrey E. Cairra, President

MASSACHUSETTS HOUSING FINANCE AGENCY

By


Edward T. Pollack, General Counsel

Attachments:

- Appendix A - Rent Schedule
- Appendix B - Resident Selection Plan (MHFA)
- Appendix C - Tenant Selection (Framingham Housing Authority)

Commonwealth of Massachusetts

Suffolk, ss.

August 24, 1989

Then appeared Jeffrey P. Cairn, President of The Pelham Corporation, and he declared the foregoing instrument to be his free act and deed and the free act and deed of said entity.

Before me,



Louisa Slote, Notary Public
My commission expires: 12/23/94

Commonwealth of Massachusetts

Suffolk, ss.

August 24, 1989

Then personally appeared Edward T. Pollack, General Counsel of the Massachusetts Housing Finance Agency and he acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the Agency.

Before me,



Louisa Slote, Notary Public
My commission expires: 12/23/94

APPENDIX A
ECCD'SPA

BEAVERS 20 YEAR PRO FORMA WITH SECTION 8 - EXPECTED CASE 30-JUN-89

| Rents | 5.00% | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|-------------------|-------|-------|-------|-------|-------|-------|---------|---------|---------|---------|---------|
| Market FMR | | \$786 | \$825 | \$867 | \$910 | \$955 | \$1,003 | \$1,053 | \$1,106 | \$1,161 | \$1,219 |
| Initial +80% | | \$816 | \$820 | \$788 | \$828 | \$869 | \$913 | \$958 | \$1,006 | \$1,056 | \$1,109 |
| 75% | | \$670 | \$703 | \$738 | \$775 | \$814 | \$855 | \$897 | \$942 | \$989 | \$1,039 |
| 65% | | \$580 | \$609 | \$640 | \$672 | \$705 | \$741 | \$778 | \$817 | \$857 | \$900 |
| 55% | | \$491 | \$516 | \$542 | \$569 | \$597 | \$627 | \$658 | \$691 | \$726 | \$762 |
| Initial 50%-80% | | \$387 | \$408 | \$429 | \$454 | \$477 | \$500 | \$525 | \$551 | \$577 | \$603 |
| Voucher Tenant | | \$240 | \$275 | \$289 | \$303 | \$318 | \$334 | \$351 | \$368 | \$387 | \$406 |
| Other -50% Tenant | | \$313 | \$328 | \$345 | \$362 | \$380 | \$399 | \$419 | \$440 | \$462 | \$485 |
| Voucher Sub | | \$435 | \$457 | \$480 | \$504 | \$529 | \$556 | \$583 | \$613 | \$643 | \$675 |
| Other -50% Sub | | \$489 | \$514 | \$539 | \$566 | \$595 | \$625 | \$656 | \$689 | \$723 | \$759 |

of Units

| | | | | | | | | | | | |
|-------------------|----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| "Market FMR" | | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
| Initial +80% | | 70 | 70 | 70 | 70 | 70 | 70 | 70 | 70 | 70 | 70 |
| 75% | 12 | 11 | 13 | 16 | 17 | 18 | 19 | 20 | 20 | 20 | 20 |
| 65% | 23 | 2 | 5 | 7 | 8 | 9 | 10 | 11 | 13 | 15 | 17 |
| 55% | 48 | 0 | 0 | 0 | 3 | 6 | 9 | 12 | 15 | 18 | 21 |
| Initial 50%-80% | | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 |
| Voucher Tenant | | 95 | 70 | 85 | 80 | 75 | 70 | 65 | 60 | 55 | 50 |
| Other -50% Tenant | | 22 | 22 | 22 | 22 | 22 | 22 | 22 | 22 | 22 | 22 |
| Voucher Sub | | 95 | 90 | 85 | 80 | 75 | 70 | 65 | 60 | 55 | 50 |
| Other -50% Sub | | 22 | 22 | 22 | 22 | 22 | 22 | 22 | 22 | 22 | 22 |
| | | 228 | 228 | 220 | 228 | 228 | 228 | 228 | 228 | 228 | 228 |

Project Income

| | | | | | | | | | | |
|-------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| "Market FMR" | 28,296 | 29,711 | 31,196 | 32,756 | 34,394 | 36,114 | 37,919 | 39,815 | 41,806 | 43,896 |
| Initial +80% | 349,390 | 520,666 | 662,189 | 695,298 | 730,063 | 766,566 | 804,895 | 845,139 | 887,396 | 931,768 |
| 75% | 88,403 | 109,700 | 141,766 | 158,158 | 175,834 | 194,883 | 215,357 | 226,167 | 237,475 | 249,349 |
| 65% | 13,927 | 36,560 | 53,743 | 64,491 | 76,180 | 88,877 | 102,653 | 127,303 | 154,329 | 183,652 |
| 55% | 0 | 0 | 0 | 20,476 | 43,000 | 67,725 | 94,814 | 124,444 | 156,799 | 192,079 |
| Initial 50%-80% | 116,052 | 182,418 | 209,670 | 220,154 | 231,161 | 242,719 | 254,855 | 267,598 | 280,978 | 295,027 |
| Voucher Tenant | 273,600 | 297,000 | 294,270 | 290,808 | 286,264 | 280,539 | 273,575 | 265,109 | 255,168 | 243,569 |
| Other -50% Tenant | 82,544 | 86,671 | 91,005 | 95,555 | 100,333 | 105,349 | 110,617 | 116,148 | 121,955 | 128,053 |
| Voucher Sub | 496,265 | 493,653 | 489,539 | 483,780 | 476,221 | 466,696 | 455,029 | 441,028 | 424,489 | 403,195 |
| Other -50% Sub | 129,184 | 135,643 | 142,425 | 149,547 | 157,024 | 164,875 | 173,119 | 181,775 | 190,864 | 200,407 |

| | | | | | | | | | | |
|------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Total Rent | 1,377,661 | 1,892,021 | 2,115,803 | 2,211,022 | 2,310,474 | 2,414,343 | 2,522,823 | 2,636,606 | 2,751,260 | 2,872,992 |
| -Vacancy | 47,330 | 56,761 | 63,474 | 66,331 | 69,314 | 72,430 | 75,685 | 79,030 | 82,538 | 86,190 |

| | | | | | | | | | | |
|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| | 1,330,331 | 1,835,261 | 2,052,329 | 2,144,692 | 2,241,160 | 2,341,913 | 2,447,139 | 2,555,566 | 2,668,722 | 2,786,802 |
| -Expenses | 518,488 | 541,841 | 566,288 | 591,882 | 618,677 | 646,732 | 676,106 | 706,866 | 739,071 | 772,797 |

| | | | | | | | | | | |
|--------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| MDI | 1,011,843 | 1,293,419 | 1,486,040 | 1,552,809 | 1,622,482 | 1,695,181 | 1,771,032 | 1,848,704 | 1,929,651 | 2,014,005 |
| Debt Service | 1,556,735 | 1,556,735 | 1,556,735 | 1,556,735 | 1,556,735 | 1,556,735 | 1,556,735 | 1,556,735 | 1,556,735 | 1,556,735 |

| | | | | | | | | | | |
|----------------|---------|---------|---------|--------|--------|---|---|---|---|---|
| Phase In RDAL | 80,000 | 80,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| PHA RDAL | 159,975 | 159,975 | 148,532 | 81,763 | 12,090 | 0 | 0 | 0 | 0 | 0 |
| Other RDAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total RDAL | 239,975 | 239,975 | 148,532 | 81,763 | 12,090 | 0 | 0 | 0 | 0 | 0 |
| Developer Loan | 396,119 | 112,821 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Escrow | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | | | | | |
|---------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Net Cash Flow | 91,201 | 89,480 | 77,837 | 77,837 | 77,837 | 138,446 | 214,297 | 291,969 | 372,916 | 457,270 |
| Coverage | 105.86% | 105.75% | 105.00% | 105.00% | 105.00% | 108.89% | 113.77% | 118.76% | 123.95% | 129.37% |

Cash Flow Escrow

| Cash Flow Escrow | | | | | | | | | | |
|-------------------|--|--------|---------|---------|---------|---------|---|---|---|--------|
| Begin Bal | | 0 | 95,533 | 198,339 | 298,715 | 408,627 | 0 | 0 | 0 | 0 |
| +Cash Flow | | 91,201 | 89,480 | 77,837 | 77,837 | 77,837 | 0 | 0 | 0 | 89,399 |
| -Escrow Used | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| +Interest @ 9.50% | | 4,332 | 13,326 | 22,539 | 32,075 | 42,517 | 0 | 0 | 0 | 4,246 |
| End Bal | | 95,533 | 198,339 | 298,715 | 408,627 | 520,981 | 0 | 0 | 0 | 93,645 |

Developer Loan

| Developer Loan | | | | | | | | | | | |
|--------------------|--|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Begin Bal | | 0 | 415,925 | 575,979 | 633,577 | 696,935 | 502,138 | 483,129 | 424,293 | 320,738 | 166,354 |
| +Addition To | | 396,119 | 112,821 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| -Repayment Of | | 0 | 0 | 0 | 0 | 0 | 69,223 | 107,149 | 145,984 | 186,458 | 182,990 |
| +Interest @ 10.00% | | 19,806 | 47,234 | 57,598 | 63,358 | 69,693 | 50,214 | 48,313 | 42,429 | 32,074 | 16,635 |
| End Bal | | 415,925 | 575,979 | 633,577 | 696,935 | 766,628 | 483,129 | 424,293 | 320,738 | 166,354 | 0 |

RDAL

| RDAL | | | | | | | | | | | |
|-------------------|--|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Begin Bal | | 0 | 245,974 | 304,247 | 681,705 | 799,597 | 587,479 | 547,630 | 467,863 | 345,272 | 176,077 |
| +Addition To | | 239,975 | 239,975 | 148,532 | 81,763 | 12,090 | 0 | 0 | 0 | 0 | 0 |
| -Repayment Of | | 0 | 0 | 0 | 0 | 0 | 69,223 | 107,149 | 145,984 | 186,458 | 184,881 |
| +Interest @ 5.00% | | 5,999 | 18,298 | 28,926 | 36,129 | 40,282 | 29,374 | 27,381 | 23,593 | 17,264 | 8,804 |
| End Bal | | 245,974 | 304,247 | 681,705 | 799,597 | 851,969 | 547,630 | 467,863 | 345,272 | 176,077 | 0 |

| 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| \$1.280 | \$1.344 | \$1.412 | \$1.482 | \$1.556 | \$1.634 | \$1.716 | \$1.802 | \$1.892 | \$1.986 |
| \$1.165 | \$1.223 | \$1.284 | \$1.348 | \$1.416 | \$1.486 | \$1.561 | \$1.639 | \$1.721 | \$1.807 |
| \$1.091 | \$1.145 | \$1.203 | \$1.263 | \$1.326 | \$1.392 | \$1.462 | \$1.535 | \$1.612 | \$1.692 |
| \$945 | \$993 | \$1,042 | \$1,094 | \$1,149 | \$1,206 | \$1,267 | \$1,330 | \$1,397 | \$1,466 |
| \$800 | \$840 | \$882 | \$926 | \$973 | \$1,021 | \$1,073 | \$1,126 | \$1,182 | \$1,242 |
| \$1.033 | \$1.084 | \$1.138 | \$1.195 | \$1.255 | \$1.318 | \$1.384 | \$1.455 | \$1.526 | \$1.602 |
| \$426 | \$448 | \$470 | \$493 | \$518 | \$544 | \$571 | \$600 | \$630 | \$661 |
| \$509 | \$535 | \$562 | \$590 | \$619 | \$650 | \$683 | \$717 | \$752 | \$790 |
| \$709 | \$745 | \$782 | \$821 | \$862 | \$905 | \$950 | \$998 | \$1,049 | \$1,100 |
| \$797 | \$837 | \$879 | \$923 | \$969 | \$1,017 | \$1,068 | \$1,122 | \$1,178 | \$1,237 |
| 105.00% | 105.00% | 105.00% | 105.00% | 105.00% | 105.00% | 105.00% | 105.00% | 105.00% | 105.00% |

| 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 70 | 70 | 70 | 70 | 70 | 70 | 70 | 70 | 70 | 70 |
| 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 |
| 19 | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 19 | 19 |
| 24 | 24 | 24 | 24 | 24 | 24 | 24 | 24 | 24 | 24 |
| 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 |
| 45 | 45 | 45 | 45 | 45 | 45 | 45 | 45 | 45 | 45 |
| 22 | 22 | 22 | 22 | 22 | 22 | 22 | 22 | 22 | 22 |
| 45 | 45 | 45 | 45 | 45 | 45 | 45 | 45 | 45 | 45 |
| 22 | 22 | 22 | 22 | 22 | 22 | 22 | 22 | 22 | 22 |
| 228 | 228 | 228 | 228 | 228 | 228 | 228 | 228 | 228 | 228 |

| | | | | | | | | | |
|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| 46,091 | 48,396 | 50,816 | 53,356 | 56,024 | 58,823 | 61,767 | 64,855 | 68,098 | 71,503 |
| 978,354 | 1,027,272 | 1,078,636 | 1,132,568 | 1,189,196 | 1,248,656 | 1,311,089 | 1,376,643 | 1,445,475 | 1,517,749 |
| 261,816 | 274,907 | 288,652 | 303,085 | 318,239 | 334,151 | 350,839 | 368,402 | 386,822 | 406,163 |
| 215,521 | 226,297 | 237,612 | 249,452 | 261,967 | 275,065 | 288,818 | 303,259 | 318,422 | 334,343 |
| 230,495 | 242,020 | 254,121 | 266,827 | 280,168 | 294,177 | 308,885 | 324,330 | 340,566 | 357,574 |
| 309,778 | 325,267 | 341,530 | 358,607 | 376,537 | 395,364 | 415,132 | 435,889 | 457,683 | 480,567 |
| 230,173 | 241,681 | 253,765 | 266,454 | 279,776 | 293,765 | 308,454 | 323,876 | 340,070 | 357,074 |
| 134,455 | 141,178 | 148,237 | 155,649 | 163,431 | 171,603 | 180,183 | 189,192 | 198,652 | 208,585 |
| 382,909 | 402,054 | 422,157 | 443,265 | 465,420 | 488,699 | 513,134 | 538,791 | 565,731 | 594,017 |
| 210,427 | 220,948 | 231,996 | 243,596 | 255,775 | 268,564 | 281,992 | 296,092 | 310,897 | 326,442 |
| 3,000,020 | 3,150,021 | 3,307,522 | 3,472,898 | 3,646,543 | 3,828,870 | 4,020,314 | 4,221,329 | 4,432,396 | 4,654,015 |
| 90,001 | 94,501 | 99,226 | 104,187 | 109,396 | 114,866 | 120,609 | 126,640 | 132,972 | 139,620 |
| 2,910,019 | 3,055,520 | 3,208,296 | 3,368,711 | 3,537,147 | 3,714,004 | 3,899,704 | 4,094,689 | 4,299,424 | 4,514,395 |
| 808,117 | 845,186 | 883,845 | 924,419 | 966,916 | 1,015,262 | 1,066,025 | 1,119,326 | 1,175,293 | 1,234,057 |
| 2,101,902 | 2,210,414 | 2,324,451 | 2,444,292 | 2,570,230 | 2,698,742 | 2,833,679 | 2,975,363 | 3,124,131 | 3,280,338 |
| 1,556,735 | 1,556,735 | 1,556,735 | 1,556,735 | 1,556,726 | 1,837,470 | 1,837,470 | 1,837,470 | 1,837,470 | 1,837,470 |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 543,167 | 633,679 | 767,715 | 987,556 | 1,013,504 | 861,272 | 996,209 | 1,137,893 | 1,286,661 | 1,442,868 |
| 139,02% | 141,99% | 149,32% | 157,01% | 165,10% | 146,87% | 154,22% | 161,93% | 170,02% | 178,52% |

| | | | | |
|---------|-----------|-----------|-----------|-----------|
| 93,645 | 673,604 | 1,422,323 | 2,361,628 | 3,518,698 |
| 845,167 | 633,679 | 767,715 | 887,556 | 1,013,904 |
| 0 | 0 | 0 | 0 | 0 |
| 34,792 | 95,042 | 171,587 | 266,514 | 382,133 |
| 673,604 | 1,422,323 | 2,361,628 | 3,518,698 | 4,911,335 |

APPENDIX B**REGULATORY AGREEMENT****RESIDENT SELECTION PROCESS**

In processing applicants during the initial rent-up for units in an MHFA development, a specific and detailed process has been worked out between the Owner and the MHFA Management Department. The process contains the following procedures:

1. Start Up Period.

The manager and the MHFA representative shall designate a period for taking preliminary applications. This period will be considered a single chronological unit. Inquiries or applications taken before this period may be processed, but will not be given preference.

Affirmative marketing, including contacting relevant community groups, must be done at least two weeks prior to the first day of this designated period so as to insure that all people in the market area have been offered the opportunity to file an application at the development. Advertising should not be started more than one week before the first day of the designated period. A furnished apartment model or models and/or the rental office should be set up on the site prior to the designated period of application taking.

2. The Initial Application Period.

A. Application: The application form to be used must be approved by MHFA. The same form shall be used for applicants of all economic levels. No one should be refused the right to submit an application. The application form shall state that the reference given by the applicant on the application may be contacted by the rental agency and that unfavorable information from these references may be a cause for rejection.

The application form shall contain space for three personal references and unless approval is received by the MHFA representative, no more than three such references shall be required. An employer is not an acceptable source of personal information unless given as a personal reference by the applicant.

B. The Application Interview: The rental agency must offer aid to the applicant in helping to complete the application.

During the interview, it is the rental agency's obligation to explain the nature of the MHFA program and the resident selection process.

By the end of the interview, the application must

be complete and the applicant given the opportunity to review the application and the applicant's signature received.

3. Selection:

Initial selection shall begin at the end of the designated period.

At this time, the management agent and the MHFA staff person assigned to the development will sort the applications by bedroom size for each type of subsidy program. This must be done in conformance with MHFA's policy that there shall be no fewer than one, nor more than two persons per bedroom. Although MHFA recommends that a parent and child or two children of the opposite sex do not share the same bedroom, the applicant has the right to determine which members of the household will share the same bedroom. Applicants whose family size makes them eligible for more than one apartment size shall be considered for both bedroom sizes. Applicants who are eligible for the low income rent levels shall be considered applicants for the moderate income units as well if the shelter cost for such a unit does not exceed the total shelter cost that the applicant presently has.

These categories are then arranged by need priorities (see below) and applicants assigned to units based on their priority ranking. Those applicants for whom units are not available will be placed on a waiting list for the bedroom type and subsidy program for which they are eligible by priority ranking. There shall therefore be separate waiting lists for each subsidy program by bedroom size.

4. Need Priorities:

The following priorities will be the basis for resident selection for all applicants at all income levels. The priorities are listed in order of preference and are subject to whatever Federal or State priorities are or may be imposed.

- I. Displacement within a two-year period, due to natural disaster, fire, public action or urban renewal.
- II. Poor housing conditions.
 - A. Substantial substandardness.
 - B. Overcrowded conditions.
- III. Rent in excess of 50% of applicant's adjusted annual income.
- IV. Special personal situations.

- A. Handicapped.
- B. In military service where head of household is stationed away from home.
- V. Applicants who receive public assistance will take priority over any of the above priority categories if the selection based on the categories 1 through 4 results in the following:
 - A. Non-compliance with MHFA regulations that at least 25% of the low income units shall be for welfare recipients.

Whenever there are not enough units for applicants having equal priority status, as defined above, other criteria approved by MHFA shall be applied to determine selection.

5. Previous Landlord, Personal and Credit Investigations:

Information on applicants is limited to the following sources:

A. Present and Past Landlords: Checking with prior landlords shall be limited to those within the past two years or if there was only one landlord within the past two years, the landlord prior to that may be contacted. These landlords will be contacted to determine not only the applicant's record of rental payments, but also whether the applicant conducted him or herself in a manner so as not to intentionally damage property, cause disturbances to tenant's neighbors and/or otherwise jeopardize the health, security, and welfare of neighbors.

B. Credit Check: The rental agent may contact a credit bureau and any of the credit references furnished by the applicant on the application. Only information covering the two years prior to the date of the application can be considered by the rental agency in the credit evaluation of the applicant. Information by the credit bureau and other credit references shall be limited to the credit record established by the applicant.

C. Personal References: The rental agent may only contact the personal references furnished on the application.

D. Income Verification: If an applicant is employed, the employer may be contacted to verify the income. If an applicant receives public assistance, he/she shall be given an income verification form to be completed by the Department of Public Welfare, or an other agency furnishing the assistance.

E. Inspectors and Physicians: Information from state, county, city, town, health or building inspectors may be considered

to determine the substandardness of an applicant's present housing. Information from physicians may be considered to determine the existence of a handicap.

F. Public Records: Management may check court or other information generally available to the public. Management shall have the obligation to ensure that none of the information is collected in violation of the law. For example, attempting to obtain police records is a violation of state law.

G. Home Visits: Home visits will only be made when requested by a rejected applicant as a part of his or her rebuttal of the reasons for rejection.

6. Standards for Rejection: The standards for the rejection are as follows:

- A. Substantial risk that the applicant will be unable or unwilling to pay the rent.
- B. Substantial risk that the applicant or those under the applicant's control will interfere with the health, safety, security, and the right to peaceful enjoyment of the resident community.
- C. Substantial risk of intentional damage or destruction to the apartment unit and surrounding premises by the applicant or those under the applicant's control.

In determining whether or not an applicant is to be rejected under one or more of the above standards, it is necessary that the following points be considered:

- A. In the evaluation of the information that is gathered from the permitted sources, the possible biases, attitudes and motives of the sources must be considered.
- B. Information relating to behavior not relevant to the above standards--for example, questions about life style--must not be considered.
- C. In evaluating information, the currentness of the information, the possibility of mitigating factors, and the possibility of changes in the applicant's behavior must be considered.
- D. In judging an applicant's rental payment record or credit report, consideration shall be given to the applicant's present shelter cost-income ratio and whether the rent level for the unit

for which the applicant applies would help eliminate a present financial hardship.

7. Notification:

A. Ineligible applicants: Immediately after initial selection has taken place, in accordance with the foregoing, the rental agency shall give written notice. This notice shall clearly state the reason why the applicant is ineligible and the eligibility criteria shall be clearly spelled out. The notice also shall inform the applicant that he or she has the right to request a conference within 7 days from receipt of the letter to review the ineligibility determination. If the conference determines that the applicant is eligible, he or she shall be placed on the processing or the waiting list according to the procedure described in Section 3 above.

B. Wait listed applicants: Applicants who are eligible but have to be put on a waiting list because other applicants have been determined to have a higher priority shall receive a notice containing the following information:

- aa. The priority categories by which the ranking was done.
- bb. The priority found for the applicant in question.
- cc. The position of the applicant on the waiting list(s) for the specific bedroom types and subsidy programs for which the applicant is eligible.
- dd. The number of units of the specific category(s) there are in the development.

C. Rejected applicants: An appropriate unit shall remain reserved for a rejected applicant until the following procedure has been followed:

The applicant will be immediately informed in writing about the rejection as well as its reasons. The applicant shall be informed about his or her right to request a conference with the rental agency and the MHFA representative within a period of 7 days from the time of so being informed. If the applicant has not asked for a conference within 7 days from the date of being informed of the rejection, the first applicant on the waiting list for this particular type unit shall be selected for the unit.

D. Accepted applicants: Notification of acceptance shall be limited in number to 90% of the units available in

each bedroom/subsidy category until all conferences involving applicants appealing their ineligibility have taken place.

8. Conference Procedure: During the conference between the applicant and the rental agency, the MHFA staff person shall ask:

A. That the rental agent state the reasons for the rejection and provide supporting information.

B. That the applicant give information which might rebut the information used as the basis for rejection.

At the end of the conference, the MHFA representative shall make a decision and inform both the applicant and the rental agency that if either does not agree with his decision, they have the right to ask for an administrative review by the MHFA Director of Housing Management. If the applicant has not asked for the administrative review within 7 days from the date of the conference, the first applicant on the waiting list for this particular type unit shall be selected for the unit.

9. Administrative Review:

The applicant who has asked for an administrative review shall receive a copy of the report by the MHFA staff person at the conference. The applicant has 7 days to submit a letter or report in rebuttal of the conference report to the MHFA Director of Housing Management. He will make his decision within 7 days from receipt of the applicant's letter of rebuttal.

10. Waiting Lists:

At the time of selection, waiting lists will be established by bedroom types and subsidy programs by priority. These lists will contain the names of those applicants who are eligible but who during the priority ranking process were eliminated from the selection for the available units in their bedroom type and subsidy category. These applicants will be put on the waiting lists in order of the priority rules described under "Selection."

Whenever a unit becomes available during the rent-up process because of cancellation or rejection, the first applicant on the appropriate waiting list for the bedroom and subsidy category will be selected. An applicant thus selected shall have the same rights of conference and review as all other selected applicants.

After all units have been occupied by tenants, the rental agent should write to the remaining applicants on the waiting lists. In his letter the rental agent shall inform the applicant that all units in the applicant's category have been rented.

The letter shall also state the numerical position of the applicant on the waiting list and that the applicant will be removed from the waiting list unless written confirmation that the applicant wants to be kept on the waiting list is received within 7 days.

After the final waiting lists have been made, applicants from these waiting lists shall be selected in order of their ranking on the lists for units that become vacant, even though applicants with higher priorities may have applied in the meantime. Only in emergency cases may recent applicants be selected over those on the waiting lists with the approval of the MHFA representative.

While the initial waiting list is being processed, the rental agent should start a new waiting list for each bedroom /subsidy category for new applicants. It is not required that full applications are taken. The list should, however, have each applicant's name, family composition, address and phone where the applicant may be contacted, and as accurately as possible, the income. The list should be in chronological order. Once the initial waiting list has been fully processed, the rental agent shall process applicants in order from the chronological waiting list whenever vacancies occur.

Appendix C

21
(4)

COMMONWEALTH OF MASSACHUSETTS
MICHAEL S. DUKAKIS, GOVERNOR

MASSACHUSETTS EXECUTIVE OFFICE OF
COMMUNITIES AND DEVELOPMENT
AMY S. ANTHONY, SECRETARY

760 CMR 5.00

REGULATIONS PRESCRIBING STANDARDS AND
PROCEDURES FOR TENANT SELECTION AND TRANSFER

APRIL 1, 1986

760 CMR: DEPARTMENT OF COMMUNITY AFFAIRS

STANDARDS AND PROCEDURES FOR TENANT SELECTION AND TENANT TRANSFER

| | |
|------|--|
| 5.01 | Purpose |
| 5.02 | Effective Date |
| 5.03 | Transition |
| 5.04 | Definitions |
| 5.05 | Marketing |
| 5.06 | Application Procedure |
| 5.07 | Termination of Qualification for Placement |
| 5.08 | Priority and Preference |
| 5.09 | Placement and Offers |
| 5.10 | Emergency Case Plan |
| 5.11 | Verification Procedures |
| 5.12 | Review of Denial of Eligibility or Qualification |
| 5.13 | Update and Reclassification of Waiting List |
| 5.14 | Computerization |
| 5.15 | Waiver Provision |
| 5.16 | Administration |

5.01 Purpose

- (1) To ensure fair, equitable and non-arbitrary procedures for selecting applicants to occupy state-assisted housing units and to transfer current tenants.
- (2) To ensure there is no unlawful discrimination against applicants or tenants on the basis of race, color, creed, religion, national or ethnic origin, ancestry, class, sex, marital status, handicap, presence of children (whether or not born out of wedlock), source of income, age (except in assignment to elderly units) or other basis prohibited by law.
- (3) To promote fair housing and tenant selection practices so as to prevent discrimination and segregation and to remedy the effects of any past discrimination in accordance with the Governor's Code of Fair Practices (Executive Order No. 227).
- (4) To guide local housing authorities in providing housing which is decent, safe and sanitary where residents may live in peace, comfort and without substantial disturbance or interference by others.

5.02 Effective Date

- (1) 760 CMR 5.00 supersedes Executive Office of Communities and Development/Department of Community Affairs' Standards and Procedures for Tenant Selection and Tenant Transfer at 760 CMR 5.00, as previously promulgated May, 1976.

RECEIVED

- (7) 760 CMR 5.00 shall take effect and apply to all applications, selection of tenants, and decisions to transfer made on or after October 1, 1986.
- (8) Waivers in effect as of April 3, 1986, which approve individual tenant selection plans are rescinded as of October 1, 1986. Local housing authorities may apply for waivers from these regulations pursuant to 760 CMR 5.15.
- (4) These regulations govern tenant selection and transfer in the Chapter 200, Chapter 705, Chapter 667, and Chapter 707 Scattered Site and Moderate Rehabilitation housing programs. They do not govern tenant selection for units in the Chapter 689 or Chapter 667 Congregate programs, or units financed by the Massachusetts Housing Finance Agency (MHFA). Prior to occupancy of a development assisted by the 689 or 667 Congregate programs, the local housing authority (LHA) shall submit a tenant selection plan for the Department's review and approval. Initial occupancy of a Chapter 707 Moderate Rehabilitation project (whether or not financed by MHFA) shall be provided to its current occupant(s) (or occupants temporarily relocated during rehabilitation), provided such occupant is eligible under these regulations. Thereafter, the provisions of 760 CMR 5.00 shall apply.
- (5) In the event of inconsistency between provisions of these regulations and any other regulations of the Department, 760 CMR 5.00 shall apply.
- 5.03 Transition
- (1) Immediately upon promulgation of 760 CMR 5.00, each local housing authority shall proceed to update the waiting list(s) for its state-assisted public housing programs. The purpose of this update is to secure current data from applicants. Data collected shall include: household composition, income and source, and any information necessary to determine whether or not the Family or Elderly/Handicapped Applicant is entitled to any priority or preference designation as required by 760 CMR 5.00.
- (2) Upon completion of this review, each local housing authority shall send the following information to the Bureau of Housing Management of the Department:
- (a) the number of Family, Elderly and Handicapped Applicants by bedroom size who are:
 1. in each preference category and/or priority category (other than Emergency Case) as required by 760 CMR 5.00;
 2. Standard Applicants;
 - (b) the existing number of Minority and Non-Minority households currently residing in its Family and in its Elderly/Handicapped housing; and
 - (c) the authority's determination whether it will grant an Affirmative Action Preference upon the effective date of these regulations.

ELIGIBLE ORIGINAL

together with its calculations pursuant to 5.08(3)(a), (b), and (c).

5.04 Definitions

Affirmative Action Goal - the percentage of Minority households occupying or to occupy state assisted units which reflects the percentage of eligible Minority households in the relevant geographical area as determined pursuant to 760 CMR 5.08(3) for Family Housing and for Elderly/Handicapped Housing.

Appropriate Unit Size - A unit assigned so that it will not be necessary for persons of the opposite sex, other than husband and wife, to occupy the same bedroom, except that children under the age of six shall be expected to share a bedroom. A unit shall be assigned so as not to require use of the living room for sleeping purposes. In applying the standards specified below, every member of the family, regardless of age, will be considered as a person. In accordance with the above principles, the following standards will be utilized:

| <u>Bedroom Size</u> | <u>Minimum</u> | <u>Maximum</u> |
|----------------------------|----------------|----------------|
| 00 (Single Room Occupancy) | 1 | 1 |
| 0 (Studio Unit) | 1 | 1 |
| 1 | 1 | 2 |
| 2 | 2 | 4 |
| 3 | 3 | 6 |
| 4 | 5 | 8 |
| 5 | 7 | 10 |
| 6 | 9 | 12 |

Generally, a Family Applicant shall be placed in a unit of sufficient size so that adults do not share a bedroom with children, and so that children of the opposite sex have separate bedrooms (with the exception of children under 6). However, in recognition of the shortage of units, the LMA shall inform a Family Applicant that it may elect to house itself at the maximum density level, regardless of the age and sex of household members. If the Family Applicant so elects, she/he shall be recorded as being appropriate for either size unit and shall be offered the first unit of either size which becomes available. In the event the Family Applicant chooses the smaller unit, the family shall not be entitled to transfer due to overcrowding unless there is a subsequent increase in family composition. Spouses and children may be assigned separate bedrooms for reasons critical to emotional or physical health as determined by the LMA and which are documented in the file.

Capable of Independent Living - an individual who is:

- (a) personally able to perform the normal functions of daily living, or;
- (b) an individual who, through the use of available family members or

ELIGIBLE ORIGINAL

medical or social services, can carry out normal functions of daily living, or

- (c) an Elderly/Handicapped Applicant residing with a live-in caregiver approved by the LHA and who is determined to be essential to the care and well being of the applicant.

Department - the Department of Community Affairs of the Executive Office of Communities and Development.

Displacement by Natural Forces - an applicant otherwise eligible and qualified who is displaced by:

- (a) fire not due to the negligence or intentional act of an adult member of the applicant household,
- (b) earthquake, flood or other natural cause,
- (c) a disaster declared or otherwise formally recognized under disaster relief laws.

Displacement by Public Action - an otherwise eligible applicant:

- (a) who is being displaced within the next 90 days, or has been displaced within the three (3) years prior to application, by:
 - 1. any low rent housing project as defined in Section 1 of Chapter 121B of the General Laws, or
 - 2. by a public slum clearance or urban renewal project initiated after January 1, 1967, or
 - 3. by other public improvement.
- (b) who is being displaced, or has been displaced within 90 days prior to application, by enforcement of minimum standards of fitness for human habitation established by the state sanitary code and local ordinances, provided that:
 - 1. a member of the applicant household has not caused or substantially contributed to the cause of enforcement proceedings, and
 - 2. the applicant has pursued available ways to remedy the situation by seeking assistance through the courts or appropriate administrative or enforcement agencies.

Elderly Applicant - an applicant who is:

- (a) a single individual Capable of Independent Living and at least 65 years of age;
- (b) a family whose head or spouse is Capable of Independent Living and is at least 65 years of age; or

Where there exists a surplus of housing units, the age requirement may be reduced by the housing authority upon Department approval to age sixty-two provided the oldest of the applicants between sixty-two and sixty-five is given preference in placement.

Elderly and Handicapped Housing (Elderly/Handicapped) - housing units developed or assisted under the Chapter 667 or Chapter 707 programs.

Emergency Case - an eligible and qualified applicant for Family or Elderly/Handicapped housing who, in the determination of the LHA, and as defined by 760 CMR 5.00, is:

- (a) Homeless as defined by 760 CMR 5.04 due to Displacement by Natural Forces 760 CMR 5.04; or
- (b) Homeless as defined by 760 CMR 5.04 due to Displacement by Public Action 760 CMR 5.04; or
- (c) Homeless as defined in 760 CMR 5.04 and by the LHA pursuant to 760 CMR 5.10.

Family Applicant - a household consisting of:

- (a) two or more persons who will live regularly in the unit as a primary residence:
 - 1. whose income and resources are available to meet the family's needs; and
 - 2. are either related by blood, marriage, or operation of law, or have otherwise evidenced a stable family relationship; and
 - 3. whose head or spouse is Capable of Independent Living.
- (b) a single individual who is Capable of Independent Living

A member of a household shall be considered to be living regularly with the Family Applicant if temporarily absent for reasons such as hospitalization, duty assignment, employment, school attendance in another location, or temporarily in the custody of the Department of Social Services.

Family Housing - units developed or assisted under the Chapter 200, Chapter 705, or Chapter 707 housing programs.

Full-Time Student - a person carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program as well as one offering a college degree.

Handicapped Applicant - an individual who is handicapped pursuant to 760 CMR 4.05 (Eligibility in State-Aided Housing) and Capable of Independent Living.

Homeless - an applicant who:

ELIGIBLE ORGAN

- (a) is without a place to live or is in a living situation where there is a significant immediate and direct threat to the safety of the applicant or a household member which situation would be alleviated by placement in an appropriate unit; and
- (b) has made reasonable efforts to locate alternative housing; and
- (c) has not caused or substantially contributed to the safety- or life-threatening situation; and
- (d) has pursued available ways to prevent or avoid the safety- or life-threatening situation by seeking assistance through the courts or appropriate administrative or enforcement agencies.

Housing Development - one or more public housing units developed and/or administered by a local housing authority with a separate contract for financial assistance with the Department or any of its predecessors, under the Chapter 200, Chapter 667, or Chapter 705 programs.

Local Housing Authority (LHA) - a public body politic and corporate created pursuant to M.C.L. c. 121B or equivalent earlier or special law.

Local Resident - a person who is resident and presently domiciled in the city or town at the time of application and at the time of determination of eligibility and qualification; or a person who is employed or about to be employed, as verified by the LHA, in the city or town. This excludes temporary residence in the city or town with relatives or friends in the city or town unless the person's last residence and domicile was in the city or town. The burden of showing local residency is on the applicant.

Minority - a person who is:

- (a) Asian American - with origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands;
- (b) Black - with origins in any of the Black racial groups of Africa;
- (c) Hispanic - of Mexican, Puerto Rican, Cuban, Central or South American culture or origin; or
- (d) North American Indian - with origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

Minority Applicant - a Family or Elderly/Handicapped Applicant of which one or more members is a Minority and living regularly with the family. Determination of minority status shall be made by the applicant, provided that when an LHA has reason to doubt the family determination, it may request verification.

RELEASABLE ORIGINAL

Placement Ratio - the relationship of placements of Minority and non-Minority Applicants pursuant to 760 CMR 3.08 and 3.09 of these regulations.

Primary Residence - principal home (domicile) occupied not less than nine months of the year.

Regional Housing Market Area - the regional geographic area of which the city or town served by the LHA is a part as defined and revised by the Department from time to time as shown in Appendix I.

Standard Applicant - an applicant not entitled to priority or preference pursuant to 760 CMR 3.08 of these regulations.

Single Room Occupancy - occupancy of a unit participating in the Single Room Occupancy Program pursuant to 760 CMR 36.00 (Single Room Occupancy Regulations).

Transfer for Administrative Reasons - transfer of a current tenant from one state-aided unit to another at the discretion of the executive director of the LHA at any time for a sound administrative reason such as: fire in or condemnation of an occupied unit of the authority, extreme overcrowding or harassment of a tenant or household member; or the tenant's household is less than the minimum number and composition indicated as appropriate for placement in the unit under 760 CMR 3.04.

Transfer for Good Cause - application by a current tenant in a Housing Development unit to move from one unit to another, or to or from a Housing Development unit to the Rental Assistance program, because the tenant is underhoused or overhoused according to these regulations, or there is a compelling and documented medical impairment which could be substantially improved by transfer to the unit available, provided that:

- (a) the tenant has filed a transfer application complete with all supporting documentation; and
- (b) the tenant is current in rent, charges and fees levied by the LHA or a payment agreement with the LHA, and otherwise in compliance with his/her lease with the LHA; and
- (c) the tenant is not in a Single Room Occupancy unit in which case the transfer provisions of 760 CMR 36.00 (Single Room Occupancy Regulations) apply.

Unit - a rental unit in a Housing Development or under lease in the Rental Assistance Program.

Veteran - a person who has served in the active military or naval service of the United States at any time between April 16, 1917 and November 11, 1918, or between September 16, 1940 and July 26, 1947, or between June 25, 1950 and May 7, 1975 and who was discharged or released therefrom under conditions other than dishonorable. The word

ILLEGIBLE ORIGINAL

"Veteran" as used herein shall include the spouse, surviving spouse, dependent parent or child of a Veteran, and the divorced spouse of a Veteran who is legal guardian of a child of the Veteran.

5.05 Marketing

- (1) General Responsibility - L-rh LHA has a continuing responsibility to ensure that households of the local city or town, the Regional Housing Market Area, and communities from which applicants have historically applied, are aware of the availability of units and provided with an opportunity to apply. The Department will provide financial and technical assistance where appropriate.

A LHA shall undertake a marketing effort which shall include affirmative fair marketing efforts as provided in 760 CMR 5.05(2) whenever:

- (a) its waiting list for units (including available Chapter 707 certificates) is less than the number of applicants anticipated to be placed in the next 12 months; or
- (b) its Minority tenant population is less than its Affirmative Action Goal determined pursuant to 760 CMR 5.08(3), in which case the marketing effort under 760 CMR 5.05(2) shall be conducted every six months; or

- (c) applications for new program units will be accepted.

(2) Affirmative Fair Marketing - A LHA shall:

- (a) Advertise not less than twice in a 21-day period in newspapers serving any Minority group and in other available media serving the Regional Housing Market Area and in other communities from which applicants historically have applied;
- (b) Contact other LHAs in the area to announce the availability of units;
- (c) Contact organizations serving any Minority group as well as social service agencies and housing referral organizations in the area;
- (d) Contact employers and educational institutions, including public school systems in the area; and
- (e) Work with the Department and other LHAs to develop regional or other appropriate area advertising.

5.06 Application Procedure

- (1) The LHA shall use the Department's standard application form for all applicants for state-aided housing programs. (For LHAs administering federal units, the Department may grant a waiver to use a consolidated application form for state and federal programs upon request by the LHA.) Applications shall be available from and be filed at the LHA's Central Office or by mail, and the LHA shall provide assistance in

completing the application, including making a visit to the home of the applicant, where necessary, and providing linguistic access to those persons who do not speak or write in English. The Department will assist in this effort.

- (2) Any interested person shall be permitted an opportunity to apply. If the LMA is participating in the Rental Assistance Program and has Housing Development units, the applicant may apply for either the Rental Assistance program or an appropriate Housing Development unit or both. The LMA shall maintain separate waiting lists for its Rental Assistance Program and its Housing Development units. An applicant may be on one or both lists.
- (3) Each application received by the LMA shall be immediately date and time stamped, and the applicant provided with a receipt.
- (4) Each completed application shall be assigned a control number in chronological order as of the date of receipt which shall be entered into the LMA's master file.
- (5)
 - (a) After a completed application is received, the LMA shall make a preliminary determination of eligibility based on current information provided by the applicant, in accordance with 760 CMR 4.00 (Eligibility Regulations), and determine whether an applicant may be entitled to any preference or priority status under 760 CMR 5.08 of these regulations. The LMA may at this time verify some or all information as provided in 760 CMR 5.11 but is not required to do so.
 - (b) An applicant found ineligible shall be promptly notified in accordance with 760 CMR 5.06(7)(b). If the LMA's preliminary determination is incorrect, the application shall be restored to its original chronological position.
 - (c) Each applicant found preliminarily eligible shall be notified in writing of:
 1. waiting list control number;
 2. priority status and one or more preference categories (if any);
 3. size of unit appropriate;
 4. an estimate, according to bedroom size, of waiting time before placement (and the option to choose a smaller unit, where appropriate under 760 CMR 5.04;
 5. a final and verified determination of eligibility and qualification undertaken prior to occupancy; and
 6. the applicant's ongoing responsibility to notify the LMA of any change of address and to respond promptly to LMA inquiry or be removed from the waiting list. Notice of such responsibility shall be prominently featured on the first page of the notice form.

RELEASABLE ORIGINAL

- (6) The LHA shall enter its determination pursuant to 760 CMR 5.06(5) in its Master File.
- (7)
- (a) Prior to the time the LHA estimates the applicant will be in a unit, the LHA shall make a final and verified determination of the applicant's eligibility and qualification. The applicant shall update the application and provide any additional information required by the LHA under these regulations and 760 CMR 4.00 (Eligibility Regulation). On the basis of this updated application, the LHA shall make its final determination of eligibility and qualification in accordance with the provisions of 760 CMR 4.00 and 760 CMR 5.07 of these regulations, using the verification procedures of 760 CMR 5.11.
- (b) Each applicant shall be notified in writing of the LHA determination. An applicant found ineligible or unqualified shall be notified of:
1. of the specific reason(s) for the determination;
 2. the source(s) of any information and specific facts on which the determination is based;
 3. the right to request reconsideration in writing within 60 days if there is new and relevant information not previously considered by the LHA;
 4. the right to request in writing review of a finding of ineligibility pursuant to 760 CMR 5.12;
 5. the right to be represented by counsel or other person of choice; and
 6. the right to examine his/her file prior to reconsideration or review.
- (8) (a) All information about an applicant received by the LHA shall be held in strict confidence subject to access by the applicant and limited LHA staff access in conformance with M.G.L. c. 66A (the Massachusetts Fair Information Practices Act) and 751 CMR 7.00 (Privacy and Confidentiality Regulations).
- (b) Boards of Commissioners shall not be involved in day-to-day LHA decisions on applications, transfers, or the granting of Emergency Case status. Board member access to personal data concerning an applicant or tenant should be strictly limited to those situations where there is a demonstrable need for such access in order to conduct business which is properly before the board, and every effort should be made to obtain such information without reference to personal identifiers.

RELEASABLE ORIGINAL

5.07 Determination of Qualification for Placement

In making its final determination under this section, the LMA shall use the verification procedures of 760 CMR 3.11 of these regulations, and the review procedures of 760 CMR 3.12 of these regulations. An applicant shall be determined eligible and qualified for placement if the applicant has met the requirements of 760 CMR 3.00 (Eligibility Regulation) and if the applicant is not determined unqualified for one or more of the following reasons:

- (1) The applicant, or any member of the applicant's household, has a record of disturbing neighbors, destroying property, or living or housekeeping habits at a prior residence which, if exhibited while a resident of public housing, would substantially interfere with the health, safety, security, or peaceful enjoyment of other tenants or adversely affect the physical environment of the resident community.
- (2) The applicant, or a member of the applicant's household, has a history of civil or criminal violations of the state Civil Rights Act or a history of criminal activity, including crimes of physical violence to persons or property, or other criminal acts which, if exhibited while a resident of public housing, would interfere with the health, safety, security, or peaceful enjoyment of other tenants or adversely affect the physical environment of the resident community. Examples include the possession, distribution and/or use or sale of narcotic drugs, rape, prostitution, assault, or breaking and entering.
- (3) The applicant, or a member of applicant's household who will be assuming a part of the rent obligation, has a history of non-payment of rent within the past 12 months. The following circumstances would not be a basis for rejection:
 - (a) the applicant (or household member) was residing in a substandard unit and such non-payment, as determined by the LMA, was reasonably justified, or
 - (b) the record of non-payment was due to the applicant (or household member) being required to pay rent and utilities (other than telephone) in excess of 50% of gross income.
- (4) The applicant, or member of the applicant's household, is a former tenant of a LMA whose tenancy was terminated in bad standing or who currently owes back rent or fees to a LMA.
- (5) The applicant has failed to show he or she is Capable of Independent Living.
- (6) The applicant has failed to provide complete and documented information pursuant to the requirements of these or other regulations of the Department.
- (7) The applicant has knowingly misrepresented or falsified any fact required to be submitted as part of the application for admission or transfer.
- (8) The applicant does not intend to occupy housing made available by the LMA as the applicant's Primary Residence.

5.08 Priority and Preference

ILLEGIBLE ORIGINAL

The LHA shall determine if the applicant is entitled to be given more of the following priority or preference categories (see chart appearing in 760 CMR 5.09):

(1) Priority Categories

- (a) 1st Priority - 760 CMR 5.04 - Homeless due to Displacement by Natural Forces;
- (b) 2nd Priority - 760 CMR 5.04 - Homeless due to Displacement by Public Action pursuant to 760 CMR 5.04;
- (c) 3rd Priority - 760 CMR 5.04 - Homeless due to Displacement by Public Action pursuant to 760 CMR 5.04;
- (d) 4th Priority - Emergency Case Category(ies) as established by the LHA pursuant to 760 CMR 5.10;
- (e) 5th Priority - Transfer for Good Cause, provided that a Family or Elderly/Handicapped Applicant, as appropriate, shall be selected to occupy a unit vacated by a transfer. Where this would result in a LHA with a lengthy waiting list being unable to place applicant into larger bedroom size apartments, the LHA may fill vacant units in accordance with a prescribed ratio of transfers in placement of applicants from its waiting list with approval from the Department.

A LHA may, with approval by the Department, implement a 6th priority for applicants who are paying more than 50% of gross income for rent and utilities other than telephone.

(2) Preference Categories

- (a) Veteran - for Chapter 200 housing (or for up to 20% of 705 family units where no Chapter 200 units exist) in the following order:
 - 1. families of Veterans with service-connected disability;
 - 2. families of deceased Veterans whose death was service-connected; and
 - 3. families of Veterans other than the above as defined in 760 CMR 5.04.

No Veteran's Preference is available in Elderly and Handicapped Housing, Chapter 667, or in the Chapter 707 Rental Assistance program.

- (b) Local resident.
- (c) Affirmative Action, if required.

ILLEGIBLE ORIGINAL

(3) Determination of Affirmative Action Preference

- (a) On an annual basis each LMA shall determine whether or not an affirmative action preference category will be available to housing applicants during the next 12 months. The LMA shall consult with its community's Fair Housing Committee and/or other appropriate group(s) regarding the community's fair housing plan, and any other relevant plan or initiative. Each LMA shall notify the Department of its determination at the time of submitting its annual management checklist.
- (b) Each LMA shall determine the Affirmative Action Goal for its Family Housing by:
 - 1. obtaining from the Department the percentage of Minority households eligible for state-assisted public Family Housing among the total of all households eligible for such housing residing in:
 - (a) the local city or town
 - (b) the Regional Housing Market Area
 - (c) the local city or town plus all contiguous cities or towns, or
 - (d) other as proposed by LMA subject to approval by the Department
 - 2. selecting the highest percent of 760 CMR 5.08(3)(b)1.a through d above which is the LMA's Affirmative Action Goal, and
 - 3. determining whether there is a Minority tenant household under-representation in its Family housing program(s) by comparing the percentage of Minority tenant households residing in its Family Housing (Chapter 200, 705, and 707) with its Affirmative Action Goal. If the percentage of LMA Minority tenant households is less than the Affirmative Action Goal, the LMA shall grant an Affirmative Action preference to Minority Applicants during the next 12 months.
- (c) Each LMA shall determine the Affirmative Action Goal for its Elderly/Handicapped housing by following the procedure set forth in 760 CMR 5.08(3)(b)1. through 3 above, using "Elderly/Handicapped" in place of the word "Family." If the percentage of LMA Minority Elderly/Handicapped tenant households is less than the LMA's Affirmative Action Goal, the LMA shall grant an Affirmative Action preference to Minority Applicants for Elderly/Handicapped housing during the next twelve months.

5.09 Placement & Offers(1) General Provisions

- (a) When a Housing Development unit or rental assistance certificate becomes available for occupancy, it shall be offered according to the priority ranking of 760 CMR 5.08(1) to the applicant of appropriate

household size with the lowest control number in the appropriate priority and preference category.

- (b) Any unit designed as a barrier-free unit shall be offered to a Handicapped Applicant whose handicap limits his or her physical mobility and which would be improved by occupancy in such a barrier-free unit.

(2) Placement by LMA granting Affirmative Action Preference

RELEASABLE ORIGINAL

(a) Determine the Placement Rate

A LMA granting an Affirmative Action Preference in its Elderly/Handicapped and/or Family Housing shall determine a separate rate for each with which it will place Minority and non-Minority Applicants during the next 12 months and notify the Department of its determination at the time of submitting its annual management checklist. The Rate shall not be calculated more than once annually. No Rate shall be higher than 33%.

The Rate shall be determined as follows:

1. Determine the Under-representation Rate by dividing the LMA's Affirmative Action Goal by its current Minority Representation, namely:

$$\text{Under-representation Rate} = \frac{\text{Affirmative Action Goal}}{\text{Minority Representation}}$$

2. Multiply the Under-representation Rate by the Affirmative Action Goal, namely:

$$\text{Placement Rate} = (\text{Goal Under-representation Rate}) \times (\text{Affirmative Action Goal})$$

3. If the result exceeds 33%, then reduce to 33%.

(b) Order of Placements

The LMA shall place all eligible applicants (including Emergency Cases) from Column A or Column B (see below), according to its Placement Rate for Family Housing or according to its Placement Rate for Elderly Housing. The LMA shall make placements so that the number of applicants placed from Column A represents the percentage of all applicants placed equal to its Placement Rate. In general an LMA can achieve this through the use of a ratio which approximates the Placement Rate. (For example, if an LMA has a Placement Rate of 20%, it can use the ratio of one out of every five placements.) However, the LMA may immediately place Emergency Cases and Veteran applicants, so long as the LMA makes subsequent placements within a six month period which will serve to meet its Placement Rate. If no applicants are available from Column A in order to meet a Placement Rate, then an LMA shall take applicants-

RELEASABLE ORIGINAL

from Column B. In using the table below, the LMA should refer to the appropriate column, starting with applicants in the top category and, if there are none in that category, moving down the column to the next category where an appropriate applicant is available. The LMA shall not use its placement rate to limit placement of Minority Applicants.

ILLEGIBLE ORIGINAL

| <u>Category</u> | <u>Column A (Minority Applicant)</u> | <u>Column B (Non-Minority Applicant)</u> |
|---|--|--|
| Emergency Case - Homeless due to Natural Forces 5.08(1)(a) | Local Veteran Non-Local Veteran Local Resident Non-Local Resident | Local Veteran Non-Local Veteran Local Resident Non-Local Resident |
| Emergency Case - Homeless due to Public Action 5.08(1)(b) | Local Veteran Non-Local Veteran Local Resident Non-Local Resident | Local Veteran Non-Local Veteran Local Resident Non-Local Resident |
| Emergency Case - Homeless due to Public Action 5.08(1)(c) | Local Veteran Non-Local Veteran Local Resident Non-Local Resident | Local Veteran Non-Local Veteran Local Resident Non-Local Resident |
| Emergency Case - Homeless as defined by LHA 5.08(1)(d) | Local Veteran Non-Local Veteran Local Resident Non-Local Resident | Local Veteran Non-Local Veteran Local Resident Non-Local Resident |
| Transfer for Good Cause | Applicant | Applicant |
| Standard Applicant | Local Veteran Non-Local Veteran Local Resident Non-Local Resident | Local Veteran Non-Local Veteran Local Resident Non-Local Resident |

Veterans preference shall be implemented in accordance with
740 CMR 5.08(2)(a).

(3) Placement by LMA not granting Affirmative Action Preference

A LMA which is not granting an Affirmative Action Preference shall make placements of all eligible applicants (including Emergency Cases) in the following order according to the priority and preference categories set forth in 760 CMR 5.08:

| <u>Category</u> | <u>Preference Status</u> |
|---|--|
| Emergency Case - Homeless due to Natural Forces 5.08(1)(a) | Local Veteran Non-Local Veteran Local Resident Non-Local Resident |
| Emergency Case - Homeless due to Public Action 5.08(1)(b) | Local Veteran Non-Local Veteran Local Resident Non-Local Resident |
| Emergency Case - Homeless due to Public Action 5.08(1)(c) | Local Veteran Non-Local Veteran Local Resident Non-Local Resident |
| Emergency Case - Homeless as defined by LMA 5.08(1)(d) | Local Veteran Non-Local Veteran Local Resident Non-Local Resident |
| Transfer for Good Cause | Local Veteran Non-Local Veteran Local Resident Non-Local Resident |
| Standard Applicant | Local Veteran Non-Local Veteran Local Resident Non-Local Resident |

Veterans Preference shall be implemented in accordance with 760 CMR 5.08(2)(a).

RECEIVABLE ORIGINAL

(4) Offers to Applicants

- (a) An applicant offered a Housing Development unit must accept the offer within 5 working days of receipt of the offer or be dropped to the bottom of the waiting list. For good cause the LMA may extend the time for response. Each applicant is entitled to one offer of a unit of appropriate bedroom size. The LMA shall offer another unit when there is documented evidence (such as court or medical records) that the first offer is inappropriate because of clear danger of personal harm or severe hardship due to physical or mental handicap. An applicant who fails to accept the offer of a unit shall be dropped to the bottom of the waiting list, lose any preference status under 760 CMR 5.08(2), or priority status as an Emergency Case under 760 CMR 5.04, and receive the next chronological control number.
- (b) An applicant offered a 707 Rental Assistance certificate shall make a diligent search to locate an apartment for a period of 60 days. The LMA shall provide assistance in identifying potential units and advise the applicant to maintain a record of search efforts. The LMA may extend the certificate for two successive 30-day periods but in no event for a total of more than an additional 60 days. An applicant who is unsuccessful in locating an apartment shall be dropped from the waiting list for the Rental Assistance Program, but may reapply.

(5) Transfer Offers

- (a) When making a Transfer for Good Cause, the LMA shall make one offer of a unit which is of appropriate bedroom size and, where the transfer is for medical reasons, appropriate for the tenant's medical need. A tenant must accept the transfer offer within five working days of its receipt or be removed from the transfer list. For good cause the LMA may extend the time for accepting the offer. Denial of a transfer for good cause may be reviewed pursuant to 760 CMR 5.12 of these regulations.
- (b) A LMA may decide at any time to initiate a Transfer for Administrative Reasons. Such a decision must be implemented in a manner consistent with any relevant provisions of the tenant's lease with the LMA. The decision by the LMA may be grieved by the tenant under the LMA's Grievance Procedure as required by 760 CMR 3.00 (Tenant Grievance Procedure Regulation).
- (c) At its option, the LMA may offer a 707 Rental Assistance certificate for an apartment of appropriate bedroom size to an applicant for Good Cause Transfer or to implement an Administrative Transfer, provided that certificates are available under contract authority. The tenant shall make a diligent effort to locate an apartment for a period of 60 days. The LMA shall provide assistance in identifying potential units and advise the tenant to maintain a record of search efforts. If, at the end of the 60 day period, the tenant is unable to locate an apartment, the LMA may extend the certificate for two successive 30-day periods but in no

RECEIVABLE ORIGINAL

event for more than an additional 60 days. A tenant who is unsuccessful in locating an apartment may return to his or her prior status on the transfer waiting list, or in the case of a Transfer for Administrative Reasons, the LMA may transfer the tenant to a Housing Development unit.

5.10 Emergency Case Plan

- (1) Within six months following the promulgation date of these regulations, each LMA shall adopt an Emergency Case plan setting forth:
 - (a) a definition of Emergency Case Applicant consistent with definitions of 760 CMR 5.04 ; and
 - (b) circumstances in which the LMA shall:
 1. grant Emergency Case Status to an otherwise eligible applicant for Family or Elderly/Handicapped housing; and
 2. offer placement pursuant to 760 CMR 5.09 using the priority and preference categories of 760 CMR 5.08.
- (2) Each Emergency Case Plan shall consider the needs of persons who are homeless, in abusive situations, or encountering severe medical emergencies. (Sample Plans are available from the Department.)
- (3) Each Plan shall be adopted after an open process of discussion by the LMA with the Local Tenant Organization and all other interested members of the community in which there shall be a reasonable opportunity to make written and oral suggestions regarding the content of the Plan.
- (4) Each Plan shall be adopted by the Board of Commissioners of the LMA and shall become effective upon its approval by the Department.
- (5) Each adopted and approved Emergency Case Plan shall be posted at all times in the LMA's administrative office where applications are received and shall be a public document.
- (6) Any grant or denial of Emergency Case status shall be made only after a determination of eligibility and qualification pursuant to 760 CMR 5.07 and verification pursuant to 760 CMR 5.11 of the circumstances warranting Emergency Case status. Records and documents regarding each decision to grant or deny Emergency Case status shall be maintained for Departmental review, and appropriate entries made in the ledger book. The LMA shall report annually to the Department on all Emergency Cases granted or denied.

5.11 Verification Procedures

- (1) At the time of determining final eligibility and qualification, the LMA shall verify the accuracy of information appearing on the application form and determine whether an applicant is eligible under 760 CMR 4.00 (Eligibility Regulation) and qualified under 760 CMR 5.07. The LMA may

ELIGIBLE ORIGINAL

verify some or all information at the time of determining preliminary eligibility.

- (2) The applicant shall be the primary source of information.
- (3) The LHA shall request an applicant to provide:
 - (a) reliable and reasonably obtainable documentation verifying:
 - 1. Information requested on the application form
 - 2. Source(s) of income, assets, exclusions, and deductions from income
 - 3. Family size, age, and relationship
 - 4. Status as a Local Resident.

There shall be no minimum time period to establish residency. An applicant's immigration status may not be considered in making a determination.

- (b) the names and addresses of landlords during the past five years (unless the applicant has not had a landlord during the past five years) and 2 personal references who are not relatives. The LHA shall request references for the application from each person whose name is submitted as a personal reference.
 - (c) Failure to submit satisfactory verification and information shall result in the applicant being found ineligible and/or unqualified.
- (4) The LHA may also check:
 - (a) any and all public records and other sources of public information
 - (b) credit investigation reports
 - (c) a LHA's own records if applicant previously resided in LHA administered housing
 - (d) information obtained through a home visit (see 760 CMR 5.11(6)).
- (5) The information required by this section may be obtained by the LHA through interviews with the applicant and with others, through telephone conversations, letters, or other documents, and through other reasonable methods. All such information received must be recorded in the applicant's file including the date of its receipt, the identity of the source, and the person receiving the information.
- (6) The LHA may make a home visit. Such a visit shall be arranged reasonably in advance with the applicant. The purpose of the visit is to verify information provided on the application and to observe applicant's current residence with respect to determining eligibility and qualification under these regulations. Observations by the person making such a visit shall be promptly reduced to writing, signed and

ELIGIBLE ORIGINAL

dated, and placed in the applicant's file.

- (7) Prior to making its final determination of eligibility and qualification the LMA may communicate with the applicant relative to any negative information which would cause it to reject the applicant.
- (8) In making its final determination, the LMA shall consider:
 - (a) any information which indicates that the future status or conduct of the applicant, or of another member of applicant's household, is likely to be significantly improved, such as a change in composition of the applicant's household, or in the age of household members, or evidence of rehabilitation;
 - (b) information received from the applicant showing that the applicant or a member of applicant's household is participating in, or has definite plans to participate in, social services or other counseling expected to alleviate the possible grounds for denial;
 - (c) information such as new employment, or third party assurances, which indicates that the applicant is substantially more likely to meet future obligations; and
 - (d) the timeliness, reliability and possible bias of any source of information.

5.12 Review of Denial of Eligibility or Qualification

- (1) If the applicant is found ineligible under 760 CMR 4.00 (Eligibility Regulation) or unqualified under 760 CMR 3.07 at the time of preliminary or final determination, the applicant may request, within 10 days of receipt of the notice from the LMA, a private conference with the LMA Executive Director. The Executive Director may designate a person not previously involved in the decision to conduct the conference and make a determination. The purpose of the Conference is to discuss the reasons for the LMA's decision and to permit the applicant, or his or her representative, to present rebuttal or additional information, ask questions of those present, offer documentation, testimony or argument. Within 10 working days after such Conference, the LMA shall notify the applicant in writing of its decision with an explanation of its reasons and specify any change, if appropriate, in the applicant's eligibility, qualifications, priority, or preference status. A notice adverse to the applicant shall include the provisions of 760 CMR 5.12(2) below.
- (2) If the applicant is dissatisfied with the action of the LMA, he or she may request, within 10 days of receipt of the LMA's notice, a review by the Secretary of the Executive Office of Communities and Development, 100 Cambridge Street, Boston, MA 02202. Att: Office of the Chief Counsel.
- (3) At the time of requesting review by the Secretary the applicant shall provide the LMA with a copy of the request. Within 2 weeks of receipt of such request by the Department the applicant and the LMA may each submit written argument and documentation with a copy of the submission

RELEASABLE ORIGINAL

on each other. The Secretary or her designee shall inform the owner of the LMA for its compliance with applicable statutes and regulations, and notify the applicant and the LMA within 30 days. The Secretary reserves the right to return the matter to the LMA for further consideration if new information in support of the application has previously been considered by LMA, is submitted.

5.13 Update and Reclassification of Waiting List

The LMA shall update and reclassify all eligible applications on the list at least every two years in the following manner:

- (1) Contact each applicant:
 - (a) to determine whether or not:
 1. applicant is still interested in obtaining housing through the LMA
 2. the applicant is still preliminarily eligible under 760 CMR 5.06
 3. the applicant's preference and priority status remain the same, and
 - (b) to advise the applicant of the consequences of a failure to respond.
- (2) The LMA shall review all updated information and make an appropriate determination of preliminary eligibility and priority/preference status as provided in 760 CMR 5.06 and 5.08.
- (3) The LMA shall enter any change in the Master File and/or appropriate Waiting List Ledgers and notify each applicant of the reason(s) for the applicant's new status and the right to request review pursuant to 760 CMR 5.12.
- (4) Any applicant failing to respond to a LMA's request for updated application information within the prescribed time frame, shall be notified in accordance with 760 CMR 5.06(7)(b) that the applicant has been withdrawn from the Waiting List.

5.14 Computerization

A LMA which has computerized, or intends to computerize, its tenant selection system, shall submit a plan describing its system and selection procedures to the Department for approval. Such a plan shall be consistent with these regulations, and limit access to personnel and confidential data under the Massachusetts Fair Information Practices Act, M.G.L. c. 66A.

5.15 Waiver Provision

- (1) A LMA may submit to the Department for approval a tenant selection plan or procedure, differing in whole or in part from these regulations after

RELEASABLE ORIGINAL

consultation with the Local Tenants Organization. The Department shall act within 60 days and may grant a waiver if it determines that:

- (a) there are special local circumstances justifying the request; or
 - (b) administrative efficiency would be improved through alignment with a federally-approved plan or procedure; or
 - (c) an innovative selection method is proposed, provided that the request is in the public interest and not inconsistent with M.G.L. c. 121B.
- (2) Pending the approval of a waiver request a LHA shall comply with 760 CMR 5.00.

5.16 Administration

- (1) From time to time the Department may develop and issue standard forms to be utilized by the LHA pursuant to the provisions of 760 CMR 5.00. It is the responsibility of each LHA to ensure that it is utilizing all current forms.
- (2) Unless otherwise approved due to computerization, the LHA shall maintain manual records of its Master File, Waiting Lists, and Vacancy Ledger through a ledger system together with all tenant selection forms and documents as required by the Department. All ledgers shall be the LHA permanent recording system for all housing transactions. Waiting lists and Vacancy Ledgers indicating the applicant's control number shall be considered public information; and, therefore, upon request shall be available for public inspection.
- (3) Each LHA shall ensure that any notice issued pursuant to 760 CMR 5.00, contains a prominent warning statement as to the importance of the document translated into the language spoken by a significant number of its applicants.
- (4) At submission of its annual management checklist, the LHA shall provide to the Department a report of any action pursuant to 760 CMR 5.08(3) and 5.09(2) including:
 - (a) Calculation of its Affirmative Action Goal;
 - (b) The minority composition of its Family and of its Elderly/Handicapped housing;
 - (c) Determination whether to grant an Affirmative Action Preference in its Family and/or Elderly Handicapped Housing;
 - (d) Calculation of its Placement Rate(s) (if any); and
 - (e) Number of Minority Households placed in Family and in Elderly/Handicapped Housing Units during the prior 12 months.
- (5) A LHA determining that the Minority tenant household composition of its Family or Elderly/Handicapped housing is equal to or in excess of its

RELEGIBLE ORIGINAL

Affirmative Goal shall report, as required by 760 CMR 5.08(1)(a), to the Department at the time of submitting its annual management circular.

- (c) If the Department determines that an LHA has failed to comply with the requirements of 760 CMR 5.05 and 5.08(3) and 5.09, the Department may take corrective action pursuant to 760 CMR 33.06(5) (Affirmative Action Regulation).

REGULATORY AUTHORITY: 760 CMR 5.00; M.G.L. c.121B, s.29, 34; M.G.L. c.23B

RELEGIBLE ORIGINAL

RELEGIBLE ORIGINAL

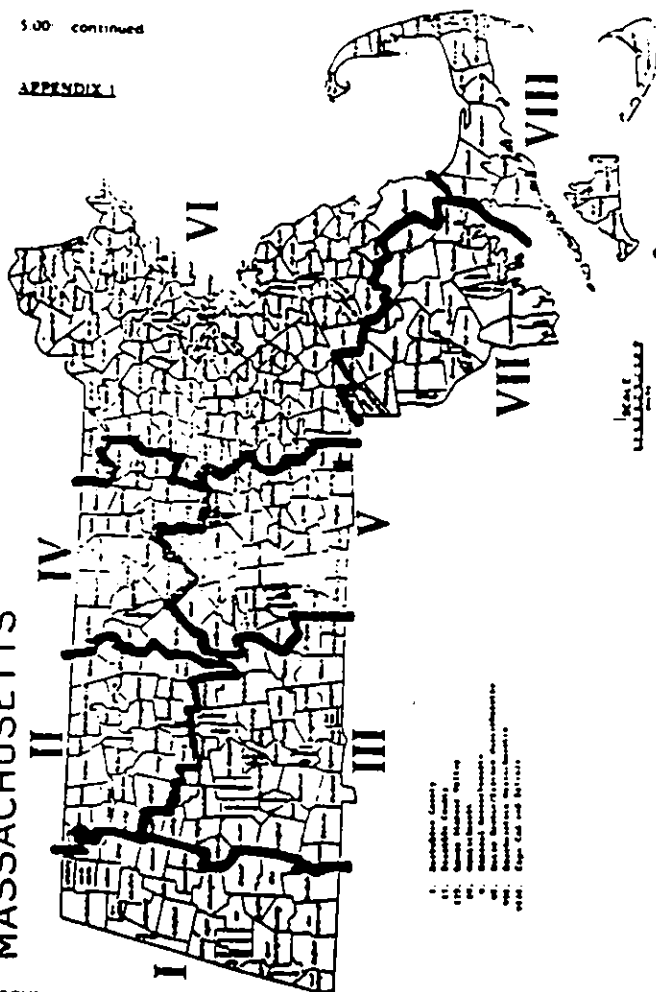
760 CMR. DEPARTMENT OF COMMUNITY AFFAIRS

5.00: continued

APPENDIX I

MASSACHUSETTS

REGULATORY AUTHORITY



760 CMR 5.00: M.G.L. c. 121B ss. 29 and 34;
M.G.L. c. 23B.