Commonwealth of Massachusetts
DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT
Mitt Romney, Governor ◆ Kerry Healey, Lt. Governor ◆ Jane Wallis Gumble, Director

Public Housing Notice 2003-09

MEMORANDUM

TO: All Local Housing Authorities

FROM: Carole E. Collins, Director, Bureau of Housing Management

RE: Submission of Plans for Development of Any Affordable Housing Units

DATE: November 20, 2003

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It has come to our attention that a number of local housing authorities that are creatively trying to develop affordable housing in their communities are unaware of the requirements outlined in Massachusetts General Laws c.121B §31. This section of 121B requires any LHA that is purchasing land or developing housing, with or without state funds, to submit information to the Department of Housing and Community Development (DHCD) and to receive the Department's approval prior to starting these endeavors (see attached summary of c.121B §31). In certain cases the Department is also required to conduct a public hearing before issuing approval.

The Department strongly supports all LHA efforts to expand affordable housing in the Commonwealth but in light of this statute, it is important that LHAs not commit themselves to the acquisition of land or buildings (even if they are donated to the LHA), or to new construction or rehabilitation of a building(s) until they have complied with the requirements of §31 and received approval from the Department. Please remember that no state funds, including state operating reserves, may be used for these affordable housing initiatives, even if you anticipate that they will be repaid, without Departmental approval.

Please contact your Housing Specialist in the Bureau of Housing Management if you believe that §31 may apply to any current or planned housing authority activities.

M.G.L. c. 121B§31

Summary

M.G.L. c. 121B§31 requires that prior to a housing authority's undertaking a low rent housing project that the authority submit to the Department:

- the plans and description of the project,
- the estimated cost and the proposed method of financing of the project, and
- a detailed estimate of the expenses and revenues of the proposed project.

The Department must make a finding based on the information submitted that the plans and description of the proposed project conform to proper standards of health, sanitation and safety. The statute does not distinguish projects based on funding source. Therefore all proposed low rent (affordable) projects fall under this requirement. Additionally, authorities' mirror non-profit agencies need to comply with these requirements.

A low rent housing project is defined as (1) a clearance project; or (2) any work or undertaking to provide decent, safe and sanitary dwellings, apartments or other living accommodations for families of low income, which work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient and desirable appurtenances, public or private ways, sewers, water supply, parks, site preparation or improvement, or administrative, community, health, recreational, welfare, or other facilities; or (3) the purchase of, or acquisition, otherwise than by eminent domain, of the right to use, completed dwelling units which have been recently constructed, reconstructed or remodeled (whether condominium units, individual buildings part of a larger development, or a portion of the units in a multifamily development); or (4) any combination of the foregoing. Such a project may include the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and other work performed in connection therewith, but construction activity in connection with a project may be confined to the reconstruction, remodeling or repair of existing buildings.

Once the required information is received, the Department will provide the authority within thirty days with written notice of its decision. If the Department disapproves any project, it will include its reasons for disapproval in its written notice. Such disapproved projects can resubmitted with modifications which meet the Department's stated objections.

The Department is obligated to hold a public hearing upon any project, if requested in writing so to do, within ten days after the submission of the project, by the housing authority, or by the mayor or city council of the city or the selectmen of the town in which the proposed project is located, or by twenty-five or more taxable inhabitants of such city or town.

Prior to receiving Department approval of the authority's plans and description of the project, a housing authority having determined the location of a proposed clearance or low-rent housing project, may, without Department approval, proceed by option or otherwise, to obtain control of the real property to be

acquired for the project; provided, however, that it shall not, without the prior written approval of the Department, unconditionally obligate itself to acquire such real estate.

When a housing authority receives notice that such a project has been approved by the Department, it may proceed to acquire real estate for the project, and may construct, or contract for the construction of, any buildings and facilities planned.

The information required under c. 121B §31 should be submitted to the Bureau of Housing Management.