

PHN 2021-01 Addendum #1
Town Appointed Tenant Board Member Frequently Asked Questions
March 1, 2021

Town Elections

Q. Does the Town go forward with election of an LHA Board Member in 2021?

A. Yes, the Town should go forward with planned elections in the Spring 2021 election cycle. No Tenant Board Member appointment in 2021 unless there is a vacancy due to a reason other than term expiration (for example, if a Board member resigns) or if a term expires after 5/15/2021 and it is not on the ballot for the 2021 Spring election cycle.

Q. The requirement for a Town Appointed Tenant Board Member does not go into effect until May, my Town elections are before that, and we have a vacant seat: Can the seat be filled through the current Town election and if so, does it have to be a tenant that is running for election? What if we don't have another vacant seat for a year?

A. The legislation was specifically designed not to affect Town elections. The legislation will not affect any LHA Board candidates on the ballot in the Spring 2021 election cycle, even if the election has been postponed due to the pandemic. The Town should hold its elections as usual. Any candidate can run if they meet the Town's eligibility requirements (i.e., live in town, get the signatures to be put on the ballot).

Then on May 15th, the LHA/Town looks to see if they have a vacant elected seat (for example, a Board member may have died, resigned or moved out of town after it was too late to get the seat on the ballot). If, on May 15, 2021, there is a vacant elected seat on the Board then that seat must be filled with a Town Appointed Tenant Board Member per the legislation. If the Board has no vacancies among Town-elected seats occurring before July 14, 2021, then the first seat with a term that expires after July 14, 2021 or becomes vacant for another reason must be filled with a Town Appointed Board Member. (This might not be until 2023 if the next seat to expire in 2022 is the state-appointee seat.) See [PHN 2021-01](#) Section 5, page 5.

State Appointed Tenant Board Member

Q. Can an LHA request a Waiver (Type 1) if the LHA has a tenant on the Board who is the State Appointed Board Member?

A. The LHA **cannot** request a Waiver (Type 1) because it currently has a tenant serving as the State Appointed Board Member. Waiver (Type 1) can be requested when an LHA has a tenant on the Board who is already serving as an elected Board member or who was appointed by the Town to fill a vacant elected Board member seat.

Q. If the next term to expire is the State-Appointee Seat, is this the Tenant Board Member Seat now?

A. No. This new legislation only applies to the Town appointed/elected seats.

Q. So, if the next expiring term in 2022 is the State-Appointee Seat, there is no Town Appointed Tenant Board Seat until 2023?

A. Yes, unless a vacancy occurs before that.

Waivers

Q. My LHA currently has an elected member of our Housing Authority who is a tenant. Does that change anything?

A. LHAs may request waivers from DHCD that will temporarily postpone the appointment of the Town Appointed Tenant Board Member pursuant to this legislation. A Waiver may be requested if an LHA Board already has a Town elected or Town appointed Board member who is a member of an LHA tenant household or rental assistance household. The Town should have a dialog with the LHA about whether it intends to request a waiver from DHCD, which the LHA may not do before May 15, 2021.

Q. If our LHA chooses to seek a waiver to this requirement, must our Board really wait until May 15th?

A. Yes, you must wait until May 15th to request a waiver. The law is not effective until May 15, 2021. Additionally, on that date, the composition of your LHA Board may have changed. A seat could become vacant for a number of reasons.

Process

Q. If there is a vacancy before the expiration of a term after the 2021 election, do you follow the procedure in PHN 2021-01 or do the Town and the LHA follow the procedure in chapter 41, sec. 11 to appoint a Tenant Board Member?

A. To appoint someone to the Tenant Board Member seat when a seat becomes vacant, always use the procedure in PHN 2021-01 to fill the remainder of the term.

Q. If a Tenant Board Member is appointed and then resigns during their term, does the Town follow the procedure in PHN 2021-01 or does the Town and the LHA follow the procedure in chapter 41, sec. 11 to appoint a Tenant Board Member?

A. To appoint someone to the Tenant Board Member seat when there is a vacancy, always use the procedure in PHN 2021-01 to fill the remainder of the term.

Q. What is the required time frame for the LHA to put a notice out to tenants where there is no LTO?

A. Section 71 of [Chapter 358 of the Acts of 2020](#) states: “the housing authority shall immediately post notices throughout the common areas of the authority and provide each household with notice of the opportunity to be appointed to the housing authority board.” Section 89 of the Act requires that a Tenant Board Member be appointed within 90 days of the effective date of the Act (August 13th).

Q. When choosing which Tenant will fill the Town Appointed Tenant Board Member Seat, is this solely the decision of the Board of Selectmen for the Town or is it a joint decision between the LHA Board as well as the Town's Board?

A: The decision of which Tenant fills the Town Appointed Tenant Board Member seat is the decision of the Town. However, the law includes a specific process that must be followed. Under the law, if the LHA has one or more Local Tenant Organizations (LTO)s, they can submit names for consideration and a Tenant Board Member must be selected from the list that they submit. Tenants at Local Housing Authorities with no LTO can submit their own names to the Town for consideration. Tenants in federally subsidized housing are given preference for appointment due to federal law.

Q. Is there a specific format or template for how to word the notices to LTOs/tenants?

A. See attachments to PHN 2021-01 (found at <https://www.mass.gov/service-details/public-housing-admin-notices>).