

**Department of Housing & Community Development
Chapter 40T Guidance on Definitions, 760 CMR 64.02**

Introduction

I. Affordability Restriction

II. Buyer

III. Cessation

IV. Hold-Harmless Agreement

V. Institutional Recipient

VI. Loss of Affordability

VII. Preservation Sale

VIII. Simultaneous Replacement

Introduction

As used in M.G.L. c. 40T, 760 CMR 64.00, and Guidance issued by the Department, unless a different definition is specified or is clear from the context, the following definitions for terms not otherwise defined in M.G.L. c. 40T or in 760 CMR 64.00, shall apply:

I. Affordability Restriction – means a limit imposed by a Government Program on rents that an owner may charge for occupancy of a rental unit in a Publicly-Assisted Housing development or a limit imposed by a Government Program on tenant income for persons or families seeking to qualify for admission to such housing.

II. Buyer, as used in M.G.L. c. 40T– means *Purchaser*, as defined in 760 CMR 64.02 (1).

III. Cessation – means the cessation, discharge, expiration, or removal of an Affordability Restriction that does not constitute a Termination because of Simultaneous Replacement of the Affordability Restriction by an Equivalent Affordability Restriction.

IV. Hold-Harmless Agreement – means an agreement between an Owner and the Department, binding on the Owner’s assigns and successors in interest, that is not intended for recording in a registry of deeds or registry district of the land court and that contains terms equivalent to a recordable Curative Equivalent Affordability Restriction in which the Owner undertakes to hold any tenants harmless from any adverse effect of the Termination of any Affordability Restriction on the tenant’s portion of the rent during any Extended Time Period under a Curative Notice. The Department may, in its discretion, determine that a Hold-Harmless Agreement is acceptable in lieu of a recordable Curative Equivalent Affordability Restriction, depending on the facts and circumstances, including, *inter alia*, the number of Tenants adversely affected by the applicable Termination, the amount of any monthly increase in rent for Tenants (individually and in the aggregate) that would take effect in the absence of an enforceable Restriction, and the period of time during which a Curative Equivalent Affordability Restriction or Hold-Harmless Agreement would be in effect.

V. Institutional Recipient – means the Department, the Community Economic Development Assistance Corporation (“CEDAC”), the tenant organization (if any) for the affected Publicly-Assisted Housing, the chief executive officer of the municipality in which affected Publicly-Assisted Housing is located, and the legal services organization recognized by the Department as covering the geographic area of the affected Publicly-Assisted Housing. A list of local legal services organizations and their service areas as recognized by the Department is available on the Department’s website on the Chapter 40T webpage, <http://www.mass.gov/hed/economic/eohed/dhcd/legal/mgl-chapter-40t.html>.

Institutional recipients are to receive Notices filed under 760 CMR 64.03, requests for

Certificates of Exemption under 760 CMR 64.07, and requests for Certificates of Compliance under 760 CMR 64.08.

VI. Loss of Affordability – In the context of determining whether the cessation, discharge, expiration, or removal of an Affordability Restriction constitutes a Termination, a Loss of Affordability means a failure to meet the requirements of 760 CMR 64.02 (1) *Equivalent Affordability Restriction* (a)–(c).

VII. Preservation Sale – A Sale to a Preservation Purchaser exempt from the provisions of M.G.L. c. 40T, §§ 3 and 4, pursuant to M.G.L. c. 40T, § 6(a) (iv), (v), (vi), or (vii).

VIII. Simultaneous Replacement – An Affordability Restriction must have been in place two years prior to a Termination and must continue for at least two years after the Termination to qualify as a Simultaneous Replacement of a terminating Affordability Restriction.

Replacement of an Affordability Restriction with a limitation on rents or tenant income that is not imposed by a Government Program does not constitute Simultaneous Replacement of an Affordability Restriction with an Equivalent Affordability Restriction.