**EXECUTIVE OFFICE OF HOUSING AND LIVABLE COMMUNITIES**

**40T EXEMPTION REQUEST FORM**

**INSTRUCTIONS**

All requests for exemptions from the right of first offer/right of first refusal pursuant to G.L. c. 40T, § 6, should be submitted on the form, *40T Exemption Request,* below. This Exemption Request Form applies to both requests for preliminary exemption letters and final exemption certificates under 760 CMR 64.07 (3) (b). A sample table is provided on the following page, reflecting an example property with Section, LIHTC, and Section 236 restrictions.

* At “Programs under which Affordability Restrictions are Currently in Place or have Expired…,” if “Other” is checked, please explain facts that may be pertinent to the analysis of a termination. For instance, a loan under a listed program may have been prepaid under LIHPRA, but the affordability restrictions may have remained in place. In this case, the affordability restrictions no longer directly relate to one of the covered programs, but are pertinent to the analysis of whether or not the housing will be preserved after the proposed sale.
* In the tables describing the current and proposed affordability restrictions, create additional rows as necessary to fully describe the restrictions, and note the following:
  + “Income Brackets” generally should refer to Area Median Income (AMI), but always should be listed as expressed explicitly in the restriction. For programs that establish layered/multiple income tiers, each tier should be identified and units should be listed for each restriction to which they apply, with the understanding that units may count towards more than one tier. For example, a unit that meets a 60% AMI requirement may also satisfy an 80% AMI requirement imposed by a different restriction and should be listed under each applicable restriction.
  + “Number of Units” refers to the total number of units within a particular category (i.e., LIHTC @ 60% AMI, market rate units, etc.). If the restriction does not address bedroom size, but only the total number of units, that should be noted.
  + EOHLC regulations require that information be submitted as to actual current occupancy and anticipated actual occupancy after the contemplated transaction of households within certain income ranges. These income ranges will not necessarily correspond to the income restrictions under a particular program, but the information is helpful to EOHLC in assessing the impact of a transaction on current tenants.
  + In the “Before Transaction” table, “Number of Units Occupied by Eligible Households” refers to a “snapshot” as of the date of the request of the actual income of tenants in units covered by each restriction, as determined by their most recently re-certified income. The information requested includes the number of restricted units currently occupied by tenants who are above the income limits for the applicable program and the number of units covered by the restriction that are vacant. For an illustration of how to represent actual occupancy, see the model for the Section 236 program in the sample exemption request table below.
  + To fill in the column entitled “Number of Units Occupied by Eligible Households” in the “After Transaction” table, the applicant should project how the current tenants of the development would be distributed among the post-transaction affordability programs, based on current occupancy, immediately after the closing, anticipating no changes in occupancy between the date of submission of the request and the date of the closing. The total numbers of occupied units in the “Before Transaction” and “After Transaction” tables should match unless a change in the number of units after the transaction is anticipated. If the totals appear not to match, please explain in narrative.
  + “Rent-Limits Formula” should be as expressed in the restriction, and may be a percent of household income or a cap on the monthly rent. Some programs may have more than one form of rent-limit formula and different rent-limit formulas for different income brackets. In such cases, list each one individually, and add notes as necessary.
  + “Restricted,” as used in this form, means subject to an “affordability restriction” as defined in G.L. c. 40T, § 1, which can include contract-based affordability requirements as well as real estate restrictions.

**Publicly Assisted (and other) Units -- Before Transaction**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Total Units in Project: 227  Total 40T-Restricted Units in Project: 147 | | | |  |  | Number of Units | | | | | Number of Units Currently Occupied by Eligible Households | | | | |
|  | **BR Size** | st. (studio) | 1 | 2 | 3 | 4 | st. (studio) | 1 | 2 | 3 | 4 |
| **Program  Imposing the Affordability Restriction** | | | **Income Bracket**  **(% AMI)** | **Rent-Limit Formula (complete for actual income rows only if rent formula will vary by income level)** |  |  |  |  |  |  |  |  |  |  |  |
| Project-Based Section 8, occupied as follows: | | | Restrict-ed to ≤80% | 30% of income up to contract rent (all Project-Based Section 8 units) |  | 10 | 20 | 30 | 40 | 5 |  |  |  |  |  |
|  | | Actual household income >80% AMI |  |  |  |  |  |  |  |  | 0 | 0 | 0 | 0 | 0 |
|  | | Actual household income >60% AMI but < 80% AMI |  |  |  |  |  |  |  |  | 8 | 18 | 28 | 38 | 4 |
|  | | Actual household income > 30% AMI but < 60% AMI |  |  |  |  |  |  |  |  | 1 | 0 | 1 | 0 | 0 |
|  | | Actual household income <30% AMI |  |  |  |  |  |  |  |  | 1 | 1 | 0 | 0 | 0 |
|  | | Vacant |  |  |  |  |  |  |  |  | 0 | 1 | 1 | 2 | 1 |
| LIHTC, occupied as follows: | | | Restrict-ed to ≤60% | 30% of 60% of AMI |  | 5 | 10 | 12 | 5 | 2 |  |  |  |  |  |
|  | Actual household income >80% AMI | |  |  |  |  |  |  |  |  | 0 | 0 | 0 | 0 | 0 |
|  | Actual household income >60% AMI but < 80% AMI | |  |  |  |  |  |  |  |  | 4 | 9 | 10 | 4 | 2 |
|  | Actual household income > 30% AMI but < 60% AMI | |  |  |  |  |  |  |  |  | 0 | 1 | 0 | 0 | 0 |
|  | Actual household income <30% AMI | |  |  |  |  |  |  |  |  | 1 | 0 | 1 | 0 | 0 |
|  | Vacant | |  |  |  |  |  |  |  |  | 0 | 0 | 1 | 1 | 0 |

**Publicly Assisted (and other) Units -- Before Transaction, Continued**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Total Units in Project: 227  Total 40T-Restricted Units in Project: 147 | | |  |  | Number of Units | | | | | Number of Units Currently Occupied by Eligible Households | | | | |
|  | **BR Size** | st. (studio) | 1 | 2 | 3 | 4 | st. (studio) | 1 | 2 | 3 | 4 |
| **Program  Imposing the Affordability Restriction** | | **Income Bracket**  **(% AMI)** | **Rent-Limit Formula (complete for actual income rows only if rent formula will vary by income level)** |  |  |  |  |  |  |  |  |  |  |  |
| Section 236, occupied as follows: | | Restrict-ed to ≤80% | Sliding scale based on income, with floor of Section 236 “basic rent,” increasing to ceiling of HUD “market rent” |  | 8 | 10 | 12 | 10 | 2 |  |  |  |  |  |
|  | Actual household income >80% AMI |  |  |  |  |  |  |  |  | 1 | 1 | 1 | 2 | 0 |
|  | Actual household income >60% AMI but < 80% AMI |  |  |  |  |  |  |  |  | 2 | 2 | 2 | 3 | 1 |
|  | Actual household income > 30% AMI but < 60% AMI |  |  |  |  |  |  |  |  | 3 | 4 | 4 | 3 | 1 |
|  | Actual household income <30% AMI |  |  |  |  |  |  |  |  | 1 | 2 | 3 | 1 | 0 |
|  | Vacant |  |  |  |  |  |  |  |  | 1 | 1 | 2 | 1 | 0 |
| Non-40T Restrictions | | n/a | n/a |  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| None (Market Rate Units) | | n/a | Market Rate |  | 15 | 20 | 25 | 20 | 0 | 15 | 20 | 25 | 20 | 0 |
| \* “Total 40T units” should be total number of actual units restricted under G.L. c. 40T. Because of overlapping subsidies, the sum of the individual figures in each column may be greater than the total number of actual units. If so, please explain in narrative. | | | | Total 40T units\* | 18 | 30 | 42 | 50 | 7 | 15 | 27 | 38 | 47 | 6 |
| † “Total” should be total number of actual and occupied units, respectively, including both restricted and non-restricted units. Because of overlapping subsidies, the sum of the individual figures in each column may be greater than the total number of actual units. If so, please explain in narrative. | | | | Total† | 33 | 50 | 67 | 70 | 7 | 30 | 47 | 63 | 67 | 6 |

**Seller Information Buyer Information**

Name: Name:

Address: Address:

Project Sponsor: Project Sponsor:

Contact Person Contact Person

Name: Name:

Email: Email:

Phone: Phone:

Attorney (if applicable) Attorney (if applicable)

Name: Name:

Email: Email:

Phone: Phone:

**Property Information**

Name of Development:

Address:

Total number of housing units:

**Nature of Request**

* Preliminary Exemption Request

Date of Purchase Contract/Option: \_\_\_\_\_\_\_\_\_

Type of Purchase Contract/Option: \_\_\_\_\_\_\_\_\_

Date of Notice of Intent to Sell to Preservation Buyer (if applicable): \_\_\_\_\_\_\_\_\_\_\_

* Final Exemption Request (after Preliminary Exemption)\*

Date of Preliminary Exemption: \_\_\_\_\_\_\_\_\_\_\_

* Copy of recorded deed attached
* Letter of Counsel certifying to closing in accordance with Preliminary Exemption attached
* Final Exemption Request (with no Preliminary Exemption)
* Copy of recorded deed attached
* Letter of Counsel certifying to accuracy of description of applicable restrictions in attached Request
* Affidavit of Buyer’s representative as to accuracy of facts stated in the attached Request

**Narrative**Describe real estate and/or financing transaction, measures being taken to preserve affordability, and other matters relevant to the exemption:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\* If a Preliminary Exemption was approved previously, pages 2 through 5 need not be completed, and only the signature of the Buyer’s representative and date of signature are required on p. 6.

**Basis for Exemption Request**\*

* § 6(i) taking by eminent domain or a negotiated purchase in lieu of eminent domain†
* § 6(ii) forced sale pursuant to a foreclosure†
* § 6(iii) deed-in-lieu-of foreclosure†
* § 6(iv) sale to a purchaser pursuant to terms and conditions that preserve affordability
* § 6(v) re: project-based section 8
* § 6(vi) sale to an affiliate‡ of the owner
* § 6(vii) 15-year remaining term on existing affordability restriction

**Programs under which Affordability Restrictions are Currently in Place:**

“Natural” Termination Date Is Restriction terminating

if not pre-paid or otherwise with the Sale?

terminated early (XX/XX/XXXX)

* Project-Based Section 8 contract
* Federal Low-Income Housing Tax Credit program
* Rent Supplement program
* Section 202
* Section 221(d)(3) BMIR
* Section 221(d)(4)
* Section 236
* Section 515
* Section 521 rental assistance
* Urban Development Action Grant
* Housing Development Action Grant
* Section 13A
* Project-Based MRVP contract
* Massachusetts Low Income Housing Tax Credit program
* SHARP
* Chapter 121A
* Other restrictions not within the G.L. c. 40T definition

of “publicly assisted housing.” Please specify:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Renewal of Current Restrictions**

Describe any current restrictions that are required to be renewed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Describe any restrictions that expired within the past 3 years, including expiration date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\* For more information, see G.L. c. 40T, § 6; 760 CMR 64.07.

† Please include documentation of the transaction.

‡ For definition, see G.L. c. 40T, § 1.

**Programs under which Affordability Restriction will be in Place Subsequent to Sale:** **\***

“Natural” Termination Date

if not pre-paid or otherwise

terminated early (XX/XX/XXXX)

“Publicly assisted housing” as defined in G.L. c. 40T, § 1

* Project based section 8 contract
* Federal Low-Income Housing Tax Credit program
* Section 202
* Section 221(d)(4)
* Section 236
* Section 521 rental assistance
* Project based MRVP contract
* Massachusetts Low Income Housing Tax Credit program
* SHARP
* Chapter 121A

Other project-based affordability restrictions

* RAD (Rental Assistance Demonstration)  
  (can include 40T and non-40T restrictions)
* HOME (HOME Investment Partnerships)
* AHT (Affordable Housing Trust Fund)
* CBH (Community-Based Housing)
* CIPF (Capital Improvement and Preservation Fund)
* FCF (Facilities Consolidation Fund)
* HIF (Housing Innovations Fund)
* Section 811 Supportive Housing for Persons with Disabilities (Section 811 of the National Affordable Housing Act of 1990; 42 U.S.C. § 8013)
* Federal Public Housing
* State Public Housing
* MassHousing Bond Financing
* HSF (Massachusetts Housing Stabilization Fund)
* HPSTF (Housing Preservation and Stabilization Trust Fund)
* Municipal Funding, please specify: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_
* Other

Please Specify: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Non-project-based rental assistance being provided to current tenants, including Enhanced Vouchers and Tenant Protection Vouchers, please specify: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_     \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\* Include any programs that are currently in place and are not terminating with the sale, as well as any contemplated new restrictions.

Publicly Assisted (and other) Units -- **Before Transaction, Based on Current Occupancy**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Total Units in Project: \_\_\_  Total 40T-Restricted Units in Project: \_\_\_ | | |  |  | Number of Units | | | | | Number of Units Occupied by Eligible Households | | | | |
|  | **BR Size** | st. (studio) | 1 | 2 | 3 | 4 | st. (studio) | 1 | 2 | 3 | 4 |
| **Program  Imposing the Affordability Restriction** | | **Income Bracket**  **(% AMI)** | **Rent-Limit Formula** |  |  |  |  |  |  |  |  |  |  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, occupied as follows: | | Restricted to \_\_ |  |  |  |  |  |  |  |  |  |  |  |  |
|  | occupied by over-income tenants | >80% |  |  |  |  |  |  |  |  |  |  |  |  |
|  | occupied by low income tenants | > 60 %, ≤80% |  |  |  |  |  |  |  |  |  |  |  |  |
|  | occupied by very low-income tenants | > 30%, ≤60% |  |  |  |  |  |  |  |  |  |  |  |  |
|  | occupied by extremely low income tenants | ≤30% |  |  |  |  |  |  |  |  |  |  |  |  |
|  | vacant |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  | |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Non-40T Restrictions | |  |  |  |  |  |  |  |  |  |  |  |  |  |
| None (Market Rate Units) | | n/a | Market Rate |  |  |  |  |  |  |  |  |  |  |  |
| \* “Total 40T units” should be total number of actual units restricted under G.L. c. 40T. Because of overlapping subsidies, the sum of the individual figures in each column may be greater than the total number of actual units. If so, please explain in narrative. | | | | Total 40T units\* |  |  |  |  |  |  |  |  |  |  |
| † “Total” should be total number of actual and occupied units, respectively, including both restricted and non-restricted units. Because of overlapping subsidies, the sum of the individual figures in each column may be greater than the total number of actual units. If so, please explain in narrative. | | | | Total† |  |  |  |  |  |  |  |  |  |  |

Publicly Assisted (and other) Units -- **After Transaction, Projected, Based on Current Occupancy**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Total Units in Project: \_\_\_  Total 40T-Restricted Units in Project: \_\_\_ | | |  |  | Number of Units | | | | | Number of Units Occupied by Eligible Households | | | | |
|  | **BR Size** | st. (studio) | 1 | 2 | 3 | 4 | st. (studio) | 1 | 2 | 3 | 4 |
| **Program  Imposing the Affordability Restriction** | | **Income Bracket**  **(% AMI)** | **Rent-Limit Formula** |  |  |  |  |  |  |  |  |  |  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, occupied as follows: | | Restricted to \_\_ |  |  |  |  |  |  |  |  |  |  |  |  |
|  | occupied by over-income tenants | >80% |  |  |  |  |  |  |  |  |  |  |  |  |
|  | occupied by low income tenants | > 60 %, ≤80% |  |  |  |  |  |  |  |  |  |  |  |  |
|  | occupied by very low-income tenants | > 30%, ≤60% |  |  |  |  |  |  |  |  |  |  |  |  |
|  | occupied by extremely low income tenants | ≤30% |  |  |  |  |  |  |  |  |  |  |  |  |
|  | vacant |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  | |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Non-40T Restrictions | |  |  |  |  |  |  |  |  |  |  |  |  |  |
| None (Market Rate Units) | | n/a | Market Rate |  |  |  |  |  |  |  |  |  |  |  |
| \* “Total 40T units” should be total number of actual units restricted under G.L. c. 40T. Because of overlapping subsidies, the sum of the individual figures in each column may be greater than the total number of actual units. If so, please explain in narrative. | | | | Total 40T units\* |  |  |  |  |  |  |  |  |  |  |
| † “Total” should be total number of actual and occupied units, respectively, including both restricted and non-restricted units. Because of overlapping subsidies, the sum of the individual figures in each column may be greater than the total number of actual units. If so, please explain in narrative. | | | | Total† |  |  |  |  |  |  |  |  |  |  |

**Effect of Transaction on Rents** If the transaction will result in the expiration of one publicly assisted housing program and its replacement by another publicly assisted housing program with a different rent calculation method, and the new rent calculation would result in higher rents by any current tenants, please indicate below how many tenants will be subject to higher rents and attach a table indicating: (1) the income levels of each of the affected tenants (as defined under G.L. c. 40T: >80% of AMI; > 60 %, ≤80% of AMI; > 30%, ≤60% of AMI; ≤30% of AMI), based on most recently certified income; (2) the bedroom sizes of the affected tenants; and (3) the monthly rent increase for each affected tenant.

Number of current tenants whose rents will be raised by a new program post-transaction: \_\_\_\_\_\_

**Affiliate Information** (if applicable; § 6(vi) only)

Describe in attached narrative all relevant entities and the basis for the claim that the affiliate (buyer) is “an entity owned   
or controlled by [the seller] or under common control with the [seller].” G.L. c. 40T, § 1. Please also provide an organization chart. If applicable, check here: \_\_

**Outstanding Termination Notices** If there are any outstanding terminations that have not been properly noticed, or if the Sale will cause a termination, curative notices under 760 CMR 64.03 (5) must be approved before an exemption will be issued. Please provide information in attached narrative. If applicable, check here: \_\_

**Notification**: If required, a complete copy of this 40T Exemption Request has been simultaneously   
provided to the following as provided in G.L. c. 40T, § 6(b):

* Municipality’s Chief Executive Officer: Name:  
   Address:
* Tenant Organization: Name:  
   (If none, leave blank.) Address:
* Legal Service Organization:\* Name:  
   Address:
* CEDAC, 18 Tremont Street, Suite 500, Boston MA 02108

**Seller Certification**: The undersigned certifies that all information provided and representations made   
are accurate and complete.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By the Seller: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

**Buyer Certification**: The undersigned certifies that all information provided and representations made   
are accurate and complete.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By the Buyer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\* To determine the legal services organization that serves the location in which the property is located,   
see <https://www.mass.gov/info-details/chapter-40t-guidance> .