

760 CMR 20

760 CMR 20.00:

HOMEOWNERSHIP PROGRAM

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20.01: Applicability

760 CMR 20.00 shall be effective on December 13, 1996. Prior to December 13, 1996, the HOP regulation was numbered 760 CMR 37.00 et seq.

20.02: Definitions

HOP - the homeownership program established pursuant to St. 1985, c. 405, § 35 to assist Low or Moderate Income Households to acquire affordable homes.

HOP Development - a housing development which is subject to HOP pursuant to approval of the Department. The specific mix of ownership of the units within such a development will be specified from time to time by the Department.

HOP Guidelines - any program documents issued by the Department or MassHousing, or updated from time to time, which explain in further detail HOP, how program funds may be obtained and utilized, and how HOP Developments may be implemented.

HOP Unit - a housing unit within a HOP Development that is available for sale at a price and with mortgage financing such that it may be purchased by Low or Moderate Income Household without the expenditure of an excessive amount of income for housing, as determined by current mortgage lending practices. From time to time the Department shall publish the permissible sales price limitations applicable to HOP Units.

Limited Dividend Organization - a partnership, corporation, cooperative corporation, or other entity approved by the Department that agrees to limit its return by building a Low or Moderate Income Housing Development and not distributing to its partners or owners more than a ten percent return on equity until the development, or the particular phase of the development involved in the HOP Program, has been completed, as determined by the Department.

Low or Moderate Income Households - households with incomes averaging at or below 80% of the regional median household income as determined from time to time for the federal Section 8 Program for a particular region.

MassHousing - (the former Massachusetts Housing Finance Agency).

Market Unit - a housing unit in a HOP Development that is available for sale to a homebuyer, at market prices, without any Re-sale Controls.

Re-sale Controls - the restrictions imposed on each HOP Unit within a HOP Development to ensure the continued affordability of the unit to eligible homebuyers by limiting their re-sale in accordance with the standards of HOP. These restrictions shall last for a period of at least 40 years from the initial sale of the HOP Unit.

20.03: Application Procedures

The Department will issue, from time to time, guidelines that further describe HOP. These HOP Guidelines will specify the application procedures and the minimum requirements to be met in order for projects to be designated as HOP Developments. In accordance with these HOP Guidelines, the Department may publish a schedule of fees adequate to cover its reasonable administrative costs incurred in operating this program.

20.04: Eligible Applicants

The primary goal of HOP is to encourage communities to identify their housing needs and take specific steps to develop the types of housing that are appropriate to meet those needs. HOP, therefore, has been designed to give priority consideration to applications that are submitted as collaborative efforts between communities and proposed developers. In addition to such applications, an application will also be considered if otherwise eligible in accordance with the HOP Guidelines and if it is submitted by:

- (1) a developer who has secured the written support of the involved community for the project but not its active participation in the program; or
- (2) a developer who has met all legitimate concerns raised by a community but still has not been successful in securing either the participation or the approval of the involved community for the project.

In reviewing applications submitted under HOP, the Department will take into consideration comments, whether in support or opposition, from relevant communities, Local Housing Partnerships, involved Boards and Commissions, and other interested persons prior to making a final determination as to the application.

20.05: Eligible HOP Developments

HOP Developments shall include a mix of HOP Units and Market Units in a manner that is appropriate to ensure the economic and programmatic feasibility of the particular project.. However, at least 25% of the total number of units available shall be HOP Units (30% if the development involves a comprehensive permit). In order to ensure the long term affordability of HOP units, their re-sale shall be governed by Re-sale Controls which shall usually be contained in the deed or a rider to the deed of the HOP Unit. All HOP Units shall be counted as subsidized for the purpose of demonstrating compliance with the requirements of M.G.L. c. 40B.

20.06: Financing

(1) HOP Financed Mortgages. As part of an approved HOP Development, MassHousing (or any other lender approved by the Department) shall cause mortgage loans to be issued to eligible Low or Moderate Income Households. Such HOP Financed Mortgages shall be consistent with MassHousing mortgage lending criteria and be issued:

- (a) for units that are priced within the applicable acquisition levels established by the Department;
- (b) to households that meet the income limits established by the Department and that meet current MassHousing mortgage underwriting standards; and
- (c) for a term that is consistent with the length of similar mortgage loans issued by the MassHousing.

(2) HOP Assisted Mortgages. Low or Moderate Income Households which are unable to satisfy the mortgage underwriting standards applicable to a HOP Financed Mortgage and have incomes at or below the requisite levels shall be eligible to receive a HOP Assisted Mortgage, if available. HOP Assisted Mortgages are HOP Financed Mortgages, where the effective cost to the borrowers will be reduced through subsidy payments made by the Department on behalf of the borrower. The subsidy amount will be secured by a second mortgage.

20.07: Re-sale Controls

HOP Units sold to eligible Low or Moderate Income Households have or shall have Re-sale Controls governing their re-sale which must be satisfied before the HOP Unit can be sold by its owner(s). The purpose of Re-sale Controls is to preserve the long-term affordability of the HOP Unit and to ensure its continued availability to Low or

Moderate Income Households. Re-sale controls existing on December 13, 1996 shall continue in full force and effect thereafter.

20.08: Buyer Selection

A plan setting forth, in detail, the procedure which will be used to market HOP Units must be submitted by the developer or the community to the Department prior to the sale of any units. This plan shall reflect all requirements of the guidelines and shall be subject to the approval of the Department and MassHousing (if MassHousing is providing financing). The plan shall include specification of all actions that will be taken to affirmatively fair market the units and any preferences that will be used to select potential homebuyers and the extent of those preferences, and. The developer or the community may apply to have local residency preference in selecting purchasers as long as these preferences do not prevent affirmative fair marketing. In instances where a local residency preference has been approved by the Department, there shall be no requirement limiting preference to residents who have lived in the community for any particular duration of time. Current or planned employment in the community may be used as a criterion for granting local preference.

20.09: Waiver

The Director may waive in writing any provision of 760 CMR 20.00 when, in the judgment of the Director, strict compliance with such provision will result in undue hardship and will be inconsistent with the purposes of HOP. No waiver shall be made if it would conflict with the provisions of St. 1985, c. 405, § 35 or other applicable law.

REGULATORY AUTHORITY:

760 CMR 20.00: M.G.L. c. 23B § 6, St. 1985, c. 405, §35.