

Affordable Housing Board Meeting
Lawrence Township, Municipal building

March 17, 2011

The following are the minutes of the Affordable Housing Board meeting, which was held on Thursday, March 17, 2011, in the Community Development Conference Room, located in the Lawrence Township Municipal Building.

Statement of Proper Notice

Adequate notice of the regular meeting of the Lawrence Township Affordable Housing Board has been provided by filing an annual meeting schedule with the Municipal Clerk, and by filing the agenda with the Municipal Clerk, posting prominently in the Municipal Building, and mailing to the Trenton Times, the Trentonian and the Lawrence Ledger.

The roll was called as follows at 7:31 p.m.:

Present: Chairman Kevin VanHise, Theresa Birch, Susan McCloskey, Jean Washington

Absent: James Kownacki, Council Liaison

Excused Absence: None

Also Present: Andrew Link, Principal Planner/Business Advocate and Susan Snook, Secretary

Welcome New Members

The new members of the Affordable Housing Board, Susan McCloskey and Jean Washington, introduced themselves.

Election of Officers

Nominations were opened to the floor for Chairperson. Theresa Birch nominated Kevin VanHise for Chairperson; seconded by Jean Washington. Chairperson VanHise accepted the nomination and it was a unanimous vote.

Chairperson VanHise opened the floor for nominations for Vice Chairperson. Susan McCloskey nominated Theresa Birch and seconded by Jean Washington. Vice-Chairperson Birch accepted the nomination and it was a unanimous vote.

Approval of Minutes:

The November 18, 2010 minutes were approved as submitted by unanimous vote.

Public Comment:

None

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Overview of Affordable Housing in New Jersey

Chairman VanHise gave a brief description to the new members of the Board regarding the changes that are being considered at State Level.

Chairman VanHise discussed the Assembly bill (A-3447) and the Senate bill (S-1) regarding how these changes will affect different Townships.

Essentially, not much has changed since the last update of November 2010. The legislature is still work on adopting new legislation to abolish the Council on Affordable Housing, likely putting COAH'S functions into another agency, whether it is the Department of Community Affairs, or creating a new agency.

This year, Senator Lesniack, who took the lead in Senate, had a bill that was sent over to the Assembly and the Assembly made substantial changes to it and it went back to the Senate and it was adopted. Governor Christie then issued a 102± page conditional veto. Governor Christie essentially wanted the legislation to be the way it was last June. Governor Christie's veto included wholesale revisions to the proposed bill for the Legislature's consideration and that is where it remains.

Senator Lesniak is planning to release the new version, taking into account all the comments that were received. He hoped to do so by March 5th, but it is still not released. Depending on what is proposed there is still not work on whether or not, Governor Christie will sign it.

So, as far as now, any towns that have plans pending are kind of in a unique situation. Lawrence Township is the fourth town to have beengranted certification in third round and it was the first town to be granted certification under the current "revised" COAH rules. This means that the Township has satisfied its affordable housing obligations and is immune from a builders' remedy lawsuit. Towns that have not satisfied their affordable housing obligations are vulnerable to a builders' remedy suit, meaning that a builder could find a tract of land and if they can demonstrate to the court that the Town has not met its affordable housing obligation, then the Builder can essentially dictate to the Town what they are going to build there in order to produce affordable housing.

Mr. Link gave copies of sections of the Land Use Ordinance on the Affordable Housing Board, Exhibit A-1.

Affordable Housing typically has deed restrictions on the individual units that will limit either what the rental amounts can be charged or what the maximum resale price can be. There is an income qualification process that tenants and buyers go through. This is what this Board initially was set up to do. A lot of the functions in this ordinance have been superceded by COAH's regulations over the last 5 or 6 years.

A lot of ordinances like this one, created Boards that served as Administrative agents. The Board would meet and do qualifications. They would oversee the program. Since the Board meets only once a month it became too difficult to timely process the applications. If someone wants to buy a unit or get qualified for a unit, by time they submit the paper work and the Board took a look at it for the first time, several weeks may have passed. That is why COAH subsequently required that administrative agents be created and appointed by municipalities.

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Other Business:

Mr. Link stated that this Board can have up to an additional five (5) members so if anyone knows anyone interested to become a member, to contact him and Mr. Link will get them an application. At present we have four (4) members, which makes just enough for a quorum. It is a seven (7) member Board with two (2) alternates.

Ms. Washington will not make the April meeting; therefore Mr. Link stated that we make a motion to cancel the April meeting. Chairperson VanHise made the motion to cancel the April meeting and seconded by Vice Chairperson Birch.

The meeting was adjourned at 7:49 p.m.

The next meeting will be held on May 19, 2011.



Susan Snook
Secretary

SJS

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- if necessary, updated at least every other year to incorporate any newly acquired historical documentation and to reflect changes to a resource's integrity or condition.
- B. To assist other public bodies in aiding the public in understanding historic resources, significance and methods of preservation.
 - C. To compile and monitor notices regarding use of detection-type devices; consider, determine and condition the granting of requests for provision to dig, disturb or remove anything from historic landmarks or sites.
 - D. To advise the Township Council on the relative merits of proposals involving public lands to restore, preserve and protect historical buildings, places and structures, including the preparation of a long-range plan therefor securing State, Federal and other grants and aid to assist therein and monitoring such projects once underway.
 - E. To recommend to the Planning Board and the Township Council the establishment and boundaries of historic districts where appropriate.
 - F. To recommend to the Zoning Board of Adjustment the granting of use variances where such are deemed to be within the intent and purposes of this Ord..
 - G. To secure the voluntary assistance of the public and (within the limits of the budget established by the municipality for the Historic Preservation Advisory Committee's operation) to retain consultants and experts and incur expenses to assist the Historic Preservation Advisory Committee in its work to provide testimony in support of its position before other bodies, boards, commissions or courts.
 - H. To cooperate with local, county, State or National historical societies, governmental bodies and organizations to maximize their contributions to the intent and purposes of this Ord..
 - I. To recommend to applicable county, State and Federal agencies, where appropriate, recognition of historic buildings, structures, sites, objects or districts.
 - J. To request the Township Council to seek, on its own motion or otherwise, injunctive relief for violations of this Ord. or other actions contrary to the intent and purposes of this Ord..
 - K. To spend money in the course of its duties as it is duly authorized by the Township Council.
 - L. No duties or powers of the Historic Preservation Advisory Committee shall supersede or infringe on the powers of other municipal boards or agencies.

§ 607 Establishment of the Affordable Housing Board.

- A. Establishment. An Affordable Housing Board (AHB) is hereby established for the purpose of monitoring the compliance of the municipality in providing housing for low and moderate income households pursuant to the Fair Housing Act of 1985 (N.J.S. 52:27D-301 et seq.).
- B. Membership; Terms of Office.
 - 1. The AHB shall consist of 7 voting members, all of whom shall be appointed by the governing body. Two of the members shall be occupants of affordable housing units. In addition, a member of the governing body shall be appointed the council liaison member and shall have no voting rights. The municipal manager and the

- director of the Office of Housing and Redevelopment shall be ex-officio members of the AHB with no voting rights.
2. The governing body may appoint alternate members, designated as "Alternate No. 1" and "Alternate No. 2" at the time of their appointment.
 3. The term of office for voting members and alternate members shall be for 3 years and the term of office of the governing body member shall be his or her term on Township Council.
 4. The adoption of this Ord. shall not be construed to affect any standing member of the Affordable Housing Board.
- C. Role of Alternate Members. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, "Alternate No. 1" shall vote.
- D. Compensation. Members of the Affordable Housing Board shall serve without compensation except that reimbursement of reasonable expenses in the execution of official duties may be made by the municipality.
- E. Removal. Any member may be removed by the governing body for cause or absence but only after public hearing if requested by the member and other due process proceedings. Any voting member of the AHB who has been absent without excuse for 3 successive regular meetings may be removed from office by the governing body after notice.
- F. Vacancies. If a vacancy shall occur otherwise than by expiration of term, it shall be filled for the unexpired term, only.
- G. Conflict. No member or alternate member of the Affordable Housing Board shall be permitted to act on any matter in which he or she has either directly or indirectly any personal or financial interest. No member who is so disqualified may act on that particular matter, shall not continue to sit with the Board on the hearing of such matter, nor shall participate in any discussion or decision.
- H. Reorganization. Yearly, the Affordable Housing Board shall organize by selecting from among its voting members a chairman and a vice-chairman. The Board shall also select a secretary who may or may not be a member of the Board or a municipal employee.
- I. Funding. The Township Council shall make provisions in its budget and appropriate funds for the expenses of the Affordable Housing Board upon submission by the AHB of an annual budget request to the municipal manager.
- J. Staff. The governing body may employ or assign at the request of the AHB such personnel or experts and other staff as the AHB deems necessary, provided such obligations do not exceed the municipal budgetary allocation available to the AHB for such use.
- K. Quorum. Attendance by 4 voting members shall constitute a quorum.

§ 608 Powers of the Affordable Housing Board.

The AHB is hereby granted and shall have and exercise the following powers:

- A. Sales and Rentals. Review with the assistance of the director of the Office of Housing and Redevelopment regulations pertaining to the sale, rental, resale and re-renting of affordable housing units.
- B. Ord. Amendments. With the assistance of the director of the Office of Housing and Redevelopment prepare amendments and additions to regulations pertaining to the provision of affordable housing as it deems necessary or appropriate to implement the purposes of Article X for recommendation to the Township Council.
- C. Appeals from Office of Housing and Redevelopment Decisions. Hold hearings upon notice and adjudicate the complaints of developers or applicants, owners and renters if the developer, applicant, owner or renter is not satisfied with the rulings of the Office of Housing and Redevelopment. In matters involving a hearing, the office shall give 10 days written notice to all parties involved and shall give all interested parties an opportunity to be heard.
- D. Funding Requests. With the assistance of the director of the Office of Housing and Redevelopment review requests from Federal, State, county, or local agencies regarding funding or applications for funding.
- E. Use of Funds. With the assistance of the director of the Office of Housing and Redevelopment make recommendations to the governing body regarding how municipal funds or funds collected for affordable housing from developers of land not subject to an affordable housing set aside should be spent and propose priorities for such expenditures.
- F. Marketing Plans. Review all housing marketing plans submitted to the Office of Housing and Redevelopment by developers.

ARTICLE X
AFFORDABLE HOUSING PROCEDURAL
AND ELIGIBILITY REQUIREMENTS

§ 1000 Affordable Housing Administration and Definitions.

- A. The Affordable Housing Board created pursuant to §607 of this Ord. shall administer the provisions of this Article in conjunction with the staff of the Lawrence Township Office of Housing and Redevelopment.
- B. Definitions pertaining to affordable housing are incorporated into Article II.

§ 1001 Affordable Housing Required.

Any residential development, including those developments consisting in whole or in part of bed units, shall set aside dwelling units for persons of low and moderate income as defined in this Article. Unless otherwise stated, the minimum set aside shall be 20% of the total number of units in the development. In assisted living residence developments, the set aside shall be a minimum of 5% of the total number of units of which at least half shall be affordable to persons of low income. Except on sites zoned to permit a residential density of 6 units per acre or greater, developments consisting solely of single family detached and/or duplex or two-family dwellings shall be exempt from these inclusionary requirements but shall pay an affordable housing fee pursuant to Article IX. Notwithstanding any requirement to the contrary, this section shall not apply to Eggert Crossing Village or Lawrence Plaza, or any senior residential cluster development.

§ 1002 Household Income Limitations.

The incomes of low and moderate-income households occupying affordable housing shall not exceed the income limits as of January 1 of the current year. Income qualification and verification shall be determined as required in *N.J.A.C. 5:93-9.1(b)*. Inclusionary developments shall be divided equally between households with low incomes and households with moderate incomes.

- A. Median Income Determination. Median income by household size shall be established by a regional weighted average of the uncapped Section 8 income limits published by the U.S. Department of Housing and Urban Development pursuant to *N.J.A.C. 5:93-7.4(b)*.
- B. Affordable Housing Purchase or Rent. Low income housing units shall be reserved for households with a gross household income less than or equal to 50% of the median income as determined in §1001.A. Moderate income units shall be reserved for households with a gross household income more than 50% but 80% or less of the median income.
- C. Assisted Living Facilities. Income determination and eligibility for assisted living facilities shall also comply with the New Jersey Housing and Mortgage Finance Agency's Assisted Living Underwriting Guidelines and Financing Policy, dated May 28, 1996, as it may be amended or superseded. The monthly fee for rent, meals, and basic services for the

Township Council of the municipality shall not have enacted an Ord. authorizing the improvement within 10 years after the date of all other improvements are completed.

- H. Deposit of Funds. All monies paid an applicant pursuant to this section shall be deposited with the municipality in a trust fund account. Such funds shall be used only for the improvements for which they are deposited or improvements serving the same purpose.
- I. Redetermination of Assessment Upon Completion of Improvements. Upon completion of off-tract improvements required pursuant to this section, the applicant's liability, shall be recalculated in accordance with the actual, as compared with the estimated, cost of the improvements. To the extent that it shall decrease the amount of the cost estimate, the Township shall refund the amount of such difference to the applicant. In cases where improvements are specially assessed against all benefited properties, recalculation shall be made by the municipal assessing authority in the course of the special assessment proceedings. In other cases, it shall be made by the Municipal Engineer.

affordable units in the assisted living facility shall not exceed 80% of household income. For the purposes of this section, 62.5% of the fee shall be assumed to be for meals and basic services and 37.5% of the fee for rent.

§ 1003 Unit Limitations.

- A. Type of Unit to be Provided. In any inclusionary development, at least 10% and no more than 20% of the required affordable units shall be efficiencies or one-bedroom dwellings, at least 30% of the required affordable units shall be two-bedroom dwellings and at least 20% of the required affordable units shall be three-bedroom dwellings, unless other wise excepted. For developments for senior citizens only, no three-bedroom units shall be required. These provisions shall not apply to long term care, residential health care or assisted living facilities. The type of unit for the balance of the required affordable units shall be determined by the developer.
- B. Size of Units. The minimum size of affordable housing units shall be as indicated in Table 10.1.

Table 10.1 Minimum Size of Affordable Housing Units.

Type of Unit	Minimum Size (gross square feet)
Efficiency	500
One-bedroom	600
Two-bedroom	750
Three-bedroom	900

- C. Certificates of Occupancy. The following additional requirements for the issuance of certificates of occupancy shall apply to inclusionary developments:
 - 1. The initial issuance of certificates of occupancy for market units shall be linked to the issuance of certificates of occupancy for affordable units. Prior to the issuance of the certificates of occupancy for market units, certificates of occupancy for affordable units shall be required in the following minimum ratios:

Table 10.2 Required Percentage of Affordable to Market Units.

Percentage of Affordable Housing Units Completed	Percentage of Market Housing Units Completed
0%	25%
10%	25% + 1
50%	50%
75%	75%
100%	90%

- 2. Each unit of affordable housing shall require a certificate of occupancy, which shall become void upon a change of owner or tenant.
 - 3. No certificate of occupancy shall be issued for a low and moderate income unit unless the provisions of *N.J.A.C. 5:93-9.3* are met.
- D. Unit Type and Household Size. The following housing type shall be used in determining affordability as it relates to household size:

Table 10.3 Unit Type and Household Size.

Unit Size	Household Size (persons)
Efficiency	1
One-bedroom	1.5
Two-bedroom	3
Three-bedroom	4.5

- E. Distribution of Low and Moderate Income Units. At least 50% of all units within each inclusionary development shall be affordable to low income households. At least 50% of all rental units shall be affordable to low income households. At least one-third ($\frac{1}{3}$) of all units in each bedroom distribution shall be affordable to low income households.
- F. Heating Source. Affordable housing units shall utilize the same type of heating source as market units.
- G. Design and Unit Integration. The facade of an affordable housing unit shall be indistinguishable from those of market units in terms of the use of exterior materials, windows, doors, reveal, roof pitch, color, or other material. Affordable housing units shall be dispersed throughout an inclusionary development to the greatest extent possible.
- H. Age-Restricted Units. The cumulative total of all low and moderate income units which are restricted by minimum age of adults may not exceed 25% of the Township's Calculated Need, as determined by the Housing Element of the Master Plan.

§ 1004 Initial Selling and Renting Determinations.

- A. For Sale Household Limit. The affordable sales price shall be limited such that the sum of the monthly payments for principal; mortgage interest; mortgage insurance; real estate taxes; fire, theft, and liability insurance; and homeowner, condominium, or cooperative association dues or fees, if applicable, shall not exceed twenty-eight percent (28%) of the gross monthly income for low or moderate income families as set forth in *N.J.A.C. 5:93-7.4(e)*. A 5% down payment, and a 30 year term, fixed annual percentage rate mortgage shall be used in the calculation. In calculating the monthly mortgage payment, the rate of interest as approved

by the affordable housing program administrator shall be utilized.

- B. Rental Household Limit. The monthly gross rental cost, including an allowance for utilities, of an affordable housing unit shall be limited such that the monthly payment shall not exceed 30% of the gross monthly income for low or moderate income households based on household size as set forth in *N.J.A.C. 5:93-7.4(a)*. The utility allowance shall be consistent with the utility allowance approved by the U.S. Department of Housing and Urban Development for in use in New Jersey.
- C. Average Selling or Renting Price. For the initial occupancy, the maximum average rent and sales price of low and moderate income units within each inclusionary development shall be affordable to households earning 57.5% or less of median income.
- D. Additional For Sale Housing Requirements.
 - 1. Pricing stratification. At least two different purchase prices for affordable units shall be established for low income buyers and at least three different purchase prices for moderate income buyers to achieve the average selling price required.
 - 2. Initial selling procedures shall be as required under *N.J.A.C. 5:93-9.16*.
 - 3. Master deeds of inclusionary developments shall regulate homeowner, condominium, or cooperative fees, and special assessments paid by low and moderate income buyers to at least one-third ($\frac{1}{3}$) of the amount paid by market unit purchasers. The actual percentage set in the master deed may not be changed without approval by the Affordable Housing Board and COAH pursuant to *N.J.A.C. 5:93-7.4(e)*.
- E. Additional Rental Housing Requirements.
 - 1. Pricing Stratification. One rent shall be established for each bedroom type affordable to a low income household; and another to a moderate income household, to achieve the average rental price required.
 - 2. Initial renting procedures shall be as required under *N.J.A.C. 5:93-9.16*.

§ 1005 Controls on Affordability.

- A. Deed Restrictions.
 - 1. Any affordable housing unit shall be deed restricted, and the deed shall also run through the municipality, such that any designated low-income household unit or moderate-income household unit shall remain affordable to the occupants within the income limits established by this Article for a period not less than 99 years for units offered for sale and 99 years offered for rent. Such deed restriction shall limit the units offered for sale and units offered for rental but shall not be construed as limiting ownership of any affordable housing unit by a municipally designated nonprofit housing agency. The deed restriction shall take the form adopted by the Council on Affordable Housing and from which it may be amended from time to time. Units which were initially sold shall not be rented without the prior approval of the Affordable Housing Board.

2. Rehabilitated owner-occupied single family housing units that are improved to code standard shall be subject to controls on occupancy by low and moderate income households for a period not less than 6 years. Rehabilitated renter-occupied housing units that are improved to code standard shall be subject to controls on occupancy by a low and moderate income households for a period not less than 10 years.
 3. Accessory apartments, when designated for affordable housing, shall be subject to controls on occupancy for a period of not less than 20 years; however, if the unit is included as a rental bonus unit, the period of affordability control shall not be less than 30 years.
 4. Deed restrictions on affordable housing units shall include options for purchase for the first non-exempt sale after controls on affordability have been placed pursuant to *N.J.A.C. 5:93-9.5* through *-9.8*. Municipal procedures for the rejection of such repayment options shall be as required in *N.J.A.C. 5:93-9.9*.
- B. Procedures for Resale. The following procedures shall be used for the resale of any affordable housing unit:
1. Notification of intent to sell. Owners of affordable housing units shall notify the Office of Housing and Redevelopment responsible for such housing of their intention to sell. The Office of Housing and Redevelopment shall monitor compliance with the provisions of this Article and shall determine the eligibility of prospective buyers. In the event that no eligible buyer enters into a contract of sale for the unit within 180 days of the notification of intention to sell, the Office of Housing and Redevelopment shall have the option to purchase the affordable unit for the maximum price permitted based on the regional increase in the median income as defined by the U.S. Department of Housing and Urban Development or other recognized standard as adopted by the New Jersey Council on Affordable Housing. In the event that the option to purchase is not exercised by the Office of Housing and Redevelopment, the seller may apply to the Affordable Housing Board for permission to sell the unit to a non eligible household at the maximum price permitted pursuant to this Article. The seller shall document efforts to sell the unit to an income eligible household.
 2. In reviewing the request for permission to sell, the Affordable Housing Board shall consider the specific reasons for any delay in selling the housing unit and the hardship to the seller in continuing to offer the affordable unit to an income eligible household. The inability to sell the unit for the maximum permitted resale price shall not, in itself, be considered an appropriate reason for allowing a housing unit to be sold to a non-eligible household.
 3. In the event that the application to sell to a non-eligible household is approved, the seller may sell an affordable housing unit designated for a low-income household to a moderate-income household and a designated moderate-income unit to households with incomes exceeding 80% of the median. In no case shall the seller be permitted to receive more than the maximum price permitted under this Article for allowable increasing in selling price and eligible capital improvements. Any excess money derived from such an illegal sale shall revert to the Office of Housing and Redevelopment and shall be placed in an affordable housing trust fund pursuant to

N.J.A.C. 5:93-8.14. The sale of an affordable housing unit in these circumstances shall not eliminate the deed restriction on affordability and any further sale shall be subject fully to the terms of this Article.

- C. Affordable Housing Price Increase. The price of an owner-occupied housing unit and the rents of affordable housing units may increase annually as issued by COAH based upon the percentage increase in median income for the Philadelphia PMSA region as determined by the Council on Affordable Housing. In no event shall the maximum resale price established by the affordable housing program administrator be lower than the last recorded purchase price.
- D. Eligible Capital Improvements. Owners of single-family, owner-occupied housing may apply to the Office of Housing and Redevelopment for permission to increase the maximum selling price of the unit for an eligible capital improvement. Only capital improvements which have received prior written approval from the Affordable Housing Board and which will render the housing unit suitable for a larger household shall be eligible. Property owners shall apply to the Affordable Housing Board if an increase in the maximum sales price is sought.
- E. Effect of Foreclosure on Resale. A judgment of foreclosure or a deed in lieu of foreclosure by a financial institution regulated by state and/or federal law or to a lender on the secondary mortgage market shall remove the restrictions required of this Article, provided that the owner of the affordable housing unit is obligated to pay to the Office of Housing and Redevelopment any excess funds generated by the difference in the maximum selling price at the time of foreclosure and the amount necessary to retire the debt to the financial institution, including any foreclosure costs. The affordable housing program administrator shall be notified of any foreclosure proceedings and the Township may, upon such notification, purchase the affordable housing or pass the option to the Department of Community Affairs, the New Jersey Housing Mortgage Finance Agency, or a designated non-profit entity to purchase the unit at the maximum selling price and maintain it as an affordable unit.

§ 1006 Affirmative Marketing.

- A. Marketing Plan Required. The developer of an inclusionary development shall submit, for approval by the affordable housing program administrator, a program for the affirmative marketing, screening, and selection of occupants of the low and moderate income units. This plan shall conform to the requirements of *N.J.A.C. 5:93-11*.
- B. Developer Responsibility. The developer of the inclusionary housing development shall be responsible for the following:
 - 1. The initial selling and rental price calculations;
 - 2. Affirmative marketing requirements; and
 - 3. Qualification of buyers or renters upon approval by the affordable housing program administrator pursuant to *N.J.A.C. 5:93-9 et seq.*
- C. Minimum Marketing. At a minimum the availability of housing low/moderate income families shall be made known to a variety of public and private groups and shall be advertised in appropriate ways throughout the municipality's housing region.

- D. AHB Approval. The developer will submit the marketing plan to the AHB at least 45 days prior to the advertising of the availability of the units. The AHB will approve or modify the plan within 30 working days of receipt of the plan.

§ 1007 Applicant Selection Process.

- A. Residency Preference. Among those determined to be eligible for affordable housing, the following preferences shall apply:
1. Eligible persons in the rehabilitation program that reside in the municipality shall preference over those that do not reside in the municipality.
 2. Persons that live or work within the East Central Housing Region shall have preference over those that live or work in another housing region.
- B. Referral List. At the time when all units in any category (e.g., efficiency; one, two or three bedroom units) for low or moderate income families having been sold or rented, the Office of Housing and Redevelopment will establish a referral list for the purchase or rental as the units become available in the future.
- C. Recertification. The AHB with the director of the Office of Housing and Redevelopment shall submit policy and procedure changes to the governing body including procedures on recertification of families on the referral list to insure the list remains current and families on the list are qualified for the units for which they applied.
- D. Consideration of Household Size in Eligibility. Household size may be a factor in determining the eligibility of the household for a particular unit. In no event shall a household qualify for a unit with more than one bedroom in excess of minimum number of bedrooms required.

§ 1008 Application Procedures.

- A. Application Procedure-Initial Sales and Initial Rental. The developer will provide applicants with application forms approved by the Office. Applicants will return the completed forms to the developer for the units desired. Forms must be filled out completely. Knowingly or intentionally making any false statements in a form shall be grounds for disqualifying an applicant, even if the applicant otherwise meets the requirements of this section. Those applicants, who after the necessary income and other checks by the developer, are found to meet the criteria will, prior to the sale or rental of the unit, have their applications and completed authorization to release financial information form, where applicable, sent by the developer to the office for certification. Those applicants who do not meet the criteria, have not submitted a completed application, or for whom no unit is available will be so notified by the developer. Copies of these notifications will be sent to the office. Those applicants who meet the criteria but for whom there is no unit available will be contacted by the office to determine if they wish to be placed on the eligible referral list. The developer will upon request of the office make all applications and inquiries available for review by the office.

- B. Application Procedure-Resale and Re-rental. Applicants will pick up forms from the office. Applicants will return the completed forms for the units desired to the office for review to determine eligibility based on the criteria and priorities set forth by the COAH and this section. Applicants will be notified as to their eligibility and/or placement on the referral list. Forms must be filled out completely. Knowingly or intentionally making any false statement in a form shall be grounds for disqualifying an applicant, even if the applicant otherwise meets the requirements of this section.

§ 1009 Inspection for Resale.

The municipal housing inspector shall inspect the available affordable resale unit for code violation(s). The housing inspector shall submit in writing to the owner and the office a listing of the violation(s). The estimated cost of the repairs not completed by the owner prior to resale shall be deducted from the resale price. The cost of repairs not undertaken by the owner will be determined by estimator(s) and/or contractor(s) supplied by the Office of Housing and Redevelopment and charged back to the seller.

§ 1010 Exempt Transactions.

- A. The following transactions shall be deemed "non-sales" for purposes of these regulations and the owner receiving title by virtue of any of the following transactions shall be entitled to a statement of exemption to the owner receiving title by virtue of any of the following transactions:
1. Transfer of ownership of an affordable sales unit between husband and wife;
 2. Transfer of ownership of an affordable sales unit between former spouses ordered as a result of a judicial decree of divorce (and not including sales to third parties);
 3. Transfer of ownership of an affordable unit between family members as a result of inheritance;
 4. Transfer of ownership of an affordable unit through an executor's deed to a Class A beneficiary;
 5. Transfer of ownership of an affordable unit through an order of the Superior Court or other court, in a foreclosure proceeding or transfer in lieu of foreclosure after a foreclosure proceeding has commenced.
- B. Except for the income level of the family acquiring title by an exempt transaction, the exempt transfer will not eliminate any restrictions set forth herein including, but not limited to, the unit remaining the prime resident and the requirement for resale to low and moderate income families as applicable and all such restrictions shall remain in effect following the exempt transfer except as stated in subsection -A.5.
- C. Should a mortgagee acquire title pursuant to subsection -A.5 it may re-sell the unit to any family regardless of income with the municipality having the right of first refusal. The sales price to the municipality is the amount necessary to cure the foreclosure. This includes all principal and interest due to the mortgagee and other lien holders, repayment of equity to the

owner prior to foreclosure and the costs of foreclosure. If the municipality does not purchase the unit, the mortgagee may sell the unit without any of the restrictions set forth in this section. The amount of the sale above that which is necessary to cure the foreclosure will be turned over to the municipality to be used for low and moderate income housing.

§ 1011 Occupancy Restriction.

Initial and subsequent owners of affordable housing units shall occupy the dwelling as their prime residence. RENTAL OR SUBLEASING OF THE AFFORDABLE HOUSING UNIT IS EXPRESSLY FORBIDDEN.

§ 1012 Violations of Article X Regulations.

- A. The interest of any owner of a sales unit or renter of a rental unit may, at the option of the office, be subject to forfeiture in the event of substantial breach of any of the terms, restrictions and provisions of these regulations which remain uncured for a period of 60 days after service of a written notice of violation upon the sales unit owner or renter that his or her interest may be subject to forfeiture if such infraction is not cured within 60 days of receipt of the notice. The provisions of this section may be enforced by the office by court action seeking a judgment which would result in the termination of the owner's equity and other interests in the unit. Renters will be subject to eviction. These remedies are in addition to any other provided by law, or in a mortgage, condominium deed, lease, or other applicable document.
- B. In addition to the penalties that may be invoked in subsection A above, any person or party found convicted of violation of the provisions of this Article shall be punished by a fine not exceeding \$2,000.00, and/or, by imprisonment for a period not exceeding 90 days or a period of community service not exceeding 90 days.
- C. In addition to the fine in subsection B above, the court in its discretion may impose a second fine equal to twice the amount received in illegal rent by the owner or lessee of the affordable housing unit.