Commonwealth of Massachusetts

DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT

Deval L. Patrick, Governor ◆ Aaron Gornstein, Undersecretary

To: Local Official
From: Christine A. McClave, Acting General Counsel, Office of the General Counsel
Catherine Racer, Associate Director, Division of Housing Development
Subject: Subsidized Housing Inventory Biennial Update
Date: February 21, 2014

The Department of Housing and Community Development ("DHCD") is in the process of updating the Chapter 40B Subsidized Housing Inventory ("SHI"). The methodology for counting units on the SHI is subject to DHCD regulations at 760 CMR 56.00 *et seq.* and guidelines at http://www.mass.gov/hed/docs/dhcd/legal/comprehensivepermitguidelines.pdf (see in particular section II, "Measuring Progress Towards Local Goals," and section III, "Affirmative Fair Housing Marketing and Resident Selection Plan" guidelines).

The SHI is used to measure the community's attainment of affordable housing goals for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law. A developer may appeal to the state Housing Appeals Committee for review of local action on a Comprehensive Permit if less than 10% of the community's total year round housing stock is subsidized and restricted for low or moderate income households. The percentage of subsidized housing in a community is derived by dividing the number of qualifying SHI units in the community by its total number of year-round housing units based on the latest available U.S. Census, which is currently the 2010 U.S. Census. Pursuant to the regulations at 760 C.M.R. 56.03(2)(f), DHCD shall update the SHI biennially.

Enclosed for your review and use is DHCD's current SHI record for your community, which reflects our information as of January 28, 2014 regarding the number of all units which qualify for inclusion on the SHI. Please note the following:

1) Corrections to your inventory record should be made by simply writing directly on the enclosed draft and returning it as indicated below. To add units or to restore units, please see below.

2) Please request that eligible units be added to the inventory by submitting a completed copy of the **"Requesting New Units Form"** (available at http://www.mass.gov/hed/docs/dhcd/hd/shi/rnuf.doc) along with the documentation required by said form. To request the addition of new units and to track units for CDBG and HOME housing rehabilitation units only, please use DHCD's "**Housing Rehab Units Only**" spreadsheet (available at http://www.mass.gov/hed/docs/dhcd/hd/shi/rehabunits.xls). **Please note** that the "Housing Rehab Units Only" spreadsheet must be submitted along with copies of use restrictions corresponding to the affordable units. As you area aware, the Housing Appeals Committee ruled in *South Center Realty, LLC* v. *Bellingham* that affordable rehabilitated units must be subject to a use restriction to be included on the SHI. Please see section II of the aforementioned guidelines for SHI use restriction requirements, including that the term of the use restriction shall be not less than 15 years for rehabilitated units (newly created units require a use restriction term of not less than 30 years).

3) Pursuant to DHCD regulations at 760 CMR 56.03(2)(c), if more than one year elapses between the date of issuance of the Comprehensive Permit (or zoning approval under M.G.L. c.40A or completion of plan review under M.G.L. c.40R), and issuance of the **building permit(s)**, units are no longer eligible to be counted on the SHI until such time as the building permits are issued. Furthermore, said regulations state that if more than 18 months elapse between issuance of the building permits and issuance of the **certificate of occupancy**, the units will become ineligible for the SHI until the date that the certificate of occupancy is issued. DHCD has removed units from the SHI (providing a unit listing of "0") based on such time lapses. Therefore, please provide as applicable a listing of issued building and occupancy

permit numbers and corresponding unit numbers and addresses to ensure or restore inclusion of units on the SHI. Please note that for SHI purposes, building permits are permits to construct units and foundation permits are *not* regarded as building permits.

4) Any developments for which the period of affordability **has expired or is listed as expiring in or before 2014** (see "Affordability Expires" column in the enclosed report) have been removed or are **subject to removal** from the SHI unless or until adequate documentation is submitted confirming that the period of affordability has not expired or has been extended. Generally, HOR units with expired affordability end dates have already been removed from the SHI as part of this biennial update.

5) DHCD counts group home units on the SHI based on information provided directly by the Department of Mental Health ("DMH") and the Department of Developmental Services ("DDS", formerly known as "Department of Mental Retardation" or "DMR").

6) If you have no changes to the draft inventory, please confirm that your inventory is correct by writing "no changes" and returning the inventory page(s).

This correspondence is being mailed to the Mayor, Town Manager/Administrator, Zoning Board of Appeals, and Planning Director/Department in each community as applicable. We ask that the appropriate officials in each municipality review this information and provide a coordinated response either confirming the information contained in the report, submitting corrections, and/or requesting that DHCD newly add or restore units to the SHI. **Complete information and required documentation must be submitted to ensure units will be newly added or restored to the SHI.**

We further request that you complete this review and return the enclosed draft inventory record with any applicable corrections, additions, and documentation by April 4, 2014. Please submit this information by emailing it via attachment to dhcdshiupdate@massmail.state.ma.us .

Please additionally note that Planned Production and DHCD's Local Initiative Program ("LIP") are powerful tools to assist communities in meeting their affordable housing goals in a manner consistent with local planning and development goals. The Planned Production Guidelines, available at http://www.mass.gov/hed/community/40b-plan/housing-production-plan.html, clarify the requirements of the affordable housing plans and the steps to implement the plans under the regulations (see 760 CMR 56.03(4)). LIP provides communities a method for counting units on the SHI that are not otherwise subsidized in accordance with the regulations. Please see section VI of the aforementioned guidelines for further information on LIP requirements. LIP applications for comprehensive permit projects and for Local Action Units (LAUs) can be found at DHCD's website at http://www.mass.gov/dhcd (search under "Local Initiative Program").

Thank you for your anticipated cooperation. If you have any questions, please contact Margaux LeClair at (617) 573-1526.