



Commonwealth of Massachusetts
DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT

Deval L. Patrick, Governor ◆ Aaron Gornstein, Undersecretary

MEMORANDUM

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From: Aaron Gornstein

Date: July 22, 2013

Re: FY13 HUD Income Limits – Commonwealth of Massachusetts Hold Harmless Policy

Problem:

Historically, developments that do not include federal subsidies such as NEF, Housing Starts, LIP and AHTF have used the HUD-established Section 8 income limits as a threshold for program eligibility and subsequently, rent/sales price calculations.

In 2010, because Low Income Housing Tax Credit (LIHTC) and tax-exempt bond-financed developments (a/k/a Multifamily Tax Subsidy Projects or MTSPs) are protected from income limit and rent decreases by the provisions of the Housing and Economic Recovery Act of 2008 (HERA), HUD decided to end the “hold harmless” policy for Section 8 income limits. This resulted in income limit decreases in five (5) Massachusetts income limit areas. In two (2) income limit areas, the Boston-Cambridge-Quincy and Eastern Worcester County HMFAs, HUD 80% of median “Low Income” limits for all households became artificially “capped” at the U.S. 80% of median income level and did not reflect a true, 80% of median family income by area for 2010. In prior years, these areas qualified for an historical “high housing cost” exception to the cap and were “held harmless” at the higher 80% of AMI levels. Three (3) income limit areas, the New Bedford, Providence-Fall River and Taunton-Mansfield-Norton HMFAs, experienced across the board income limit decreases in 2010 due to decreased median family incomes. The decreases include the 30%, 50% and 60% (MTSP) limits, as well as the 80% limit. As a result in 2010 the Department established a Massachusetts “hold harmless” policy for rental or homeownership developments that do not have federal subsidies.

In 2011 and 2012 HUD-published income limits across the Commonwealth generally experienced modest increases such that an official renewal of the Massachusetts “hold harmless” policy was not warranted.

In 2013, however, due in part to HUD's use of the 2006-2010 5-year American Community Survey (ACS) income data as the basis of FY 2013 Income Limits for all areas and a new lower 80% of median nationwide "cap" resulting from that policy, nearly all of the Massachusetts Income Limit Areas, 18 of 19, experienced decreased income limits across all income limit levels. The only exceptions are Nantucket County, which saw increases across all income limit levels, and the 80% limit in the Boston-Cambridge-Quincy HMFA, which were subject to "high housing cost" exceptions. Similarly, where there were just two areas artificially "capped" at the U.S. 80% of median income level in 2010, in 2013 a total of 14 of the 19 Massachusetts Income Limit Areas are now subject to the cap. In 2013 the cap is \$64,400 for a family of four, which is lower than the 2012, U.S. median income cap.

Decision:

The Department has determined that, for developments that do not have federal subsidies, either for rental or homeownership, Massachusetts will "hold harmless" rents, sales prices and the income limits for qualification in all communities affected by a decrease according to the published HUD Income Limits. Such developments shall be treated as if they were Multifamily Tax Subsidy Projects (MTSPs) protected under the provisions the Housing and Economic Recovery Act of 2008 (HERA), except that the "hold harmless" status will apply to all income levels, including 30% and 80% of AMI.

This means that in areas subject to income limit decreases, existing developments placed in service *prior to December 11, 2012*, or, at the discretion of the funding agency, new developments receiving funding commitments *prior to December 11, 2012*, will be allowed to use the highest income level achieved in the Income Limit Area at the time of or after the date the development was placed in service or received their funding commitment (See table below). Rents and sales prices for these areas will also continue to be calculated by the established formulas according to this Massachusetts "Hold Harmless" Income Limits Policy for developments that do not include federal subsidies. As HUD plans to continue to utilize 5-year American Community Survey (ACS) income data as the basis of future Income Limits setting, this policy is effective until superseded.

HOLD HARMLESS

When was the development placed in service?

Prior to 01/01/2009 (Eligible for Hold Harmless beginning with 2009 limits)

On or after 01/01/2009 but prior to 05/14/2010 (Eligible for Hold Harmless beginning with 2009 limits)

On or after 05/14/2010 but prior to 05/31/2011 (Eligible for Hold Harmless beginning with 2010 limits)

On or after 05/31/2011 but prior to 12/01/2011 (Eligible for Hold Harmless beginning with 2011 limits)

On or after 12/01/2011 but prior to 12/11/2012 (Eligible for Hold Harmless beginning with 2012 limits)

On or after 12/11/2012 (Eligible for Hold Harmless beginning with 2013 limits)