



Brief Legislative History and Definitions Regarding Low- and Moderate-Income Housing in Rhode Island

In 1991, Rhode Island passed the Low and Moderate Income Housing Act to streamline the permitting process for the development of low- and moderate-income housing to nonprofit developers and for-profit developers of rental housing. The law made available a tool called “comprehensive permitting” for any housing development that provided at least 20% of its total units as low- and moderate-income housing by receiving a federal or state subsidy. In 2002, with a growing housing affordability crisis, the law was amended and the tool became available to for-profit developers of ownership units as well. Numerous applications were filed across the state, and a moratorium was put in place on that portion of the law.

The Housing Act of 2004 amended portions of a number of laws regarding the planning and development of low- and moderate-income housing. A complete list of the laws that were amended can be found in the “Resources and Websites” page of this kit.

Four significant amendments to the law were: (1) the percentage of low- and moderate-income units required to file a comprehensive permit was increased from 20% to 25% of the total units; (2) the addition of a municipal subsidy as a means of developing a low- and moderate-income unit; (3) the minimum affordability period of 30 years for all low- and moderate-income units; and (4) the ability of “moderate” income ownership units (which serve households between 80% and 120% of area median income) to be considered low- and moderate-income housing.

The 2004 law also mandated that all municipalities that did not meet a minimum of 10% low- and moderate-income housing write a housing plan as part of their housing element to help direct local strategies for the development of low- and moderate-income housing. All of the 29 municipalities affected by the law wrote plans and have since had them approved by the state. The plans are available on RI Statewide Planning Program’s website at:

<http://www.planning.ri.gov/housing/plans.htm>

The measure of a municipality’s stock of low- and moderate-income housing is published each year by Rhode Island Housing as described in the State Housing Appeals Board’s regulations. The chart, as well as detailed sheets for each municipality, is sent out for a 30-day public comment period usually in January, and certified by February or March. The full chart can be viewed at: **<http://www.rihousing.com/filelibrary/LowModChartYE2006.pdf>**

Key definitions that apply to low- and moderate-income housing are:

“Low or moderate income housing” means any housing whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by the federal, state, or municipal government under any program to assist the construction or rehabilitation of housing affordable to low or moderate income households, as defined in the applicable federal or state statute, or local ordinance and that will remain affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state, or municipal subsidy program but that is not less than thirty (30) years from initial occupancy.”

R.I.G.L. 45-53-3(5)

“Municipal government subsidy” means assistance that is made available through a city or town program sufficient to make housing affordable, as affordable housing is defined in subsection 42-128-8.1(d)(1); such assistance may include, but is not limited to, direct financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or internal subsidies, and any combination of forms of assistance.

R.I.G.L. 45-53-3(11)

“Affordable housing” means residential housing that has a sales price or rental amount that is within the means of a household that is moderate income or less. In the case of dwelling units for sale, housing that is affordable means housing in which principal, interest, taxes, which may be adjusted by state and local programs for property tax relief, and insurance constitute no more than thirty percent (30%) of the gross household income for a household with less than one hundred and twenty percent (120%) of area median income, adjusted for family size. In the case of dwelling units for rent, housing that is affordable means housing for which the rent, heat, and utilities other than telephone constitute no more than thirty percent (30%) of the gross annual household income for a household with eighty percent (80%) or less of area median income, adjusted for family size. Affordable housing shall include all types of year-round housing, including, but not limited to, manufactured housing, housing originally constructed for workers and their families, accessory dwelling units, housing accepting rental vouchers and/or tenant-based certificates under Section 8 of the United States Housing Act of 1937, as amended, and assisted living housing, where the sales or rental amount of such housing, adjusted for any federal, state, or municipal government subsidy, is less than or equal to thirty percent (30%) of the gross household income of the low and/or moderate income occupants of the housing.

R.I.G.L. 42-128-8.1(d)(1)