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October 5, 2016

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Department of Housing and Community Development
100 Cambridge Street, Suite 300

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Boston, MA 02114

**Interim
Executive Director**
Karen B. Wiener

**RE: CHAPA's Comments on Proposed Amendments to 760 CMR 4.00,
760 CMR 6.00, 760 CMR 11.00, 760 CMR 63.00, and 760 CMR 47.00**

Dear Ms. Rubin,

On behalf of Citizens' Housing and Planning Association (CHAPA), thank you for the opportunity to submit comments on the proposed promulgation of amendments to regulations 760 CMR 4.00 – General Administration of Local Housing Authorities, 760 CMR 6.00 – Occupancy Standards and Tenancy Participation for State-Aided Housing, 760 CMR 11.00 – Modernization and Development of State-Aided Public Housing, 760 CMR 63.00 – Public Housing Innovation Demonstration Program, and 760 CMR 47.00 – Affirmative Action Regulations Governing Recipients of EOCD/DCA Financial Assistance. Also, thank you for your continuing support of public housing in Massachusetts and the homes it provides for the thousands of families, elderly, and persons with disabilities.

The mission of CHAPA is to encourage the production and preservation of housing that is affordable to low and moderate income families and individuals and to foster diverse and sustainable communities through planning and community development. As part of our advocacy to increase access to affordable housing, we convene meetings of housing advocates and public officials to discuss policy priorities, program design, and regulations.

CHAPA developed the following comments with of our Public Housing Committee which consists of experts in public housing, including housing authorities, tenant organizations, lawyers, and legal aid groups, and other public housing advocates in Massachusetts. Thank you for your consideration.

760 CMR 4.00 – General Administration of Local Housing Authorities

Post contact information for all LHA staff on websites. In 760 CMR 4.03(1)(a), CHAPA asks that LHAs post the contact information for all staff members on its websites. Posting the contact information for all staff will increase transparency for tenants, applicants, local

and state officials, and the general public as well as increase access to the LHA's programs and opportunities.

Explicitly state on LHA notices and websites that it is illegal to discriminate against applicants based on source of income. In 760 CMR 4.03(1)(d), CHAPA asks that the required posting of a notice at an LHA and on its website stating that any individual who believes he or she has been discriminated against has the right to file a complaint with the Massachusetts Commission Against Discrimination (MCAD) explicitly include source of income in the list of protected classes. Massachusetts Law protects persons from discrimination based on source of income, including the receipt of public assistance, rental assistance, or other housing subsidies.¹ Residents of public housing and rental voucher holders, who are part of this protected class, should be informed of this right on postings at LHAs and on their websites where residents are likely to go for information.

Increase public participation in creating LHA annual plans. In 760 CMR 4.17, CHAPA asks that the process be improved for increasing public participation in creating an LHA's annual plan. Specifically, in 760 CMR 4.17(f)(ii), we ask that the regulations require LHAs to post draft annual plans on LHA websites in addition to making the plans available at LHA offices.

Also, in order to give the public an adequate opportunity to review a draft annual plan, we ask that the draft plan be made available at least 30 days in advance of the public hearing as opposed to the 10 days required by the proposed regulation. The 30 day review period would align with regulations of the U.S. Department of Housing and Urban Development (HUD) which requires a 30 day review and comment period on any policy, lease, or grievance procedure change.²

Next, we ask that LHAs be required to hold meetings that involve the public, including local tenant organizations (LTOs) and Resident Advisory Boards (RABs), before an LHA releases its draft annual plan for public comment. This will allow input from residents to be incorporated into an annual plan as it is drafted, which will proactively address comments and concerns.

Finally, CHAPA asks that an LHA explain how it will respond to comments it receives and that it notify RABs and LTOs if it makes any changes to the draft annual plan before being submitting to DHCD for approval.

760 CMR 6.00 – Occupancy Standards and Tenancy Participation for State-Aided Housing

Allow recognition of LTOs and Resident Associations that represent more than state or federally aided public housing residents. 760 CMR 6.09(2)(a)(i) only allows Resident Associations to represent tenants of state or federal public housing. As LHAs look for creative solutions to develop more affordable housing or preserve their existing portfolio, public housing developments may now include mixed financing that will not consist of only public housing units. These developments may include a combination of public housing and non-public housing units, for example, with units supported by the Low Income Housing Tax Credit (LIHTC). As written, the regulations do not contemplate households in mixed finance LHA developments who do not

¹ See Mass. Gen. Laws ch. 151B, § 4(10).

² See 24 C.F.R. § 966.

reside in public housing. The regulations should allow for these households, as well as any households that benefits from public housing, to be represented in LTOs or Resident Associations in order to encourage participation and inclusive communities.

Allow recognition of LTOs and Resident Associations that represent clusters of state and federal developments. In 760 CMR 6.09(2)(a)(i), CHAPA asks that the regulations allow for recognition of Resident Associations and LTOs that represent cluster developments at LHAs that include both federal and state buildings. These LTOs may exist when there is no city-wide organization but where state and federal buildings sit adjacent to each other and are commonly managed.

Remove overly prescriptive requirements for recognition and governance of Resident Associations. In 760 CMR 6.09, CHAPA asks that the regulations be amended to allow more flexibility in the recognition and governance of Resident Associations. As described below, certain governance issues should be left to the LTOs and Resident Associations to decide in their bylaws.

For example, 760 CMR 6.09(2)(a)(v) requires that 10% of residents represented by a Resident Association be present to revise its rules or bylaws. CHAPA asks that more flexibility be given to associations by allowing them to decide in its bylaws what would represent a quorum when deciding to revise bylaws.

Also, 760 CMR 6.09(2)(a)(vii) requires officers of the Resident Association to be elected. This would prohibit existing models for Resident Associations where elected Board Members appoint officers. These Board Members may be in a better position to select officers of the Resident Association. Instead, the regulations should allow for an LTO or Resident Association to include in its bylaws how officers will be selected.

Finally, 760 CMR 6.09(2)(a)(ix) mandates that at least 10% of represented households must participate in any recall or special election which can only be held once a year. These requirements for special elections may prevent an officer from being replaced if, for example, more than one officer can no longer serve in the course of one year. Again, an LTO should be allowed to describe in its bylaws how vacancies get filled.

Ensure funding for LTOs despite any fundraising. In 760 CMR 6.09(3)(c), CHAPA asks that LTO funding is protected by adding a clause stating: “Funding owed to an LTO under this section shall not be affected by any funds raised by the LTO.” This will help encourage trust and transparency between LHAs and LTOs as an LTO plans its budget.

Remove reference to umbrella organizations. In 760 CMR 6.09(3)(c), CHAPA asks that the paragraph referencing “umbrella organizations” be removed. The regulations do not define this term and causes confusion between existing terms including LTOs, Resident Associations, and RABs.

Allow tenants of federal public housing to be eligible for election to an LHA Board of a town. As currently written, 760 CMR 6.10(1) only allows tenants of state-aided public housing to be eligible for election to the LHA Board in a town. CHAPA asks that tenants of federal public

housing also be eligible to serve on an LHA Board in a town. This would reflect the practice of LHA Boards in cities where all tenants of public housing are eligible to fill the tenant Board seats. Allowing federal tenants to serve would also broaden the pool of eligible candidates for the Board, helping to ensure a qualified candidate who will best represent LHA residents.

Allow a Tenant Board Member to be replaced more quickly if that Board Member is no longer eligible for the seat. In 760 CMR 6.10(1)(b)(ii), CHAPA asks that the regulations allow for a Tenant Board Member to be replaced more quickly if that Board Member is no longer eligible to hold the seat. As currently written, a Tenant Board Member can serve out an entire five-year term even if that member moves after the first year of the term. A shorter time period should be allowed to fill a seat of a Board Member who is no longer an eligible tenant so that the interests of all the tenants are adequately represented on the LHA Board.

760 CMR 11.00 – Modernization and Development of State-Aided Public Housing

Formalize the role of the RCAT Advisory Board. In 760 CMR 11.01, the definition for “RCAT Advisory Board” states that the Board will “discuss issues of RCAT Program performance and coordination.” CHAPA asks that this definition be strengthened to formalize a role for the RCAT Advisory Board by allowing the Board to report and provide input on issues on performance and coordination. This will help ensure that RCATs operate effectively and efficiently with input from the Board that represents the entire region.

760 CMR 47.00 – Affirmative Action Regulations Governing Recipients of EOCD/DCA Financial Assistance


Explicitly include prohibition of discrimination based on source of income in the Declaration of Policy. In 760 CMR 47.01(2), CHAPA asks that the Declaration of Policy for this regulation explicitly include the prohibition of source of income discrimination. As stated earlier, Massachusetts law protects recipients of public assistance, rental assistance, or other housing subsidies from discrimination.³ As these regulations directly involve entities that work with members of this class, including housing authorities and other recipients of assistance from DHCD, this should be included in the regulation.

Strengthen provision making LHAs ineligible for financial assistance on account of civil rights noncompliance. In 760 CMR 47.04(1)(a), CHAPA asks that the provision making LHAs ineligible for financial assistance on account of civil rights noncompliance be strengthened. As currently written, the only civil rights violation issues that can be considered are those that involve MCAD, the Office of the Attorney General, and judicial decisions regarding discrimination claims against LHAs. In order to encourage the further protection of civil rights at LHAs, the regulations should allow other information to be taken into consideration in addition to complaints filed with formal bodies.

³ See Mass. Gen. Laws ch. 151B, § 4(10).

Thank you for your thoughtful consideration of these comments. As always, CHAPA is committed to working with DHCD to ensure that everyone in the Commonwealth has a safe, decent, and affordable place to call home. Please do not hesitate to contact me with any questions about the comments offered in this letter.

Sincerely,

A handwritten signature in black ink that reads "Rachel Heller". The signature is written in a cursive, flowing style.

Rachel Heller
Chief Executive Officer

cc: Undersecretary Chrystal Kornegay
Sarah Glassman, Associate Director, Division of Public Housing and Rental Assistance
Ian Meyer