



**Illinois
Housing
Development
Authority**

A self supporting public agency

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ROD R. BLAGOJEVICH – GOVERNOR
Kelly King Dibble – Executive Director

Date: August 11, 2004

To: Chief Local Elected Municipal Officials

From: Kelly King Dibble, Executive Director
Illinois Housing Development Authority

Re: Procedures for Implementation of Public Act 93-595/Public Act 93-678
(The Affordable Housing Planning and Appeal Act, as amended)

This memorandum summarizes the methodology, general findings, and administrative procedures that the Illinois Housing Development Authority (“IHDA”) has employed to implement the Affordable Housing Planning and Appeal Act (P.A. 93-595/P.A. 93-678). Please note that a separate, more detailed report has been prepared on the methodology utilized in the development of the non-exempt local governments list.

A. PROJECT PURPOSE

On January 1, 2004, the Illinois Affordable Housing Planning and Appeal Act went into effect. This law is intended to encourage municipalities and counties to incorporate affordable housing into their communities. It requires all counties and municipalities with insufficient affordable housing, defined by the law as non-exempt governments, to adopt affordable housing plans. Local governments with sufficient affordable housing, set by the statute as 10% or more of total year-round housing units, are exempt, as are municipalities under 1,000 in population. The Act also states that affordable housing developers proposing projects located in non-exempt local government jurisdictions, who are denied permits or applications or who are approved for projects with infeasible conditions by local governments with insufficient affordable housing, may appeal local decisions to the State Housing Appeals Board, which is to be activated in January of 2009.

IHDA is named the administering agency for the law, and is to publish an annual list of exempt and non-exempt local governments beginning by October 1, 2004. IHDA hired an independent third party under contract, the University of Illinois at Urbana-Champaign (Building Research Council), and worked closely with them to produce the needed data and report. The purpose of that report is to develop and apply a methodology, consistent with the provisions in the statute, to determine which local governments are exempt from the provisions relating to the development of an affordable housing plan and from the State Housing Appeals Board appeals process.

B. METHODOLOGY

Consistency with P.A. 93-595/P.A. 93-678 was the foremost criteria used to develop the methodology determining exempt status for Illinois local governments. As specified in the statute, median household income for the local PMSA or county was used to determine the maximum affordable monthly payment for rental and for-sale housing units. These maximum affordable payments were generally compared to decennial Census data describing the housing supply in each local jurisdiction, producing a count of the total number of affordable rental units and affordable for-sale units in each local jurisdiction. In the case of for-sale units, an additional step required the conversion of the maximum affordable monthly payment to a maximum affordable house value. The total number of affordable units was divided by the total number of year-round housing units to produce the percentage of affordable housing units located in each local jurisdiction. As stated earlier, a larger, more detailed report on this process has been made available to non-exempt local governments and other interested parties.

C. GENERAL FINDINGS

Of the 1,287 municipalities and 102 counties in Illinois, 49 municipalities have been determined to be non-exempt from the provisions of P.A. 93-595/P.A. 93-678. An additional 10 municipalities had less than 10% of affordable housing, but were exempt because they have populations below 1,000. All of the non-exempt local governments are in the six-county Chicago Primary Metropolitan Statistical Area. Lake and Cook Counties have the most non-exempt municipalities, with 18 and 16 respectively, followed by DuPage County with 7 non-exempt municipalities, and then Kane, McHenry, and Will Counties with 3 or fewer. In Illinois, 52.9% of all year-round housing units are classified as affordable.

D. LOCAL GOVERNMENT'S ROLE

Each municipality or county which has been determined to have less than 10% of its total year-round housing stock deemed as affordable must develop and approve an affordable housing plan, consisting of at least the following:

- a statement of the total number of affordable housing units that are necessary to exempt the local government from the operation of this Act, as defined in Section 15 and Section 20;
- an identification of lands within the jurisdiction that are most appropriate for the construction of affordable housing and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned;
- incentives that local governments may provide for the purpose of attracting affordable housing to their jurisdiction; and
- a goal of: a minimum of 15% of all new development or redevelopment within the local government that would be defined as affordable housing in this Act; or a minimum of a 3 percentage point increase in the overall percentage of affordable

housing within its jurisdiction, as defined in Section 20 of this Act; or a minimum of a total of 10% of affordable housing within its jurisdiction.

Within 60 days after the local adoption of an affordable housing plan or revisions to its existing affordable housing plan (which must address these four elements), the non-exempt local government must submit a copy of that plan to IHDA. The law, as amended, now requires non-exempt local governments to adopt the affordable housing plan by April 1, 2005.

E. IHDA'S ROLE

IHDA is designated in the legislation as the administrator and point of receipt for all affordable housing plans required to be submitted from local governments.

- Upon receipt of a plan from a designated non-exempt local government, IHDA will send notice of receipt and inform the jurisdiction of the review process.
- IHDA will review the submitted plan for completeness in conformance with the statutory requirements. Jurisdictions are recommended to submit complete and fully documented plans to assure compliance with the requirements.
- IHDA will notify the non-exempt jurisdiction, if questions of completeness or documentation arise in the review of the plan.
- All plans and IHDA correspondence and notifications to jurisdictions regarding plans are considered public information.

IHDA has plans to help organize and conduct a number of local informational and technical assistance sessions to provide impacted local governments with additional guidance. IHDA will work with all the interested groups, including Business and Professional People for the Public Interest, Metropolitan Mayors Caucus, Illinois Municipal League, Metropolitan Planning Council, and other local government membership and assistance organizations, to organize and conduct these presentations, as needed.

While the statute provided no specific date for local compliance with one of these three options, it is assumed that this must occur by the time of the formation/activation of the State Housing Appeals Board, which is January 1, 2009.

F. REPORTING COMPLIANCE WITH THE ACT

Please note that while the Act requires IHDA to publish an annual update of the non-exempt/exempt local government list, the lack of available, standardized data sources for all impacted local governments prohibits a statistical update of the originally determined numbers, which are primarily based on Census figures, all of which are only updated on a decennial basis.

IHDA understands that non-exempt local governments will likely act to comply with this statute and their submitted affordable housing plan, and as such will collect, analyze, and present data (to IHDA, on behalf of the possible future consideration/review by the State Housing Appeals Board) in order to demonstrate compliance. IHDA will not provide an approval of such data provided, but will acknowledge receipt as well as identify in all subsequent annual updates of the

non-exempt local governments list those municipalities and counties which have reported such local compliance to IHDA.

G. APPEALS/CHALLENGES

P.A. 93-595/P.A. 678 does not specify an appeals process for local governments questioning their status as a designated non-exempt entity. The State Housing Appeals Board, authorized starting in January 1, 2009, has rulemaking authority under the law, and could establish such a process. IHDA, however, will accept all such appeals on behalf of the State Housing Appeals Board until that time. It is possible that no further action can be taken on the disposition of such requests until after the authorization date for the State Housing Appeals Board.

Questions regarding the administrative procedures under the Illinois Affordable Housing and Appeal Act can be directed to IHDA's Office of Housing and Coordination Services at (312) 836-5383.

Thank you.

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