

Affordable Housing Planning and Appeal Act (310 ILCS 67/)
Recommended Procedural Guidelines for Compliance

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I. Executive Summary:

The Affordable Housing Planning and Appeal Act (P.A. 93-595/P.A. 93-678, cited as 310 ILCS67/), addresses a shortage of housing that is affordable to people who are vital to local economies and who provide critical community services. All communities in Illinois with less than 10% affordable housing (unless having a population of less than 1,000) are “non-exempt” from the Affordable Housing Planning and Appeal Act, and thus are required to approve and implement a housing plan that enables the community to increase its stock of affordable housing. The law also creates a State Housing Appeals Board that, beginning in 2009, can review developers’ appeals of certain local decisions affecting proposed affordable housing developments. The Illinois Housing Development Authority (IHDA), named the State-administering agency in the law, has produced the enclosed *Recommended Procedural Guidelines for Compliance* to aid non-exempt communities in complying with the law.

Compliance with the Affordable Housing Planning and Appeal Act does require clarification on what certain terms and concepts mean in reference to the act. While the *Recommended Procedural Guidelines for Compliance* goes into greater depth on a variety of terms, it should be noted that IHDA has primarily been receiving inquiries regarding the following matters:

- Development is defined as the act of building and readying for occupancy a unit or series of units of housing that previously did not exist on the site because the site was vacant or the structure that previously occupied the non-residential site was demolished to clear the site for the new unit(s).
- Redevelopment is defined as the act of converting or changing an existing non-residential structure into a housing unit, or converting or changing an existing housing structure into a new type of housing structure, including demolition and reconstruction activities.
- Teardowns are defined as the razing of a housing unit, and the replacement of the unit with another housing unit. When an affordable unit is razed, it must be removed from the count of affordable units as well as the total housing stock.
- Home Rule. Fourteen of the forty-nine non-exempt municipalities determined in August of 2004 are home rule municipalities. It has been IHDA’s position that this law does not specifically exempt home rule municipalities from coverage under this law, and that neither House nor Senate bill sponsors or members requested a Home Rule Note to make such a further determination during the process of this law or its later amendment being approved by the Illinois General Assembly. IHDA has no authority to interpret the legislative intent of the law and is only required to implement the law as it has been enacted.

In addition to defining terms and concepts, *Recommended Procedural Guidelines for Compliance* seeks to recommend steps that will aid non-exempt municipalities in tracking units that are added to or lost from the housing stock through development, redevelopment, teardowns, or conversions. Recommended within are tools that municipalities can use to make accurate annual updates of the affordable/non-affordable housing units within their jurisdictions. The tracking of units in this way will help municipalities make positive progress towards compliance not only with the law, but with the goals set forth in their affordable housing plans.

It is important to realize that a housing unit that is currently affordable may not always stay that way. Therefore, ongoing tracking, monitoring, and controls become crucial tools for a

community to use to ensure that units remain affordable and thus are counted towards the affordable percentage for years to come. When the 2010 Census data is published, exempt status from the Affordable Housing Planning and Appeals Act will be recalculated using the figures from the Census. If units are not kept affordable, it is possible that they will not be counted as such by a future Census and therefore will not be counted as affordable in the next determination of exempt status. It is also the intent of the *Recommended Procedural Guidelines for Compliance* to provide resources that non-exempt communities can use to help them work towards compliance. Discussed within are Federal, State and local resources that may be accessed for assistance in complying with the Affordable Housing Planning and Appeal Act.

The Affordable Housing Planning and Appeal Act is not intended to supplant local decision-making in the development process. It is, however, intended to strongly encourage local planning strategies that foster the development of affordable housing. The law is not intended to dictate the type of housing (owner vs. renter, senior vs. family, etc.) that will be developed or which local incentives (inclusionary zoning, tax abatements, etc) are to be used. Such decisions are local decisions. The major purpose of the *Recommended Procedural Guidelines for Compliance* is to provide clarification on issues and questions that have already been raised and are anticipated in an effort to aid the local decision-making process.

II. Introduction and Outline of the Statute:

On January 1, 2004 the Affordable Housing Planning and Appeal Act (P.A. 93-595/P.A. 93-678, cited as 310 ILCS67/) came into effect in the State of Illinois, addressing a shortage of housing that is affordable to people who are vital to local economies and who provide critical community services. Many teachers, police officers, nurses, firefighters, and other key employees in local jobs cannot afford to live in the communities where they work. Furthermore, seniors are often priced out of the communities in which they have spent their lives, and young families cannot afford to return to the communities where they grew up to raise their own children. Home prices continue to outpace incomes throughout the Chicago region. All communities in Illinois with less than 10% affordable housing (and a population greater than 1,000) are “non-exempt” from the Affordable Housing Planning and Appeal Act, and thus are required to approve and implement a housing plan that enables the community to increase its stock of affordable housing. The law also creates a State Housing Appeals Board that, beginning in 2009, can review developers’ appeals of certain local decisions affecting proposed affordable housing developments. Any community that has met the affordable housing goal specified in its plan is automatically exempt from the authority of the Appeals Board.

IHDA is named the State-administering agency in the law, and was to publish a list of exempt and non-exempt local governments beginning by October 1, 2004. IHDA contracted with an independent third party, the University of Illinois at Urbana-Champaign (Building Research Council), and worked closely with them to produce the needed data and report, a copy of which was provided to all 49 non-exempt municipalities on August 11, 2004. The purpose of that report was to develop and apply a methodology, consistent with the provisions in the statute, and 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.

It is recommended that communities that are non-exempt from the Affordable Housing Planning and Appeal Act develop a methodology for tracking changes in the number of affordable units within their housing stock. It is a major purpose of this memorandum to provide further guidance for non-exempt local governments for counting, summarizing, and reporting progress towards compliance with the Affordable Housing Planning and Appeal Act.

A. Home Rule:

Since the passage into law of the Affordable Housing Planning and Appeal Act, the Illinois Housing Development Authority has received a number of inquiries about whether this new law applies to home rule municipalities and counties in Illinois.

The bills passed by both houses of the legislature (House Bill 625 in 2003 and Senate Bill 2724 in 2004) were silent on this issue. Also, in neither case did a legislator request a Home Rule Note, a process administered by the Department of Commerce and Economic Opportunity (DCEO) upon legislative request, to make a determination of home rule applicability to that particular bill. Since the law does not specifically provide for a home rule exemption, IHDA will assume that the law does apply to home rule municipalities and counties. IHDA does not intend to request or issue a legal opinion on this matter. Municipalities or counties wanting further legal clarification should consult their own legal counsel.

B. Plan Review:

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 in writing, if questions of completeness or documentation arise in the review of the plan. Upon satisfactory review, IHDA will send non-exempt communities a letter noting sufficiency of the submission.
- All plans and IHDA correspondence and notifications to and from jurisdictions and to/from developers are considered public information.

While the statute provided no specific date for local compliance with plans submitted, it is assumed that compliance must occur by the time of the activation of the State Housing Appeals Board to hear appeals, which is January 1, 2009.

IHDA anticipates 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, but will acknowledge receipt as well as identify in all subsequent annual updates of the non-exempt local governments list those municipalities that have reported such local compliance to IHDA.

C. State Housing Appeals Board:

Beginning January 1, 2009, the State Housing Appeals Board (SHAB) can hear and render a decision affecting an affordable housing development only if the following five conditions are met:

- 1) A non-exempt community must fail to prepare, submit, and implement an affordable housing plan.
- 2) A developer, believing there is a market for such housing, must obtain site control in a community and voluntarily come forward with a proposal that includes at least 20% of the dwelling units are subject to covenants or restrictions that require that the dwelling units be sold or rented at prices that preserve them as affordable housing for a period of at least 15 years, in the case of for-sale housing, and at least 30 years, in the case of rental housing
- 3) The developer's proposal must be denied, or approved with conditions that rendered the project infeasible.
- 4) The developer must decide to appeal the decision.
- 5) The developer must bear the burden of successfully proving to the State Housing Appeals Board that the development was denied (or approved with conditions that rendered the project infeasible) because of its affordable component. Developers cannot appeal denials made by the local government that are on the basis of public health and safety or requirements critical to the protection or preservation of the environment.

The SHAB is to consist of seven members: 1) a zoning board of appeals member from a non-exempt community; 2) a planning board member from a non-exempt community; 3) a mayor or municipal council/board member from a non-exempt community; 4) a county board member; 5) an affordable housing developer; 6) a housing advocate; and 7) a retired circuit or appellate judge who will serve as board chairperson. IHDA's Chairman will also serve as an ex-officio member.

P.A. 93-595/P.A. 678 (310 ILCS 67/) does not specify an appeals process for local governments questioning their status as a designated non-exempt entity. The State Housing Appeals Board is actually authorized to be formed on January 1, 2006 and has rulemaking authority under the law, and could potentially establish such a process. As stated above, it cannot, however, hear developer appeals until January 1, 2009. IHDA will accept and retain all such appeals on behalf of the State Housing Appeals Board until that time.

D. Determination of “Non-Exempt” Status:

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 Primary Metropolitan Statistical Area (PMSA) or county was used to determine the maximum affordable monthly payment for rental and for-sale housing units. IHDA was formally informed in December of 2003 by both House sponsor Representative Ricca Slone and by Senate sponsor Senator Iris Martinez that the bill’s legislative intent was to use PMSA data in areas where it was available. 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, and is also on IHDA’s website (www.ihda.org).

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 (PMSA). 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. Percentages of affordable housing for all Illinois municipalities and counties (unincorporated areas) are also included in the required report.

Because the statute specifies the use of decennial Census data in determining the exempt / non-exempt status of communities, the list of non-exempt counties will not be officially updated again until the 2010 Census data is available. However, IHDA will provide annual updates of reported compliance within non-exempt communities.

III. Local Governments' Responsibilities:

A. Housing Plan:

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, and based on the original numbers included in IHDA's Final Report;
- 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 for increasing local affordable housing stock 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;
 - 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;
 - a minimum of a total of 10% of affordable housing within its jurisdiction.

Within 60 days after the local approval 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 locally approve the affordable housing plan by April 1, 2005.

P.A. 93-595/P.A. 678 (310 ILCS 67/) also does not specify a preference between developments of single-family and multi-family housing as a means of complying with the requirements of the statute. The type of housing developed to comply with the law is entirely a local decision and is to be made on a local level.

B. Ongoing Reporting:

It is recommended that each non-exempt community report to IHDA on its annual progress towards its chosen goal.

- 1) 15% of All New Development – If a non-exempt community chooses to pursue a goal that 15% of all new development and redevelopment will be affordable, the municipality should track all new development and redevelopment (Clarification of the definition of “development” and “redevelopment” are contained below in this memorandum). Since the 15% goal specifies that 15% of all new development and redevelopment must be affordable, there is no need to include units built up to the year 2000 Census. Furthermore, municipalities that chose the 15% goal should consider the cumulative totals of development and redevelopment (as defined below) as the statute does not require municipalities to make sure that 15% of their separate development and redevelopment efforts are affordable. Thus, the formula for tracking this goal is:

$$\begin{array}{l} \text{Affordable Percentage} \\ \text{of New Development} \\ \text{and Redevelopment} \end{array} = \frac{\begin{array}{l} \text{\# of Affordable Units} \\ \text{Added to Housing Stock} \end{array}}{\begin{array}{l} \text{Total \# of Units Added to} \\ \text{Housing Stock} \end{array}} \times 100$$

- 2) Increasing Affordable Housing by 3 Percentage Points or Increasing Affordable Housing to 10% of Community Total - If a non-exempt community chooses to pursue either the goal of increasing their total affordable housing stock by 3 percentage points or increasing the amount of affordable housing units to 10% of the total, they must track not only new development and redevelopment, but also existing development. The recommended formula for tracking progress under these two goals is:

$$\begin{array}{l} \text{Affordable Percentage} \\ \text{of All Development} \\ \text{and Redevelopment} \end{array} = \frac{\begin{array}{l} \text{Total Number of Affordable Housing} \\ \text{Units Identified from the 2000} \\ \text{Census + Total Number of} \\ \text{Affordable Units Added to Housing} \\ \text{Stock} \end{array}}{\begin{array}{l} \text{Total Number of Housing Units} \\ \text{Identified from the 2000 Census +} \\ \text{Total Number of All Housing Units} \\ \text{Added to Housing Stock} \end{array}} \times 100$$

In counting existing units, it is important that communities not only track the total of new units added to the housing stock, but also the ongoing status of existing units. Units that are “lost” by redevelopment must be subtracted from the denominator. Affordable units that are “lost” via teardowns, by redevelopment favoring lower density, condominium conversion to unaffordable units, or affordable units that are otherwise replaced by unaffordable units must be removed from the numerator (and from the denominator ONLY if the affordable units are completely lost and not converted to unaffordable housing).

IV. Definitions of Key Terminology:

A. Defining “Development” and “Redevelopment”:

The focus of the AHPAA is the creation of housing units, and therefore definitions of “development” and “redevelopment” must focus on actual actions that result in the establishment or reestablishment of a housing unit. The 1967 Illinois Housing Development Act (20 ILCS 3805/) provides a definition of development that can be used as a starting point for this discussion:

“Development’ means a specific work or improvement undertaken to provide dwelling accommodations, including the acquisition, construction or rehabilitation of lands, buildings and community facilities...”

As such, the Illinois Housing Development Act definition includes both “development “ and “redevelopment”. These terms are further defined in terms of the AHPAA below, as it is important to define and distinguish between “development” and “redevelopment” for tracking compliance with the law. While the examples provided are not exhaustive, the definitions provided are intended to provide guidance on what actions should be counted per the assumed intent of the AHPAA:

Development – for the purposes of tracking affordable development, “development” is defined as the act of building and readying for occupancy a unit or series of units of housing that previously did not exist on the site because the site was vacant or the non-residential structure that previously occupied the site was demolished to clear the site for the new unit(s).

Count as development:

- All new construction of housing units.
- Creating a new or adding an additional housing unit(s) within existing structures that is intended to be sold or rented as independent housing units (e.g., converting a single-family home into a duplex)
- Construction of a coach house or garage or any other structure that will provide a newly created housing unit that will be sold or rented.

Do NOT count as development

- Additional living space added to existing housing structures, that is not intended to be independently occupied, sold or rented.
- Rehabilitation of single-family or multi-family housing to correct building code violations or deficiencies.
- Aesthetic improvements or changes to existing housing structures or property that does not create a new housing unit.
- Conversion of a coach house or garage or any other structure that is intended to compliment or be used by occupants of an existing housing unit and is not otherwise sold or rented to another household / person.

Redevelopment - for the purposes of tracking affordable development, “redevelopment” is defined as the act of converting or changing an existing non-residential structure into a

housing unit, or converting or changing an existing housing structure into a new type of housing structure, including demolition and reconstruction activities.

Count as redevelopment:

- Adaptive reuse – converting an existing non-residential structure to housing stock.
- Conversion of rental housing into condominium housing.
- Reconstruction, substantial renovation, or rehabilitation of existing housing stock that changes the status of the stock from affordable to unaffordable or unaffordable to affordable (regardless of occupancy).
- Teardown of housing (as defined below) that replaces an unaffordable unit with an affordable unit or an affordable unit with an unaffordable unit

Do NOT count as redevelopment:

- Structural improvements to existing housing (unless substantial rehabilitation and unoccupied).
- Additions to existing properties.
- Aesthetic improvements or changes to existing housing structures or property
- Teardown (as defined below) that has been documented as unaffordable or affordable both before and after the reconstruction.
- Substantial renovation or rehabilitation of existing housing stock that does not change the status of the stock from affordable to unaffordable or unaffordable to affordable.

B. Teardowns:

The razing of a housing unit and the replacement of the unit with another housing unit is considered a teardown. It is recommended that municipalities document all teardown activity.

- When a teardown changes the status of the unit (from affordable to unaffordable or from unaffordable to affordable), it is recommended that the action be included in the count of redevelopment occurring within a community.
- When an affordable unit is razed and replaced with an unaffordable unit, it must be removed from the count of affordable units within a community, but should remain in the count of total housing stock.
- When an unaffordable unit is razed and replaced with an affordable unit, the unit should be added to the count of affordable units within the community and remain counted in the total housing stock.
- Units that are documented as unaffordable or affordable both before and after reconstruction can be deleted from the total housing stock, then added back; for a net effect of no change.

When tracking teardowns, the unit's affordability prior to being razed and after replacement should be documented to determine its impact. For the purposes of tracking towards the 15% of all new development goal, only teardowns that change the status of a unit from affordable to unaffordable or from unaffordable to affordable should be counted.

V. Tracking Units:

A. Recommendations for Tracking Units Added to the Housing Stock Each Year for Annual Reporting:

It is recommended that the municipality track the number of affordable housing units and market-rate housing units added to its total housing stock each year. It is recommended that communities report this information to IHDA as documentation of progress towards their goals. What should be tracked is sales price, or rental price of the unit. Outlined below are several sources of information for tracking number affordability status of units. It should be noted that all of the sources listed do not necessarily capture all cost elements of affordability unless they also report information on property taxes, insurance, and homeowners / condominium association fees:

- 1) Certificates of Occupancy – this is the preferred methodology, as Certificates of Occupancy represent and correspond to each completed unit within a municipality. A municipality may ask developers to include an estimated value of each unit on the Certificate of Occupancy application.
- 2) Building Permit Data – with related cost information
- 3) Multiple Listing Service (MLS) of Illinois
- 4) Local Planning Staff – quite often in working with developers, municipal planning staff are very knowledgeable about local sales or rental prices of newly developed or converted units.
- 5) Local Assessor’s Office – the assessed value of a unit may help to determine its affordability.
- 6) Affordable homes that are developed with local, state or federal financing or that are part of a local affordable housing development program, such as an IHDA assisted program, a County HOME funded project, or an inclusionary housing ordinance with deed restrictions or resale restrictions, will be very easy to track, as the documentation/records required to be maintained for these financing programs will generally suffice as adequate.
- 7) Municipalities may develop their own methods for tracking units. Please provide these methods to IHDA staff in advance to allow IHDA to provide review and comments.

B. Recommendations for Tracking Affordable Units Lost From the Housing Stock Each Year for Annual Reporting:

Tracking units that have been demolished, converted, or otherwise subtracted from the housing stock may be more difficult than tracking the units that have been added to the housing stock. Tracking lost units, particularly lost affordable units, is very important, as lost units may significantly affect the affordable percentage in a community. As with tracking added units, each community may want to document the loss of a unit as thoroughly as possible. The municipality will want to develop a method for documenting the value of lost units. Existing housing units that have appreciated in value but have not been newly developed or redeveloped are not considered “lost” for these purposes. Outlined below are several sources that may be used to track lost units:

- 1) Demolition Permits – the number of demolition permits issued by a municipality is the preferred method of tracking lost units. If the value of the units demolished is included as part of the demolition permit, the demolition permit can be used exclusively to track both the total number of lost units as well as the number of lost affordable units.
- 2) Assessed Value of the Unit from Previous Years (from local assessor’s office) – if the demolition permit does not include the value of the unit, the assessed value amount of the unit from previous years should be consulted and reviewed.
- 3) Municipal Planning Staff – the institutional knowledge of local planning or municipal staff can also be used to determine the affordability of lost units.
- 4) Municipalities may develop their own methods for tracking lost units. Please provide these methods to IHDA staff in advance to allow IHDA to provide review and comments.

C. Determining “Affordability” for the Purposes of the AHPAA:

Communities will likely want to tailor the affordable rental and sales price to appropriate household sizes to provide more flexibility in meeting plan goals. In addition, the “affordable sales price” for a home and “affordable rental price” for an apartment or home will change each year as income grows and other variables shift. Thus, communities should use only the area median income (AMI) figures, compiled by IHDA (which are published annually by the U.S. Department of Housing and Urban Development (HUD)), to determine what constitutes an “affordable unit” at 80% AMI for owner-occupied units and 60% AMI for rental units.

To ensure uniformity and clear guidance, IHDA publishes an annual “price schedule” that shows the maximum rents at 60% of the AMI by household size and the maximum affordable owner-occupied sales price at 80% of the AMI by household size. This information is updated annually and is posted on IHDA’s website for public information (www.ihda.org).

Median Incomes are based on annual HUD Estimates for Metropolitan Statistical Areas (MSAs). Income limits are adjusted annually to reflect the HUD figures in effect at that time. For background on income limits see <http://www.huduser.org/datasets/il.html>.

i. “Affordable Sales Price”. Per the AHPAA statute, non-exempt municipalities are required to use the following definition of affordable owner-occupied housing: Owner-Occupied units are considered affordable when they are affordable to an individual or family earning 80% of the median household income and spending no more than 30% of their income on housing. Housing costs include all payments made towards the principal and interest of any mortgages placed on the unit, property taxes, and insurance, as well as homeowner, neighborhood, or condominium association fees. Please note that payments made for utilities are not included in this determination for homeowners, as it was not required in the law as part of this calculation.

The initial maximum sale prices for a low and moderate income homeownership unit should be set such that it is affordable to a household whose income equal to or below 80% of area median income. For purposes of this calculation, household income applicable to a particular unit will be based on certain assumptions about the size of the family most likely to occupy the unit. For example, in order to calculate the sales price of a 2-bedroom unit, the project sponsor should begin by determining what is affordable to a family earning 80% of area median income for a three-person household. For a 3-bedroom unit, the calculation should assume a four-person household, and for a 4-bedroom unit, a five-person household.

Ultimately, it is each community’s decision how they decide to track and document the affordability of owner-occupied units. In the example below, two possible methods are outlined:

Example 1: Tracking the affordability of owner-occupied units.

Example 1.a.: Affordability Chart:

To determine the purchasing / housing costs limits of a low to moderate-income homebuyer, the 80% of area median income figure is used by household size. The chart below assumes that the homebuyer is spending a maximum of 30% of total household income for housing costs (not including utilities, per the AHPAA statute). The affordability calculations are based on a simplified formula using household income divided by .30 (30%). This provides an estimate that conforms to the letter of the law and includes payments of principal, interest, taxes, and insurance. In recent AHPAA workshops, an affordability chart was provided using .36 (36%) in its calculations instead of .30 (30%). It is an industry standard to use 36% to estimate affordable housing costs as it assumes a 31% debt to income ratio, \$350/month escrow for taxes/insurance, and 3% closing costs. While using 36% in estimating affordable housing costs is preferred as it creates a more realistic estimate of actual cost, the AHPAA statute only requires non-exempt municipalities to use 30%. The affordability chart below displays both the 30% and the 36% figures.

Owner Occupied Affordability Chart for Chicago Metro Area

	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
2004 INCOME LIMITS (80% AMI)	\$40,250	\$46,000	\$51,750	\$57,500	\$62,100	\$66,700	\$71,300	\$75,900
Affordable Cost (AHPAA requirements) using 30% of household income.	\$134,167	\$153,333	\$172,500	\$191,667	\$207,000	\$222,333	\$237,667	\$253,000
Affordable Cost (Industry Standard) using 36% of household income.	\$111,806	\$127,778	\$143,750	\$159,722	\$172,500	\$185,278	\$198,056	\$210,833

* Please note: The above chart uses 2004 income limits. Municipalities must make sure they are using the most current income limits (available on IHDA's website: www.ihda.org).

Example 1.b.: Affordability Calculator:

An affordability calculator system could also be used to determine the affordability of owner-occupied housing. Though this system is more involved than a formulaic one such as the affordability chart shown above, it can be used to determine affordability in a more precise fashion. An accurate assessment of housing cost is derived using the sales price of the home and basic assumptions about the down payment, interest rate, and amortization period of the loan. Other variables, such as taxes and fees, are also accounted for, and an accurate assessment of the monthly housing cost is derived. Please note that utilities are not counted as part of this analysis. The necessary annual income is calculated by assuming that no more than 30% of household income will be spent on each monthly payment. This annual income figure is then compared with income limits (published annually by HUD and by IHDA) to determine if the home or condominium is affordable.

Affordable Sales Price Calculator		
	Enter Amount	Calculations
Sale Price	\$173,298	\$173,298.00
Down Payment	3.00%	\$5,198.94
Mortgage Amount		\$168,099.06
Interest Rate	5.76%	\$0.06
Amortization	30	30.00
Monthly P&I Payments		\$991.69
Taxes And Fees:		
Annual Tax Rate	20.00%	\$198.34
Annual Local Fees	\$450	\$37.50
Annual HOA Fees	\$225	\$18.75
Other Fees		\$0.00
Monthly Housing Cost		\$1,246.28
Necessary Annual Income		\$49,851.03
Affordability Test		
Necessary Annual Income		\$49,851.03
Household Size	4	
Affordable Limit (80%)		\$57,500.00

Both the Federal Home Loan Mortgage Corporation (Freddie Mac) and Federal National Mortgage Association (Fannie Mae) publish current market interest rates on their websites (www.freddie.com and www.fanniemae.com). It is recommended that either of these standardized sources be used for determining the current market interest rate regardless of tracking methodology. As of November 15th, 2004 as an example, the 5.76% used in the above example is the current 30-Year Mortgage Rate as reported by Freddie Mac.

ii. “Affordable Rental Price”. Per the AHPAA statute, non-exempt municipalities are required to use the following definition of affordable rental housing: Rental units are considered affordable when they are affordable to an individual or family earning 60% of the median household income and spending no more than 30% of their income on housing. Rental housing costs include all payments made towards the monthly rent and utilities for a unit. Payments made for utilities are to be included in this determination as it is required in the law as part of this affordable rental calculation. Each year, IHDA publishes a listing of rental limits by bedroom size and by percentage of Area Median Income. This listing uses the annual HUD data as its basis and therefore should be used to determine the affordability under the AHPAA statute of rental units.

The chart below lists the current (2004) income limits for 60% area median income (AMI) for the Chicago Metro Area:

2004 INCOME LIMITS (60% AMI)	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
	\$31,680	\$36,180	\$40,740	\$45,240	\$48,840	\$52,500	\$56,100	\$59,700

For purposes of this calculation, certain assumptions must be made about the size of the family most likely to occupy the unit. For example, in order to calculate the affordability of a 2-bedroom unit, the municipality should begin by determining what is affordable rent for a 2-bedroom apartment for a three person household earning 60% of the area median income. Ultimately, it is each community’s decision how they would like to track and document the affordability of rental units. The example below outlines a possible method:

Example 2: Determining Affordability of a Rental Unit:

If a two-bedroom apartment in Lake County rents for \$870.00 per month, is it affordable?

	0 BEDROOM	1 BEDROOM	2 BEDROOM	3 BEDROOM	4 BEDROOM	5 BEDROOM
2004 Affordable Rent Limit for HH @ 60% AMI	\$792	\$848	\$1,018	\$1,176	\$1,312	\$1,447

* Please note: The above chart uses 2004 rental limits. Municipalities must make sure they are using the most current rental limits (available on IHDA’s website: www.ihda.org).

The figures used in the Affordability Chart above are similar to the figures that will be published by IHDA annually. The figures include rent and utilities. U.S. Census Data also includes Rent and Utilities as part of their gross rent number. When counting and tracking affordable units added to the housing stock, it is important that communities remember to include utilities in their analysis. Utility estimates are provided by many different sources, including the local private utilities (e.g. Commonwealth Edison, NICOR, Peoples Gas, et. al.). Local housing authorities and municipal offices often track the average utility costs within a municipality. When choosing a resource for utility estimates, communities should strive for consistency as well as accuracy. For the purposes of this example, we will estimate that the utilities for a 2- bedroom apartment in Lake County, IL are roughly \$120.00. Using this chart and the utility estimate, the unit is to be counted as affordable because with a gross rent of \$990.00 (\$870.00+\$120.00) the unit is still below the rent limits.

D. Tracking Unique Unit Types:

Some communities may contain housing units that are unique and therefore tracking their affordability is open for interpretation under the statute. Below are recommended methods for how to track these unique units:

Business Owners Living In Businesses – A business owner living in the same structure as their business (i.e., living above or in back of a shop or establishment) will not count as affordable unless documentation is provided that shows a separate mortgage or lease for the living unit that shows a cost that is within the affordable range as specified by the statute.

Student / Dormitory Housing – Student dormitory housing should not be counted as affordable housing, as this type of housing is typically not year-round housing, is often times not rented directly by the student and will typically not be reported as the primary residence for the Census. Housing of this type is also counted in the Census as institutional housing if the college or university owns it. However, privately owned non-dormitory affordable student housing that is year-round housing and directly rented by the student (i.e. graduate student housing) may be able to be counted as eligible units.

Caretaker Units - Units designated as caretaker units are generally not counted as year-round units. While they are typically renter occupied, rent is often included in a package of benefits or occupancy and is available on a seasonal basis (e.g. park districts, forest preserve districts, golf courses, race tracks, et al).

Institutional Housing and Group Living Quarters - Typically institutional housing and group living quarters (such as state institutions, convents, Church-related housing, halfway homes, etc.) do not count as year-round rental units, as rent for these units is impossible to determine and document with respect to the statute. Tenancy in institutional housing is often on a temporary basis and rent is often not charged.

Nursing Homes – Nursing homes that provide a permanent, affordable residence may be counted as an affordable unit. However, affordable nursing home units may not always be reported as such to the Census, as often times Medicaid and/or family members are responsible for paying the rent rather than the tenant.

Home Sharing and Assisted Living – Both assisted living and home-sharing programs such as a Senior Home Share program must be licensed by the Illinois Department of Public Health. If the license is in place and affordable rent is charged for the shared units, the units may count towards the affordable percentage. Additionally, properties receiving assistance from Illinois Department of Public Aid (IDPA) under its Supportive Living Program that do not require IDPA licensing and generally meet the affordability criteria should be counted for those senior citizens residing there.

Senior / Age-Restricted Housing – Not all senior housing or age-restricted housing qualifies as affordable housing. Age-restricted housing that is also income-restricted, however, should be

counted provided the rent charged is also restricted to a level that qualifies the housing development as affordable under the parameters of the statute (i.e., 60% AMI).

HUD Section 8 – Also known as Housing Choice Vouchers, Section 8 is a federal program that subsidizes rents to landlords on behalf of low-income tenants. When tracking HUD-funded Section 8 rental units; it is recommended that communities keep the following in mind:

- 1) The city or county housing authority in charge of the tenant based Housing Choice Voucher Program must provide documentation certifying the number of tenants who are paying an actual rent that is lower than the 60% AMI level. The administering county housing authority keeps diligent records of the locations where tenants are using vouchers, as it is conceivable that these tenants could move from community to community thus affecting the number of affordable units provided within a single municipality.

Project-based Section 8 subsidies can also be utilized at privately owned developments whereby Section 8 assists 20-100% of the units if income-eligible tenants occupy the units. These units should be verified annually, as tenants' income and status changes, or their actual payments, could increase to exceed the affordable level.

- 2) Only new Section 8 units should be tracked. The analysis for the production of the AHPAA non-exempt municipality list used 2000 Census data as its basis. Because of the use of this data source, and for reasons explained above, it is impossible to compute exactly how many Section 8 tenants were initially counted as affordable. For this reason, only Section 8 units and tenants added AFTER the year 2000 may be added to the affordability count within a community.

Municipalities should feel free to contact IHDA for additional information on tracking Section 8 units.

Units Funded With Public Financing – Typically, affordable housing units that are subsidized with public financing (e.g. IHDA funds, federal funding, tax credits, restricted local funds et. al.) will be counted as affordable units under the statute. In some circumstances, public financing (e.g., Illinois Homebuyer Program, Community Development Block Grants (CDBG), HOME funds, Section 8, Housing Opportunities for People With AIDS (HOPWA), and Federal Home Loan Bank (FHLB)) can be used to fund units exceeding the 80% AMI cut-off level for owner-occupied and the 60% AMI cut-off level for renter-occupied units as specified by the statute. Units exceeding the income limits specified by the statute should not be counted as affordable.

E. Frequently Asked Questions About Tracking:

How should condominium conversions be tracked? – Affordable units lost through rental-to-condominium conversion should be tracked through whatever reasonable means are available to the community. Previously affordable units may be converted to condominiums, and if sold for prices above the affordable cost for homeowners, will no longer count as affordable housing stock. These units should still be counted in the total number of units in the housing stock. Municipalities may have condominium conversion ordinances that require notification from the building owner to the municipality prior to such conversion being approved or moving forward. Municipalities that are experiencing common condo conversions may already issue and track condo conversion permits. This practice can also track the affordability of the units prior to conversion. At a minimum, municipalities experiencing condo conversions should use the certificates of occupancy and/or the building permitting process for the new units to track the subtraction or maintenance of affordable units from/within the existing housing stock.

What are the “Missing Years” and how should they be counted? – Because the statute specifies the use of decennial Census data, there is a gap of roughly four years between the data used to determine non-exempt status and the publication of the non-exempt list (2000-2004). All development and redevelopment (affordable and unaffordable) that occurred after the 2000 decennial Census has been excluded from the current count and determination of non-exempt status. Furthermore, pre-existing units incorporated into a community’s housing stock via annexation that occurred after the 2000 decennial Census has been excluded from the current count and determination of non-exempt status. It is up to the community to determine if they wish to track these missing years and include them in their total and affordable unit counts. However, all housing production or other additional changes occurring during the missing years will be counted and included in the 2010 decennial Census and could affect exempt or non-exempt status after 2010. It is therefore the recommendation, but not requirement, that counting and tracking of progress towards the AHPAA goals include the missing years, if feasible.

How should units acquired by annexation be counted? – If a municipality annexes unincorporated land, all housing units annexed with the land should be counted and added to the total number of units in the housing stock. Affordable units, as evidenced by acceptable documentation, should also be added to the number of affordable units in the housing stock.

Can a Special Census be used as a tracking tool? – Yes. Though a Special Census can often be prohibitive because of the cost. A Special Census is a basic enumeration of population, housing units, and group quarters conducted by the Census Bureau at the request of a governmental unit. If accurate, a Special Census could provide easy-to-read and understandable supplemental data in between the decennial censuses. Please note that if a community chooses to use a Special Census as a mechanism towards tracking affordability, questions regarding affordability of the units must be added to the list of Census questions, as the Special Census generally only includes counts of total population and total housing units.

Should utilities be included in housing costs? – Per the statute, utilities are only included as part of the housing costs for rental units, and not for owner-occupied units.

As reported by the Census and in the rental limits published by IHDA and HUD, gross rent includes utilities already. However, when counting and tracking affordable units added to the housing stock in between decennial Censuses, it is important that communities remember to include utilities in their analysis. Utility estimates are provided by many different sources, including local private utilities (e.g. Commonwealth Edison, NICOR, Peoples Gas, et al). Local housing authorities and municipal offices often track the average utility costs within a municipality. When choosing a resource for utility estimates, communities should strive for consistency as well as accuracy. It is important that the estimates chosen are realistic. If unrealistically low estimates are used and place rental units into the affordability range for short-term counting, the 2010 Census may later indicate that those units with realistic utility estimates to actually be unaffordable.

As stated above, local housing authorities can typically provide accurate local utility estimates. Listed below are other resources that may provide information for estimating utility costs:

- Illinois Commerce Commission (www.icc.state.il.us) - ICC's website contains information for consumers on energy prices and current rates. The website contains many links to studies and articles that could help in deriving realistic utility allowances.
- NICOR (www.nicorinc.com) - NICOR's website contains links to a energy cost comparison sheet that displays basic estimates of natural gas consumption and costs.
- People's Energy / North Shore Gas Company (www.peoplesenergy.com) - website includes links to headlines pertaining to natural gas prices as well as links to a "gas supply and prices" page that contains a questions and answers page and information on current gas prices.
- Exelon (Commonwealth Edison / Pecor) (www.exeloncorp.com) - Exelon's website does not contain a large amount of information regarding cost estimates, but it does contain contact information.

Should condominium fees and homeowners' association fees be included in the housing costs for owner-occupied housing? Yes. The statute specifies that these types of fees be included in the determination of affordability. While sufficient data on these types of fees are not available from the decennial Census, communities should account for these fees in their tracking of affordable housing units.

Is it required that waiting list activity and evictions be tracked and reported by the municipality? No. It is not the responsibility of the municipality to track the waiting lists and evictions as part of the requirements under the AHPAA.

VI. Frequently Asked Questions About the Affordable Housing Planning and Appeal Act:

Why are MSA figures for median household income used for some places and county figures for other places? The statute specifies the use of MSA or county data on median household income. PMSAs and MSAs are areas of population concentration and surrounding areas that have a high degree of economic and social integration. Affordability calculations are based on the average household income of the whole market area. In non-metropolitan areas, county-level income data are used. This was also the stated legislative intent. In determining non-exempt status, Chicago PMSA data was used over county level data because the AHPAA is intended to address regional housing issues, and as such treats the Chicago PMSA as one housing market.

Does the count of affordable units in a municipality reflect the number of households in that municipality/jurisdiction currently paying more than 30% of income? No. The initial analysis compares the monthly costs of buying or renting a home in 2000 to the area (PMSA, MSA, or county) median household income in 2000. Updated maximum affordability charts indicate current affordable rental and sales levels based on updated median incomes.

Will affordable housing have a negative impact on property values? Numerous studies from around the country support the position that affordable housing has no negative impact on surrounding property values, or on the price or frequency of sales of neighboring homes. In the Chicago region, a 1996 study ("Low-Income Housing in Our Backyard: What Happens to Residential Property Values?" by Michael MaRous *The Appraisal Journal* 64, 1, (1996): 27-34) of four very-low-income family housing developments in suburban Chicago – Victorian Park in Streamwood, Liberty Lakes Apartments in Lake Zurich, Waterford Park Apartments in Zion, and Brookhaven Apartments in Gurnee – revealed that affordable housing can have a positive impact on surrounding property values. Approval of high-quality projects with experienced development and management teams also tends to significantly improve long-term viability.

Are municipalities required to own the affordable housing developed within their borders? No. A non-exempt municipality is not expected to own or manage affordable housing in order to comply with the AHPAA statute. However, the planning requirements of the AHPAA suggest that municipalities can and should help facilitate affordable housing development by providing local incentives, some of which may involve municipally created non-profit ownership or management of a property (e.g., a Community Land Trust under an inclusionary housing program or a Community Housing Development Organization under a HOME program).

To comply with the AHPAA statute, is a particular type of affordable housing necessary? No. The type of affordable housing provided within a community is strictly a local decision. Neither IHDA nor the AHPAA statute require or prefer a particular type of affordable housing to comply. A municipality is free to choose between affordable rental housing, affordable non-rental housing, affordable homeownership program as a method of compliance with the statute, as well as targeted types of housing for seniors, families, employer-assisted, etc.

Are municipalities required to change zoning ordinances to comply with the AHPAA? No. The AHPAA statute does not intend to dictate or override local zoning ordinances and building codes. Compliance with the statute does not necessarily require a change in either zoning and building codes (nor density, design or unit type requirements). Some communities may, however, identify incentive programs, such as establishment of an inclusionary zoning ordinance or other development incentives.

Are municipalities required to be involved with private real estate transactions? No. Compliance with the statute does not require municipal participation in private transactions. Unless a municipality chooses to become involved indirectly with private real estate transactions by establishing a Community Land Trust (though Community Land Trusts are generally recommended to be established as a separate legal entity), there are no statutory requirements that necessitate municipal participation in real estate transactions beyond the approval of an affordable housing plan.

To comply with the AHPAA statute are municipalities required to develop property designated as parkland or open space? No. The purpose of the AHPAA is to strongly encourage local planning strategies that foster the development of affordable housing. The law is not intended to dictate type or location of affordable housing to be developed.

Will the State Housing Appeals Board override local ordinances and codes? Due to its limited authority to hear appeals, it is not anticipated that the State Housing Appeals Board will override local zoning ordinances or building codes nor is it anticipated that it will require particular housing types (e.g., multifamily over single-family housing) to be developed.

How are communities with very little available land (“built out”) going to comply with the law? The AHPAA will not force communities to categorically accept new developments that include affordable housing. In fact, this law may have little impact on communities that are already “built out”. Communities with little available land could choose the option of 15% of all new development and redevelopment as a set-aside for affordable housing. The law simply provides that as a community continues to grow or redevelop, it should work to include some moderately priced housing, making it possible for those who work in and serve the community to afford to live there too.

VII. Glossary of Terms and Concepts:

The following is a summary of definitions used both in this procedures memo as well as the referenced Final Report produced by IHDA/UIUC:

Affordable Housing Planning and Appeal Act (AHPAA). The short title used to describe and cite Public Act 93-595 and Public Act 93-678.

Affordable Housing. Housing that has a sales price or rental amount that is within the means of a household that may occupy moderate-income or low-income housing.

Affordable Housing Development. (i) Any housing that is subsidized by the federal or State government or (ii) Any housing in which at least 20% of the dwelling units are subject to covenants or restrictions that require that the dwelling units be sold or rented at prices that preserve them as affordable housing for a period of at least 15 years, in the case of for-sale housing, and at least 30 years, in the case of rental housing.

Census Designated Place (CDP). CDPs are delineated to provide Census data for concentrations of population, housing and commercial structures that are identifiable by name but are not within an incorporated place, nor do these places have officials elected to serve traditional municipal functions.

Community Land Trust (CLT). A CLT is a nonprofit organization created to own or hold land for the benefit of a community and individuals within the community. Most CLTs are funded by a housing trust fund and are able to earn some additional funding via operations. A CLT acquires market-rate property or receives donated property and develops or resells existing housing as affordable housing. CLTs can often maintain control of their properties by extended (99 year) ground leases. CLTs help potential clients work with banks (and often credit and homeownership counselors) to qualify for home loans. CLTs will then help subsidize the loan, allowing low and moderate-income families to be able to afford to purchase a home. CLTs ensure extended affordability by controlling the resale of the properties, often restricting residents to sales to other CLT clients or to the CLT itself at a selling price that will yield a limited profit but is less than market rate (e.g., tied to the Consumer Price Index).

Condominium Fee. A condominium fee normally is charged monthly to the owners of individual condominium units by the condominium owners' association to cover operating, maintenance, administrative, and improvement costs of the common property (grounds, halls, lobby, parking areas, laundry rooms, swimming pool, etc.). The costs for utilities and/or fuels may be included in the condominium fee if the units do not have separate meters. The data on condominium fees were obtained from an answer to decennial Census long-form questionnaire Item 52, which was asked on a sample basis at owner-occupied condominiums. A separate long-form questionnaire item (47d) determines whether insurance premiums are included in the mortgage payment to the lender(s). This makes it possible to avoid counting these premiums twice in the computations.

County. A political subdivision of a state, usually encompassing one or more municipalities (cities, towns, or villages).

Deed Restrictions. Written agreements that restrict, or limit, the use or activities that may take place on property or in a subdivision. These restrictions appear in the real property records of the county in which the property is located. They are private agreements and are binding upon every owner in a subdivision. All future owners become a party to these agreements when they purchase property in deed-restricted areas.

Development. Development is defined as the act of building and readying for occupancy a unit or series of units of housing that previously did not exist on the site because the site was vacant or the structure that previously occupied the non-residential site was demolished to clear the site for the new unit(s).

Gross Rent. Gross rent is the contract rent plus the estimated average monthly cost of utilities (electricity, gas, water and sewer) and fuels (oil, coal, kerosene, wood, etc.). The data on gross rent were obtained from answers to decennial Census long-form questionnaire items 45 a-d, which were asked on a sample basis.

Housing Unit. A housing unit may be a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied (or, if vacant, is intended for occupancy as separate living quarters). Generally occupants have direct access to the unit from the outside or from a public hall.

Housing Value. An estimate of how much the property (house and lot, mobile home and lot, or condominium unit) would sell for if it were for sale. The data on housing value (also referred to as “price asked” for vacant units) were obtained from answers to decennial Census long-form questionnaire Item 51, which was asked on a sample basis at owner-occupied housing units and units that were being bought, or vacant for sale at the time of enumeration. If the house or mobile home was owned or being bought, but the land on which it sits was not, the respondent was asked to estimate the combined value of the house or mobile home and the land. For vacant units, value was the price asked for the property. Value was tabulated separately for all owner-occupied and vacant-for-sale housing units, owner-occupied and vacant-for-sale mobile homes, and specified owner-occupied and specified vacant-for sale housing units.

Inclusionary Zoning Ordinance (IZO). An IZO is a local ordinance that requires housing developers to mix a percentage of affordable housing among all the new houses, condos and apartments built. The goal of an IZO is to make renting and buying homes easier for low and moderate-income households. Participation in the requirements of an IZO can be mandatory, voluntary or ad hoc. Voluntary and negotiated IZOs tend to make participation more feasible by providing incentives to developers. Cost offsets or other incentives (waiving of fees, zoning changes, infrastructure construction et. al.) can reduce the cost of developing housing significantly and will make the development of affordable along with market-rate housing a viable option for developers. Inclusionary zoning practices generally are considered to be more legally sound when they are part of a comprehensive housing plan. While it appears that non home-rule municipalities can adopt a voluntary or negotiated inclusionary zoning policy or

ordinance, it is uncertain if they can adopt an ordinance mandating such practices until it is tested in Illinois courts.

Incorporated Place. Incorporated places recognized in decennial Census data products are those reported to the U.S. Census Bureau as legally in existence on January 1, 2000, under the laws of their respective states, as cities, boroughs, and boroughs, municipalities, towns, and villages. There are a few incorporated places that do not have a legal description. An incorporated place is established to provide governmental functions for a concentration of people as opposed to a minor civil division, which generally is created to provide services or administer an area without regard, necessarily, to population.

Insurance for Fire, Hazard, & Flood. The data on fire, hazard, and flood insurance in IHDA's report were obtained from answers to decennial Census long-form questionnaire Item 50, which was asked on a sample basis at owner-occupied housing units. The statistics for this item refer to the annual premium for fire, hazard, and flood insurance on the property (land and buildings); that is, policies that protect the property and its contents against loss due to damage by fire, lightning, winds, hail, flood, explosion, and so on. Liability policies are included only if they are paid with the fire, hazard, and flood insurance premiums and the amounts for fire, hazard, and flood cannot be separated. Premiums are reported even if they have not been paid or are paid by someone outside the household. When premiums are paid on other than an annual basis, the premiums are converted to an annual basis. The payment for fire, hazard, and flood insurance is added to payments for real estate taxes, utilities, fuels, and mortgages (both first, second, home equity loans, and other junior mortgages) to derive "Selected Monthly Owner Costs" and "Selected Monthly Owner Costs as a Percentage of Household Income in 1999."

Low-income housing. Per the AHPAA statute, low-income housing means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that does not exceed 50% of the area median household income.

For implementation, low-income housing means owner-occupied units that are affordable to an individual or family earning 80% of the median household income and spending no more than 30% of their income on housing and/or rental units that are affordable to an individual or family earning 60% of the median household income and spending no more than 30% of their income on housing.

Median Household Income. The sum of income received in a calendar year by all household members 15 years old and over, including household members not related to the householder, people living alone, and other nonfamily household members. Included in the total are amounts reported separately for wage or salary income; net self-employment income; interest, dividends, or net rental or royalty income or income from estates and trusts; Social Security or Railroad Retirement income; Supplemental Security Income (SSI); public assistance or welfare payments; retirement, survivor, or disability pensions; and all other income.

Metropolitan Statistical Area (MSA). An MSA is either a county or group of contiguous counties that contains at least one city of 50,000 inhabitants or more, or an urbanized area with 100,000 or more inhabitants. Metropolitan statistical areas (MSAs) are relatively freestanding Metropolitan Areas (MA) and are not closely associated with other MAs. These areas typically are surrounded by nonmetropolitan counties.

Mixed Residential and Nonresidential Development. The development or redevelopment of housing units mixed with non-housing uses in the same structure is considered housing under the AHPAA. Per the statute: a development that contains nonresidential uses in a nonresidential zoning district must designate either at least 50% of the area or at least 50% of the square footage of the development for residential use. Unless adjacent to a residential development, the nonresidential zoning district shall not include property zoned industrial. The development should be completed simultaneously to the extent possible and shall be unified in design. The square footage of the residential portion of the development shall be measured by the interior floor area of dwelling units, excluding that portion that is unheated. Square footage of the nonresidential portion shall be calculated according to the gross leasable area.

Moderate-income housing. Per the AHPAA statute, moderate-income housing means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50% but does not exceed 80% of the area median household income.

For implementation, moderate-income housing means owner-occupied units that are affordable to an individual or family earning 80% of the median household income and spending no more than 30% of their income on housing and/or rental units that are affordable to an individual or family earning 60% of the median household income and spending no more than 30% of their income on housing.

Municipality. A political unit (city, town, or village) having corporate status and a governing entity. In the case of P.A. 93-595, all municipalities with a population of less than 1,000 are exempt from that particular law.

Occupied Housing Unit. A housing unit is classified as occupied if it is the usual place of residence of the person or group of people living in it at the time of enumerations, or if the occupants are only temporarily absent (i.e. away on vacation or a business trip). The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated people who share living quarters.

Owner-Occupied Unit. A housing unit is owner-occupied if the owner or co-owner lives in the unit even if it is mortgaged or not fully paid for. The owner or co-owner must live in the unit and usually is Person 1 on the decennial Census questionnaire. The unit is “Owned by you or someone in this household with a mortgage or loan” if it is being purchased with a mortgage or some other debt arrangement, such as a deed of trust, trust deed, contract to purchase, land contract, or purchase agreement. The unit is also considered owned with a mortgage if it is built

on leased land and there is a mortgage on the unit. Mobile homes occupied by owners with installment loans balances are also included in this category.

Primary Metropolitan Statistical Area (PMSA). If an area that qualifies as an MA has more than one million persons, primary metropolitan statistical areas (PMSA's) may be defined within it. PMSA's consist of a large urbanized county or cluster of counties that demonstrates very strong internal economic and social links, in addition to close ties to other portions of the larger area.

Planned Unit Development (PUD). A planned unit development (PUD) is a regulation intended to encourage and allow more creative and imaginative design of land developments than is possible under district zoning regulations. PUDs are intended to allow substantial flexibility in planning and designing a proposal by allowing relief from compliance with conventional zoning ordinance site and design requirements. A PUD can contain features not normally required of traditional zoned developments – such as the inclusion of affordable housing.

Public Act 93-595. The purpose of this Act is to encourage counties and municipalities to incorporate affordable housing within their housing stock sufficient to meet the needs of their county or community. Further, affordable housing developers who believe that they have been unfairly treated due to the fact that the development contains affordable housing may seek relief from local ordinances and regulations that may inhibit the construction of affordable housing needed to serve low-income and moderate-income households in Illinois. This Act is also known as the Affordable Housing Planning and Appeal Act.

Public Act 93-678. An amendment to Public Act 93-595. The provisions of this amendment address the dates that the various major provisions of Public Act 93-595 come into effect.

Redevelopment. Redevelopment is defined as the act of converting or changing an existing non-residential structure into a housing unit, or converting or changing an existing housing structure into a new type of housing structure, including demolition and reconstruction activities.

Rehabilitation. A significant renovation of a housing unit (or units) that may include an update of one or more major systems and / or bringing a project “up-to-code”.

Resale Restrictions. Written agreements that restrict or limit the terms of resale of property. These restrictions often appear in the real property records of the county in which the property is located, and can limit the resale price, the buyers of the property and the terms of the resale.

Selected Monthly Owner Costs. The data on selected monthly owner costs were obtained from answers to long-form Census questionnaire Items 45 a-d, 48b, 49, 50, 52, and 53b, which were asked on a sample basis at owner-occupied housing units. Selected monthly owner costs are the sum of payments for mortgages, deeds of trust, contracts to purchase, or similar debts on the property (including payments for the first mortgage, second mortgage, home equity loans, and other junior mortgages); real estate taxes; fire, hazard, and flood insurance on the property; utilities (electricity, gas, and water and sewer); and fuels (oil, coal, kerosene, wood, etc.). It also includes where appropriate, the monthly condominium fees or mobile home costs (installment loan payments, personal property taxes, site rent, registration fees, and license fees). Selected

monthly owner costs were tabulated separately for all owners –occupied units, specified owner-occupied units, and owner-occupied mobile homes and, usually, are shown separately for units “with a mortgage” and for units “not mortgaged.”

Specified Owner-Occupied Units. Specified owner-occupied units include only single-family houses on less than 10 acres without a business or medical office on the property. The data for “specified units” exclude mobile homes, houses with a business or medical office, houses on 10 or more acres, and housing units in multiunit buildings.

Specified Renter-Occupied Units. In some tabulations, contract rent is presented for specified renter-occupied and vacant-for-rent units. Specified renter-occupied and specified vacant-for-rent units exclude single-family houses on 10 acres or more.

Teardown. The razing of a housing unit, and the replacement of the unit with another housing unit is considered a teardown. When a teardown changes the status of the unit (from affordable to unaffordable or from unaffordable to affordable), it is recommended that the action be included in the count of redevelopment occurring within a community. Units that are documented as unaffordable or affordable both before and after reconstruction can be deleted from the total housing stock, then added back; for a net effect of no change. When tracking teardowns, the unit’s affordability prior to being razed and after replacement should be documented to determine its impact.

Use Restrictions. Written agreements that restrict or limit the current and / or future use of a property or a subdivision. These restrictions appear in the real property records of the county in which the property is located and are binding upon every owner. All future owners become a party to these restrictions when they purchase property in use-restricted areas.

Utilities. The data on utility costs were obtained from answers to long-form questionnaire Items 45a-d, which were asked on a sample basis at occupied housing units. Questions 45a-d asked for the annual cost of utilities (electricity, gas, water and sewer) and other fuels (oil, coal, wood, kerosene, etc.). For the tabulations, these annual amounts are divided by 12 to derive the average monthly cost and are then included in the computation of “Gross Rent,” “Gross Rent as a Percentage of Household Income in 1999,” “Selected Monthly Owner Costs,” and “Selected Monthly Owner Costs as a Percentage of Household Income in 1999.” Costs are recorded if paid by or billed to occupants, a welfare agency, relatives, or friends. Costs that are paid by landlords, included in the rent payment, or included in condominium or cooperative fees are excluded.

Vacant Housing Unit. A housing unit is vacant if no one is living in it at the time of enumeration, unless its occupants are only temporarily absent. Units temporarily occupied at the time of enumeration entirely by people who have a usual residence elsewhere are also classified as vacant. New units not yet occupied are classified as vacant housing units if construction has reached a point where all exterior windows and doors are installed and final usable floors are in place. Vacant units are excluded from the housing inventory if they are open to the elements; that is, the roof, walls, windows, and/or doors no longer protect the interior from the elements. Also excluded are vacant units with a sign that they are condemned or they are to be demolished.

VIII. Ensuring Ongoing Affordability:

A currently affordable unit may not always stay that way. Therefore, diligent tracking, monitoring and controls become crucial tools for a community to use to ensure that units remain affordable and thus are counted towards the affordable percentage for years to come. Without controls, units that are currently affordable could become unaffordable when they are sold. It is important to note that when the 2010 Census is published, exempt status from the AHPAA will be recalculated using the figures from the Census. If units are not kept affordable, it is possible that they will not be counted as such by the Census and therefore will not be counted as affordable in the next determination of exempt status. Listed below are some tools that communities can institute that will help to ensure affordability:

- Zoning
- Reduction in Development Fees / Fee Waivers (building permit fees; planning fees; capital facilities fees; inspection fees; “tap-on” fees)
- Expedited Permitting for Affordable Housing
- Covenants
- Land Lease
- Community Land Trusts
- Deed Restrictions
- Use Restrictions
- Resale Restrictions
- Inclusionary Zoning (mandatory; voluntary; negotiated / ad hoc)
- Use of Public Funding (IHDA funds; federal funding; tax credits; restrictions with local financing)
- Planned Unit Development (PUD) ordinances

For further technical assistance in ensuring affordability, please contact IHDA’s Office of Housing Coordination Services or the Metropolitan Mayor’s Caucus.

Resources:

Discussed below are Federal, State and local resources that may be accessed for assistance in complying with the Affordable Housing Planning and Appeal Act:

Community Development Block Grants (CDBG) – CDBG funds are federal grants available through the US Department of Housing and Urban Development (HUD) that can be used to fund many different programs that provide assistance to a wide variety of grantees. Some housing activities are eligible use of funds. For more information, see:

www.hud.gov/offices/cpd/community_development/programs/index.cfm

HOME Participating Jurisdictions and Consortium Funding – As funded through HUD, federal HOME funds are available via a formula grant to states and local participating jurisdictions (PJ). HOME funds can be used for rental housing production and rehabilitation loans and grants, first-time homebuyer assistance, rehabilitation loans for homeowners, and tenant-based rental assistance. A portion of HOME funds (15%) is also available to eligible

Community Housing Development Organizations (CHDOs). All housing developed with HOME funds must serve income eligible households (low or very-low income). For more information, see: www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm

IHDA is the designated statewide agency to oversee HOME funds within the State of Illinois. IHDA can allocate HOME funds throughout the state of Illinois, but must give preference to areas that do not have their own, local HOME funds through a Participating Jurisdiction. Information on IHDA's HOME funds can be found at www.ihda.org.

Please Note: CDBG and HOME funds are often granted on a municipal or county basis. Listed below are the County entitlement grantees within the Chicago PMSA area (except where noted, the following are also HOME participating jurisdictions):

- **Cook County**

Department of Planning and Development
69 W. Washington, Suite 2900
Chicago, IL 60602
312 / 603-1000

- **DuPage County**

Department of Human Service
421 North County Farm Road
Wheaton, IL 60187
630 / 682-7543

- **Kane County**

CDBG Program, Department of Development
719 Batavia Avenue
Geneva, IL 60134
630 / 208-5347

*Kane County does not currently have its own HOME funds, although it is expected that beginning in 2005 Kane will become a HOME participating jurisdiction.

- **Lake County**

Department of Community Development
18 North County Street, Sixth Floor
Waukegan, IL 60085
847 / 377-2132

- **McHenry County**

Department of Planning and Development
2200 N. Seminary Avenue
Annex Building A
Woodstock, IL 60098
815 / 338-2040

- **Will County**

Department of Community Development
100 Manhattan Road
Farm Bureau Road
Farm Bureau Building
Joliet, IL 60433
815 / 727-2332

Bond Financing – A financing tool that can be applied to both single-family and multi-family housing programs. Bonds can be issued locally or by ceding local bond cap to IHDA, which can issue such bonds on behalf of the local government.

Local governments often ask IHDA to create homeownership programs in their community to help stimulate economic growth, to build more vibrant communities through homeownership, to help create affordable housing near jobs and support the businesses in the community, and for many other reasons. IHDA is a designated public agency that is authorized to issue bonds within the State of Illinois. By ceding bond cap to IHDA, local governments can not only allow IHDA to issue the bonds that can fund housing and take advantage of the many other funding programs that IHDA offers, but also are relieved of major local administrative duties to operate such a program.

Municipalities cede tax-exempt bond volume cap to IHDA so that the authority can create a customized program for the community. The program can be tailored to address any specific population or concern for the community, and will likely contain most of these elements:

- Below market rate mortgages
- Closing cost and down payment assistance
- I-Loan Certificates that provide credit to federal income taxes

For more information on ceding bond cap to IHDA, please contact Roger Morsch at rmorsch@ihda.org or 312/836-5230.

Tax Increment Financing (TIF) Districts – TIF districts can be established for areas designated as conservation or blighted areas. When a community creates a TIF district, the amount of tax revenue the area currently generates is set as a baseline, which will serve as the amount that the local governmental taxing bodies will receive from that area for the life of the TIF, which is 23 years. As vacant and dilapidated properties are developed, with TIF assistance, the value and tax revenue from those properties increases. The “increment” above the baseline is then captured and used solely for improvements and redevelopment activities in the TIF district.

There are currently many TIF districts within the State of Illinois. The TIFs that were established in the Chicago-metro area by municipalities and were designated as primarily for housing are listed below:

Housing TIFs in the Chicago-Metro Area	
CITY	DISTRICT
BOLINGBROOK	BEACONRIDGE SUBDIVISION
CHICAGO	49TH ST/ST. LAWRENCE AVE TIF; ML KING JR. DR/41ST. ST. TIF; BRYN MAWR/BROADWAY TIF; FILLMORE/GRENSHAW TIF; 43RD/COTTAGE GROVE AVE. TIF; 89TH/STATE ST RPA; ARCHER COURTS TIF; SOUTH CHICAGO; MONTCLAIRE TIF; LAKEFRONT TIF; DREXEL BLVD. TIF; MADDEN/WELLS TIF; 119TH/I-57 TIF
PALOS HEIGHTS	TIF 2
ROUND LAKE BEACH	TIF III
STEEGER	35TH ST/HOMAN AREA; 30TH ST/LOVEROCK AVE. (TIF 3)
WEST DUNDEE	UNION SCHOOL TIF I

Illinois Housing Development Authority (IHDA) – IHDA is the designated State housing finance authority. Via IHDA both communities and developers can access many sources of funding from both State and Federal sources. In general, IHDA’s website (www.ihda.org) is an excellent source of information, describing the purpose and application process for all the authority’s funding sources.

The authority offers a large array of funding that can help communities in their quest to develop more affordable housing. Some of which are:

- **Tax Credit Programs** – Both State and Federal tax credit programs can be utilized to generate a large equity contribution for an affordable housing development via sale of tax credits to investors. The Low Income Housing Tax Credit (LIHTC) is a competitive program for developing affordable rental housing, offering a highly competitive 9% tax credit and a competitive 4% tax credit for 10 years to a project. Sale of these credits can generate large amounts of equity for a qualifying project. Illinois Affordable Housing Tax Credits (IAHTC) (also called the State Donations Tax Credit) works with donations to a project and is granted on a one-time basis to a project that receives eligible donations. This is an excellent source of gap financing for rental, homeowner, and employer assisted housing projects.
- **Illinois Affordable Housing Trust Fund** – This state funding source assists in the provision of affordable, decent, safe, and sanitary housing for low- and very low – income households for rental, homeownership and homebuyer units. Eligible proposals include: acquisition and rehabilitation of existing housing, new construction, adaptive reuse of non-residential buildings and housing for special needs populations. The Trust Fund makes loans available at less than the prevailing commercial rate.
- **HOME** – as discussed above, State HOME funds are administered by IHDA
- **Multifamily Financing** – IHDA offers a variety of financing options specific to multifamily housing development. The options available through IHDA include: Conduit Bond Financing; IHDA enhanced Bond Financing; Risk Sharing Participation Certificates; and Ambac Participation Certificates.
- **Single-Family Financing** - IHDA finances mortgages through participating banks that are below the market rate, making it easier for low- and moderate-income families to qualify and afford a home. IHDA can also provide financial assistance to help with down payments and closing costs, finance local homebuyer programs throughout the state that are run by local non-profit organizations and municipalities, and finance home repair programs with grants for low-income homeowners who need to bring their homes up to code.

Employer Assisted Housing (EAH) – There are many programs (both national and state-wide) that encourages employers to invest in housing for their employees. An EAH program typically includes counseling about home-buying and financing, direct financial assistance with closing costs and payments, rental housing assistance, and/or a real estate investment. The Regional Employer Assisted Collaboration for Housing (REACH) is an EAH program that promotes a home ownership strategy that is hassle free for the employer. A nonprofit manages the program and provides counseling for the employees involved. For qualified employees, IHDA will provide matching funds to the employers’ investment. The Metropolitan Planning Council (an

associated non-profit) leverages funding and spearheads evaluations and public education on the program. The regional contact information for REACH is as follows:

North:

Affordable Housing Corporation of Lake County – 847/263-7478

Housing Opportunity Development Corporation – 847/251-5706

Northwest:

North West Housing Partnership – 847/348-3024

South:

Regional Redevelopment Corporation – 708/ 201-5440

DuPage County:

DuPage Homeownership Center – 630/ 260-2500

Kane County:

Joseph Corporation – 630 / 906-9400

McHenry County:

Corporation for Affordable Homes of McHenry County – 815/ 477-8442

Chicago:

Neighborhood Housing Services of Chicago, Inc. – 312/491-5139

Metropolitan Planning Council – 312 / 863-60621

Class 9 Property Tax Incentive – Encourages new development, rehabilitation and long-term preservation of multifamily rental housing, affordable to low- and moderate-income households across Cook County by providing significant tax abatement to qualified properties. Call 312/603-5331 or write Cook County Assessor’s Office, Development Incentives Department, 118 N. Clark St, 3rd Floor, Chicago, IL 60602 for more information.

Federal Home Loan Bank (FHLB) –The Affordable Housing Program (AHP) offered by the Chicago Federal Home Loan Bank (Chicago FHLB) is a subsidy fund designed to assist in the development of affordable housing for low and moderate-income households. The Chicago FHLB contributes 10% of its previous year's net income to the AHP each year. The allocation is split between the Chicago FHLB's competitive application program and the non-competitive homeownership set-aside program called Downpayment Plus. The AHP provides grants and subsidized loans to member financial institutions working with affordable housing providers to finance rental and ownership housing for low and moderate-income households (<http://www.fhlbc.com>).

Community Investment Corporation (CIC) – CIC is a not-for-profit neighborhood revitalization lender that provides financing to buy and rehab multifamily apartment buildings with five units or more in the six-county metropolitan Chicago area. CIC’s investors have grown to 45 banks as well as Fannie Mae, the United Methodist Pension Fund and Peoples Energy, for a total of 48. These investors have pledged \$560 million through 2010 for CIC’s revolving loan pool. CIC has made over 1,100 multifamily loans totaling \$615 million [with total project costs exceeding \$1 billion] to rehab 31,000 rental units providing affordable housing for more than 100,000 Chicago- area residents. For more information:

Community Investment Corporation
222 S. Riverside Plaza, Suite 2200
Chicago, IL 60606-6109
312/ 258-0070

Office of Housing Coordination Services (OHCS) – IHDA’s OHCS operates a housing information clearinghouse for affordable housing in the State of Illinois. With this clearinghouse, OHCS tracks housing finance options provided by IHDA and other State programs, federal programs as well as private resources. For more information, please visit www.ihda.org or contact the Office of Housing Coordination Services at (312) 836-5383