

**860-RICR-00-00-5**

## **TITLE 860 – HOUSING RESOURCES COMMISSION**

**CHAPTER 00 – N/A**

**SUBCHAPTER 00 – N/A**

**PART 5 – RULES AND REGULATIONS GOVERNING THE IMPLEMENTATION OF AN APPROVED MONITORING AGENT PROGRAM**

### **5.1 Authority**

- A. These rules and regulations are promulgated pursuant to the requirements and provisions of R.I. Gen. Laws § 45-53-3.2, R.I. Gen. Laws Chapter 42-128, the Rhode Island Housing Resources Act of 1998, and R.I. Gen. Laws Chapter 42-35 *et seq.*, the Administrative Procedures Act.

### **5.2 Purpose**

- A. The purpose of these rules and regulations is to implement the approved monitoring agent program established pursuant to R.I. Gen. Laws § 45-53-3.2 for municipally subsidized housing developments. These rules and regulations establish a process for the selection and approval of Monitoring Agents including, but not limited to, establishing terms of engagement, standards for approval and recertification, reporting requirements, and minimum qualifications for approved Monitoring Agents.

### **5.3 Definitions**

- A. For the purposes of this Part, the following terms shall have the following meanings:
  - 1. “Accessory Dwelling Unit” or “ADU” means a residential living unit on the same parcel where the primary use is a legally established single-unit or multi-unit dwelling. An Accessory Dwelling Unit provides complete independent living facilities for one or more persons. It may take various forms including, but not limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled primary dwelling.
  - 2. “Affordable Housing Restriction” means a deed, regulatory agreement, or other instrument suitable for recording in a form approved by the HRC containing those requirements necessary to meet the standards set forth in the Rhode Island Low and Moderate Income Housing Act, R.I Gen.

Laws Chapter 45-53, and recorded in the relevant land evidence records or registry of deeds as applicable.

3. “Developer Agent” means including, but shall not necessarily be limited to, lottery agents, listing agents, property management agents, placement agents, or any other individual or entity involved in the sale or lease process.
4. “Housing Resources Commission” or “HRC” means the commission established as an agency within the executive department pursuant to R.I. Gen. Laws § 42-128-4.
5. “Low or moderate income housing” or “LMIH” means as set forth in R.I. Gen. Laws § 45-53-3(9), the Rhode Island Low and Moderate Income Housing Act.
6. “Monitoring Agents” means those monitoring agents appointed by the Rhode Island Housing Resources Commission pursuant to R.I. Gen. Laws § 45-53-3.2 for municipally subsidized housing developments.

#### **5.4 Duties of Monitoring Agents**

- A. Monitoring Agents shall perform those duties established from time to time by the HRC, which shall include, but shall not be limited to, the following:
  1. Monitor Initial Sales/Lease-Up. Monitoring agents shall work closely with Developers and/or Developer Agents to ensure that Affordable Units are sold or leased as applicable to Income Eligible Households and are subject to a long-term Affordable Housing Restriction;
  2. Ongoing Monitoring of Deed Restricted Homeownership Units. Monitoring Agents shall provide ongoing monitoring to Affordable Housing Restricted homes for compliance with the terms of such restrictions, including but not limited to, refinancing, events of foreclosure and occupancy requirements.
  3. Ongoing Monitoring of Affordable Housing Restricted Rental Units. Monitoring Agents shall work with Owners of Affordable Housing Restricted rental properties and/or their listing agent or property management agent to ensure continued income eligibility of in-place tenants.
  4. Monitoring of Resales. Monitoring agents shall work with Owners of Affordable Housing Restricted properties and/or their listing agent or property management agent to ensure that all resales comply with the terms of the applicable Affordable Housing Restriction;
  5. Compliance and Enforcement. Monitoring Agents shall support ongoing compliance with the terms of the Affordable Housing Restriction, including

requests for refinancing, capital improvements, leasing and resale; and take necessary enforcement action in response to violations of the Affordable Housing Restriction.

6. Reporting. Monitoring Agents shall comply with the reporting requirements of 5.7 hereof;

## **5.5 Approval Process**

- A. The Housing Resources Commission will accept applications to be approved as a qualified Monitoring Agent no less than once every calendar year, on forms to be adopted by the HRC.
- B. In order to be approved, Monitoring Agents must demonstrate they can minimally meet guidelines for qualifications established by the HRC which shall include, but not be limited to:
  1. Working knowledge of applicable regulations, rules or guidelines, including those relating to fair housing;
  2. General knowledge of subsidy programs and associated requirements;
  3. Experience reviewing income and asset documentation to determine eligibility under applicable programs;
  4. Experience working with mortgage lenders and general knowledge of mortgage loan documents to be reviewed during sales or refinancing transactions;
  5. Experience working with developers, homeowners, listing agents, municipal officials and closing attorneys in the sale and resale of units subject to affordable housing restrictions;
  6. Experience working with owners, listing agents and property management firms in the lease up and annual renewal of tenants in units subject to an Affordable Housing Restriction;
  7. Demonstration of ability to successfully resolve issues of non-compliance with an Affordable Housing Restriction;
  8. Demonstrated capacity to sustain monitoring services during their contracted period;
  9. Demonstrated authorization to transact business in the State of Rhode Island;
  10. Compliance with any and all HRC required trainings;

11. Compliance with insurance requirements as determined by the HRC;
  12. Compliance with any applicable audit or financial review findings; and
  13. Possession of such knowledge, skills, experience, administrative capacity, and/or other applicable competence for the performance of required duties as shall be established from time to time by the HRC.
- C. The HRC will establish standardized guidelines and criteria for applications to become an approved monitoring agent pursuant to this regulation, and standardized guidelines for review of those monitoring agent applications deemed complete.
- D. The HRC will establish guidelines for the recertification and/or decertification of Monitoring Agents as appropriate, the decisions for which will be within the sole discretion of the HRC.

## **5.6 Terms of Engagement**

- A. Approved applicants meeting the criteria established by the HRC will be approved for an initial one-year period with the option for subsequent renewals for terms not to exceed five (5) consecutive years as determined by the HRC.

## **5.7 Reporting**

- A. Monitoring Agents will report the following information no less than annually to the Housing Resources Commission:
1. The total number of homeownership units in the Monitoring Agent's portfolio, by municipality as of the end of the reporting period;
  2. The total number of rental units, other than Accessory Dwelling Units ("ADU")'s in the Monitoring Agent's portfolio, by municipality as of the end of the reporting period;
  3. The total number of ADUs in the Monitoring Agent's portfolio, by municipality as of the end of the reporting period;
  4. The total number of resales on homeownership units transacted, by municipality, during the reporting period;
  5. The total number, along with corresponding addresses and terms of affordability, of newly developed homeownership units added to the Monitoring Agent's portfolio during the reporting period;
  6. The total number, along with corresponding addresses and terms of affordability, of newly developed rental units added to the Monitoring Agent's portfolio during the reporting period;

7. The total number, along with corresponding addresses and terms of affordability, of newly developed ADUs added to the Monitoring Agent's portfolio during the reporting period;
8. The number of units that are currently not in compliance with their Affordable Housing Restriction, by municipality, along with a narrative explanation of corrective actions taken by the Monitoring Agent to date to resolve the noncompliance.
9. Units that currently are, or were during the reporting period, in imminent danger of foreclosure, by municipality, along with a narrative explanation of corrective actions taken by the Monitoring Agent to date to resolve the noncompliance;
10. Fees collected by the Monitoring Agent during the immediately preceding reporting period;
11. Updates regarding compliance of projects within the Monitoring Agent's portfolio regarding compliance with the applicable Affordable Housing Restriction;
12. Any other data requested by the HRC.

## **5.8 Operating guidelines**

- A. The HRC will establish operating guidelines for approved qualified Monitoring Agents, which may include standardized procedures, forms and fees, among other guidelines.

## **5.9 Liberal Construction**

- A. The terms and provisions of this Part shall be liberally construed to permit the HRC to effectuate the purposes of state law, goals, and policies.

## **5.10 Severability**

- A. If a court of competent jurisdiction invalidates any provision of these rules and regulations, the remaining rules and regulations will not be affected. The invalidity of any section or sections, or parts of any section or sections, shall not affect the validity of the remainder of these rules and regulations.

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**Department of State**

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Department of State Initials

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