



Executive Office of Housing  
*State of Rhode Island*

**Housing Solutions. Thriving Households. Stronger Communities.**

# State of Rhode Island Monitoring Agent Guidebook

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# Table of Contents

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I.	Authorization.....	page 2
	a. Purpose.....	page 2
	b. Regulations.....	page 2
	c. Laws.....	page 2
II.	Definitions.....	page 3
III.	Application.....	page 4
IV.	Scope of Work.....	page 5
	a. Overview.....	page 5
	b. Responsibilities.....	page 5
	c. Optional Actions.....	page 5
V.	Service Agreement.....	page 6
	a. Overview.....	page 6
VI.	Fee Structure.....	page 6
	a. Effective Date.....	page 6
	b. Rental.....	page 6
	c. Homeownership.....	page 6
VII.	Eligibility .....	page 7
	a. Residency.....	page 7
	b. Unit Size.....	page 7
	c. Disqualifiers.....	page 8
VIII.	Income Certification/Recertification.....	page 8
	a. Documentation.....	page 8
	b. Income Certification Process for Tenants and Homebuyers.....	page 9
	c. Calculating Income.....	page 10
IX.	Price Setting & Procedures.....	page 15
X.	Various Requirements Associated with Homeownership.....	page 16
XI.	Various Requirements Associated with Rental.....	page 21
XII.	Enforcement.....	page 24
XIII.	Reporting.....	page 25
XIV.	Termination.....	page 25
XV.	Effective Date.....	page 25
APPENDIX A:	Standardize Forms.....	page 27
APPENDIX B:	Special Provisions for Specific Initiatives.....	page 28
APPENDIX C:	Regulations.....	page 29

## I. Authorization

- a. **Purpose** – Monitoring Agents are entities tasked with ensuring ongoing compliance with affordable housing deed restrictions and regulations. They oversee various aspects of affordable housing, including ensuring income eligibility of tenants, checking that properties meet specific occupancy requirements, and verifying the sale or resale of properties within affordability guidelines. This guidebook shall provide certified Monitoring Agents with guidance to aid in the execution of their monitoring responsibilities and to establish statewide consistent and transparent procedures for monitoring long-term affordable housing units in Rhode Island. High quality, standardized income certification and long-term monitoring are central to building and preserving low and moderate income housing and certified Monitoring Agents are integral to this effort.
- b. **Regulations** - The Housing Resources Commission has promulgated regulations at 860-RICR-00-005 to implement an approved monitoring agent program established pursuant to R.I. General 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, established terms of engagement, standards for approval and recertification, reporting requirements and minimum qualification for approved Monitoring Agents.
- c. **Rhode Island General Laws 45-53** – Low and Moderate Income Housing (LMIH) Act, as amended, addresses the creation and rehabilitation and adequate supply of decent, safe and affordable housing for all Rhode Islanders. The law contains measures that help to ensure the continued affordability of homes that have been assisted by State, federal and/or municipal subsidies. The LMIH Act requires that all communities provide at least ten (10%) percent of their year-round housing units to meet the qualifications necessary to be considered low and moderate income housing units. In order to be qualified as LMI housing, the units must be:
  1. made possible with Federal, State or municipal subsidy.
  2. sold/leased to a household that meets the applicable income limitation for the property.
  3. restricted for a period of not less than thirty (30) years.

Consistency - Every effort has been made to align these guidelines with application laws, including Rhode Island General Laws (RIGL), Title 45, Chapter 45-53 – Low and Moderate Income Housing Act. If a perceived conflict with laws, local zoning and/or Comprehensive Permit stipulations is identified, EOH will review the conditions and determine which provisions take precedent.

Note that these guidelines apply to Monitoring Agents of municipally subsidized housing developments. Other affordable housing projects, such as those supported by Rhode Island Housing, may or may not comply with these guidelines at their discretion.

## II. Definitions/Acronyms

AMI – Area Median Income refers to a specific area’s income distribution and is calculated on an annual basis by the U.S. Department of Housing and Urban Development.

CFR – Code of Federal Regulations

EOH – State of Rhode Island Executive Office of Housing

City – means (a) any unit of general local government which is classified as a municipality by the United State Bureau of Census.

Family – refers to the definition of “family” in 24 CFR 5.403. All persons living in a unit that are related by blood, marriage or adoption.

Household – means all persons occupying a housing unit. The occupancy may be a family, as defined in 24 CFR 5.403; two or more families living together; or any other group of related or unrelated persons who share living arrangement, regardless of actual or perceived sexual orientation, gender identity, or marital status.

Income. For the purpose of determining whether a family or household is low and moderate income, grantees must follow income guidelines and procedures as contained in this guidebook. EOH shall be consulted in instances not specified herein.

Low-Income household – means a single person, family, or unrelated persons living together whose adjusted gross income is more than fifth percent (50%) but less than eighty percent (80%) of the area median income, adjusted for family size.

LMIH – means as set forth in R.I. General Laws 45-53-3.

Metropolitan area shall mean (a) a City within a metropolitan area which is the central city of such area, as defined as used by the U.S. Office of Management and Budget; or (b) any other City, within a metropolitan area, which has a population of fifty thousand or more. Any City that was classified as a metropolitan city for at least 2 years pursuant to the first sentence of this paragraph shall remain classified as a metropolitan city.

Metropolitan city shall have the meaning provided in section 102(a)(4) of the Act except that the term “central city” is replaced by “principal city”.

Moderate-Income household – means a single person, family, or unrelated person living together whose adjusted gross income is more than eighty percent (80%) but less than one-hundred twenty percent (120%) of the area median income, adjusted for family size.

Monitoring Agent – means those monitoring agents appointed by the Rhode Island Executive Office of Housing pursuant to R.I. General Laws 45-53-3.2 for municipally subsidized housing developments. These entities are tasked with ensuring ongoing compliance with affordable housing deed restrictions and regulations. They oversee various aspects of affordable housing, including ensuring income eligibility of tenants, checking that properties meeting specific

occupancy requirements, and verifying the sale or resale of properties within affordability guidelines.

Related Party – means, for the purposes of these Guidelines,

1. any person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the Developer, as well as any spouse of such person or “significant other” cohabiting with such person, and any parent, grandparent, sibling, child or grandchild (natural, step, half or in-law) of such person;
2. any person that is an officer of, member in, or trustee of, or serves in a similar capacity with respect to the Developer or of which the Developer is an officer, member, or trustee, or with respect to which the Developer serves in a similar capacity, as well as any spouse of such person or “significant other” cohabiting with such person, and any parent, grandparent, sibling, child or grandchild (natural, step, half or in-law) of such person;
3. any person that, directly or indirectly, is the beneficial owner of, or controls, 10% or more of any class of equity securities of, or otherwise has a substantial beneficial interest (10% or more) in, the Developer, or of which the Developer is directly or indirectly the owner of 10% or more of any class of equity securities, or in which the Developer has a substantial beneficial interest (10% or more) , as well as any spouse of such person or “significant other” cohabiting with such person, and any parent, grandparent, sibling, child or grandchild (natural, step, half or in-law) of such person;
4. any employee of the Developer; and
5. any spouse, parent, grandparent, sibling, child or grandchild (natural, step, half or in-law) of an employee of the Developer or “significant other” cohabiting with an employee of the Developer. The Subsidizing Agency reserves the right to determine whether the related party is eligible.

### **III. Application**

- a. Application – No less than annually, the EOH will accept applications from entities interested in serving as Certified Monitoring Agents.
- b. Forms – Interested parties must respond using provided forms.
- c. Incomplete – If an application is determined to be incomplete, the EOH may deny the request for the Monitoring Agent and/or may request supplementary information at its discretion.
- d. Term – EOH may certify an interested party as a approved Monitoring Agent for a period of one (1) to five (5) years.

- e. Inaccurate – If information contained in the application is determine inaccurate, the EOH may deny the request and/or request supplementary information or clarification, at its discretion.
- f. Recertification – An approved Monitoring Agent may resubmit an application on the forms made available by EOH in the application cycle immediately prior to their termination of their certification. The EOH plans to operate the Monitoring Agent program on a calendar year basis, with annual applications/procedures announced the Fall of each year.

#### IV. Scope of Work

- a. **Overview** - As a condition of their certification as a Monitoring Agent, entities are required to undertake the following activities, as outlined in more detail in the relevant sections of this guidebook. While a Monitoring Agent may choose to limit their inventory to homeownership or rental properties all applicable sections of this guidebook will apply.
- b. **Responsibilities include:**
  - i. Verification that all LMIH units have been made “publicly available” and follow the State requirements regarding fair housing.
  - ii. Income certification for initial sales or lease-ups.
  - iii. Deed restriction and supplemental document drafting.
  - iv. Reporting on new LMIH units to the State agency responsible for maintaining the LMIH inventory chart.
  - v. Long-term Monitoring of homeownership units including ongoing monitoring of owner occupancy, refinances, establishment of home equity lines of credit, and estate planning compliance.
  - vi. Long-term Monitoring of rental units including ongoing monitoring of any conveyances, income certification of new tenants and annual recertification of existing tenants.
  - vii. Foreclosure mitigation and intervention.
  - viii. Enforcement of non-compliance events.
- c. **Limitations** – Approved monitoring agents shall not serve as monitoring agent for units in which their agency, or another directly affiliated entity, has been the primary developer or a partner in the development or currently owners/manages the project.
- d. **Optional actions:**
  - i. Monitoring Agents may provide additional services such as technical assistance, planning process support, unit marketing or other related housing services consistent with their experience and qualifications and are free to set fees for those additional services at their discretion. Any additional scopes of work should be included as an addendum to the Monitoring Services Agreement.

## V. Service Agreement

- a. **Overview** - As a condition of the approval as a certified Monitoring Agent, all Monitoring Agents are required to use the provided Monitoring Services Agreement (Appendix A). The Monitoring Services Agreement serves as the contract between the developer/owner outlining the various scopes of work, and the responsibilities of the Monitoring Agent for the duration of the Deed Restricted period, as well as any associated fees. The Monitoring Services Agreement is required to be recorded in the applicable Land Evidence Records. The Service Agreement should also detail any Optional action to be provided by the Monitoring Agent.

## VI. Fee Structure

- a. **Effective Date** – The following fee structure shall be used on all units with a Service Agreement signed after the Certification date of the Monitoring Agent.
- b. **Rental Units**
  - i. **Initial Monitoring Fee** - \$1,000 per LMIH rental units, charged to the developer/owner of the property.

Functions – drafting of the deed restriction, initial lease up of the rental units including all income certifications and LMIH reporting.
  - ii. **Annual Monitoring** – (up to) 3% of the maximum allowable annual rent for the LMIH units, charged to the developer/owner.

Functions – Certification of any new tenants, recertification of existing tenants, review of conveyances and/or assignments of units.
- c. **Homeownership Units**
  - i. **Initial Monitoring Fee** - \$2,000 per LMIH homeownership unit, charged to the developer.

Functions – Drafting of the deed restriction, initial sales of the homeownership units including income certification and one on one counseling session, LMIH reporting and ongoing monitoring for the duration of the deed restricted period.
  - ii. **Resale Fee** - \$500, charged to the homeowner.

Functions – Orientation of the real estate agent representing the seller to understand the process for resale, setting of the maximum sales price income certification of the buyer, drafting of new deed restriction and LMIH reporting. This fee may be added onto the maximum sales price and the seller is reimbursed this fee if they receive a full price offer.
  - iii. **Refinance Fee** - \$250, charged to the homeowner.

Functions – Calculation of maximum properties value and evaluation of refinance request relative to refinance criteria, review of the loan application and/or approval/denial.

- iv. Line of Credit Fee - \$100, charged to the homeowner.

Functions – Calculation of the maximum sales price and evaluation of HELOC request relative to HELOC criteria, review of the loan application and/or approval/denial.

- v. Estate Planning Fee - \$150, charged to the homeowner.

## **VII. Eligibility Criteria**

### **a. Rhode Island Residency Requirements**

- i. Households interested in leasing or purchasing a LMIH unit are not required to be a Rhode Island resident at the time they complete the application for income certification but must become Rhode Island residents upon occupancy.
- ii. Documentation of residency must be provided within 30 days of occupancy. Adequate documentation may include a valid license or State ID.
- iii. LMIH homeownership units are required to remain owner occupied year-round, pursuant to the Deed restriction.
- iv. Household composition – Household size, used for calculation of income limits, is defined by the number of occupants who will reside in the home full time. A full-time resident is an occupant who resides in the home at least fifty percent (50%) of the year.
- v. With regard to rental units - In the event one or more member(s) of the household vacate the property, the household will be moved to the next available unit suitable for the household size, if available in the project.

### **b. Unit Size Requirements**

The Executive Office of Housing wants to assure that units available are occupied most effectively. While no specific restrictions are in place on homeownership units, it is encouraged that household size match or exceed the number of bedrooms in the unit. With regard to rental units, the number of bedrooms in a unit should not exceed the number of persons in the household occupying the unit.

The Executive Office of Housing may provide minimum design guidelines for units. Monitoring Agents will verify bedrooms sizes meet minimum requirements specified below.

Bedroom – 100 s.f. with a minimum dimension of 9' 6", unless it is a studio type apartment. Each apartment shall have one Master Bedroom with a minimum size of 120 s.f. or greater.

### c. Disqualifiers

- i. The applicant, or a member of the applicant's household, has an ownership interest in another residential property and does not plan to divest that ownership interest prior to the execution or lease up or purchase of the LMIH unit. Interest in a residential property held in an LLC is also a disqualifying factor.
- ii. The applicant or co-applicant were claimed as a dependent on another person's most recently filed federal tax return.

## VIII. Income Certification/Recertification

- a. **Documentation** - Applicants will submit documentation as it pertains to themselves and all members of their household. The Monitoring Agent is responsible for the secure maintenance of all income and asset documentation submitted by applicants. A general overview of the required documents, if applicable, follows:
  - i. Complete current federal tax returns with all schedules, including but not limited to, 1099's, 1986's and W2's. Note that tax documents alone are not adequate for documentation of household income.
  - ii. For self-employed applicants, current year-to-date Profit and Loss Business Statement and Balance Sheet.
  - iii. Two (2) month's most recent pay stubs for each source of employment.
  - iv. For high school students who are eighteen (18) years or older, documentation of school enrollment status. For college students, who are between (18) years and twenty-three (23) years of age, documentation of school enrollment.
  - v. Social Security, Pension, Retirement, VA, SSI, SSDI, or Disability payment Benefits letter(s).
  - vi. Document of child support and/or alimony payments.
  - vii. Proof of legal separation or divorce.
  - viii. Copy of current Driver's License or government issued identification card for each adult in the household.
  - ix. If monthly financial support is being provided by a family member, a notarized attestation from the person providing the support.
  - x. If any adult in the household claims to have no income and does not plan to in the coming year proceeding occupancy and/or has no asset held in their name, a notarized attestation to the applicable facts.
  - xi. Six (6) months most recent checking account statements (all pages), with a written explanation as to the source and nature of all non-verifiable deposits over \$100.
  - xii. Six months most recent money market account statements (all pages), with a written explanation as to the source and nature of all non-verifiable deposits over \$100.
  - xiii. Most recently issued statement(s) for 401(k), 403(b), IRA, ROTH IRA, etc.
  - xiv. Most recently issued statement(s) for investment and brokerage accounts.
  - xv. Most recent issued statement(s) for CDs.

- xvi. Document for any other assets.
- xvii. For applicants currenting selling an existing home, (1) copy of the most recent mortgage statement (2) a copy of the Purchase and Sales Agreement, and (3) a final closing disclosure when it becomes available.
- xviii. For applicants who sold a home in the previous twelve (12) months, a copy of the final settlement statement.
- xix. (Homeownership only) Copy of Uniform Residential Loan Application, including sections L1-L4.
- xx. (Homeownership only) if receiving a financial gift towards down payment/closing costs, a notarized gift letter as well as gift maker's proof of funds.
- xxi. (Homeownership only) Copy of Certification of Completion from a homebuyer education class, when applicable.

**b. Income Certification Process for Tenants and Homebuyers**

Monitoring Agents shall use the provided **Rental Application for Income Certification form and Homeownership Application for Income Certification form** in their efforts to complete income certifications. Monitoring Agents shall make applications available on their website for potential tenants and homebuyers to review it. Since the application serves as the basis for the income certification and as a result directly influences the quality of the income certification, it is imperative that the application is completed in its entirety. Ensuring that all applicants complete the form properly is the responsibility of the Monitoring Agent.

***Rental Units***

1. Property owners/managers will initially screen prospective tenants in accordance with their screening requirements, so long as those requirements are lawful.
2. Once a property owner/manager decides they would like to proceed with a particular tenant, the prospective tenant will submit their application, and the Monitoring Agent shall conduct the income certification process.
3. Upon completion of the income certification process, the Monitoring Agent shall indicate to the property owner/manager whether the prospective tenant is eligible or not.
4. If the tenant is eligible, then the property owner/manager shall execute an annual lease with the tenant to commence within thirty (30) days. The Monitoring Agent will issue a Certificate of Compliance not more than thirty (30) days prior to the start of the lease period, whose expiration aligns to the lease expiration.
5. If the tenant is not eligible, the property owner/manager shall select another potential tenant for the Monitoring Agent to review.
6. Units must be made "publicly available". The EOH will release detailed guidelines on this requirement.

### ***Homeownership Units***

1. The Monitoring Agent will provide owners or their authorized real estate agent with general overview of the program and eligibility criteria for the unit they are listing.
2. Owner's agent will list LMIH unit in accordance with listing procedures outlined in this document.
3. Owner's agent will share that information with prospective buyers so they can complete a self-assessment as to whether their household meets the criteria.
4. In the event prospective buyers make offers, the Owner shall consider the offers and accept one. A Purchase and Sales Agreement shall then be executed.
5. The buyer shall submit their application, and the Monitoring Agent shall conduct the income certification process.
6. The Monitoring Agent issues a preliminary approval, which identifies the planned closing date and lists the updated documents that are required to successfully close.
7. The Monitoring Agent shall draft the Deed Restriction and coordinate with the municipality to have the document signed in advance of the closing.
8. The Monitoring Agent shall collect updated supporting documentation as articulated in the preliminary approval, draft the Statement of the Buyer, and conducts a counseling session with the Buyer.
9. The Monitoring Agent will then communicate with the closing attorney regarding fees to be paid at closing and collects the Final Closing Disclosure.
10. The Monitoring Agent will issue the final approval and deliver the Deed Restriction, Statement of the Buyer and Certificate of Compliance to the closing attorney in time for closing.

#### **c. Calculating Projected Income**

In calculating income eligibility under this program, gross income for all members of the household will be considered. Regardless of whether a household member's name will appear on the lease, mortgage or title and/or their source of income is considered nontaxable by the Internal Revenue Service, all income will be considered towards a household's eligibility. Monitoring Agents are required to use year to date activity across all income sources as the basis for their 52-week income projections and may not consider applicant driven changes to income after a denial has been issued. Examples of applicant driven changes would include, but are not limited to, revised Profit and Loss Statements, voluntary termination of employment, and salary or ongoing family support reductions.

#### ***Full and Part Time Employment Income***

Income from employment is calculated using year to date gross income according to the most recent paystub. If the gross income includes bonus pay and it can be confirmed by the employer

in writing that the bonus pay is a one-time payment and not ongoing, the bonus pay can be backed out of the gross income and added on to the back end of the calculation as a one-time sum. Year-to-date gross income as of the pay period ending date (not the check issuance date) is divided by the number of weeks that have transpired in the calendar year thus far, assuming the applicant began their employment as of January 1<sup>st</sup> of the calendar year. If the applicant began their employment after January 1<sup>st</sup> of the calendar year, then the Monitoring Agent should calculate the denominator by subtracting the week number the applicant began their employment from the week number of the latest pay period ending pay stub.

Some employment types may include periods where the employee is still employed but does not receive compensation for a set period, such as a teacher who does not receive pay during the summer months. In these types of instances, the Monitoring Agent should request additional documentation, such as a letter from the employer for the applicant that documents the appropriate number of pay weeks in the individual's employment cycle to accurately account for that person's income.

Example A: Susan's application reports that her date of hire was March 9, 2025, and provided her most recent pay stub with a pay period ending date of July 6, 2025. Her stub reports year to date gross income, including overtime pay of \$21,000. Therefore, because March 9<sup>th</sup> fell in the 10<sup>th</sup> week of the year, and July 6<sup>th</sup> fell on the 27<sup>th</sup> week of the year, she has been employed for 17 weeks ( $27 - 10 = 17$ ). Susan's income would be calculated as follows:  $\$21,000/17 = \$1,235.29 \times 52 \text{ weeks} = \$64,235.08$ .

Example B: Steven's application reports his date of hire as prior to January 1, 2025. According to his year to date pay stub, he had earned a gross income of \$35,000 as of his pay period ending July 6, 2025 (27<sup>th</sup> week of the year). The pay stub reflects that out of the \$35,000 earned, \$5,000 was a bonus, which his employer confirmed is received only once per year. Steven's income would be calculated as follows:  $\$30,000 \text{ (bonus deducted)}/27 \text{ weeks} = \$1,111.11 \times 52 \text{ weeks} = \$57,777.78 + \$5,000 \text{ bonus} = \$62,777.78$ .

### ***Self-Employment Income***

Income from self-employment is calculated either using a year-to-date profit and loss statement (P&L) or the average of the self-employment income reported on the previous two years tax returns, whichever is higher. Certain deductions, such as self-employment taxes, home office deductions, and depreciation should be added back into the applicant's net income for the purposes of calculating income. Once submitted, no changes are allowed to a P&L. If in the course of their review of a submitted P&L, Monitoring Agents have questions regarding the validity of expenses included within, they may ask the applicant to provide supporting documentation that verifies the expense. Expenses that cannot be satisfactorily substantiated as qualified business only related expenses will be disallowed by the Monitoring Agent.

Example A: Robert is a self-employed applicant. According to his 2023 tax return, his net income was \$40,000 with a \$3,500 deduction for self-employment taxes, therefore his income was \$43,500. His 2024 tax return reports his net income at \$47,000 with a self-employment tax deduction of \$4,000 and \$2,000 in depreciable expenses, therefore his income was \$53,000. His

year-to-date P&L as of June 30, 2025, reports his net income to be \$25,000 with no deductions on the P&L for taxes or depreciation. His two-year average income would be calculated as  $\$43,500 + \$53,000 = \$96,500 / 2 \text{ years} = \$48,250$  for his annual income. His year-to-date P&L income would be  $\$25,000 / 6 \text{ months}$  (since the P&L is as of 6/30/25, it would be calculated as  $\$4,166.67 \text{ per month} \times 12 \text{ months} = \$50,000.04$ ). For the purposes of income eligibility, the Monitoring Agent would use  $\$50,000.04$  as his income from this source.

### ***Social Security, Social Security Disability, or Supplemental Social Security Income***

Income from Social Security, Social Security Disability or Supplemental Social Security shall be verified using the current year's Benefit statement and shall be calculated using the gross monthly amount multiplied by twelve months. If a cost-of-living adjustment letter has already been issued to the applicant for the coming year, then the Monitoring Agent shall use that amount as the basis for their calculation. Bank statements and deposit information may not be used as verification of income amount.

### ***Retirement, Pension and Annuity Income***

Income from sources such as 401K, 403B, pensions and annuities shall be verified using a current letter or statement from the income source that documents the monthly gross amount received by the applicant or a member of their household. If the applicant or member of the applicant's household does not receive a monthly distribution but is required to take a Required Minimum Distribution (RMD), then the full amount of the RMD shall be considered income from that source. Income shall be calculated using the gross monthly amount multiplied by twelve months. If a cost-of-living adjustment letter has already been issued to the applicant for the coming year, then the Monitoring Agent shall use that amount as the basis for their calculation. Bank statements and deposit information may not be used as verification of income amount.

Example A: Ruth receives a monthly pension from the State of Rhode Island in the amount of \$500 per month. Ruth also has a 401K account that she does not receive monthly distributions from, nor will she in the coming 52 weeks. She is required to take a \$5,000 RMD annually. Her income from these sources would be calculated as follows:  $\$500 / \text{month} \times 12 \text{ months} = \$6,000 + \$5,000 = \$11,000$ .

### ***Dividends, Interest and Distribution Income***

Income, such as dividends, interest and distributions from investment and brokerage accounts shall be counted utilizing the year-to-date activity and future projection.

Example A: Sally has a Merrill Lynch Investment account with a balance of \$400,000. Based upon her June 30, 2025, statement, her year-to-date distributions have been \$6,000 and \$600 in dividends. Her income from this source would be calculated as follows:  $\$6,000 / 6 \text{ months} = \$1,000 / \text{month} \times 12 \text{ months} = \$12,000$  plus  $\$600 / 6 \text{ months} = \$100 / \text{month} \times 12 \text{ months} = \$1,200$ . Projected annual income from dividends, interest and distribution shall be calculated as  $\$12,000 + \$1,200 = \$13,200$ . You will also count the value of the investment account as an asset per the asset calculation.

### ***Seasonal or Temporary Work Income***

If an applicant or member of their household is a seasonal or temporary employee, the Monitoring Agent shall review documentation that supports the time frame of employment, and the compensation received during that time, to arrive at a realistic projection of income for inclusion in the certification.

Example A: Lucas works a second job for the months of December, January and February for a snowplow company. He is guaranteed by his employer a minimum of \$200 per week for the 10 hours a week he is scheduled to work, with overtime opportunities available. Based on the pay stubs he provided as part of his application; he has not incurred any overtime hours as of the time of application submission for income certification (mid-January). Assuming 4.3 weeks in each month, the total period of compensation would be 13 weeks. Since no overtime has been incurred to date, the Monitoring Agent may assume none will be for the remainder of the period. Thus, annual income from this source would be calculated as  $\$200/\text{wk} \times 13 \text{ wks} = \$2,600$ .

### ***Unemployment or Temporary Disability Income***

If an applicant or member of their household receives unemployment or temporary disability income, the Monitoring Agent shall review documentation that supports the time frame for which these sources are received to arrive at a realistic projection of income for inclusion in the certification.

Example A: Donald works at a country club as a maintenance staff member. The club closes on November 30<sup>th</sup> each year and then reopens for April 1<sup>st</sup>. He earns \$800 per week. During the months that the club is closed, Donald collects Unemployment Insurance at \$500 per week. Donald's income would be calculated as follows: Employment – April 1<sup>st</sup> is in the 14<sup>th</sup> week of the year, and November 30<sup>th</sup> is in the 48<sup>th</sup> week of the year (in this example), therefore  $48 - 14 = 34$  weeks of employment; lastly,  $34 \times \$800 = \$27,200$ . Unemployment –  $52 \text{ weeks/yr} - 34 \text{ weeks of employment} = 18 \text{ weeks of unemployment}$ .  $18 \times \$500 = \$9,000$ . Donald's income from these sources would total \$36,200.

### ***Rental Property Income***

If the applicant or member of the applicant's household has rental income from an owned commercial property or from the purchase of an LMIH home that includes a rental unit (either deed restricted or market rate), then the Monitoring Agent shall consider rental income as part of the applicant's income certification. For existing tenants, Monitoring Agents should request and review a copy of the current lease(s) and account for 100% of the annualized rent in their income certification. For properties where the rental unit was developed in conjunction with the homeownership unit, the Monitoring Agent shall account for seventy-five (75%) percent of the annualized deed restricted rent, or the fair market rent for a comparably sized unit in their income certification.

### ***Ongoing Family and/or Outside Support for Living Expenses***

In the case of direct or indirect financial support from a family member (or another person), a notarized letter is required stating the amount of monthly support provided. Direct financial assistance is defined as the transfer of funds from the support provider to the applicant or a member of the applicant's household. Indirect financial assistance is defined as any payments of expenses on behalf of the applicant or a member of the applicant's household, including but not limited to, cell phone expenses, automobile loan payments, automobile insurance payments, student loan payments, health insurance payments, etc. If amounts vary month to month, then the person providing the support shall do their best to provide a realistic average amount. This support is counted as income and shall be calculated using the monthly amount multiplied by twelve months.

### ***Financial Gifts Towards Purchase***

Downpayment gifts to applicants purchasing an LMIH homeownership unit are capped at twenty-five (25%) percent of the purchase price and will count towards an applicant's income at three (3%) percent of the value of the gift. Gifts in excess of this limitation will be counted in their entirety (100%) as income for qualification purposes.

Example A: Corey is purchasing an LMIH homeownership unit for \$300,000. His parents would like to aid in the purchase of the property by providing some downpayment funds. Corey would be capped at receiving not more than \$75,000 under the terms of the program. If he receives the full \$75,000 gift, 3% of \$75,000 (\$2,250) would be added to his income for the purposes of calculating his eligibility.

### ***Considering Assets Towards Income***

There are no specific limitations on assets under the terms of this program. All assets will be included in an applicant's income calculation at one (1%) percent of their current face value. Assets include, but are not limited to, 401K accounts, 403B accounts, IRA/ROTH IRA accounts, Investment and Brokerage accounts, bank accounts, Certificates of Deposits, cash value life insurance policies, value of ownership interest in any LPs, LLCs or Corporations, value of commercial properties held, and proceeds from the sale of a home.

Example A: Richard has two (2) bank accounts with a combined balance of \$25,000, an IRA with a value of \$575,000, a brokerage account with \$250,000, a 10% ownership interest in a carwash business worth \$1,000,000, and is selling a home from which he will receive \$545,000 in proceeds. Richard's assets would be calculated as follows: \$25,000 (bank accounts) + \$575,000 (IRA) + \$250,000 (brokerage account) + \$100,000 (10% interest in car wash) + \$545,000 (sale of home) = \$1,495,000.

$\$1,495,000 \times 1\% = \$14,950$  annually to be added to Richard's income.

## IX. Price Setting & Procedures

### *a. Price setting for Initial Sale or Resale*

Price setting of LMIH units follows a standardized formula to ensure consistency and transparency in pricing across time. Monitoring Agents must use the same input fields each and every time, regardless of the specifics of the subsequent buyer, to generate the maximum sales price of an LMIH unit. **In all instances, the Monitoring Agent will utilize the Price Calculation Tool adopted by the Executive Office of Housing in setting the purchase price of homes.**

The basis for the calculation is the maximum allowable household income at the targeted AMI for the Metropolitan Statistical Area (MSA). Household size is based upon the number of bedrooms in the unit plus one person.

MSA's are determined by the US Department of Housing and Urban Development (HUD) and Rhode Island is comprised of three (3) MSA's. The majority of the state falls within the parameters of Providence, RI, and Fall River, MA's MSA. The towns of Westerly, Hopkinton and New Shoreham make up the second MSA, and Newport, Middletown and Portsmouth make up the third MSA. Monitoring Agents shall use the appropriate MSA based on the unit's physical address.

The calculation assumes:

1. One hundred (100%) percent of the purchase price is financed; and
2. The total monthly housing costs are no more than thirty (30%) percent of the income used as the basis for the calculation.

Property Taxes are based upon the municipal tax rate using the resulting sales price as value. This information is updated annually by RIHousing and imbedded in the calculator.

Hazard Insurance is based upon the average yearly premium for the municipality, divided by twelve (12) to generate an average monthly premium.

Condo Content Insurance is assumed to be thirty (\$30.00) dollars per month.

Condo Fees are provided by the developer or homeowner, based upon the actual monthly fee inclusive of Hazard Insurance.

Ground Lease Fees are provided by the developer or homeowner, based upon the actual monthly fee.

Interest rate is inputted by the Monitoring Agent using the current Freddie Mac PMMS Rate.

## **X. Various Requirements Associated with Homeownership**

### **a. Listing LMIH Units for Initial Sale or Resale**

All LMIH units are required to be made publicly available to ensure fair and equitable access to these opportunities by interested parties. Monitoring Agents are responsible for collecting and retaining documentation in each property's file that demonstrates this criteria has been fulfilled. Listings shall make clear that the unit being offered for sale is subject to income and affordability restrictions. The Executive Office of Housing will provide guidance on requirements/procedures to assure units are made publicly available. In general, opportunities (whether the opportunity is for the unit directly and/or participation in training which allows access to a unit) must be made available to the general public. Direct family members of the developer are not eligible for units/opportunities made available unless such persons would otherwise qualify, and the units/opportunities have been made publicly available in an equitable fashion.

### **b. Selecting an Offer on an LMIH Unit (initial sale or resale)**

The maximum sales price of a unit represents the absolute maximum that can be paid for the property. Efforts to increase the sales price via other means, such as unit upgrades in excess of the maximum sales price, or offers to pay seller's closing and realtor costs, are prohibited.

### **c. Executing a Purchase and Sales Agreement (initial sale or resale)**

The Purchase and Sales Agreement shall make clear that the property being purchased is subject to a deed restriction and that the final sale is conditioned upon income eligibility and approval by the Monitoring Agent; if the prospective buyer is deemed ineligible by the Monitoring Agent, any deposits made will be fully refundable.

### **d. Homebuyer Education and Counseling**

It is required that all first-time homebuyers of LMIH units successfully complete an eight (8) hour HUD approved homebuyer education course, or a course equivalent to this training, prior to the closing. A first-time homebuyer is defined as a homebuyer who has not owned a home in the last three (3) years. It is the responsibility of the Monitoring Agent to ensure that all first-time homebuyers are made aware of available classes. Homebuyers purchasing a multi-family property will also be encouraged to complete a landlord education class.

All homebuyers of LMIH units are required to complete counseling with the Monitoring Agent to review the terms of the Deed Restriction and their responsibilities under the Deed Restriction prior to the closing. Monitoring Agents will be required to adequately document in their client file that this requirement was fulfilled.

#### **e. Review of Buyer's Mortgage**

The applicant will be required to submit a copy of their Uniform Residential Mortgage Application as part of their income certification application. The Monitoring Agent shall review it to ensure that it complies with the following criteria:

1. The mortgage product must be from an institutional lender as private financing is prohibited.
2. The loan being offered must not be longer than a thirty (30) year term and includes a fixed interest rate with fully amortizing mortgage payments, does not have a pre-payment penalty, and is receiving a fair market interest rate (no more than two (2) percentage points above the current prevailing rate).
3. The loan being offered is only secured by the individuals listed on the application for income certification, and not for non-resident co-borrowers, which are not permitted.
4. The total value of any loans, including subordinate DPA loans, does not exceed one hundred (100%) percent of the maximum allowable sales price; deed restricted homes cannot support further debt.

#### **f. Preliminary Approval**

The preliminary approval should articulate the conditions that need to be satisfied in order for the final documents to be released in advance of the closing. Aside from requiring continued income eligibility up until the closing, the preliminary approval shall request updated pay stubs for all applicants and other employed members of the household (no more than thirty (30) days from the closing), bank and other account statements (no more than thirty (30) days from closing), any documents related to the sale of an existing home such as a Purchase and Sales Agreement if not previously provided, and a final closing disclosure, completion of a one on one counseling session and final closing disclosure on the LMIH unit. *(An example of a Preliminary approval is included in Appendix A.)*

#### **g. Closing and Post Closing Process and Documents**

Prior to the closing, the Monitoring Agent shall draft the Deed Restriction and share it with the appropriate municipal staff for execution. The Monitoring Agent shall also be responsible for drafting the Statement of the Buyer and the Certificate of Compliance. The Monitoring Agent shall conduct the one-on-one counseling session with the buyer to review the Statement of the Buyer. Outreach to the Closing Attorney shall be made at least one (1) week in advance of the closing, articulating the Monitoring Agent's involvement, any closing fees and costs that need to be paid and from which party they are due, and the timeframe in which the final closing disclosure is needed to release the closing packet. Every closing packet must consist of the following:

1. **Deed Restriction**: Unless utilizing a secondary subsidy source like HOME funds, the deed restricted period on municipally subsidized LMIH units begins anew with every sale. For example, if an LMIH unit subject to a thirty (30) year affordability restriction is sold after the first owner has lived there for fifteen (15) years, will require the new owner to sign a new thirty (30) year Deed Restriction when they purchase the unit. *(A **Template Deed Restriction** is found in Appendix A.). The Executive Office of Housing recommends a Mortgage be attached to the Deed Restriction. While this mortgage may subordinate to the lender, this process better secures the investment than a deed restriction alone. The details of original deed restrictions (rental vs. homeownership; income qualification) may not be altered.*
2. **Statement of the Buyer**: A document that affirms that the buyer is aware they are purchasing a property encumbered by a Deed Restriction and outlines the major elements of the Deed Restriction to which they will need to adhere. *(**Template Statement of Buyer** is found in Appendix A.)*
3. **Certificate of Compliance**: The Certificate of Compliance is issued once the preliminary approval conditions have been met, typically no more than forty-eight (48) hours prior to closing. The Certificate of Compliance details how eligibility was calculated, by income and asset source, and affirms the applicant household as an income eligible household specific to the property. *(**Template Certificate of Compliance** is found in Appendix A.)*

The closing attorney shall also be instructed to return an executed copy of the recorded Deed Restriction, the executed Statement of the Buyer, and any fees owed. *(An example of an attorney communication is included in Appendix A.)*

After closing, the Monitoring Agent shall ensure that the appropriate documents have been returned to their office and the property is entered into any internal databases. The Monitoring Agent shall also enter the property into the State's LMIH Tracking Smartsheet.

#### **h. Annual Notice to Homeowners**

Monitoring Agents shall communicate annually, in writing, with owners of LMIH homes to remind them of their responsibilities and provide any necessary updates to contact information or state laws that affect them. This annual letter helps ensure owners remain informed and can also prompt them to reach out to their Monitoring Agent if they are experiencing any housing related challenges or have questions. Obtaining formal acknowledgement of requirements by homeowner is encouraged. *(The recommended format for this letter is found in Appendix A.)*

#### **i. Annual Occupancy Review**

Monitoring Agents shall verify occupancy of homeownership units annually against Town Assessor records to ensure that properties are owner occupied, and no changes have been made to the Deed. The Monitoring Agent shall adequately document their efforts to verify this information, as well as any efforts taken upon the discovery of potential violations.

## **j. Refinances**

Monitoring Agents shall monitor refinances of LMIH units to ensure that loans comply with the aforementioned requirements and do not take on excess debt. Refinances shall be limited to better rate and/or term transactions only where the loan to value is greater than eighty (80%) percent. Homeowners may add in closing costs, but only if the loan to value of the proposed loan does not exceed eighty-five (85%) percent. Homeowners shall make a request to refinance to the Monitoring Agent and provide any necessary information to allow the Monitoring Agent to calculate the maximum sales price. The maximum sales price shall constitute the value of the home. Monitoring Agents shall review the existing debt on the property, as well as the Uniform Residential Loan Application for the proposed loan in order to make a determination regarding the eligibility for refinance. The Monitoring Agent shall issue a letter of approval upon the release for a final closing disclosure confirming the loan previously approved by the Monitoring Agent. **(A sample refinance letter is found in Appendix A.)**

Example A: Louis owns a 2-bedroom property with a current mortgage balance of \$225,000. His current loan has an interest rate of 6.25% and the new loan would reduce his interest rate to 5.0% based upon the relevant information, thereby making the max sales price of the property \$290,000. According to his current loan balance, Louis has more than 20% equity in the property (80% LTV would calculate as \$232,000). Louis would like to add the \$6,000 closing costs into his new mortgage, making his new loan balance \$231,000, which is still below the 80% LTV. Subsequently, the refinance could be approved and the additional debt allowed.

Example B: Louis owns a 2-bedroom property with a current mortgage balance of \$250,000. His current loan has an interest rate of 6.25% and the new loan would reduce his interest rate to 5.0% based upon the relevant information, thereby making the max sales price of the property \$290,000. Based upon his current loan balance, Louis has less than 20% equity in the property (80% LTV would calculate as \$232,000). Louis would like to add the \$6,000 closing costs into his new mortgage, making his new loan balance \$256,000. The loan to value of the new loan would exceed the 85% LTV (\$246,500 would be the maximum allowable loan balance). The refinance could be approved, but Louis would not be able to take any additional debt and would need to bring the closing costs to the closing in cash.

## **k. Establishing Home Equity Lines of Credit**

Monitoring Agents shall monitor requests for Home Equity Lines of Credit (HELOC) of LMIH units to ensure that loans comply with the aforementioned requirements and do not take on excess debt by cashing out the property. HELOCS shall be limited to no greater than twenty-five (25%) percent of the available equity with no more than eighty (80%) percent loan to value. Homeowners shall make a request for a HELOC to the Monitoring Agent and provide any necessary information to allow the Monitoring Agent to calculate the maximum sales price. The maximum sales price shall constitute the value of the home. Monitoring Agents shall review the existing debt on the property, as well as the Uniform Residential Loan Application for the proposed HELOC, in order to make a determination regarding the eligibility for a HELOC. The Monitoring Agent shall issue a letter of approval upon the release for a final closing disclosure

that confirms the loan previously approved by the Monitoring Agent. (**A sample HELOC letter is found in Appendix A.**)

Example A: Betsy owns a 2-bedroom property with a current mortgage balance of \$100,000 and would like to apply for a HELOC. Based upon the relevant information, the max sales price of the property would be \$290,000. In order to calculate how much of a HELOC Betsy could request, the Monitoring Agent would need to calculate 80% LTV and then calculate 25% of available equity. This would be calculated as follows: 80% LTV = \$232,000; \$232,000 - \$100,000 of existing debt will bring available equity to \$132,000; 25% of \$132,000 = \$33,000; therefore, Betsy could be approved to request a HELOC of up to \$33,000.

## **I. Estate Planning**

Owners of LMIH homeownership units who wish to undertake estate planning efforts may utilize an **Enhanced Life Estate Deed** and must follow the process below. It is the Monitoring Agent's responsibility to communicate this information to homebuyers and to facilitate the process with homeowners.

Homeowners must contact their Monitoring Agent prior to initiating such a conveyance. Monitoring Agents must complete the following:

- a. Communicate with the homeowner to review the process and required documentation. The homeowner will be required to sign a Statement of the Owner (**template found in Appendix A**) prior to final approval being issued.
- b. Engage with the Estate Planning attorney of the homeowners choosing to ensure they have clarity on what is expected and needed to reach an approval.
- c. Conduct one-on-one session(s) with each named beneficiary to review the terms of the deed restriction and their obligations upon inheritance. Each named beneficiary will be required to sign a Statement of the Beneficiary (**template found in Appendix A**) prior to issuance of final approval.
- d. Coordinate with Estate Planning attorney to review and approve the drafted **Enhanced Life Estate Deed** before recording.

Monitoring Agents shall be responsible for maintaining proper file documentation related their efforts to facilitate, review and approve the transaction.

Owners who do not wish to undertake this additional step, may still leave their property to their beneficiaries in a Last Will and Testament to be settled within the Probate Court of appropriate jurisdiction. Beneficiaries are still subject to the terms of the Deed Restriction and must contact their Monitoring Agent to discuss the next steps upon inheritance. It is the Monitoring Agent's responsibility to communicate this information to homebuyers/owners.

Any other estate planning options, such as Revocable and Irrevocable Trusts, are prohibited. Homeowners who are found to have conveyed their property into any such option may be subject

to legal action to reverse the conveyance or liens against their property to ensure the affordability restriction remains prominent. It is the Monitoring Agent's responsibility to communicate this information to homebuyers/owners and take action if/when they discover that properties have been conveyed into a non-permissible estate planning option.

**m. Capital Improvements**

Regular capital improvements are not contemplated in municipally subsidized LMIH units for the purposes of maximum resale price calculation unless required by an additional subsidy source. This information shall be clearly communicated to buyers upfront to ensure that homeowners who choose to make capital improvements understand the limitations of the program. The only capital improvement that will be considered in the resale formula is the addition of legally permitted and town recognized bedrooms.

**n. Resales**

Setting the resale price of an LMIH homeownership unit is not unlike the calculation of the initial sale. In the event of a resale, the Monitoring Agent will interact with the homeowner or the realtor and collect the relevant information to generate a Maximum Sales Price. The Monitoring Agent will add the \$500 resale fee owed from the owner to the Maximum Sales Price. The Monitoring Agent will then comply with all other procedural elements as outlined above.

**XI. Various Requirements associated with Rental**

**a. Initial Development, Sale and Resale of Rental Units**

Monitoring Agents shall maintain Monitoring Service Agreements for each owner of an LMIH rental unit. The Monitoring Agent shall prepare the Deed Restriction and ensure that the document is recorded only when the LMIH rental unit has received a Certificate of Occupancy and is ready to be leased. If LMIH rental units are sold or resold, then the Monitoring Agent is responsible for ensuring that new Monitoring Service Agreements and new Deed Restrictions are executed at the time of the conveyance. *(Rental Deed Restriction template found in Appendix A)*

**b. Exchangeability of Deed Restriction**

Once a rental deed restriction is executed, that restriction remains in effect for the duration of the restriction. LMIH rental units may never be used as owner occupied units.

**c. Availability of LMIH Rental Units**

LMIH rental units must be made available for lease and may not be left vacant. Owners will have sixty (60) days from the time they take ownership of property, or when the unit is complete

and occupiable in the case of new development, to make the unit publicly available, and one hundred twenty (120) days to rent the unit by an income eligible tenant. If the unit is not occupied within this time frame, affordability restrictions will be suspended until the unit is brought back into compliance. The Monitoring Agent shall share a Rental FAQ to each LMIH owner. *(Template included in Appendix A)*

#### **d. Price Setting for Initial Lease or Lease Renewals**

Price setting of LMIH units follow a standardized formula to ensure consistency and transparency in pricing over time. Monitoring Agents must use the same information fields each and every time, regardless of the specifics of the subsequent buyer, to generate the maximum monthly rent of an LMIH unit.

The basis for the calculation is the maximum allowable household income at the targeted AMI for the Metropolitan Statistical Area (MSA). Household size is determined based upon the number of bedrooms in the unit plus one person. The Monitoring Agent shall calculate the rent by taking one-twelfth (1/12) of thirty (30%) percent of this value. The rental amount calculated is inclusive of utilities. If the property owner wishes the tenant to be responsible for the utilities, then the Monitoring Agent shall subtract the applicable HUD utility allowance for the unit type and other applicable utilities to calculate the maximum allowable monthly rent.

MSA's are determined by the US Department of Housing and Urban Development and the state of Rhode Island, which is comprised of three (3) MSA's. The majority of the state falls into the Providence/Fall River MSA. The towns of Westerly, Hopkinton and New Shoreham make up the second MSA, and Newport, Middletown and Portsmouth make up the third MSA. Monitoring Agents shall use the appropriate MSA based upon the unit's physical address.

Example A: ABC Corp has a two-bedroom, eighty (80%) rental unit available in South Kingstown and does not wish to pay the utilities. The Monitoring Agent would calculate the rent by dividing \$82,350 (3-person 80% limit) by 12 months to arrive at a monthly income of \$6,863. Thirty (30%) percent of this monthly income would yield an affordable housing payment of \$2,059, including utilities. In this property, the applicable HUD utility allowance is \$293 per month with 100% of the utilities paid by the tenant, and therefore, the max rent is reduced by \$293 to arrive at a monthly rent of \$1,766.

#### **e. Listing LMIH Units for Initial Lease or Lease Renewals**

All LMIH units are required to be made publicly available to ensure fair and equitable access to these opportunities by interested parties. Monitoring Agents are responsible for collecting and retaining documentation in the property's file that demonstrates this criteria has been fulfilled. Listings shall make clear that the unit being offered for lease is subject to income and affordability restrictions. When available, units must comply with any and all laws related to posting, such as listing available units on the Housing Search RI website.

**f. Executing a Lease (initial or lease renewal)**

Once the Monitoring Agent determines a tenant is income eligible, they will notify the property owner and execute an annual lease with a start date within thirty (30) days with the tenant. Upon receipt of an executed lease, the Monitoring Agent will release the Rental Certificate of Compliance. Leases for LMIH units must be for a twelve (12) month period.

**g. Lease Rate Increases/Decreases**

Lease rate increases and decreases are based upon increases and decreases to the HUD Income Limits and will be calculated annually by the Monitoring Agent. The Monitoring Agent will disclose the maximum allowable rent to the landlord.

**h. Recertification**

Monitoring Agents are required to certify tenants on an annual basis, prior to the renewal of their lease term. The recertification process entails the same documentation, review and application of standards as the initial certification. Tenants who meet the current income guidelines for their household size and AMI restrictions shall be issued a Certificate of Compliance no more than thirty (30) days prior to the lease renewal, upon receipt of an executed lease from the property owner or tenant.

**i. Treatment of Above Income Tenants**

If a tenant is found to be over the income guideline, the LMIH rental unit may remain in compliance with the terms of the deed restriction, while being in temporary non-compliance, if the following conditions are met:

- 1) The tenant household continues to apply for income certification; and
- 2) The landlord and tenant continue to execute an annual lease, prior to expiration; and
- 3) Rental price is recalculated to be the market rate for a comparable unit. Tenant will continue to be bound by other responsibilities contained herein; and
- 4) The landlord remains current on their monitoring fees.

So long as these conditions are met, the LMIH unit will remain an LMIH unit and there will be no negative implications for the municipality, landlord or tenant.

In the event that the tenant is deemed over income, and the outlined conditions above are not met, the LMIH rental unit will be considered to be non-compliant and removed from the LMIH inventory until compliance can be re-established.

**j. Vacancies**

When a vacancy occurs in an LMIH rental unit, the property owner shall do their best to make the rental unit available for lease as quickly as possible. Monitoring Agents shall be aware of prolonged vacancies and make inquiry as to the reasoning, which shall be documented in the property's file. LMIH units that remain vacant for more than six (6) months should be

temporarily removed from the State's LMIH inventory and only added back when an income eligible tenant has been identified, and a lease has been signed.

## **XII. Enforcement**

In accordance with the Deed Restriction, Monitoring Agents have the legal authority to enforce the terms of the Deed Restriction and compel compliance with appropriate legal proceedings, subject to certain limitations. The Monitoring Agent may also work in close consultation with the municipality where the LMIH unit is located to assess whether Deed Restriction violations are also violations of the Comprehensive Permit and/or local affordable housing zoning provisions. As one of the primary responsibilities of the Monitoring Agent is to preserve and protect the state supply of LMIH homes, the expectation is that certified Monitoring Agents will actively monitor properties for compliance. Compliance events that require enforcement action by Monitoring Agents may include, but not be limited to, the following:

1. Additions of persons to the title not named in the Certificate of Compliance.
2. Transfer of ownership to entities/businesses.
3. Transfers of ownership to estate planning options that were prohibited or not approved by the Monitoring Agent.
4. Non-year-round owner occupancy.

In the event of non-compliance, Monitoring Agents shall temporarily remove the LMIH unit from the State's LMIH inventory, which may be added back in when the issue of non-compliance has been resolved. As required by the State, the Monitoring Agent will inform interested parties (counsel, etc.) who may attempt to reclaim the unit.

Over time, the State may require Monitoring Agents to cross reference properties against local tax assessor databases to ensure no changes have occurred.

### **Default Notices and Foreclosure Proceedings**

In accordance with notice requirements within the Deed Restriction, Monitoring Agents should receive a Notice of Default or Notice of Intent to Foreclose on an LMIH unit. The Monitoring Agent is required to contact the owner as soon as they become aware of the issuance of such notices to advise of foreclosure prevention and counseling programs. Monitoring Agents shall document their efforts to intervene and prevent the foreclosure, including any attempts to utilize the Right of First Refusal granted to the Monitoring Agent with the Deed Restriction.

## **Data and Document Management**

Certified Monitoring Agents are required to keep up to date, accurate records related to the property address, occupant demographics, and supporting documentation that corresponds to the income certification of households for the units they monitor. Monitoring Agents should also maintain a record of any key communications had with developers, homeowners, tenants, property managers and municipal staff relative to the specific property. It is the Monitoring Agent's responsibility to ensure the security and privacy in the storage and destruction of the sensitive information of homebuyers and tenants, as well as unsuccessful applicants.

While documentation may be maintained in hard copy/paper records, it may be efficient to maintain records electronically to ease reporting. The State may, over time, convert to an electronic reporting format.

### **XIII. Reporting**

- a. Monitoring Agents are required to provide reports to the Executive Office of Housing as outlined in the Monitoring Agent Agreement.
- b. Reports will be submitted quarterly for the first year of certification and no less than annually thereafter.
- c. Information reported to the EOH will include:
  - i. Summary of Portfolio/Inventory
  - ii. Number of units added/lost in Portfolio during Quarter
  - iii. Training/Professional Development Completed in Quarter
  - iv. Optional services provided during Quarter (detailed)
  - v. Enforcement Actions taken during Quarter (detailed)

### **XIV. Termination**

- a. If a Monitoring Agent fails to adequately perform any of the duties/responsibilities outlined in this guidebook to the satisfaction of the EOH, the EOH will suspend or terminate the Monitoring Agent's certification.
- b. In instances of long-term suspension and/or termination, the Monitoring Agent may work with the EOH to transfer the inventory to another Monitoring Agent.
- c. The Executive Office of Housing is responsible for certifying monitoring agents and may de-certify any Monitoring Agent if they fail to carry out the articulated responsibilities and adhere to the process and procedures outlined in this manual. In cases where a Monitoring Agent is unable to carry out their monitoring responsibilities, either voluntarily or involuntarily, then the Executive Office of Housing may re-assign the monitoring responsibilities to another Monitoring Agent.
- d. The EOH will determine the party(ies) responsible for any costs associated with transfers/reassignments noted above.

### **XV. Effective Date**

- a. This Guidebook is effective January 1, 2026, and will be minimally updated in January of each subsequent year.

- b. The Monitoring Agent shall comply with all elements of the State approved Guidebook, including fees charged, in all cases where it does not conflict with a monitoring service agreement or deed restriction/mortgage executed prior to the effective date of this guidebook.

## **Appendix A: Standardized Forms**

- Monitoring Services Agreement
- Rental Application for Income Certification
- Homeownership Application for Income Certification
- Rental Certificate of Compliance
- Homeownership Certificate of Compliance
- For Sale Process for Realtors
- Preliminary Approval
- Homeownership Deed Restriction
- Statement of Buyer
- Closing Attorney Communication
- Annual Letter
- Refinance Letter
- HELOC Letter
- Statement of Owner
- Statement of Beneficiary
- Rental Deed Restriction
- Rental FAQ

## **Appendix B: Initiative Specific Variations**

- **38% Pilot Program Monitoring**

Monitoring responsibilities for the 38% Pilot Program differ from traditional LMIH monitoring. Compliance with the legislation and guidelines require the following:

- Homes must be sold between 1/1/2026 and 12/31/2029.
- No State or federal subsidy.
- Sales price: Calculated with the same standardized formula outlined in the Monitoring Agent Guidebook but with a maximum front-end (housing) debt of 38% rather than 30%. The law states that “alternative underwriting criteria shall be limited to no more than thirty eight percent (38%) of gross household income.
- If the unit is part of a mixed income development with market rate units, affordable unit sales price cannot exceed 80% of the lowest priced market rate unit of the same bedroom size. Market rate units sold at a discount to an employee of the development company or similar arrangement would not be counted for this calculation.
- Income: Between 100% and 120% of AMI based on household size and MSA. The calculation and documentation requirements for income certification are the same as traditional LMIH units and will be documented via the Homeownership Application for Income Certification form.
- Back-end debt: Not to exceed 43%. Mortgage lenders disclose the back-end DTI on the Transmittal, AUS Findings, the Commitment Letter. Any one of these documents (final version) from the lender will serve as proof of the DTI and compliance with this program. An authorization from the potential buyer may be necessary to obtain these documents.
- Resale: Same criteria as initial sale: the program requirements need to be included in the new deed restriction for a minimum of 30 years.

## **Appendix C: Regulations**