

Chapter 1

Housing Programs in Massachusetts

Legal Tactics: Finding Public and Subsidized Housing
Third Edition, 2009

Words in *italics* appear in the
Glossary in the back of this book

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The purpose of government-funded housing is to provide decent, safe, and affordable housing.

Figuring out what type of housing you are applying for or live in and who funds it can be confusing, but it is essential to know in order to figure out what rules apply and what your rights are.

This Chapter will give you an overview of the rental housing programs for low- and moderate-income people in Massachusetts and help you identify different programs and find the laws and rules that apply to them.

Types of Housing Programs

1. What types of low-rent housing programs are there?

There are three basic types of government-funded housing in Massachusetts that help make rents more affordable for low- and moderate-income people:

- **Public Housing**

Public housing is owned and run by a local *housing authority*. If you live in public housing, the housing authority is your landlord.

- **Vouchers**

A voucher is rental assistance to help people find an apartment in the private market. This is also called a *tenant-based subsidy* because the subsidy stays with the tenant, not a particular development. Sometimes the rental assistance may be issued for, or temporarily stay with, the housing development, but the tenant may be free to move with the subsidy in the future. See the discussion of *project-based* vouchers and enhanced vouchers, below.

- **Multifamily Subsidized Housing**

Multifamily subsidized housing is owned by a private landlord or corporation that has received government subsidies to provide affordable housing. This is also called a *project-based subsidy* because the subsidy stays with the housing development (project), not a particular tenant. Often, affordable apartments are in the same development as market-rate apartments.

Within each of these three types of housing, there are many different affordable housing programs—each with its own rules. On the next page is a list of the major rental housing programs in Massachusetts.

Major Housing Programs in Massachusetts at a Glance

Public Housing

Federal Public Housing

- ❑ Family public housing
- ❑ Public housing for seniors and people with disabilities

State Public Housing

- ❑ Family public housing (Chapter 200)
- ❑ Family public housing (Chapter 705 Scattered Site)
- ❑ Public housing for seniors and people with disabilities (Chapter 667)
- ❑ Special needs housing (Chapters 689 and 176)

Vouchers

Federal Voucher Programs (*tenant-based*)

- ❑ Section 8 Housing Choice Voucher Program
- ❑ HOME Tenant-Based Rental Assistance

State Voucher Programs (*tenant-based*)

- ❑ Massachusetts Rental Voucher Program
- ❑ Alternative Housing Voucher Program

Special Federal Section 8 Voucher Programs

- ❑ Section 8 Mainstream Program for People with Disabilities
- ❑ Section 8 Family Unification Program
- ❑ Section 8 Family Self-Sufficiency Program (FSS)
- ❑ Section 8 Homeownership Option
- ❑ Section 8 Project-Based Voucher Program (PBV)
- ❑ Section 8 Veterans Affairs Supported Housing Program (VASH)
- ❑ Section 8 for Victims of Domestic Violence
- ❑ Section 8 Housing Options Programs (HOP)
- ❑ Enhanced Vouchers

Multifamily Housing Programs

Federal Multifamily Subsidized Programs

- ❑ Section 221(d) Family Housing
- ❑ Section 236 Family Housing
- ❑ Rent Supplement
- ❑ Section 236 Rental Assistance Program (RAP)
- ❑ Section 8 Project-Based Assistance
(New Construction, Substantial Rehabilitation, State Set-Aside, Loan-Management Set-Aside, Property Disposition Programs)
- ❑ Section 202 Supportive Housing for Seniors
- ❑ Section 811 Supportive Housing for People with Disabilities
- ❑ Section 515 Rural Housing Services (RHS)
- ❑ Section 8 Moderate Rehabilitation Program
- ❑ HOME Program (Other Than Tenant-Based Rental Assistance)

State Multifamily Subsidized Programs

- ❑ MassHousing Section 13A Interest Subsidies
- ❑ Project-Based Mass. Rental Voucher Program (Project-Based MRVP)

Tax-Related Housing Programs

- ❑ Federal Low Income Housing Tax Credit
- ❑ State Low Income Housing Tax Credit

Special Housing Programs

Federal Housing Programs for People Who Are Homeless

- ❑ Shelter Plus Care
- ❑ Housing Opportunities for Persons with AIDS (HOPWA)
- ❑ Section 8 Moderate Rehab for Single Room Occupancy
- ❑ Supportive Transitional Housing
- ❑ Supportive Permanent Housing

State Housing Programs for People with Mental Disabilities

- ❑ Massachusetts Housing Finance Agency 3% Set-Aside
- ❑ Department of Mental Health (DMH) Rental Assistance Program
- ❑ Other Department of Mental Health Community Residential Programs
- ❑ Special needs housing (Chapter 689 and 176)

2. What is the difference between public and subsidized housing?

Different housing programs have different features. While they all help make your rent more affordable, it is important to understand the features of each program so that you can apply to the ones that are best suited to your family. If you have questions about a housing program, talk to your local housing authority or local community action program. Here are some things to know:

Who your landlord is

If you live in **public housing**, the housing authority owns your building and is your landlord. In a few cases, a private company may manage the building for the housing authority or may be part of the ownership, but the building is still controlled by the housing authority.¹ Housing authorities operate in most cities and towns in Massachusetts. They were established by state law to provide affordable housing for low-income people.²

If you live in **subsidized housing**, the housing authority is **not** your landlord. Subsidized housing is owned and operated by private owners who receive subsidies in exchange for renting to low- and moderate-income people. Owners may be individual landlords or for-profit or nonprofit corporations.

Subsidized housing can be obtained through **vouchers**, where the subsidy is used by a tenant to find rental housing in the private market and is paid to a private landlord. This subsidy stays with the tenant. Or it can be **multifamily subsidized housing**, where the subsidy is given to the owner who provides affordable housing. This subsidy stays with the property.

Who is eligible

To be eligible for public and subsidized housing, your income must be below certain income limits. You must also meet other qualifications. Income limits for **public housing** and **vouchers** are set by the government and change every year. Income limits for **multifamily subsidized housing** vary from development to development. For more information, see **Chapter 3: Who Is Eligible**.

Where you apply

To apply for **public housing**, you must submit an application to the housing authority in the city or town where you would like to live. There are 237 housing authorities in Massachusetts. You can apply to as many as you want. In some cases you may apply to the individual development and/or to the private management company that operates the development.

To apply for a **Section 8 voucher**, you can apply to any housing authority that runs a Section 8 voucher program. There are about 130 housing authorities that have a Section 8 program. You can also apply to one centralized Section 8 list where 40 housing authorities are currently participating. In addition, you can apply to any of the nine regional nonprofit housing agencies where Section 8 vouchers are available.

To apply for **multifamily subsidized housing**, you must apply at each development that you are interested in living in (or at the management company that operates that development). For more about how to apply, see **Chapter 2: How to Apply**.

Where you can live

If you get a **voucher**, you can use it anywhere in the state; if it is a Section 8 voucher, you can use it outside of the state. If you get into **public housing**, you must live in the community where you applied. If you get into **multifamily subsidized housing**, you must live in the development where you applied.

If you have a voucher and want to move, you can take your voucher with you. If you move from public housing or multifamily subsidized housing, you cannot take your subsidy with you.

Who has priority

Because more people apply for public and subsidized housing than there are apartments available, the law may require or permit different housing programs to give certain people *priority* or *preference* over others. What preferences are required or permitted depends on whether the housing receives federal or state funding.

When you are applying for housing, it is very important to know what the *priorities* are for that particular program, housing authority, and/or owner. If you fit into a priority, you could improve your chance of getting housing. For more about this, see **Chapter 4: Who Has Priority**.

Waiting lists

In general, waiting lists for **public housing** are shorter than for **vouchers**. Many waiting lists are long and some are closed. But many housing authorities will accept applications for **public housing** all year long. The centralized Section 8 waiting list operated by MassNAHRO and the waiting lists at the regional nonprofit housing agencies are open indefinitely. For more information about waiting lists, see **Chapter 5: How Waiting Lists Work**.

How you are screened

Housing authorities and owners of subsidized housing have the right to do *tenant screening*. They do this by checking various records, the most common of which are past landlord references, credit reports, and criminal records. The rules concerning access to criminal records are different for **public housing** and **vouchers** than they are for **multifamily subsidized** housing. For more information, see **Chapter 6: Tenant Screening**.

Finding an apartment

Once you are admitted to **public housing** or a **multifamily subsidized housing** development, you have an apartment. You do not need to find your own apartment.

With a **voucher**, you have to find your own apartment in the private market. If, within a certain period of time, you do not find an apartment that has a reasonable rent and is in good condition, your voucher will expire, you will lose it, and you will have to reapply.

How rent is calculated and recalculated

Tenants in **public housing** generally pay about 30% of their income for rent if utilities are included and less than 30% if utilities are not included.³ For state family public housing, this percentage is slightly higher as a result of a law passed in 2003.⁴ In public housing, each year the housing authority determines how much your rent will be based on your income and certain *deductions* and *exclusions* you are eligible for.⁵ If you report a change in your income or deductions during the year, your rent will usually be adjusted so that you pay the same percentage of your income for rent.⁶ For more information on public housing rents, go to: www.MassLegalHelp.org/housing/rent-public-housing.

In **voucher** programs, tenants sometimes end up paying up to 40% of their income for rent (for the Section 8 voucher program, this can be more after the first year of your lease) because the market rent is more than the maximum subsidy the housing authority can pay.⁷ The housing authority must make sure that the rent your landlord is charging is reasonable by comparing it with rents for other similar apartments.⁸ If you are leasing an apartment for the first time with a Section 8 voucher and the proposed rent and tenant-paid utilities would make your portion of the rent more than 40% of your income, the housing authority will not agree to approve the apartment and you will be forced to find another apartment.

In **multifamily subsidized housing**, rents are calculated differently for different programs. In some programs, tenants' rents are set at a percentage of income similar to those for public housing. In some programs, rents may be set at a fixed amount, based on the number of bedrooms, which is lower than

market-rate rents. In this situation, the rent does not change even if your income or deductions change.⁹ In some programs, your income may qualify you for an adjustment in your rent, even though there is still a basic rent that you have to pay which may be more than 30% of your income. Because the different program rules can make a big difference in whether or not an apartment is affordable for you, it is important to ask the landlord how the rent is calculated and how it changes if your income changes, when you are deciding whether to apply at a specific development.

If some or all of your family members are immigrants and you are in certain types of federal housing programs, your rent can be *pro-rated* to a higher amount because one or more family members do not have immigration status that is recognized by HUD.¹⁰ See **Chapter 9: Immigrants and Housing**.

What your rights are once you are in

If you get into public housing or multifamily subsidized housing, or if you get a voucher, you have different rights concerning evictions, grievances, tenant participation, and many other issues. To get information about your rights once you are in a program, go to: www.MassLegalHelp.org/housing.

Your family size changes

In all housing programs, you should promptly report if there are changes in your family size. If someone has left your household, the housing authority or owner may request verification of their new address. If a minor child is added to the household due to birth, adoption, or court-awarded custody, advance approval of the addition is not needed before the child moves in. In all other cases, you will need to get advance approval before a new family member moves in. In addition, the housing authority or owner may screen additions to the household for criminal history and (in most of the federal programs) for immigration status.¹¹

In **public housing or multifamily housing**, if your family size changes, you may be able to transfer to another public housing or subsidized apartment of a more appropriate size. These transfers often take a long time to happen.¹² In state public housing, if you are in too large an apartment for your family size (you are “over-housed”) and you don’t transfer into a smaller sized unit offered by the housing authority, your rent can be increased to 150% of its usual level.¹³

With a **voucher**, if your family size changes, the subsidy with the voucher changes by the date that your *annual recertification* for your income and family composition is effective. This is so that you can find an apartment that is a better match to your household size. This means, however, that in addition to adjusting with an increase in family size, if there is a reduction in your household size, the subsidy is reduced at the time of your annual

recertification, so you would have to pay a greater portion of your rent or move. You can ask the housing agency to let you have a different “subsidy standard” (bedroom size for the subsidy) than it would normally apply due to your family’s medical needs or other special circumstances.

Evictions and loss of subsidy

The only reason you can be evicted from **public housing** or any **multifamily housing** is if you violate the lease or program rules. As long as you abide by the terms of the lease, you can stay in your apartment.¹⁴ If you are evicted from public housing or subsidized multifamily housing, you lose your subsidy.

In the tenant-based **voucher** programs, during the first year of the lease or at any time thereafter, you can be evicted for violating your lease. At the end of the first year or at the end of any further renewal period, the landlord may refuse to renew the lease and you may have to move even if you did not do anything wrong. In addition, after the first year of the lease, the landlord can terminate your tenancy with a 30-day *notice to quit*, although it must be for a good reason which is not your fault (such as sale of the property, need for a higher rent, renovations, or needing the apartment for a family member). If the eviction is not your fault, you can keep your subsidy and use it to move to a new apartment. If you lose an eviction case for a reason that is your fault, you may lose your subsidy.¹⁵

For the MRVP and Section 8 voucher programs, if the landlord terminates the lease or refuses to renew the subsidy, the housing agency should continue to pay its portion of the rent until the eviction process is completed (including any appeal of an eviction case or any *stay of execution*) or until you move.¹⁶ There may be cases, however, where the housing agency stops paying its subsidy or terminates its contract with the owner because the owner has failed to make repairs. You are not responsible for the housing authority’s share of the rent if this happens.¹⁷ However, the housing agency may require you to relocate with your voucher in order to continue receiving assistance.

If you are being evicted for a reason that is your fault, the housing authority may refuse to issue you a voucher to relocate if it thinks there are grounds to terminate your assistance. This may happen because the landlord is claiming that you violated your lease. If this happens, contact a local legal services program or community action agency to see if they can help you.¹⁸

3. What types of public housing are there?

There are different types of public housing programs in Massachusetts. Some are for families. Some are specifically for seniors and people with disabilities. Some are funded by the federal government, and some by the state government. A housing authority may offer different types of public housing. For this reason it is important to figure out **what type of public housing** you are applying for or live in and **who funds it** to figure out what your rights are.

Federal public housing

Federal public housing is funded by the U.S. Department of Housing and Urban Development (HUD).¹⁹ There are two types of federally funded public housing:

□ **Family housing**

Federally funded family public housing is open to families, single people, people of all ages, and people with disabilities who meet certain income guidelines. Apartments are usually in large developments. The number of bedrooms in an apartment is determined by the number and gender of people in your household. There are about 18,000 federal family public housing units in Massachusetts.

An important thing to remember about family public housing is that the number and gender of members in your household determine how big an apartment you will be eligible for. For example, if your household consists of a husband and wife and two sons, you will be eligible for a 2-bedroom apartment in public housing. If your household consists of a mother, one daughter and one son, you may be eligible for a 3-bedroom apartment (this may depend on the ages of the children). If your family needs a 4-bedroom apartment, check to be sure that the housing authority where you are applying has 4-bedroom units and be prepared for a long wait for one to become available. You may qualify for more than one apartment size and may choose a smaller-size unit because apartments of that size will be available more quickly. If you do this, however, there may be a long waiting period to transfer to a larger apartment.

□ **Housing for seniors and people with disabilities**

Federally funded public housing for seniors and people with disabilities is available to households where the head of household or spouse is at least 62 years of age or has a disability and is income eligible.²⁰ Apartments are usually

studio or one-bedroom apartments, although there are a few two-bedroom apartments. There are about 15,000 federal elderly/disabled public housing apartments in Massachusetts.

Federal law allows housing authorities to seek permission to designate elderly/disabled public housing as “elderly only,” “disabled only,” or mixed, or to place caps on the number of non-elderly disabled tenants living in a development. A number of Massachusetts housing authorities have sought and obtained such permission.²¹

State public housing

State public housing is funded by the Massachusetts Department of Housing and Community Development (DHCD).²² There are four types of state public housing:

□ Family housing (Chapter 200 housing)

This housing is open to people of all ages, including single people, people with disabilities, and families. It is usually located in large developments. Sometimes it is called “veterans housing” because the program was originally for veterans returning from World War II. The number of bedrooms in an apartment is determined by the number and gender of people in the household.²³ There are about 13,000 Chapter 200 family public housing apartments in Massachusetts.

□ Family housing (Chapter 705 scattered site housing)

This housing is open to people of all ages, including single people, people with disabilities, and families. Units are usually in smaller buildings scattered throughout a city or town. Many of these blend in with private market apartments.²⁴ There are about 3,100 Chapter 705 family state public housing apartments in Massachusetts.

□ Housing for seniors/people with disabilities (Chapter 667 housing)

State-funded public housing for seniors and people with disabilities is open to households where one member of the household is at least 60 years of age or has a disability and meets certain income guidelines.²⁵ Apartments are usually studios and one-bedroom units, although there are a few two-bedroom apartments. There are approximately 32,250 Chapter 667 public housing apartments in this program throughout the state.

For state public housing, the person with a disability can be any member of the family and does not have to be the head of household or a spouse (as is the case in federal public housing). For this program, however, there is a limit as

to the percentage of non-elderly people with disabilities who are allowed to rent. Under state law, no more than 13.5% of a housing authority's state-funded elderly and disabled apartments can be rented to non-elderly people with disabilities.²⁶ Some places have been at this 13.5% cap for many years. In those communities, it is very difficult for non-elderly people with disabilities to get apartments in this type of housing. If you are not sure if a particular housing authority has reached this cap, you can contact the housing authority or the Bureau of Housing Management at DHCD.

There are also 22 developments in which DHCD has established the Supportive Senior Housing Initiative, which has created about 2,880 assisted living-like apartments. There are also about 900 units of *congregate housing* that combine services and housing. For a list of housing authorities that have congregate housing, go to the website of the Massachusetts Department of Elder Affairs at:
www.mass.gov/portal/index.jsp?pageID=elderterminal&L=3&L0=Home&L1=Housing&L2=Congregate+Housing&sid=Eelders&b=terminalcontent&f=congregate_contractsitelist&csid=Eelders.

□ **Special needs housing (Chapter 689 and Chapter 167 housing)**

Chapter 689 housing is public housing for adults with special needs. Although the program was established to serve people with a wide variety of needs, the current focus is on creating group homes for adults with mental disabilities who are leaving facilities run by the Department of Mental Health (DMH). Chapter 167 housing provides housing for people with chronic mental illnesses. The current program provides housing for people leaving state mental health hospitals. There are approximately 1,890 Chapter 689 and Chapter 167 apartments in Massachusetts. Although housing authorities do not select tenants for these properties, they own the properties and contract with the DMH or Department of Developmental Services (DDS, formerly known as the Department of Mental Retardation (DMR)) to arrange tenant selection and to staff the housing.²⁷

4. What types of vouchers are there?

A voucher is a kind of subsidy that allows a housing agency to pay a portion of your rent for an apartment that you must find in the private market. While the actual tenancy is between you and a private landlord, you also have a relationship with the housing authority or regional nonprofit housing agency that *administers* the voucher. This means that the administering agency must approve the *contract rent* for the apartment, determine how much your portion

of the rent will be, inspect the apartment periodically to be sure it is safe, do a yearly review of your income and household composition, and monitor the voucher to make sure that both you and landlord are complying with the rules of the program.

The largest voucher program is the federal Section 8 voucher program, which is also called the *Housing Choice Voucher Program*. There are about 68,791 Section 8 vouchers in Massachusetts. There are also a number of smaller Section 8 voucher programs for people with special needs. HOME federal affordable housing funds can also be used for tenant-based rental assistance similar to Section 8 vouchers.

There are also two state tenant-based voucher programs: the Massachusetts Rental Voucher Program (MRVP), which currently has 3,600 tenant-based vouchers; and the Alternative Housing Voucher Program (AHVP), for people with disabilities, which currently has 512 vouchers.

Section 8 vouchers

The Section 8 voucher program is funded by the federal government through the U.S. Department of Housing and Urban Development (HUD).²⁸ With a Section 8 voucher, you can live anywhere in Massachusetts. If you move, you can take the voucher with you and, after the first year, you can use it anywhere in the country.²⁹

Section 8 vouchers are given out by roughly 130 housing authorities and 9 regional nonprofit housing agencies in Massachusetts. For a listing of authorities and agencies which administer the Section 8 program, see the **Directory** at the back of this book. The housing authority or regional nonprofit where you apply determines whether you are eligible for a voucher. It calculates how much your share of the rent is—usually between 30% and 40% of your income.³⁰ While a housing agency is required to do an adult criminal record check, in general, landlords who take Section 8 are responsible for *screening* and selecting their own tenants.³¹ For more information, see **Chapter 6: Tenant Screening**.

When you first get a Section 8 voucher, you have a certain period of time to find an apartment. This is called the *search period*. You must *lease up* with the voucher before the search period ends. All housing authorities and regional nonprofits must give you at least 60 days' search time. Each housing authority and regional nonprofit also sets its own policy about how much time it will extend this 60-day search period and for what reasons.³² The housing agency may also determine whether the search period should be frozen (*suspended*). Good reasons for extending or freezing your search period are that you have been hospitalized or are otherwise unable to engage in housing search for

reasons beyond your control, or that you have submitted a request for an apartment to be approved and are waiting for a final decision.

A landlord who is willing to rent to a household with a Section 8 voucher holder submits a form called a *request for tenancy approval* to the housing authority or regional non-profit. This form must state the total rent to owner for the apartment and which utilities will be paid for by the landlord and by the tenant. The rent must be reasonable, which means that it must be similar to the rents charged for unassisted private market apartments of similar size, amenities, and condition in the premises and in the community.³³

In addition to the requirement that the *rent to owner* be reasonable, the housing authority must determine that the family's portion of the rent will not exceed 40% of income at initial lease-up. This means that the difference between the housing authority's *payment standard* (maximum subsidy payment) for the apartment and the tenant's portion of the housing costs (rent paid to the owner plus any tenant-paid utilities as determined by the housing authority's *utility allowances*) cannot be more than 10% of household income. Most housing authorities set their *payment standards* between 90% and 110% of the *Fair Market Rents* published by HUD each year. A higher payment standard may be established as a *reasonable accommodation* for persons with disabilities, which can allow them to rent more expensive units if needed.³⁴ In the **Reference Materials** at the end of this chapter is a chart with the *Fair Market Rents* in Massachusetts as of October, 2009.

Once a *request for tenancy approval* is submitted, the housing authority then approves or rejects this rent, inspects the apartment to make sure that it is habitable, and reviews the lease. For more information about finding an apartment with a Section 8 voucher, see **Chapter 8: Using a Section 8 Voucher**.

Once an apartment is approved, the landlord and tenant sign a lease. Usually a lease has a term of one year. During this first year, the landlord can terminate your lease only for *good cause*—that is, if you violate your lease.³⁵ If you want to move out in the first year of the lease, ordinarily you must get the landlord's agreement to break the lease. You may break the lease, however, if someone in the household is a victim of domestic violence, dating violence, or stalking, and you need to relocate in order to be safe.³⁶ In addition, if the landlord fails to correct code violations cited by a city or state agency, you also have the right to break the lease with reasonable notice.³⁷

At the end of the first year of the lease, a landlord can choose not to renew your lease without having to state a *good cause*.³⁸ If you claim that the landlord's failure to renew is really because she is discriminating against you because you have a Section 8 voucher, the landlord may have to prove that

you violated the lease or that the landlord has a business reason for not renewing it.³⁹ For more about housing discrimination and your rights with a voucher once you have it, go to: www.MassLegalHelp.org/housing/discrimination.

In addition to your relationship with the landlord, under the Section 8 voucher program you have an ongoing relationship with the local housing authority or regional nonprofit agency and have to report on your income and household composition. The housing agency can terminate you from the Section 8 program if it believes that you have violated any Section 8 program rules (for example, not properly reporting income or family composition, or engaging in fraud). If this happens, you can request an informal hearing to show why you should not be dropped from the program.⁴⁰

Useful websites:

- For more about the Housing Choice Voucher Program from HUD, go to: www.hud.gov/offices/pih/programs/hcv/index.cfm.
- For HUD's *Housing Choice Voucher Program Guidebook*, go to: www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm.
- For more information about the Section 8 program from DHCD, go to: <http://www.mass.gov/dhcd/components/DOH/BoFRA/Sec8/s8.htm>.
- For more information about efforts being made to protect the Section 8 program, go to: www.cbpp.org/housingvoucher.htm.

Massachusetts Rental Voucher Program (tenant-based)

The Massachusetts Rental Voucher Program (MRVP) is a state-funded voucher program.⁴¹ There are two components to this program: *tenant-based* (or mobile) vouchers, and *project-based* (non-mobile) vouchers. Project-based units are discussed below under multifamily housing. There are now only about 2,000 MRVP tenant-based vouchers and 3,000 project-based vouchers in existence.⁴² For a listing of housing authorities that administer the MRVP program, see the **Directory** at the back of this book.

MRVP vouchers are given out by housing authorities and regional nonprofit housing agencies, which determine eligibility and generally conduct *tenant screening*. The actual tenancies are with private owners. If you have an MRVP tenant-based voucher, you can live anywhere in Massachusetts—with one exception: you cannot relocate or move to another city or town if the apartment is located in an area where 40% or more of the people live at or below the Federal Poverty Level.⁴³ See the **Reference Materials** at the end of

this chapter for the Federal Poverty Levels for 2009. You cannot use an MRVP voucher outside of Massachusetts.

MRVP allows a 120-day *search period* to find an apartment. You must *lease up* with the voucher before the search period ends. This search period may be suspended for one 30-day period or less if you are unable to search for housing because of a hardship. If you find an apartment, the owner must submit a *request for program participation* and certification from the local board of health that the apartment is in good condition. When the owner submits a request for program participation, the search period is suspended until you lease up this unit. If you are not able to lease that apartment, the voucher is reactivated for the rest of the 120 days.⁴⁴

For an MRVP tenant-based voucher, the tenant family cannot pay more than 40% of income for its share of the rent. The value of the subsidy depends on your income, the number of bedrooms, and the geographic area. There is no utility allowance or heat deduction for the MRVP program.⁴⁵ You may have difficulty renting or relocating with an MRVP voucher because housing authorities usually pay a landlord less than what they pay for the Section 8 program.⁴⁶

Owners who accept an MRVP tenant must have a written lease and sign an MRVP lease addendum. This guarantees that during the one-year lease term you will not be evicted except for *good cause* and your rent is limited to that set in the lease.⁴⁷

As with the Section 8 voucher program, you will have an ongoing relationship with staff at the local housing authority or regional nonprofit agency. You will have to report regularly on your income and household composition, and can have your assistance terminated if you violate program rules or are evicted for a lease violation. You can request an informal hearing if the housing agency is proposing to terminate you from the program.⁴⁸

Alternative Housing Voucher Program

The Alternative Housing Voucher Program (AHVP) is a state-funded voucher program created in 1995.⁴⁹ There are currently about 500 AHVP vouchers in use in the state.⁵⁰

AHVP provides vouchers to people with disabilities who are under 60 years of age and their families who are on waiting lists for state public elderly/disabled housing at housing authorities that have rented 13.5% of their apartments to non-elderly disabled tenants. AHVP waiting lists open and close periodically as additional funding is released to housing authorities by DHCD.

As with the Massachusetts Rental Housing Voucher program, you must find an apartment within 120 days of getting a voucher. This search period can be “frozen” or suspended for one 30-day period or less if you are unable to do housing search because of a hardship. Your share of the rent is 30% of income (if utilities are included), or 25% of income (if utilities are not included). As with state public housing, if you have to pay for heat, there is an additional heat deduction.⁵¹ DHCD places a limit on the amount of rent that may be approved for apartments in the AHVP depending on bedroom size and geographic region. If the rent requested by the owner exceeds this limit or ceiling, it cannot be approved, even if the tenant is willing to pay the difference between the rent demanded and the ceiling rent. You can use your voucher anywhere in the state, but you cannot relocate to another city or town if the apartment is located in an area where 40% or more of the people live at or below the Federal Poverty Level.⁵² See the **Reference Materials** at the end of this chapter for the Federal Poverty Levels for 2009. You cannot use an AHVP voucher outside of Massachusetts.

AHVP tenants are required to continue to keep their names on the lists for other housing programs, and their leases can be terminated if other public or subsidized housing becomes available.⁵³ As with the MRVP tenant-based voucher program, assistance can be terminated for failure to comply with program rules, but the tenant is entitled to a hearing process with the housing agency to contest this action.⁵⁴

DMH rental assistance program

The Department of Mental Health (DMH) also operates a state-funded rental subsidy program, separate from the MRVP and AHVP programs.⁵⁵ Some of this assistance is tenant-based, and some is project-based. You must be eligible for state public housing tenant selection criteria and also be in need of supportive residential services as determined by DMH. Service providers select residents to occupy eligible units, and the local housing authority determines the rent and pays the subsidy. Your rent is set at 30% of income if you pay for some or all of your utilities, and 35% of income if you do not pay for any utilities. There are approximately 800 apartments in this program.

Specialized Section 8 voucher programs

In addition to the Housing Choice Voucher Program, there are some other types of Section 8 vouchers in use that have specific purposes. They include:

□ Section 8 Mainstream Program for people with disabilities

Some housing authorities have obtained additional funding for Section 8 vouchers for households where one or more family member has a disability. The waiting list for Mainstream Program vouchers is usually shorter than for other types of Section 8 vouchers. Only a family that is income eligible and

includes a person with a disability may receive a Mainstream Program voucher.⁵⁶

- For more information from HUD about this program, go to:
www.hud.gov/offices/pih/programs/hcv/pwd/mainstream.cfm.

□ **Section 8 Family Unification Program**

Some housing authorities and regional nonprofit agencies have obtained extra funding from HUD for the Family Unification Program. It is for two groups of people: (1) battered women and their children who have been displaced because of battering and who have not secured permanent housing large enough for the entire family; and (2) families with children in foster care placement who have substantially complied with all the Department of Children and Families (DCF, formerly known as the Department of Social Services (DSS)) service plan tasks, but who do not have permanent or adequate housing to which their children can be returned. Clients must have an open DCF case and must be referred by DCF.⁵⁷

- For information from HUD about this program, go to:
www.hud.gov/offices/pih/programs/hcv/family.cfm.

□ **Section 8 Family Self-Sufficiency (FSS) Program**

The Family Self-Sufficiency program is open to all households that have a Section 8 voucher. The way it works is that a housing authority enters into a five-year contract with a participating family, and with the participant establishes goals and describes the various work-related activities which the participant agrees to do. As the participant's income and rent share increase, an escrow account is established by the housing authority to set aside funds for the participant at the end of the program. Upon successful completion of the program, the participant can use these funds for any purpose, such as homeownership, starting a business, paying off loans, or going back to school. The participant is also able to use the money in the escrow account during the five-year contract term as long as it is for work-related purposes, such as paying car insurance, buying a uniform, or enrolling in a job-related course.⁵⁸

- For information from HUD about the FSS program, go to:
www.hud.gov/offices/pih/programs/hcv/fss.cfm.

□ **Section 8 Homeownership Option**

Housing authorities may choose to participate in the Section 8 homeownership option and use their regular Section 8 vouchers to cover homeownership expenses for a home that the participant has purchased.⁵⁹ Housing authorities

may establish their own eligibility criteria for this program in their *Annual Plan*, which apply in addition to minimum criteria required by HUD. The participant must obtain financing elsewhere and find other means to cover down payment and closing costs. There is a 10-year maximum time limit on assistance; however, special exceptions on eligibility criteria and the length of assistance may apply to elderly/disabled participants.⁶⁰

There are approximately 183 Section 8 Homeownership vouchers administered by 29 housing authorities in Massachusetts. To find out if your community has a Section 8 Homeownership Program, contact your public housing authority or the HUD Boston office.

- For more information from HUD about this program, go to:
www.hud.gov/offices/pih/programs/hcv/homeownership.

□ **Section 8 Project-Based Voucher (PBV) Program**

Each housing agency that administers a Section 8 voucher program is permitted to set aside up to 20% of its Section 8 inventory for *project-based* assistance which is linked with particular buildings. The housing agency may admit applicants from its regular Section 8 voucher list, or it may have a special PBV waiting list. If you have PBV assistance, your rent is limited to 30% of income, and you can be evicted only for good cause. After the first year of occupancy, you can request to relocate and to be issued a *tenant-based* Section 8 voucher. If a voucher is not immediately available, you should get *priority* to receive the next voucher or other tenant-based rental assistance that becomes available.⁶¹ There are approximately 1,259 apartments assisted through the Section 8 PBV program in Massachusetts; an additional 212 apartments are aided through an older program called the Project-Based Certificate (PBC) program, which is in the process of being converted to PBV assistance.⁶²

- For more information from HUD about this program, go to:
www.hud.gov/offices/pih/programs/hcv/project.cfm.

□ **Section 8 Veterans Affairs Supported Housing (VASH) Program**

This is a program established by HUD and the Department of Veterans Affairs (VA). The program is targeted to homeless disabled veterans who are Section 8 eligible and who have had severe psychiatric and/or substance abuse disorders. Participants must agree, as a condition for the subsidy, to participate in ongoing treatment. Case management and clinical services are provided by VASH.⁶³

- For more information from HUD about VASH, go to: www.hud.gov/offices/pih/programs/hcv/vash/index.cfm.

□ **Section 8 Housing Options Programs (HOP)**

HOP is a collaborative effort of the Department of Housing and Community Development (DHCD), the Department of Mental Health (DMH), the Department of Developmental Services (DDS, formerly the Department of Mental Retardation (DMR)), the Department of Public Health (DPH), the Office of Health and Human Services (EOHHS), and the Mass. Rehabilitation Commission (MRC). The program combines Section 8 vouchers with support services. HOP subsidies are allocated by disability with appropriate services provided to each disability group. Clients must be disabled persons who are homeless or living in transitional housing, and must be referred to DHCD by the lead service agency, the Justice Resource Institute (JRI) Health staff.

- For more information, go to: www.jri.org.

□ **Designated vouchers**

In some instances, federal law permits housing authorities and owners of certain project-based Section 8 multifamily housing to restrict the number of non-elderly disabled households that can occupy elderly/disabled public or assisted housing.⁶⁴ When HUD has permitted this, it usually also authorizes an additional set-aside of Section 8 vouchers for regional nonprofit housing agencies or for the housing authority designated for non-elderly disabled households whose housing opportunities are limited due to the restrictions. You need to inquire at your regional nonprofit housing agency or local housing authority to determine whether it has such vouchers.

- For more information from HUD about designated vouchers, go to: www.hud.gov/offices/pih/programs/hcv/pwd/designated.cfm.

Federal HOME tenant-based rental assistance (TBRA) program

The HOME program, a federally funded housing program that is not part of the Housing Choice Voucher Program, provides funding directly to states, cities, and towns for a variety of housing purposes, including tenant-based rental assistance (TBRA). If the state, city, or town has chosen to use HOME funds in this manner, it must have written tenant selection policies and criteria. The term of the rental assistance may not exceed 24 months, but it may be renewed if there are sufficient funds. The lease term must be for at least one year, and can be terminated only for *good cause*. Rent is generally set at 30% of adjusted income.⁶⁵

Not all of the HOME participating jurisdictions in Massachusetts have HOME TBRA. There are about 2,000 HOME TBRA units as of June 30, 2009. Many large communities do not have any HOME TBRA units, while there are substantial programs administered by the consortia in Peabody, Lynn, Somerville, and Springfield, and also by DHCD.⁶⁶

If an agency administers both HOME TBRA and Section 8 assistance, participants in the HOME program qualify for tenant selection preferences for the Section 8 program to the same extent as when they initially received the HOME assistance. If the agency gave a preference for homeless applicants, they would not lose that preference on the Section 8 list. HOME TBRA is therefore often referred to as a “bridge” subsidy. HOME TBRA can also be used to pay for security deposits.⁶⁷

- For more information from HUD about the HOME TBRA program, go to: www.hud.gov/offices/cpd/affordablehousing/training/web/abc/activities/tenantassist.cfm.
- To find out whether there are HOME TBRA units in your area, check the following:
www.hud.gov/offices/cpd/affordablehousing/reports/dash.cfm?st=ma.

5. What types of multifamily subsidized housing programs are there?

Multifamily subsidized housing is owned and operated by private owners. If you are a tenant in multifamily housing, you cannot take the subsidy someplace else. It stays with the development.

The ownership may be for-profit or nonprofit. Owners receive subsidies from the government to lower the cost of their mortgages or to rehabilitate existing housing or build new apartments. In exchange, they are required to set aside a certain percentage of apartments as affordable for low- and moderate-income people.

Most multifamily developments are *mixed income housing*. This means that some apartments are subsidized and some are market-rate apartments. Sometimes, however, all of the apartments are subsidized. Multifamily housing may also be subsidized by more than one program. For example, there may be a mix of subsidies, such as a *deep subsidy*, in which rent is set at roughly 30% of your income, and a *shallow subsidy*, in which the rent is

below market level, but is not based on a percentage of your income. The best way to figure out the rent of an apartment is to contact the owner or manager and ask what programs subsidize the housing and what type of subsidy is involved (deep or shallow). You can also check your lease, your *annual recertification* papers, and any other papers the landlord gave you when you first moved in. Sometimes this will help you figure out what kind of subsidy you have.

There are many different types of multifamily housing programs in Massachusetts, each with its own rules, income limits, and affordability restrictions. What follows is a summary of the major multifamily programs.

Federal multifamily subsidized housing

In federal multifamily housing, the owner has a contract directly with the U.S. Department of Housing and Urban Development (HUD). HUD provides rental subsidies, below-market interest financing, mortgage insurance, or other forms of assistance. In exchange, the owner agrees that during the term of such assistance, the property is subject to low-income use restrictions. There are approximately 71,000 affordable apartments in Massachusetts funded through federal multifamily programs. You can contact HUD's Boston regional office at 617-994-8200 to get a complete list of multifamily developments with contact information for each development. HUD can also send you a booklet containing a lot of this information.

- For data generally on HUD's multifamily housing developments, go to: www.hud.gov/offices/hsg/mfh/mfdata.cfm.
- For an inventory of all of HUD's multifamily housing for elderly or disabled families, go to: www.hud.gov/offices/hsg/mfh/hto/inventorysurvey.cfm.

If an owner is not complying with HUD requirements, HUD can be contacted but it usually provides only limited oversight. HUD handbooks describe the form of the lease and detail many of the procedures to be followed in admitting applicants and determining rents.⁶⁸ All HUD multifamily developments follow similar eviction requirements, and the owner must have *good cause* for eviction based on a breach of the lease.⁶⁹ HUD also has tenant participation requirements, providing tenants and tenant organizations with certain rights and protections.⁷⁰ The primary federal multifamily housing programs are:

□ **Section 221(d)(3) and (d)(4) (BMIR) multifamily housing**

HUD subsidizes an owner's mortgage by lowering the mortgage interest rate. Properties subsidized under this program are sometimes referred to as Below Market Interest Rate (BMIR) property. Rents are not based on a percentage of a tenant's income, but are a flat amount that HUD approves.⁷¹ However, in a number of these developments, there may be other rental assistance under the rent supplement or Section 8 project-based assistance programs for some or all apartments that will change these rent rules. There are approximately 9,700 apartments in Section 221(d)(3) developments in Massachusetts; some also receive project-based Section 8 multifamily assistance (see below).

- For more information from HUD about this program, go to: www.hud.gov/offices/hsg/mfh/progdesc/rentcoophsg221d3n4.cfm.
- For a fact sheet on how rents are calculated for the below-market interest rate properties, go to: www.hud.gov/offices/hsg/mfh/gendocs/factsbmir.pdf.

□ **Section 236 multifamily housing**

HUD subsidizes the interest on an owner's mortgage. HUD sets a basic rent and the tenant must pay at least either the basic rent or 30% of income, whichever is higher.⁷² However, the development may receive other forms of rent subsidy under the rent supplement, Section 236 RAP, or Section 8 project-based assistance programs. There are approximately 26,000 apartments in Section 236 developments in Massachusetts; some also received project-based Section 8 multifamily assistance (see below).

- For a fact sheet on how rents are calculated for the regular Section 236 program, go to: www.hud.gov/offices/hsg/mfh/gendocs/facts236.pdf.

□ **Section 236 Rental Assistance Program (RAP)**

This is an early form of rental subsidy that was used for up to 20% of the units in Section 236 developments prior to the Section 8 program. Some developments still have Section 236 RAP assistance. With this subsidy, your rent is set at 30% of income.⁷³

- For a fact sheet on how rents are calculated for the Section 236 RAP program, go to: www.hud.gov/offices/hsg/mfh/gendocs/factsrap.pdf.

❑ **Rent supplement program**

This is an early form of rental subsidy that was used in Section 221(d)(3) and Section 236 developments prior to the Section 8 program. Some developments still have rent supplement assistance. Your rent is the higher of either 30% of income or 30% of the gross rent.⁷⁴

- For a fact sheet on how rents are calculated for the rent supplement program, go to:

www.hud.gov/offices/hsg/mfh/gendocs/factsrentsup.pdf.

❑ **Project-based Section 8 assistance for multifamily housing**

Starting in the mid-1970s, HUD made project-based Section 8 assistance available for multifamily housing—for new construction, for substantial rehabilitation of existing buildings, for additional assistance for Section 221(d)(3) and Section 236 developments that were having financial difficulty (also called loan management set-aside), and for sale of multifamily developments (property disposition) that HUD had acquired when the owners went into default. The term of these Section 8 subsidy contracts can vary from 5 to 40 years. Rent is set at 30% of your income.⁷⁵ This is a very large and important resource. There are approximately 33,000 apartments with Section 8 project-based multifamily assistance in Massachusetts.

Note: This program is different from the Section 8 Project-Based Voucher (PBV) discussed above. It is easy to mix up the programs due to the similarity in names. This Section 8 assistance, however, does not come from a housing agency's regular Section 8 voucher inventory, but is from the owner's direct Section 8 contract with HUD.

- For a fact sheet on how rents are calculated for the Section 8 project-based assistance programs, go to:

www.hud.gov/offices/hsg/mfh/gendocs/facts_sec8.pdf.

❑ **Section 202 housing for seniors and people with disabilities**

HUD provides grants or loans to nonprofits to construct or rehabilitate housing for seniors and people with disabilities. The Section 202 program evolved into a program that was renamed Supportive Housing for Elderly, which was only for seniors where one or more people in the household were 62 or older. Usually there is a form of Section 8 project-based assistance tied to the development, and rent is set at 30% of income.⁷⁶ There are approximately 9,650 apartments in Section 202 developments in Massachusetts.

- For more information from HUD about this program, go to:
www.hud.gov/offices/hsg/mfh/progdesc/eld202.cfm.

□ **Section 811 housing for people with disabilities**

This program provides supportive housing for people with disabilities who are very low-income. Here again, usually there is a form of Section 8 project-based assistance tied to the development, and rent is set at 30% of income.⁷⁷ There are approximately 670 apartments in Section 811 developments in Massachusetts.

- For more information from HUD about this program, go to:
www.hud.gov/offices/hsg/mfh/progdesc/disab811.cfm.

Expiring use

Many multifamily developments are facing what is called an *expiring use* problem. These developments received *mortgage* insurance or financing or signed project-based subsidy contracts that required owners to keep rents affordable for up to 40 years. In some cases, owners could pay off the subsidized mortgage early (*prepay*) or the mortgage is coming to the end of its term. In other cases, the owner and HUD might not agree to renew the subsidy contract. If either of these happens, the restrictions that keep rents affordable may be lost and rents can be raised to market rate. A number of owners in Massachusetts have pre-paid or attempted to pre-pay. Other developments are coming to the end of their use restriction period or subsidy contracts.

Expiring use not only can result in displacement of tenants, but can result in the loss of affordable housing opportunities for applicants. You are not powerless in this situation. A combination of legal strategies and organizing efforts may be successful.⁷⁸ If you are facing this problem, you should contact your local Legal Services program.

- To get a list of expiring use properties in Massachusetts, go to:
www.chapa.org/?q=expiringUse.

Enhanced vouchers

If a federal multifamily development has had its mortgage pre-paid or if an owner has refused to renew the project-based subsidy contract, there is also a program called the Enhanced Voucher program. It is designed to help protect tenants already in the development from displacement. The voucher looks a lot like a regular Section 8 tenant-based voucher and is administered by a housing agency. However, it can pay a higher rent than would ordinarily be the case if it is used at the development. While you are at the development with your Enhanced Voucher, the owner must always have *good cause* to evict you or to not renew your lease. If you move out, the voucher's value changes

to that for a regular Section 8 voucher, and regular Section 8 eviction rules apply. Some special rent rules apply to Enhanced Vouchers so that tenants' rents are generally similar to those previously in effect. Tenants at the development will be notified of the need to apply for the vouchers in order to qualify for continued assistance.⁷⁹ As of 2009, there are approximately 7,500 Enhanced Vouchers administered by about 30 housing authorities in Massachusetts.⁸⁰

Section 8 Moderate Rehabilitation Program

A number of apartments are subsidized under the Section 8 Moderate Rehabilitation (or “mod rehab”) program. In exchange for providing a moderate level of rehabilitation to a property, the owner is provided a rent subsidy for a number of years by the local housing authority or a regional nonprofit housing agency.⁸¹ Some Section 8 mod rehab funds are part of the McKinney program and are targeted for single room occupancy (SRO) units for the homeless.⁸² There are over 1,500 Section 8 mod rehab units in Massachusetts; over 900 of those units are McKinney SRO units.

You must apply through the local housing authority or a regional nonprofit housing agency, and you must regularly report to that agency regarding your income and household composition. Your rent is limited to 30% of income and cannot be higher, as it can with the regular Section 8 voucher program. The owner can evict (or not renew your lease) only for *good cause*. The housing agency can, however, terminate your subsidy if you have violated Section 8 program rules (such as not properly reporting your income or family composition or engaging in fraud).⁸³

As with the multifamily housing program, this subsidy is tied to the building, and cannot be used by the tenant to relocate to another location. If the tenant moves out or is evicted, she loses the subsidy. If the property can no longer be subsidized under these programs because it is not up to code or the owner or HUD decides not to renew or extend the subsidy, the tenant will be eligible for a regular tenant-based voucher.

HOME Program (other than tenant-based rental assistance)

The state or a city or town that gets HOME assistance may choose to use it to help create or preserve affordable housing developments, rather than for tenant-based rental assistance. This funding may be linked with other sources, such as tax credits or project-based Section 8 vouchers. There are maximum rents for HOME housing, and they may not exceed 30% of what 65% of the area median income would be. Therefore, as with Tax Credit units (described below), most low-income tenants need to have other subsidies in order to be able to afford these units. In rental projects with five or more HOME-assisted units, 20% of the HOME units must be occupied by families with incomes at

or below 50% of area median income, with rents set either at 30% of the tenant's actual income or at 30% of 50% of the area median income. There are special applicant and tenant protections for HOME assistance, including use of written tenant selection criteria, requiring a lease with a term of at least one year, *good cause* eviction protections, and the requirement for a 30-day notice to terminate the tenancy.⁸⁴ There are approximately 10,000 HOME non-TBRA rental units in Massachusetts as of mid-2009.⁸⁵

Federal Rural Housing Service (RHS) multifamily subsidized housing

The Rural Housing Service (RHS) division of the U.S. Department of Agriculture also funds the development of affordable rental housing in rural areas through its Section 515 mortgage program. The program provides low-interest long-term direct loans to nonprofit and for-profit developers who agree to keep units affordable for at least 20 years. In Massachusetts, the bulk of the units are in elderly-only developments. Most projects have some form of project-based rental assistance (Section 8 or RHS rent subsidies); a few have state-funded rental assistance under the MRVP program. Massachusetts has 43 RHS developments for the elderly with 1,481 affordable units.⁸⁶

MassHousing multifamily subsidized housing

Through MassHousing, a state housing agency (formerly known as Massachusetts Housing Finance Agency, or MHFA), private owners get money to develop affordable housing. These funds can come from the state or the federal government, or sometimes both.

MassHousing provides oversight for developments financed through its programs, and directly funds a few programs. It also administers a number of project-based Section 8 contracts for HUD, but does not provide general oversight over those developments, leaving that to HUD. To figure out whether the housing is financed through MassHousing, you can check their website or ask that MassHousing send you a book listing all of its developments. Unfortunately, this information does not necessarily tell you much about the types of subsidies involved and how rents are set for different apartments. You may be able to get additional information about a particular development by contacting a management analyst at MassHousing. If you have a dispute with the development owner, you may be able to get MassHousing to intervene in resolving it.⁸⁷

- For more information, go to: www.masshousing.com.

□ Section 13A Interest Subsidy

A mortgage interest subsidy provided to about 60 privately owned developments that reduced rents for about 6,000 apartments. The number

of 13A apartments has decreased in recent years because some owners have chosen to pre-pay their 30- to 40-year mortgages after 20 years and end the subsidy and the restrictions that keep apartments affordable.⁸⁸

Project-Based Mass. Rental Voucher Program (non-mobile)

Both MassHousing developments and some other housing developments may rely on the use of *project-based* MRVP assistance. Project-based MRVP assistance can include developments with moderate rehabilitation (mod rehab). Project-based vouchers stay with a particular housing development and are not *tenant-based* or mobile. In particular, there are designated Low-Income Set-Aside units in certain developments where Project-based MRVP is used. The Section 13A program (see above), as well as tax-related programs (see below) and a number of smaller programs all have used this assistance.⁸⁹

Applicants apply to a project-based MRVP waiting list which a housing agency has established. MassHousing also gives a transfer *preference* for existing tenants in its developments who must relocate due to excessive rent burden or other *good cause* and who need a more affordable apartment. Low-Income Set-Aside units are to be marketed to individuals and families who have mobile Section 8 or MRVP vouchers. If sufficient applicants can not be found that way, the housing agency can request that DHCD and MassHousing approve the assignment of a project-based MRVP voucher to the development.⁹⁰

If you have a tenant-based MRVP and move into a Low-Income Set-Aside unit, you can either keep the *tenant-based* MRVP or can give it up for a *project-based* voucher. If you give up the voucher, you lose mobility, but there may be advantages on your rent level. Rent is set at 35% of income for the project-based MRVP program if you do not pay for utilities, and 30% of income if you pay for some or all utilities.⁹¹

You can be evicted from a project-based MRVP apartment only for good cause, and the owner must show good cause to not renew your lease.⁹²

Tax-related programs for affordable housing

Several tax-related programs have been developed to help create or preserve affordable housing. These programs have been used for initiatives in many different types of housing, including redevelopment of public housing, rehabilitation or preservation of multifamily housing, and development of new affordable housing. You need to know what other programs and subsidy rules apply in order to know your rights.

□ **Federal Low-Income Housing Tax Credit Program (LIHTC)**

The federal Low-Income Housing Tax Credit program is a **federal** program created in 1986 that has funded about 30,000 affordable apartments in Massachusetts.⁹³ Under the program, private owners raise money to develop and operate affordable rental housing by selling federal tax credits to investors. These tax benefits are distributed through state housing agencies, such as DHCD and MassHousing. In return for tax credits, participating developers agree to reserve a percentage of the apartments for low-income families. There are two alternative types of rent restrictions: 40% of the apartments must be affordable to those with incomes at or below 60% of the *area median income*; or 20% of the units must be affordable to those with incomes at or below 50% of area median. The apartments generally must remain affordable for at least 30 years.

Unlike public housing or vouchers, tax credit rents do not change based on changes to family income unless some other subsidy rules apply to the program. These flat rents are often not affordable to those with lower incomes. However, an owner of a federal tax credit development has an affirmative duty to accept Section 8 tenant-based vouchers for available apartments.⁹⁴ Applications are taken at each privately owned development or building. There are some special tax credit rules about eligibility for students, but many low-income individuals who are students may fit into exceptions so that they are eligible.⁹⁵ You can be evicted only for *good cause* from these developments.⁹⁶

□ **State Low-Income Tax Credit Program**

In 1999, Massachusetts passed a **state** low-income tax credit program. The state program is run by DHCD and has features that are similar to the federal low-income housing tax credit program.⁹⁷ State tax credits were used to help develop over 2,300 affordable units between 2001 and 2008.⁹⁸

Programs by Type of Need

6. What programs fund housing for people who are homeless?

People who are homeless are eligible for public and subsidized housing. They may also qualify for *priority* due to their homelessness. See **Chapter 4: Who Has Priority**.

In addition, the federal government provides special funding for housing specifically for homeless individuals and families. Some of these programs are shelters; some are transitional housing; and some are permanent housing. These programs are funded through the McKinney Housing Programs.⁹⁹

McKinney programs are funded through a local “Continuum of Care”; there are 22 in Massachusetts. If you work with people who are homeless, you will want to be familiar with the programs in your Continuum.

- To find maps and contact information for each Continuum of Care in Massachusetts, go to:
www.hudhre.info/index.cfm?do=viewCoCMapsAndReports.

For all of the McKinney housing, participants must meet the definition of homelessness.¹⁰⁰ This includes people who are in shelter or transitional housing, or are otherwise without a fixed place to live. This does not include individuals who are currently incarcerated. There is also a requirement that homeless individuals be involved in setting policies for the entities that receive the McKinney grants.¹⁰¹

What follows is a description of the primary McKinney Housing Programs.

Shelter Plus Care

This program provides rental assistance for hard-to-serve homeless people with disabilities, primarily those who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or who have HIV/AIDS, and their families.¹⁰² Some communities have Shelter Plus Care resources only for homeless individuals; others may have some Shelter Plus Care resources for

homeless families. There are approximately 49 Shelter Plus Care projects in Massachusetts as of 2008.¹⁰³

Shelter Plus Care rental assistance is linked to supportive services funded through other programs. The program gives tenants the option of selecting their own apartment or residing at a property receiving the subsidy. The subsidy can be provided in any of three ways:

❑ **Tenant-based rental assistance**

This subsidy is a 5-year grant that provides a person with a tenant-based voucher. The subsidy stays with the tenant. Participants may be required to live in a specific area for the entire period of their participation or in a specific structure for the first year and in a specific area for the remainder of the period of participation if it is necessary to coordinate supportive services. You are required to find your own apartment, unless you are required to live in a specific structure.

❑ **Project-based rental assistance**

This subsidy is not mobile. It is a 5- to 10-year grant that is tied to property, and the landlord must have done some rehabilitation work on the property.

❑ **Sponsor-based rental assistance**

This subsidy is a 5-year grant that is tied to the property owned or leased by a sponsor, which can be a private nonprofit organization or a community mental health agency.

You apply for the Shelter Plus Care program through the social service agency that runs it. Housing search workers in your area should know where you can apply.

You must sign an occupancy agreement for a term of at least one month. This agreement must be automatically renewable upon expiration, except on prior notice by either party. The state, locality, or housing agency that applied to HUD for the Shelter Plus Care subsidy may terminate a tenant from a Shelter Plus Care program for violations of program requirements or conditions of occupancy. The law does not specify what these requirements or conditions are, other than the requirement to take part in supportive services provided through the program.¹⁰⁴ In deciding to terminate a tenant from the program, the state, locality, or housing agency must exercise judgment and examine all extenuating circumstances in determining when violations are serious enough to warrant termination, so that a participant's assistance is terminated only in the most severe cases.¹⁰⁵ The state, locality, or housing agency is required to

provide a formal process, consisting of a minimum of giving the tenant written notice containing a clear statement of grounds leading to the termination, a review of the decision which gives the tenant an opportunity to raise objections, and prompt notice of any final decision.¹⁰⁶

- For more about the Shelter Plus Care program from HUD, go to: <http://www.hudhre.info/index.cfm?do=viewShelterPlusCare#info>.

McKinney Supportive Housing Transitional Housing

This program is designed to help homeless individuals and families transition into permanent housing. Although the original intent was to have participants move to permanent housing within two years, a homeless individual or family may remain in transitional housing for a longer period if permanent housing has not been located or if the individual or family needs additional time to prepare for independent living. HUD may, however, discontinue assistance for the project if more than half of the homeless families or individuals remain in the project more than 24 months.¹⁰⁷ You can find out more about the McKinney Supportive Housing programs through the Continuum of Care agency in your area. See link above. There are approximately 69 Transitional Supportive Housing programs in Massachusetts in 2008.¹⁰⁸

In this program, rent is charged at 30% of adjusted income, and individuals or families must be offered supportive services. The law, however, does not require participation in services. The program includes on-site residential supervision.¹⁰⁹ If assistance is to be terminated, the same due process protections apply as with the Shelter Plus Care program.¹¹⁰

McKinney Supportive Housing Permanent Housing for Homeless People with Disabilities

This is permanent housing that provides supportive services to tenants to enable them to live independently in their apartments and includes on-site residential supervision. Rent is set at 30% of adjusted income, and tenants have the same due process protections as if they were in the Shelter Plus Care program.¹¹¹ There are about 112 Permanent Supportive Housing Programs in Massachusetts.¹¹²

McKinney Section 8 SRO Moderate Rehabilitation Program

As discussed under the Section 8 moderate rehabilitation program, this is a special Section 8 mod rehab program focused on homeless individuals who need single room occupancy (SRO) units. It is administered by local housing authorities and regional nonprofit housing agencies. Applicants may be drawn

from the housing authority's general Section 8 waiting list, but they will need to show that they meet the McKinney definition of homelessness. Supportive services are generally to be made available to tenants, but acceptance of these services is not an eligibility requirement.¹¹³

For information about all federal homeless resources, go to:
www.hudhre.info/index.cfm.

7. What housing is available for people with disabilities?

People with disabilities are eligible to apply for public, subsidized, and voucher housing programs and, in some instances, may qualify for *priority* due to a disability. See **Chapter 4: Who Has Priority**. People with disabilities may also be entitled to certain *reasonable accommodations*. For more information, see **Chapter 10: Reasonable Accommodations**.

A housing agency or subsidized landlord may be required to set aside a certain number of accessible apartments for people with mobility impairments (for example, households that require a wheelchair-accessible unit) and to transfer tenants who are in those apartments who do not require those accessibility features. Historically, 5% of the apartments in MassHousing multifamily developments (about 2,200) and 10% of the apartments in elderly developments (about 2,600) have been set aside for wheelchair accessibility or to accommodate other mobility limitations.¹¹⁴ You need to ask the housing authority or subsidized landlord if apartments are set aside.

In addition, there are many programs specifically designed to provide affordable housing to people with disabilities. What follows is a list of major programs for people with disabilities. These programs are described in other questions:

- ❑ Federal elderly and disabled public housing
- ❑ State elderly and disabled public housing (Chapter 667 Housing)
- ❑ Alternative Housing Voucher Program
- ❑ Section 202 subsidized multifamily housing
- ❑ Section 8 Mainstream Vouchers
- ❑ Section 8 Designated Housing Vouchers
- ❑ Section 8 Housing Options Program
- ❑ McKinney Shelter Plus Care
- ❑ McKinney Supportive Housing (Permanent Housing for Homeless People with Disabilities)

8. What housing is available for people with AIDS?

Housing Opportunities for Persons with AIDS (HOPWA)

The HOPWA program was developed for people with AIDS or related diseases.¹¹⁵ HOPWA funds come from the federal government and can be used for a variety of purposes, including short-term shelter, payments to cover rent that is owed, community residences, or longer-term rental assistance. Rent is generally set at 30% of adjusted income.¹¹⁶ All applicants must be referred to regional nonprofit housing agencies by social service agencies under contract with the Department of Public Health (DPH).

Tenants may be terminated from the program for violations of program requirements or conditions of occupancy.¹¹⁷ Like the Shelter Plus Care Program, HOPWA has established a termination procedure for tenants from the program.

- For additional information about housing options available for people with AIDS, go to AIDS Housing Corporation's website at: www.ahc.org. They have an excellent handbook called *How to Get a Place Called Home* that is available in English, Spanish, and Creole.
- For information about Massachusetts HOPWA programs, go to: www.hudhre.info/hopwa/index.cfm?do=viewLocalHopwaPrgm.

9. What housing is available for people with mental health needs?

People receiving case management services from the Department of Mental Health (DMH) or the Department of Developmental Services (DDS, formerly known as the Department of Mental Retardation) may be eligible for a special housing set-aside for people with mental disabilities. There are three primary programs.

MassHousing set-aside

Approximately 3% of the apartments in MassHousing multifamily housing are set aside for clients of DMH or DDS. Tenants are referred to these apartments

by DMH or DDS. Contact MassHousing for a list of the developments and the contact persons at DMH and DDS. Ongoing case management and stabilization services are generally provided for people participating in this program.

DMH rental assistance program

As discussed in **Question 4**, there is a special DMH rental assistance program for people with mental disabilities which is operated by DHCD through local housing authorities or regional nonprofit housing agencies. This is usually *project-based*. Referrals are made by DMH housing staff.¹¹⁸

DMH and DDS community residential programs

DMH provides limited housing in residential community settings to people for whom it is providing case management services, ranging from emergency shelter to transitional and permanent housing. If a participant is required to leave one of these programs, she has the right to seek a review through the Human Rights Committee or the DMH Area Office. DMH also has the obligation to offer an alternative placement.¹¹⁹

DDS administers a large number of community residences; a number of these are group homes, which may be funded through other sources discussed above, such as the Chapter 689 state public housing program or the McKinney Permanent Supportive Housing program. As with DMH, a participant has the right to seek review of decisions affecting his/her individual service plan. There are also particular standards for decisions on transfers.¹²⁰

There are approximately 2,307 community residences administered by DMH and approximately 8,307 community residences administered by DDS.

Some of the housing under these programs is just like an apartment, while other housing may involve shared facilities. The provider may be able to choose to evict the tenant through an eviction action or by using the state's Community Residence law, which requires a hearing.¹²¹

- For more information about this law and eviction protections for people living in such housing, go to:
www.MassLegalHelp.org/housing/rooming-houses.

Chapter 689 and Chapter 167 housing

Chapter 689 housing is public housing for adults with special needs. The current focus is on creating group homes for adults with mental disabilities leaving facilities run by DMH. Chapter 167 housing provides housing for people with chronic mental illnesses. The current program provides housing

for people leaving state mental health hospitals. There are 1,882 units of Chapter 689 and Chapter 167 apartments in Massachusetts. Although housing authorities do not select tenants for these properties, they own the properties and contract with DMH or DDS to staff the housing.¹²²

10. What housing is available for seniors?

Seniors are eligible to apply for any of the public, subsidized, and voucher housing programs. In addition, there are many programs specifically designed to provide affordable housing to seniors and people with disabilities. Some are funded by the federal government and some by the state. Here are the various types of housing available for seniors:

- ❑ Federal elderly and disabled public housing
- ❑ State elderly and disabled public housing (Chapter 667 housing)
- ❑ Federal Section 202 multifamily subsidized housing designated for elders
- ❑ MassHousing Elder Choice Program
- ❑ Other federal multifamily housing designated in whole or in part for the elderly

MassHousing Elder Choice

This program offers subsidized financing and low-income housing tax credits to developers of assisted living residences who set aside 20% of the units for low-income frail seniors (with incomes under 50% of the *area median income*). There are 14 developments with over 300 affordable units in Massachusetts. For information, call MassHousing at 617-854-1000.

11. What housing is available for families?

Families are eligible for different types of public and subsidized housing. Because waiting lists are long, you should apply for as many of these programs as interest you to increase your chances of obtaining affordable housing. The following is a list of programs for families that are described in other questions:

- ❑ State and Federal Public Family Housing
- ❑ Federal Multifamily Subsidized Housing
- ❑ MassHousing Multifamily Subsidized Housing

- ❑ Moderate Rehabilitation (Mod Rehab) Programs (if appropriate size)
- ❑ Section 8 Housing Choice Voucher Program
- ❑ Section 8 Family Self-Sufficiency (FSS) Program
- ❑ Section 8 Homeownership Option
- ❑ Massachusetts Rental Voucher Program
- ❑ Low-Income Housing Tax Credit Housing
- ❑ Section 8 Family Unification Program (FUP)
- ❑ Federal HOME Tenant-Based Rental Assistance Program
- ❑ Shelter Plus Care (for homeless families, where so designated)

12. What housing is available for veterans?

The Department of Veterans' Services funds both permanent and transitional housing for veterans. For a list of housing resources available, go to: www.mass.gov/?pageID=veteranstopic&L=2&L0=Home&L1=Housing&sid=Eveterans.

Leases and Deposits

13. Do I have to sign a lease in public or subsidized housing?

Yes. All federal and state public housing tenants must have a written *lease* that is signed by both you and the housing authority.¹²³ If you do not sign a lease or a lease revision, the housing authority can start eviction proceedings against you.¹²⁴

For Section 8 and MRVP tenants with *tenant-based* vouchers, you must sign a *lease* with your landlord and it must include an attachment called a lease “Addendum.”¹²⁵ For multifamily housing, you must also sign a lease, sometimes called an “Occupancy Agreement.”¹²⁶ Low-income housing tax credit and HOME properties will usually require a written *lease* initially, although some may change to a month-to-month arrangement at the end of the written lease.¹²⁷ The Shelter Plus Care program requires an occupancy agreement, but it has a month-to-month term.¹²⁸

Before you sign a *lease*, be sure that you read it and understand it. If there is any part that you do not understand, ask your landlord or a housing authority staff person to explain it to you. If you need to, you may take the lease home and go over it with a friend, family member, or an advocate.

14. Do I have to pay a security deposit or last month’s rent when moving into public or subsidized housing?

That depends on the kind of housing where you will live.

For federal public housing, the housing authority is allowed to charge a security deposit not more than one month’s rent, or a standard fixed amount not greater than one month’s rent.¹²⁹ There is no provision for charging a security deposit in state public housing, unless you ask to have a pet.¹³⁰ There is no provision for charging a last month’s rent in either state or federal public housing.

For federal multifamily subsidized housing, a security deposit can be charged, but it is usually limited to the tenant's portion of the rent. Rules on what exactly can be charged vary by program. There is no provision for charging a last month's rent.¹³¹

For the Section 8 tenant-based voucher program, your landlord is allowed to charge you one month's full contract rent for a security deposit. The security deposit is not limited to your portion of the rent.¹³² While there is no provision for charging a last month's rent, there is nothing specifically in federal regulations that would prohibit this. If an owner demands a last month's rent, it should be limited to your portion of the rent, since the owner will be paid by the housing agency for its portion of the rent for your last month.¹³³

MRVP regulations are not clear on whether or how much of a security deposit can be charged. When the program was first established in the early 1990s, DHCD guidance was that a security deposit could be charged, but it was limited to the tenant's portion of the rent, and the program also paid for vacancy losses to the owner. It is likely that the same rules apply for security deposits and last month's rent as for the Section 8 voucher program.

Reference Materials

15. Permanent Assisted Housing Resources in Massachusetts

Type of Housing		Units
Public Housing	Federally Funded Public Housing (Family and Elder/Disabled)	33,559
	State-Funded Public Housing (Family, Scattered Site, Elder/Disabled, and Special Needs)	49,550
Tenant-Based Subsidies	Section 8 Vouchers (administered by local housing authorities and DHCD, including all specialized programs)	74,239
	Mass Rental Vouchers & Assisted Housing Vouchers	2,553
	HOME Tenant-Based Rental Assistance	2,000
	Mass Rental Voucher Project-Based Units	3,031
	Section 8 Moderate Rehab (existing)	1,388
Subsidized Housing	Federal subsidized housing	63,626

Source: *Affordable Housing Guidebook for Massachusetts*, July, 2008, found at: www.chapa.org/files/f_1220966872HousingGuidebookJuly2008.pdf.

16. Find the Law for Key Housing Programs

Public Housing	
Federal Public Housing	
Family public housing	42 U.S.C. § 1437a-e 24 C.F.R. Parts 5, 960, 964, 965, 966, <i>Public Housing Occupancy Guidebook</i>
Public housing for seniors and people with disabilities	42 U.S.C. § 1437a(b)(3)(D)-(E) 24 C.F.R. § 5.403
State Public Housing	
Family public housing (Chapter 200)	G.L. c. 121B, §§ 32 et seq. 760 C.M.R. §§ 5.00 and 6.00
Family public housing (Chapter 705 Scattered Site)	G.L. c. 121B, § 34 760 C.M.R. §§ 5.00 and 6.00
Public housing for seniors and people with disabilities (Chapter 667)	G.L. c. 121B, §§ 1, 39, 40 760 C.M.R. §§ 5.03, 5.07, 5.10 (1)(a) and (2)

Voucher Programs	
Federal Voucher Programs	
Section 8 Housing Choice Voucher Program (HCVP)	42 U.S.C. § 1437f(o) 24 C.F.R. Parts 5 and 982, <i>Housing Choice Voucher Guidebook</i> , 7420.10G
Section 8 Project-Based Voucher (PBV) Program	42 U.S.C. § 1437f(o)(13); 24 C.F.R. Parts 5, 982, and 983
Section 8 Mainstream Program	Notices of Funding Availability (NOFAs) published in Federal Register
Section 8 Family Self-Sufficiency Program	42 U.S.C. § 1437u 24 C.F.R. Part 984
Section 8 Homeownership Option	42 U.S.C. § 1437f(y) 24 C.F.R. §§ 982.625-982.642
Enhanced Vouchers	42 U.S.C. § 1437f(t)
HOME Tenant-Based Rental Assistance (TBRA)	42 U.S.C. § 12701 et seq. 24 C.F.R. Part 92
State Voucher Programs	
Massachusetts Rental Voucher Program (MRVP)	760 C.M.R. § 49.00
Alternative Housing Voucher Program (AHVP)	760 C.M.R. § 53.00

Multifamily Subsidized Programs

Federal Multifamily	
Generally	24 C.F.R. Parts 5 and 247, <i>HUD Multifamily Occupancy Handbook</i> , 4350.3
Section 221(d) Family Housing	12 U.S.C. § 17151(d)(3) and (d)(4), 24 C.F.R. Part 221
Section 236 Family Housing	12 U.S.C. § 1715z-1, 24 C.F.R. Part 236
Project-Based Section 8 Multifamily Programs	42 U.S.C. § 1437f, 24 C.F.R. Parts 880, 881, 882 (mod rehab), 883, 886
Section 202: Elderly/Disabled Program	12 U.S.C. § 1701q 24 C.F.R. Part 891
Section 811 Program	42 U.S.C. § 8013 24 C.F.R. Part 891
Rural Housing Service (RHS) Section 515 Program	42 U.S.C. §§ 1471 et seq. 7 C.F.R. Part 3560
HOME rental housing (not Tenant-Based Rental Assistance)	42 U.S.C. § 12701 et seq. 24 C.F.R. Part 92
Federal Low Income Housing Tax Credit	26 U.S.C. § 42 26 C.F.R. § 1.42
State Multifamily	
MassHousing	G.L. c. 23A, App. 1, § 1-2
MRVP Project-Based Vouchers	760 C.M.R. § 49.00
State Tax Credits	G.L. c. 23B, § 3; G.L. c. 62, § 6I; G.L. c. 63, § 31H; 760 C.M.R. § 54.00

Specialized Housing Programs	
Section 8 Programs	
Family Unification Program	42 U.S.C. § 1437f(x) 24 C.F.R. Part 982
Veterans' Affairs Supported Housing Program	42 U.S.C. § 1437f(o)(19)
Housing Options Programs	NOFAs published in Federal Register
Section 8 for Victims of Domestic Violence	NOFAs published in Federal Register
Federal Housing Programs for People Who Are Homeless	
Shelter Plus Care	42 U.S.C. §§ 11403- 11407b 24 C.F.R. Part 582
Single Room Occupancy Section 8 Moderate Rehab	42 U.S.C. § 11401 24 C.F.R. § 882, Subpart H
McKinney Supportive Transitional and Permanent Housing	42 U.S.C. § 11389 24 C.F.R. Part 583

17. Fair Market Rents in Massachusetts for 2009-2010

These figures change every year. For an update, and to find out which towns are in each area, go to: www.huduser.org.

Area	0 bedroom	1 bedroom	2 bedroom	3 bedroom	4 bedroom
Barnstable County	\$779	\$913	\$1201	\$1473	\$1478
Berkshire County	\$618	\$694	\$801	\$1097	\$1128
Boston-Cambridge-Quincy	\$1090	\$1156	\$1357	\$1623	\$1783
Brockton	\$974	\$1014	\$1277	\$1527	\$1914
Eastern Worcester County	\$725	\$810	\$1066	\$1274	\$1871
Easton-Raynham	\$848	\$1124	\$1307	\$1563	\$2260
Fitchburg-Leominster	\$706	\$811	\$1017	\$1245	\$1353
Franklin County	\$623	\$726	\$900	\$1201	\$1450
Lawrence	\$761	\$968	\$1171	\$1398	\$1442
Lowell	\$843	\$1009	\$1297	\$1549	\$1699
New Bedford	\$587	\$753	\$861	\$1031	\$1391
Pittsfield	\$583	\$681	\$845	\$1086	\$1119
Providence-Fall River	\$751	\$836	\$963	\$1151	\$1419
Springfield	\$610	\$726	\$922	\$1104	\$1281
Taunton-Mansfield-Norton	\$732	\$924	\$1128	\$1384	\$1493
Western Worcester County	\$567	\$780	\$874	\$1043	\$1340
Worcester	\$708	\$814	\$991	\$1185	\$257
Dukes County	\$936	\$1188	\$1414	\$1690	\$1742
Nantucket County	\$1096	\$1516	\$1683	\$2013	\$2073

Source: Federal Register, Vol. 74, No. 188, September 30, 2009, p. 50552.

18. 2009 Government Poverty Guidelines

Every year, the federal government establishes poverty guidelines to determine who is financially eligible for particular programs. The chart below tells you the yearly poverty income guideline cut-offs for 2009. These figures change every year around February and are available at:

<http://aspe.hhs.gov/poverty/index.shtml>.

Household Size	100% of Poverty
1	\$10,830
2	\$14,570
3	\$18,310
4	\$22,050
5	\$25,790
6	\$29,530
7	\$33,270
8	\$37,010
For each additional person	\$3,740

Source: Federal Register, Vol. 74, No. 14, January 23, 2009, pp. 4199-4200.

Endnotes

- ¹ There may be circumstances where a limited liability corporation is the formal owner so that the development can take advantage of special financing, such as use of tax credits. 42 U.S.C. § 1437z-7. This may happen, for example, through the HOPE VI redevelopment process. However, the housing authority should still have ultimate control through the way that the ownership is structured, and the housing is still public housing.
- ² See G.L. c. 121B, §§ 3 and 5 about the structure of housing authorities; G.L. c. 121B, § 11 about the powers of housing authorities; G.L. c. 121B, § 13 about the liability of housing authorities. DHCD has created a list of all communities in Massachusetts, broken down by which ones have housing authorities, and for those which have housing authorities, what kind of housing programs they operate. For state family public housing, the list also includes bedroom sizes. To see this list, go to: www.masslegalservices.org/Public+Housing+Units+by+DHCD.
- ³ **Federal:** 24 C.F.R. §§ 5.628, 960.253; **State:** 760 C.M.R. § 6.04.
- ⁴ Effective July 2003, tenants in state family public housing are required to pay 32% of their income if heat, cooking fuel and electricity are provided, 30% if one or more utility is provided, or 27% if utilities are not provided. G.L. c. 121B, § 32, 2nd paragraph; 760 C.M.R. § 6.04(1)(b). The statute setting rent for state elderly/disabled public housing, G.L. c. 121B, § 40(e), was not amended, but changes were made by regulation for that program to eliminate a deduction and effect cost savings. 760 C.M.R. §§ 6.04(1)(a) and 6.05(4)(a) (deduction where tenant is an elderly person or person with a disability limited to family public housing).
- ⁵ **Federal:** 24 C.F.R. § 5.609; **State:** 760 C.M.R. § 6.05.
- ⁶ **Federal:** 24 C.F.R. § 960.257; **State:** 760 C.M.R. § 6.04(5). In four situations in federal public housing, rent may not be affected. (A) **Flat Rent:** In federal public housing, the household may be paying a “flat rent” which is not based on income, and it may be that the “flat rent” is lower than what income-based rent would be. If, however, a tenant is on a “flat rent,” and an income-based rent would be lower due to a decline in income, the tenant can request to be switched to an income-based rent. (B) **Decline in Income Due to Welfare Sanction:** In federal public housing and in the Section 8 tenant-based voucher program, if the tenant’s income decreased because welfare benefits were reduced or terminated due to certain types of sanctions (failure to comply with work requirements, or fraud), the rent cannot be reduced for the period of the sanction. (C) **Pro-Ration:** If one or more household members do not have citizenship or “eligible non-citizen” status (see **Chapter 9: Immigrants and Housing**), the rent may be pro-rated, or set higher than it usually would be; therefore a decline in income may result in some adjustment to the rent, but not a full adjustment; (D) **Minimum Rent:** The tenant may already be paying a minimum rent (up to \$50/month, depending on the housing authority’s policy). See 42 U.S.C. §§ 1436a and 1437a; 24 C.F.R. §§ 5.520 (pro-ration), 5.615 (welfare sanctions), 5.630 (minimum rent), and 960.253(b) (flat rent).
- ⁷ **Section 8:** See 24 C.F.R. § 982.508. **Mass. Rental Voucher Program:** In 2005 the State Legislature capped the tenant’s portion of the rent to no more than 40% of income. See DHCD’s MRVP Notice 2005-1, on file at Massachusetts Law Reform Institute; 760 C.M.R. § 49.05.
- ⁸ See 24 C.F.R. § 982.507.

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- ⁹ HUD *Multifamily Occupancy Handbook* 4350.3, REV-1, CHG-3 (June 2009), Chapter 5.
- ¹⁰ 42 U.S.C. § 1436a; 24 C.F.R. Part 5, Subpart E.
- ¹¹ See 42 U.S.C. § 3602(k) (definition of “familial status”); 24 C.F.R. §§ 966.4(a)(1)(v) (federal public housing) and 982.551(h) (Section 8 voucher program).
- ¹² **Federal:** 24 C.F.R. § 966.4(c) and (d); **State:** 760 C.M.R. § 6.06(3)(h).
- ¹³ G.L. c. 121B, § 32; 760 C.M.R. §§ 6.03 (definition of “overhoused”), 6.04(1)(c) (sanction for failure of overhoused tenant to transfer).
- ¹⁴ **Federal:** 24 C.F.R. § 966.4(1); **State:** 760 C.M.R. § 6.06(6).
- ¹⁵ **Federal:** 24 C.F.R. §§ 982.310 and 982.314; **State:** 760 C.M.R. § 49.05(3).
- ¹⁶ 24 C.F.R. § 982.311(b); see also DHCD MRVP Notice 2001-03, on file at www.masslegalservices.org.
- ¹⁷ 24 C.F.R. § 982.310(b); *Curtis v. Surrette*, 49 Mass. App. Ct. 99 (2000).
- ¹⁸ 24 C.F.R. § 982.314(e)(2). In many instances, the owner may not be able to show a serious or repeated lease violation, or the parties may end up settling the case on terms that don’t result in a court determination that the tenant violated the lease. These are reasons that a housing authority should not bar a move during a pending eviction, since it may interfere with the landlord’s and the tenant’s working out a mutually acceptable resolution. On the other hand, sometimes the eviction may involve claims that the housing authority has an independent reason to investigate, like claims of violent or drug-related criminal activity or unauthorized household members.
- ¹⁹ The federal government regulates federal public housing through federal laws, regulations, and guidebooks. 42 U.S.C. §§ 1437a et seq.; 24 C.F.R. Parts 5, 960, 964, 965, and 966. In addition, state public housing laws of general application also apply. G.L. c. 121B, § 32; *Spence v. Reeder*, 382 Mass. 398 (1981) (federal public housing tenants get grievance rights in evictions as authorized by state law, even if federal law does not require it). But see *Boston Hous. Auth. v. Garcia*, 449 Mass. 727, 871 (2007) (state innocent tenant defense pre-empted in federal public housing).
- ²⁰ **Seniors:** 42 U.S.C. § 1437a(b)(3)(D); 24 C.F.R. § 5.403. **People with disabilities:** 42 U.S.C. §§ 423, 1437a(b)(3)(E), and 6107(1); 24 C.F.R. § 5.403.
- ²¹ 42 U.S.C. § 1437e.
- ²² G.L. c. 121B; 760 C.M.R. §§ 5.00 and 6.00.
- ²³ G.L. c. 121B, § 34, 760 C.M.R. § 5.00.
- ²⁴ G.L. c. 121B, § 34, 760 C.M.R. § 5.00.
- ²⁵ G.L. c. 121B, §§ 1, 39 and 40; 760 C.M.R. §§ 5.03 and 5.07.
- ²⁶ G.L. c. 121B, § 39; 760 C.M.R. § 5.10(1)(a) and (2).
- ²⁷ 760 C.M.R. § 5.02(2) (DHCD tenant selection procedure does not apply to Chapter 689 housing). For DMH and DDS residential services generally, see G.L. c. 19, § 19 (DMH); G.L. c. 19B, § 15 (DDS); and 104 C.M.R. §§ 28.13 and 28.14 (DMH licensing standards for residential programs).

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- 28 42 U.S.C. § 1437f(o); 24 C.F.R. Parts 5 and 982.
- 29 24 C.F.R. § 982.353(b), as amended by 73 Federal Register 72336 (Nov. 28, 2008);
Williams v. Hanover Housing Authority, 871 F. Supp. 527 (D. Mass. 1994).
- 30 24 C.F.R. §§ 5.609, 5.611, and 5.628; 24 C.F.R. § 982.508.
- 31 24 C.F.R. § 982.307. See G.L. c. 6, § 172; 803 C.M.R. §§ 1.00 et seq. (Criminal and Sex
Offender Registries).
- 32 24 C.F.R. §§ 982.302 and 982.303.
- 33 24 C.F.R. § 982.507. The housing agency also must write into its Section 8
administrative plan the method it uses to determine whether a rent is reasonable. 24
C.F.R. § 982.54(d)(15).
- 34 42 U.S.C. § 1437f(o); 24 C.F.R. §§ 982.4, 982.305(a)(5), 982.503, and 982.505.
- 35 Some Section 8 leases still have an indefinite renewal term. You should read your lease
to see if it has this clause, because, if it does, *good cause* would always be required to
terminate the lease. HUD Notice PIH 96-23 (HA), *Omnibus Consolidated Rescissions
and Appropriations Act of 1996 Statutory Changes Affecting the Administration of the
Section 8 Certificate, Voucher, and Moderate Rehabilitation Programs* (May 1, 1996);
Viaud v. Wright, Boston Housing Court, No. 99-SP-01337 (Daher, C.J., May 17, 1999);
Unaegbu v. Baez, Boston Housing Court No. 96-SP-03547 (Winik, J., July 18, 1996). In
addition, renewal terms should generally be for a year's term, and the court may
otherwise construe a monthly renewal term to be an indefinite term requiring good cause.
See *Lambert v. Maloney*, Boston Housing Court No. 04-SP-02013 (Winik, J., Aug. 12,
2004); *Mutual Devel. Co. v. Howard*, Quincy District Court No. 0556-SU-703 (Coven,
J., Nov. 7, 2005).
- 36 42 U.S.C. § 1437f(r)(5); 24 C.F.R. 982.353(b), as amended by 73 Federal Register
72336 (Nov. 28, 2008).
- 37 G.L. c. 111, § 127L. Similar rights may exist under the doctrine of constructive eviction
for severe interferences with quiet enjoyment without the same notice and time period
requirements as in this statute.
- 38 24 C.F.R. §§ 982.309 and 982.310.
- 39 G.L. c. 151B, § 4(10).
- 40 24 C.F.R. §§ 982.551-982.555.
- 41 760 C.M.R. § 49.00.
- 42 *Affordable Housing Guidebook for Massachusetts*, July, 2008,
www.chapa.org/files/f_1220966872HousingGuidebookJuly2008.pdf.
- 43 760 C.M.R. § 49.08(7).
- 44 760 C.M.R. § 49.08(1).
- 45 760 C.M.R. § 49.05; DHCD MRVP Notice 2005-1, on file at Massachusetts Law
Reform Institute. Note, however, that for participants residing in project-based units who
do not pay for heating separately, the participant's share of rent must be set at a
minimum of 35% of participant's net income, as compared to a minimum of 30% of net
income when heat is paid separately. 760 C.M.R. § 49.05(5).

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- 46 760 C.M.R. § 49.08.
- 47 760 C.M.R. § 49.09(3).
- 48 760 C.M.R. § 49.03(2); 760 C.M.R. §§ 6.02(2) and 6.08(4)(a).
- 49 760 C.M.R. § 53.00.
- 50 *Affordable Housing Guidebook for Massachusetts*, July, 2008,
www.chapa.org/files/f_1220966872HousingGuidebookJuly2008.pdf.
- 51 760 C.M.R. §§ 6.02(2) and 6.05(4)(d).
- 52 760 C.M.R. § 53.05(2).
- 53 This is a requirement of participation in the AHVP program, and an owner may run afoul of anti-discrimination laws if s/he refuses to enter into an AHVP tenancy because of this. 760 C.M.R. § 53.02; G.L. c. 151B, § 4(10); *DiLiddo v. Oxford St. Realty, Inc.*, 450 Mass. 66 (2007).
- 54 760 C.M.R. § 53.03; 760 C.M.R. §§ 6.02(2) and 6.08(4)(a).
- 55 760 C.M.R. § 38.00.
- 56 Funds and criteria for Mainstream Section 8 vouchers are published by HUD in Notices of Funding Availability (NOFAs) in the Federal Register, and housing agencies and nonprofit organizations can apply for such funds. See, for example, 68 Federal Register 21002 (April 25, 2003) (SuperNOFA). The vouchers are administered in the same way as other Section 8 vouchers. 24 C.F.R. Part 982.
- 57 42 U.S.C. § 1437f(x).
- 58 42 U.S.C. § 1437u; 24 C.F.R. Part 984.
- 59 If a housing agency has opted not to implement a Section 8 homeownership program, it must consider the homeownership option as a reasonable accommodation for a person with a disability. 24 C.F.R. § 982.625(d)(2).
- 60 42 U.S.C. § 1437f(y); 24 C.F.R. §§ 982.625-982.643.
- 61 42 U.S.C. § 1437f(o)(13); 24 C.F.R. Part 983, as revised at 70 Federal Register 59892 et seq. (Oct. 13, 2005).
- 62 For the Project-Based Certificate (PBC) program, see 24 C.F.R. § 983.10. The regulations used for this program are not the current Section 8 Project-Based Voucher (PBV) regulations at 24 C.F.R. Part 983, but the version of 24 C.F.R. Part 983 that was in existence as of May 1, 2001. Regarding renewal and conversion of PBC assistance to PBV assistance, see HUD Notice PIH 2008-14 (HA), *Renewal of Project-Based Certificate Housing Assistance Payments Contracts* (Mar. 18, 2008). Section 8 PBC assistance is not convertible into a tenant-based voucher after one year, unlike the PBV program.
- 63 42 U.S.C. § 1437f(o)(19); 73 Federal Register 25026 (May 6, 2008), as revised at 73 Federal Register 28863 (May 19, 2008).
- 64 42 U.S.C. § 1437e (public housing); 42 U.S.C. §§ 13611 et seq. (covered multifamily Section 8 project).
- 65 24 C.F.R. §§ 92.209, 92.216, and 92.253.

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- 66 Reports can be obtained from HUD regarding localities' utilization of HOME funds at www.hud.gov/offices/cpd/affordablehousing/programs/home/snapshot/index.cfm?st=ma.
- 67 42 U.S.C. § 12742(a)(3)(D) and (E).
- 68 *HUD Multifamily Occupancy Handbook* 4350.3, REV-1, CHG-3 (June 2009), available at www.hud.gov/offices/adm/hudclips/handbooks/hsg/4350.3/index.cfm.
- 69 24 C.F.R. Part 247.
- 70 12 U.S.C. § 1715z-1b; 24 C.F.R. Part 245. **Note:** The HUD tenant participation regulations apply also to MassHousing (formerly MHFA) developments with federal assistance.
- 71 **Section 221(d)(3) program:** 12 U.S.C. §1715l(d)(3) and (d)(5); 24 C.F.R. Part 200 Subpart A, and Part 221, Subparts C and D.
- 72 **Section 236 program:** 12 U.S.C. § 1715z-1; 24 C.F.R. Part 236.
- 73 **Section 236 rental assistance program (RAP):** 12 U.S.C. § 1715z-1(f)(2); 24 C.F.R. Part 236, Subpart D.
- 74 **Rent supplement program:** 12 U.S.C. § 1701s. While the rent supplement regulations that used to be at 24 C.F.R. Part 215 no longer exist, HUD states that developments receiving assistance under this program will continue to be governed by the regulations that were in effect prior to May 1, 1996, with a few small modifications. See 24 C.F.R. §§ 200.1302 and 200.1303.
- 75 **Section 8 project-based rental assistance:** 42 U.S.C. § 1437f; 24 C.F.R. Parts 880 (new construction), 881 (substantial rehabilitation), 883 (state agency set-aside), and 886 (additional assistance and property disposition). For rent and program rules, see also 42 U.S.C. § 1437a; 24 C.F.R. Part 5; *HUD Multifamily Occupancy Handbook* 4350.3, REV-1, CHG-3 (June 2009).
- 76 **Section 202 program:** 12 U.S.C. § 1701q; 24 C.F.R. Part 891.
- 77 **Section 811 program:** 42 U.S.C. § 8013; 24 C.F.R. Part 891.
- 78 Owners are required to give a year's advance notice to HUD and affected tenants before terminating any project-based Section 8 contract. The notice must state that if Congress makes funds available, the owner and HUD may agree to a renewal, and if there is no renewal, HUD will provide enhanced vouchers. 42 U.S.C. § 1437f(c)(8). If the owner wishes to prepay, the owner must give a notice of intent to prepay to HUD, affected tenants, and the chief executive officer of the locality at least 150 days but not more than 270 days prior to prepayment. Prepayment is permitted only to the extent that it is consistent with the terms and conditions of the mortgage or mortgage insurance contract for the development. The owner must also agree not to increase the rent charges for a 60-day period after prepayment. Pub. L. No. 105-276, § 219(a), 112 Stat. 2487 (Oct. 21, 1998). In some cases, prepayment is barred absent specific HUD findings. 12 U.S.C. § 1715z-15; HUD Notice H-2004-17 (Aug. 20, 2004); *Brighton Village Nominee Trust v. Malyshev*, 2004 U.S. Dist. LEXIS 4703, 2004 WL 594974 (D. Mass. 2004). There may also be local zoning or affordability restrictions that provide strategies for preservation.
- 79 42 U.S.C. § 1437f(t); HUD Notice PIH 2001-41 (HA), *Section 8 Tenant-Based Assistance (Enhanced and Regular Housing Choice Vouchers) for Housing Conversion Actions—Policy and Processing Guidance* (Nov. 14, 2001), as extended and revised most recently by HUD Notices PIH 2008-12 (HA), *Enhanced Voucher Requirements for*
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Over-housed Families (Feb. 15, 2008), and PIH 2008-28 (HA), *Extension – Housing Choice Voucher Program – Enhanced Vouchers – Adjustment of Voucher Housing Assistance Payments for Certain Families that Received “Preservation” Voucher Assistance as the Result of an Owner Prepayment or Voluntary Termination of Mortgage Insurance for a Preservation Eligible Property in Federal Fiscal Year (FY) 1997, FY 1998, and FY 1999* (June 26, 2007).

- 80 Summary of Preservation Activities, New England Region/OPH, HUD, Revised 10/8/2009, on file at Massachusetts Law Reform Institute.
- 81 24 C.F.R. Part 882.
- 82 42 U.S.C. § 11401; 24 C.F.R. Part 882, Subpart H.
- 83 24 C.F.R. §§ 882.413, 882.514, 882.515, and 882.518.
- 84 42 U.S.C. §§ 12745(a) and 12755; 24 C.F.R. §§ 92.252 and 92.253.
- 85 Data was derived from dashboard reports found at:
www.hud.gov/offices/cpd/affordablehousing/reports/dash.cfm?st=ma.
- 86 42 U.S.C. §§ 1471 et seq.; 7 C.F.R. Part 3560.
- 87 G.L. c. 23A, App. 1 (also cited as St. 1966, c. 708, as amended) (enabling statute establishing MHFA, now known as MassHousing).
- 88 G.L. c. 23A, App. 1, § 1-13A (as added to St. 1966, c. 708 in 1970 and amended in 1975). There is a Section 13A *Handbook* which is available through MassHousing’s website, www.masshousing.com.
- 89 760 C.M.R. §§ 49.02 (definition of “project-based units”), 49.06, and 49.07. Low-Income Set-Aside units exist where the development has been constructed with the assistance of certain state or federal programs in conjunction with private developers. The programs include federal and state tax credit units (as discussed in the text above), as well as a number of other programs as outlined in the MRVP regulations. As designated Low-Income Set-Aside units turn over, they must first be marketed to Section 8 and MRVP tenant-based mobile participants. If no participants can be found this way, the housing agency may ask DHCD and MassHousing to approve the assignment of a project-based MRVP subsidy for the unit. A tenant with a tenant-based MRVP voucher residing in a Low-Income Set-Aside unit may choose to relinquish the tenant-based MRVP voucher; if she does so, the rent is set according to project-based voucher rent rules, but the tenant loses mobility. Tenants exercising this option are required to sign paperwork showing that they are voluntarily relinquishing the tenant-based MRVP. See Memorandum of Brenda Royer of DHCD, *Mobile Voucher Holders Residing in Low-Income Set-Aside Units* (Aug. 7, 2001), on file at Massachusetts Law Reform Institute.
- 90 760 C.M.R. §§ 49.02 (definitions of Low-Income Set-Aside units, project-based units, and project-based waiting lists), 49.06, and 49.07. On the transfer preferences, see Sections D and H of MassHousing’s Tenant Selection Plan REV 9/09, which can be found at www.masshousing.com. As provided there, over-housed tenants with a project-based subsidy and unsubsidized tenants paying over 50% of income or who are overcrowded tenants can be accorded transfer preference. However, if the tenant is currently unsubsidized, the tenant may need to be referred to a local housing agency to be placed on a project-based waiting list. Local housing agencies administering the project-based MRVP Program waiting lists must have sought a waiver from DHCD to apply these preferences. Under such waivers, one development resident may be selected

for every three non-resident applicants. See Memorandum of Donna Goguen of DHCD, *Tenant Selection: Waiver to Assist Current Residents of 13A and 236 Developments* (Dec. 5, 2001); see also Memorandum of Donna Goguen of DHCD, *Revised MHFA Tenant Selection Plan* (Sept. 21, 1999). Both of these memoranda are on file at Massachusetts Law Reform Institute.

⁹¹ 760 C.M.R. §§ 49.05(5) and 49.07(2).

⁹² See DHCD's memorandum of Aug. 21, 1995, *Non-Renewal of Project-Based Lease*, on file at Massachusetts Law Reform Institute.

⁹³ 26 U.S.C. § 42; 26 C.F.R. § 1.42. *Affordable Housing Guidebook for Massachusetts*, July, 2008, www.chapa.org/files/f_1220966872HousingGuidebookJuly2008.pdf.

⁹⁴ HUD Notice PIH-2001-2 (HA), *Prohibition of Discrimination Against Families with Housing Choice Vouchers by Owners of Low-Income Housing Tax Credit and HOME Developments* (Jan. 18, 2001), extended by HUD Notice PIH 2002-15 (HA) (June 7, 2002) for an indefinite period.

⁹⁵ 26 U.S.C. § 42(i)(3)(D). If the students are receiving assistance under Title IV of the Social Security Act (are receiving SSI), were previously under the care and protection of a state agency, or are enrolled in a job training program and receiving assistance under the Job Training Partnership Act or a similar federal, state, or local law, or if the full-time students are either single parents and their children who are not dependents of another individual or are married and file a joint return, they will be eligible for the federal low-income tax credit program.

⁹⁶ 26 U.S.C. § 42(h)(6); IRS Revenue Ruling 2004-82 (Aug. 30, 2004); *Carter v. Md. Mgt. Co.*, 377 Md. 596, 835 A.2d 158 (2003); *Cimarron Vill. v. Washington*, 659 N.W.2d 811 (Minn. App. 2003); *Fennelly v. Kimball Court Apts. L.P.*, 14 Mass. L. Rep. 37, 2001 Mass. Super. LEXIS 495, 2001 WL 1524452 (2001); *Lend Lease Apt. Mgt. LLC v. Stribling*, 2004 Conn. Super. LEXIS 2988, 2004 W.L. 2595805 (Conn. Super. 2004).

⁹⁷ G.L. c. 23B, § 3; G.L. c. 62, § 6I; G.L. c. 63, § 31H; 760 C.M.R. § 54.00.

⁹⁸ *Affordable Housing Guidebook for Massachusetts*, July, 2008, www.chapa.org/files/f_1220966872HousingGuidebookJuly2008.pdf.

⁹⁹ 42 U.S.C. §§ 11301-11489.

¹⁰⁰ In addition, a number of communities have developed plans to reduce or eliminate homelessness for the chronically homeless, and have given preferences for such persons. Until 2009, the federal definition of "chronically homeless" was limited to individuals who had lived continuously in places not fit for human habitation, emergency shelters, or safe havens for at least one year, or who had been in such settings on four separate occasions in the past four years, and who had various types of listed disabilities. The statute is now amended to include families where the adult head (or the minor head, if there is no adult) meets these conditions. See 42 U.S.C. § 11360(2). Advocates should review local plans and priorities to be sure they are consistent with these changes.

¹⁰¹ 42 U.S.C. § 11375(d) (Emergency Shelter Programs), § 11386(g) (Supportive Housing), § 11401(h) (Single room occupancy dwellings), § 11403d(c) (Shelter Plus Care), and § 11408(g) (Rural Homeless Housing).

¹⁰² 42 U.S.C. §§ 11403-11407b; 24 C.F.R. Part 582.

¹⁰³ www.hudhre.info/CoC_Reports/2008_ma_awards.pdf.

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- ¹⁰⁴ 42 U.S.C. §§ 11403e-4 and 11403f; 24 C.F.R. §§ 582.315 and 582.320(a). To know who must terminate the participant and provide for review, you have to review both the regulation and the statute. The regulation says that this action is by “the recipient.” This term, in turn, is defined as “an applicant approved to receive a Shelter Plus Care grant.” For definitions of “recipient” and “applicant,” see 42 U.S.C. § 11403g and 24 C.F.R. § 582.5. The statute defines the term “applicant” to mean “a State, unit of local government, Indian tribe, or public housing agency.” Therefore, a public agency, and not a social service provider, must make the decision and provide the hearing for the Shelter Plus Care program.
- ¹⁰⁵ 24 C.F.R. § 582.320(a).
- ¹⁰⁶ 24 C.F.R. § 582.320(b).
- ¹⁰⁷ 42 U.S.C. § 11384(b); 24 C.F.R. § 583.300(j).
- ¹⁰⁸ www.hudhre.info/CoC_Reports/2008_ma_awards.pdf.
- ¹⁰⁹ 42 U.S.C. §§ 11385 and 11386; 24 C.F.R. §§ 583.300(d) and (e) and 583.315.
- ¹¹⁰ 42 U.S.C. § 11386(j); 24 C.F.R. § 583.300(i). For the McKinney Supportive Housing program, unlike the Shelter Plus Care Program, the government or nonprofit agency that received the funds can make the termination decision and provide the review; such decision need not be made by a public agency. See 42 U.S.C. § 11382(9) (definition of “recipient” includes any governmental or nonprofit entity receiving assistance); 24 C.F.R. § 583.5 (definition of “recipient”).
- ¹¹¹ 42 U.S.C. §§ 11381-11389; 24 C.F.R. Part 583. For the definition of “disability” for this program, see 42 U.S.C. § 11382(2); 24 C.F.R. § 583.5 (definition of “disability”).
- ¹¹² www.hudhre.info/CoC_Reports/2008_ma_awards.pdf.
- ¹¹³ 42 U.S.C. § 11401; 24 C.F.R. Part 882, Subpart H.
- ¹¹⁴ G.L. c. 151B, § 4(7A); 24 C.F.R. 8.22, 8.23, 8.32; *HUD Multifamily Occupancy Handbook* 4350.3, REV-1, CHG-3 (June 2009), Chapter 2; HUD Notice H 01-02, *Compliance with Section 504 of the Rehabilitation Act of 1973 and the Disability/Accessibility Provisions of the Fair Housing Act of 1988* (Feb. 6, 2001), as extended by HUD Notices H 03-10 (May 30, 2003) and H 04-09 (June 29, 2004); HUD Notice PIH 2003-31 (HA), *Accessibility Notice: Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Architectural Barriers Act of 1968, and the Fair Housing Act of 1988* (Nov. 26, 2003), as extended by Notice PIH 2006-13 (HA) (Mar. 8, 2006) and PIH Letter L-2007-5 (Sept. 21, 2007); HUD Notice PIH 2005-5 (HA), *New Freedom Initiative, Executive Order 13217: “Community-Based Alternatives for Individuals with Disabilities,” and the Housing Choice Voucher Program* (Feb. 1, 2005), as extended by PIH Notice 2006-21 (June 16, 2006) and PIH Letter L-2007-1; Joint Statement of U.S. Department of Housing & Urban Development and the Department of Justice, *Reasonable Accommodations under the Fair Housing Act* (May 17, 2004), available at: www.hud.gov/offices/fheo/library/huddojstatement.pdf; Joint Statement of U.S. Department of Housing & Urban Development and the Department of Justice, *Reasonable Modifications under the Fair Housing Act* (March 5, 2008), available at: www.usdoj.gov/crt/housing/fairhousing/reasonable_modifications_mar08.pdf.

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- ¹¹⁵ The statute defines AIDS “and related diseases” to be AIDS (acquired immunodeficiency syndrome) “or any conditions arising from the etiologic agent” for AIDS. 42 U.S.C. § 12902(1). The regulation defines the term to include “infection with the human immunodeficiency virus,” i.e., persons who are HIV positive. 24 C.F.R. § 574.3 (definition of “AIDS or related diseases”).
- ¹¹⁶ 42 U.S.C. §§ 12901-12912; 24 C.F.R. Part 574.
- ¹¹⁷ 24 C.F.R. § 574.310(e); *Cotton v. Alexian Bros. Bonaventura House*, 2003 WL 22110501, 2003 U.S. Dist. LEXIS 16023 (N.D. Ill. 2003). Under the regulations, the termination and review process is provided by “grantees,” i.e., the entity that was awarded and received the grant; these do not have to be public agencies. See 24 C.F.R. §§ 5.100 and 574.3 (definitions of “grantee”). On the other hand, the statute defines “grantees” as states or units of local government, as opposed to “recipients” or “applicants,” which includes nonprofit organizations eligible to receive assistance. 42 U.S.C. § 12902(2), (4), and (7). There is no statutory provision regarding termination of HOPWA assistance as there is for the Shelter Plus Care and McKinney Supportive Housing programs.
- ¹¹⁸ 760 C.M.R. § 38.00.
- ¹¹⁹ 104 C.M.R. § 28.00.
- ¹²⁰ 115 C.M.R. §§ 6.30 et seq. For transfers, see 115 C.M.R. § 6.63.
- ¹²¹ G.L. c. 186, § 17A.
- ¹²² 760 C.M.R. § 5.02(2) (DHCD tenant selection procedure does not apply to Chapter 689 housing). For DMH and DDS residential services generally, see G.L. c. 19, § 19 (DMH); G.L. c. 19B, § 15 (DDS); 104 C.M.R. § 28.13 (DMH licensing standards for residential programs); and 115 C.M.R. Parts 1-11 (DDS regulations).
- ¹²³ **Federal:** 24 C.F.R. § 966.4(o) and (p), and *HUD Public Housing Occupancy Guidebook*, Part 5 (June 2003); **State:** 760 C.M.R. § 6.06(1) and (5)(q).
- ¹²⁴ **Federal:** 24 C.F.R. § 966.4(l)(2)(ii)(E); **State:** 760 C.M.R. § 6.06(6)(1). In federal public housing, however, before any changes are made to the standard lease, charges or policies incorporated into the lease, or grievance procedures, all tenants should be given 30 days' written notice of the changes and a reasonable opportunity to comment on them. 24 C.F.R. §§ 966.3, 966.5, and 966.52(c). In state public housing, the housing authority must consult with any local tenants organization (LTO) before making any change in the lease, and in the event of a disagreement, the LTO may present its position to DHCD. 760 C.F.R. § 6.06(1).
- ¹²⁵ **Section 8:** 24 C.F.R. § 982.308(f); **MRVP:** 760 C.M.R. § 49.09(3).
- ¹²⁶ For a summary of lease requirements for all federal multifamily programs, see *HUD Multifamily Occupancy Handbook* 4350.3 REV-1, CHG-3 (June 2009), Chapter 6. For a copy of the sample Occupancy Agreement for MassHousing multifamily developments, go to: www.masshousing.com.
- ¹²⁷ For the HOME program, see 24 C.F.R. § 92.253(a).
- ¹²⁸ 24 C.F.R. § 582.315.
- ¹²⁹ 24 C.F.R. § 966.4(b)(5).
- ¹³⁰ 760 C.M.R. § 6.07(2).
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¹³¹ 24 C.F.R. §§ 880.608, 881.601, 882.414, 883.701, 884.115, 886.116, 886.315, 891.435, 891.635, and 891.775; *HUD Multifamily Occupancy Handbook* 4350.3, REV-1, CHG-3 (June 2009), Chapter 6, § 2, and in particular Figure 6-6, which describes what can be charged for each program.

¹³² 24 C.F.R. § 982.313.

¹³³ HUD regulations previously specifically did not permit charging last month's rent for the Section 8 program, since the housing agency would reimburse the owner for any vacancy loss if the tenant moved out without prior notice. *Attorney Gen. v. Brown*, 400 Mass. 826 (1987) (issue of whether landlord unlawfully discriminated against Section 8 subsidy holders because of policy of not accepting tenants where last month's rent could not be collected). These regulations were changed in 1995. If an owner insisted that a Section 8 tenant pay the full contract rent as a last month's rent, this would likely be a violation of G.L. c. 151B, § 4(10).