

Chapter 3

Who Is Eligible

Legal Tactics: Finding Public and Subsidized Housing
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Words in *italics* appear in the
Glossary in the back of this book

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If you apply for public or subsidized housing, determining whether you are eligible is the first step in the application process. Being eligible means that your yearly income is below a certain limit, you meet the definition of family, and, for some programs, at least one member of your family is either a U.S. citizen or an eligible immigrant. For a summary of all eligibility standards, see **Eligibility & Preferences at a Glance** in the **Reference Materials** at the end of **Chapter 4: Who Has Priority**.

If you are determined to be eligible, then a housing agency or subsidized landlord takes the next step, which is seeing if you pass their tenant screening process. For more information, see **Chapter 6: Tenant Screening**.

Financial Eligibility

1. Am I financially eligible for public or subsidized housing?

To be eligible for public or subsidized housing, your household's yearly income must be below certain income limits. Generally, that income is measured by comparing your income to the average income in the area. This is called the *area median income*.¹ If your income falls below a certain percentage of the area median income, you are *income eligible* and can apply to that housing program.

Income limits for public housing and vouchers are set by the government. They change every year and are different in different parts of the state and for different sized families. Below is a chart that tells you in general what these income limits are for different programs. Often, the income limits for a housing program appear right on the application itself. The best thing to do is to ask the housing agency or subsidized landlord what the income guidelines are for their programs.

Housing Program: If you are applying for...	Income Limits: Your household's income can be no greater than...
Public Housing	80% of the <i>area median income</i>
Vouchers	Section 8 Vouchers 50%-80% of the <i>area median income</i>
	Alternative Housing Voucher Program 80% of the <i>area median income</i>
	Massachusetts Rental Voucher Program 200% of <i>federal poverty level</i>
Multifamily Subsidized Housing	Developments with Project-Based Section 8 Assistance 80% of the <i>area median income</i>
	All other developments Ranging from 40%-80% of <i>area median income</i>

2. What are income limits for housing programs in general?

To give you a better sense of actual dollar amounts of the income limits for major housing programs, below are the actual income limits in the Boston area for 2009. Keep in mind that Boston has one of the highest income limits in the state. In the **Reference Materials** in the back of this chapter is a chart called Massachusetts Area Median Incomes that will give you information about what income limits apply in other parts of the state in 2009.

Public Housing, Project-Based Section 8, Alternative Housing Voucher Program (AHVP)

You are income eligible for public housing, the AHVP program, and private multifamily developments with project-based Section 8 assistance if your yearly income is less than **80% of the area median income**:

Family size	1	2	3	4	5	6	7	8
Yearly Income	\$46,300	\$52,950	\$59,550	\$66,150	\$71,450	\$76,750	\$82,050	\$87,350

Section 8 Voucher

You are income eligible for a Section 8 voucher if your yearly income is less than **50% of the area median income** (although in some cases the income limit could be as high as 80% of area median income).²

Family size	1	2	3	4	5	6	7	8
Yearly Income	\$31,550	\$36,100	\$40,600	\$45,100	\$48,700	\$52,300	\$55,900	\$59,550

Massachusetts Rental Voucher Program (MRVP)

The MRVP program is the only one in the state that ties financial eligibility to the federal poverty guidelines, rather than to median incomes. These guidelines apply statewide. For 2009, this means you are income eligible for MRVP if your yearly income is less than **200% of the federal poverty guidelines**:

Family size	1	2	3	4	5	6	7	8
Yearly Income	\$21,660	\$29,140	\$36,740	\$44,100	\$51,580	\$59,060	\$66,540	\$74,020

3. How do I figure out my household's yearly income to determine if I am eligible?

Different housing programs have different rules about how you determine your household's yearly income to figure out whether you are *income eligible*.

Federal housing programs base eligibility on what is called *gross yearly income*.³ Gross yearly income is before-tax income, and does not include funds such as income from children under 18 years old, amounts received through training programs funded by HUD, and the income of a live-in aide.

State housing programs base eligibility on *net yearly income*.⁴ Net yearly income does not include funds such as wages earned by full-time students, worker's compensation, and a certain amount of wages earned by a tenant 62 or older. It also allows you to deduct certain amounts, such as necessary medical expenses and personal care services.

Because this is complicated, the best thing to do is to ask the housing agency or subsidized landlord for information about how they calculate your yearly income. For more information about how rents are set in public housing, go to: www.MassLegalHelp.org/housing/rent-public-housing.

4. Am I still eligible for housing if I have assets?

Federal housing programs

An asset is something you own that has value—for example, a house, a car, life insurance that you can cash in, or money you have in a bank. There is no asset limit for families seeking to get into public housing, the Section 8 voucher program, or HUD federally subsidized multifamily housing. This means that you will not be denied housing because of how much money you have in the bank or what you own. If, however, you make income from your assets—for example, interest from a bank or rental income—that income will be counted toward your rent from year to year.⁵

State public housing and AHVP

As with federal housing programs, there are no asset limits for most state housing programs. Also as with federal programs, income that comes from your assets is included in your rent calculation for state housing programs.⁶

Massachusetts Rental Voucher Program

In order to get a *tenant-based* or *project-based* voucher through MRVP, you cannot have assets that are worth more than one and one-half times your income or \$15,000, whichever is greater. Once you have a voucher, you cannot lose it because you gain assets. This is because there is no asset limit for continued eligibility.⁷

Other Eligibility Requirements

5. Does my family have to be a certain size to live in public or subsidized housing?

Generally, any size family is eligible for public and subsidized housing. A household can be defined as a single person, two or more adults living together, or one or more adults living with children.⁸

The size and type of your family will become important when it comes to placing you on waiting lists, since many housing authorities maintain waiting lists for available apartments according to bedroom size. In addition, in housing for elders and people with disabilities, there are usually only studio or one-bedroom apartments. Therefore, if you have a larger family, you will not be eligible for any development that has only one bedroom units on site, and won't be allowed to be placed on that waiting list.

6. If I am an immigrant, am I eligible for public or subsidized housing?

In general, you do not always have to be a United States citizen to apply for public or subsidized housing. Legal permanent residents and many other immigrants can apply for all types of government housing.

State public housing programs do not require information about immigration status or citizenship at all.⁹ For federal public housing, at least one member of your family must be a U.S. citizen or have a certain type of legal immigration status.¹⁰ If some members of your family are not U.S. citizens or do not have the proper immigration status, you can still apply for federal elderly/disabled public housing, but you will not get full assistance and your rent will be higher.¹¹ You will not be eligible for most federal housing programs if your entire family is *undocumented*. For more information, see **Chapter 9: Immigrants and Housing**.

Eligibility by Type of Housing

This section breaks down the eligibility information by type of housing.

For all programs, you do not need to be a resident of a particular community to be eligible for elderly/disabled public housing in that community.¹² You can apply to as many communities as you want. However, many housing authorities have *preferences*, which may include a preference for local residents.¹³ See **Chapter 4: Who Has Priority**.

Once you pass this initial eligibility steps described below, a housing authority then looks at criminal records, credit records, and tenant history for all family members.¹⁴ For more information about how to prepare for this, see **Chapter 6: Tenant Screening**.

7. Am I eligible for public housing?

Public housing is housing for low-income people that is owned and operated by a housing authority.¹⁵ Some public housing is for families; other developments are specifically for seniors and people with disabilities.¹⁶

Housing for seniors and people with disabilities

To be eligible for **federal** or **state (Chapter 667)** public housing for seniors and people with disabilities, there are four categories of information that a housing authority looks at:

- **Your age or disability**

For **federal** elderly/disabled public housing, the head of household or a spouse must be at least 62 years of age or have a disability. Some housing authorities will let you apply if you are or your spouse is at least 50 years of age, which is known as “near-elderly.”¹⁷ Under certain circumstances, HUD allows housing authorities to create developments that are either all elderly or all disabled.¹⁸ This is called “designated housing.”

For **state** elderly/disabled public housing, at least one member of your household must be at least 60 years of age or have a disability.¹⁹ The person with a disability does not have to be the head of household or spouse (as is the case in federal public housing). 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 state-funded elderly and disabled apartments in each development can be rented to non-elderly people with disabilities.²⁰

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. 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 the Department of Housing and Community Development (see the **Directory** at the end of this book for contact information).

If you have a disability, you must show that you have a disability. You can do this by showing either that you receive SSI or SSDI or that you have a long-term physical, mental, or emotional impairment that affects your ability to live on your own. If you do not qualify for SSI or SSDI, you will probably need, at the minimum, a doctor's letter to prove your disability.²¹ In addition, if you are applying for an apartment that has special adaptations (such as being wheelchair accessible), you will need to show that you need that feature.

All housing authorities must provide people with disabilities with information about how to request a *reasonable accommodation*. A *reasonable accommodation* is the legal requirement that a landlord provide services or equipment or a change in the lease or rules to allow a person with a disability to apply for, move in, and remain in the apartment.²² For more information, see **Chapter 10: Reasonable Accommodations**.

- **Your family status and household size**

A family can consist of a single adult or two or more adults living together. Because most apartments in elderly/disabled public housing are one-bedrooms or studios, if you have a larger family, you will likely not be able to apply. There are only a few two-bedroom apartments in elderly/disabled public housing, so you should check with your local housing authority to see if there are any two-bedrooms in elderly/disabled housing in your area. An elderly or disabled household can include a live-in aide.²³

- **Your income level**

For state and federal elderly/disabled public housing, your household's yearly income must be below 80% of the area median income.²⁴ See **Questions 1 and 2** and the chart called Massachusetts Area Median Incomes in the **Reference Materials** at the end of this chapter.

- **Your immigration status**

For state elderly/disabled public housing programs, you can apply even if no one in your family has legal immigration status.²⁵ For federal elderly/disabled public housing, at least one member of your family must be a U.S. citizen or have a certain type of legal immigration status.²⁶ See **Question 6** and **Chapter 9: Immigrants and Housing**.

Housing for families

To be eligible for **federal** or **state (Chapter 200)** public housing for families, these are the categories of information that a housing authority looks at:

- **Your family status and household size**

A family can consist of one or more adults, with or without children.²⁷ In general, this category is easy to meet because it includes most kinds of family arrangements.

A housing authority will eventually determine what size apartment your family would be eligible for if you were offered housing. If they do not have any apartments of the correct size, they cannot offer you housing. This is most often the case when families need large units, which not all housing authorities have. You should always check to make sure that a housing authority where you are applying has apartments of a size that will be appropriate for your family.

- **Your disability status**

If you have a disability, you are also generally eligible for family public housing.²⁸ Some family public housing programs also give *preferences* to people with disabilities, so if you have a disability, it is important to state that you have a disability on any application.²⁹ You do not need to specify the type of disability on the application.

- **Your income level**

For state and federal family public housing, your household's yearly income must be below 80% of the area median income.³⁰ See **Questions 1** and **2** and the chart called Massachusetts Area Median Incomes in the **Reference Materials** at the end of this chapter.

- **Your immigration status**

For state family public housing programs, you can apply even if no one in your family has legal immigration status.³¹ For federal family public housing,

at least one member of your family must be a U.S. citizen or have a certain type of legal immigration status.³² See **Question 6** and **Chapter 9: Immigrants and Housing**.

8. Am I eligible for a Section 8 voucher?

A Section 8 voucher is a rental subsidy that is used by a tenant to rent an apartment from a private landlord. It is also called a *Housing Choice Voucher*.³³ To determine whether you are eligible for a Section 8 voucher, there are three categories of information that a housing authority or regional nonprofit housing agency looks at:

- **Your family status**

A family can consist of one or more adults, with or without children.³⁴ In general, this category is easy to meet because it includes most kinds of family arrangements. For Section 8, there is a special rule that young full-time students without dependents cannot receive assistance.³⁵

- **Your income level**

In most cases, your income must be below 50% of the area median income. In some places the income limit may be higher, up to 80% of the area median income. See **Questions 1** and **2** and the chart called Massachusetts Area Median Incomes in the **Reference Materials** at the end of this chapter.

- **Your immigration status**

For the Section 8 program, at least one member of your family must be a U.S. citizen or have a certain type of legal immigration status.³⁶ If some members of your family are not U.S. citizens or do not have the proper immigration status, you can still apply for Section 8, but you will not get full assistance and your rent will be higher.³⁷ See **Question 6** and **Chapter 9: Immigrants and Housing**.

9. Am I eligible for the Alternative Housing Voucher Program?

The Alternative Housing Voucher Program (AHVP) provides rental subsidies for people with disabilities to rent an apartment from a private landlord.³⁸ Only certain housing authorities have these vouchers available. To determine whether you are eligible for an AVHP voucher, these are the categories of information that a housing authority looks at:

- **Your family status**

You must be under age 60 and have a disability that makes you eligible to live in state public housing for elders and people with disabilities (**Chapter 667** housing).

- **Your income level**

For AHVP, your household yearly income must be below 80% of the area median income.³⁹ See **Questions 1** and **2** and the chart called Massachusetts Area Median Incomes in the **Reference Materials** at the end of this chapter.

- **Your immigration status**

You do not need to show any particular immigration status in order to be eligible for an AHVP voucher. See **Question 6** and **Chapter 9: Immigrants and Housing**.

10. Am I eligible for the Massachusetts Rental Voucher Program?

The Massachusetts Rental Voucher Program (MRVP) is a state-funded program that provides rental subsidies to enable individuals and families to rent an apartment from a private landlord. Currently, due to state funding cuts, very few *tenant-based* MRVP vouchers are being issued to new applicants. It is still possible to get into an apartment with a *project-based* MRVP (see section below).

Tenant-based vouchers

In order to be eligible for an MRVP voucher, you would need to meet the following eligibility criteria that apply to both tenant-based and project-based MRVP vouchers:⁴⁰

- **Your family status**

A family can consist of one or more adults, with or without children.⁴¹ In general, this category is easy to meet because it includes most kinds of family arrangements.

- **Your income level**

In order to be eligible for an MRVP voucher, your *net yearly income* (after some allowable deductions)⁴² must be less than 200% of the Federal Poverty Level.⁴³ See **Questions 1 and 2** and the chart called Federal Poverty Guidelines in the **Reference Materials** at the end of this chapter.

- **Your immigration status**

You do not need to show any particular immigration status to be eligible for an MRVP voucher. See **Question 6** and **Chapter 9: Immigrants and Housing**.

Project-based vouchers

While new applicants can rarely receive new MRVP *tenant-based* vouchers, they may be determined eligible for, and offered an apartment with, a *project-based* MRVP. Generally, when an apartment with a project-based MRVP becomes available, the housing authority will screen some of the applicants at the top of its state public housing waitlist for MRVP eligibility using the criteria above. The housing authority will then forward the names of several eligible applicants from its state public housing waitlist to the landlord, who will meet the tenants and make one tenant an offer of housing. In general, if the tenant household leaves an MRVP project-based apartment, they will lose their subsidy. The only exception to this is that, if the family is over- or underhoused, they may be transferred to an appropriately sized apartment of state public housing. For more about being over- or underhoused, go to: www.MassLegalHelp.org/housing/transfers.

11. Am I eligible for multifamily subsidized housing?

Both the federal and state governments fund multifamily housing where private owners take a form of government assistance in exchange for setting aside some or all apartments in a development for affordable housing. To determine whether you are eligible for multifamily housing, these are the categories of information that the owner looks at:

- **Your age**

For some multifamily housing developments, you must be elderly (for federal multifamily housing, this is defined as age 62 or older; for state multifamily housing, age 60 or older) or be disabled. For other multifamily housing developments, age and disability do not matter.

- **Your family status and household size**

A family can consist of one or more adults, with or without children.⁴⁴ An owner will eventually determine what size apartment your family would be eligible for if you were offered housing. If they do not have any apartments of the appropriate size, they cannot offer you housing.

- **Your income level**

For most multifamily developments, your household yearly income must be less than 80% of the area median income.⁴⁵ For some developments, some apartments must be rented to persons with incomes at or below 50% of *area median income*.⁴⁶

For some multifamily housing developments, such as tax credit developments, where there is a flat or basic rent (a *shallow subsidy*), your actual income must be sufficient so that you can pay the rent.⁴⁷ If you are bringing a *tenant-based* voucher, such as Section 8, with you to the development, this voucher should be used in determining whether you can afford the rent. See **Question 12**.

- **Your immigration status**

For state-funded multifamily developments, you can apply even if no one in your family has legal immigration status.⁴⁸ For most, but not all, federally funded multifamily developments, at least one member of your family must be a U.S. citizen or have a certain type of legal immigration status.⁴⁹ See **Question 6** and **Chapter 9: Immigrants and Housing**.

12. Am I eligible for housing under the HOME or Tax Credit programs?

For two particular kinds of multifamily programs—the HOME and federal or state tax credit programs—there are slightly different eligibility rules for low-income units than for the other programs discussed above.

- **Your family status**

A family can consist of one or more adults, with or without children. If HOME or tax credit funds are combined with other financing (for example, tax credit funds are being used in conjunction with public housing), then the requirements of those other programs apply.

There is a unique IRS (Internal Revenue Service) rule for tax credit developments which may bar adult students from being eligible. There are a number of exceptions, however, which may fit your situation.⁵⁰

- **Your income level**

For the HOME *tenant-based* rental assistance program, applicants must have incomes which are either 50% or 80% of *area median income* or below.⁵¹ In some cases, there are subsidies targeted to families at or below 60% of area median income.⁵²

For the tax credit programs, some developments will look for applicants at or below 50% or 60% of area median income. You may have to ask to find out which rule applies.⁵³

These programs often only have a *shallow subsidy*, which means the rent is fixed and does not change with your income. As a result, an owner could decide that your income is too low to qualify for the flat rent. The owner must, however, consider any rental subsidy that would be available to you for the apartment in determining affordability (such as a Section 8 voucher that you could use there).

- **Your immigration status**

There is no explicit rule that requires HOME or tax credit programs to consider immigration status for eligibility reasons.⁵⁴ However, the other types of financing for the development (for example, federal public housing or Section 8 assistance) may impose restrictions on eligibility based on your

immigration status. You need to ask the owner about all of the financing and rules that may apply to the development.

Special Issues

13. Can I apply for housing if I am younger than 18 years old?

Some housing authorities have a requirement that a person must be either 18 years of age, a custodial parent if under 18, or legally emancipated by a court in order to be eligible for public or subsidized housing. In some states, minors under 18 cannot be held to the terms of their leases.⁵⁵ This is the reason housing authorities often give for this requirement.

Some applicants to state and federal public or subsidized housing have challenged these practices, alleging violations of anti-discrimination and other laws.⁵⁶ A few of these challenges have been successful and others have not. Even if it is lawful for a housing authority to deny housing to a minor, it may be unlawful if this policy was not put in writing by the housing authority before they denied you admission.⁵⁷ If you want to challenge a denial based on age, it may mean you need to ask the housing authority for its *tenant selection plan* or Admissions and Continued Occupancy Plan. If the plan does not require, in writing, that an applicant be at least 18, you have a good case to challenge the denial. If you appeal the decision, you should try to produce as much evidence as possible that you will be able to live up to your obligations under your lease, such as paying rent, keeping the apartment in a safe and sanitary condition, and not disturbing your neighbors.

14. If I have a criminal record or history of substance abuse, am I eligible for public or subsidized housing?

Yes. However, being eligible to be placed on a waiting list is different from being “suitable” to live in the housing. Once a housing agency determines you are eligible, in most cases it will eventually look at your housing, criminal and credit history to determine how you would likely be as a tenant. You could be denied housing because of a criminal record or history of substance abuse, but the exact reasons for denial depend on the type of housing you are applying for and the nature of the misconduct. There are different rules for different

programs. For more information about how to prepare your application and protect yourself during the screening process, see **Chapter 6: Tenant Screening** and **Chapter 7: Appealing a Denial**.

15. If I am a victim of domestic violence, are there any special protections when I apply for housing?

Yes. A federal law provides important protection for victims of *domestic violence* who are applying for certain **federally** assisted housing.⁵⁸ The law provides that being a victim of *domestic violence*, *dating violence*, or *stalking* cannot be a reason for being denied federal public housing, a Section 8 voucher, or privately owned project-based Section 8 housing for multifamily housing.⁵⁹ See **Chapter 1: Housing Programs in Massachusetts** for a description of these programs.

For example, if a housing authority denies you housing because a prior landlord said that your boyfriend broke windows and destroyed property, the law says that you cannot be denied housing because of behavior that is considered *domestic violence*. If you feel that you have been denied housing because of *domestic violence*, *dating violence*, or *stalking*, you should challenge this denial. See **Chapter 7: Challenging a Denial**.

Domestic violence includes, but is not limited to, a misdemeanor or felony committed by:⁶⁰

- A current or former spouse of the victim;
- A person with whom the victim shares a child in common;
- A person who is living with or has lived with the victim as a spouse; or
- Any person when the action is against an adult or a young person who is protected under state law. Under the law in Massachusetts, abuse is: causing or attempting to cause physical harm, placing someone in fear of imminent serious physical harm, or forcing someone to engage in sexual relations against their will.⁶¹

Dating violence is violence committed by a person who is or was in a relationship of a romantic or intimate nature with the victim.⁶²

Stalking is to follow, pursue, or repeatedly engage in behavior that seeks to intimidate or harm another person or to place a person under surveillance.⁶³ As a result of such behavior, the person, a member of that person's family, or

that person's spouse or partner has a reasonable fear of being harmed or has experienced substantial emotional harm.⁶⁴

Confidentiality

Any information provided to a service provider, an owner, or housing agency that an individual is a victim of *domestic violence*, *dating violence*, or *stalking*, must be kept confidential.⁶⁵

Reference Materials

16. Area Median Incomes in Massachusetts for 2009-2010

Household Size	1	2	3	4	5	6	7	8
Barnstable, Berkshire County, Pittsfield, Franklin County, Springfield, Fitchburg-Leominster, Western Worcester County								
30% of median	\$16,300	\$18,650	\$20,950	\$23,300	\$25,150	\$27,050	\$28,900	\$30,750
50% of median	\$27,150	\$31,050	\$34,900	\$38,800	\$41,900	\$45,000	\$48,100	\$51,200
80% of median	\$43,450	\$49,700	\$55,900	\$62,100	\$67,050	\$72,050	\$77,000	\$81,950
Boston-Cambridge-Quincy								
30% of median	\$18,950	\$21,650	\$24,350	\$27,050	\$29,200	\$31,400	\$33,550	\$35,700
50% of median	\$31,550	\$36,100	\$40,600	\$45,100	\$48,700	\$52,300	\$55,900	\$59,550
80% of median	\$46,300	\$52,950	\$59,550	\$66,150	\$71,450	\$76,750	\$82,050	\$87,350
Brockton								
30% of median	\$16,700	\$19,100	\$21,450	\$23,850	\$25,750	\$27,650	\$29,550	\$31,500
50% of median	\$27,850	\$31,800	\$35,800	\$39,750	\$42,950	\$46,100	\$49,300	\$52,450
80% of median	\$44,500	\$50,900	\$57,250	\$63,600	\$68,700	\$73,800	\$78,850	\$83,950
Lawrence								
30% of median	\$17,800	\$20,350	\$22,900	\$25,450	\$27,500	\$29,500	\$31,550	\$33,600
50% of median	\$29,700	\$33,900	\$38,150	\$42,400	\$45,800	\$49,200	\$52,600	\$55,950
80% of median	\$44,800	\$51,200	\$57,600	\$64,000	\$69,100	\$74,250	\$79,350	\$84,500
Lowell								
30% of median	\$18,550	\$21,200	\$23,850	\$26,500	\$26,700	\$28,650	\$30,650	\$32,600
50% of median	\$30,950	\$35,350	\$39,800	\$44,200	\$44,500	\$47,800	\$51,100	\$54,400
80% of median	\$44,800	\$51,200	\$57,600	\$64,000	\$69,100	\$74,250	\$79,350	\$84,500
Easton-Raynham								
30% of median	\$21,000	\$24,000	\$27,000	\$30,000	\$32,400	\$38,400	\$37,200	\$39,600
50% of median	\$35,000	\$40,000	\$45,000	\$50,000	\$54,000	\$58,000	\$62,000	\$66,000
80% of median	\$44,800	\$51,200	\$57,600	\$64,000	\$69,100	\$74,250	\$79,350	\$84,500
New Bedford, Providence-Fall River⁶⁶								
30% of median	\$15,350	\$17,550	\$19,750	\$21,950	\$23,700	\$25,450	\$27,200	\$28,950
50% of median	\$25,600	\$29,250	\$32,900	\$36,600	\$39,500	\$42,450	\$45,350	\$48,300
80% of median	\$41,000	\$46,850	\$52,700	\$58,550	\$63,250	\$67,900	\$72,600	\$77,300
Taunton-Mansfield-Norton								
30% of median	\$17,800	\$20,300	\$22,850	\$25,400	\$27,450	\$29,450	\$31,500	\$33,550
50% of median	\$29,600	\$33,850	\$38,050	\$42,300	\$45,700	\$49,050	\$52,450	\$55,850
80% of median	\$46,300	\$52,950	\$59,550	\$66,150	\$71,450	\$76,750	\$82,050	\$87,350
Eastern Worcester County								
30% of median	\$21,500	\$24,500	\$27,650	\$30,700	\$33,150	\$35,600	\$38,050	\$40,500
50% of median	\$35,850	\$40,950	\$46,100	\$51,200	\$55,300	\$59,400	\$63,500	\$67,600
80% of median	\$46,300	\$52,950	\$59,550	\$66,150	\$71,450	\$76,750	\$82,050	\$87,350
Worcester								
30% of median	\$16,750	\$19,100	\$21,500	\$23,900	\$25,800	\$27,700	\$29,650	\$31,550
50% of median	\$27,900	\$31,900	\$35,850	\$39,850	\$43,050	\$46,250	\$49,400	\$52,600
80% of median	\$44,650	\$51,000	\$57,400	\$63,750	\$68,850	\$73,950	\$79,050	\$84,150
Dukes County								
30% of median	\$17,200	\$19,650	\$22,100	\$24,550	\$26,500	\$28,500	\$30,450	\$32,400
50% of median	\$28,650	\$32,700	\$36,800	\$40,900	\$44,150	\$47,450	\$50,700	\$54,000
80% of median	\$45,800	\$52,350	\$58,900	\$65,450	\$70,700	\$75,900	\$81,150	\$86,400
Nantucket County								
30% of median	\$20,450	\$23,350	\$26,300	\$29,200	\$31,550	\$33,850	\$36,200	\$38,550
50% of median	\$34,100	\$38,950	\$43,850	\$48,700	\$52,600	\$56,500	\$60,400	\$64,300
80% of median	\$54,550	\$62,300	\$70,100	\$77,900	\$84,150	\$90,350	\$96,600	\$102,850

Source: HUD PDR Notice 2009-09 (March 19, 2009). These figures change every year. For an update, and to find out which towns are in each area, go to: www.huduser.org.

17. 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>.

Household Size	100% of Poverty	200% of Poverty
1	\$10,830	\$21,660
2	\$14,570	\$29,140
3	\$18,370	\$36,740
4	\$22,050	\$44,100
5	\$25,790	\$51,580
6	\$29,530	\$59,060
7	\$33,270	\$66,540
8	\$37,010	\$74,020
For each additional person	\$3,740	\$7,480

Source: Federal Register, Vol. 42, No. 14, January 23, 2009, pp. 4199-4201.

Endnotes

- ¹ Area median income is the mid-point of household incomes for a particular area; in other words, half of all households have incomes below the median and half have incomes above the median.
- ² Information about admitting people with incomes up to 80% of area median is in a housing authority's Section 8 administrative plan. Such admission policy must be consistent with a housing authority's yearly public housing agency plan.
- ³ 24 C.F.R. § 5.609.
- ⁴ **State public housing and AHVP:** 760 C.M.R. §§ 5.06, 6.05, and 53.03(2); **MRVP:** 760 C.M.R. §§ 49.03(1)(3) and 49.05(6).
- ⁵ 24 C.F.R. § 5.609(a)(3) and (a)(4).
- ⁶ 760 C.M.R. § 6.05(2)(c).
- ⁷ 760 C.M.R. § 49.03(1)(d).
- ⁸ Sometimes, custody issues can make family size difficult to determine. However, legal guardianship may not always be required in a situation where a family member is taking care of children that are not their biological children. *Ortega v. Hous. Auth'y of the City of Brownsville*, 572 F. Supp. 2d 829 (S.D. Tex. 2008) (Court held that housing authority's requirement that Section 8 applicants have legal guardianship of any minors living in their household violated the Fair Housing Act.)
- ⁹ *Weeks v. Waltham Housing Authority*, No. 76-402-F (D. Mass. Aug. 2, 1977). Case available from Massachusetts Law Reform Institute.
- ¹⁰ 42 U.S.C. § 1436a; 24 C.F.R. § 5.506.
- ¹¹ 24 C.F.R. §§ 5.506(b)(2), 5.516, 5.518, and 5.520.
- ¹² 24 C.F.R. § 960.206(b)(1)(i).
- ¹³ **Federal:** 24 C.F.R. § 960.206(b)(1); **State:** 760 C.M.R. §§ 5.03 and 5.09.
- ¹⁴ **Federal:** 24 C.F.R. §§ 960.203(c) and 960.204; **State:** G.L. c. 121B, § 32; 760 C.M.R. § 5.08.
- ¹⁵ **Federal:** 42 U.S.C. §§ 1437a et seq.; 24 C.F.R. Parts 5, 960, 964, 965 and 966; **State:** G.L. c. 121B, §§ 32 et seq., 760 C.M.R. §§ 5.00 and 6.00.
- ¹⁶ **Federal:** 42 U.S.C. § 1437a(b)(3)(D) & (E); 24 C.F.R. § 5.403; **State:** G.L. c. 121B, § 1, 760 C.M.R. §§ 5.03 and 5.07.
- ¹⁷ 42 U.S.C. § 1437a(b)(3)(B); 24 C.F.R. § 5.403.
- ¹⁸ Housing and Community Development Act of 1992, Pub. L. No. 102-550, § 622(a), 106 Stat. 3813 (1992); 42 U.S.C.A. § 1437 (e); see also HUD Notice PIH 97-12, *Requirements for Designation of Public Housing Projects* (Mar. 12, 1997). This notice has been extended every year.
- ¹⁹ G.L. c. 121B, § 1; 760 C.M.R. § 5.03.
- ²⁰ G.L. c. 121B, § 39; 760 C.M.R. § 5.10(1) and (2).

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- 21 **Federal:** 42 U.S.C. §§ 423, 1437a(b)(3)(E); 6107(l); 24 C.F.R. § 5.403; **State:** G.L. c. 121B, § 1; 760 C.M.R. §§ 5.03 and 5.07. See also DHCD Public Housing Notice 2009-11 (June 11, 2009), Reasonable Accommodation and Modifications in State-Aided Public Housing, available at www.mass.gov/Ehed/docs/dhcd/ph/publicnotices/09-11.pdf.
- 22 **Federal:** 42 U.S.C. §§ 3601 et seq.; 29 U.S.C. § 794; 42 U.S.C. §§ 12101 et seq.; 24 C.F.R. §§ 8.6, 8.33, 100.204, 982.204; **State:** G.L. c. 151B, § 4(7A)(2); 760 C.M.R. § 4.03(1)(e); 804 C.M.R. § 2.03.
- 23 **Federal:** 24 C.F.R. § 5.403; **State:** 760 C.M.R. § 5.03.
- 24 **Federal:** 24 C.F.R. § 5.603; **State:** 760 C.M.R. § 5.06.
- 25 *Weeks v. Waltham Housing Authority*, No. 76-402-F (D. Mass. Aug. 2, 1977). Case available from Massachusetts Law Reform Institute.
- 26 42 U.S.C. § 1436a(a); 24 C.F.R. § 5.506.
- 27 **Federal:** 24 C.F.R. § 5.403; **State:** 760 C.M.R. § 5.03.
- 28 **Federal:** 24 C.F.R. § 5.403; **State:** G.L. c. 121B, § 32.
- 29 **Federal:** 24 C.F.R. §§ 960.206(b)(3) and (5), 960.401-407; **State:** 760 C.M.R. § 5.07.
- 30 **Federal:** 24 C.F.R. § 5.603; **State:** 760 C.M.R. § 5.06.
- 31 *Weeks v. Waltham Housing Authority*, No. 76-402-F (D. Mass. Aug. 2, 1977). Case available from Massachusetts Law Reform Institute.
- 32 42 U.S.C. § 1436a(a); 24 C.F.R. § 5.506.
- 33 42 U.S.C. § 1437f(o); 24 C.F.R. Part 5 “General HUD Program Requirements; Waivers” and Part 982 “Housing Choice Voucher Program.”
- 34 24 C.F.R. §§ 5.403 and 982.201(c).
- 35 24 C.F.R. § 5.612. The rule states that assistance shall not be provided to any individual who is enrolled in an institution of higher education, and is not a veteran, not married, does not have a dependent child, and is not otherwise eligible.
- 36 42 U.S.C. § 1436a(a); 24 C.F.R. § 5.506.
- 37 24 C.F.R. §§ 5.506(b)(2), 5.516, 5.518, and 5.520.
- 38 760 C.M.R. § 53.00 et seq.
- 39 760 C.M.R. § 53.02.
- 40 760 C.M.R. § 49.03. Note that the list provided in the text does not include the conditions for being determined “otherwise eligible.” The criteria for being determined otherwise eligible (which are the equivalent of grounds for determining qualification or suitability in other public and subsidized housing programs) can be found at 760 C.M.R. § 49.03(2). See **Chapter 6: Tenant Screening** regarding overcoming denials based on these additional eligibility criteria.
- 41 24 C.F.R. §§ 5.403 and 982.201(c).
- 42 For determination of net income, see 760 C.M.R. § 49.05(6).
- 43 760 C.M.R. § 49.03(1).

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- ⁴⁴ 24 C.F.R. §§ 5.403 and 982.201(c).
- ⁴⁵ 42 U.S.C. § 1437a(a)(1), (b)(2); 24 C.F.R. § 5.653(b) (project-based Section 8 assistance); *HUD Multifamily Occupancy Handbook* 4350.3 REV-1, CHG-3 (June 2009), Chapter 3. MassHousing guidelines for state multifamily housing appear to be similar. G.L. c. 23A, App. 1, §§ 1-1(d) and 1-6 (tying eligibility to state public housing eligibility—i.e., 80% of area median income).
- ⁴⁶ 42 U.S.C. § 1437n(c) (for developments with project-based Section 8 assistance which were first available for occupancy prior to October 1, 1981, no more than 25% of the apartments can be rented to those with incomes above 50% of area median income; for developments which were first available after October 1, 1981, no more than 15% of the apartments can be rented to those above 50% of area median income); 24 C.F.R. § 5.653(d).
- ⁴⁷ Thus, under G.L. c. 23A, App. 1, § 1-6(a), the adjusted rent in a MassHousing development that does not receive some other form of *deep subsidy* (such as project-based Section 8 or MRVP assistance) is set at 30% of 80% of the area median income generally. If the tenant's income is such that he or she cannot afford this flat rent, this would be a legitimate basis for the owner to refuse to accept the tenant. However, any subsidy assistance available to the tenant must be factored into this calculation.
- ⁴⁸ *Weeks v. Waltham Housing Authority*, No. 76-402-F (D. Mass. Aug. 2, 1977). Case is available from Massachusetts Law Reform Institute.
- ⁴⁹ 42 U.S.C. § 1436a(a); 24 C.F.R. § 5.506.
- ⁵⁰ 26 U.S.C. § 42(i)(3)(D). Students are eligible for the federal low-income tax credit program if they are (a) receiving assistance under Title IV of the Social Security Act (that is, are receiving SSI), (b) enrolled in a job training program and receiving assistance under the Job Training Partnership Act or a similar federal, state, or local law, (c) full-time students and single parents and their children who are not dependents of another individual, or (d) full-time students and are married and file a joint return.
- ⁵¹ 24 C.F.R. § 92.209(c)(1).
- ⁵² 24 C.F.R. § 92.216.
- ⁵³ 26 U.S.C. § 42; G.L. c. 23B, § 3; G.L. c. 62, § 6I; G.L. c. 63, § 31H; 760 C.M.R. § 54.00.
- ⁵⁴ HUD non-citizen restrictions are limited to the programs described in 42 U.S.C. § 1436a(a).
- ⁵⁵ Although it varies from state to state, in general, minors' contracts are voidable except to the extent that the contract is for reasonable value of a necessity. See 33 Mass. Prac., Landlord and Tenant Law, § 6:2 (3d Ed.).
- ⁵⁶ Public housing applicants have challenged policies relating to leasing to minors, claiming that such policies violate the Fourteenth Amendment Equal Protection and Due Process clauses of the U.S. Constitution, HUD and PHA rules, the Fair Housing Act, and state anti-discrimination statutes. For the most part, these cases have had very limited success. *Graham v. Hous. Auth. of Newport, R.I.*, No. 90-0157P (D.R.I. May 8, 1991) (PHA consents to notify applicants that their age will not bar admission); *Hughes v. Hous. Auth. of Dallas*, No. CA 3-90-0188-D (N.D. Tex., Jan. 29, 1990) (applicants challenge PHA's policy of requiring court-ordered emancipation for minor with children); *Doe v. Worcester Hous. Auth.*, No. 83-0468-F (D. Mass., filed Oct. 3, 1983) (settlement allowing minor access to housing). See in contrast *Manning v. San*

Francisco Hous. Auth., No. C-74-0266-GBH (N.D. Cal., filed Feb. 4, 1974) (excluding minors may be valid if minors can void lease under state law); *Rodriguez v. Reading Hous. Auth.*, 8 F.3d 961 (3d Cir. 1993) (policy of renting to minors unless emancipated sustained).

- ⁵⁷ See, e.g., *Marshall v. Hous. Auth. of Taylor*, 866 F. Supp. 999 (W.D. Tex. 1994), *aff'd*, 51 F.3d 1045 (5th Cir. 1994).
- ⁵⁸ Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162). It has a section on housing; see Title VI of VAWA 2005, which includes protections against eviction and termination of assistance.
- ⁵⁹ 42 U.S.C. § 1437f(o)(6)(B) (Section 8 vouchers); 42 U.S.C. § 1437d(c)(3) (public housing); and 42 U.S.C. § 1437f(c)(9)(A) (project-based Section 8). For application to federal multifamily housing, see HUD Housing Notice 2009-15 (October 1, 2009).
- ⁶⁰ For the definition of *domestic violence*, see 42 U.S.C. § 13925(a)(6), cross-referenced in 42 U.S.C. §§ 1437d(u)(3)(A) and 1437f(f)(8). This definition also includes a person who is “similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies.”
- ⁶¹ G.L. c. 209A, § 1, definition of “abuse.” This definition also extends to people related by blood, marriage, children in common, a significant dating relationship, or cohabitation.
- ⁶² Existence of a dating relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; (iii) the frequency of interaction between the persons involved in the relationship.” See 42 U.S.C. §§ 13925(a)(7) and (8), cross-referenced in 42 U.S.C. §§ 1437d(u)(3)(B) and 1437f(f)(9). In Massachusetts, courts look at similar factors to determine whether a dating relationship exists. G.L. c. 209A, § 1.
- ⁶³ See 42 U.S.C. §§ 1437d(u)(3)(C) and 1437f(f)(10).
- ⁶⁴ The statute defines “immediate family member” for the purpose of the *stalking* definition as “a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands *in loco parentis*, or any other person living in the household of that person and related to that person by blood and marriage.” See 42 U.S.C. §§ 1437d(u)(3)(D) and 1437f(f)(11).
- ⁶⁵ Any information provided to an owner or housing agency that an individual is a victim of *domestic violence*, *dating violence*, or *stalking*, must be retained in confidence by the owner or agency, and shall not be entered into any shared database or provided to any other entity, except to the extent that the disclosure is requested or consented to in writing by the individual or is otherwise required by law. 42 U.S.C. §§ 1437d(u)(2) and 1437f(ee)(2).
- ⁶⁶ There are slight differences between the median incomes of the Fall River and New Bedford areas for larger families at 30% of median income. For Fall River residents, the 30% limit for 7-person families is \$27,250 and for 8-person families is \$29,000. For New Bedford area residents, the 30% limit for 7-person families is \$27,200 and for 8-person families is \$28,950. Because all other limits are identical, the editors grouped these two areas together for purposes of this table, and used the lower amount. It is unclear whether this slight variation was intended by HUD.