



# Commonwealth of Massachusetts

## DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT

Charles D. Baker, Governor ♦ Karyn Polito, Lieutenant Governor ♦ Jennifer D. Maddox, Undersecretary

To: Local Official  
From: Roberta L. Rubin, Chief Counsel, Office of the General Counsel  
Catherine Racer, Associate Director, Division of Housing Development  
Subject: Subsidized Housing Inventory Biennial Update  
Date: April 25, 2022

The Department of Housing and Community Development ("DHCD") is in the process of updating the Chapter 40B Subsidized Housing Inventory ("SHI"). The methodology for counting units on the SHI is subject to DHCD regulations at 760 CMR 56.00 *et seq.* and c. 40B guidelines at <https://www.mass.gov/files/documents/2017/10/10/guidecomprehensivepermit.pdf> (see in particular section II, "Measuring Progress Towards Local Goals," and section III, "Affirmative Fair Housing Marketing and Resident Selection Plan" guidelines).

The SHI is used to measure the community's attainment of affordable housing goals for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law. A developer may appeal to the state Housing Appeals Committee for review of local action on a Comprehensive Permit if a municipality's SHI-eligible housing does not exceed 10% of its year-round housing stock based on the latest available U.S. Census, which is currently the 2010 U.S. Census.<sup>1</sup> Pursuant to the regulations at 760 C.M.R. 56.03(2)(f), DHCD shall update the SHI biennially.

**Enclosed for your review and use is DHCD's current SHI record** for your community, which generally reflects information we have processed as of April 15, 2022, regarding the number of all units that qualify for inclusion on the SHI. Please note the following:

Corrections to your inventory record should be made by:

- 1) Requesting a copy of the SHI listing for your city/town by emailing [dhcdshiupdate@mass.gov](mailto:dhcdshiupdate@mass.gov).
- 2) Simply writing directly on the SHI listing and returning it as indicated below. To add units or to restore units, please see below.
- 3) Please request that eligible units be added to the SHI by submitting a completed copy of the **"Requesting New Units Form"** (available at <https://www.mass.gov/doc/requesting-new-units-form-0/download>) along with the documentation required by said form. To request the addition of new units and to track units for CDBG and HOME housing rehabilitation units only, please use DHCD's **"Housing Rehab Units Only"** spreadsheet (available at <https://www.mass.gov/doc/housing-rehab-units-only-form-0/download>). **Please note** that the "Housing Rehab Units Only" spreadsheet must be submitted along with copies of use restrictions corresponding to the affordable units. As you are aware, the Housing Appeals Committee ruled in *South Center Realty, LLC v. Bellingham* that affordable rehabilitated units must be subject to a use restriction to be included on the SHI. Please see section II of the aforementioned guidelines for SHI use restriction requirements, including that the term of the use restriction shall be not less than 15 years for rehabilitated units (newly created units require a use restriction term of not less than 30 years).

<sup>1</sup> The SHI has not yet been updated to reflect 2020 Census figures. The 2020 Census Redistricting Data (Public Law 94-171) Summary File that has been released by the U.S. Census Bureau does not include data on vacant "seasonal, occasional, or recreational use" units used by DHCD to determine Census "year-round housing units" for the SHI. The SHI will therefore continue to reflect the 2010 Census Year-Round Housing unit figures until such data is released. Promptly upon release of the 2020 Census Year-Round Housing figures, the SHI will be updated to reflect such data.



- 4) Pursuant to DHCD regulations at 760 CMR 56.03(2)(c), if more than one year elapses between the date of issuance of the Comprehensive Permit (or zoning approval under M.G.L. c.40A or completion of plan review under M.G.L. c.40R), and issuance of the **building permit(s)**, units are no longer eligible to be counted on the SHI until such time as the building permits are issued. Furthermore, said regulations state that if more than 18 months elapse between issuance of the building permits and issuance of the **certificate of occupancy**, the units will become ineligible for the SHI until the date that the certificate of occupancy is issued. DHCD has generally removed units from the SHI (providing a unit listing of "0") based on such time lapses. Therefore, please provide as applicable a listing of issued building and occupancy permit numbers and corresponding unit numbers and addresses to ensure or restore inclusion of units on the SHI. Please note that for SHI purposes, building permits are permits to construct units and foundation permits are *not* regarded as building permits.
- 5) Any developments for which the period of affordability **has expired or is listed as expiring before April of 2022** (see "Affordability Expires" column in the enclosed report) have been removed or are **subject to removal** from the SHI unless or until adequate documentation is submitted confirming that the period of affordability has not expired or has been extended. Units that expire during or after April of 2022 are similarly subject to removal. Generally, HOR units with expired affordability end dates have already been removed from the SHI as part of this biennial update.
- 6) DHCD counts group home units on the SHI based on aggregated unit information provided directly by the Department of Mental Health ("DMH") and the Department of Developmental Services ("DDS").
- 7) If you have no changes to the draft inventory, please confirm that your inventory is correct by writing "no changes" and returning the inventory page(s).

This correspondence is being mailed to the Mayor, Town Manager/Administrator, Zoning Board of Appeals, and Planning Director/Department in each community as applicable. We ask that the appropriate officials in each municipality review this information and provide a coordinated response either confirming the information contained in the report, submitting corrections, and/or requesting that DHCD newly add or restore units to the SHI. **Complete information and required documentation must be submitted to ensure units will be newly added or restored to the SHI.**

**We further request that you complete this review and return the enclosed draft inventory record with any applicable corrections, additions, and documentation by June 4, 2022. Please submit this information by emailing it via attachment to [dhcdshiupdate@mass.gov](mailto:dhcdshiupdate@mass.gov).** With your submission, please also indicate the best email address to which we may direct electronic communications regarding SHI biennial updates in the future.

Please additionally note that Planned Production and DHCD's Local Initiative Program ("LIP") are powerful tools to assist communities in meeting their affordable housing goals in a manner consistent with local planning and development goals. The Housing Production Plan Guidelines, available at <https://www.mass.gov/doc/housing-production-plan-guidelines/download>, clarify the requirements of the housing production plans and the steps to implement the plans under the regulations (760 CMR 56.03(4)), including the requirement that certification of the plans be requested of DHCD during the calendar year in which the units were initially SHI eligible. LIP provides communities a method for counting units on the SHI that are not otherwise subsidized in accordance with the regulations. Please see section VI of the aforementioned c. 40B guidelines for further information on LIP requirements. LIP applications for comprehensive permit projects and for Local Action Units ("LAUs") can be found at DHCD's website at <http://www.mass.gov/dhcd> (search under "Local Initiative Program").

Thank you for your anticipated cooperation. If you have any questions, please email [dhcdshiupdate@mass.gov](mailto:dhcdshiupdate@mass.gov), or you may contact Margaux LeClair at (617) 573-1526.