

**RESOLUTION NO. 2026-3.16
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

**RESOLUTION OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF PASSAIC
AND STATE OF NEW JERSEY, APPROVING THE BOROUGH'S UPDATED
AFFORDABLE HOUSING ADMINISTRATIVE AGENT OPERATING AND POLICIES
AND PROCEDURE MANUAL.**

WHEREAS, in 2024 the New Jersey Legislature amended the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA") through the adoption of P.L. 2024, c.2 ("FHA-2"); and

WHEREAS, amongst other things, P.L. 2024, c.2 abolished the Council on Affordable Housing (COAH), created the Affordable Housing Dispute Resolution Program ("Program") and established new procedures and deadlines for municipalities to come into compliance with the FHA-2 and the *Mount Laurel* doctrine for each future ten-year affordable housing round beginning with the Fourth Round, which began on July 1, 2025 and ends on June 30, 2035; and

WHEREAS, in December 2024 the Administrative Office of the Courts issued Directive #14-24, which sets forth additional procedures all municipalities must follow to come into compliance with the FHA-2 in order to maintain immunity from exclusionary zoning and builder's remedy litigation through the Program process set forth in P.L. 2024, c.2; and

WHEREAS, in compliance with P.L. 2024, c.2 and Directive #14-24, the Borough of Bloomingdale ("Borough") timely filed a declaratory judgment action with the Program on January 29, 2025, which is entitled: In re Borough of Bloomingdale, Docket No.: PAS-L- 000283-25 (Borough's "2025 Action"); and

WHEREAS, the Borough has at all times participated in good faith in the Program process; and

WHEREAS, on December 15, 2025 the New Jersey Housing and Mortgage Finance Agency adopted amendments to the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq. ("UHAC") and the New Jersey Division of Local Planning Services (DLPS) adopted Fair Housing Act Rules at N.J.A.C. 5:99-1 et seq.; and

WHEREAS, on February 12, 2026 Passaic County Mount Laurel Judge, the Honorable Darren J. Del Sardo, P.J. Cv. Issued an order in the Borough's 2025 Action, which in relevant part directed the Borough to adopt all implementing ordinances and resolutions on or before March 16, 2026 as a condition of securing a Certification of Compliance and Repose; and

WHEREAS, pursuant to Judge Del Sardo's order and the FHA-2, the Borough is required to adopt all implementing affordable ordinances and resolutions and file same in the Borough's 2025 Action on or before March 16, 2026 in order to secure a Certification of Compliance and Repose; and

WHEREAS, the issuance of a Certification of Compliance and Repose from the County Mount Laurel Judge entitles a compliant municipality to continued immunity from exclusionary zoning and builder’s remedy litigation for the remaining 10-year Fourth Round; and

WHEREAS, the Borough has since adopted updated affordable housing ordinances and resolutions, an amended Fourth Round Spending Plan and a Fourth Round Affirmative Marketing Plan/Program, all of which are designed to implement and fulfill the constitutional, statutory and regulatory requirements of the Mount Laurel doctrine, the FHA, FHA-2, the UHAC, the Fair Housing Act Regulations, New Jersey Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and the Borough’s Fourth Round HEFSP (hereinafter collectively the “Affordable Housing Laws”); and

WHEREAS, the Borough has a Professional Services Contract with Community Grants Planning & Housing, LLC (“CGP&H”), pursuant to which CGP&H provides trained New Jersey licensed and certified Affordable Housing Administrative Agents who are responsible, amongst other things, to assist the Borough in overseeing and administering the Borough’s affordable housing programs, affordable housing stock and affordability controls in accordance with the requirements of the FHA, FHA-2, the UHAC, the DLPS Fair Housing Act Rules, the Borough’s affordable housing ordinances, and the Borough’s HEFSP, and enforcing such State and local laws and regulations on behalf of the Borough; and

WHEREAS, CGP&H has prepared an updated Affordable Housing Administrative Agent Policies and Procedures Manual for the Borough’s review and approval to ensure the Borough’s affordable housing programs are administered in accordance with the updated changes in the law; and

WHEREAS, the Borough Council now desires to approve and adopt same as the Borough’s Affordable Housing Administrative Agent Policies and Procedures Manual, in the form as prepared by CGP&H.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Bloomingdale, in the County of Passaic and State of New Jersey, as follows:

1. The Borough Council does hereby approve and adopt the updated Affordability Assistance Program/Plan, as prepared by Community Grants, Planning & Housing (“CGP&H”) as the Borough’s Fourth Round Affordable Housing Administrative Agent Policies and Procedures Manual.
2. The Borough’s Municipal Attorney is hereby directed to file same and this Resolution with the Court in the Borough’s 2025 Action in accordance with the requirements of Directive #14-24 and P.L. 2024, c.2.
3. The Borough Municipal Attorney, Borough Affordable Housing Planner and all other appropriate Borough officials, employees and other professionals of the Borough are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution such that the Borough secures a Certification of Compliance and Repose and maintains its immunity from exclusionary zoning and builder’s remedy.

4. A certified copy of this Resolution and the Borough’s Fourth Round Affordable Housing Administrative Agent Policies and Procedures Manual shall remain on file with the Borough Municipal Clerk’s Office for the purpose of public inspection, and shall be uploaded to the Borough’s website in accordance with the requirements of the FHA-2 and Directive #14-24.
5. The Borough further reserves the right to amend the Borough’s Affordability Assistance Program/Plan should such further amendments be required or necessary.
6. Notice of this action shall be published in accordance with law.
7. This Resolution shall take effect immediately.

Adopted: March 17, 2026

Record of Council Vote on Passage

COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Bronkhurst	X				Hagin	X			
Catalano	X				Schubert	X			
Graziano	X				Yazdi	X			

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on March 17, 2026.



 Breeanna Smith, RMC
 Municipal Clerk, Borough of Bloomingdale

Borough of Bloomingdale

AFFORDABLE HOUSING ADMINISTRATIVE AGENT

Policies and Procedures Manual

MARCH 2026

Administration of Affordable Units

Prepared by:

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CGPH

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Good People. Great Results. Since 1993.

Borough of Bloomingdale

Administration of Affordable Units Operating Manual

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EXECUTIVE SUMMARY

This Operating Manual, prepared for **Borough of Bloomingdale** hereafter referred to as “Municipality”, (1) sets forth the policies and procedures for placing eligible individuals and families into the Municipality’s affordable units and (2) provides instructions for working with developers, owners and landlords as new affordable units become available. This document is designed to ensure compliance with the State’s Uniform Housing Affordability Controls (“UHAC”) (N.J.A.C. 5:80-26.1 et seq.) and with the Municipality’s Affordable Housing Ordinance, its Affirmative Marketing Plan if applicable, and other local laws and requirements. In addition to being a valuable tool for the Municipality’s Administrative Agent and Municipal Housing Liaison as we implement Affordable Housing in the Municipality, it will also be a resource for other Affordable Housing professionals and interested members of the public to understand the intricacies of implementing a program such as this.

This manual details the tasks involved in the day-to-day administration of Affordable Housing units under the direct control and oversight of the Municipality. This document covers how new units are created and priced and how units are marketed to prospective applicants. Other information includes the following: waiting list and random selection procedures; required and permitted preferences; procedures for determining income eligibility; resale by income-eligible owners of affordable property to other eligible buyers; process for property managers to fill affordable rental vacancies; refinancing and mortgage modification procedures; waivers of program requirements. The administrative steps outlined in this manual are the thread that holds the fabric of the entire program together, setting out the fundamental obligations and responsibilities of the program administrators.

This manual reflects changes to UHAC that went into effect in December 2025. These UHAC changes impact every aspect of the Administration of affordable units from income qualification to deed restrictions and there are many outstanding questions about the applicability of the rules and how to implement the regulations. Future changes to the manual will be required after The Department of Community Affairs (DCA) launches its educational program for Administrative Agents. In addition, the New Jersey Housing and Mortgage Finance Agency (NJHMFA) has indicated on their website that they will be publishing and an updated “Understanding UHAC” manual that will provide additional clarification to Administrative Agents on the updated regulations.

The **Glossary** at the end of this Operating Manual provides definitions of terms, abbreviations and acronyms used throughout the Operating Manual.

I. INTRODUCTION

The purpose of this manual is to describe the policies and procedures used to create Affordable Housing units in the Municipality and fill them with income-eligible families.

The policies outlined in this manual are derived from the December 2025 version of UHAC (N.J.A.C. 5:80-26.1 et seq.) The manual will be updated after DCA launches its educational program for Administrative Agents and NJHMFA publishes additional guidance on their website. This manual does not include all provisions of UHAC, and UHAC is a companion document to this manual. Instead, this manual highlights instances where additional guidance is provided by the NJHMFA, DCA staff or by local ordinance. The manual also provides additional clarification and direction on items that are not in UHAC in order to ensure fairness to applicants, owners, and renters.

I-A. What is Affordable Housing?

Affordable Housing, unlike market-rate housing, has affordability controls establishing initial set prices and rents, and then controlling annual increases for many years. For example, new units that fall under these controls will be restricted for at least 30 years. The New Jersey Affordable Housing rules consider housing to be “affordable” if the household¹ expends approximately 28% or less of the household’s gross income on housing costs. See footnote below and Glossary for definition of “**Household**.” Affordable Housing is priced to be affordable to households earning up to 80% of the area median income for the region in which the Affordable Housing is located.

An Affordable Housing unit for the purposes of this manual can be specifically defined herein as “a housing unit proposed or created pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (“**Affordable Unit**”).

The Affordable Units referenced in this manual are not the same as public housing units that are funded largely by governmental programs such as those administered by the U.S. Department of Housing and Urban Development (“**HUD**”) programs and that are owned, operated and managed by a public housing authority (“**PHA**”). As defined by HUD, “public housing was established to provide

¹ In accordance with US Department of Housing and Urban Development (“**HUD**”) definitions and UHAC practice, “**household**” references the number of persons in the unit and not the size of the unit. See for example, HUD’s definition of household as “[o]ne or more persons occupying a housing unit” -- in other words, the number of persons in the home. HUD website accessed June 13, 2016. http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/glossary/, See also, UHAC regulation N.J.A.C. 5:80-26.4, “In determining the initial rents and initial sales prices for compliance with the Affordability Average requirements for restricted units ... the following standards shall be used: 1. A studio shall be affordable to a one-person household.”

decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. Public housing comes in all sizes and types, from scattered single-family houses to high rise apartments for elderly families. There are approximately 1.2 million households [in the US] living in public housing units[.]”² Some municipalities create their own PHAs which operate and manage public housing within the municipality.

I-B. Who Qualifies for Affordable Housing?

To be eligible for Affordable Housing in New Jersey, a household’s income must be below the established income limit for the region in which the Affordable Housing is located. There are three eligibility levels: very low, low, and moderate. A moderate-income household is classified as earning less than 80 percent of the area median income. A low-income household is classified as earning less than 50 percent of area median income, and a very low-income household is classified as earning less than 30 percent of median income. See Glossary for definitions of “**Low- Income Household**” and “**Very Low-Income Household**”. There are different median incomes in each of the six Affordable Housing regions shown in Figure 1 below, with the Municipality located in **Region 1**. The income limits are adjusted annually.

Figure 1: Affordable Housing Regions

Regions	Counties
1	Bergen, Hudson, Passaic, Sussex
2	Essex, Morris, Union, Warren
3	Hunterdon, Middlesex, Somerset
4	Mercer, Monmouth, Ocean
5	Burlington, Camden, Gloucester
6	Atlantic, Cape May, Cumberland, Salem

I-C. Equal Housing Opportunity

Title VIII of the Civil Rights Act of 1968 (the “**Fair Housing Act**”), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.

² http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph, US HUD Website, accessed June 7, 2016.

The **New Jersey Law Against Discrimination** (“**LAD**”) prohibits discrimination when selling or renting property. The law covers owners, agents, employees and brokers and makes it unlawful to refuse to rent, show or sell property based on a person's race, creed, color, national origin, nationality, ancestry, marital status, domestic partnership or civil union status, familial status, affectional or sexual orientation, gender identity or expression, sex, or mental and physical disability, including AIDS and HIV-related illness. In addition, the LAD prohibits discrimination in the housing context based on one's source of lawful income or rent subsidy.

The **New Jersey Fair Chance in Housing Act** prohibits a housing provider from considering arrests or charges not resulting in a conviction, expunged convictions, executively pardoned convictions, vacated or nullified convictions, juvenile adjudications of delinquency, or sealed records. Housing providers cannot ask about or consider a potential tenant's criminal history – including on their initial application materials, in interviews, or in any other way – before making a conditional offer of housing. There are two exceptions for when a landlord may inquire about criminal histories without making a conditional offer: A conviction for the manufacture or production of methamphetamine on the premises of federally assisted housing; and A conviction that requires the applicant to register as a sex offender for life.

II. CREATION OF NEW UNITS

This manual applies to UHAC eligible units whether for rent or for purchase, 100 percent affordable developments, market-to-affordable projects, gut-rehab projects, and other innovative Affordable Housing mechanisms. It does not apply to projects exempt from portions of UHAC including low-income housing tax credit projects and group homes. (See UHAC for a full list of exempt programs.)

II-A. Review Project Requirements

When a new project is planned, the administrative agent designated by the Municipality for the administration of Affordable Units (the “**Administrative Agent**”) will gather the information about the development. The first step is to review development approvals and/or developer agreements, the Housing Element and Fair Share Plan, and the municipal Affordable Housing Ordinance, including its Affirmative Marketing Requirements if applicable.

II-B. New Purchase Units

1. Initial Pricing and Bedroom Distribution of Purchase Units

The Administrative Agent will determine the initial pricing stratification in compliance with UHAC. The Administrative Agent will also review the municipal housing ordinance and other planning documents to determine if units are prior round units and if there any other additional requirements when setting initial sale prices.

The pricing calculation will take into consideration costs that exist at that time including such factors as the mortgage rate, tax rate, equalization ratio, condominium/homeowner association fee, and Private Mortgage Insurance (“**PMI**”). PMI must be included in the pricing calculation even if a new development will provide financing that will not require PMI. This will ensure that the price is affordable at future sales when PMI will be required. The maximum restricted sales price (“**MRSP**”) will be affected by mortgage interest rates when an affordable Unit is initially priced. At resale, the prevailing mortgage interest rate will be used to determine the affordability of that particular unit to the applicant household. 2

2. Upgrades from Builder

The builder may offer buyers of new Affordable Units the opportunity to purchase upgrades such as granite countertops or hardwood flooring at additional cost. If upgrades are offered, the following guidelines apply:

- a. These upgrades must be optional. The buyer must be able to choose NOT to purchase the upgrades and be able to buy the base home at or below the MRSP.
- b. The sale price of the home will be at or below the MRSP without the cost of the upgrades.
- c. All future sales will be based on the sale price without the upgrades. In other words, the buyer will not be able to recoup the cost of the upgrades at the next sale.
- d. The buyer cannot finance more than the MRSP. As a result, the buyer will not be able to finance the cost of the upgrades.

3. Deed Restriction

Affordable Units created under this program will be deed restricted as affordable for a period of at least 30 years. All legal instruments to secure the affordability will be modeled after the applicable instruments published in the UHAC Appendices. The affordability control period start date for each unit begins when the initial certified household takes title to the unit. The date of commencement shall be identified in the deed restriction. Prior to the issuance of any building permit for the construction/rehabilitation of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.

A market-rate appraisal will be required to calculate the repayment amount on the affordable Recapture Mortgage Note. (This amount is the difference between the market appraisal and the affordable sale price and is due at the first non-exempt sale at the end of the control period.) The developer is responsible for providing the market rate appraisal. One appraisal can be used for similar unit types (all one bedrooms that are the same models, for example) if the appraisal is less than six months old. If the buyer's mortgage company completes a market-rate appraisal, that appraisal can be used instead. (See additional discussion in Section V.)

4. Earnest Money (Deposit) for Ownership Properties

The Affordable Housing rules do not specify a minimum or a maximum amount that a buyer must put down on a property when the Purchase Agreement and/or Contract of Sale is executed. However, while not required, a down payment is recommended because banks will almost never lend without a 5% minimum contribution.

II-C. NEW RENTAL UNITS**1. Initial Pricing and Bedroom Distribution of Rental Units**

Rents will be set according to the pricing guidelines outlined in UHAC. The Administrative Agent will also review the municipal housing ordinance and other planning documents to determine if units are prior round units and if there are any other additional requirements when setting initial rents.

2. Deed Restriction

Control periods shall be at least 30 years as applicable unless otherwise indicated for rental units that meet the definition of prior round units. Other than for prior round units, control periods for restricted rental units shall be at least 40 years. Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent. All legal instruments to secure the affordability will be modeled after the applicable instruments published in UHAC.

The affordability control period for a restricted rental unit shall commence on the first date that a unit is issued a certificate of occupancy following the execution of the deed restriction.

The units cannot be “swapped” during the control period. *For example, after the deed restriction is filed, the affordable designation of the unit cannot be changed from a Low-Income to a Moderate-Income unit.* Moreover, it is important to note that the prevailing regulations (UHAC) do not require annual recertification, and therefore while the unit remains as a Low/Moderate-Income unit during the term of the deed restriction, the income of the current tenant is no longer relevant following initial eligibility. The same rules relating to initial eligibility certification and no annual recertifications will continue to apply to each subsequent tenant throughout the duration of the deed restriction.

3. Mandatory and Optional fees

At vacancy, all fees for affordable tenants will comply with the current UHAC regulations summarized below. If a tenant had previously signed a lease, the existing fee structure may be maintained until the tenant vacates the unit.

Figure 1: Rental Fees

1. Certificate Of Occupancy Fees	Prohibited
2. Move-In Fees	Prohibited
3. Move-Out Fees	Prohibited
4. Mandatory Internet Fees	Prohibited
5. Mandatory Cable Fees	Prohibited
6. Mandatory Utility Submetering Fees	Prohibited
7. Parking Fees	Prohibited EXCEPT developments may charge parking fees for 1 car if the development has fewer than one and a half off-street parking spaces per unit.
8. Amenity Fees	Any fee structure that would remove or limit affordable renters’ access to any amenities or services that are required or included for market-rate renters is prohibited.
9. Pet Fees	Pet fees may not exceed \$30.00 per month per household (not per pet) and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited.
10. Optional Fees (storage spaces, bike share programs, party room rental)	Permitted but may not exceed the amounts charged to market-rate tenants.
11. Application Fees (including credit check)	Fees greater than 5% of rent prohibited.

Utility allowances are factored into the initial pricing and are not considered mandatory or optional fee.

The developer may require that all renters purchase *rental insurance*. The rental insurance cost is not considered a mandatory fee and will not be included in the initial rental calculation or part of the minimum income calculation.

4. Hold Fees

After the household passes the landlord's tenant selection criteria, the landlord *may* choose to collect an additional fee from the applicant to process the Affordable Housing application. Landlords may choose to implement this optional fee so only serious applicants move through the income certification process. If this optional fee is collected, the following rules apply:

- The fee cannot be higher than one month's rent.
- If the applicant is income-certified and rents the unit, the fee will be applied to the first month rent and/or down payment.
- If the applicant is income certified and they choose not to rent the unit, the landlord is not required to return the fee.
- If the applicant is determined to not be income eligible, the landlord must return the fee.

5. Security Deposit

Security deposits for Affordable Units are governed by New Jersey Landlord-Tenant regulations. The requirements are the same for Affordable Units as they are for market-rate units.

6. Tenant Selection Criteria

Affordable units are "private" market units (as opposed to public housing units) where rents are set (and deed restricted as to time) to be affordable to very low, low, and moderate income persons. Although deed restricted, the units still are under the "control" of the private owner/landlord, with oversight by the Administrative Agent. Accordingly, other than the set rent and deed restriction requirement, the landlord may establish its own non-discriminatory legal criteria for tenant selection. Such tenant selection criteria must be the same in renting Affordable Units as for leasing market rate units. All tenant selection criteria must comply with all New Jersey landlord tenant law including the New Jersey Fair Chance in Housing Act.

III. MARKETING OF UNITS, WAITING LIST, AND MATCHING HOUSEHOLDS TO AVAILABLE UNITS

The following section describes the steps that will be taken to identify very low, low, and moderate income families that may be interested in renting and purchasing Affordable Units created by the Municipality. All marketing initiatives must comply with the Affirmative Marketing rules established by UHAC, as presently set out in NJAC 5:80-26.16 and in accordance with any additional Affirmative Marketing Plan developed by the Municipality.

Development-specific Affirmative Marketing Plans would outline required marketing, including paid advertising that must be conducted before a random selection is completed. (See Random Selection and Waiting List Priority in Section B, below.)

While the waiting list is open, Affirmative Marketing will continue in the form of listing of units on NJHRC.gov, affordablehomesnewjersey.com, and/or quarterly mailings to community groups, major employers, and government agencies in the New Jersey Affordable Housing region where the Municipality is located. If the waiting list is ever closed because of the long length of the list, paid advertising as outlined in the Affirmative Marketing Plan will be required to reopen the waiting list.

III-A. Preliminary Application

All households that wish to be considered for Affordable Housing must submit a preliminary application. Households will be encouraged to submit their preliminary application online. For those applicants who do not have internet access, the Administrative Agent will work with interested applicants by phone and mail. The preliminary application will include questions about household income and its composition in order to determine preliminary eligibility. Please note that preliminary eligibility is based solely on self-reported information by the applicant and is in no way a guarantee of eligibility.

If the applicant indicates that their total household income is below the moderate income limit for their family size, they will be eligible for placement in the applicant pool. The Administrative Agent will also set a minimum income that is required to be added to the waiting list. (See *Minimum Income Requirements* in this Chapter.) Applicants will be required to provide written documentation of their income at the time of the full income certification as discussed in *Chapter IV*.

III-B. Random Selection and Waiting List Priority

The Administrative Agent will assign random numbers to each applicant through a computerized random number generator thereby creating a waiting list.

After the list of applications submitted during the initial lottery period is exhausted, the priority of preliminary applications is established by the date that the household submits their preliminary application (“**Interest Date**”).

At the time a unit is available, a separate list of applicants is created for each property, deriving from a municipality-specific waiting list of applicants who have added themselves to that waitlist up to the day of the creation of the separate development list.

The household with the highest lottery number (or oldest Interest Date) may not always be the next person contacted for a specific available unit because of factors impacting waiting list priority. In addition to age-restricted requirements, these factors include the number of persons in the household, household income level, households with a person with physical disabilities, veterans preference, regional preference, and New Jersey preference as may be established in the Municipal Affordable Housing Ordinance. The municipality has selected to use a regional preference and to use a New Jersey preference and to use a veterans preference, which appears in the municipality's Affordable Housing Ordinance. Each of these six waiting list priority factors are further described in *Figure 2*. In addition, with respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.

III-C. Matching Applicants on Waiting list to Available Units

When an applicant becomes eligible to be offered an Affordable Unit, they will be asked to complete an Interest Form. The Interest Form will assess whether they continue to meet the income requirements and whether they remain interested in purchasing or renting a specific unit or unit type.

The Administrative Agent will strive to fill available affordable units as quickly as possible in order minimize vacancy times and thereby assisting more households with affordable housing. Instead of inviting one applicant at a time for each available unit, the Administrative Agent will invite a group of households that meet the eligibility requirements to complete an Interest Form for each available unit. This method reduces the time it takes to fill an affordable housing vacancy. Waiting list priority will be established by the factors outlined in *Figure 2*. Households will have 24 hours to respond to the Interest Form to determine if they are interested in being potentially referred to the unit. If they do not want to pursue the unit or even if they do not respond at all, they will **not** be removed from the waiting list and will be notified of the next available vacancy. The Administrative Agent will prescreen the applicant's responses to the Interest Form.

Figure 32: Additional Factors Impacting Waiting List Priority

1. Age-Restricted	Only households that meet the age-restricted requirements will be offered age-restricted units.
2. Regional Preference	Municipalities may choose to give preference to households that live or work in the local Affordable Housing region. The municipality has elected to give preference to households that live or work in the local Affordable Housing region, such regional preference shall be established by ordinance. In such instance, applicants who indicate that they live or work in the Affordable Housing region will be contacted before those outside the region. Once those applicants are exhausted, applicants outside the region will be contacted.
3. New Jersey Preference	Subordinate to the regional preference, the municipality may choose to give preference to households that live and/or work in New Jersey.
4. Household Size (Number of Members)	Whenever possible, there will be at least one person for each bedroom. If the waiting list is exhausted and there are no households with a person for each bedroom, units will be offered to smaller sized households that do not have a person for each bedroom. An applicant household cannot be required to take an Affordable Unit with a greater number of bedrooms as long as overcrowding is not a factor. (A maximum of two people are permitted per bedroom.) A household can be eligible for more than one unit category. An applicant may request a reasonable accommodation for an extra bedroom to accommodate large medical equipment. Applicants must provide Doctor's note at time of income certification.
5. Maximum Minimum Income	Only households that are under the income limit of the Affordable Unit AND meet the minimum income requirements will qualify to apply for the next Affordable Unit. See <i>Figure 5</i> for a full discussion of minimum income requirements.
6. Fully Accessible Units	A household with a person with physical disabilities will get preference on the waiting list for accessible units because of the very limited number of handicapped accessible units. Applicants must provide a letter from their doctor stating what kind of accommodation they require as a result of their disability.
7. Veterans Preference	The Municipality and developer may enter into an agreement to provide preference to veterans who served in time of war or other emergency, as defined in section 1 of P.L.1963, c. 171 (C.54:4-8.10), of up to 50 percent of the affordable units in that particular project. If applicable, veterans who apply within 90 days of the initial marketing period shall receive preference for the rental of the agreed-upon percentage of affordable units. After the first 90 days of the initial 120-day marketing period, if any of those units subject to the preference remain available, then applicants from the general public shall be considered for occupancy.

Another way the Administrative Agent will strive to minimize vacancy times is by determining when to invite applicants to submit a full application during the screening process. There are three primary avenues. All applicants applying for the same unit will follow the same path.

- 1. Referral after Interest Form** - For most resales, applicants are referred to the seller of the affordable home after the Interest Form is submitted and screened before being invited to submit a full application. This method is generally preferred because each resale unit varies in condition and finishes. Not requiring applicants to submit full applications prior to referral allows applicants to see the opportunity before they invest time completing the full income certification application with supporting documents.
- 2. Referral after Full Application Prescreen** – For all rental units and some sale units, potentially eligible applicants will be invited to submit a full income certification application after the interest form is screened. CGP&H will also prescreen the full income certification application. Ineligible applicants will be notified that they do not qualify for the unit based on self-reported information. This prescreening of the full application does not include a review of required supporting documentation. Potentially eligible applicants will be referred to the landlord or owner after the full application prescreen.
- 3. Referral after Full Income Certification** – In some cases, applicants will be referred to the landlord or owner after the applicant is fully income certified.

Another way the Administrative Agent can expedite the filling of vacancies is by contacting all eligible households for a specific unit when the waiting list is very short. This approach allows the Administrative Agent to move through the waiting list as quickly as possible. Waiting list priority will be established by the factors outlined in *Figure 2*. If more than one household qualifies and is interested, the household with the highest priority number will be offered the unit first.

III-D. Determining Preliminary Eligibility

The Administrative Agent will review the Interest Form to determine whether the applicant meets or continues to meet the requirements to rent or purchase the unit. All information will be verified during the full application process. The following sections describe the factors that will be reviewed to determine preliminary eligibility as well as final eligibility during the full income certification process.

1. Regional and State Preference

Should a municipality determine that households that live or work within the Municipality's Affordable Housing Region and/or New Jersey are to be given preference in being contacted, such preferences shall be set out in the municipality's Affordable Housing Ordinance. Upon the adoption of such an ordinance, the Administrative Agent will confirm that the household either lives or works within the region and/or New Jersey. If they no longer live or work within the region and/or New Jersey, they will remain on the waiting list for consideration after all in-region and/or in-state applicants have been considered. The municipality does have a regional preference. The municipality does have a New Jersey preference.

2. Determining Household Composition

The household is composed of all permanent members of the household, and the composition will determine both the size of the unit needed by the household and the maximum income limit of that household. Some household members may be considered in the bedroom calculation who are not counted in the maximum income calculation as shown in *Figure 3*. If applicant's divorce decree states that both parents share legal and residential custody but the former spouse has primary custody for school purposes, the child may be included in the applicant's household when determining household size during the income certification process.

Figure 3: Determining Household Size (Number of Members)

	Maximum Household Income Limit	Bedroom Size Calculation
Foster Children	Do not count in household (do not include foster care income either)	Count
Live in Health Aid or Nanny (This must be a paid position and proof of contract with caregiver is required)	Do not count (Must provide proof that person is hired)	Count
Child Whose Primary Residence is Not the Applicant Household	Do not count unless custody is 50/50 (see narrative)	Count
Unborn Child	Count (Cannot ask for documentation because of privacy)	Count
Child being adopted	Count	Count
Full time college student not living at home (Full time student is a member of the household reported to the IRS as a dependent who is enrolled in a degree seeking program for 12 or more credit hours per semester)	Count (Do not count any part time income earned where part time is any income earned on less than a 35 hour work week)	Count

3. Maximum Income Limits

The Administrative Agent will confirm that the household's income reported on the Interest Form falls under state mandated maximum income limit for the unit for which they are applying. Maximum income limits are provided annually by the NJ HMFA for each of the six Affordable Housing regions.

4. Minimum Income Requirements

Unlike maximum income limits, the State does not set minimum income limits. Instead, the State provides different income-to-housing expense ratios for rental and purchase units and different standards for age-restricted homes. The purpose of these ratios is to provide guidelines so applicants will be able to sustain their monthly housing expenses in the Affordable Units.

Evaluating minimum income requirements is complicated because the permitted ratio of monthly income that can be spent on housing expenses varies for different unit types and waivers are permitted. *Figure 4* details the minimum income ratios that will be utilized at each stage of the outreach process as well as during the full income certification. Since waivers from UHAC are allowed (see below), outreach is extended to households that do not quite meet the minimum income requirements. *For example, UHAC stipulates that households must not pay more than 35 percent of their monthly income for housing expenses if they are purchasing a home unless they meet a waiver requirement. When a specific home is for sale, outreach is expanded to all households whose housing expenses are under 37 percent instead of 35 percent. At the time of income certification, the exact percentage and whether they meet a waiver requirement is confirmed.*

Precise waiver requirement standards are not stipulated in UHAC, and *Figure 4* provides guidance when evaluating waiver requests. The State permits the Administrative Agent to give waivers to households to purchase a unit when their existing monthly housing expenses exceed 35 percent of their monthly income under the following conditions:

- The household can provide evidence that they have completed a HUD-certified home budgeting course; and
- The household obtains a firm mortgage loan commitment at the higher housing expense percentage of income level from a licensed financial institution.

Likewise, rental waivers may be given under the circumstances described below, and the household must receive a budgeting counseling class.

- The household can document that the housing expense of the Affordable Unit is less than the housing expenses of their current housing; or
- The household currently pays more in rent and the proposed rent will reduce the household's housing costs; or
- The household has consistently paid more than 35 percent (40 percent for households eligible for Age-Restricted Units) of eligible monthly income for rent in the past and has proven its ability to pay; or
- The household is currently in substandard or overcrowded living conditions;
- The household documents the existence of assets, with which the household proposes to supplement the rent payments; or
- The household documents proposed third party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the Owner of the unit. (This includes applicants with a Section 8 Voucher.)

When reviewing a waiver request, the Administrative Agent may take into consideration whether the applicant is receiving other assistance such as SNAP Benefits (Food Stamps).

5. Regional Asset Limit

The administrative agent shall deny the certificate of eligibility if the applicant household meets income eligibility requirements but possesses net household assets valued at an amount greater than the Regional Asset limit published annually by NJMFA. Administrative agents shall determine household net assets in accordance with the procedure for calculating "net family assets" stipulated at 24 CFR 5.603(b), as it may be updated from time to time.

The estimated net value of an applicant's primary residence shall be excluded from the calculation of net total assets if any of the following apply:

- The applicant's existing monthly housing costs (including principal, interest, taxes, homeowner and private mortgage insurance, and condominium or homeowner association fees, as applicable) exceed 38 percent of the household's eligible monthly income;
- The applicant is receiving assistance for the residence pursuant to 24 CFR 982.620 or pursuant to the Homeownership Option at 24 CFR 982;
- The applicant jointly owns the residence with an owner-occupant who is not part of the applicant household and with whom the applicant does not reside;
- The residence is a restricted ownership unit subject to the requirements of this subchapter or a unit that, prior to December 20, 2004, received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction, or became subject to a grant agreement or other contract with either the State or a political subdivision thereof, including any 95/5-restricted unit;
- Any member of the applicant household is a victim of domestic violence, as defined by the Prevention of Domestic Violence Act of 1991, P.L. 1991, c. 261 (N.J.S.A. 2C:25-17 et seq.); or
- The applicant demonstrates that the residence is not suitable for occupancy, according to any of the criteria listed at 24 CFR 5.618(a)(2)(i) through (v).

The administrative agent must accept self-certification from any member of an applicant household claiming to be a victim of domestic violence for purposes of the exception.

Figure 4: Minimum Income Calculations ¹

RENTALS		
<i>Monthly Housing Expense Calculation is rent + utilities not included in rent – monthly rental Assistance (if accepted by landlord)</i>		
	FAMILY UNITS	AGE-RESTRICTED UNITS
To Submit Preliminary Application	Any household with income over \$8,000/year	Any household with income over \$8,000/year
To Be Invited To Submit Interest Form	37% of income toward housing expenses 45% of income toward housing expenses with rental waiver ²	42% of income toward housing expenses 45% of income toward housing expenses with rental waiver ²
To Be Invited To Submit Full Application	37% of income toward housing expenses 45% of income toward housing expenses with rental waiver ²	42% of income toward housing expenses 45% of income toward housing expenses with rental waiver ²
To Be Income Certified To Rent Unit	35% of income toward housing expenses 45% of income toward housing expenses with rental waiver ² If applicant meets minimum income requirement with rent only, case manager will review utility allowance ³	40% of income toward housing expenses 45% of income toward housing expenses with rental waiver ² If applicant meets minimum income requirement with rent only, case manager will review utility allowance ³
UHAC Requirement (Without Waiver)	35% of income toward Housing Expenses	40% of income toward housing expenses
OWNERSHIP		
<i>Monthly Housing Expense Calculation is mortgage cost +HOA fee + property tax + insurance</i>		
	FAMILY AND AGE-RESTRICTED UNITS	
To Submit Preliminary Application	Any household with income over \$8,000/year .	
To Be Invited To Submit Interest Form	37% of income toward housing expenses No minimum down payment required	
To Be Invited To Submit Full Application	37% of income toward housing expenses	
To Be Income Certified To Purchase Unit	35% of income toward housing expenses 37% of income toward housing expenses with ownership waiver ²	
UHAC Requirement (Without Waiver)	35% of income toward housing expenses	
¹ Minimum income and percentages may be adjusted as needed to administer the program. Minimum income should not restrict eligible applicants and is designed to prevent applicants who do not have enough income from being added to the waiting list. All minimum income requirements will be clearly posted on the Administrative Agent’s website. ² Rental and Purchase waiver requirements are explained in the <i>Minimum Income</i> Section of this Chapter (see Section 4). ³ The utility allowance review will determine whether the applicant will be able to afford the monthly expenses. This is sometimes required because the new utility allowance greatly exceeds the original utility pricing or their household’s actual utility costs may be less because of energy improvements.		

6. Separated Applicants

Separated applicants who have not finalized their divorce settlement agreement cannot purchase an affordable home until the spouse signs a form stating that they are releasing any claim right or interest in the affordable home being purchased. If the spouse refuses to sign the release, the applicant can request a judge to require the spouse to sign the form.

In order to calculate the household income of separated applicants at the time of the full income certification for both rental and sale properties, the applicant will need to provide a settlement agreement, divorce decree, or a division of assets signed by both parties.

III-E. Annual Updates

In order to keep the waiting list current, households will be asked to update their contact and other qualifying information on the waiting list annually. Households that do not update their information will be removed from the waiting list.

III-F. Full Application

Households will be invited to submit a full application to purchase or rent an affordable unit in order for the Administrative Agent to determine the income eligibility of the household. Applicants will have seven (7) days to submit the income application and seven (7) day extensions are permitted for a total of two weeks (14 days). Applicants will be advised that they may request an extension. All applicants will be provided a minimum of 14 days to complete their application.

The initial seven (7) day deadline with possible seven (7) extension is provided instead of an initial two week (14 days) deadline in order to assist applicants and reduce vacancy times.

III-G. Removal from the Waiting List

Applicants on the waiting list for Affordable Housing can be removed from the list for any of the following reasons:

1. The applicant's income exceeds the income guidelines;
2. The applicant does not have the minimum income to purchase or rent any units in the portfolio;
3. The applicant assets exceeds the Regional Asset limit;
4. The applicant requests to be removed;
5. The applicant submits fraudulent information during the income certification process;
6. The applicant fails to submit the complete application on time (this includes failure to provide documentation needed to verify income and other required documents);
7. The applicant fails to respond to an inquiry in a timely manner;
8. The applicant does not cooperate or is abusive with staff, property managers, or the sellers of Affordable Units;
9. The applicant does not meet the credit requirements or other tenant selection criteria required by the landlord;
10. The applicant is unable to secure a mortgage;
11. The applicant does not attend a budgeting/home buyer counseling class if such is required (e.g., for a waiver);
12. The applicant does not respond to requests to purchase or rent a unit;
13. The applicant does not submit an annual update; or
14. The applicant has been approved to rent or purchase a unit in the Municipality.

Applicants who are removed from the waiting list may reapply. If approved to rent or purchase a unit in the Municipality, they may reapply for other opportunities in the Municipality.

III-H. Income Certified Applicants on the Waiting List

Under certain circumstances, an applicant may be fully income certified but they do not proceed with the purchase or renting of the unit. In this case, the applicant will resume their original position on the waiting list. They will be contacted in the same priority outlined in this Chapter. In other words, being fully income certified will not result in any priority on the waiting list over other applicants. If the applicant does not sign a contract or lease within six months of the income certifications, the certification will expire.

In the future, the Administrative Agent shall accept household income determinations made within the previous 180 days by another administrative agent that has successfully completed DCA's Education Program. This is not applicable at this time because the Education Program has not been made available and therefore no Administrative Agents have successfully completed the program.

IV. DETERMINING INCOME ELIGIBILITY

To be eligible for consideration for an Affordable Unit, a household must be determined to be income eligible.

The administrative agent shall determine household income in accordance with the procedure for calculating annual income at the time of initial occupancy and assistance, stipulated at 24 CFR 5.609, as it was in effect on December 20, 2024, and described in Chapter 5 of HUD [page=2782] Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, which is available at:

https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsg/4350.3.

IV-A. Proof of Income and Other Supporting Documents

Extensive supporting documents are required to document the household's income and other qualifying criteria. The full list of required supporting documentation is provided in *Figure 5*.

During the course of the income certification, applicants may be required to submit additional documentation to establish the household composition and income. While it is impossible to list all examples of additional documentation, some examples of additional documentation are described below. The Administrative Agent may require that documentation is notarized.

- Private mortgage documentation (bank statement of party lending the money, letter with terms of private mortgage);
- Proof of gift for down payment (bank statement of party gifting the money, letter with terms of private mortgage);
- Proof of rental assistance from family, friend, or community group;
- Death Certificate of spouse when applicant is a recent widow or widower;
- Notarized letter from employer explaining overtime that will be offered to employee;
- Itemized explanation of deposits in bank accounts;
- If there are other household members that appear to be living in the household now but are not part of the household as it was when applying for housing, the applicant will have to provide a notarized letter explaining the current and existing household composition;
- If there is someone listed on the applicant's bank statement that is not included in their household applying for Affordable Housing, the applicant will be required to show proof that the person does not reside with the applicant; and

Notarized letter regarding withdrawal from 401K accounts or pensions (For example, if funds were withdrawn last year, will the applicant be making a withdrawal this year?)

Figure 5: Required Supporting Documents

Identification
<input type="checkbox"/> Personal photo identification: Driver's License, passport, or State ID
Income Related Documents – Provide All That Apply
<input type="checkbox"/> Employment Income: 4 most recent consecutive pay stubs for all employed household members <input type="checkbox"/> Social Security: Most recent award letter <input type="checkbox"/> Temporary Assistance for Needy Families (TANF): Voucher or other verification <input type="checkbox"/> Pension: Letter from pension fund setting forth outlays and benefits received <input type="checkbox"/> Child Support: Current statement from NJ child support website, court order or notarized letter re: child support status <input type="checkbox"/> Alimony: Current statement from NJ website or notarized letter regarding alimony support status <input type="checkbox"/> Military Pay: Verification of military pay <input type="checkbox"/> Workers' Compensation: Statement showing benefits <input type="checkbox"/> Unemployment Benefits: Statement showing benefits <input type="checkbox"/> Self Employed or Own Business: Year to date profit & loss statement (not required if submitting K-1 with taxes) <input type="checkbox"/> 1099 for Independent Contractors (Profit and loss statements are not permitted)
Bank Statements & Other Accounts (Including JOINT ACCOUNTS)
<input type="checkbox"/> Checking Account: All pages of statements for the last 6 consecutive months <input type="checkbox"/> Savings Account Statements Including CD's: All pages of statements for the last 6 consecutive months <input type="checkbox"/> Other Account Statements: Most recent statement for other assets such as retirement accounts, 401k's, stocks, bonds, & trusts
Tax Returns
<input type="checkbox"/> Federal Tax Return: All pages of 1040 Federal Tax Return for the past 3 consecutive years (copies of signed returns to validate the copy) <input type="checkbox"/> State Tax Return: All pages for the past 3 consecutive years <input type="checkbox"/> Notarized tax waiver letter if unable to provide taxes
If Applicant Owns a Home, Condo, and/ or Rental Property, the Following is Required
<input type="checkbox"/> Current mortgage statement <input type="checkbox"/> Investment property lease agreement (if applicable) <input type="checkbox"/> Current year tax assessment record <input type="checkbox"/> Real estate listing if this property is for sale <input type="checkbox"/> Contract with the realtor listing property if property is for sale <input type="checkbox"/> Foreclosure notice (LIS PENDENS, etc.) if the property is in foreclosure
Other
<input type="checkbox"/> Divorce Decree: All pages of divorce decree & settlement agreement <input type="checkbox"/> Full Time Student Over 18: School schedule to document full time status <input type="checkbox"/> Section 8: Voucher (RENTAL ONLY) <input type="checkbox"/> Mortgage Preapproval (OWNERSHIP ONLY)

IV-B. Final Eligibility Determinations

After the household's annual income and composition is determined and verified, the Administrative Agent will make the final eligibility determination. Requirements related to household composition, Regional Asset Limit, down payments, etc. outlined in *Chapter III* will also be verified.

Households determined to be eligible will receive an eligibility letter notifying them of their eligibility determination, in writing within five days of completion of the eligibility determination. When a household is determined ineligible, the household will be notified in writing and advised of the reasons for the ineligibility and that it may submit additional proof and request that the decision be reconsidered by the Administrative Agent. Such request for reconsideration shall be made by the applicant within five (5) business days of receipt of notice of denial of ineligibility. If an applicant for affordable housing is again determined to be ineligible by the Administrative Agent, then the Municipal Housing Liaison (see Chapter 7) will attempt to mediate the decision or policy to the satisfaction of all parties. Any situation that the Municipal Housing Liaison is unable to resolve will be forwarded to the Division of Local Planning Services (Division) for further appeal and review. The determination of the Division shall be a final administrative action.

IV-C. Misrepresentation of Information in Application

When the applicant submits their full application, the applicant certifies that all information provided in the application is complete and true as to the entire household. If the applicant makes false statements or provides fraudulent documentation, the applicant will be determined ineligible immediately. They may reapply for Affordable Housing but they will lose their position on the waiting list.

IV-D. Changes to Income and/or Household Composition after Submittal

Prior to the certification process and a determination of eligibility, a household may supplement its application. Once the full application has been submitted with the applicant certifying that all information is complete and true, the applicant enters the Eligibility Period. During this one to two-week timeframe during which the household's eligibility is being reviewed, the applicant is not permitted to change the employment status of any household member in order to become eligible for Affordable Housing nor change the household composition from what is listed on the application. *For example, the applicant cannot add a member to their household, subtract a member, quit a job, or get a new job, or a raise during the Eligibility Period.* See Glossary for definition of "**Eligibility Period**". If the applicant does make changes during this Eligibility Period, the household will be determined ineligible and lose their position on the waiting list. However, the applicant may reapply with their new income and/or household composition and will be assigned a new position on the waiting list.

V. OWNERSHIP PROGRAM

At each purchase, Affordable Housing documents are executed that restrict units as Affordable Units. The process of finding a buyer is explained in depth in *Chapter III*. In addition, the buyer must be income certified as outlined in *Chapter IV* and information about establishing new ownership projects is also included in *Chapter II*.

The following outlines the process of selling and purchasing an affordable home.

V-A. Selling an Affordable Home (Resale)

1. Request an Intent to Sell Package

When an owner wants to sell its affordable home, the first step is to request an Intent-To-Sell package. The owner, as “**Seller**”, cannot start the process of selling its home until it makes this request and receives the package from the Administrative Agent.

2. Calculate the MRSP (Maximum Restricted Sales Price)

The Administrative Agent will calculate the MRSP of the affordable home based on the last sale price and the last sale date. The annual increase issued is applied for each year the owner has owned the home. However, there is no increase if the owner has owned the home for less than a year. *For example, if an owner purchased an affordable home in March 2015 and requested to sell the home in January 2016, the MRSP is the price the owner paid for the home.*

In addition, if the owner requests to sell their home and the state has not released the annual increase for that year yet, no annual increase for the current year will be applied. *For example, if an owner requests to sell their home in February 2015, and the 2015 increase has not been released, the MRSP will not include an increase for 2015.*

Owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit based on capital improvements. All adjustments for capital improvements are subject to 10-year straight-line depreciation. Eligible capital improvements are:

- Those that render the unit suitable for a larger household or the addition of a bathroom.
- The maximum resale price may be further increased by an amount up to the cumulative dollar value of approved capital improvements made after the last non-exempt sale for improvements and/or upgrades to the unit, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien described at UHAC.

No increase for capital improvements is permitted if:

- The improvements were not approved in advance by the Administrative Agent; or
- The maximum resale price prior to adjusting for capital improvements already exceeds whatever initial purchase price the unit would have if it were being offered for purchase for the first time at the initial affordability percentage.

The Administrative Agent will prepare the Intent to Sell Package and send it to the Seller. This package will include:

- Form for the owner to sign and return, formally requesting to sell home;
- The MRSP of the unit;
- An overview of the process of selling an affordable home in this program;
- Blank Purchase Agreement;
- Summary of fees charged by the Administrative Agent/Municipality related to selling of the affordable home;
- Request for digital photographs to be utilized in the marketing of the home; and
- Request for additional information about the home to be utilized in marketing the home such as recent renovations and unit amenities.

3. Start Affirmative Marketing Process

When the Administrative Agent receives the signed Intent to Sell Form back, it will begin the process of looking for a buyer for the unit. This process is outlined in *Chapter III* of this manual. The Administrative Agent will refer interested buyers directly to the Seller. The Seller will be responsible for showing the home to interested buyers. Buyers cannot enter into a contract with the buyer unless they are income certified by the Administrative Agent and next on the waiting list.

V-B. Buying an Affordable Home

1. Preliminary Application and Prescreen

In order to be considered to purchase an affordable home, interested buyers must submit a preliminary application. The process outlined in *Chapter III* will be followed even if the Seller has found a buyer interested in purchasing the property. The unit must be affirmatively marketed to other eligible households on the waiting list first.

2. Income Certification

When a household would like to purchase the home, it will notify the Administrative Agent, and if it is next on the waiting list, it will be invited to submit a full application. The income certification process is described in detail in *Chapter IV*. A mortgage pre-approval must be submitted with the application as well as proof that the buyer has the recommended minimum down payment if required by the bank or provided at buyer's option. Buyers will be advised that they will also be responsible for closing costs, but they will not be required to show proof of funds at the time of the income certification.

3. Mortgage Provider

The Administrative Agent will provide prospective buyers with a list of mortgage companies that have financed deed restricted Affordable Units recently. If the prospective buyer chooses to utilize a different lender, the Administrative Agent will provide the lender copies of the Affordable Housing documents for their review after the buyer is income certified.

A buyer may borrow money to purchase the home from a friend or family member (sometimes referred to as a “*Private Mortgage*”.) To proceed with the application, the Administrative Agent will require proof that the lending party has the funds (bank statement of the party who is lending the money, for example) and a notarized letter signed by both parties with the terms of the loan (monthly payment, interest, etc.). If the money is a gift, this should be noted in the letter. The lending party in a Private Mortgage situation MAY NOT be on the deed to the Affordable Unit.

4. Down Payment

In order to encourage homeowner investment and a sense of direct involvement in the homeownership process, it is strongly recommended that the buyer provide 5 percent of the purchase price as down payment. In addition, as a practical matter, applicants are highly unlikely to receive a mortgage without at least a 5 percent down payment. The funds may be provided as a gift (e.g., from a family member or friend) if the funds do not have to be repaid, and proof of the gift must be provided at the time of income certification (see above).

Some municipalities offer a down payment assistance grant program. In such cases, the minimum down payment requirement is governed by specific program requirements. The Administrative Agent will maintain a list of down payment assistance programs that may become available and provide program information to buyers.

5. Separated Spouses

Separated applicants who have not finalized their divorce settlement agreement cannot purchase an affordable home until the spouse signs a form stating that they are releasing any claim right or interest in the affordable home being purchased. If the spouse refuses to sign the release, the applicant can request a judge to require the spouse to sign the form.

6. Cosigners on Deeds and/or Mortgages Are Not Permitted

If a buyer for Affordable Housing cannot obtain a mortgage, a family member or friend CANNOT obtain a mortgage and allow the affordable buyer to reside in the home. Anyone on the deed and/or mortgage is considered part of the buyer’s household and must be included in the income certification and must reside in the home as its primary residence.

However, not all household members are required to be on the mortgage and/or deed. For example, if a household is composed of the buyer and its roommate, both the buyer and the roommate will be included in the income certification. The roommate is not required to be on the deed or the mortgage.

V-C. Purchase Agreement and Contracts For Sale

As the buyer and seller enter into negotiations, the purchase agreement is an “internal”, not legally binding, DCA generated document between them to establish and ensure that the unit will be affordable to the buyer. It stipulates such terms as the MRSP of the unit, the agreed upon purchase price, the amount of good faith deposit, and the items to be included in the sale price of the unit (“**Purchase Agreement**”). All these terms are then set out in the contract for sale. Typically, the Purchase Agreement is signed after the buyer has been income certified, however under certain circumstances the Purchase Agreement may be amended and signed after the income certification process (see Section 4 below).

The contract for sale is a legal contract between the buyer and seller, finalizing the negotiations between buyer and seller and setting out all material terms of the transaction (“**Contract for Sale**”). The Contract for Sale can only be executed after the household is income certified.

Copies of both the Purchase Agreement and Contract for Sale should be sent to the Administrative Agent immediately upon execution.

1. MRSP and “Extras”

The Purchase Agreement includes a section for the Seller to list items that may be sold separately at a price agreed upon by the buyer and seller. The price to be paid for items of personal property shall not be used as a mechanism to avoid or circumvent the limitations on the resale price of the unit itself. The personal property for sale cannot become a contingency of the house sale. If this separate transaction occurs, it cannot be incorporated into the Mortgage or Contract of Sale.

These “extras” do not include items of property that are permanently affixed to the unit such as countertops and flooring or were part of the original sale. These permanently affixed items are to be included in the MRSP and no additional compensation is permitted to the owner. As stated in UHAC, N.J.A.C. 5:80-26.9: “Upon the resale of a restricted unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price.”

2. Accepting and Rejecting Offers

The Seller of the home must accept offers from the next buyer on the waiting list whose income is certified and who offers to purchase the home for the MRSP. The Seller cannot reject an offer at the MRSP from the first eligible person on the waiting list for any reason such as the buyer not making a cash purchase. In the contract, the Seller can include a requirement that the buyer be able to close in a reasonable amount of time, such as two months.

Buyers may make offers at less than the MRSP. The seller may choose to accept such an offer but is not required to accept such lower offers.

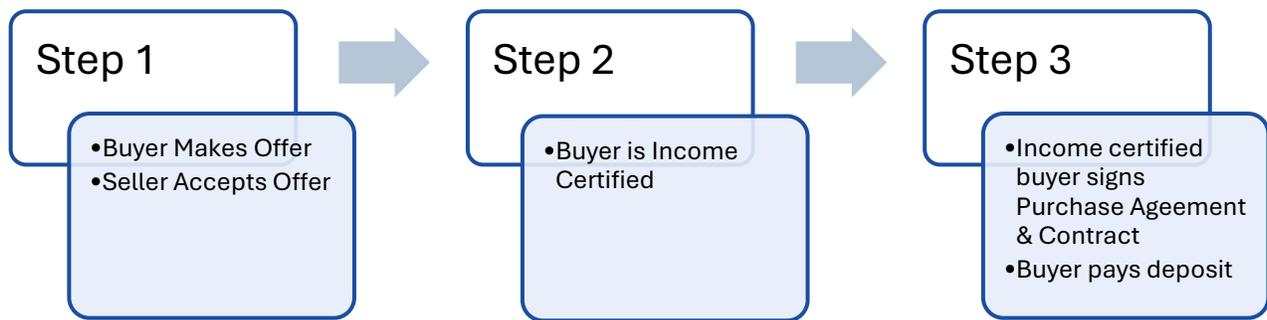
3. Good Faith Deposit/Earnest Money

It is not required, but the seller may choose to collect a good faith deposit or earnest money at the time the Purchase Agreement is signed.

4. Purchase Agreement and Income Certification

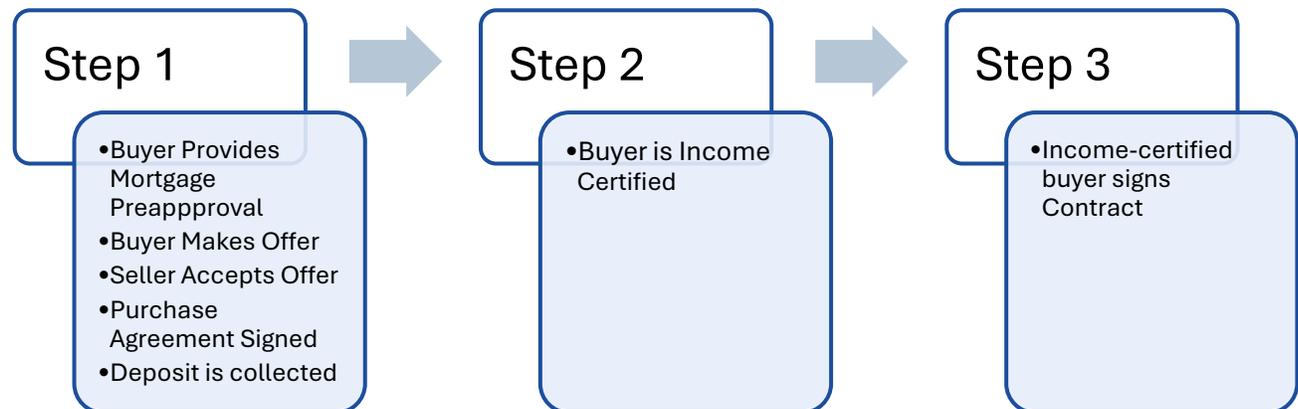
The Purchase Agreement is typically signed only after the household is income certified. (See Figure 6 below.) Under this process, the Purchase Agreement clearly states that only an income certified household may sign a purchase agreement. See Glossary for definition of “Certified Household”. This process will be utilized for most resales, and it is the most effective process for selling homes if there is not a high demand for the home.

Figure 6: Purchase Agreement Signed After Income Certification



However, under certain circumstances, the Administrative Agent may amend the Purchase Agreement to permit a buyer who is not yet income certified to sign the Purchase Agreement. These circumstances include new developments where demand is very high for the units. Under this approach, as shown Figure 7, the Purchase Agreement will clearly state that the Purchase Agreement is contingent on the income certification by the Administrative Agent of the buyer as a Low or Moderate-Income household and, in the event that the household is determined not to be income eligible or does not submit a complete application, then the Purchase Agreement is invalid.

Figure 7: Purchase Agreement with Non-Income Certified Buyer



V-D. Attorneys

New Jersey does not require that attorneys participate in real estate transactions. However, while not a requirement, it is recommended that both the buyer and seller hire an attorney to draft the contract and represent them during the transaction.

V-E. Realtors

A realtor is not required for the sale of the affordable home because the Administrative Agent will refer interested buyers from the waiting list. However, some Sellers may choose to hire a realtor to conduct additional marketing and show the home. This is permitted under the following circumstances:

- The Seller provides the realtor's contact information to the Administrative Agent so that the Administrative Agent can inform the realtor of the MRSP, preliminary application, income certification process, and other Affordable Housing requirements;
- All interested buyers referred by the realtor, must submit a preliminary application and will be contacted following the process outlined in Chapter III; and
- Any realtor fee is subtracted from the MRSP. In no circumstances will the price of the home exceed the MRSP.

V-F. Coordination of Closing

After the home goes under contract, the Administrative Agent will maintain regular contact with the buyer, seller, and/or their attorneys as well as the mortgage provider. The Administrative Agent will answer questions about the Affordable Housing documents and assist to resolve any issues that arise before closing.

1. Required Legal Documents

The Administrative Agent will prepare the Affordable Housing documents. If 95/5 is currently being used, we will continue to use 95/5 for resales if the control period has not expired. Resale of Affordable Units: Requirement for a Market Rate Appraisal

A market rate appraisal will be required to calculate the repayment amount on the affordable Recapture Mortgage Note. (This amount is the difference between the market appraisal and the affordable sale price and is due at the first non-exempt sale at the end of the control period. The repayment amount is paid to the Municipality.)

For new units, the developer is responsible for providing the market rate appraisal. If the buyer's mortgage company completes a market-rate appraisal, that appraisal can be used instead.

For resales, the buyer must provide the market rate appraisal. If the buyer's mortgage company will not be completing a market rate appraisal or it is a cash deal, the buyer must pay for a market rate appraisal. *This buyer will be notified of this requirement as soon as the Purchase Agreement is signed because the unit cannot close without the market appraisal.*

2. Closing Fees

If applicable, required closing fees paid by the Seller are due at the time of closing and must be included on the Settlement Statement. The fee cannot be waived.

The only exception is if the unit is bank owned as the result of a foreclosure action and the lenders (such as FHA, Fannie Mae, or Freddie Mac) are statutorily prevented from paying closing fees.

3. Closing Checklist

At the closing, the Administrative Agent will review the Affordable Housing rules with buyer including the following:

- When the unit is sold in the future, the owner must contact the Administrative Agent. The unit cannot be sold for more than the MRSP, and it must be sold to an income Certified Household;
- All refinancing, including lines of credits, secured by the Affordable Unit, must be approved in advance and in writing by the Administrative Agent. The total amount of all debt may not exceed 95 percent of the MRSP of the home;
- The Affordable Unit must be the owner's primary residence;
- No renting of this unit is permitted except on a short-term hardship basis as approved in advance and in writing by the Administrative Agent (see Waiver section for more information); and

Prior to closing, the Administrative Agent will obtain a copy of the Closing Disclosure for the Affordable Housing file that is executed at closing between the buyer and seller to confirm that:

- The sale price listed on the Closing Disclosure does not exceed the MRSP; and
- The buyer has not financed more than 95 percent of the sale price and that the buyer is not receiving cash back at closing.

Following closing, the Administrative Agent will obtain one original set of documents and distribute the copies as follows:

- Original of Mortgage, deed, discharges and Restrictive Covenant (if applicable) to the attorney or title company that handled the closing for recording.
- Copy of all documents is provided to the buyer.
- Original of Mortgage Note and copies of all other documents are kept by the Administrative Agent for the Affordable Housing file.

V-G. Refinance Requests

Affordable home owners are permitted to refinance their mortgages or incur some form of additional debt on their home, such as a home equity loan. The owner must notify the Administrative Agent who will review the request to confirm that the total debt is not more than 95 percent of the current MRSP. If the total debt exceeds 95 percent of the MRSP, the request will be denied. If the request is under 95 percent, the request will be approved.

Reverse mortgages are not prohibited by UHAC. However, lenders have historically not approved reverse mortgages on deed restricted affordable properties because of the refinance limits. Any requests for reverse mortgages should be carefully reviewed to ensure that there is no way the loan amount will exceed 95 percent of the MRSP.

If there is a fee to review the refinance request, the refinance review will not be started until the fee is submitted via certified check or money order.

As clearly stated in the Restrictive Covenant, the owner is forbidden from refinancing or taking an equity loan, a secured letter of credit, or any other mortgage obligation or other debt without advanced, written approval from the Administrative Agent.

V-H. Annual Mailing

The Administrative Agent will send a mailing to each of the affordable owners annually. This newsletter will provide the owner with information about how to get in touch with the Administrative Agent if they want to sell their home or refinance their mortgage. It will also remind them of other important Affordable Housing requirements.

The envelope will be marked “do not forward”, and if it is returned by the post office, the Administrative Agent will follow-up with the owner to determine if the owner is no longer living in the home.

V-I. Report that Owner is Not Living in the Unit and/or Renting Unit

When the Administrative Agent obtains indications that an owner is not living in the unit, the Administrative Agent will investigate the allegation. The Administrative Agent will gather as many details as possible such as how long the owner has not been living in the unit; if anyone else is living there (i.e. renters); and if there is anyone else that will corroborate the allegations.

The Administrative Agent will also contact the Municipal Division of Tax Collection to determine where the tax bills are being sent. If they are sent to a different address than the property address on file with the Administrative Agent, then this is an indication that the owner is leasing the Affordable Unit.

The Administrative Agent will send a letter to the owner asking that it call the Administrative Agent within seven days. If the letter is returned, this will also suggest that the owner is not living in the unit. If the owner receives the letter and calls the Administrative Agent, the Administrative Agent will ask the owner about the allegations and request that they provide proof of residency, including copies of their driver’s license and utility bills. The Administrative Agent may also determine it is necessary to do an address search on the owner.

If it is determined that the owner is not living in the home, the enforcement provisions outlined in *Chapter VIII* will apply.

V-J. Non-payment of Condominium/Homeowner Association Dues, Taxes, Mortgages, and Foreclosure

When the Administrative Agent receives a report that the owner is falling behind in home owner association dues, taxes, and/or mortgage payments, it will immediately reach out to the owner. The purpose of this outreach is to:

- Educate the owner on the risks of not paying their condominium or homeowner association dues, taxes, and/or mortgage payments;
- Determine whether the owner has experienced a temporary or permanent loss of income;
- Recommend that they contact their condominium/homeowner association and/or mortgage company to see if they can set-up a repayment plan;
- Refer them to foreclosure prevention resources; and
- Advise them of the MRSP of their home if they are interested in selling the home before they become further behind.

The Administrative Agent will track the status of the unit and coordinate closely with the Municipality through its Tax Collection and/or Assessor's Office, as well as its Corporation Counsel, in order to be updated as to any water and sewer fees that are in arrears and any foreclosures on Affordable Units. Additionally, the Administrative Agent will notify the Municipal Corporation Counsel if it becomes aware that the home is in foreclosure or a lien has been placed on the unit by the condominium/homeowner association.

All deed restrictions must clearly specify that the affordability controls remain in effect despite the entry and enforcement of any judgment of foreclosure.

V-K. Waivers

The Administrative Agent has authority to grant waivers from some of the Affordable Housing rules. The Administrative Agent will complete a waiver request form for each request it receives outlining the details of the request and its decision to approve or deny the request.

1. Request to Rent Affordable Unit

Requests to rent a unit will only be approved on a temporary basis if the owner will be required to leave the area for a temporary period of time, such as military deployment. Each request will be reviewed by the Administrative Agent (as permitted by UHAC) based on the specific circumstances of the request. *Another example of where a request for waiver possibly would be approved is where the owner needs to go to another area to care for a sick relative for a short period (such as three months or less). A request for a waiver in order to move to another city to "try out" a new job for six months most likely would not be a basis for an approval.*

The Administrative Agent will determine the maximum rent based on the initial affordability pricing of the unit, and will select the tenant through Affirmative Marketing and random selection. Other

requests to rent units will be denied. These include requests from owners who would like to rent their home because they are unable to sell the unit for the full MRSP.

2. Request to Sell to a Higher Income Household

After an Affordable Unit has been affirmatively marketed for over 120 days and if there is no interested income-eligible purchaser for the Affordable Unit after 120 days, the owner may request an income waiver, that is, that the Affordable Unit be affirmatively marketed and sold to someone in a higher income level (a very-low-income unit to be sold to a low-income household; a low-income unit to be sold to a moderate-income household; and a moderate-income unit to be sold to a non-income eligible household). The following conditions will apply:

- If granted, this waiver will only apply to this sale, and the original income restriction will remain for future sales.
- At no time will the sale price of the home exceed the MRSP which is based on the income level that the unit is controlled for. In other words, granting a waiver will not increase the MRSP and the owner will not receive a higher sale amount as a result of the waiver.
- The Administrative Agent will provide the Division a description of the of the efforts to market and sell the unit to income-eligible households and request that the Division determine that there are an insufficient number of income eligible purchasers and issue a waiver to permit the sale of the home to a higher income household.

The first factor the Administrative Agent will consider in reviewing these requests is how long it takes to sell a similar Affordable Unit in the current housing market. It is not unusual for an Affordable Unit to be offered for sale for six months or more before a qualified buyer is found. The waiver request will not be considered until the Affordable Unit has exceeded the “typical” time period it takes to sell a home under current market conditions.

Next, the Administrative Agent will review the sale price of the Affordable Unit. The inability to sell a unit for the MRSP shall not, in and of itself, be considered an appropriate reason for granting a waiver. The Administrative Agent will review the sale price of recent, comparable affordable homes and determine if the owner should consider lowering the price. The condition of the unit and whether the Seller has consented to show the Affordable Unit to interested applicants will be factored into this analysis.

If the Affordable Unit has been affirmatively marketed for at least 120 days, the unit has been for sale longer than other Affordable Units typically take to sell with the sale price comparable to other sales, the owner has shown the Affordable Unit to interested buyers, and there is no interested income-eligible buyer, the Administrative will seek a waiver from the Division.

V-L. Requests for Improvements

Capital Improvements that address non-cosmetic replacement or improvements to the property and/or make the home suitable to a larger size household MAY increase the MRSP. (See Section A of this Chapter for more information about how the MRSP may be increased in some instances.)

Capital improvements that may increase MRSP the include:

- Adding a bedroom or bathroom;
- Replacement a leaky roof;
- Installation of a solar energy system owned by the homeowner;
- Installation of energy-efficient windows; and/or
- Replacement of broken appliances with ENERGY STAR-labeled products

In order to be factored into the MRSP at the time of resale, the homeowner must:

- Receive written approval for the improvements prior to commencing upon the work;
- Provide all requested receipts and documents showing proof of completion; and
- Provide proof that work was properly permitted and inspected as required by the municipality.

Improvements that do not increase the MRSP do not need to be approved by the Administrative Agent.

V-M. Transfer of Ownership to Non-Income Certified Owner

Under the following circumstances, ownership of an Affordable Unit can be transferred to another owner without the new owner being income certified. These circumstances include:

- Transfer of ownership between husband and wife;
- The transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; or
The transfer of ownership through an executor's deed to a Class A beneficiary (father, mother, grandparents, descendants, spouses, and, generally, civil union partners, or domestic partners).

This waiver will only apply to this sale, and the original income restriction will remain for future sales.

V-N. Enforcement

The guidelines for the enforcement of the affordable rules are outlined in *Chapter VIII*.

VI. RENTAL PROGRAM

The following is an overview of the process of filling a rental vacancy. See *New Rental Units* in *Chapter II* for a discussion of allowable fees and landlord-tenant selection criteria and *Chapter III* for a full discussion of management of the waiting list.

VI-A. Filling Affordable Rental Vacancy

1. Landlord Notifies of Vacancy

Landlords will notify the Administrative Agent when there will be a vacancy. Because of the Affirmative Marketing and income certification requirements, landlords will be advised that it may take up to two months to find a qualified tenant and longer if there is not high demand for a unit.

2. Calculating the Maximum Rent at Vacancy

The Administrative Agent will determine the Maximum Rent that can be charged to the new tenant. This will be based on initial rent when the first tenant occupied the unit and the annual increases permitted by the NJ HMFA. (Annual rental increases will be calculated even if the landlord did not take all permitted annual increases for the previous tenant.) At the landlord's discretion, the landlord can choose to rent the unit for less than the Maximum Rent determined by the Administrative Agent.

3. Referring Applicants to Landlord

The Affirmative Marketing process is outlined in *Chapter III* of this manual. After the next household on the waiting list passes the Administrative Agent's preliminary screen, the applicant is referred to the landlord to see the unit. If the applicant wants to rent the unit, they will complete the landlord's application and pay any required landlord fees. (See *New Rental Units* in *Chapter II* for discussion of fees and landlord-tenant selection criteria.)

4. Income Certification and Signing the Lease

After the applicant is fully income certified, the landlord will be notified that they may execute a lease with a tenant. *Co-signers* are permitted if allowed by landlord. Applicants who are separated and do not have settlement agreements are permitted to rent an Affordable Unit. However, in order to calculate the household income at the time of the full income certification, the applicant will need to provide a division of assets signed by both parties.

A copy of the executed lease must be sent to Administrative Agent.

VI-B. Lease Renewals

The Administrative Agent will calculate the allowable maximum rent each year.. The Administrative Agent will advise the landlord what the maximum amount of rent is and request the copy of the executed lease for the file. And, unlike some forms of Public Housing, the tenant's right to tenancy at the allowable rent does not vary with any increases or decreases in the tenant's income.

If the landlord chooses not to take the annual increase, the landlord may not take a larger increase the following year. For example, if the landlord does not take the 2015 increase in 2015, they may not take the 2015 and 2016 increase the following year if the current tenant does not move out.

Month-to-month leases are permitted. Additional fees for month-to-month leases are considered "optional fees." See discussion of optional fees in *Chapter II*.

Income certification of tenants is NOT required at the time of lease renewal. Upon leasing an Affordable Unit to a new tenant, the landlord will be permitted to lease at the allowable rent level permitted at that time.

The Administrative Agent will advise landlords of the annually permitted rental increase. All landlords are required to sign and return the Certification of Rental Compliance Form annually. On this form, the landlord certifies that:

1. Rents are within the maximum percentage increases as permitted;
2. Affordable housing tenants are not charged any amenity, parking, application or pet fees that are not in compliance with the affordable housing regulations; and
3. No affordable apartments have been re-rented or subleased to a resident without prior approval in writing by the Administrative Agent.

VI-C. Adding Additional Household Members to the Lease

The household composition of the rental household may change over time. The Affordable Housing rules do not prohibit the tenant from changing the number of household members on the lease following occupancy. However, all changes to the lease must be approved by the landlord.

However, an applicant cannot change their household composition after they submit the full application or immediately after they are income certified. The household members on the new tenant's lease must match the household members listed on the income certification. This is to prevent applicants from changing their household composition in order to qualify for an Affordable Unit.

VI-D. Income Designation of Units Are Fixed

The income designation and pricing tier of units are fixed and cannot be changed during the affordability period for any reason. *For example, if Unit 301 is a 3 bedroom Low-Income Unit and unit 201 is a 3 bedroom Moderate-Income unit, the landlord CANNOT change Unit 201 into the Low-Income unit and unit 301 into the Moderate-Income unit.*

VI-E. Evictions

If the affordable tenant fails to pay rent or violates the terms of the lease, the landlord may take action as permitted by New Jersey Landlord Tenant laws.

VI-F. Enforcement

The guidelines for the enforcement of the rental rules are outlined in *Chapter VIII*. In addition to these general enforcement regulations, the following enforcement provisions apply to rental units.

1. Leasing affordable Apartments in a Reasonable Amount of Time

All affordable units must be occupied within a reasonable amount of time and be re-leased within a 60 days of vacating of the unit by a tenant. This period of time may be longer if required by market conditions. If the Administrative Agent becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, the Administrative Agent shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this subchapter, including by keeping a unit vacant, the developer, landlord, or property manager may be fined up to the amount required to construct a comparable affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section.

2. Fair Housing Violations

Developers and property management entities shall not discriminate against any person as prohibited by Federal Fair Housing laws or by the New Jersey Law Against Discrimination, N.J.S.A.10:5-1 through 50. The Administrative Agent shall report property managers to the Division, which shall refer such matters to the Office of the Attorney General if they receive any complaints that developers or property managers are discriminating against applicants or residents.

VII. APPEALS

If an applicant for affordable housing is determined to be ineligible by the Administrative Agent, the applicant may submit additional proof and request reconsideration. Such request for reconsideration shall be made by the applicant within five (5) business days of receipt of notice of denial of ineligibility.

If a policy or decision regarding this program is appealed by an outside party, the Municipal Housing Liaison (a position established by Municipal Ordinance) will attempt to mediate the decision or policy to the satisfaction of all parties. Any situations that the Municipal Housing Liaison is unable to resolve will be forwarded to the Division Director of Local Planning Services within the Department of Community Affairs.

VIII. MONITORING AND ENFORCEMENT

VIII-A. Monitoring

All new unit information will be compiled and maintained by the Administrative Agent. On or before February 15 of each year, the annual reporting of the status of all affordable housing activity shall be provided to the Department on the Affordable Housing Monitoring System (AHMS) portal, for the previous year from January 1st to December 31st.

VIII-B. Enforcement

The Municipality's Affordable Housing Ordinance provides specific guidelines in the event of breach of any of the guidelines governing the Affordable Units by an owner, developer, or tenant. Please refer to Municipality's Ordinance for the complete list of enforcement activities upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant. Some of these remedies may include, but are not limited to:

- Foreclosure;
- Tenant eviction;
- Municipal fines;
- A requirement for household recertification;
- Acceleration of all sums due under a mortgage;
- Recoupment of any funds from a sale in violation of the regulations;
- Injunctive relief to prevent further violation of the regulations; and
- Entry on the premises.

1. Written Notice

In accordance with the Municipality's Affordable Housing Ordinance, the Municipality will provide written notice of a violation to a household, developer or tenant of an Affordable Unit advising them of the violation and the related penalty for the violation. If the violation is not corrected within sixty (60) days after the written notice, the Municipality may take the actions outlined in this Chapter.

2. Penalties

The Municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the Affordable Unit. If the owner, developer, or tenant is found by the court to have violated any provision of the regulations governing Affordable Units, the owner, developer, or tenant shall be subject to one or more of the following penalties, at the discretion of the court:

- A fine of not more than \$2,000 or imprisonment for a period not to exceed 90 days, or both. Each day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

- In the case of an owner who has rented his or her very low, low, or moderate income unit in violation of the regulations governing Affordable Units, payment into the Municipality's Affordable Housing Trust Fund of the gross amount of rent illegally collected; and
- In the case of an owner who has rented his or her very low, low, or moderate income unit in violation of the regulations governing Affordable Units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.

The Municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the Affordable Unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- and moderate-income unit.

3. Sheriff Sale

Such judgment shall be enforceable, at the option of the Municipality, by means of an execution sale by the Sheriff, at which time the very low, low, or moderate income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the Municipality fully, including attorneys' fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the very low, low, or moderate income unit. The excess, if any, shall be applied to reimburse the Municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the Municipality in full as aforesaid, the violating owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the Municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the Affordable Housing Trust as established by the Municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

Foreclosure by the municipality due to violation of the regulations governing Affordable Units shall not extinguish the restrictions of the regulations governing Affordable Units as the same apply to the very low, low, or moderate income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the Affordable Unit.

The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the very low, low, or moderate income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the MRSP for which the very low, low, or moderate income unit could have been sold under the terms of the regulations governing Affordable Units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

Failure of the very low, low, or moderate income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the MRSP of the very low, low, or moderate income unit as permitted by the regulations governing Affordable Units.

The owner shall remain fully obligated, responsible, and liable for complying with the terms and restrictions governing Affordable Units until such time as title is conveyed from the owner.

In the event that any provision in this Manual differs from the terms or penalties identified in the most current Affordable Housing Ordinance, then the Affordable Housing Ordinance (as may be from time to time modified, amended and/or revised by relevant New Jersey State laws and/or regulations) shall prevail. The invalidity or nonenforceability of any provision of this Manual in any respect shall not affect the validity or enforceability of any other provision of this Manual in any other respect.

GLOSSARY

“Administrative Agent” means the entity approved by the Division responsible for the administration of affordable units, in accordance with N.J.A.C. 5:99-7, and UHAC at N.J.A.C. 5:80-26.15.

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of Affordable Units pursuant to N.J.A.C. 5:80-26.16.

“Affordable” means a sales price or rent within the means of a very low, low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.7, as may be amended and supplemented, and in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.13, as may be amended and supplemented.

“Affordable housing” means housing units restricted to income-eligible very-low, low and moderate income households.”

“Affordable Housing Development” means a development included in a municipality's housing element and fair share plan, and includes, but is not limited to, an inclusionary development, a municipally sponsored affordable housing project, or a 100 percent affordable development. This includes developments with affordable units on-site, off-site, or provided as a payment in-lieu of construction only if such a payment-in-lieu option has been previously approved by the Program or Superior Court as part of the HEFSP. Payments in lieu of construction were invalidated per P.L. 2024, c.2.

"Affordable Housing Monitoring System" or "AHMS" means the Department's cloud-based software application, which shall be the central repository for municipalities to use for reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

“Affordable Housing Unit” for the purposes of this manual means a housing unit proposed or created pursuant to the Fair Housing Act.

“Affordability Average” means the average percentage of median income at which new restricted units in an Affordable Housing development are affordable to very low, low- and moderate-income households.

“Affordable Housing Ordinance” means that chapter or section of the municipal ordinance (the rules, regulations and codes enacted by a local government) addressing local affordable housing programs and procedures, as may be amended and supplemented.

“**Agency**” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

“**Age-Restricted Unit**” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“**Application**” means both the Preliminary Application and the Full Application submitted by an interested renter or potential homeowner for Affordable Units in the Municipality.

“**Preliminary Application**” means the initial application submitted by all households that wish to express their interest in and be considered for Affordable Housing. This Preliminary Application includes information about household income and composition in order to determine preliminary eligibility.

“**Full Application**” means once an Affordable Unit appropriate for the Household (either to rent or buy) has been identified and the Household is nearing or next on the waiting list, the Household will be asked to submit a full application which requires that the income and household composition be updated and verified. The Administrative Agent will make a determination of the Household’s eligibility.

“**Certified Household**” means a Household that has been certified by an Administrative Agent as A Very Low, Low-Income or Moderate-Income Household.

“**Closing Disclosure Form**” means the form which in October 2015 replaced the commonly used HUD-1 Settlement Statement for residential real estate closings. The Closing Disclosure Form provides details about the mortgage loan selected by the buyer which includes the loan terms, projected monthly payments, and how much the buyer will pay in fees and other costs to obtain the mortgage (“closing costs”).

The lender is required to provide the Closing Disclosure Form to the buyer at least three business days before the closing on the mortgage loan. The Administrative Agent will review the Closing Disclosure Form to confirm that the sale price does not exceed the MRSP and that the buyer is not receiving cash back at closing.

“**COAH**” or the “Council” means the Council on Affordable Housing established in, but not of, DCA pursuant to the Act and that was abolished effective March 20, 2024, pursuant to section 3 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1).

“Compliance certification” means the certification obtained by a municipality pursuant to section 3 of P.L.2024, c. 2 (C.52:27D-304.1), that protects the municipality from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next round begins, which is also known as a “judgment of compliance” or “judgment of repose.” The term “compliance certification” shall include a judgment of repose granted in an action filed pursuant to section 13 of P.L.1985, c. 222 (C.52:27D-313).

“Contract for Sale” means a legally binding agreement between a buyer and seller for the sale or transfer of real estate. See also, **“Purchase Agreement”**.

“County-level housing judge” means a judge appointed pursuant to section 5 at P.L. 2024, c. 2, to resolve disputes over the compliance of municipal fair share affordable housing obligations and municipal Fair Share plans and housing elements with the Act.

“DCA” means the State of New Jersey Department of Community Affairs.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development, including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, *et seq.*

“Dispute Resolution Program” means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-313.2).

“Division” means the Division of Local Planning Services within the Department of Community Affairs.

“Eligibility Period” means once the Full Application for an Affordable Unit has been submitted with the applicant certifying that all information is complete and true, the applicant enters the Eligibility Period. During this one to two-week time frame, as the Household’s eligibility is being reviewed, the applicant is not permitted to change the employment status of any Household member in order to become eligible for Affordable Housing nor change the Household composition from what is listed on the Full Application. *For example, the applicant cannot add a member to their Household, subtract a member, quit a job, or get a new job, or a raise during the Eligibility Period.* If the applicant does make changes during this Eligibility Period, the Household will be determined ineligible and lose their position on the waiting list. However, the applicant may reapply with their new income and/or Household composition and will be assigned a new position on the waiting list.

"Equity share amount" means the product of the price differential and the equity share, with the equity share being the whole number of years that have elapsed since the last non-exempt sale of a restricted ownership unit, divided by 100, except that the equity share may not be less than five percent and may not exceed 30 percent.

"Exit sale" means the first authorized non-exempt sale of a restricted unit following the end of the control period, which sale terminates the affordability controls on the unit.

"Fair Housing Act" means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

"Fair share plan" means the plan or proposal, with accompanying ordinances and resolutions, by which a municipality proposes to satisfy its constitutional obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and which addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

"Full Application" (see "Application").

"HMFA" or "the Agency" means the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

"Housing Authority" means the Public Housing Agency which manages and operates publicly assisted units in the Municipality.

"HOME Program" means the HUD funded HOME Investment Partnerships Program that provides formula grants to States and localities that communities use - often in partnership with local nonprofit groups - to fund a wide range of activities including building, buying, and/or rehabilitating Affordable Housing for rent or homeownership or providing direct rental assistance to low-income people. HOME is the largest Federal block grant to state and local governments designed exclusively to create Affordable Housing for Low-Income Households.

"Household" means, in accordance with HUD definitions and UHAC practice, the number of persons in the Affordable unit and not the size of the Affordable unit. See for example, HUD's definition of household as "[o]ne or more persons occupying a housing unit" -- in other words, the number of persons in the home. HUD website accessed 6/13/2016. http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/glossary/

See also UHAC regulation N.J.A.C. 5:80-26.4, "In determining the initial rents and initial sales prices for compliance with the affordability average requirements for restricted units ... the following standards shall be used: 1. A studio shall be affordable to a one-person household."

“**Housing Region**” means a geographic area established pursuant to N.J.S.A. 52:27D-304.2b.

“**HUD**” means the US Department of Housing and Urban Development. “**Interest Date**” means the date on which a Household submits its Preliminary Application thereby establishing its place on the priority list for consideration of Affordable Units.

“**Inclusionary development**” means a residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate-income households.

“**Judgment of compliance**” or “judgment for repose” means a determination issued by the Superior Court approving a municipality's fair share plan to satisfy its affordable housing obligation for a particular 10-year round.

“**LAD**” means the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., prohibits, among other discriminatory actions, discrimination when selling or renting property.

“**Low-income Household**” means a household with a total gross annual household income equal to 50 percent or less of the median household income for the housing region.

“**Low-income unit**” means a restricted unit that is affordable to a low-income household.

“**Market-rate units**” means housing not restricted to very low, low- and moderate-income households that may sell or rent at any price.

“**Maximum Restricted Sales Price**” or “**MSRP**” means the maximum sales price of restricted ownership units within each affordable development upon resale of the Affordable Unit in accordance with UHAC which states that such units “shall be affordable to households earning no more than 70 percent of median income. Each affordable development must achieve an affordability average of 55 percent for restricted ownership units. See Glossary for definition of “**Affordability Average.**” In achieving this Affordability Average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.” *For example, a two-bedroom moderate income unit originally sold for \$85,000 and another exactly similar unit originally sold for \$105,000. There always will be a disparate MSRP for resales of these two units. Both moderate income units are priced differently to reach different income levels of moderate income households.*

“**Median income**” means the median income by household size for the applicable housing region as adopted annually.

“**Moderate-income household**” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income for the housing region.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Municipal Housing Liaison” or "MHL" means an appointed municipal employee who is, pursuant to N.J.A.C. 5:99-6, responsible for oversight and/or administration of the affordable units created within the municipality.

"New Jersey Housing Resource Center" or "Housing Resource Center" means the online affordable housing listing portal, or its successor, overseen by the Agency pursuant to N.J.S.A. 52:27D-321.3 et seq.

"95/5 restriction" means a deed restriction governing a restricted ownership unit that is part of a housing element that received substantive certification from COAH pursuant to N.J.A.C. 5:93, as it was in effect at the time of the receipt of substantive certification, before October 1, 2001, or any other deed restriction governing a restricted ownership unit with a seller repayment option requiring 95 percent of the price differential to be paid to the municipality or an instrument of the municipality at the closing of a sale at market price.

"Non-exempt sale" means any sale or transfer of ownership of a restricted unit to one's self or to another individual other than the transfer of ownership between spouses or civil union partners; the transfer of ownership between former spouses or civil union partners ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary; and the transfer of ownership by court order.

"Order for repose" means the protection a municipality has from a builder's remedy lawsuit for a period of time from the entry of a judgment of compliance by the Superior Court. A judgment of compliance often results in an order for repose.

“PHA” means Public Housing Authority. See below for definition.

“PMI” means private mortgage insurance. PMI is a type of mortgage insurance used with conventional loans. Like other kinds of mortgage insurance, PMI protects the lender (not the homebuyer) if the homebuyer stops making payments on the loan. PMI is arranged by the lender and provided by private insurance companies. PMI is usually required when the homebuyer has a conventional loan and makes a down payment of less than 20 percent of the home's purchase price. PMI also is usually required when a homeowner is refinancing with a conventional loan and the owner's equity is less than 20 percent of the value of the home. <http://www.consumerfinance.gov/>, US Consumer Financial Protection Bureau, accessed August 10, 2016.

“Preliminary Application” (see “Application”).

“Public Housing” “Public Housing Authority” means those public housing units which are funded largely by governmental programs such as those administered by HUD programs which are owned,

operated and managed by a public housing authority (“**PHA**”). As defined by HUD, “public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. Public housing comes in all sizes and types, from scattered single family houses to high rise apartments for elderly families. There are approximately 1.2 million households [in the US] living in public housing units [.]”

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph, HUD Website, accessed June 7, 2016.

“**Purchase Agreement**” means a not legally binding, “internal” generated document between a buyer and seller of residential real estate to establish and ensure that the Affordable Unit will be affordable to the buyer. It stipulates such terms as the Maximum Restricted Sale Price (or Maximum Permitted Resale Price) of the unit, the agreed upon purchase price, the amount of good faith deposit, and the items to be included in the sale price of the unit. (See “Contract of Sale”).

“**Price differential**” means the difference between the controlled sale price of a restricted unit and the contract price at the exit sale of the unit, determined as of the date of a proposed contract of sale for the unit. If there is no proposed contract of sale, the price differential is the difference between the controlled sale price of a restricted unit and the appraised value of the unit as if it were not subject to UHAC, determined as of the date of the appraisal. If the controlled sale price exceeds the contract price or, in the absence of a contract price, the appraised value, the price differential is zero dollars.

“**Prior round unit**” means a housing unit that addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development; (3) is subject to a grant agreement or other contract with either the State or a political subdivision thereof entered into prior to July 1, 2025, pursuant to either item (1) or (2) above; or (4) otherwise addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations. A unit created after the enactment of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) on March 20, 2024, is not a prior round unit unless: (1) it is created pursuant to a prior round development plan or zoning designation that received COAH or court approval on or before the cutoff date of June 30, 2025, or the date that the municipality adopts the implementing ordinances and resolutions for the fourth round of affordable housing obligations, whichever occurs sooner; and (2) its siting and creation are consistent with the form of the prior round development plan or zoning designation in effect as of the cutoff date, without any amendment or variance.

“**Program**” means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L.2024, c. 2 (C.52:27D-313.2).

"Random selection process" means a lottery process by which currently income-eligible applicant-households are selected, at random, for placement in affordable housing units such that no preference is given to one applicant over another, except in the case of a veterans' preference where such an agreement exists; for purposes of matching household income and size with an appropriately priced and sized affordable unit; or another purpose allowed pursuant to N.J.A.C. 5:80-26.7(k)3. This definition excludes any practices that would allow affordable housing units to be leased or sold on a first-come, first-served basis.

"Redevelopment Plan" means a plan adopted by the Municipality for the redevelopment or rehabilitation of all or any part of a redevelopment area, or area in need of rehabilitation, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.

"Regional Asset Limit" means the maximum asset limit as published annually on the Regional Income Limits chart.

"Regional Preference" means that in accordance with UHAC, municipalities may wish to give preference to applicant households that live or work in their housing region. If so, the municipality must state this preference as part of its affordable housing ordinance.

"Rent" means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

"Restricted Unit" means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under the Urban Homeownership Recovery Program ("UHORP") or the Market Oriented Neighborhood Investment program ("MONI") of the Agency.

"UHAC" means the Uniform Housing Affordability Controls adopted by the State of New Jersey and set forth in N.J.A.C. 5:80-26.1, et seq.

"Very Low-Income Household" means a household with a total gross annual household income equal to 30 percent or less of the median household income for the applicable housing region.

"Very Low-Income Unit" means a restricted unit that is affordable to a very low-income household.

"Veterans Preference" means the municipality and Developer or residential development owner may enter into an agreement to provide a preference for affordable housing to very low, low and moderate income veterans who served in time of war or other emergency, as defined in section 1 of P.L.1963, c. 171 (C.54:4-8.10), of up to 50 percent of the affordable units in that particular project. This provision is in accordance with N.J.S.A. 52:27D-311 (j). This preference shall be established in the applicant selection process for available affordable units so that applicants who are veterans who served in time of war or other emergency, as referenced in this subsection, and who apply within

90 days of the initial marketing period shall receive preference for the rental of the agreed-upon percentage of affordable units. After the first 90 days of the initial 120-day marketing period, if any of those units subject to the preference remain available, then applicants from the general public shall be considered for occupancy. After the 120 –day marketing period, veterans will continue to get preference over non-veterans, as the units become available, whenever the percentage of preference-occupied units falls below the agreed upon percentage.