



11 Beacon Street, Suite 925
Boston, Massachusetts 02108
(617) 723-8455 *Voice*
(800) 872-9992 *Voice*
(617) 227-9464 *TTY*
(800) 381-0577 *TTY*
(617) 723-9125 *Fax*
<http://www.dlc-ma.org>

Western Mass. Office
32 Industrial Drive East
Northampton, MA 01060
(413) 584-6337 *Voice*
(800) 222-5619 *Voice*
(413) 582-6919 *TTY*
(413) 584-2976 *Fax*
email: mail@dlc-ma.org

January 31, 2014
(hand delivered)

Ms. Catherine Racer
Associate Director
Division of Housing Development
Department of Housing and Community Development
100 Cambridge Street
Suite 300
Boston, MA 02114

Re: Written Comments to the Draft 2014
Qualified Allocation Plan

Dear Cate:

We are writing on behalf of the Disability Law Center (DLC), the state protection and advocacy system ("P&A") for people with disabilities, and the Boston Center for Independent Living (BCIL) to provide written comments to the Draft 2014 Qualified Allocation Plan (QAP).

At the outset, we would like to express our appreciation to both you and Undersecretary Aaron Gornstein, for meeting with us over the past year along with other DHCD staff and contractors, considering our input, and keeping us apprised of your thinking as disability related provisions of the QAP took shape. As noted below, we are especially appreciative

The Protection and Advocacy System for Massachusetts



of the changes in Appendix “H” which set forth an expectation of visitability for adaptive re-use units funded under the tax credit process.

Visitability v. Universal Design

We read with interest the written comments recently submitted by Josh Safdie from the Institute for Human Centered Design (IHCD). We readily agree that visitability is not equivalent to full accessibility, and that universal design is a far preferable standard. In the past DHCD has maintained that higher expectations for access (above current legal requirements) may need to take shape incrementally. While adapting standards for visitability is a positive incremental step, particularly for units that are currently beyond the reach of state and federal access laws, any and all movement in the direction of universal design standards, as recommended by IHCD, would be applauded.

Clarification of Appendix H Checklist

We agree with IHCD that it is important that the checklists in Appendix H be edited to guide developers carefully on what requirements may already exist under the MAAB, FHA, ADA and Section 504, and what requirements are being added by DHCD.

Priority Categories for Funding.

We continue to support DHCD's overall emphasis on providing housing for extremely low-income persons, investing in distressed and at-risk housing, preserving existing affordable housing, and producing family housing in neighborhoods providing access to jobs, employment, transportation, education and public amenities. To this end, we strongly support the proposed use of a threshold requirement to target at least 10% of units to extremely low income persons or families.

Community First

We note with appreciation the new reference to the Department’s support for Community First on page 3 of the draft QAP. We hope that as the Department moves forward in strengthening the QAP, it might consider a more robust conversation of DHCD’s role in addressing the ADA Title II community integration mandate, as the Commonwealth continues to close ICF-MRs and assist individuals unnecessarily stuck in nursing homes and other institutions. Given that the LIHTC is our largest housing production program, a concerted strategy for producing affordable, accessible housing is critical to meeting these goals.

Clarification Sought for Points Awarded to Projects Serving “Persons with Disabilities or Special Populations”

We seek clarification from the Department as to how it prioritizes housing for people with disabilities that is segregated or integrated. We note, again with appreciation, a QAP

change made some time ago which adopts the “no more than 15%” standard set forth on page 38. We believe that this prioritization of integrated housing is consistent with the Department’s obligations under the community integration mandate of Title II of the ADA. It is unclear however, how this relates to the “at least 20%...for special populations” standard set forth in the following paragraph, which includes housing for “households with identified special needs.”

For example, would DHCD fund a segregated (i.e., 20% +) development under this section, for persons with autism, or a community residence for persons with intellectual disabilities? We continue to urge DHCD to focus its resources on integrated developments, in keeping with the community integration mandate.¹

Language Addressing Use of Lotteries

We would request that language in Appendix J, Section E (p. 99) be amended to reflect the latest changes to DHCD’s Affirmative Fair Housing Marketing Plan.

The existing 2014 QAP states that a lottery procedure is “preferred over a ‘first-come, first-serve procedure,’ as the latter procedure may disadvantage non-local applicants.”

The most current DHCD Affirmative Fair Housing Marketing Plan, <http://www.mass.gov/hed/docs/dhcd/hd/fair/afhmp.pdf>, goes further:

A “first-come, first-serve” method of generating the waiting list order of new applicants that apply during said application period shall not be permitted as it may present an impediment to equal housing opportunity for some applicants, including some applicants with disabilities. Therefore, a random selection or other fair and equitable procedure for purposes of adding persons to a wait list upon opening the wait list or remarketing the units must be utilized, subject to the approval of the Subsidizing Agency. This does not require any changes to the wait list as it exists prior to adding the new applicants.

(May 2013 DHCD Affirmative Fair Housing Marketing Plan, Section A 4 b).

Inputs Versus Outputs

We hope that we may have an opportunity to meet again over the coming year, in conjunction with BCIL, Stavros, and IHCD, to discuss possible further steps we might take to move the QAP process forward in 2015. We would particularly like to open a discussion

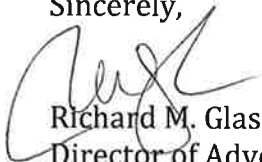
¹ Without retreading upon old ground, we would suggest that the fact that disability advocates seek integrated housing (i.e., 15% or fewer units) may be a reason for the Department to reconsider its past opposition to thresholds and set asides benefitting person with disabilities, as urged in past QAP comments. In an integrated form, such housing has a very low footprint in its impact upon admissions practices.

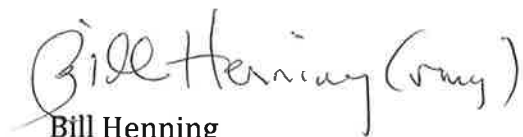
with the Department around looking at the outputs, or actual numbers of (1) affordable and accessible units created annually to date by the QAP process; and (2) numbers of units occupied annually by persons with disabilities. As we all know, with the best of intentions, alterations to the scoring formula for the LIHTC process may or may not yield changes in units created or persons housed. For example, with 182 points available (100 points for Fundamental Project Characteristics and 82 Points for Special Project Characteristics), it is possible for points set aside for projects serving people with disabilities to be "washed out" by other scoring criteria.

To that end, we would like to return to a point previously made in our January, 2013 comments to the 2013 QAP. We believe that robust data collection on persons with disabilities is critical to measuring our collective success. This would appear to be already required by the language of Chapter 334 of the Acts of 2006, which covers "housing assisted with federal funds administered by the state." See, <https://malegislature.gov/Laws/SessionLaws/Acts/2006/Chapter334>. Such data collection is also required by 760 CMR 61. However, in looking at the DHCD website, we were unable to find information on data collection from tax credit developers and managers (as opposed to LHAs and projects receiving state rental assistance). Will you kindly clarify if this data collection is being done under Chapter 334, and what other public records are available to help us track results in this area?

In closing, we thank you again for your willingness to meet with us over the past year, and for your consideration of our comments.

Sincerely,


Richard M. Glassman
Director of Advocacy
Disability Law Center


Bill Henning
Executive Director
Boston Center for Independent Living