

# THE AFFORDABLE HOUSING ADMINISTRATION TEAM

## THE MUNICIPAL HOUSING LIAISON

### *Responsibilities of the Municipal Housing Liaison*

The Municipal Housing Liaison is responsible for coordinating all the activities of the municipal government as it relates to the creation and administration of affordable housing units, in conjunction with the Municipal Attorney, where appropriate (see **Responsibilities of the Municipal Attorney**). The primary purpose of the Municipal Housing Liaison is to ensure that all affordable housing projects are established and administered according to the Regulations as outlined in an Operating Manual. The duties of the Municipal Housing Liaison include the following duties, and may include the responsibilities for providing administrative services as described in the next Section under, **Responsibilities of an Administrative Agent**.

**Monitor the status of all restricted units in the municipality's Fair Share Plan.** Regardless of any arrangements the municipality may have with one or more Administrative Agents, it is the Municipal Housing Liaison's responsibility to know the status of all restricted units in their community.

**Serve as the municipality's primary point of contact for all inquiries from the State, Administrative Agents, developers, affordable housing sponsors, owners, property managers, and interested households.** The Municipal Housing Liaison serves as the municipality's primary point of contact on affordable housing issues. Interested applicants should be provided with information on the types of affordable units within the municipality and, where applicable, the name of the Administrative Agent that manages the units and the contact information for the Administrative Agent.

**Compile, verify and submit annual reporting.** Administrative Agents are responsible for collecting much of the data that is ultimately included in COAH monitoring reporting. However, it is the Municipal Housing Liaison's responsibility to collect and verify this data and consolidate it into monitoring reporting to COAH. Any requests from COAH for additional information or corrections will be directed to the Municipal Housing Liaison. Primary responsibility for submitting monitoring information for an Affordable Housing Trust Fund may be delegated to a Trust Fund Report Preparer.

**Coordinate meetings with Administrative Agents and Developers/Affordable Housing Sponsors/Owners.** When a new affordable unit or series of units is in the planning process, the Municipal Housing Liaison should coordinate a meeting between the Administrative Agent and the developer, affordable housing sponsor or owner. The developer, affordable housing sponsor or owner may serve as their own Administrative Agent, if they meet the applicable requirements and are approved by the municipality and COAH. The purpose of this initial meeting is to develop a clear division of labor between

the parties and to transmit any components of the Operating Manual – including copies of all COAH-related local ordinances -- that have already been adopted by the municipality.

It is the responsibility of the Municipal Housing Liaison, in conjunction with the Municipal Attorney, to have the affordable housing provisions of any Master Deed and Public Offering reviewed for consistency with COAH and UHAC regulations, before they are recorded and submitted to DCA for approval.

**Provide Administrative Services, unless those services are contracted out.** The responsibilities for providing administrative services are described in the next Section under, **Responsibilities of an Administrative Agent.**

## **RCA ADMINISTRATOR**

A Municipal Housing Liaison may also serve as the municipal RCA Administrator or another employee may be an RCA Administrator. The RCA Administrator is the primary contact regarding RCA funds contributing to the construction of affordable housing in a municipality. If there is no Municipal Housing Liaison, the RCA Administrator has the same responsibilities as a Municipal Housing Liaison. Additionally an RCA Administrator monitors the RCA bank account, receipt of funds from the receiving municipality per the schedule of payments in the RCA contract and disbursements and provides required RCA monitoring reports to COAH.

## **THE ADMINISTRATIVE AGENT**

### ***Responsibilities of the Administrative Agent***

The primary responsibility of the Administrative Agent is to establish and enforce affordability controls and ensure that units in their portfolio are sold or rented, as applicable, to eligible households. Administrative Agents must:

**Secure written acknowledgement from all developers, affordable housing sponsors, owners and tenants that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.**

**Create and adhere to an Operating Manual.** All Administrative Agents are required to follow the policies and procedures of an Operating Manual, as applicable to the scope of services they have been contracted to perform. As appropriate, the Operating Manual should also be available in other languages.

**Implement the municipality's Affirmative Marketing Plan.** The Administrative Agent, the developer, affordable housing sponsor or owner could be responsible for implementing the Affirmative Marketing Plan adopted by the municipality. At the first meeting with the Municipal Housing Liaison, Administrative Agent, and developer/affordable housing sponsor/owner this responsibility should be discussed.

Affirmative marketing includes conducting regional outreach and advertising for available affordable units. Advertising costs may also be delegated to the developer, but this must be established by ordinance and a condition of approval of the Planning Board or Zoning Board.

**Accept applications from interested households.** In response to marketing initiatives or by referral from the Municipal Housing Liaison, interested households will contact the Administrative Agent. The Administrative Agent will supply applicants with applications, provide additional information on available units and accept completed applications.

**Conduct random selection of applicants for resale or rental of restricted units.** The Administrative Agent is responsible for conducting the random selection in accordance with the Affirmative Marketing Plan and any related local ordinances, and as described in the Operating Manual. In order to maintain an open and fair process, all households eligible for inclusion in the random selection should be informed of the date and time that the selection will take place.

**Create and maintain a pool of applicant households.** This includes reaching out to households in the applicant pool to determine continued interest and/or changes in household size and income.

**Determine eligibility of households.** The task of collecting application materials and documentation from applicant households and analyzing it for eligibility is the responsibility of the Administrative Agent. A written determination on a household's eligibility must be provided within twenty (20) days of the Administrative Agent's determination of eligibility or non-eligibility. Whether or not the household is determined to be eligible for a unit, it is the Administrative Agent's responsibility to secure all information provided by the household in individual files and to maintain strict confidentiality of all information regarding that household. The Administrative Agent is required to ensure that all certified applicants execute a certificate acknowledging the rights and requirements of owning or renting an affordable unit, in the form of Appendix J or K of UHAC, as applicable.

**Establish and maintain effective communication with owners, property managers and landlords.** Owners, property managers and landlords of restricted units should be instructed and regularly reminded that the Administrative Agent is their primary point of contact. The Administrative Agent shall immediately inform all owners, property managers and landlords of any changes to the Administrative Agent's contact information or business hours. The Administrative Agent must create and distribute annual mailings to all Owners of affordable units reminding them of the rights and requirements of owning an affordable unit (N.J.A.C. 5:80-26.18(d)4).

**Preserve affordability controls during the sale of restricted units.** Immediately upon being notified of an Owner's intent to sell their property, the Administrative Agent should inform the Owner of their role in the marketing and sale of the home. The Administrative Agent is responsible for extinguishing the affordability controls with the

Seller and re-establishing them with the Buyer. The Administrative Agent shall be responsible for providing closing attorneys/agents with the appropriate legal instruments.

**Ensure cancellations of Recapture Mortgages are effectuated.** It is the Administrative Agent's responsibility to ensure that Recapture Mortgages are cancelled at the conclusion of the control period when the Recapture Mortgage is satisfied. If the Recapture Mortgage is being cancelled due to a sale of the property during the control period, then the Administrative Agent may wish to cancel the original Recapture Mortgage only after the Recapture Mortgage with the new Owner has been recorded.

**Send out annual mailings about restrictions.** Administrative Agents must annually mail to all Owners of affordable housing units a reminder of their rights and responsibilities as Owners of an affordable unit.

**Provide annual notification of maximum rents.** Each year when COAH releases its low- and moderate-income limits, rental households must be notified of the new maximum rent that may be charged for their unit. The Administrative Agent's contact information must be included on such notification in case the tenant is being overcharged.

**Ensure unit has Continuing Certificate of Occupancy at transfer.** To help ensure a healthy and safe living environment for all families, the Administrative Agent is responsible for requesting an inspection or a certified statement from the local Building Inspector at the first sale after the expiration of the minimum affordability control period.

**Serve as the custodian of all legal documents.** The Administrative Agent is responsible for maintaining originals of all legal instruments for the units in their portfolio. Throughout the duration of a unit's control period, the Administrative Agent shall maintain a file containing its affordability control documents. This includes, but is not limited to, the recorded Declarations of Covenants, Conditions and Restrictions, Deed Restrictions, Deeds and Recapture Mortgages, as well as Recapture Mortgage Notes and Appendices J and K.

**Serve as point of contact on all matters relating to affordability controls.** In the event of a foreclosure, the Administrative Agent should work with the foreclosing institution to ensure that the affordability controls are maintained. The Administrative Agent should seek the counsel of the municipality's attorney on legal matters that threaten the durability of the affordability controls.

**Provide annual activity reports to Municipal Housing Liaison for use in the annual COAH monitoring report.** The Administrative Agent is responsible for collecting the reporting data on each unit in their portfolio.

**Maintain and distribute information on HUD-approved Housing Counseling Programs.**

## **SECRETARIES OF THE PLANNING BOARD AND ZONING BOARD**

When a new affordable unit or series of units is in the planning process, the Municipal Housing Liaison should coordinate a meeting between the Administrative Agent and the developer, affordable housing sponsor or owner.

The Secretaries of the Planning Board and Zoning Board must advise developers of affordable housing to arrange a meeting with the Municipal Housing Liaison regarding municipal and COAH regulation of affordable housing.

Monitor the status of all restricted units in the municipality's Fair Share Plan. Regardless of any arrangements the municipality may have with one or more Administrative Agents, it is the Municipal Housing Liaison's responsibility to know the status of all restricted units in their community.

The Secretaries of the Planning Board and Zoning Board must advise the Municipal Housing Liaison when approvals requiring the construction of affordable housing or a payment in lieu have been granted to a developer. It is recommended that a copy of the board resolution of approval be provided to the Municipal Housing Liaison.

A municipality may require that the costs of advertising affordable units are to be a developer's responsibility. Such a requirement must be a condition of the municipal planning board or zoning board approval and required by ordinance. If required by ordinance, the Operating Manual should include this requirement and outline a process to bill the developer for the advertising costs.

If by ordinance a municipality may require that the costs of advertising affordable units are to be a developer's responsibility, the Secretaries of the Planning Board and Zoning Board must advise the Municipal Housing Liaison when such condition has been made a condition of the municipal planning board or zoning board approval.

## **MUNICIPAL ATTORNEY**

### ***Responsibilities of the Municipal Attorney***

The Municipal Attorney assists the municipality with developing, administrating, and enforcing affordability controls, including but not limited to

- Assisting the Municipal Housing Liaison with the review of the affordable housing provisions of any Master Deed and Public Offering for consistency with COAH and UHAC regulations, before they are recorded and submitted to DCA for approval.

- Providing all reasonable and necessary assistance in support of the Administrative Agent's efforts to ensure compliance with the housing affordability controls, including reviewing legal documents and legal actions required on foreclosures and violations.

## **MUNICIPAL PLANNER**

The Municipal Planner prepares the municipal Housing Element and Fair Share Plan, the petition for substantive certification from COAH, any amendments to these plans, as well as reports required when the municipal Housing Element and Fair Share Plan are to be evaluated by COAH. The Municipal Planner may seek information from the Municipal Housing Liaison, RCA Administrator and Administrative Agent regarding monitoring data and documentation required to be submitted for completed units, information on bank accounts and affirmative marketing. The Municipal Planner should be of assistance regarding questions about the Housing Element and Fair Share Plan.

## **CONSTRUCTION OFFICIAL**

Compile, verify and submit annual reporting. Administrative Agents are responsible for collecting much of the data that is ultimately included in an annual COAH monitoring report. However, it is the Municipal Housing Liaison's responsibility to collect and verify this data and consolidate it into the annual report to COAH. Any requests from COAH for additional information or corrections will be directed to the Municipal Housing Liaison.

The Construction Official must advise the Municipal Housing Liaison when a CO is issued for an affordable housing unit or when the final inspection for a rehabilitated unit is completed. COAH requires that the Construction Official certify the issuance of the CO for an affordable unit and for rehabilitated units, that a major system has been rehabilitated and the date of the final inspection.

Ensure unit has Continuing Certificate of Occupancy at final transfer. To help ensure a healthy and safe living environment for all families, an Administrative Agent is responsible for requesting an inspection or a certified statement from the local Building Inspector at the first sale after the expiration of the minimum affordability control period.

The municipality must provide by ordinance that a Continuing Certificate of Occupancy be required at final transfer. The Construction Official, after inspections are conducted, issues the Continuing Certificate of Occupancy.

An Owner shall make no improvements to the unit that would effect its bedroom configuration or to increase the maximum permitted resale price, except for improvements approved in advance and in writing by the Administrative Agent.

The Construction Official should advise the Municipal Housing Liaison of any requests for a construction permit for an affordable housing unit.

The Construction Official maintains records regarding the adaptability and accessibility of affordable units pursuant to the Barrier Free regulations. The Construction Official will have information on when a developer must deposit funds into the Barrier Free Escrow Account. Each municipality determines how these funds will be processed.

## **TAX ASSESSOR and TAX COLLECTOR**

The Owner must have approval of the Administrative Agent if they wish to refinance their mortgage or take out a home equity loan and, consequently, will be seeking a subordination of their mortgage.

The Tax Assessor must notify the Municipal Housing Liaison of any new Deed filed (indicating an illegal sale). The Tax Collector will be notified if a new Mortgage is attached to the property (usually the mortgage holder pays the taxes) or of any change of address for the property owner.

The Owner shall pay all taxes and public assessments and assessments by the condominium association levied upon or assessed against the unit, or any part thereof, when they become due and before penalties accrue.

The Tax Collector must notify the Municipal Housing Liaison of any default in the payment of taxes on affordable units.

### **Determining the Recapture Mortgage Amount**

The amount that the Mortgage Note recaptures is the difference between the fair market value and the restricted maximum sales price. Fair market value is based on either an appraisal of its unrestricted price or the unit's equalized assessed value of its unrestricted price, at the time of each purchase. For example, if the restricted sales price of the unit is \$110,000 and the appraised unrestricted market value of the unit is \$200,000, the Recapture Mortgage Note would be for \$90,000. The [*insert municipality's name*] has determined to use the [appraised value or equalized assessed value (*select one*)] to establish the amount of the Recapture Mortgage.

The municipality must determine the methodology it will use to determine the Recapture Mortgage amount. The Tax Assessor may be asked to determine the unrestricted market value or equalized assessed value of an affordable housing unit in order to establish the Recapture Mortgage amount.

The Municipal Housing Liaison should make sure the Tax Assessor is not assessing a restricted affordable housing unit at the unrestricted market price.

## **MUNICIPAL CLERK**

In the event that any first mortgagee or other creditor of an Owner of a low- and moderate-income unit exercises its contractual or legal remedies available in the event of default or nonpayment by the Owner of a low- and moderate-income unit, the Owner shall notify the Administrative Agent in writing within 10 days of such exercise by the first mortgagee or creditor and no later than 10 days after service of any summons and complaint.

The Municipal Clerk receives all official notices, including foreclosure notices and should advise the Municipal Housing Liaison and Municipal Attorney immediately of any legal action on an affordable housing property owner.

The Municipal Clerk is responsible for retention of records in the municipality, as well as making sure that imaged files meet state certification criteria. The Municipal Clerk should advise the Municipal Housing Liaison regarding state requirements for records management.

## **CHIEF FINANCIAL OFFICER**

If a municipality has an Affordable Housing Trust fund for any reason, including but not limited to development fees, in lieu payments, recapture funds, barrier free escrow funds, the Chief Financial Officer usually completes the financial monitoring required by COAH. The Chief Financial Officer may also assist in completing the required reporting on implementation of the Spending Plan.

## **MUNICIPAL WATER AND SEWER UTILITIES**

The Owner shall pay all charges of any utility authority when they become due and before penalties accrue.

The municipal water and/or sewer utility should advise the Municipal Housing Liaison if an affordable housing property owner is in arrears on the payment of water and/or sewer utility charges.

- If they are seeking an increase in the sales price of their unit due to capital improvements.
- If they are seeking a hardship waiver to allow them to rent their unit.

**Owners, Landlords and Property Managers of Rental Developments.** Open and direct communication between the Owners, Landlords and Property Managers of rental developments, the Municipal Housing Liaison and the Administrative Agent is essential to ongoing administration of affordability controls. Although the Administrative Agent is required to serve as the primary point of contact with households, the Owner must provide the Municipal Housing Liaison and Administrative Agent with information on vacancies. Owners of rental developments are also responsible for working with the Administrative Agent to ensure that the Municipal Housing Liaison has all necessary information to complete the annual COAH reporting. Landlords and property managers must place a notice in all rental properties annually informing residents of the rent increase for the year and the contact information for the Administrative Agent.

Landlords and property managers must contact the Administrative Agent:

- Immediately upon learning that an affordable rental unit will be vacated.
- For review and approval of annual rental increases.

## **THE DEVELOPER**

### **Obligations of a Developer of Affordable Housing**

When a new affordable unit or series of units is in the planning process, the developer of affordable housing should contact the Municipal Housing Liaison who shall coordinate a meeting with the Administrative Agent, where applicable, and the developer, affordable housing sponsor or owner. The purpose of this initial meeting is to develop a clear division of labor between the parties and to transmit any components of the Operating Manual – including copies of all COAH-related local ordinances -- that have already been adopted by the municipality.

The Administrative Agent will secure from the developer written acknowledgement that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.

The developer or sponsor of any project containing affordable units shall promptly provide to Administrative Agent the following information, upon the latter of either final municipal land use approval or issuance of a grant contract by a governmental authority:

1. The total number of units in the project, and number of restricted units, broken down by bedroom size, identifying which are low- and which are moderate-income units, and including street addresses of restricted units;
2. Floor plans of all affordable units, including complete and accurate identification of uses and dimensions of all rooms;
3. A project map identifying the locations of affordable units and market units;

## **CONDOMINIUM ASSOCIATION**

An Owner shall notify the Administrative Agent within 10 days, in writing, of any default in the performance by the Owner of any obligation under either the master deed of the condominium association, including the failure to pay any lawful and proper assessment by the condominium association, or any mortgage or other lien against the low- and moderate-income unit, which default is not cured within 60 days of the date upon which the default first occurs.

Although not required by regulation, the Municipal Housing Liaison should ask Condominium Associations to provide notice of any change in ownership or change in address of any owner, of an affordable unit, as well as if the affordable unit owner becomes in arrears in the payment of any condominium association fees or assessments.

The Owner shall at all times maintain the unit as his or her principal place of residence, defined as residing at the unit at least 260 days out of each calendar year.

The Condominium Association is frequently aware of when a unit is not being maintained as a principal place of residence and/or or illegal rentals.

## **HOUSING COMMITTEE**

Many municipalities have established an advisory affordable housing committee to provide advice to the municipality, the Planning Board and the Governing Body, regarding affordable housing needs in the community and programs to address those needs. The affordable housing committee may also help establish those policies needed to be incorporated into the municipal Operating Manual, such as what random selection process should be implemented in the municipality. The Committee should not assume any of the responsibilities of the Municipal Housing Liaison or Administrative Agent, for example screening applicants. Nor should the committee hear appeals.

## **OWNERS, LANDLORDS AND PROPERTY MANAGERS**

**Owners of For-sale Units.** Once affordability controls are in place and measures have been taken by the Municipal Housing Liaison to prevent the illegal sale or rental of the unit, there are no reporting responsibilities required of the Owner. Owners should, however, read annual mailings from the Administrative Agent, and cooperate with any and all requests for information from either the Municipal Housing Liaison or the Administrative Agent.

Owners must contact the Administrative Agent in the following circumstances:

- If they are considering or have decided to sell their home.
- In the event they wish to refinance their mortgage or take out a home equity loan
- and, consequently, will be seeking a subordination of their mortgage.

4. Projected construction schedule;
5. Proposed pricing for all units, including any purchaser options and add-on items;
6. Information as to financing terms readily available to low- and moderate-income households for use by the Administrative Agent in computing maximum sales prices;
7. A list of all public funding sources, and copies of grant or loan agreements for those sources;
8. Condominium fees or homeowner association and any other maintenance or other fees;
9. Estimated real property taxes for sale units;
10. Sewer, trash disposal and any other utility assessments;
11. Flood insurance requirement, if applicable;
12. A description of all HVAC systems;
13. Location of any common areas and elevators;
14. Proposed form of lease for any rental units;
15. The name of the person who will be responsible for official contact with the Administrative Agent for the duration of the project;
16. The State-approved Planned Real Estate Development public offering statement and/or master deed where available;

The Municipal Housing Liaison and/or the Administrative Agent will review the affordable housing provisions of any Master Deed and Public Offering, for consistency with COAH and UHAC regulations, before they are recorded and submitted to DCA for approval.

Where applicable, the responsibilities of the developer shall include but not be limited to the following:

- Submission of proofs of publication to ensure compliance with the approved Affirmative Marketing Plan;
- The marketing of all low- and moderate-income units in accordance with the requirements the municipal Affirmative Marketing Plan approved by COAH;
- Submission of quarterly reports to the Administrative Agent detailing the number of low- and moderate-income households who have signed leases or purchase agreements, as well as the number who have taken occupancy of low- and moderate-income units, including household size, number of bedrooms in the unit, if the unit is accessible or adaptable, sales price and monthly carrying costs

or, in the case of rental units, the monthly rental charges and utilities included, as well as any additional fees.

The developer's responsibilities shall expire automatically with respect to for-sale low- and moderate-income units upon the date upon which the last low- and moderate-income unit within the particular development is sold by the developer. With respect to rental low- and moderate-income units, the developer's responsibilities shall be assumed by the landlord and shall be performed by the landlord so long as such unit is a rental low- and moderate-income unit and subject to the restrictions pursuant to UHAC.