

Rent in Boston Housing Authority Public Housing

A Know Your Rights Guide
for BHA Public Housing Tenants



September 2013

Acknowledgments:

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It includes procedures that are unique to the Boston Housing Authority (BHA). BHA may change its procedures and policies, and state and federal laws may change, so be sure to check on any changes that may have occurred since this was updated in September 2013.

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Table of Contents

How to Calculate Rents6

1. If I live in BHA public housing, how is my rent calculated? 6
2. Is my BHA public housing rent always based on my income? 8
3. What is counted as annual income? 10
4. What is NOT counted as income? 12
5. What household expenses must be deducted before setting rent? 15

Records That BHA Should Have Regarding My Rent.....17

6. Does BHA ask specific questions in figuring out my rent?..... 17
7. Should I be signing something that shows what they used in setting my rent? 17
8. Is there a standard notice that BHA should give me when my rent changes? 18
9. Do I have the right to look at my BHA records? 18

Special Issues20

10. What if I have high medical costs?..... 20
11. If I get child support, will it be counted towards my rent?..... 21
12. When are lump sum amounts not counted as income?..... 22
13. Are assets counted as income? 22
14. If I pay for any utilities, does that affect my rent? 23
15. Is there such a thing as “zero rent” at the BHA? 24
16. If I or someone in my family works and my rent increases as a result, what can I do?..... 24
17. Is someone in your household in school, participating in a training program or working?..... 28

Trouble Paying Rent.....32

18. If I cannot afford my rent this month, what can I do? 32
19. What if I pay my rent late? 33

Income Changes.....35

- 20. When must I report changes in my household's income? 35
- 21. If my income goes up and I do not report this right away,
can I get in trouble? 36
- 22. What should I do if my income changes a lot during the year? ... 37
- 23. Can BHA retroactively increase my rent? 38
- 24. What kind of notice am I supposed to get about a rent increase? 38
- 25. When can I ask for a decrease in rent? 39
- 26. When should a rent decrease take effect?..... 39
- 27. What if I told BHA that my income went down,
but they did not lower my rent?..... 40
- 28. What papers do I need to prove my income? 41

Family Changes.....42

- 29. When do I report changes in my family? 42
- 30. How can I add someone to my household? 42
- 31. How do I remove someone from my household?..... 44
- 32. If BHA says I am overhoused, what can happen to my rent? 45

Mixed Finance Public Housing.....46

- 33. What is BHA mixed finance public housing? 46
- 34. How do I know if I'm in a BHA public housing unit
at a mixed finance development? 47
- 35. Are any of the rent rules the same for mixed finance
public housing and other BHA public housing?..... 48
- 36. How may rent policies differ for mixed finance public
housing from other BHA public housing?..... 48

Sample Documents.....49

- 37. Earned Income Disregard Letter: Federal Public Housing..... 49
- 38. Earned Income Disregard Letter State Public Housing..... 50
- 39. BHA Client Verification Worksheet 51
- 40. Notice of Review Determination 52
- 41. Right to Appeal Notice 53
- 42. Rent Determination Questionnaire for Federal Public Housing... 54
- 43. Rent Determination Questionnaire for State Public Housing..... 56
- Glossary 58
- Endnotes..... 63

If you are a tenant in state or federal public housing operated by the Boston Housing Authority (BHA), this booklet will give you answers to questions about how rents are set in both state and federal public housing.

Also included is a glossary. Words that are *italicized* are in the glossary.

Some BHA tenants live in “mixed finance” developments where, because of financing, there are a mix of public housing units and other types of housing. In most cases, BHA no longer directly owns the development and other special rules apply. “Mixed finance” developments may use slightly different policies in setting their rent than is used for the BHA as a whole. This booklet provides information about rents only for the public housing units in the mixed finance developments.

How to Calculate Rents

1. If I live in BHA public housing, how is my rent calculated?

Usually, rent in BHA public housing is a percentage of your anticipated yearly income. This is called *income-based rent* because it is based on your income. (See **Question 2** for other ways that rents are set.)

The way that *income-based rent* is set is:

- **Annual Income**

You give BHA information about the income you **anticipate** coming into your *household* for the coming 12 months. Not all income is counted, and there are certain *exclusions*. This countable income is called your *gross or annual income*.

- **Net (Adjusted) Income**

BHA then subtracts certain *deductions* and arrives at an amount called your *net income* (for state public housing) or *adjusted income* (for federal public housing).

- **Percentage of Net (Adjusted) Income**

BHA then determines your rent based on a percentage of your *net or adjusted income*.

Exclusions and *deductions* from income are different for state or federal public housing. See **Question 4** (*exclusions*) and **Question 5** (*deductions*).

The exact percentage of income that you pay for rent depends on whether you live in state or federal public housing. If you do not know whether you live in state or federal public housing, ask your manager.

State public housing (elderly/disabled and family)

For **state elderly/disabled** public housing your rent is **30%** of your *net income*. BHA's state elderly/disabled public housing developments are: **Franklin Field Elderly, Monsignor Powers, and Basilica.**

For **state family** public housing your rent is **32%** of your *net income*.¹ BHA's state family public housing developments are: **Orient Heights, West Broadway, Camden Street, Faneuil Gardens, Fairmount, South Street, Archdale, Gallivan Boulevard, and the condominium program.**

Federal public housing (elderly/disabled and family)

If you live in any kind of **federal** public housing, whether elderly/disabled or family public housing, you pay whichever is more: **30%** of *adjusted income* or **10%** of *annual income*.²

Most tenants pay 30% of adjusted income.³

If you pay utilities, then a *utility allowance* is subtracted from this monthly amount.

BHA Mixed Finance

At present, only BHA's *mixed finance* developments have tenants paying for any utilities. See discussion of BHA mixed finance developments at **Questions 33 through 36**, below.

2. Is my BHA public housing rent always based on my income?

No. There are some situations in both state and federal public housing where the rent is **not** going to be a percentage of your income.

Federal public housing

Minimum rent

In federal public housing, housing authorities can charge a minimum rent of \$0 - \$50 per month. For more information, see **Question 15**. **At present BHA's minimum rent is \$0 per month, but this could change.**⁴

Flat rent

In federal public housing, housing authorities must establish a maximum *flat rent* for each apartment.⁵ For the BHA, this varies by bedroom size. As of September 2013, the flat rents for BHA federal housing (except for *mixed finance* housing) are as follows:

Efficiency/studio apartment:.....	\$760/month
One bedroom apartment:.....	\$807/month
Two bedroom apartment:.....	\$947/month
Three bedroom apartment:.....	\$1,133/month
Four bedroom or larger apartment:.....	\$1,245/month

Mixed finance developments have their own *flat rents*, and you should ask at each development about its current *flat rent*. Make sure you know what this is for your apartment.

You have a choice of paying either 30% of income or the *flat rent*. If you have a high income and the flat rent is less than 30% of your household's income, you should choose the flat rent. If you are paying the flat rent and at any time you are unable to pay that amount because of a financial hardship, you can ask to return to an *income-based rent*.⁶ If you choose a flat rent, the housing authority must re-examine your income at least once every three years.

Pro-rated rent and immigrants

If you live in federal public housing and your household includes immigrants who are not U.S. citizens or who are not *eligible noncitizens* (as defined by federal regulation), the family usually must pay a *pro-rated rent*.⁷ This figure is often much higher than the regular rent. For more information about pro-rated rent and how noncitizens are affected by federal housing rules, see **Legal Tactics: Finding Public and Subsidized Housing, Booklet 9**, available at www.MassLegalHelp.org/housing.

Welfare sanctions and rent

If you live in federal public housing and your Transitional Aid to Families with Dependent Children (TAFDC) grant was lowered because the Department of Transitional Assistance *sanctioned* you for welfare fraud or for not doing its required work program, your public housing rent will not be lowered. Instead, BHA will act as if you are receiving the full TAFDC grant. BHA must, however, have proof that this is the reason why you are not getting the full grant. If the TAFDC grant was reduced or terminated for some other reason (for example, you failed to keep an appointment or to report on income changes), the welfare sanction rule does not apply.⁸

State public housing

Overhoused family that refuses a transfer

In state public housing, if a family is *overhoused*, which means that the apartment is designed for a larger family, BHA is required to transfer this family to an appropriately sized apartment.⁹ For example, if a 3-person family is living in a 4-bedroom apartment, BHA can require them to transfer to a smaller unit.

If the family refuses to transfer to an available apartment, BHA is required to charge 150% of the *income-based rent*.¹⁰ This means that if the household would have paid \$300 per month under the regular income-based rules, BHA would charge \$450 until the family agrees to move to a smaller unit. See **Question 32**.

3. What is counted as annual income?

In state public housing, the income that BHA counts when calculating your rent is called *gross income*.¹¹ In federal public housing it is called *annual income*.¹² But not all income a household receives counts. There is certain income which must be excluded or not counted. These are called *exclusions*. (See **Question 4**.)

While the rules about what is counted are slightly different for state or federal public housing, there are also many similarities.

Both state and federal public housing

Both state and federal public housing **count** the following as income:

Income from work: Wages, salaries, tips, overtime pay, commissions, fees, and bonuses.
Income from business: Net business income if self-employed or if income is from a business or profession.
Income from assets: Income from property, such as rent, dividends, interest, capital gains, or trust income. For more information about <i>assets</i> , see Question 13 .
Social Security and veterans disability periodic payments: Ongoing Supplemental Security Income (SSI), Social Security Disability Income (SSDI), or Retirement, Survivors and Disability Insurance (RSDI) or veterans disability benefits. Important: One big difference between state and federal housing is if you receive a deferred amount from SSI or SSDI or veterans disability (generally in a lump sum), it is counted as income in state public housing, but not in federal housing. See Question 12 .
Government benefits: Transitional Aid to Families with Dependent Children (TAFDC) or Emergency Assistance to the Elderly, Disabled and Children Program (EAEDC) benefits.
Payments to replace earnings: Unemployment compensation, workers' compensation, disability insurance or benefits.
Periodic, regular allowances: Alimony, separate support, child support.
Other payments: Annuities, retirement funds, pensions, death or disability benefits, insurance policies, or other similar types of periodic payments.
Regular gifts or contributions: From someone not living in the apartment.

State public housing only

If you live in state public housing, the following additional income is **counted** when determining your rent:

Lottery and gambling winnings
Lump-sum (retroactive) awards of SSI, SSDI, or veterans disability benefits for the period that the tenant resided in state public housing
Foster care payments
Principal from a trust
Taxable <i>capital gain</i>

Federal public housing only

If you live in federal public housing, the following additional income is **counted** when determining your rent:

Severance pay
Imputed welfare income for certain sanctions: The amount of income not received by a family as a result of a welfare benefit reduction for certain sanctions (See Question 2)

4. What is NOT counted as income?

Both state and federal public housing have rules stating that certain income should be excluded, when determining your rent. These are called *exclusions*. *Exclusions* are not counted when calculating your *gross* or *annual income*.

Both state and federal public housing

If you live in either state or federal public housing, the following income is **not counted** when calculating rent:¹³

Regular payments: <ul style="list-style-type: none">▪ Food stamps,▪ Fuel assistance,▪ Payments under the SSI PASS (Plan for Achieving Self-Support) Program,▪ Payments under the Domestic Volunteer Services Act of 1973.
Certain one-time (or <i>lump sum</i>) payments: <ul style="list-style-type: none">▪ Irregular gifts, inheritances, life insurance proceeds▪ Payments from insurance, worker's compensation, or court judgments or settlements that compensate for loss or personal injury
Earnings of the following people: <ul style="list-style-type: none">▪ Minors (less than 18 years of age),▪ Live-in attendants for person with a disability,▪ Members of armed forces in a war zone.
Earned income tax credit refunds
Payments received to compensate for medical care and expenses
Return of capital: A return of all or some of your original investment from sale or transfer of that investment.
Payments from the government later reimbursed to the government: For example, if you receive SSDI benefits of \$800/month, but the Social Security Administration deducts \$50/month to repay a government educational loan, then your rent is based on \$750/month SSDI.

State public housing only

If you live in state public housing, the following income is **not counted**:

<p>Compensation for income lost when tenant was not living in public housing (including <i>lump sum</i> payments).</p>
<p>Relocation payments from state or federal relocation funds.</p>
<p>Education-related payments: Scholarships or stipends for housing paid by a non-household member (for full-time or part-time students).</p>
<p>Training: Payments associated with training for employment programs to cover costs such as transportation, fees, books, or child care during training. (This does not apply to wages from on-the-job training.)</p>
<p>Earnings of the following people:</p> <ul style="list-style-type: none">▪ Full-time student 18-25 years old (who is not head of household or spouse).▪ A senior (over 62) working over 20 hours per week at minimum wage.▪ People who started working who received government cash assistance for 12 months before working. See Question 16.
<p>Veterans:</p> <ul style="list-style-type: none">▪ Amounts paid to a veteran for tuition or other costs.▪ All but \$1,800 received from federal government by unemployable disabled veteran (<i>discretionary</i>).

Federal public housing only

If you live in federal public housing, the following income is **not counted**:

<p>Social Security and Veterans Disability: Deferred payments from SSI, SSDI, and veterans disability benefits that are <i>lump sum</i> payments or in prospective monthly amounts. (While these amounts are not counted as income, they can be considered as <i>assets</i>. See Questions 12 & 13.)</p>
<p>Property tax rebates and capital gains</p>
<p>Regular payments:</p> <ul style="list-style-type: none">▪ Foster care for children or adults;▪ Adoption assistance payments over \$480;▪ First \$200/month of a resident stipend (includes resident commissioners);▪ Payments to crime victims;▪ Certain payments from federal programs: AmeriCorps, Job Training Partnership Act, Workforce Investment Act, the Child Care & Development Block Grant Act, the Older Americans Act of 1965 (senior aide program);▪ Reparations for persecution during Nazi era;▪ Certain repayments to Native Americans.
<p>Education-related payments:</p> <ul style="list-style-type: none">▪ Certain assistance or work-study paid to student or the institution;▪ HUD-funded training programs;▪ Incremental earnings when participating in an employment training program.
<p>Welfare-related payments:</p> <ul style="list-style-type: none">▪ Reimbursements of out-of-pocket expenses (clothing, special equipment, transportation, child care) in order to participate in specific training programs.
<p>Medical-related payments:</p> <ul style="list-style-type: none">▪ Payments by a state agency to a family member with developmental disability for costs of services or equipment to keep family member at home.
<p>Medicare:</p> <ul style="list-style-type: none">▪ Any subsidy received to assist low-income people in paying for Medicare prescription drug plan costs.
<p>Earnings of the following people:</p> <ul style="list-style-type: none">▪ Full-time student earning more than \$480 who is over 18 (and not head of household or spouse),▪ People who start working who meet certain requirements. See Question 16.

5. What household expenses must be deducted before setting rent?

Before BHA sets your rent, it is required to subtract from your household's *gross or annual income* certain *deductions*.

In general, state public housing has more *deductions* than federal public housing. But housing authorities can adopt additional *deductions* for federal public housing, while they cannot add to the *deductions* listed below for state public housing.¹⁴

BHA allows a *deduction* of extraordinary medical expenses for all families in federal public housing—not just for elderly or disabled families living in federal public housing, as would be the normal rule for federal public housing.

Federal public housing

If you live in federal public housing, you are entitled to the following *deductions* before your rent is set:¹⁵

Elderly and Disabled Family Deduction:
\$400 per year for a family where the head of the household or spouse is 62 years of age or older or is a person with a disability.
Dependent Deduction:
\$480 per year for each dependent. This includes anyone who is: <ul style="list-style-type: none">▪ Under the age of 18,▪ A full-time student, or▪ A person with a disability.
Medical or Disability Deduction:
<ul style="list-style-type: none">▪ The amount over 3% of your <i>annual income</i> which you are likely to spend on unreimbursed medical expenses. Includes unreimbursed out-of-pocket costs for co-payments, prescription drugs, dental expenses, and medical insurance premiums.▪ The amount over 3% of your <i>annual income</i> which you likely to spend on unreimbursed expenses for disability assistance for any family member with a disability which are necessary for that person's employment. This includes attendant care¹⁶ and auxiliary apparatus.▪ For more information about medical bills see Question 10.
Child Care Deduction:
Child care payments for children under age 13, if a family member is employed, looking for employment, or in school.

State public housing

If you live in state public housing, you are entitled to the following *deductions* before your rent is set:¹⁷

<p>Elderly and Disabled Family Deduction:</p>
<p>\$400 per year for a household living in family public housing where the person who signed the lease is either 60 years or older or has a disability (unless the household is <i>overhoused</i>).</p>
<p>Family Deductions:</p> <ul style="list-style-type: none">▪ \$300 per year for each child under 18.▪ \$300 per year for each adult who has income (other than head of household), if household's <i>gross income</i> exceeds all other deductions.
<p>Medical Deduction:</p> <p>Actual payments for necessary medical expenses not covered by insurance for any family member (including co-payments, prescription drugs, dental expenses, and medical insurance premiums) in excess of 3% of gross household income.</p>
<p>Child and Family Care Deduction:</p> <p>Payments for care of children or sick or incapacitated household members if necessary for employment of another household member.</p>
<p>Support If Separated or Divorced:</p> <p>Child support or separate support, or alimony paid as a result of a court order to someone not living in the household.</p>
<p>Education Deduction:</p> <p>Non-reimbursable payments for tuition and fees for post-secondary education for household member who is not a full-time student.</p>
<p>Deductions for People with Disabilities:</p> <ul style="list-style-type: none">▪ Non-reimbursable payments for reasonable and necessary housekeeping and personal care.▪ Certain travel expenses in connection with necessary activities which cannot be performed by another household member.

Records That BHA Should Have Regarding My Rent

6. Does BHA ask specific questions in figuring out my rent?

Yes. BHA has certain questionnaires that it is supposed to use for state and federal public housing to make sure that it is identifying all income and deductions. These are on pages 54 and 56. Sometimes, though, BHA staff may be short of time and not ask questions that they should. You should review the questionnaire to make sure that they ask you everything that might be important. For example, it may be that you have child care or medical expenses that could be used to reduce your rent.

7. Should I be signing something that shows what they used in setting my rent?

Yes. This is what's known as a Client Verification Worksheet, or Worksheet for short. This has taken the place of a form that BHA used to have called the Tenant Status Review (TSR). The Worksheet lists all of the important information about your household—names and birthdates, Social Security Numbers, relationship, sex, race, and immigration status (for federal housing). If family members are elderly, disabled, minors, or have full time student status, this will be checked off. It lists the date that the family first moved into BHA public housing. It includes all income considered, income type, and family member receiving it, as well as what deductions are being given. The Worksheet also shows what the rent will be and the effective date.

An example of a Worksheet without the signature block is on page 51. (You'll see that BHA made a mistake on this Worksheet, and didn't fully exclude Food Stamps.)

Both you and the BHA staff member are supposed to sign this Worksheet before it is entered into BHA's records. What does your signature mean? By signing the worksheet you are saying that the information is complete and accurate, for example that you aren't getting other income that you didn't disclose to the BHA. You still have the right, however, to dispute the rent change or the effective date if you think it was wrong.

8. Is there a standard notice that BHA should give me when my rent changes?

Yes. This is called a Notice of Review Determination (NRD). The notice is generated at BHA's central office, rather than by the local development staff, after they get the Worksheet. Sometimes it may not have the same information as the Worksheet. It says, in very summary form, what amount of income and income type was counted and what deductions were applied in setting your rent, as well as what the new rent will be and the effective date of the rent change. It does not have all of the specifics of the Worksheet, however, such as what the income was for each household member.

A copy of a sample Notice of Review Determination on page 52. As with the Worksheet, this particular Notice has an error in not fully excluding Food Stamp/SNAP benefits

Along with this Notice, BHA will send you a notice of your right to dispute the rent by filing a Grievance request within 30 days. This is attached on page 53.

9. Do I have the right to look at my BHA records?

You absolutely have the right to look at your BHA records, including your tenant file. The most important things to ask for to see if there were any mistakes with your rent are:

- Any Worksheets;
- Any Notices of Review Determination;
- Documents that you gave BHA about income or lack of income, or medical or child care expenses, as well as the date it was given to BHA
- Rent ledger. This is usually NOT in the tenant file, but you can ask BHA staff to give this to you. It's important to check this to see if rent changes were in fact made, as well as to see if payments were credited.

Sometimes the file may also contain memos or notes from you or from BHA staff members which can be helpful in showing that a rent change should have happened as of a particular date, or that that certain charges should have been removed.

It may be important to make your own records. While it's often best practice for BHA staff to write and date a note every time they talk with you about a rent-related matter and put it in the tenant file, that doesn't always happen. Staff may forget, or there may be staff turnover. You can write up your own note and date it and ask that a copy be put in your file. Keep a copy for yourself, too, since sometimes documents get misplaced or lost.

Special Issues

10. What if I have high medical costs?

If you have significant medical expenses, you may be entitled to *deduct* these expenses from your income before your rent is determined. To do this you will need to keep very good records about your medical expenses—what you have paid and what you anticipate paying.

If an unanticipated major medical expense comes up during the course of the year, let BHA know this as soon as possible so that a rent adjustment can be made. See **Question 25**.

Deductible medical expenses include:

- Payments or co-payments for services of doctors or other health care professionals;
- Hospitalization, clinic, or treatment costs;
- Medical or dental insurance premium costs;
- Out-of-pocket prescription drug costs and costs of nonprescription medicines which are doctor recommended;¹⁸
- Costs for dental care/work, eyeglasses, hearing aids (including batteries), special footwear which is medically required;
- Transportation to medical treatment;
- Live-in or periodic medical assistance at home;
- Monthly payments on accumulated medical bills;
- Payments for auxiliary apparatus such as wheelchairs, walkers, ramps, lifts, scooters, reading devices for people with visual disabilities, equipment to add to cars and vans for people with disabilities, or service or companion animals.¹⁹

Bills which are paid or reimbursed by third parties (such as Medicaid or Medicare) are **not deductible**.

The best way to show what your medical expenses may be in the coming year is to bring in your medical bills from the past year. Make sure that you do not submit the same medical bill twice.

11. If I get child support, will it be counted towards my rent?

Yes. In general, all child support that you receive, whether through a court order or by informal arrangement, will be counted as income for purposes of calculating your rent.

If you stop getting child support, ask BHA to lower your rent as soon as you stop receiving the support. See **Question 25**. For example, if part or all of the child support you received is going directly to the Department of Transitional Assistance (DTA) because you receive TAFDC, let BHA know so that your child support is not counted twice. If you stop receiving TAFDC and start getting child support you should also let BHA know this as part of informing them of any income change. See **Questions 20**.

Often, there is a problem as to how to verify the loss of the child support. The best way to show the loss of child support for your family is through the Massachusetts Department of Revenue's Child Support Enforcement (CSE) Division. The CSE tracks almost every child support payment made in the state, whether through income assignment or otherwise.

You can get information regarding your payment history at the following website: <https://ecse.cse.state.ma.us/ECSE/Login/login.asp>.

You will need a security code, or a PIN (Personal Identification Number), to get into your account. Once you gain access to your account, you will be able to see the payment history, which you should print out and bring to the BHA. If you do not have access to the Internet, you can request payment history by calling CSE's Voice System at 800-332-2733. More information about CSE is available at www.cse.state.ma.us.

Sometimes families get informal child support, either instead of a court order or in addition to a court order. These payments may be considered income if they can be considered regular assistance for the household. For example, if the non-custodial parent is regularly giving you \$100 in cash or pays your cable bill, BHA may count that as income, whether it comes to you directly or not. But if the other parent buys your children clothes once or twice a year, that should be seen as a sporadic gift and not be counted.²⁰

12. When are lump sum amounts not counted as income?

A *lump sum* is a one-time payment. When BHA calculates your rent, some lump sum amounts are not counted as income. Lump sum amounts that are not counted as income are still considered *assets* and the interest earned on them in future years will be counted as income. For more about assets, see **Question 13**.

If you live in federal or state public housing, the following lump sum payments are **not counted** as income in the year received when determining rent:

- Irregular gifts, inheritances, life insurance proceeds
- Payments from insurance, worker's compensation, or court judgments or settlements that compensate for loss or personal injury
- Returns on investments (*return of capital*).

Federal public housing

If you live in federal public housing, the following types of lump sum payments are also **not counted** as income when determining rent:

- Deferred periodic payments from SSI, SSDI, and veterans disability benefits.²¹

13. Are assets counted as income?

In general, if something is considered an *asset*, its value is **not** added to your yearly income when determining your rent. But, if you have access to the income that is produced by the asset, that income that is earned from the asset will be counted when determining rent.

Under federal public housing rules, the following should be treated as assets:²²

- Bank accounts (savings or checking);
- Stocks, bonds, treasury bills, certificates of deposit;
- Real property, including real estate;
- Other capital investments;
- Trust funds;²³
- One-time payments such as inheritances, life insurance proceeds, capital gains, and payments for injury or damages under workers compensation, insurance, or court awards. (If, however, the one-time

payment is to replace earnings in some way, it will generally be counted as income.²⁴⁾

Assets do not include necessary personal property, such as clothing, furniture, and cars.

Under federal and state rules, if the total value of your assets is \$5,000 or less, BHA will count the actual income earned. If the value is more than \$5,000, BHA will count whichever is lower—either the actual interest earned or the federal, state, or local housing authority-established rate. For example, if you have a bank account with more than \$5,000, BHA is required to act as if you have earned interest, even if you have not. Note: While HUD established a rate, it has given BHA the ability to establish its own rate.²⁵

If you sell an asset or make a withdrawal, some or all of the proceeds may be treated as income in the year you sell the asset. This will likely depend on whether the payment is considered a capital gain for tax purposes.²⁶

Asset issues in public housing are sometimes quite complicated. You may want to seek the help of a legal services or community advocate if the issue is not a simple one.

14. If I pay for any utilities, does that affect my rent?

Utilities are included in the rent for BHA public housing, except for mixed finance developments. Utilities generally include electricity, gas, and oil. They do not include telephone, cable TV, or internet service.

Mixed Finance

In some BHA *mixed finance* developments, tenants are required to pay for utilities, and a utility allowance is deducted from the rent.

The utility allowance is based on a reasonable approximation of utility consumption. BHA and the *mixed finance owner* must review these allowances every year.²⁷ If there is a utility rate change (including fuel) which results in a change of 10% or more from when utility allowances were last determined, BHA and the *mixed finance owner* are required to update the utility allowance.²⁸ You and other tenants should have an opportunity for input on any changes in the allowances, and to review the consumption assumptions built into the allowances.

If you think that your utility allowance is too low, you can request that the BHA and the *mixed finance owner* make the appropriate adjustment. Your request must be based on reasonable grounds that would make your consumption higher for reasons that are not within your control. For example, you may have to run special medical equipment at home, or your unit may have more exposure or higher ceilings than others in the development.

Use your most recent utility bills to establish your need for an adjustment. Ask BHA and the *mixed finance owner* for information about the process by which an adjustment may be requested. When you first move in and when BHA and the *mixed finance owner* gives you notice of utility allowances, it is required to give you notice of these procedures.²⁹

15. Is there such a thing as “zero rent” at the BHA?

Yes. If you have no income, your rent should be zero. However, BHA may conduct a more detailed survey into how you sustain your household. If you are getting regular assistance from family or friends to help you meet expenses, even if this is not money paid directly to you, this can be counted as income.

If you are on “zero income” with the BHA, the manager can ask to review your income every 90 days. You are required to report any increase in income as part of these reviews, and your rent can be adjusted to the new amount. See **Question 20**.

16. If I or someone in my family works and my rent increases as a result, what can I do?

Employment income for minors under the age of 18 does not count in determining rent in either federal or state public housing. In addition, if someone in the household (other than the head of household or spouse) is over the age of 18 and a full-time student, their employment income is generally not counted. You will be asked to verify the full-time student status.³⁰

If you or an adult member of your household begins to work while living in public housing and was previously not working, you may be eligible for a break on your rent that does not count the increased income from employment for a period of time. This is called the *Earned Income Disregard (EID)*. This benefit applies to both part-time and full-time work. If you think you qualify, use the sample EID letters at the end of this booklet.

The formal term for the EID in federal public housing is the *self-sufficiency incentive*.³¹ In state public housing, the formal term is the *earned income exclusion*.³² However, we will use the EID as shorthand to describe both programs. EID is more expansive for federal public housing than it is for state public housing.

Federal public housing

If you live in federal public housing, you can get the EID if:

- You or an adult household member were unemployed for 12 months or longer before getting a job; **or**
- You or the adult household member earned less than \$4,000 over the 12 months prior to getting the job (for example, if you worked for \$8.00 per hour, which is minimum wage in Massachusetts in 2013, for 10 hours per week, 50 weeks per year, you would qualify); **or**
- You or the adult household member received TAFDC benefits within 6 months before getting the job, **or**
- You or the adult household member got the job while you were in a job training or self-sufficiency program.³³

To qualify for the EID, you only need to show that you meet one of the criteria listed above. It is not necessary to show that you meet all of them.

You also need to check to be sure that the particular household member did not previously use the EID benefit. This may require you or an advocate to go through your past BHA records on how rent was set. There is a requirement that the federal EID be used only once in a lifetime for a particular person.³⁴ However:

- The life-time bar is only by individual. Therefore, if you claimed EID a few years ago, but your daughter now qualifies for it, that is fine.
- It may be that although you started using the EID a few years ago, you qualify to pick up on the remainder of the EID, and the BHA didn't realize that. See further discussion below.

When you get the EID, **for the first 12 months**, all increased income related to the job cannot be counted in setting your rent. **In the second 12 months**, BHA can count half of the increase in income from employment.³⁵ This means a total of 24 months of a full or partial disregard of the increased income from employment.

When you or an adult household member gets employment, you must factor in other things that could affect the rent. For example, it may be that your child support was previously assigned to the Department of Transitional Assistance (DTA) because you were on TAFDC. Once you start receiving this, you must notify BHA. It may be that you now have out of pocket expenses for child care, insurance premiums, or co-payments that may lower your rent. Make sure you let BHA know about these changes, as well.

The household member who qualifies for the EID must use the disregard within 48 months (4 years) of the date the EID is first used for your rent. If at some point you or the household member becomes unemployed, the clock stops. Once work starts again, the clock restarts and the person gets whatever time was left of the 24-month period, as long as it is still within 4 years of when the EID started. Also, keep in mind that if the household is getting unemployment benefits, the rent may be higher than it was under the EID because unemployment benefits are counted as income.

Example: If you worked for 6 months, then got laid off for 12 months, and then worked for 18 months, all of the increased employment income for the first 6 months would not be counted when setting your rent. When you returned to work, you will disregard all of the increased employment income for another 6 months. Then 50% of the increased employment income would not be counted for the second 12-month period of employment. But keep in mind, if you receive any unemployment income while you are not working, this will be counted when calculating your rent.

Sometimes there is confusion about how BHA should measure the increase in income to be disregarded, particularly if you or a household member were receiving TAFDC at one point but were not receiving it right before the employment started. The Boston Housing Court has decided that the “base income” from which any increase due to employment is disregarded is the income received right before employment started.³⁶

State public housing

If you live in state public housing, you can qualify for the EID if:

- An adult household member received either TAFDC (Transitional Aid to Families with Dependent Children), EAEDC (Emergency Aid to Elders, Disabled and Children), SSI (Supplemental Security Income), or SSDI (Social Security Disability Insurance) for 12 months in a row immediately prior to beginning employment; **and**
- Once the household member started working, government cash benefit assistance decreased.

For 12 months, all increased income related to employment cannot be counted towards your rent. You can qualify for this benefit only once while living in state public housing.³⁷

Unlike the federal EID, you may not “stop and start” the state EID. It runs for a continuous 12-month period, regardless of whether you are working for that whole period. You can, however, decide whether to use it or not. If you know that you were likely to only have employment for a limited period, and return to being on public assistance, you might wait and ask to use the EID in the future.

If you or another household member is 62 years or older, working and living in state public housing, the housing authority must exclude a portion of your income when determining your rent. The portion that is excluded cannot exceed an amount that equals 20 hours per week at minimum wage (approximately \$160 per week in 2013).³⁸

17. Is someone in your household in school, participating in a training program or working?

If you live in BHA public housing and you or a household member are going to school, participating in a training program, or working, you may not have to count certain income when BHA is calculating your rent. You also may be able to deduct certain expenses when calculating rent.

Below are rent rules related just to education, training, and work. For a complete list of what is included and excluded from rent, see **Questions 3, 4, and 5.**

Federal Public Housing

If you live in federal public housing and are paying 30% of your income on rent, below is a list of what income is counted and what is not counted when calculating your household's rent.

Note on FLAT RENT—If you live in BHA federal public housing and you are on a flat rent, your rent does not change if your income increases. However, if your circumstances change, and an income-based rent would be lower, you can ask to switch from flat rent to an income-based rent.

What Income IS Counted?

<input type="checkbox"/> Income from work	Wages, salaries, tips, overtime pay, commissions, fees, bonuses, and other compensation for personal services.
<input type="checkbox"/> Income from business	Net business income if self-employed or if income is from a business or profession.
<input type="checkbox"/> Payments to replace earnings	Unemployment compensation, worker's compensation, disability insurance or benefits. (If worker's compensation is a lump sum payment, it is not counted.)
<input type="checkbox"/> Income from Armed Forces	All regular pay, special pay, and allowances of a member of the Armed Forces. (Does not include special pay to a family member in the Armed Forces who is exposed to hostile fire.)

What Income IS NOT Counted?

Work

<input type="checkbox"/> Earned Income Disregard	Income increases from either part-time or full-time work for up to a 24-month period after 12 months or more of unemployment or underemployment or within 6 months of receiving public assistance (TAFDC, EAEDC, SSI, SSDI). Must use the 24 months over 4-year period. For first 12 months, 100% of the income cannot be counted. In the second 12 months, 50% cannot be counted. One-time exclusion for each adult household member. (For more on who is eligible see Question 16.)
<input type="checkbox"/> Sporadic income	Temporary, nonrecurring or sporadic income (including gifts). For example, one-time assistance that provides work-related assistance for clothing, equipment, or other costs.
<input type="checkbox"/> Earnings of Minors	Earnings from work of minors under the age of 18.
<input type="checkbox"/> Earnings of Full-Time Students	Earnings above \$480 of full-time students (living at home or not) who is 18 years or older (and not the head of household or spouse).
<input type="checkbox"/> Armed Forces Hostile Fire Pay	Special pay to a family member in the Armed Forces who is exposed to hostile fire.)
<input type="checkbox"/> Student Financial Assistance	Full amount of student financial assistance paid directly to the student or educational institution
<input type="checkbox"/> HUD Training Programs	Amounts received from HUD-funded training programs.
<input type="checkbox"/> SSI Recipients	Amounts received by a person with a disability that are disregarded for a limited time for SSI eligibility and payments from SSI's Plan to Attain Self-Sufficiency Program (PASS).
<input type="checkbox"/> Assistance for Out-of-Pocket Costs	Payments from public assistance programs for out-of-pocket costs for specific training programs such as clothing, child care, equipment, transportation.
<input type="checkbox"/> Resident Service Stipend	Up to \$200/month of a resident service stipend for part-time service for BHA or property owner that enhances the quality of life at a development.
<input type="checkbox"/> Income and Benefits from Training Programs	Increase in income and benefits to any family member when participating in a qualified state or local employment training program AND training of a family members as resident management staff.

<input type="checkbox"/> Federal Training & Education Programs	Payments from federal programs including: AmeriCorps, Job Training Partnership Act, Workforce Investment Act, VISTA, Retired Senior Volunteer Program, and scholarships funded under the Higher Education Act, including work study program.
<input type="checkbox"/> Childcare	Child care payments for children under age 13 if a family members is employed, looking for employment, or in school.
<input type="checkbox"/> Disability Assistance to Work	Unreimbursed expenses for disability assistance necessary for any family member with a disability to work in an amount over 3% of your annual income.
<input type="checkbox"/> Extraordinary Medical Expenses	BHA has a deduction for extraordinary medical expenses in excess of 3% of gross income. It applies to elderly/disabled households <u>and</u> families. If you go to work and are no longer covered by Mass. Health and start to pay you for your own health insurance or medical, dental, or drug costs you may be entitled to this deduction.

State Public Housing

If you live in state public housing and are paying a percentage of your income on rent, below is a list of what income is counted and what is not counted when calculating your household's rent.

What Income IS Counted?

<input type="checkbox"/> Income from work	Wages, salaries, tips, overtime pay, commissions, fees, bonuses, and other compensation for personal services.
<input type="checkbox"/> Income from business	Net business income if self-employed or if income is from a business or profession.
<input type="checkbox"/> Payments to replace earnings	Unemployment compensation, worker's compensation, disability insurance or benefits. (If worker's compensation is a lump sum payment, it is not counted.)

What Income IS NOT Counted?

Work

<input type="checkbox"/> Earned Income Exclusion	Income increases from work for 12-month period if you are eligible for the <u>state</u> Earned Income Disregard. 100% of income cannot be counted towards your rent. Household can qualify for this benefit only once while living in state public housing. (For who is eligible see Question 16).
<input type="checkbox"/> Earning of Minors	Earnings from work of someone under the age of 18 in the household, other than the head of household or spouse/co-head.

What Income IS Counted?

<input type="checkbox"/> Earning of Full-Time Students	Earnings for full-time students who are 18–25 years old (and not the head of household or co-head/spouse).
<input type="checkbox"/> Earning of Seniors 62 and Over	Earnings of a household member age 62 or older, not to exceed the amount equal to 20 hours per week at minimum wage.
<input type="checkbox"/> Armed Forces	Special pay to a member of armed forces for service in a war zone
<input type="checkbox"/> Educational Scholarships	Amounts of educational scholarships or stipends for housing paid by a non-household member for a student at an educational institution (includes part-time students)
<input type="checkbox"/> Veterans	Amounts paid by the U.S. government to a veteran to use for tuition, fees, or cost of books.
<input type="checkbox"/> SSI Recipients	Payments under the SSI Plan for Achieving Self-Support/Sufficiency (PASS) Program.
<input type="checkbox"/> Student Financial Assistance	Full amount of student financial assistance paid directly to the student or educational institution
<input type="checkbox"/> Assistance for Out-of-Pocket Costs	Payments for any family member when participating in a DHCD-approved employment training program to cover costs related to training or employment such as childcare, transportation, program fees, or books. (Does not include wages from on-the-job training.)
<input type="checkbox"/> Childcare & Care of Sick Household Member	Payments for care of children or the care of a sick or incapacitated household member if the housing authority determines that payments are necessary for the employment of a household member who would otherwise be providing such care.
<input type="checkbox"/> Tuition for Vocational Secondary Education	Non-reimbursable payments of tuition and fees of vocationally related post-secondary education for part-time student household member.
<input type="checkbox"/> Travel for People with Physical Disability	Travel expenses for household member with a physical disability in connection with "necessary activities" (which could be work). Can deduct amount in excess of least expensive transportation.
<input type="checkbox"/> Disability Assistance to Work	Unreimbursed expenses for disability assistance necessary for any family member with a disability to work in an amount over 3% of your annual income.

Trouble Paying Rent

18. If I cannot afford my rent this month, what can I do?

Do not ignore the problem. Some approaches to consider include:

- **Talk to BHA staff.** BHA may let you work out a payment plan to get back on track, depending on how much is owed, what your past rent-paying history has been, and what your proposal is. Let BHA know what has happened and that you take your rent seriously and are working hard to fix the problem.
- **Figure out whether your rent was calculated correctly.** Figure out with BHA staff whether your rent was calculated correctly. For example, staff may not have correctly applied the EID. See **Question 16**. BHA may not have been aware of childcare or medical expenses, or might have overlooked the fact that you reported a decrease in income. See **Question 26**. Sometimes BHA may only be able to change your rent for the future, but that might allow you to catch up the back rent within a reasonable period.
- **Look to your community.** If you are having a hard time paying your rent for a particular month, try to contact local and community agencies that might be able to help you. Charitable, religious, and community organizations sometimes have funds that help people who are having financial difficulties. Resources are often one-time-only or on a first-come-first-served basis, so these sources should not be depended upon. Calling these organizations can sometimes get you the help you need or a referral to an agency that can help. **For a hotline about resources in Massachusetts dial 211 or 800-211-6277.**
- **Check your eligibility for government resources.** If you or a member of your household is a veteran, you may qualify for government assistance. You should contact your local veterans association for more details and eligibility requirements. Also, the state sometimes has money in a program called *RAFT (Residential Assistance for Families in Transition)*. RAFT is designed to help tenants pay back rent and utility bills. You should check with Metropolitan Boston Housing Partnership (MBHP) to see if there is any money in the RAFT account. See: www.mbhp.org.

19. What if I pay my rent late?

If you pay your rent late, your rights will depend on whether you live in state or federal public housing. The following rights, however, apply to all BHA public housing tenants:

- Rent under the BHA lease is due within the first 5 days of the month, and would not be “late” until after the 5th.
- Under your BHA lease, you can request the opportunity to pay the rent in two installments if you have good cause. This might be, for example, that you get paid twice a month and don’t have sufficient funds to pay the full rent and other expenses with the first check. Get any such agreement in writing. As long as you follow that agreement, you wouldn’t be considered “late.”
- Under Massachusetts law, BHA may issue a 14-day notice to quit for nonpayment of rent if rent hasn’t been paid. (BHA would first notify you of the right to attend a private conference to discuss this. The 14-day notice also informs you of grievance rights.³⁹) Tenants with written leases have the right, up until the date that a tenant’s answer is due in court in the eviction action, to pay up the rent and avoid eviction. This is what’s known as the *right to cure*. However, you must pay up all rent due. In addition, if you wait until after you’ve received court papers, you may also have to reimburse BHA for the cost of entering the case in court and serving you the court papers.⁴⁰
- BHA may decide, if you have had a pattern of not paying your rent on time, to start an eviction for chronic late payment of rent. If this happens, you would receive a 30-day notice to quit saying this. You would have the right to contest this through the BHA Grievance Procedure. See **Question 27**. If BHA takes the case to court, simply paying up what you owe would not be enough. In many cases, though, BHA might be willing to enter into a court agreement letting you stay as long as you will pay your rent in full and on time for the future.

In addition, you may be charged late fees if your rent is not paid on time. Your rights here depend on whether you are in state or federal public housing.

State public housing

If you live in state public housing and your rent is more than 30 days late, BHA must charge a late fee of \$25.⁴¹ BHA must have a written lease addendum authorizing the late fee. (Most state tenants have this, but a few do not, and it’s worth checking this.) You may request that BHA *waive* (not

charge) the fee if there is a good reason that you were late or because you are honoring a repayment agreement.

Federal public housing

BHA does not have any provision for late fees in its federal public housing.

Mixed finance housing

If you live in mixed finance housing, there may be lease provisions authorizing late fees. As with state public housing, any late fee provision must be in the lease, and no late fee can be charged unless your rent is more than 30 days late.⁴²

Income Changes

20. When must I report changes in my household's income?

Required yearly reporting

If you live in federal or state public housing, you are required to report your household's income and composition at least once a year. BHA sets the annual reporting date based on the anniversary of your family's first move-in date to BHA public housing. (This may be different than the date you moved into your current apartment.)

The information you give BHA about your income and household composition must be accurate.

For state public housing, this is called the annual *redetermination* of rent;⁴³ for federal public housing this is called *reexamination*.⁴⁴ Both state and federal public housing also refer to this as *recertification*.

Additional or interim reporting

In both federal and state public housing, there are rules about reporting income increases between yearly rent *recertifications*. This is referred to as *interim reporting*.

At present (September 2013), the only required interim reporting that BHA has for increases in income is for tenants on zero income or zero rent. BHA managers check every 90 days on all zero income cases and once the household has income, the rent will be re-set to an income-based rent. Tenants can request a decrease in rent based on reduced income. See **Question 25**.

At some future date, BHA will also require interim reporting for both its federal and state public housing where there is any increase in household monthly income of \$200/month or more. This would have to be reported within 30 days of receipt of such income. This change, however, will only take place after BHA implements a revision to its lease and gives tenants advance written notice. It is likely that another training session will be set up when this occurs.

Flat rents (federal public housing)

If you live in federal public housing and have chosen a *flat rent*, required *reexamination* of your family's income occurs once every 3 years, not once a

year.⁴⁵ You may, however, ask BHA or the *mixed finance owner* to tell you what the *income-based rent* would be to see if you would do better with a flat rent or an income-based rent.⁴⁶ BHA or the *mixed finance owner* can ask you to give income information so they can make this calculation.⁴⁷

21. If my income goes up and I do not report this right away, can I get in trouble?

Maybe. It depends on what your lease says and whether you have signed a lease amendment yet with this requirement. Even though you have a yearly income check (*recertification*), you may have to report increases in your income throughout the year when they happen. See **Question 20** about *interim reporting*.

If you do not report the change in income as required by your lease, two things could happen (depending on what's in your lease):

- BHA could try to charge you for the back rent that could have been charged if there had been proper reporting.⁴⁸ This is sometimes called a *retroactive* rent increase. See **Question 23**.
- BHA could try to evict you for failure to properly report your income. You may be able to prevent your eviction in court if the failure to properly report an income increase was for *good cause* or the amount of the unpaid rent is relatively small in comparison to the rent that normally would have been paid.⁴⁹ It is likely, though, in most cases that the BHA would offer you the opportunity for a reasonable repayment plan.

If you had a good reason for not reporting certain income, make sure you let BHA know this. For example, if you did not think that certain income counted, or you misunderstood your lease, or a family member did not tell you about a change in income, tell BHA this. While it is likely you will have to pay back what is owed, BHA may agree to stop the eviction and instead give you a reasonable payment plan.

For federal public housing, many housing authorities use a computer program operated by U.S. Housing and Urban Development's (HUD's) called the Enterprise Income Verification (EIV) system. Housing authorities use this computer matching system to identify families who have unreported income. Housing authorities can get the following information: new hire information, quarterly wage, employer information, quarterly unemployment compensation, monthly Social Security and Supplemental Security Income

(SSI) benefits, and Medicare deductions.⁵⁰ State public housing also has a computerized system called Wage Match that allows housing authorities to verify income information for adult household members against the state Department of Revenue records.⁵¹

22. What should I do if my income changes a lot during the year?

BHA sets your rent based on anticipated income.⁵² That means that it must make its best guess about what your income is going to be for the next 12 months.

Usually BHA will rely on information from your employer about what you have earned to date and are likely to earn over the next 12 months. Sometimes it will calculate based on an average of recent paystubs, including overtime.

If you think BHA has incomplete information, or the information does not accurately show what your income is likely to be for the next year, you should try to give BHA better information. If you provide updated information to BHA and it still sets your rent higher than you think it should be based on the information you have submitted, you have the right to request a *grievance hearing*.

For more about filing a grievance, see **Using Your Public Housing Grievance Procedure**, a guidebook available at www.MassLegalHelp.org/housing/grievances or by BHA's Department of Grievances and Appeals at 617-988-4570. You can also contact the Tenant Advocacy Project at 617-495-4394. TAP is an organization at Harvard Law School that provides legal advice and representation for tenants at hearings before local housing authorities.

If you work only a certain number of months each year (a common situation with those who work in schools, for example), you have two options for rent:

- You can ask that your 10-month income be stretched over the 12-month period. This would result in a lower rent than would otherwise be the case in the months that you work, but a higher rent in the months you are not working; or
- You can ask to have your rent calculated for the 10-month period that you are employed, and then request a rent decrease for the months that you are not employed.
- The same applies to changes in overtime or in hours of employment. If your rent was set initially based on certain assumptions about overtime

overtime or hours and you end up doing substantially less overtime or have your hours reduced, you should request a change in your rent. If, on the other hand, fluctuations in your hours or overtime were built into the initial rent calculation (BHA averaged out the information, and that average hasn't really changed), there would be no basis for an adjustment.

23. Can BHA retroactively increase my rent?

Yes. Under BHA's lease, BHA can increase your rent retroactively (going back in time):

- If you did not properly report your income, *deductions*, *exclusions*, or household composition as required by the lease, and BHA later discovers the mistake.⁵³
- If you did not complete your *recertification* in a timely manner, BHA can make a rent increase back to the time that the recertification would have taken effect. This applies to both the yearly recertification and any *interim* recertification required by the lease.⁵⁴

If, on the other hand, you gave BHA the proper information in a timely manner, but BHA failed to process it, the rent increase can be effective only for a future date.

24. What kind of notice am I supposed to get about a rent increase?

BHA's lease says they must give you at least a full month's notice (at least 30 days) of a rent increase prior to its effective date, and the rent increase must be effective on the first day of a month.⁵⁵

Advance notice is not required, however, if you did not complete your recertification on time, or properly report any income or income changes in the past. See **Question 23**.

25. When can I ask for a decrease in rent?

As soon as you know of a change in your circumstances—like a loss of income, loss of child support, a change in deductible expenses listed in Question 5, or a change in your family or immigration status that would reduce your pro-rated rent—you should let BHA know and ask to have your rent recalculated.⁵⁶

To protect yourself, put your request in **writing** and include:

- Information about the change in your circumstances; for example, that your work time went down from 20 to 10 hours per week; and
- The month in which the income change happened.

Write on your request the date you are notifying BHA. This date is very important in terms of establishing when the decrease should happen.

Make a copy of your letter for your records. Then go to the BHA office and give them your written request. Ask them to stamp or write the date that you are giving them the letter right on the letter. Then ask them to put it in your tenant file. Because you have put your request in writing and dated this letter (and kept a copy), it can be determined later when you first notified BHA of the change in your circumstances, even if you cannot provide third-party *verification* at the time.

If you live in federal public housing and are on a *flat rent*, the flat rent cannot be adjusted based on changes in your income. You can, however, ask to be switched to an *income-based rent* because of economic hardship. See Question 2.

26. When should a rent decrease take effect?

BHA will usually have no obligation to make a rent adjustment for the time period before you informed them of the circumstances that would justify a decrease in your rent. In some cases, however, where a disability is involved, BHA may be able to make what is called a *reasonable accommodation* and decrease the rent for the time before you told them about your income change.

BHA's lease provides that if you notify them of a change that would justify a reduction in your rent, BHA is supposed to make that change effective for that

month if it gets notice in the first 15 days of the month. If BHA gets notice after the 15th of the month, the change is effective the 1st of the following month.

BHA can delay processing the change until it gets *verification*, but the change should then be retroactive to those effective dates. Adequate verification could be, for instance, a layoff letter from your employer or a notice from the welfare office about a decrease in your cash assistance. In some instances, BHA may want to see if you qualify for unemployment or TAFDC benefits and when those benefits start. However, once BHA obtains adequate verification, it must make the rent change.

You should receive from the BHA a written notice stating the new rent, the effective date, a brief description of the income and deductions used in calculating the rent, and your right to request a grievance hearing if you disagree with the BHA. See also **Question 8.**)

27. What if I told BHA that my income went down, but they did not lower my rent?

First contact your local BHA property manager and ask them why BHA did not lower your rent. BHA could be waiting for *verification* of your income.

If BHA does not lower your rent after you speak with them, you can file a *grievance* in writing with the BHA, stating that you want a *hearing* on their failure to lower your rent. To do this, write a short letter asking for a grievance hearing and submit it to the BHA's Department of Grievances and Appeals in the main office at 52 Chauncy Street, Boston, MA 02111, or the development's management office. The BHA should schedule a hearing after they get your letter. You will get a letter telling you when and where the hearing is.

When you go to the hearing, bring proof of your income. Be prepared to show when your income dropped and, if possible, bring evidence of when you told the BHA about the change in your income. Tell the grievance panel or hearing officer that the law requires BHA to lower your rent when your income drops.

For more about filing a grievance, see **Using Your Public Housing Grievance Procedure**, a guidebook available at www.MassLegalHelp.org/housing/grievances.

28. What papers do I need to prove my income?

The process of proving what your income is or what *deductions* you may be entitled to is called *verification*.⁵⁷

As a tenant in public housing, you are required to provide **reasonable** and **necessary** documentation of your income and expenses. For example, for wages, interest, dividends, annuities, pensions, or other income, you may be asked to submit copies of your prior year's tax forms (including W-2 forms, W-2G forms, and 1099 forms).

Both state and federal public housing programs may also require verification of income, assets, and expenses directly from others—"third parties"—such as employers.

Be prepared—the verification process can be slow.

Family Changes

29. When do I report changes in my family?

Reporting changes in your family is just like reporting income. You will go through a *recertification* check at least once a year, and you will likely have to report any changes throughout the year. Read your lease to find out what is required. If someone leaves your household and your rent is based in part on their income, you should report that right away so your rent can be decreased. BHA may also require that you provide certain verifications to add or remove someone from your household and may require that proposed additional household member go through a screening process.

30. How can I add someone to my household?

You have the responsibility to inform BHA of any person you wish to add to your household,⁵⁸ and should make a request for the addition to the manager. It is always best to put your request in writing, date it, and keep a copy. BHA will likely require you to complete certain forms. You must obtain approval from the housing authority for the addition of a person to your household.

Children

In general, if the person being added to the household is just born to a household member, or where a household member has adopted or obtained court-awarded custody of a young child, you will not need advance permission from BHA to have a minor live with you in the interim before official approval. BHA is likely to want the birth certificate, adoption order, or copy of the court order. If the child is under 14 years of age, there will not be any *screening*. If the child is 14 years of age or older, however, BHA will do a criminal record check to be sure that the teenager has not been adjudicated as an adult for any crimes.

Adults

If the person you want to add to your household is an adult, BHA will require that the person be *screened*, including a screening of criminal history. BHA will count the income of the proposed additions to the household in

determining your rent. BHA will also apply other rules it uses when admitting households, such as checking on immigration status and obtaining social security numbers in federal public housing, and checking housing history. BHA uses a process called *SPAR (Screening Proposed Additional Residents)*. SPAR requests will not be processed if you owe rent or are in eviction proceedings. BHA will also require the SPAR applicant to schedule a personal interview with the BHA Occupancy Department, and may withdraw the SPAR if no appointment is made or if follow-up information is not provided.

If the person you want to add to your lease is not approved, you have the right to challenge this using the BHA *grievance* procedure.⁵⁹ You can also ask BHA to extend the time period for the person to stay while your grievance is pending. For more information about screening and criminal history records and admissions rules related to noncitizens, see **Legal Tactics: Finding Public and Subsidized Housing**, Booklets 6 and 9, available at www.MassLegalHelp.org/housing .

Under BHA's leases, you have the right to have a guest stay with you for up to 45 days without advance approval of BHA. You can ask BHA to let your proposed new household member stay with you during the guest period while you make the written request for an addition. BHA normally will extend the period if the request is still going through *screening*.

If you lose the grievance, BHA will require that the proposed household member vacate the unit. Keep in mind that even if someone is related to you, if that person has a criminal record, BHA may be able to refuse to allow them to join your household. If you let the proposed new household member continue to live in the unit after your grievance has been deemed unsuccessful, BHA can terminate your tenancy because the person would be an unauthorized household member.

31. How do I remove someone from my household?

In general, the head of household controls who lives in the public housing apartment and must submit a request to remove a household member from the lease. BHA policy requires that you notify BHA of such a change in 30 days. BHA usually asks for proof that a family member lives elsewhere before removing that person from your lease. This kind of proof can be a copy of a new lease, a utility bill, or a rent receipt in the person's name.⁶⁰

Domestic violence, separation or divorce

There may be cases where the head of household has engaged in domestic abuse toward other household members, or where there is a divorce or separation. If the family members cannot otherwise reach an agreement about who stays and who leaves, a court may determine who gets to stay in the apartment.

A federal law called the Violence Against Women Act provides that BHA may bifurcate (divide) a lease in federal public housing in order to evict or remove an abuser, while allowing the person being victimized to stay.⁶¹ BHA may ask an individual to document or certify that he or she is or has been a victim of domestic violence, dating violence, or stalking. Such certification may include: police or court records documenting incidents of violence; or a statement, under oath, from a victim service provider, attorney or medical professional that there have been one or more incidents of abuse.⁶² The certification must be provided within 14 days of BHA's request, although this deadline may be extended by BHA.

BHA also has a duty to provide reasonable and appropriate assistance to household members in public housing who are victims of domestic violence, including changing locks for those who have obtained abuse prevention orders and *waiving* (not charging) the cost to change the locks.⁶³

32. If BHA says I am overhoused, what can happen to my rent?

If you are living in an apartment with more bedrooms than is determined to be appropriate for your household size, BHA can classify your household as *overhoused* and ask you to move to a smaller apartment.

In **state** public housing, if you refuse to transfer to a smaller apartment of appropriate size offered by BHA, your rent can be increased to 150% of your usual rent.⁶⁴ (See also **Question 2**.)

In addition, in either **state** or **federal** public housing, if your household has been classified as *overhoused* and refuses to transfer to a smaller apartment, this could be grounds for eviction. If you think you have *good cause* (good reason) not to move to the smaller apartment, you should file a *grievance*. Some reasons to challenge the transfer include:

- You are a veteran, surviving spouse of a veteran, or Gold Star Mother and allowed by state law to stay in your state public housing unit;⁶⁵
- You need to remain in your current apartment due to a disability or you require additional space because of medically required equipment;
- The apartment you are offered is dangerous or not up to building or health codes;
- You cannot climb the stairs or the apartment does not otherwise meet your needs for accessibility (for example, you have a wheelchair and the apartment is not wheelchair accessible); or
- The apartment is otherwise not appropriate.

For more information about how to file a grievance, see **Using Your Public Housing Grievance Procedure**, a guidebook available at www.MassLegalHelp.org/housing/grievances.

Mixed Finance Public Housing

33. What is BHA mixed finance public housing?

BHA has rehabilitated a number of public housing developments using special financing from a number of sources, including, but not limited to, tax credits and the federal HOPE VI program.

At a few of these sites, most of the units have been converted from federal public housing to the *Section 8 project-based voucher (PBV)* program, but some have still been retained as public housing. At other sites, some of the apartments are no longer public housing, but may have project-based or tenant-based Section 8 subsidies. These sites are called *mixed finance* because BHA is using funding sources other than traditional public housing operating and capital funds to run the development.⁶⁶

These developments are often technically no longer owned by the BHA. Housing authorities cannot directly take advantage of *tax credit* financing. However, the BHA may be part of the ownership entity, or have oversight and control under agreements with its private partners. In most but not all cases, the developments are also privately managed.

The following are the current federal *mixed finance* developments that have BHA public housing units:

Mission Main (HOPE VI)
Orchard Gardens and Orchard Commons (HOPE VI)
Maverick (HOPE VI)
Franklin Hill (tax credits and PBVs)
Washington Beech (HOPE VI)
Old Colony Phases I and II (HOPE VI)
Heritage/Clippership (PBV conversion)
Lower Mills (PBV conversion)

Most of these developments are also privately managed. However, the fact that a BHA development is privately managed does not mean that it is a mixed finance development (for example, Commonwealth and Faneuil are both privately managed, but neither one is a mixed finance development).

The West Broadway Homes portion of the West Broadway development, although it is state funded, is also regarded as *mixed finance* public housing because it has *tax credit* financing and uses somewhat different rules (and is privately managed).

You may live at a *mixed finance* development and still live in a public housing unit or you may live in a *mixed finance* development but not be in a public housing unit. You may have some other kind of subsidy, or no subsidy at all. The materials in this booklet only cover you if you are in a BHA public housing unit.

34. How do I know if I'm in a BHA public housing unit at a mixed finance development?

First, see if you live in one of the developments listed above.

Second, check your lease. The lease may say that it's for the BHA Section 8 program. If that's the case, it's not BHA public housing. The lease may contain other information that shows that you are in public housing.

Third, ask the staff at the management office.

Fourth, if you can't get an answer from management, or if you want to be sure, call 617-988-4318 at the BHA and ask. BHA has a list of which apartments at each *mixed finance* development are considered to be public housing units and which are not.

35. Are any of the rent rules the same for mixed finance public housing and other BHA public housing?

Yes. The basic rules are the same:

- Rent is set following the same rent formula (30-32% of income).
- The same exclusions and deductions apply for calculating income.
- The same kind of rules about the Earned Income Disregard (EID) if you or an adult household member get a job after being on public assistance or prolonged unemployment. See **Question 16**.
- The same rules about annual recertification apply.
- You have a right to get your rent decreased if your income declines.
- In most instances, you get the same grievance rights.

36. How may rent policies differ for mixed finance public housing from other BHA public housing?

The owner, with the approval of BHA and state or federal regulators, may develop some policies which differ from those which BHA uses. However, residents at the development should be involved in reviewing and commenting on any such policies.⁶⁷ Residents can also request that the owner and BHA change policies which don't see to be working or serving residents' interests. Some examples of differences:

- The owner could have different interim reporting obligations.⁶⁸
- Tenants may be required to pay for utilities and have utility allowances.
- The "flat rent" at the development could be different than BHA's standard "flat rent" figure.
- The owner might have a different grievance procedure.

The effective date for a decrease in the rent, or the amount of notice for a rent change, may differ from that in the standard BHA lease.

Sample Documents

37. Earned Income Disregard Letter: Federal Public Housing

This letter is a guide. Check all boxes that apply. Keep a copy for yourself.

Date:

Dear BHA Property Manager:

I am writing to request a rent adjustment. I believe that I may be eligible for the Earned Income Disregard (EID) because an adult household member recently started working and my household income increased.

I live in federal public housing and (*check one*):

- The household member who recently got a job was unemployed for a year or more;
- The household member's total employment income in the past year before employment income increased was less than \$4,000 (based on minimum wage in MA);
- I or an adult household member received welfare assistance or participated in a Welfare-to-Work program within the past six months before work began; or
- The employed household member currently gets services from a job training or self-sufficiency program.

I believe that the increase in income due to employment should not be counted towards rent for 12 months, and then only half the increase should count towards rent for another 12 months, according to the HUD regulation at 24 C.F.R. § 960.255.

I would appreciate BHA determining my correct rent and refunding any amount of rent I have overpaid. Please let me know what additional information or documentation you need from me to process this request. Please let me know in writing within 10 days of the date of this letter what you plan to do to address my request.

Thank you for your prompt attention to this matter.

Sincerely,

Name: _____

Address: _____

Phone (Day & Evening): _____

38. Earned Income Disregard Letter: State Public Housing

This letter is a guide. Check all boxes that apply. Keep a copy for yourself.

Date:

Dear BHA Property Manager:

I am writing to request a rent adjustment. I believe that I may be eligible for the “earned income exclusion” because I or an adult household member recently started working and my household income increased.

I live in state public housing, and before I or an adult household member began working he/she received for 12 consecutive months:

- TAFDC
- EAEDC
- SSI, or
- SSDI.

After the job began, the cash assistance benefits decreased or ended.

I believe that the increase in income due to employment should not be counted towards rent for 12 months after employment began, according to the DHCD regulation at 760 C.M.R. § 6.05(3)(i).

I would appreciate BHA’s determining my correct rent and refunding any amount of rent I have overpaid. Please let me know what additional information or documentation you need from me to process this request. Please let me know in writing within 10 days of the date of this letter what you plan to do to address my request.

Thank you for your prompt attention to this matter.

Sincerely,

Name: _____

Address: _____

Phone (Day): _____

Phone (Evening): _____

39. BHA Client Verification Worksheet

BOSTON HOUSING AUTHORITY
Client Verification Worksheet
 Printed Date: 11/15/2012
 2:50:59PM

Development # 101 BHA Unit [REDACTED] Move-In Date 06/11/2012 City Charlestown State MA Zip 02129 BDR 4 Rent Roll \$ 409 Effective Date 06/11/2012
 Client # [REDACTED] Address [REDACTED] MI [REDACTED] Phone [REDACTED] Household Language [REDACTED] Rent Type Income Based
 Last Name [REDACTED] First Name [REDACTED] Relationship [REDACTED] Emergency Phone [REDACTED]
 Emergency Contact [REDACTED] Emergency Contact Address [REDACTED] City, State & Zip Charlestown, MA, 02129
 Second Party Billing Name [REDACTED] Second Party Billing Address [REDACTED] Amount \$ 318

Action Type: Annual Reexamination Effective Date: 12/01/2012

Last Name	First Name	MI	SSN	Annual Amount	Actual & HUD Relationship	Sex	Race	Eth	Birth Date	Age	Eld	Dis	Min	Stu	Chuz	Alien R#
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Head	F	1	2	[REDACTED]	46						EC
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Child Other Youth Under 18	F	1	2	[REDACTED]	16			X			EC
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Child Other Youth Under 18	F	1	2	[REDACTED]	5			X			EC
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Child Other Adult	M	1	2	[REDACTED]	23						EC
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Child Other Adult	M	1	2	[REDACTED]	19						EC
Exclusion Amount (if Applicable) \$6312																

Food Stamps (General Assistance) \$8,400.00
 s-s Sec (Social Security) \$6,936.00
 Ic (TANF (formerly AFDC)) \$4,656.00
 Empld Wages (Other Wage) \$0.00
 Expense Description & Type Annual Amount

BOSTON HOUSING AUTHORITY
Client Verification Worksheet
 Printed Date: 11/15/2012
 2:50:59PM

Allowable Deductions Elderly / Disability Allowance Deduction Amount \$0
 Allowable Deductions Total Dependent Allowance Deduction Amount \$980

40. Notice of Review Determination



BOSTON HOUSING AUTHORITY
 Charlestown Development
 55 Bunker Hill Street
 Charlestown, MA 02129

Phone:
 TDD: 1-800-646-18 EXT.420
 www.BostonHousing.org

RE : Notice of Review Determination/Rent Change & Appeals Rights - 11/15/2012



Account #:

Thank you for your cooperation during the recent review for rent determination/rent change. The information which you provided permits the Boston Housing Authority to determine your rent and continued eligibility for public housing in accordance with Federal/State law.

Your rent is calculated based on the level of Federal Assistance allowed for your household based on your Gross Annual Income and that of eligible household members as indicated below.

Income Type	Annual Income Before Exclusion	Annual Earned Income Exclusion	Annual Income After Exclusions
TANF (formerly AFDC)	\$4656	\$0	\$4656
General Assistance	\$8400	\$6312	\$2088
Other Wage	\$0	\$0	\$0
Social Security	\$6936	\$0	\$6936

Gross Family Income \$13680

Elderly/Disabled Allowance	\$0	Dependant Allowance	\$960
Elderly/Disabled Medical	\$0	Childcare Expense	\$0
Family Medical	\$0		

Total Deductions \$960

Net Family Income \$12720

Your contract based upon your choice has been determined as follows:

Monthly Gross Rent (30% of net income)	\$318
Less Utility Allowance	\$0
Total Rent Payment	\$318
Public Housing Flat Rent	\$1245
Contract Rent	\$318

This is notice to you pursuant to your lease, that your monthly rent/use and occupancy will be \$318 effective as of 12/01/2012.

If your rent is being retroactively decreased, this is because (a) you requested a decrease in your rent and it has been recalculated based on the date of your request, or (b) BHA is correcting an error on your past rent.

If your rent is being retroactively increased, this is because you withheld, misrepresented or otherwise failed to provide information that you were required to report under BHA's lease regarding income, family composition, or applicable deductions/exclusions from income, and your rent would have been higher had there been proper reporting.

If you have any questions regarding this notice, please contact your management office immediately. See the enclosed notice for an explanation of your rights to dispute this decision if you wish.

Housing Manager

41. Right to Appeal Notice

RIGHT TO APPEAL

If you disagree with this decision concerning your rent, you have the right to Appeal it under the BHA's Grievance Procedure.

To file an Appeal, you should either fill out a "Notice of Appeal of Rent Determination" form which is available at your local Management Office or send a written request for a Hearing, addressed as follows:

Hearing Panel Coordinator
Boston Housing Authority
52 Chauncy Street
Boston, MA. 02111

This request must be made within thirty (30) days of receipt of this notice. The request should state that it is a Rent Appeal and should state why you disagree with the Boston Housing Authority's decision concerning your rent. A copy of the request should be sent to the Management Office.

Following your request for an Appeal, the Housing Manager of your development may schedule a meeting with you to discuss the dispute. If you and the Housing Manager are able to resolve the dispute, you can accept the resolution and fill out a "Withdrawal of Grievance" form. If you and the Housing Manager are unable to resolve the dispute, a Hearing will be scheduled before the Boston Housing Authority Hearing Panel (or Hearing Officer appointed by the Panel) on your request.

If you request an Appeal, you are liable for your old rent during the Appeal; however, if the Hearing Panel or Hearing Officer upholds your new rent, you will be liable for the new rent amount retroactively to the effective date of the rent change.

42. Rent Determination Questionnaire for Federal Public Housing

Federal Developments – Recertification Questionnaire

Resident Name:
Development:
Unit #:

Date:

Income Questionnaire: Does any member of your household receive income from:
(All questions refer to all household members)

Employment of any household member? <i>Do not include PCA income if not a member of household, amounts received under training programs funded by HUD, reimbursement of out of pocket expenses for publicly funded training programs, PASS payments to persons with disabilities, temporary, non-recurring or sporadic income, or earnings of minors. The increase in income during participation in a self-sufficiency or job-training program and earnings in excess of \$480 for each full-time student 18 years of age or older other than the head or co-head of household will be excluded.</i> *Special Income Exclusions may apply for household members moving from long-term unemployment or welfare to work. For more information, please ask a BHA staff person.	<input type="checkbox"/> Yes <input type="checkbox"/> No List members with income:
Self-Employment or Operation of a business or profession by any member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Retirement Pensions, Annuities, IRAs paid to any household member? <i>Do not include: Non-taxable amounts which constitute return of capital and are specifically identified as such by payer.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Social Security Pensions for any household member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
SSI or SSDI paid to any member of the household? <i>Do not include: deferred periodic amounts from SSI and SS received in a lump sum or in prospective monthly amounts (deferrals are payments provided due to a delay in verifying eligibility or for a person retroactively enrolled in a program).</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Unemployment compensation for any household member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Workers Compensation, Health and Disability Insurance Payments or severance pay for any household member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Regular gifts to any household member? (Gifts received at least twice a year for two or more years or more than \$2000 occurring once per year for two or more years.) <i>Do not include: gifts not regularly recurring or the amount of student financial assistance paid directly to the student or to the educational institution.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Transitional Assistance (TANF) or Public Assistance (EAEDC) for any household member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Food Stamps for any household member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Support of minors in the household from Child Support, Social Security or Transitional Assistance? <i>Do not include foster care payments for children or adults.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Gambling or lottery earnings for any household member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Trust, inheritances, insurance or other lump sum payments to any member? <i>Do not include: Inheritances and life insurance proceeds except for post-death interest; payments including lump sums received for the cost of medical care, compensation for personal injury or damage to property under health, accident, liability or workers comp insurance, or court awards or settlements of claims unless received in lieu of income.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Alimony or separate support paid to any household member? <i>Do not include Foster Care Payments.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Regular wages of members of the armed services <i>Do not include special pay on account of service in a hostile fire environment.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does any household member own any assets (bank accounts, real estate, stocks & bonds, money market, IRAs, or personal property such as coin collections, jewelry, etc)? <i>Do not include return of capital on sale or transfer of an investment or necessary personal property such as cars and furniture.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
COMPLETE DEDUCTIONS WORK SHEET ON NEXT PAGE AND SIGN THIS FORM.	

Federal Developments – Recertification Questionnaire

Deductions Questionnaire: Does your household qualify for any of the following deductions from income?

<p>\$400 per year for each elderly/disabled household. <i>Only when head or co-head of household is elderly (age 62 or over) or disabled; one deduction per household.</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>\$480 per year for each dependent family member. <i>Any family member 17 or younger, or 18 or older full-time student, enrolled in vocational training, or disabled.</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Medical Expenses over 3% of gross income (applies to both family and elderly households). <i>Medical insurance, prescriptions, fees of health care professionals, transportation to medical appointments, medical assistance at home, non-prescription drugs if doctor recommended, payments for auxiliary apparatus such as wheelchairs, dental care, eye glasses, hearing aids & batteries, monthly payments on accumulated medical bills.</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Care expenses for members of the family who are disabled, in excess of 3% of gross family income. <i>Payment necessary to care for a disabled family member in order to allow another household member to work. Deduction can not exceed the employment income of the family member who would otherwise be available to provide the care. Includes care attendants, auxiliary apparatus such as wheelchairs, ramps and special equipment which enables a blind person to read.</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Child Care expenses (for children under 13). <i>Non-reimbursed expenses necessary to allow a family member to work, attend school or seek employment. Deduction cannot exceed the amount of earned income included in the annual income.</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Combined medical expenses and disabled family member care <i>If the total of non-reimbursed medical expenses and expenses to care for a disabled family member exceeds 3% of gross family income, the amount which exceeds 3% is deductible.</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Please indicate your primary language spoken: <input type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> French <input type="checkbox"/> Mandarin <input type="checkbox"/> Cantonese <input type="checkbox"/> Other:</p> <p>Please indicate your primary language read: <input type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> French <input type="checkbox"/> Chinese <input type="checkbox"/> Other:</p>	

Resident Certification and Signature:

The information I have provided regarding income and deductions in response to the questions on this form is complete and true to the best of my knowledge:

 Signature of Resident:

 Date

43. Rent Determination Questionnaire for State Public Housing

State Developments – Recertification Questionnaire

Resident Name:
Development:
Unit #:

Date:

Income questionnaire: Does any member of your household receive income from:
(All questions refer to all family members.)

Employment of any household member? <i>Do not include payments for participation in Domestic Volunteer Service Act, reimbursement of out of pocket expenses for publicly funded training programs, PASS payments to persons with disabilities, temporary, non-recurring or sporadic income, or earnings of unemancipated minors. The following will be excluded from the income considered for determination of rent: PCA income if not a member of household, earnings up to \$160 per week for members 62 or over, increase in income from participation in qualifying state or local employment programs, earnings of each full time student between the ages of 18 and 25 other than the head or co-head of household.</i> *Special Income Exclusions may apply for household members moving from welfare to work. For more information, please ask a BHA staff person.	<input type="checkbox"/> Yes <input type="checkbox"/> No List members with income:
Self-Employment/Operation of a business or profession by any member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Retirement Pensions, Annuities, IRAs paid to any household member? <i>Do not include: Non-taxable amounts which constitute return of capital and are specifically identified as such by payer.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Social Security Pensions for any household member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
SSI or SSDI paid to any member of the household? <i>Do not include benefits in excess of \$1,800 received by an unemployable veteran with a service-connected disability.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Unemployment compensation for any household member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Workers Compensation, Health and Disability Insurance Payments or severance pay for any household member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Regular gifts to any household member? (Gifts received twice a year for two or more years or totaling more than \$2000 and occurring once per year for two or more years.) <i>Do not include: gifts not regularly recurring or the amount of student financial assistance paid directly to the student or to the educational institution.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Public Assistance (EAEDC) or Transitional assistance (TANF) for any household member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Food stamps for any household member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Support of minors in the household? <i>Include child support, social security, public assistance and foster care payments.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Gambling or lottery earnings for any household member?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Trust, inheritances, insurance or other lump sum payments to any member? <i>Do not include: Inheritances and life insurance proceeds except for post-death interest; payments including lump sums received for the cost of medical care, compensation for personal injury or damage to property under health, accident, liability or workers comp insurance, or court awards or settlements of claims unless received in lieu of income.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Alimony or separate support paid to any household member? <i>Include Foster Care Payments.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Regular wages of members of the armed services <i>Do not include special pay on account of service in a war zone.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does any household member own any assets (bank accounts, real estate, stocks & bonds, money market, IRAs, or personal property such as coin collections, jewelry, etc)? <i>Do not include return of capital on sale or transfer of an investment or necessary personal property such as cars and furniture.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
COMPLETE DEDUCTIONS WORK SHEET ON NEXT PAGE AND SIGN THIS FORM.	

Glossary

Adjusted income: The amount of income that is used to determine rent for federal housing programs, if the rent is *income-based*. The housing program figures adjusted income by first looking at the total anticipated countable (non-excluded) income for a household, and then subtracting certain *deductions*. What is left is adjusted income, and rent will be 30% of that amount.

Annual income: The term used in federal housing programs to describe the total amount of anticipated countable (non-excluded) income coming into a household. Once a federal program determines the annual income, it will subtract certain *deductions* and come up with an *adjusted income* amount.

Asset: Property (such as bank accounts, stocks, and capital investments) to which a value can be assigned. Federal rules have a specific definition of “net family assets.”

Capital Gain: The difference between what you paid for an investment and what received when you sold it. If you sold an investment for more than what you paid for it, then you have a capital gain. If you sold it for less than what you paid, then you have a capital loss.

Deduction: An amount of money that is subtracted from a household’s total anticipated countable (non-excluded) income before calculating rent. Deductions can be fixed amounts (for example, \$480 per dependent) or fluctuating depending on particular household expenses (for example, unreimbursed medical expenses).

DHCD: Massachusetts Department of Housing and Community Development, the state agency that oversees housing authorities and state public housing.

Earned income disregard (EID): A type of *exclusion* for public housing residents who had previously received public assistance benefits or were previously unemployed and then began working. The term is used to refer to both the federal *self-sufficiency incentive* and the state *earned income exclusion*, which operate somewhat differently.

Earned income exclusion: The term used in state public housing to describe the *earned income disregard (EID)*, the *exclusion* of increased employment income in certain instances

Eligible noncitizen: A person who is not a U.S. citizen but is an immigrant who belongs to a group which is allowed, under federal law, to apply and get full assistance for to all federal housing programs. Allowable groups include legal permanent residents, asylees and refugees.

Exclusion: Amounts which BHA or a *mixed finance owner* must ignore for purposes of calculating countable household income for public housing. For example, the value of food stamps or a tax refund cannot be counted towards your income when determining rent.

Flat rent: The standard maximum rent amount set by BHA or a *mixed finance owner* for an apartment that federal public housing programs must offer to tenants as an alternative to *income-based rents*.

Grievance: A grievance is a complaint filed to ask for a *hearing* about an injury, injustice, or wrong.

Grievance hearing: A process following filing of a complaint in which a hearing officer or grievance panel listens to parties, considers evidence, and makes a decision or ruling. Before going to the hearing stage, the grievance process begins with an informal conference or informal hearing, which is a meeting that allows parties to try and convince BHA or a *mixed finance owner* that a decision or proposed action is incorrect. Tenants have a right to have an advocate or other person with them during both an informal conference and a grievance hearing. BHA uses a grievance panel made up of three tenants and two BHA employees; appeals are considered by a hearing officer. *Mixed finance owners* may have their own grievance procedures and other arrangements.

Gross income: The term used in state housing programs to describe the total amount of anticipated countable (non-excluded) income coming into the household. Once a state program determines the gross income, it will account for certain *deductions* and come up with the *net income* amount on which rent is based.

Hearing: See *grievance hearing*.

HOPE VI: A federal program for rehabilitation of federal public housing. HOPE VI is one kind of *mixed finance* and often involves *tax credits* as well. If a development has been redeveloped through HOPE VI, usually there is a new *mixed finance owner*, and not all apartments are public housing. However, the public housing units still follow federal public housing rules. BHA does have oversight over its HOPE VI developments, even though it does not directly own or operate them.

Household: People listed on your lease and authorized by BHA or a *mixed finance owner* to live in your apartment.

HUD: U.S. Department of Housing and Urban Development.

Imputed welfare income: Welfare income not received, but still counted by the BHA or a *mixed finance owner* for its federal housing programs where a tenant's welfare grant was sanctioned and reduced for certain reasons.

Income-based rent: Rent figured as a percentage of a household's adjusted or net income. In public housing programs, the rent for each unit is almost always determined as a percentage of the income of the family who lives there. Therefore, rents for similar units in a development could be different, depending on the income of those who lives in each unit.

Interim reporting: In public housing programs, the rules concerning when a household must report a change in family or income between the yearly *recertifications*.

Lump sum: One-time payment.

Minimum rent: In public housing, the amount of rent a public housing authority is allowed to charge a household even if there is no income. The range is between \$0 and \$50 a month, depending on the housing authority and the program. BHA's current minimum rent is \$0/month.

Mixed finance: Public housing that is rehabilitated using a mix of public and private financing. Examples include HOPE VI, tax credits, and conversion of a portion of the development to Section 8 Project-Based Vouchers (PBVs). In most circumstances where mixed finance is used, BHA is no longer the direct owner of the development, but there is a mixed finance owner. In many cases, not all of the units at the redeveloped site will be public housing. BHA does have oversight over what the mixed finance owner does, and basic state or federal public housing rules still apply. However, the mixed finance owner is free to develop its own policies and procedures which may differ from those used by the BHA.

Mixed finance owner: The owner of a public housing development rehabilitated through use of mixed finance, where financing requires that the ownership no longer remain directly with the BHA.

Net income: The amount of income that is used to determine rent for state housing programs if the rent is *income-based*. The housing program figures net income by first looking at the total anticipated countable (non-excluded) income for a household, and then subtracting certain *deductions*. What is left is net income, and rent will be a percentage of that amount.

Overhoused: Where a family is living in a unit designed for a larger family.

Pro-rated rent: The rent amount determined according to specified calculations by a federal public housing program for a household with some

members who are neither U.S. citizens nor eligible noncitizens under HUD rules. The ineligible noncitizen can reside in BHA federal public housing, but BHA or a *mixed finance owner* will adjust the subsidy to cover only the citizens or *eligible noncitizens*. Generally, the calculation of the benefit amount is based on the proportion of eligible individuals to the overall household size. As a result, these “mixed” households will pay more than the standard 30% of adjusted income for rent.

Reasonable Accommodation: In the context of BHA public housing, a reasonable accommodation is a change or modification that BHA or a *mixed finance owner* makes in a rule, policy, practice, service, or physical space so that a person with a disability may make full use of his or her home or take full advantage of the housing program. The change is considered reasonable if it does not create an unnecessary burden for BHA or the *mixed finance owner* and when it does not require BHA or the *mixed finance owner* to change its program.

Recertification: The general term used to describe the yearly procedure by which BHA or *mixed finance owner* reviews a household’s composition and income in order to determine whether the household’s rent needs to be recalculated.

Redetermination: The term used in state public housing to describe the *recertification* process.

Reexamination: The term used in federal public housing to describe the *recertification* process.

Retroactive: Referring to action applied to a past time. For example, BHA or a *mixed finance owner* is allowed in certain circumstances to go back and charge you additional rent for months that have already passed if you didn’t accurately or timely report on your income or cooperate with recertification. BHA may also be required to retroactively reduce your rent if it made a mistake and the rent was set higher than it should have been.

Screening: The process of reviewing records and references to determine if someone will be a good tenant.

Section 8 project-based vouchers (PBV): A federal program where tenants’ rents are set in accordance with Section 8 rules. While the assistance is tied to the development (project-based), after a year, as long as the BHA has sufficient Section 8 voucher funding, tenants can request Section 8 tenant-based (mobile) vouchers. BHA has converted several federal public housing developments so that 90% of the apartments are now funded with Section 8 PBV, but 10% of the units still are federal public housing. In addition, as part

of *mixed finance* rehabilitation at several other developments, a certain number of apartments are subsidized with PBVs.

Self-sufficiency incentive: The term used in federal public housing to describe the earned income disregard (EID), the exclusion of increased employment income in certain instances.

SPAR (Screening Proposed Additional Residents): The process BHA or *mixed finance owners* use to approve the addition of a person to the household.

Tax credits: Tax breaks that are available under federal or state law to private investors willing to fund affordable housing. The federal program is also known as the Low Income Housing Tax Credit (LIHTC). Housing authorities like BHA are not eligible to receive tax credit funding directly, and the form of ownership of a development must be changed to take advantage of this funding. If a public housing development gets tax credit financing, there are some additional recertification and eligibility requirements.

Utility allowance: The amount of money that a housing authority will deduct from rent where a public housing tenant pays for all or some utilities (but not telephone, cable TV, or internet service). The allowance is an amount that is not based on the tenant's actual utility consumption, but a figure that the housing authority thinks is reasonable consumption level for an energy-conservative household.

Verification: Proof. In public housing, the process where BHA or a *mixed finance owner* checks the information given by the tenant about income and family composition. This includes asking the tenants to provide certain paperwork and seeking information from outside sources (such as employers). The papers themselves are referred to as verifications.

Endnotes

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- ¹ G.L. c. 121B, § 32; **Elderly/handicapped:** G.L. c. 121B, § 40(e); 760 C.M.R. § 6.04(1)(a); **Family housing:** 760 C.M.R. § 6.04(1)(b).
- ² 42 U.S.C. § 1437a(a)(1).
- ³ 42 U.S.C. § 1437a(a)(1); 24 C.F.R. § 5.628(a). Also see General Rent and Frequently Asked Questions on HUD's website at: www.hud.gov/offices/pih/programs/ph/rhiip/faq_gird.cfm.
- ⁴ If BHA ever adopts a minimum rent greater than \$0 per month, it would also have to adopt written policies for determining when payment of flat rent is a financial hardship. Under federal regulations, such policies must provide that financial hardship include the following situations: (1) the family has experienced a decrease in income because of change in circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance; (2) the family has experienced an increase in expenses because of changed circumstances for medical costs, child care, transportation, education, or similar items; and (3) such other situations as determined by the housing authority. It would also have to describe how minimum rent can be suspended and waived (not applied), again in accordance with federal law, and what notice will be given to residents of their rights regarding hardship suspension and waiver. All of this would be subject to the BHA's Public Housing Agency yearly planning process and would involve written notice and opportunity for comment by the Resident Advisory Board (RAB), local resident councils, and affected residents. See 42 U.S.C. § 1437c-1; 24 C.F.R. Part 903; 24 C.F.R. § 966.5.
- ⁵ 42 U.S.C. § 1437a(a)(2)(B)(i); 24 C.F.R. § 960.253(b).
- ⁶ 42 U.S.C. § 1437a(a)(2)(C); 24 C.F.R. § 960.253(f).
- ⁷ Pro-rated rent is based on the percentage of the household members who are eligible citizens or eligible noncitizens in comparison to the total number of household members. Instead of getting full assistance, the family gets partial assistance based on that percentage. See 24 C.F.R. § 5.520. For definition of eligible noncitizen, see 42 U.S.C. § 1436a.
- ⁸ 42 U.S.C. 1437j(d-g); 24 C.F.R. § 5.615. Find more information about welfare sanctions from HUD at: www.hud.gov/offices/pih/phr/about/ao_faq2.cfm.
- ⁹ G.L. c. 121B, § 32; 760 C.M.R. § 6.04(1)(c). Per 760 C.M.R. § 6.03, *overhoused* means a tenant household that the housing authority has determined, based upon the composition of the household, to be occupying a unit consisting of more bedrooms than is appropriate for the household size.
- ¹⁰ G.L. c. 121B, § 32; 760 C.M.R. § 6.04(1)(c).
- ¹¹ 760 C.M.R. § 6.05(2).
- ¹² 24 C.F.R. § 5.609; see generally HUD's *Public Housing Occupancy Guidebook*, Chapter 10. The *Guidebook* also includes worksheets and forms that housing authorities can use to calculate rent and verify income. You can find this *Guidebook* on HUD's website at: www.hud.gov/offices/pih/programs/ph/rhiip/phguidebook.cfm.
- ¹³ **State gross income exclusions:** 760 C.M.R. § 6.05(3); **Federal annual income exclusions:** 42 U.S.C. § 1437a(b)(5); 24 C.F.R. § 5.609(c); 77 Fed. Reg. 43347 et seq. (July 24, 2012).

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- ¹⁴ 42 U.S.C. § 1437a(b)(5)(B)(iii); 24 C.F.R. § 5.611(b).
- ¹⁵ 42 U.S.C. § 1437a(b)(5); 24 C.F.R. § 5.611.
- ¹⁶ Attendant care includes: In-home care, nursing, housekeeping, errand service, interpreters for people who are hearing impaired, or a reader for a person with a visual disability.
- ¹⁷ 760 C.M.R. § 6.05(4).
- ¹⁸ HUD PIH Notice 05-37.
- ¹⁹ See *Public Housing Occupancy Guidebook*, page 124.
- ²⁰ Rules on contributions differ between state and federal public housing. See endnote 24.
- ²¹ 24 C.F.R. § 5.609(c)(14).
- ²² See 24 C.F.R. § 5.603 for the definition of *net family assets*.
- ²³ In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust per definition of *net family assets*, 24 C.F.R. § 5.603. See also *HUD Multifamily Occupancy Handbook*, 4350.3 for more about how trusts can be structured in the context of multifamily housing.
- ²⁴ For state public housing, such one-time payments are treated as income and used in the computation of rent only if received during a period of time when you lived in public housing. 760 C.M.R. § 6.05(3)(b). The same argument can be made in federal public housing, but the rules are less clear.
- ²⁵ **State:** 760 C.M.R. § 6.05(2)(c); **Federal:** 24 C.F.R. § 5.609(b)(3). While HUD's current passbook rate is 2%, in 2012, HUD issued a notice providing guidance in establishing the passbook savings rate. The notice provides that a housing authority may establish its own passbook rate based on a national rate and that it should review its passbook rate a least yearly to determine that it is within a "safe harbor" range. See PIH Notice 2012-29 at: <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2012-29.pdf>. This notice supplements HUD's *Public Housing Occupancy Guidebook*. See also HUD's Frequently Asked Questions on the rent determination. Questions 29 and 30 at www.hud.gov/offices/pih/programs/ph/rhiip/faq_gird.cfm.
- ²⁶ In federal multifamily housing, it is clear that withdrawals from IRAs are not considered income. *HUD Multifamily Occupancy Handbook*, 4350.3 CHG-1 (Aug. 2004), Chapter 5. Although this handbook is for residents in federal multifamily housing, one could advocate that IRAs in public housing be treated similarly.
- ²⁷ 24 C.F.R. §§ 965.505, 965.507(a).
- ²⁸ 24 C.F.R. § 965.507(b).
- ²⁹ The criteria and procedure for granting relief from insufficient utility allowances must be adopted at the time utility allowances are adopted and all tenants must be given notice of this. 24 C.F.R. §§ 965.502(c), 965.508.
- ³⁰ **Federal:** 24 C.F.R. § 5.609(c)(1) (excludes the employment income of children under the age of 18); 24 C.F.R. § 5.609(c)(11) (covers earnings of full-time students 18 years of age or older in excess of \$480/year dependent deduction); **State:** 760 C.M.R. § 6.05(3)(k) (excludes wages earned by a full-time student or un-emancipated minor); 760

C.M.R. § 6.03 (defines full time student).. Note that for state public housing, the full-time student exclusion only applies to those between the ages of 18 and 25. There is no similar age limitation for federal public housing.

31 24 C.F.R. § 960.255. Find more information about the mandatory earned income disregard from HUD at:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/phr/about/ao_faq_eid

32 760 C.M.R. § 6.05(3)(i).

33 24 C.F.R. § 960.255(a).

34 24 C.F.R. § 960.255(b)(3).

35 24 C.F.R. § 960.255(b).

36 *See Boston Hous. Auth. v. Pagan*, Boston Housing Court No. 10-SP-4224 (March 15, 2012) (Winik, F.J.)

37 760 C.M.R. § 6.05(3)(i).

38 G.L. c. 121B, § 32; 760 C.M.R. § 6.05(3)(p). You can find the current minimum wage in Massachusetts at: www.mass.gov by typing into the search box “minimum wage.”

39 While DHCD regulations do not provide for a grievance hearing for state public housing tenants facing eviction for nonpayment of rent, BHA’s lease and grievance procedure does provide this. However, West Broadway Homes tenants do not have these rights, since DHCD has greater oversight over this site due to tax credit financing.

40 G.L. c. 186, § 11.

41 G.L. c. 121B, § 32; 760 C.M.R. § 6.04(3)(b); DHCD Public Housing Notice 2003-06.

42 G.L. c. 186, § 15B(1)(c).

43 760 C.M.R. § 6.04(4).

44 24 C.F.R. § 960.257(a); 42 U.S.C. § 1437a(a)(1), (a)(2)(E).

45 24 C.F.R. § 960.257(a)(2); 24 C.F.R. § 960.253(e)(2); 42 U.S.C. § 1437a(a)(2)(E).

46 24 C.F.R. § 960.253(e)(2), (f). BHA is required to provide sufficient information for families to make informed choices about rent options. If the family chooses a flat rent, BHA must provide the amount of income-based rent if an income reexamination is conducted or if the family makes a specific request and submits updated income information. See also 42 U.S.C. § 1437a(a)(2)(A)(i), stating that a public housing agency may not at any time fail to provide both flat and income-based rent options for any housing unit owned, assisted, or operated by the agency.

47 24 C.F.R. § 960.253(e)(2).

48 760 C.M.R. § 6.04(4)(d), (5)(a).

49 760 C.M.R. § 6.04(8).

50 Find more information about HUD’s Enterprise Income Verification system at: www.hud.gov/offices/pih/programs/ph/rhiip/uivsystem.cfm.

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- ⁵¹ DHCD Public Notice 2008-12 at:
www.mass.gov/Ehed/docs/dhcd/ph/publicnotices/08-12.pdf.
- ⁵² **State:** 760 C.M.R. § 6.04(4)(d); **Federal:** 24 C.F.R. § 5.609(a)(2).
- ⁵³ 760 C.M.R. § 6.04(4)(e), (5)(a).
- ⁵⁴ 760 C.M.R. § 6.04(4)(d).
- ⁵⁵ 760 C.M.R. § 6.04(4)(d).
- ⁵⁶ **State:** 760 C.M.R. § 6.04(5)(b); **Federal:** 24 C.F.R. § 960.257(b).
- ⁵⁷ **State:** 760 C.M.R. § 6.04(6); **Federal:** 24 C.F.R. § 960.259; 24 C.F.R. § 5.240.
- ⁵⁸ **State:** 760 C.M.R. § 6.06(3)(h); **Federal:** 24 C.F.R. § 966.4(c)(2).
- ⁵⁹ See *Saxton v. Housing Authority of the City of Tacoma*, 1 F.3d 881 (9th Cir. 1993) which held that a public housing tenant whose request to add a returning family member to a lease was denied has a right to a grievance hearing pursuant to 24 C.F.R. § 966.50.
- ⁶⁰ 760 C.M.R. § 6.06(3)(g).
- ⁶¹ 42 U.S.C. § 1437d(l)(6)(B).
- ⁶² 42 U.S.C. § 1437d(u)(1)(C).
- ⁶³ **State:** 760 C.M.R. § 6.06(3)(f), 4(q)-(r).
- ⁶⁴ **State:** G.L. c. 121B, § 32; 760 C.M.R. § 6.04(1)(c). Per 760 C.M.R. § 6.03, *overhoused* means a tenant household that the housing authority has determined, based upon the composition of the household, to be occupying a unit consisting of more bedrooms than is appropriate for the household size.
- ⁶⁵ G.L. c. 121B, § 32, 9th paragraph (applies to apartments consisting of two bedrooms or fewer, provided that the tenant has lived in the apartment for at least the last eight consecutive years and that the rent is not more than three months in arrears).
- ⁶⁶ The term “mixed finance”, under HUD regulations, means the combined use of publicly and privately financed sources of funds for the development of public housing. See 24 C.F.R. Part 941, Subpart F, Public/Private Partnerships for the Mixed Finance Development of Public Housing Units.
- ⁶⁷ 24 C.F.R. § 966.5 (federal public housing policy changes); 760 C.M.R. § 6.09 (state resident participation).
- ⁶⁸ This is definitely the case at West Broadway Homes, where DHCD regulations requiring interim reporting of any increase in income of 10% or more from what was last reported are applied. See 760 C.M.R. § 6.04(5)(a).