



Massachusetts General Laws

Chapter 40T

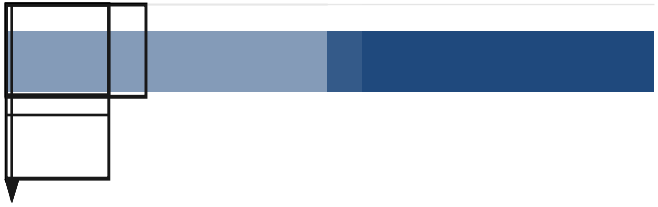
Publicly Assisted Affordable Housing

Selected Topics

Jonathan Klein
Klein Hornig LLP
www.kleinhornig.com

OUTLINE OF PRESENTATION

- I. Timeline of Notices and Tenant Protections (sections 2 and 7)
- II. Right of Offer and Right of Refusal (sections 3 and 4)
 - A. Exemptions
 - B. Timelines



EXEMPTIONS (§6(a))

- (i) eminent domain
- (ii) foreclosure
- (iii) deed in lien of foreclosure
- (iv) sale that “preserves affordability”
- (v) sale where buyer agrees to renew section 8
- (vi) sale to an affiliate
- (vii) any sale more than 15 years prior to the first scheduled termination
- (viii) existing purchase agreement on date of statute

EXEMPTION PROCESS (§6(b))

- Request to DHCD? (but not explicitly stated)
- Under clause (iv) preserve affordability, (v) renew Section 8, or (vi) sale to an affiliate, must provide notice of the request for an exemption to any tenant organization, the municipality, CEDAC and local legal services (if designated)
- DHCD provides a written determination under clauses (iv), (v) or (vi)
- Process likely to be further delineated in regulations

DEFINITION OF AFFILIATE

“an entity owned or controlled by an owner
or under common control with the owner”

“PRESERVE AFFORDABILITY” (1st sentence, paraphrased)

- Reasonable and diligent actions to
- retain, renew or secure subsidies in order to
- maintain at least the same number of low, very low and extremely low income households as currently occupied, and
- to maintain vacant units as affordable to such households generally,
- to the extent of available subsidies, and
- taking into account the need to provide quality housing.

“PRESERVE AFFORDABILITY” (2nd sentence, paraphrased)

- To the extent DHCD determines that the existing housing is not providing quality housing to its tenants, then
- DHCD shall consider affordability up to 80% of AMI
- provided that no tenant is displaced, and
- any low, very low or extremely low income units not retained is replaced
- with comparable deed-restricted units at an alternative site
- to the extent of available subsidies and
- to the extent feasible.



**Jonathan Klein
Klein Hornig LLP
145 Tremont Street
Boston, MA 02111
www.kleinhornig.com**

Telephone: 617-224-0600

Fax: 617-224-0601