



## **RIVER FOREST PLAN COMMISSION MEETING AGENDA**

A meeting of the River Forest Plan Commission will be held on Thursday, October 21, 2019 at 7:00 P.M. in First Floor Community Room of the Village Hall, 400 Park Avenue, River Forest, Illinois.

- I. Call to Order/Roll Call
- II. Meeting Minutes – March 7, 2019
- III. Discussion Regarding Affordable Housing Planning and Appeals Act and River Forest Affordable Housing Plan
- IV. Public Comment
- V. Adjournment

**VILLAGE OF RIVER FOREST  
PLAN COMMISSION MEETING MINUTES  
MARCH 7, 2019**

A meeting of the Village of River Forest Economic Development Commission was held on Tuesday, March 7, 2019, at 7:00 p.m. in the First Floor Community Room of Village Hall, 400 Park Avenue, River Forest, Illinois.

**1. CALL TO ORDER/ROLL CALL**

The meeting was called to order at 7:00 p.m. Upon roll call, the following persons were:

Present: Commissioners Fishman, Gottlieb, Cragan, Armalas, and Chairman Crosby

Absent: Commissioners Kilbride and Kirk.

Also Present: Village Administrator Eric Palm, Assistant Village Administrator Lisa Scheiner, Assistant to the Administrator Jon Pape, Management Analyst Sara Phyfer, Village Attorney Greg Smith, John Houseal, of Houseal Lavigne Associates

**2. APPROVAL OF MINUTES – FEBRUARY 12, 2019**

A MOTION was made by Commissioner Fishman and SECONDED by Commissioner Gottlieb to approve the February 12, 2019 meeting minutes of the Plan Commission.

Ayes: Commissioners Fishman, Gottlieb, Cragan, Armalas, Crosby

Nays: None

Motion Passed.

**3. PUBLIC HEARING – COMPREHENSIVE PLAN**

Chairman Crosby explained the purpose and process of the public hearing. Assistant Village Administrator Scheiner swore in all parties wishing to speak.

John Houseal, Houseal Lavigne Associates, introduced himself and stated that he is the Village's planning consultant. He described the purpose of the Comprehensive Plan and the process that was followed to obtain public input and draft the plan. Mr. Houseal summarized each section of the plan.

Chairman Crosby invited members of the audience who had signed in to come to the podium and share their comments.

Dan Lauber, 7215 Oak, discussed his concerns about the plan, including the discussion regarding relocation of the Public Works facility to a location outside the Village, the impact of the traffic control upgrades and the safe routes to school plan. He called for a phased approach to implementing changes. Mr. Lauber stated that at a previously held workshop regarding the comprehensive plan, participants raised issues regarding the adequacy of street lighting and affordable housing. Mr. Lauber stated that he did not believe the draft comprehensive plan

sufficiently addressed either of those issues. He suggested changes to the plan to address preservation of existing affordable housing and inclusion of regulatory language requiring that new development include a certain number of affordable housing units in exchange for zoning relief. Mr. Lauber urged the Village to maintain the existing zoning restrictions regarding building heights and grant relief only as a density bonus in exchange for affordable housing units.

Marilyn Thomas, 7911 North, echoed Mr. Lauber's comments regarding affordable housing. She stated that there is concern among people living in the TIF district regarding what their long term viability is for living in River Forest.

Phyllis Rubin, 411 Ashland, 6B, stated that she would like to see a commitment to affordable housing and that the Comprehensive Plan could be stronger in this regard. She discussed her concerns regarding possible modifications to building height restrictions and the variations granted that allowed buildings to exceed existing height restrictions. Ms. Rubin shared her concerns regarding the installation of stop signs throughout the community and possible unintended consequences that could reduce pedestrian safety. She echoed Mr. Lauber's calls for testing changes in certain areas before implementing them throughout the community.

Tilda Agalanin, 1535 N. Forest, asked what role the Village would play in ensuring that residents receive fair market value for their property if it is sold. Chairman Crosby, Assistant Village Administrator Scheiner and Mr. Houseal explained that property sale and property acquisition are private transactions that are done on a voluntary basis and that the Village does not play a role or force residents to sell. Developers are not allowed under Village regulations to submit development proposals without the consent of the property owners.

Cheryl Phillips, 1535 N. Forest, discussed her concerns regarding affordable housing and asked how the Village would ensure transparency in reporting how TIF district funds are spent. Village Administrator Palm responded that the Village files an annual report with the State of Illinois that is available on the Comptroller's website and also on the Village's website.

Kris Cihlar, 7206 Oak, discussed concerns regarding affordable housing and how it is addressed in the plan and asked what "affordable" means in River Forest.

Laurel Ahlenius, 16 Gale, discussed her concerns regarding the Civic Center and the discussion regarding possible property acquisition. She also discussed her concerns regarding emergency response times if cul-de-sacs are installed on the streets near Madison Street. She called for additional traffic impact studies regarding emergency response and the impact on neighboring streets before changes are made.

Village Administrator Palm discussed current joint efforts to evaluate the current and future needs of the Community Center. He stated that the participating agencies solicited proposals to hire a consultant to conduct a space needs study but that the study had not yet begun and all discussions were preliminary at this point. He stated neighboring property owners do not have to sell their homes if they do not want to. In response to a follow-up question from a member of the audience, Administrator Palm explained that the Madison Street TIF District is a financing tool. He noted that within the TIF District property transactions have to include willing parties. He explained that while the Village does possess eminent domain authority, River Forest does not have a history of using that authority.

Marla Santucci, 21 Thatcher, discussed her interactions with the Community Center over the year and her concerns regarding parking demand for the current facility as well as a possible expanded facility. She discussed traffic patterns and what it is like to live along Thatcher Avenue given traffic volumes. Ms. Santucci shared her concerns about the impact of installing cul-de-sacs on streets in this area. She stated her fear is that the Village will use its eminent domain power and that she thinks there are better areas to locate the Community Center.

Mike Corr, 21 Gale, stated his concerns about a possible cul-de-sac on Gale Avenue and its impact on emergency response times and neighboring streets.

Emily Hampson, 11 Thatcher, asked for modified language on page 45 indicating that there is no intention to take property involuntarily to expand the Community Center. She discussed her concerns regarding cul-de-sacs, traffic, and pedestrian crossings. She stated that, although Thatcher Avenue is a 25 MPH zone, there is a lot of speeding in the area and asked for the Village's continued assistance in addressing that issue.

Julie Patterson, 7575 Lake Street, encouraged resident participation in the Village's processes and thanked everyone for coming. She shared her concerns regarding traffic, parking and pedestrian safety, particularly in the area of Lake and Lathrop. She suggested that the Comprehensive Plan be modified to include language encouraging resident participation in addressing parking concerns. She said that it would be helpful to include neighbors in the discussion who are familiar with the problems in the area.

Assistant Administrator Scheiner swore in additional parties wishing to speak.

Margie Cekander, 531 River Oaks Drive, asked for clarification about the process of adopting and implementing the Comprehensive Plan. She asked for additional opportunities for public comment. She shared her concerns regarding the wish list, priorities and cost of implementation of the recommendations in the plan. Ms. Cekander noted that Concordia University's Chapel is available to the public.

Charlie Okacek, 230 Keystone Avenue, shared his support for preserving and encouraging affordable housing in River Forest. He echoed Mr. Lauber's thoughts on requiring a portion of new development to include affordable housing units.

Hearing no further comment, Chairman Crosby closed the public hearing. He explained that the next step in the process would be for the Plan Commission to discuss and deliberate and make a recommendation to the Village Board of Trustees. He invited the public to stay for the discussion.

#### **4. DISCUSSION, DELIBERATION AND RECOMMENDATION REGARDING COMPREHENSIVE PLAN**

Commissioner Gottlieb suggested that the document be changed to recommend that certain measures recommendations, such as lighting, be implemented on a trial or gradual basis and that residents have the ability to voice their opinions. Mr. Houseal said the language could be added but stated that he does not believe it is appropriate for the Comprehensive Plan to regulate implementation. He said there are processes the Village uses to roll these items out and that it may take 20 years to implement all of the recommendations.

Commissioner Cragan stated that, since the document is aspirational it should say that the Village hopes for more public involvement and input when implementing changes. In response to a question from Mr. Houseal, Village Attorney Smith suggested adding or enhancing the narrative in the Implementation section that discusses use of the plan on a day to day basis.

Chairman Crosby stated he found it difficult that, throughout the document, there are many areas where he wants to drill down into specifics and that he found the action matrix helpful because the details will be worked out when recommendations are passed on to the Committees.

Chairman Crosby asked whether the State of Illinois defines affordability. Mr. Houseal said the document refers to affordable housing in several places and that he believes the resident who spoke earlier was talking about the area along North Avenue. He said there is a lot of housing that's probably technically affordable as deemed by the state but that there may be other properties that are not technically be affordable by the State's definition. Mr. Houseal continued that the Comprehensive Plan identifies the location of existing affordable housing, discusses its importance, the desire to preserve it and the desire to consider affordable multi-family housing as part of potential new development. He noted that the Village is working on a separate affordable housing plan to satisfy the State's requirement. He said Mr. Lauber got into specific detail about how to leverage inclusionary zoning. Mr. Houseal stated that he believes that regulatory specificity is better suited for an affordable housing plan than a Comprehensive Plan.

Commissioner Fishman stated that the Comprehensive Plan is a vision. Mr. Houseal agreed and said it is also a playbook for the next 20 years. He noted that it may take many years to implement the recommendations and that some of them may require in depth analysis first, such as the stop signs identified in the joint Safe Walking Routes to School study. The Comprehensive Plan reinforces and identifies what the Village is looking to accomplish over a 10 or 20-year horizon.

Mr. Houseal addressed the questions regarding cul-de-sacs, at Gale Avenue in particular. He said the plan illustrates the use of cul-de-sacs as a possible consideration at a few locations where it might make sense to implement them development as a package deal and it made sense. The plan specifically says cul-de-sacs have to be analyzed on a case-by-case basis. Commissioner Gottlieb said he and his neighbors requested a cul-de-sac on their street but it was denied because of opposition from residents on other streets because of the traffic impact. He said even when a request is presented it does not mean it will be implemented. Mr. Houseal added that the Traffic and Safety Commission and the Village's traffic consultant would carefully study the impact of a possible cul-de-sac's impact on the traffic volumes on nearby streets, emergency response times, etc. The Comprehensive Plan tries to flag things like cul-de-sacs that will likely come up and be prepared to discuss them but they are not advocating cul-de-sacs nor any particular development that would cause cul-de-sacs.

Commissioner Gottlieb asked that quotes around "affordable" on page 58 be removed and Mr. Houseal agreed.

Commissioner Cragan asked where it says in the Plan that the Village wants to preserve existing affordable housing. She asked that a stronger statement regarding the preservation of affordable housing be included in the Plan than that the Village is going to do an Affordable Housing Plan. Mr. Houseal stated that he believes the language in the Plan is stronger than that. He said it indicates where most of the affordable housing currently exists as well as the value of

maintaining and enhancing it over time. If property is to redevelop through market forces that we don't control, any new development ought to consider additional affordable housing. Mr. Houseal said the Plan talks about the importance of it to this and future populations and residents, however, it doesn't identify from a regulatory perspective exactly what the Village is going to do. In addition, the Village is developing an Affordable Housing Plan that will satisfy the state's legal requirement that the Village have one. If the Plan Commission wants to direct him to insert strong language they can do so.

Commissioner Armalas said he did not see a lot about preserving affordable rental property in the Plan. Mr. Houseal said zoning ordinances typically have to be silent on rental versus ownership housing. Village Attorney Smith stated that the Federal Fair Housing Act prohibits discrimination on many bases. The courts have trended toward interpreting that Village's cannot make zoning decisions based on whether it's owner-occupied or tenant occupied housing because of the implications of who typically tends to own more property versus who tends to rent property in terms of socioeconomic status that draws down into race, gender, etc. The River Forest Zoning Ordinance is nearly silent on ownership structure and it is for that reason. Mr. Houseal said that the state's formula for determining what is considered affordable is fairly complex and is derived based on the cost of housing in the County. He said the formula considers both monthly rental price as well as purchase price.

Commissioner Armalas noted areas within the Comprehensive Plan that reference single family residential (e.g. the section on buffering with commercial activity) and asked that it be broadened so that it doesn't show preference toward single-family. Mr. Houseal said he understood and would correct that so that multi-family doesn't seem "less than."

Commissioner Armalas said residents commented at the hearing about fears of displacement and land taken through eminent domain and being forced out. He said he thinks quality of life can be impacted by involuntary property acquisition as well as the building heights. discussed in the document. He said he traveled on Madison Street and the alley along Madison. He noticed some of the homes are right on the alley. Commissioner Armalas said that putting up a five-story building with a fence, possibly abutting the property, would block sunlight and impact the neighboring property owners. He thought that the possible increased building height discussed in the Plan, particularly along Madison, was inappropriate.

Mr. Houseal stated that his recollection from the discussion at the previous Plan Commission meeting was to change language that says these weren't recommended heights but leave the heights and stories in there. He said the language was changed to discuss possible considerations and exploration, but the table was not changed and the heights are not a hard recommendation. Chairman Crosby agreed with Mr. Houseal's recollection.

Commissioner Cragan stated that she was very concerned about overlaying increased building heights along entire streets where there is existing residential property. She said the building heights stated on pages 37 and 103 purposely sends a signal to developers. She said she does not want the building heights in the document because they are too prescriptive and that they are jumping zoning. Commissioner Cragan asked the attorney whether this language could create legal ambiguity because of the difference between the current Zoning Ordinance regulations on building height versus what is in the Comprehensive Plan.

Village Attorney Smith responded that there is no ambiguity because this is a planning document, not a zoning document. He said there are multiple factors the DRB considers when reviewing a planned development including compliance with the Comprehensive Plan as well as the impact of the development on surrounding property owners. He said, in some cases, the applicant may be required to submit additional analysis and evidence regarding possible impacts. Village Attorney Smith said that, by having this information in the Plan, plan the community would be signaling that buildings of these heights might be appropriate in a certain case, but it does guarantee it. He said if the Village denies a planned development permit to an applicant and a judge is asked to review the decision the judge could look at the effect a building has on the neighbors as an equally important factor.

Mr. Crosby said this is an area that he struggles with and that he has flipped his perspective. He stated that the DRB has not denied an application based on building height and that the approved height exceeds current zoning regulations every time. He said that this matter has to be addressed and reevaluated.

Mr. Gottlieb asked where there are so many variances from the code. Mr. Houseal said that it is his professional opinion that the Village's current zoning regulations are out of date based on contemporary development practice and do not reflect a viable development envelope. He said that regardless of what people think the height should be, every developer that has come forward has made a pretty compelling case to go higher than what is allowed. He thought it was interesting, both on Chicago Avenue for the senior project and Lake and Lathrop, a lot of the residents came out and suggested the Village reexamine its Zoning Ordinance in response to the pattern of granting height relief. Mr. Houseal suggested that the Village take a step back, not in reaction to a development proposal, but proactively to analyze the matter and write a code that meets the market requirements and works for the community.

Commissioner Gottlieb stated that, in order to change that, the Village doesn't need the Plan Commission saying it prescriptively but asked Mr. Houseal if he thinks that would help. Mr. Houseal said the yin and yang of the plan is safeguarding the Village's character, neighborhoods, charm, and quality of life with the need to appropriately accommodate new investment in the community's limited commercial opportunities. He said the Comprehensive Plan suggests the Village examine the Zoning Ordinance and be as aggressive as appropriate to get desirable development and investment in a way that maintains quality of life.

Commissioner Armalas said developers always look to make developments bigger and denser and reiterated his concern regarding the possible increases to permitted building heights.

Chairman Crosby noted that the charts referenced are very specific to properties. He said there are areas on Lake Street where he doesn't support a 50-foot building height but there are other areas where he would. As he gets more specific it starts to make sense to him but as a Commission they need to evaluate whether or not they want the table in the document.

Commissioner Cragan clarified that she supports transit-oriented development where it makes sense but her concern, and what she thought she heard echoed repeatedly from the public, was that it appears the charts overlay entire street lengths. Her concern is that by making this suggestion they're also suggesting that the Zoning there would then be changed from residential to commercial where it's currently all residential.

Mr. Houseal said the tables don't suggest changing land use or zoning and clarified that the zoning standards in these corridors related to commercial development should be examined. He reiterated that the Comprehensive Plan is not zoning.

Ms. Cragan clarified that what she means is that houses may be acquired for commercial purposes, which is what happened in Chicago and Harlem. She stated it's a signal to the homes on that block and other similar blocks, and the homes that are behind it that moved into a residential area, to come and tear down the housing and put up something taller. She suggested that it is welcoming that change and it seems to be fighting against the notion that the Village wants to preserve character and affordable housing.

In response to a question from Chairman Crosby, Commissioners Fishman, Crosby and Gottlieb stated that the charts regarding building height on pages 37 and 103 should remain in the proposed Comprehensive Plan. Commissioner Fishman stated that, as a DRB member, she would prefer to have it in. Commissioner Gottlieb stated that the Village needs to attract business and if it helps change the Zoning regulations they should provide that guidance. Chairman Crosby stated he is ok with it in here and would hope and expect restrictions such as setbacks on upper floors and other tools to reduce the impact on other areas. Commissioners Cragan and Armalas stated that the charts should not be included. Mr. Houseal and Mr. Crosby noted their discussion regarding the Lake and Lathrop development and stepping back upper floors. Mr. Houseal stated that there will be public hearings before zoning changes are made and anticipates that they would be robustly attended meetings.

In response to a question from Commissioner Cragan, Mr. Houseal said the building heights were derived by examining buildings that were approved or that already existed along these corridors. He said there are a lot of new and old developments that do not comply with existing zoning.

Chairman Crosby stated that Assistant Village Administrator Scheiner pulled information from the Forest Park Zoning Ordinance regarding maximum building heights along Madison Street. He noted that that east part of Madison has a limit of four stories or 50 feet. The west part of Madison cannot exceed five stories or 60 feet in height. Mr. Houseal described buildings along Harlem Avenue in River Forest that have fewer stories and lower ceiling heights in the residential units than what is built today. He described a new development on Madison Street in River Forest to provide context. Commissioner Armalas pointed out that the development on Madison Street in Forest Park isn't shading their residents and he might have a different view of height on North Avenue than on Madison Street.

Chairman Crosby said the attorney has advised that it requires majority to remove the tables from the document.

Commissioner Cragan noted the time the Commission has had to review the document and asked whether they voting on what's in front of them as-is and whether there is an opportunity to hear concerns. Village Attorney Smith stated that the Plan Commission is able to make a vote on the document before them with changes made. If a majority votes in favor a written recommendation, which has been prepared, it will be sent to the Village Board. Chairman Crosby stated that when he referred to other Commissions and Committees taking action he was referring to the implementation phase after the Village Board approves the document.



Mr. Houseal said before the draft Comprehensive Plan came to the Plan Commission, Village Staff suggested that it be routed through Sustainability, Historic Preservation, Traffic and Safety, and Economic Development Commissions and Bicycle Task Force to get obtain and include their comments. He noted that not every recommendation of every Commission was included. For example, the EDC wants the maximum building height in the tables higher. He said there was debate among 100+ people regarding aspects of community life that has been boiled down to the version before them. He thinks it's important to underscore what the attorney said, which is that there can be a recommendation to approve the Comprehensive Plan with the revisions requested by the Plan Commission that will be made before it is sent to the Village Board. He said the Village Board will see the record of the debate.

Commissioner Gottlieb asked Commissioner Cragan if she thinks the public needs more time. She asked how long it would be before this goes to the Village Board. Mr. Houseal said that if a positive recommendation is made the Village Board will consider it on April 8<sup>th</sup>. Village Attorney Smith noted that the public hearing was closed after the public had an opportunity to speak so the Plan Commission will not be accepting more public comment, however, there is oral and written comments to the Board available.

Commissioner Armalas noted that the bicycle route is not shown on Park Avenue south of Hawthorne Avenue and said this is a safe route to the Prairie Path. He said Forest Avenue is safe too but cutting through the cemetery is discouraged. Mr. Houseal noted that since the Plan Commissioners received their draft of the Plan, more fine-tuning has been suggested by the Bicycle Task Force and there are additional changes that will be made to the map. Mr. Houseal reviewed the changes regarding bike routes and racks based on the February 28, 2019 KLOA memo.

Commissioner Cragan suggested modifying the language regarding assembly of residential lots for Community Center expansion on Page 45, "Thatcher to Gale" section. She said she knows it doesn't say eminent domain but it infers that. Mr. Houseal suggested striking certain language to address this concern.

In response to a request from Commissioner Gottlieb, Village Attorney Smith reviewed the requested changes.

Assistant Village Administrator Scheiner stated that the Village received one comment to include the approved the Lake Street business districts in appropriate maps and to including a description of the business districts in the document. She said it doesn't modify any recommendations but memorializes their existence.

In response to a question from Commissioner Cragan, Ms. Scheiner stated that the minutes will reflect the debate and concerns expressed by Commissioners regarding the height charts on pages 37 and 103.

A MOTION was made by Commissioner Gottlieb and SECONDED by Commissioner Fishman to recommend that the Village President and Board of Trustees approve the Comprehensive Plan with the changes requested by the Plan Commission.

Ayes: Commissioners Fishman, Gottlieb, Cragan, Armalas, Crosby  
Nays: None  
Motion Passed.

Mr. Houseal thanked all those who participated in the process of composing the Comprehensive Plan.

A MOTION was made by Commissioner Gottlieb and SECONDED by Commissioner Fishman to approve the Report and Recommendation of the Plan Commission of the Village of River Forest.

Ayes: Commissioners Fishman, Gottlieb, Cragan, Armalas, Crosby  
Nays: None  
Motion Passed.

## **5. PUBLIC COMMENT**

None.

## **6. ADJOURNMENT**

A MOTION was made by Commissioner Gottlieb and SECONDED by Commissioner Cragan to adjourn the Plan Commission meeting at 9:48 pm.

MOTION PASSED by voice vote.



## Village of River Forest

### Village Administrator's Office

400 Park Avenue  
River Forest, IL 60305  
Tel: 708-366-8500

---

## MEMORANDUM

---

Date: October 14, 2019

To: Chairman David Crosby & River Forest Plan Commission Members

From: Lisa Scheiner, Assistant Village Administrator

Subj: Affordable Housing Plan

---

**Issue:** The State of Illinois adopted Public Act 093-0595, the Affordable Housing Planning and Appeals Act of Illinois (referred to as the "AHPAA" and "the Act"), which went into effect on January 1, 2004 and was recently updated in 2013 per Public Act 098-0287. The AHPAA is intended to address the lack of moderately-priced housing that exists in many communities. The Act is premised on a finding that "there exists a shortage of affordable, accessible, safe and sanitary housing in the State". The Act's purpose is to "encourage counties and municipalities to incorporate affordable housing within their housing stock sufficient to meet the needs of their county or community." It requires counties and municipalities with less than 10% affordable housing to adopt a Plan. The Act also provides an appeal procedure for aggrieved developers to seek relief from local decisions that inhibit the construction of affordable housing. According to the Illinois Housing Development Authority's (IHDA) 2018 report, the Village of River Forest affordable housing share is 9.0% and a plan must therefore be prepared and adopted.

The Comprehensive Plan (attached for your reference) that was recently adopted recommends that the Village "prepare and adopt an Affordable Housing Plan that meets state requirements" and that "the Village should seek to improve the condition of the existing affordable housing in the community and appropriately consider affordable units as a component of future residential development." At its September 9, 2019 meeting, the Village Board of Trustees directed the Plan Commission to prepare an Affordable Housing Plan for their review and adoption.

The Request for Proposals (RFP) that the Village issued in 2017 for preparation of a new Comprehensive Plan included in its scope of services the requirement that the consultant selected must also address compliance with the State's affordable housing rules. The Village awarded a contract to Houseal Lavigne and Associates. Their representative, John Houseal, will attend the Plan Commission Meeting on October 21, 2019, to provide an overview of the AHPAA and guide the Plan Commission through a discussion regarding the options and strategies for

developing a plan that complies with the Act. Once direction has been provided to Mr. Houseal he will draft a plan and return it to the Plan Commission for review.

**Analysis:** As set forth in the AHPAA, the components of an Affordable Housing Plan must include:

1. A calculation of the total number of affordable housing units that are necessary to exempt the local government from the operation of the AHPAA (i.e. the number necessary to bring the percentage of affordable housing units to 10% of the total housing stock);
2. A statement of a goal for increasing affordable housing in the Village;
3. An identification of opportunities for the development of affordable housing in the Village; and
4. A specification of incentives the Village may provide to encourage the creation of affordable housing.

With regard to item #1, the IHDA defines an affordable owner occupied housing unit for a one-person household in the Village of River Forest as a unit that is valued at \$131,667 or less. An affordable rental housing unit, a zero-bedroom unit in the Village of River Forest, is defined as a unit that rents for \$889 per month or less. These rates were determined by the IHDA and published in the 2018 Owner-Occupied and Rental Unit Affordability Charts, which has been attached for your reference. The IHDA also published the 2018 Non-Exempt Local Government Handbook, also attached, which includes a determination of the number of housing units in River Forest that are considered “affordable”. According to the tables listed in Appendix F, 340 of the Village’s 3,788 housing units, or 9.0%, are affordable. The Village would have to add 39 affordable housing units to reach the 10% requirement. The affordable housing share is determined on a community by community basis and does not consider data from any nearby communities, public transportation, transportation routes, commute time, etc., nor does it consider affordable housing share within any given region.

The Village’s affordable housing data was previously reported in the IHDA’s 2013 Local Government Handbook, which has been attached for your review. The table below compares the data reported by the IDHA in 2013 and 2018.

*Affordable Housing Data for River Forest: Comparison of 2013 and 2018*

	Population	Year Round Units	Total Affordable Units	Affordable Housing Share	Affordable Unit Deficit
2013	11,164	3,886	172	4.4%	217
2018	11,217	3,788	340	9.0%	39

The IHDA used the Census Bureau’s 2016 American Community Survey’s 5-year estimates to draw its conclusions regarding affordable housing quantity in River Forest. While the overall share of affordable housing units increase from 2013 to 2018, the number of year round housing units decreased by 98 units. The Village is unable to account for the decline in housing units. There is also a notable difference between 2013 and 2018 in the number of affordable housing units needed to comply with the 10% requirement. The 2013 and 2018 handbook comparisons also demonstrate that some communities considered non-exempt in 2013 were

considered exempt in 2018. The IHDA is not expected to republish its analysis until 2023 and the Village is currently unable to project what the future affordable housing share will be at that time. As a result, the estimated data used to determine affordable housing share and the number of affordable housing units in River Forest may vary over time, a matter which the Plan Commission may wish to consider when determining which goals to explore in order to achieve compliance with the AHPAA.

The AHPAA identifies three alternative goals which a municipality may select to achieve compliance. Those goals include:

1. Bringing the percentage of affordable housing units in the Village to 10% of the total housing stock.
2. Increasing the percentage of affordable housing within the Village from its current level to a level 3% higher.
3. Making 15% of all new residential construction or residential redevelopment within the Village affordable.

The Comprehensive Plan calls for the preparation and adoption an Affordable Housing Plan that meets state requirements. In order to comply with state requirements, the Affordable Housing Plan must include a statement of a goal to increase affordable housing in the Village, must identify opportunities for development of affordable housing, and must specify the incentives that the Village may provide to encourage the creation of affordable housing. In addition to identifying opportunities for affordable housing development, the Plan Commission may wish to recommend ways in which the Village and property owners of existing affordable housing units can partner together to sustain and improve existing affordable housing.

**Attachments:**

- Affordable Housing Planning and Appeals Act
- Comprehensive Plan & Action Matrix
- 2018 IHDA Affordability Charts
- 2018 IHDA Non-Exempt Local Government Handbook
- 2013 IHDA Non-Exempt Local Government Handbook



Due to the size of the meeting packet, a copy of the Comprehensive Plan and Action Matrix can be found on the Village's website at:

[www.vrf.us/comprehensive-plan](http://www.vrf.us/comprehensive-plan)

AN ACT in relation to housing.

Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:

Section 1. Short title. This Act may be cited as the  
Affordable Housing Planning and Appeal Act.

Section 5. Findings. The legislature finds and declares  
that:

(1) there exists a shortage of affordable,  
accessible, safe, and sanitary housing in the State;

(2) it is imperative that action be taken to assure  
the availability of workforce and retirement housing; and

(3) local governments in the State that do not have  
sufficient affordable housing are encouraged to assist in  
providing affordable housing opportunities to assure the  
health, safety, and welfare of all citizens of the State.

Section 10. Purpose. The purpose of this Act is to  
encourage counties and municipalities to incorporate  
affordable housing within their housing stock sufficient to  
meet the needs of their county or community. Further,  
affordable housing developers who believe that they have been  
unfairly treated due to the fact that the development  
contains affordable housing may seek relief from local  
ordinances and regulations that may inhibit the construction  
of affordable housing needed to serve low-income and  
moderate-income households in this State.

Section 15. Definitions. As used in this Act:

"Affordable housing" means housing that has a sales price  
or rental amount that is within the means of a household that  
may occupy moderate-income or low-income housing. In the case

of dwelling units for sale, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.

"Affordable housing developer" means a nonprofit entity, limited equity cooperative or public agency, or private individual, firm, corporation, or other entity seeking to build an affordable housing development.

"Affordable housing development" means (i) any housing that is subsidized by the federal or State government or (ii) any housing in which at least 20% of the dwelling units are subject to covenants or restrictions that require that the dwelling units be sold or rented at prices that preserve them as affordable housing for a period of at least 15 years, in the case of for-sale housing, and at least 30 years, in the case of rental housing.

"Approving authority" means the governing body of the county or municipality.

"Development" means any building, construction, renovation, or excavation or any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; or any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial use.

"Exempt local government" means any local government in which at least 10% of its total year-round housing units are affordable, as determined by the Illinois Housing Development Authority pursuant to Section 20 of this Act; or any municipality under 1,000 population.



"Household" means the person or persons occupying a dwelling unit.

"Local government" means a county or municipality.

"Low-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that does not exceed 50% of the median gross household income for households of the same size within the county in which the housing is located.

"Moderate-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50% but does not exceed 80% of the median gross household income for households of the same size within the county in which the housing is located.

"Non-appealable local government requirements" means all essential requirements that protect the public health and safety, including any local building, electrical, fire, or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment.

#### Section 20. Determination of exempt local governments.

(a) Beginning January 1, 2006, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent decennial census for each local government within the State and by an inventory of for-sale and rental affordable housing units, as defined in this Act, for each local government from the decennial census

and other relevant sources.

(b) The Illinois Housing Development Authority shall make this determination by:

(i) totaling the number of for-sale housing units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area;

(ii) totaling the number of rental units in each local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area;

(iii) adding the number of for-sale and rental units for each local government from items (i) and (ii); and

(iv) dividing the sum of (iii) above by the total number of year-round housing units in the local government as contained in the latest decennial census and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.

(c) Beginning January 1, 2006, the Illinois Housing Development Authority shall publish on an annual basis a list of exempt and non-exempt local governments and the data that it used to calculate its determination. The data shall be shown for each local government in the State and for the State as a whole.

(d) A local government or developer of affordable housing may appeal the determination of the Illinois Housing Development Authority as to whether the local government is exempt or non-exempt under this Act in connection with an appeal under Section 30 of this Act.

Section 25. Affordable housing plan.

(a) Prior to July 1, 2004, all non-exempt local governments must approve an affordable housing plan.

(b) For the purposes of this Act, the affordable housing plan shall consist of at least the following:

(i) a statement of the total number of affordable housing units that are necessary to exempt the local government from the operation of this Act as defined in Section 15 and Section 20;

(ii) an identification of lands within the jurisdiction that are most appropriate for the construction of affordable housing and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned;

(iii) incentives that local governments may provide for the purpose of attracting affordable housing to their jurisdiction; and

(iv) a goal of a minimum of 15% of all new development or redevelopment within the local government that would be defined as affordable housing in this Act; or a minimum of a 3 percentage point increase in the overall percentage of affordable housing within its jurisdiction, as defined in Section 20 of this Act; or a minimum of a total of 10% of affordable housing within its jurisdiction.

(c) Within 60 days after the adoption of an affordable housing plan or revisions to its affordable housing plan, the local government must submit a copy of that plan to the Illinois Housing Development Authority.

Section 30. Appeal to State Housing Appeals Board.

(a) Beginning January 1, 2006, an affordable housing developer whose application is either denied or approved with conditions that in his or her judgment render the provision of affordable housing infeasible may, within 45 days after the decision, submit to the State Housing Appeals Board information regarding why the developer believes he or she was unfairly denied or conditions were placed upon the tentative approval of the development unless the local government that rendered the decision is exempt under Section 15 or Section 20 of this Act. The Board shall maintain all information forwarded to them by developers and shall compile and make available an annual report summarizing the information thus received.

(b) Beginning January 1, 2009, an affordable housing developer whose application is either denied or approved with conditions that in his or her judgment render the provision of affordable housing infeasible may, within 45 days after the decision, appeal to the State Housing Appeals Board challenging that decision unless the municipality or county that rendered the decision is exempt under Section 15 of this Act. The developer must submit information regarding why the developer believes he or she was unfairly denied or unreasonable conditions were placed upon the tentative approval of the development.

(c) Beginning January 1, 2009, the Board shall render a decision on the appeal within 120 days after the appeal is filed. In its determination of an appeal, the Board shall conduct a de novo review of the matter. In rendering its decision, the Board shall consider the facts and whether the developer was treated in a manner that places an undue burden on the development due to the fact that the development contains affordable housing as defined in this Act. The Board shall further consider any action taken by the unit of local

government in regards to granting waivers or variances that would have the effect of creating or prohibiting the economic viability of the development. In any proceeding before the Board, the developer bears the burden of demonstrating that he or she has been unfairly denied or unreasonable conditions have been placed upon the tentative approval for the application for an affordable housing development.

(d) The Board shall dismiss any appeal if:

(i) the local government has adopted an affordable housing plan as defined in Section 25 of this Act and submitted that plan to the Illinois Housing Development Authority within the time frame required by this Act; and

(ii) the local government has implemented its affordable housing plan and has met its goal as established in its affordable housing plan as defined in Section 25 of this Act.

(e) The Board shall dismiss any appeal if the reason for denying the application or placing conditions upon the approval is a non-appealable local government requirement under Section 15 of this Act.

(f) The Board may affirm, reverse, or modify the conditions of, or add conditions to, a decision made by the approving authority. The decision of the Board constitutes an order directed to the approving authority and is binding on the local government.

(g) The appellate court has the exclusive jurisdiction to review decisions of the Board.

Section 40. Nonresidential development as part of an affordable housing development.

(a) An affordable housing developer who applies to develop property that contains nonresidential uses in a nonresidential zoning district must designate either at least 50% of the area or at least 50% of the square footage of the

development for residential use. Unless adjacent to a residential development, the nonresidential zoning district shall not include property zoned industrial. The applicant bears the burden of proof of demonstrating that the purposes of a nonresidential zoning district will not be impaired by the construction of housing in the zoning district and that the public health and safety of the residents of the affordable housing will not be adversely affected by nonresidential uses either in existence or permitted in that zoning district. The development should be completed simultaneously to the extent possible and shall be unified in design.

(b) For purposes of subsection (a), the square footage of the residential portion of the development shall be measured by the interior floor area of dwelling units, excluding that portion that is unheated. Square footage of the nonresidential portion shall be calculated according to the gross leasable area.

#### Section 50. Housing Appeals Board.

(a) Prior to July 1, 2006, a Housing Appeals Board shall be created consisting of 7 members appointed by the Governor as follows:

- (1) a retired circuit judge or retired appellate judge, who shall act as chairperson;
- (2) a zoning board of appeals member;
- (3) a planning board member;
- (4) a mayor or municipal council or board member;
- (5) a county board member;
- (6) an affordable housing developer; and
- (7) an affordable housing advocate.

In addition, the Chairman of the Illinois Housing Development Authority, ex officio, shall serve as a non-voting member. No more than 4 of the appointed members

may be from the same political party. Appointments under items (2), (3), and (4) shall be from local governments that are not exempt under this Act.

(b) Initial terms of 4 members designated by the Governor shall be for 2 years. Initial terms of 3 members designated by the Governor shall be for one year. Thereafter, members shall be appointed for terms of 2 years. A member shall receive no compensation for his or her services, but shall be reimbursed by the State for all reasonable expenses actually and necessarily incurred in the performance of his or her official duties. The board shall hear all petitions for review filed under this Act and shall conduct all hearings in accordance with the rules and regulations established by the chairperson. The Illinois Housing Development Authority shall provide space and clerical and other assistance that the Board may require.

(c) The Illinois Housing Development Authority may adopt such other rules and regulations as it deems necessary and appropriate to carry out the Board's responsibilities under this Act and to provide direction to local governments and affordable housing developers.

AN ACT concerning housing.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Affordable Housing Planning and Appeal Act is amended by changing Sections 15, 20, 25, 30, and 50 as follows:

(310 ILCS 67/15)

Sec. 15. Definitions. As used in this Act:

"Affordable housing" means housing that has a value or cost ~~sales price~~ or rental amount that is within the means of a household that may occupy moderate-income or low-income housing. In the case of owner-occupied dwelling units ~~for sale~~, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.

"Affordable housing developer" means a nonprofit entity, limited equity cooperative or public agency, or private individual, firm, corporation, or other entity seeking to build



an affordable housing development.

"Affordable housing development" means (i) any housing that is subsidized by the federal or State government or (ii) any housing in which at least 20% of the dwelling units are subject to covenants or restrictions that require that the dwelling units be sold or rented at prices that preserve them as affordable housing for a period of at least 15 years, in the case of owner-occupied ~~for sale~~ housing, and at least 30 years, in the case of rental housing.

"Approving authority" means the governing body of the county or municipality.

"Area median household income" means the median household income adjusted for family size for applicable income limit areas as determined annually by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937.

"Community land trust" means a private, not-for-profit corporation organized exclusively for charitable, cultural, and other purposes and created to acquire and own land for the benefit of the local government, including the creation and preservation of affordable housing.

"Development" means any building, construction, renovation, or excavation or any material change in any structure or land, or change in the use of such structure or land, that results in a net increase in the number of dwelling units in a structure or on a parcel of land by more than one

dwelling unit.

"Exempt local government" means any local government in which at least 10% of its total year-round housing units are affordable, as determined by the Illinois Housing Development Authority pursuant to Section 20 of this Act; or any municipality under 1,000 population.

"Household" means the person or persons occupying a dwelling unit.

"Housing trust fund" means a separate fund, either within a local government or between local governments pursuant to intergovernmental agreement, established solely for the purposes authorized in subsection (d) of Section 25, including, without limitation, the holding and disbursing of financial resources to address the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing.

"Local government" means a county or municipality.

"Low-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that does not exceed 50% of the area median household income.

"Moderate-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and

that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50% but does not exceed 80% of the area median household income.

"Non-appealable local government requirements" means all essential requirements that protect the public health and safety, including any local building, electrical, fire, or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment. (Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04; 94-303, eff. 7-21-05.)

(310 ILCS 67/20)

Sec. 20. Determination of exempt local governments.

(a) Beginning October 1, 2004, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census Bureau ~~decennial census~~ for each local government within the State and by an inventory of owner-occupied ~~for-sale~~ and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau ~~decennial census~~ and other relevant sources.

(b) The Illinois Housing Development Authority shall make this determination by:

(i) totaling the number of owner-occupied ~~for sale~~ housing units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area;

(ii) totaling the number of rental units in each local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area;

(iii) adding the number of owner-occupied ~~for sale~~ and rental units for each local government from items (i) and (ii); and

(iv) dividing the sum of (iii) above by the total number of year-round housing units in the local government as contained in the latest U.S. Census Bureau ~~decennial census~~ and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.

(c) Beginning on the effective date of this amendatory Act of the 98th General Assembly ~~October 1, 2004~~, the Illinois Housing Development Authority shall publish ~~on an annual basis~~ a list of exempt and non-exempt local governments and the data that it used to calculate its determination at least once every 5 years. The data shall be shown for each local government in the State and for the State as a whole. Upon publishing a list

of exempt and non-exempt local governments, the Illinois Housing Development Authority shall notify a local government that it is not exempt from the operation of this Act and provide to it the data used to calculate its determination.

(d) A local government or developer of affordable housing may appeal the determination of the Illinois Housing Development Authority as to whether the local government is exempt or non-exempt under this Act in connection with an appeal under Section 30 of this Act.

(Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04.)

(310 ILCS 67/25)

Sec. 25. Affordable housing plan.

(a) Prior to April 1, 2005, all non-exempt local governments must approve an affordable housing plan. Any local government that is determined by the Illinois Housing Development Authority under Section 20 to be non-exempt for the first time based on the recalculation of U.S. Census Bureau ~~decennial census~~ data after 2010 shall have 18 months from the date of notification of its non-exempt status to approve an affordable housing plan under this Act.

(b) For the purposes of this Act, the affordable housing plan shall consist of at least the following:

(i) a statement of the total number of affordable housing units that are necessary to exempt the local government from the operation of this Act as defined in

Section 15 and Section 20;

(ii) an identification of lands within the jurisdiction that are most appropriate for the construction of affordable housing and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned;

(iii) incentives that local governments may provide for the purpose of attracting affordable housing to their jurisdiction; and

(iv) a goal of a minimum of 15% of all new development or redevelopment within the local government that would be defined as affordable housing in this Act; or a minimum of a 3 percentage point increase in the overall percentage of affordable housing within its jurisdiction, as described in subsection (b) of Section 20 of this Act; or a minimum of a total of 10% affordable housing within its jurisdiction as described in subsection (b) of Section 20 of this Act. These goals may be met, in whole or in part, through the creation of affordable housing units under intergovernmental agreements as described in subsection (e) of this Section.

(c) Within 60 days after the adoption of an affordable

housing plan or revisions to its affordable housing plan, the local government must submit a copy of that plan to the Illinois Housing Development Authority.

(d) In order to promote the goals of this Act and to maximize the creation, establishment, or preservation of affordable housing throughout the State of Illinois, a local government, whether exempt or non-exempt under this Act, may adopt the following measures to address the need for affordable housing:

(1) Local governments may individually or jointly create or participate in a housing trust fund or otherwise provide funding or support for the purpose of supporting affordable housing, including, without limitation, to support the following affordable housing activities:

(A) Housing production, including, without limitation, new construction, rehabilitation, and adaptive re-use.

(B) Acquisition, including, without limitation, land, single-family homes, multi-unit buildings, and other existing structures that may be used in whole or in part for residential use.

(C) Rental payment assistance.

(D) Home-ownership purchase assistance.

(E) Preservation of existing affordable housing.

(F) Weatherization.

(G) Emergency repairs.

(H) Housing related support services, including homeownership education and financial counseling.

(I) Grants or loans to not-for-profit organizations engaged in addressing the affordable housing needs of low-income and moderate-income households.

Local governments may authorize housing trust funds to accept and utilize funds, property, and other resources from all proper and lawful public and private sources so long as those funds are used solely for addressing the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing.

(2) A local government may create a community land trust, which may: acquire developed or undeveloped interests in real property and hold them for affordable housing purposes; convey such interests under long-term leases, including ground leases; convey such interests for affordable housing purposes; and retain an option to reacquire any such real property interests at a price determined by a formula ensuring that such interests may be utilized for affordable housing purposes.

(3) A local government may use its zoning powers to require the creation and preservation of affordable housing as authorized under Section 5-12001 of the Counties Code and Section 11-13-1 of the Illinois Municipal Code.

(4) A local government may accept donations of money or



land for the purpose of addressing the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing. These donations may include, without limitation, donations of money or land from persons in lieu of building affordable housing.

(e) In order to encourage regional cooperation and the maximum creation of affordable housing in areas lacking such housing in the State of Illinois, any non-exempt local government may enter into intergovernmental agreements under subsection (e) of Section 25 with local governments within 10 miles of its corporate boundaries in order to create affordable housing units to meet the goals of this Act. A non-exempt local government may not enter into an intergovernmental agreement, however, with any local government that contains more than 25% affordable housing as determined under Section 20 of this Act. All intergovernmental agreements entered into to create affordable housing units to meet the goals of this Act must also specify the basis for determining how many of the affordable housing units created will be credited to each local government participating in the agreement for purposes of complying with this Act. All intergovernmental agreements entered into to create affordable housing units to meet the goals of this Act must also specify the anticipated number of newly created affordable housing units that are to be credited to each local government participating in the agreement for purposes of complying with this Act. In specifying how many

affordable housing units will be credited to each local government, the same affordable housing unit may not be counted by more than one local government.

(Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04; 94-303, eff. 7-21-05.)

(310 ILCS 67/30)

Sec. 30. Appeal to State Housing Appeals Board.

(a) (Blank).

(b) Beginning January 1, 2009, an affordable housing developer whose application is either denied or approved with conditions that in his or her judgment render the provision of affordable housing infeasible may, within 45 days after the decision, appeal to the State Housing Appeals Board challenging that decision unless the municipality or county that rendered the decision is exempt under Section 15 of this Act. The developer must submit information regarding why the developer believes he or she was unfairly denied or unreasonable conditions were placed upon the tentative approval of the development. In the case of local governments that are determined by the Illinois Housing Development Authority under Section 20 to be non-exempt for the first time based on the recalculation of U.S. Census Bureau ~~decennial census~~ data after the effective date of this amendatory Act of the 98th General Assembly ~~2010~~, no developer may appeal to the State Housing Appeals Board until 60 months after a local government has been

notified of its non-exempt status.

(c) Beginning on the effective date of this amendatory Act of the 98th General Assembly January 1, 2009, the Board shall, whenever possible, render a decision on the appeal within 120 days after the appeal is filed. The Board may extend the time by which it will render a decision where circumstances outside the Board's control make it infeasible for the Board to render a decision within 120 days. In any proceeding before the Board, the affordable housing developer bears the burden of demonstrating that the proposed affordable housing development (i) has been unfairly denied or (ii) has had unreasonable conditions placed upon it by the decision of the local government.

(d) The Board shall dismiss any appeal if:

(i) the local government has adopted an affordable housing plan as defined in Section 25 of this Act and submitted that plan to the Illinois Housing Development Authority within the time frame required by this Act; and

(ii) the local government has implemented its affordable housing plan and has met its goal as established in its affordable housing plan as defined in Section 25 of this Act.

(e) The Board shall dismiss any appeal if the reason for denying the application or placing conditions upon the approval is a non-appealable local government requirement under Section 15 of this Act.

(f) The Board may affirm, reverse, or modify the conditions of, or add conditions to, a decision made by the approving authority. The decision of the Board constitutes an order directed to the approving authority and is binding on the local government.

(g) The appellate court has the exclusive jurisdiction to review decisions of the Board. Any appeal to the Appellate Court of a final ruling by the State Housing Appeals Board may be heard only in the Appellate Court for the District in which the local government involved in the appeal is located. The appellate court shall apply the "clearly erroneous" standard when reviewing such appeals. An appeal of a final ruling of the Board shall be filed within 35 days after the Board's decision and in all respects shall be in accordance with Section 3-113 of the Code of Civil Procedure.

(Source: P.A. 93-595, eff. 1-1-04; 94-303, eff. 7-21-05.)

(310 ILCS 67/50)

Sec. 50. Housing Appeals Board.

(a) Prior to January 1, 2008, a Housing Appeals Board shall be created consisting of 7 members appointed by the Governor as follows:

- (1) a retired circuit judge or retired appellate judge, who shall act as chairperson;
- (2) a zoning board of appeals member;
- (3) a planning board member;

- (4) a mayor or municipal council or board member;
- (5) a county board member;
- (6) an affordable housing developer; and
- (7) an affordable housing advocate.

In addition, the Chairman of the Illinois Housing Development Authority, ex officio, shall serve as a non-voting member. No more than 4 of the appointed members may be from the same political party. Appointments under items (2), (3), and (4) shall be from local governments that are not exempt under this Act.

(b) Initial terms of 4 members designated by the Governor shall be for 2 years. Initial terms of 3 members designated by the Governor shall be for one year. Thereafter, members shall be appointed for terms of 2 years. After a member's term expires, the member shall continue to serve until a successor is appointed. There shall be no limit to the number of terms an appointee may serve. A member shall receive no compensation for his or her services, but shall be reimbursed by the State for all reasonable expenses actually and necessarily incurred in the performance of his or her official duties. The board shall hear all petitions for review filed under this Act and shall conduct all hearings in accordance with the rules and regulations established by the chairperson. The Illinois Housing Development Authority shall provide space and clerical and other assistance that the Board may require.

(c) (Blank).

Public Act 098-0287

SB1790 Enrolled

LRB098 09695 KTG 39843 b

(Source: P.A. 93-595, eff. 1-1-04; 94-303, eff. 7-21-05.)

Section 99. Effective date. This Act takes effect upon becoming law.

## **2018 Owner-Occupied and Rental Unit Affordability Charts:** **Affordable Housing Planning and Appeal Act (310 ILCS 67/)**

IHDA publishes annual Owner-Occupied and Rental Unit Affordability Charts as supplemental guidance for communities concerned about exemption status under the Affordable Housing Planning and Appeals Act. Exemption status is determined by calculating the percentage of total housing units in a given community that are affordable to homebuyers at 80 percent of the Area Median Income (AMI) and renters at 60 percent of the AMI. The charts below may be interpreted as a rule of thumb for what would constitute an affordable owner-occupied unit and an affordable rental unit in the Chicago Metropolitan Statistical Area (MSA) (Cook, DuPage, Kane, Lake, McHenry, and Will Counties), the Kendall MSA (Kendall County), and the Rockford MSA (Boone and Winnebago Counties). Adding housing units considered affordable by the guidelines shown below may not numerically affect results in the annual calculation of AHPAA exemption status, but tracking such additions may show a measure of progress.

The **Income Limits** and the **Affordable Rent Limits** are drawn from the U.S. Department of Housing and Urban Development (HUD) guides, published on an annual basis. The 2018 figures are effective as of 04/01/2018. A mortgage industry-standard measure is used to estimate the **Affordable Purchase Price** for families at 80 percent of the AMI. The Income Limits, adjusted by HUD for family size, are divided by .36 to give a rough idea of a purchase price that would result in an affordable monthly mortgage payment that includes principal, interest, taxes, insurance and assessments. Any prospective homebuyer would have to apply for a loan with a more exhaustive analysis of income and debt payments.

### **Owner Occupied Affordability Chart For Chicago Metro Area** **(Cook, DuPage, Kane, Lake, McHenry, Will Counties)**

	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
<b>2018 Income Limits (80% AMI)</b>	<b>\$47,400</b>	<b>\$54,200</b>	<b>\$60,950</b>	<b>\$67,700</b>	<b>\$73,150</b>	<b>\$78,550</b>	<b>\$83,950</b>	<b>\$89,400</b>
<b>Affordable Purchase Price</b>	<b>\$131,667</b>	<b>\$150,556</b>	<b>\$169,306</b>	<b>\$188,056</b>	<b>\$203,194</b>	<b>\$218,194</b>	<b>\$233,194</b>	<b>\$248,333</b>

*Please Note: The Above chart uses 2018 income limits. Municipalities must make sure they are using the most current income limits (available on IHDA's website: [www.ihda.org](http://www.ihda.org)).*

### **Affordable Rental Units For Chicago Metro Area** **(Cook, DuPage, Kane, Lake, McHenry, Will Counties)**

	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom
<b>2018 Affordable Rent Limits for HH @ 60% AMI</b>	<b>\$889</b>	<b>\$952</b>	<b>\$1,143</b>	<b>\$1,320</b>	<b>\$1,475</b>	<b>\$1,625</b>

*Please Note: The above chart uses 2017 rental limits. Municipalities must make sure they are using the most current rental limits (available on IHDA's website: [www.ihda.org](http://www.ihda.org)).*

## Owner Occupied Affordability Chart For Kendall Metro Area (Kendall County)

	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
<b>2018 Income Limits (80% AMI)</b>	<b>\$50,350</b>	<b>\$57,550</b>	<b>\$64,750</b>	<b>\$71,900</b>	<b>\$77,700</b>	<b>\$83,450</b>	<b>\$89,200</b>	<b>\$94,950</b>
<b>Affordable Purchase Price</b>	<b>\$139,861</b>	<b>\$159,861</b>	<b>\$179,861</b>	<b>\$199,722</b>	<b>\$215,833</b>	<b>\$231,806</b>	<b>\$247,778</b>	<b>\$263,750</b>

*Please Note: The Above chart uses 2018 income limits. Municipalities must make sure they are using the most current income limits (available on IHDA's website: [www.ihda.org](http://www.ihda.org)).*

## Affordable Rental Units For Kendall Metro Area (Kendall County)

	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom
<b>2018 Affordable Rent Limits for HH @ 60% AMI</b>	<b>\$1,005</b>	<b>\$1,007</b>	<b>\$1,293</b>	<b>\$1,493</b>	<b>\$1,666</b>	<b>\$1,838</b>

*Please Note: The above chart uses 2017 rental limits. Municipalities must make sure they are using the most current rental limits (available on IHDA's website: [www.ihda.org](http://www.ihda.org)).*

## Owner Occupied Affordability Chart For Rockford Metro Area (Boone and Winnebago Counties)

	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
<b>2018 Income Limits (80% AMI)</b>	<b>\$37,100</b>	<b>\$42,400</b>	<b>\$47,700</b>	<b>\$52,950</b>	<b>\$57,200</b>	<b>\$61,450</b>	<b>\$65,700</b>	<b>\$69,900</b>
<b>Affordable Purchase Price</b>	<b>\$103,056</b>	<b>\$117,778</b>	<b>\$132,500</b>	<b>\$147,083</b>	<b>\$158,889</b>	<b>\$170,694</b>	<b>\$182,500</b>	<b>\$194,167</b>

*Please Note: The Above chart uses 2018 income limits. Municipalities must make sure they are using the most current income limits (available on IHDA's website: [www.ihda.org](http://www.ihda.org)).*

## Affordable Rental Units For Rockford Metro Area (Boone and Winnebago Counties)

	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom
<b>2018 Affordable Rent Limits for HH @ 60% AMI</b>	<b>\$696</b>	<b>\$745</b>	<b>\$894</b>	<b>\$1,032</b>	<b>\$1,152</b>	<b>\$1,271</b>

*Please Note: The above chart uses 2018 rental limits. Municipalities must make sure they are using the most current rental limits (available on IHDA's website: [www.ihda.org](http://www.ihda.org)).*



# **Affordable Housing Planning and Appeal Act:** **2018 Non-Exempt Local Government Handbook**

Published in accordance with 310 ILCS 67 by:  
Illinois Housing Development Authority  
Strategic Planning and Reporting Department  
Office of Housing Coordination Services  
December 28, 2018



## Table of Contents

• Executive Summary	4
• Exemption Determination Process	6
○ Statutory Guidance	6
○ Data Sources	7
○ Selecting U.S. Census Bureau Data	8
○ Determining Share of Affordable Units	9
• AHPAA Requirements Timeline	13
• Affordable Housing Plans	13
• State Housing Appeals Board	14
• Appendices	
A. Frequently Asked Questions	18
B. Financial Resources	21
C. Technical Assistance Resources	25
D. CDBG and HOME Administrators Directory	27
E. AHPAA Statute As Amended (310 ILCS 67)	28
F. Local Government Exemption Lists	35

## **Executive Summary**

The Illinois General Assembly passed the Affordable Housing Planning and Appeal Act (AHPAA) (310 ILCS 67) in 2003 to address the lack of moderately-priced housing in many Illinois communities. Growth in home values continues to outpace growth in household incomes throughout the Chicago-region and many households who are vital to local economies and who provide critical community services are unable to afford to live in or around the places they work.

The law established a process for identifying communities with the most acute shortage of local housing stock available at an amount that would be affordable to:

- Homebuyers at 80% of the regional median household income.
- Renters at 60% of the regional median household income.

For larger, urbanized areas, the Area Median Income (AMI) used is for the entire Metropolitan Statistical Area (MSA), while county AMI figures are used for those counties not located within an MSA.

The law identifies these communities, known as Non-Exempt Local Governments (NELG), with two primary criteria:

- Non-Exempt Local Governments must be incorporated municipal governments (e.g., county, town, village, city, etc.) with a population of at least 1,000 people.
- Non-Exempt Local Governments must have a portion of the local year-round housing stock considered affordable that is below 10%, as determined by data from the U.S. Census Bureau and other relevant sources (details on pages 7 - 9).

The law requires Non-Exempt Local Governments:

- To adopt and submit an Affordable Housing Plan (details on page 13) to the Illinois Housing Development Authority (IHDA). Communities that already submitted a plan to IHDA because they were previously identified as Non-Exempt Local Governments are allowed to update their plans, adopt the updated version and submit them again to IHDA.

This handbook was written to accompany the 2018 List of AHPAA Non-Exempt Local Governments. It primarily serves as a reference tool.

The process used to identify the Non-Exempt Local Governments is laid out in the AHPAA statute (details on page 6) and the Illinois Housing Development Authority (IHDA) is responsible for generating this list. IHDA published the first list in 2004, but due to U.S. Census Bureau decennial data availability, a new list was not possible until 2013. IHDA now publishes a new list approximately every five years using the most recent and readily available census data. This is due to more frequent census data availability through the American Community Survey (ACS). While IHDA produces a statewide list of all

municipalities, exempt and non-exempt, this handbook only refers to those who are identified as being non-exempt under the AHPAA statute.

The State Housing Appeals Board (SHAB) was established by AHPAA to hear appeals from affordable housing developers who feel that they have been treated unfairly by Non-Exempt Local Governments during the local development approval process. Four of the seven members must be local officials or administrators and three must be from non-exempt AHPAA communities. The SHAB was fully appointed in 2012 and established a set of administrative rules through the Illinois General Assembly's Joint Committee on Administrative Rules in 2013 (published in the Illinois Register V. 37 Issue 15, April 12, 2013). At the time of this manual's publication, no appeals had been filed for SHAB review. To consider an appeal, the Non-Exempt Local Government must have denied approval of a project with an affordable housing component, or granted an approval with conditions that make the proposed project financially infeasible.

## **Affordable Housing Planning and Appeal Act: Exemption Determination Process**

The language within the Illinois Affordable Housing Planning and Appeal Act outlines a process for determining which local governments the law applies. According to the statute (as amended by P.A. 98-0287), this process must be completed by the Illinois Housing Development Authority at least once every five years (recent changes to the statute allow for this more frequent publication of the list with improved availability of appropriate U.S. Census Bureau data). While AHPAA makes certain aspects of the exemption determination process explicit and clear, other implicit steps must be taken to complete the determination. This report intends to make all steps taken by IHDA fully explicit and clear.

The exemption process steps mandated by AHPAA are identified in the following section of this report. Within the law there are two sections that guide the determination of community exemption status.

### **Statutory Guidance**

Section 15 (310 ILCS 67/15) of the law provides definitions, some of which directly affect the determination process. The relevant definitions are highlighted below:

"Affordable housing" means housing that has a value or cost or rental amount that is within the means of a household that may occupy moderate-income or low-income housing. In the case of owner-occupied dwelling units, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.

"Exempt local government" means any local government in which at least 10% of its total year-round housing units are affordable, as determined by the Illinois Housing Development Authority pursuant to Section 20 of this Act; or any municipality under 1,000 population.

"Local government" means a county or municipality.

Section 20 (310 ILCS 67/20) of the law describes fundamental steps that must be included in the exemption determination process. This section is quoted in its entirety below:

Sec. 20. Determination of exempt local governments.

- (a) Beginning October 1, 2004, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census Bureau for each local government within the state and by an inventory of

owner-occupied and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau and other relevant sources. (This inventory is based on census household survey data.)

- (b) The Illinois Housing Development Authority shall make this determination by:
  - (i) totaling the number of owner-occupied housing units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area;
  - (ii) totaling the number of rental units in each local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area;
  - (iii) adding the number of owner-occupied and rental units for each local government from items (i) and (ii); and
  - (iv) dividing the sum of (iii) above by the total number of year-round housing units in the local government as contained in the latest U.S. Census Bureau, and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.
- (c) Beginning on August 9, 2013 the Illinois Housing Development Authority is to publish a list of exempt and non-exempt local governments and the data that it used to calculate its determination once every 5 years. The data shall be shown for each local government in the state and for the state as a whole. Upon publishing a list of exempt and non-exempt local governments, the Illinois Housing Development Authority shall notify a local government that it is not exempt from the operation of this Act and provide to it the data used to calculate its determination.
- (d) Communities which develop affordable housing plans and meet one of the three statutory goals (see page 13) are then exempt from the provisions of the law, including possible appeals and submitted to the State Housing Appeal Board.

## **Data Sources**

The sections of AHPAA quoted above provide a framework for completing the exemption determination process; however, Section 20a raises an important issue for beginning the exemption determination process: establishing a single source of data as “the most recent data from the U.S. Census Bureau.”

Nearly all of the data points required for the determination process are now available in the American Community Survey (ACS) 5-Year Estimates and are published annually on a two-year delay. As of December 2018, the most recent ACS 5-year data set available was the 2016 5-year Estimate, which was selected as the primary data source for completing the most local exemption determination process.

Data provided by the U.S. Census Bureau was analyzed to assign a primary county or MSA to every local government in the state (numerous local governments have jurisdictions that cross county boundaries). Land coverage within the jurisdiction of all local governments was calculated by county and was assigned a majority county or MSA to determine the median household income.

Mortgage contract terms for the calculation of affordable owner-occupied units are not explicitly defined in the statute, so industry standards and academic literature were relied on. The fixed-rate, 30-year mortgage with a downpayment of 10% of the purchase price was chosen because research has shown that those are the optimal terms for both low-income homebuyers and mortgage lenders with regards to the probability of negative home equity and default rates.<sup>1</sup> An average interest rate for the past five years (2013 - 2017) was calculated using the Annual Conventional Mortgages published by the Federal Home Loan Mortgage Corporation (Freddie Mac).<sup>2</sup> This interest rate, 3.98%, was assumed for the calculation of affordable owner-occupied units. Reliable data for homeowner's insurance and homeowners association fees was not available on a community-level scale and, therefore, was not included in the determination process (Note: any such data used in the determination process would only have increased the number of Non-Exempt Local Governments.)

### Selecting U.S. Census Bureau Data

The exemption determination process outlined in Section 20b of the statute does not explicitly identify all of the data points needed to complete the process as directed. This section connects key terms used in the statute with data points available within the 2016 ACS 5 Year Estimates.

- **Local Government:** Section 15 of AHPAA defines local government as a county or municipality and automatically exempts any municipality with a population under 1,000. The Census Bureau's definition of 'place' includes any incorporated local government, but does not include counties or townships. In the exemption determination process IHDA included all 'places' and 'counties' within Illinois. Places with population under 1,000 and Census Designated Places (which are not incorporated as municipalities) were removed from the analysis. Parties interested in

---

<sup>1</sup> John Y. Campbell and João F. Cocco. "A Model of Mortgage Default," National Bureau of Economic Research Working Paper 17516, October 2011. Patrie Hendershott, Robert Hendershott, and James Shilling. "The Mortgage Finance Bubble: Causes and Corrections," Journal of Housing Research, 2010. Tomasz Piskorski and Alexei Tchisty. "Stochastic House Appreciation and Optimal Mortgage Lending," Review of Financial Studies, 2011.

<sup>2</sup> <http://www.freddie.mac.com/pmms/pmms30.html>



the affordability of unincorporated areas may contact IHDA for more information. Concerning AHPAA data, county data only covers unincorporated areas.

- Area Median Income (AMI): In accordance with Section 20b(i) and 20b(ii) of the statute, the median household income (MHI) was collected from each county and Metropolitan Statistical Area (MSA) in the state (when appropriate the MHI for MSA Metropolitan Divisions was used) and assigned to all local governments within that geography. For further information see the FAQs section on page 18.
- Total Year-Round Housing Units: Seasonal and recreational housing units are classified as a type of vacant housing in American Community Survey (ACS) data. To avoid any concerns of inflating the true number of year-round housing units in a given community (and thereby deflating its share of affordable housing stock), only occupied housing units were included during the exemption determination process. Total year-round units were calculated by adding “owner-occupied units” and “occupied units paying rent”.
- Owner-Occupied Housing Units: “Value” of home estimates were utilized to determine how many of the owner-occupied housing units in a given local government are ‘affordable’ to potential homebuyers at 80% of the AMI. Only units that are currently occupied by homeowners are included in these estimates.
- Total Median Real Estate Taxes Paid: Estimates from ACS data for every local government were also utilized to determine the number of affordable owner-occupied housing units. Vacant for-sale units are not included in the determination process because the U.S. Census Bureau does not collect information on their value (note: homeowner utility costs are not collected as part of the American Community Survey, nor does the AHPAA statute include it in its formula for affordable homeownership).
- Rental Units: “Gross Rent” estimates were utilized to determine how many of the occupied rental units in a given community would be affordable to a potential renter households at 60% of the AMI. Only units occupied by renters are included in these estimates. Units occupied by renters not paying rent are not counted as affordable rental units because the Census Bureau does not collect information on the terms of occupancy.

### **Determining Share of Affordable Units**

Below, please find two examples demonstrating the steps IHDA undertakes when determining the share of affordable housing units per the AHPAA statute.

#### City of Evanston, Cook County

Population: 75,472

Area Median Income: \$63,327 (Chicago MSA)

First, the affordable monthly rent was determined for a household at 60% of the AMI.

$\$63,327 \text{ (AMI)} \times 60\% \times 30\% \text{ (portion of income affordable for housing)} / 12 = \$949.91 \text{ a month}$

Now the number of affordable rental units in Evanston can be counted.

“Gross Rent” – Total Occupied Units Paying Rent: 12,637

“Gross Rent” – Less than \$500: 376

“Gross Rent” – \$500 to \$999: 2,781

“Gross Rent” – \$1,000 to \$1,499: 5,241

“Gross Rent” – \$1,500 to \$1,999: 2,339

“Gross Rent” – \$2,000 to \$2,499: 1,179

“Gross Rent” – \$2,500 to \$2,999: 425

“Gross Rent” – \$3,000 or more: 296

The affordable monthly rental amount in Evanston, \$949.91, falls within the \$500 to \$999 “Gross Rent” interval. The total number of units in lower intervals is 376. Since \$949.91 represents 89.98% of the \$500 to \$999 interval, an estimated 2,502.37 units of the 2,781 units within that interval have a “Gross Rent” below \$949.91. Adding the two figures reaches a total of **2,878.37 affordable rental units** in Evanston.

Next, the affordable home value was determined for a household at 80% of the AMI. The first was determining an affordable monthly payment for this hypothetical household.

$\$63,327 \text{ (AMI)} \times 80\% \times 30\% \text{ (portion of income affordable for housing)} / 12 = \$1,266.54 \text{ a month}$

The median real estate taxes paid in Evanston were \$7,085, or \$590.42 a month. This amount was subtracted from \$1,266.54 to reach the final affordable monthly payment of \$676.12. Using the present value calculation typical for determining an affordable sales price in mortgage lending and assuming a 3.98% interest rate, a 30-year loan term and a 10% down payment, an affordable home value in Evanston was determined to be \$156,161

Now the number of affordable owner-occupied units in Evanston can be counted.

“Value” - Total Owner-Occupied units: 15,976

“Value” - Less than \$50,000: 281

“Value” - \$50,000 to \$99,999: 497

“Value” - \$100,000 to \$149,999: 1103

“Value” - \$150,000 to \$199,999: 1898

“Value” - \$200,000 to \$299,999: 2883

“Value” - \$300,000 to \$499,999: 4012

“Value” - \$500,000 to \$999,999: 4429

“Value” - \$1,000,000 or more: 873

The affordable home value in Evanston, \$156,161, falls within the \$150,000 to \$199,000 “Value” interval. The total number of units in lower intervals is 1,881. Since \$156,161 represents 12% of the \$150,000 to \$199,000 interval, an estimated 233.8 units within the

interval have a “value” below \$156,161. Adding the two figures reaches a total of **2114.86** in Evanston.

The sum of affordable housing units in Evanston equaled **4,993**. At this point the affordable housing share of total units in Evanston was calculated.

$$4,993 \text{ (affordable housing units)} / 28,613 \text{ (year-round housing units)} = \mathbf{17.5\%}$$

#### Village of Frankfort, Will County

Population: 18,415

Area Median Income: \$63,327 (Chicago MSA)

First, the affordable monthly rent was determined for a household at 60% of the AMI.

$$\$63,327 \text{ (AMI)} \times 60\% \times 30\% \text{ (portion of income affordable for housing)} / 12 = \$949.91 \text{ a month}$$

Now the number of affordable rental units in Frankfort can be counted.

“Gross Rent” – Total Occupied Units Paying Rent: 265

“Gross Rent” – Less than \$500: 0

“Gross Rent” – \$500 to \$999: 78

“Gross Rent” – \$1,000 to \$1,499: 32

“Gross Rent” – \$1,500 to \$1,999: 45

“Gross Rent” – \$2,000 to \$2,499: 51

“Gross Rent” – \$2,500 to \$2,999: 17

“Gross Rent” – \$3,000 or more: 42

The affordable monthly rental amount in Frankfort, \$949.91, falls within the \$500 to \$999

“Gross Rent” interval. The total number of units in lower intervals is 0. Since \$949.91 represents 89.9% of the \$500 to \$999 interval, an estimated 70.19 units of the 78 units within that interval have a “Gross Rent” below \$949.91. The result is a total of **70.19 affordable rental units** in Frankfort.

Next, the affordable home value was determined for a household at 80% of the AMI. The first was determining an affordable monthly payment for this hypothetical household.

$$\$63,327 \text{ (AMI)} \times 80\% \times 30\% \text{ (portion of income affordable for housing)} / 12 = \$1,266.54 \text{ a month}$$

The median real estate taxes paid in Frankfort were \$9,212, or \$767.67 a month. This amount was subtracted from \$1,266.54 to reach the final affordable monthly payment of \$498.87. Using the present value calculation typical for determining an affordable sales price in mortgage lending and assuming a 3.98% interest rate, a 30-year loan term and a 10% down payment, an affordable home value in Frankfort was determined to be \$115,222

Now the number of affordable owner-occupied units in Frankfort can be counted.

“Value” - Total Owner-Occupied units: 5,732

“Value” - Less than \$50,000: 38

“Value” - \$50,000 to \$99,999: 46

“Value” - \$100,000 to \$149,999: 79

“Value” - \$150,000 to \$199,999: 299

“Value” - \$200,000 to \$299,999: 1,458

“Value” - \$300,000 to \$499,999: 3,182

“Value” - \$500,000 to \$999,999: 604

“Value” - \$1,000,000 or more: 26

The affordable home value in Frankfort, \$115,222, falls within the \$100,000 to \$149,000

“Value” interval. The total number of units in lower intervals is 74. Since \$115,222 represents 30% of the \$100,000 to \$149,000 interval, an estimated 24.05 units within the interval have a “value” below \$115,222. Adding the two figures reaches a total of **108.05 affordable owner-occupied units** in Frankfort.

The sum of affordable housing units in Frankfort equaled **178**. At this point the affordable housing share of total units in Frankfort was calculated.

$178 \text{ (affordable housing units)} / 5,997 \text{ (year-round housing units)} = 3.0\%$

### **AHPAA Requirements Timeline**

Once a municipality is determined to be and is notified that it is non-exempt from the AHPAA, it must develop, adopt and submit to IHDA an affordable housing plan within 18 months. IHDA will host an informational meeting for non-exempt municipalities shortly after announcing the list and is available on an ongoing basis to provide related technical assistance.

<b>AHPAA Affordable Housing Plan Timeline</b>	
Non-Exempt Community Notification	<b>12/28/2018</b>
Affordable Housing Plan Submission	On a rolling basis between <b>12/28/2018</b> and <b>6/28/2020</b> ( <i>must be submitted within 60 days of local approval</i> )
Final Submission Deadline: AHPAA Housing Plan	<b>6/28/2020</b> ( <i>18 months from NELG Status notification – see above</i> )

### **Affordable Housing Plans**

From the date on the letter/email notifying a Non-Exempt Local Government of its status under AHPAA, the municipality or county has 18 months from the date the Non-Exempt Local Government list was published to develop, approve and submit an Affordable Housing Plan to IHDA, consisting of (at a minimum) the following components:

- Statement of the total number of affordable housing units that are necessary to exempt the local government from the operation of the Act, as defined in Section 15 and Section 20, and based on the numbers included in AHPAA Local Government Exemption Report published by IHDA.
- Identification of lands within the jurisdiction that are most appropriate for the construction of affordable housing and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned.
- Incentives that the local government may provide for the purpose of attracting affordable housing to their jurisdiction.
- Selection of one of the following three goals for increasing local affordable housing stock:
  - Requiring a minimum of 15% of all new development or redevelopment within the local government that would be defined as affordable housing in this Act;

- Requiring a minimum of a 3% percentage point increase in the overall percentage of affordable housing within its jurisdiction, as defined in Section 20 of this Act; or
- Requiring a minimum of 10% of affordable housing within its jurisdiction.

According to the law, Non-Exempt Local Governments must submit their Affordable Housing Plan to IHDA within 60 days of the initial local approval of the plan or approval of revisions to a previously approved affordable housing plan which was submitted to IHDA under the AHPAA.

### **State Housing Appeals Board**

AHPAA also assigns IHDA the responsibility of staffing the State Housing Appeals Board. The State Housing Appeals Board may hear appeals once the following conditions are met:

- A developer, believing there is a market for such housing, must obtain site control in a Non-Exempt Local Government and voluntarily come forward with a proposal that includes at least 20% of the dwelling units being subject to covenants or restrictions that require that the dwelling units be sold or rented at prices that preserve them as affordable housing for a period of at least 15 years, in the case of for-sale housing, and at least 30 years, in the case of rental housing.
- The developer's proposal must be denied, or approved with conditions that rendered the project infeasible by the local government's governing board.
- The developer must file an appeal with the State Housing Appeals Board within 45 days of the local government decision that he or she wishes to appeal. Initial pleadings filed by the developer must include the following:
  - A clear and concise statement of the prior proceedings (related to the proposed development) before all Approving Authorities, including the date of notice of the decision that the Affordable Housing Developer is appealing;
  - A clear and concise statement of the Affordable Housing Developer's objections to the Approving Authority's decision, indicating why the Affordable Housing Developer believes the application to develop Affordable Housing was unfairly denied, which may include an appeal of IHDA's determination of the exempt status of the Local Government as set forth in Section 395.401, or what conditions, if any, were imposed that the Affordable Housing Developer believes were unreasonable;
  - A clear and concise statement setting forth the relief sought;
  - The complete name and address of the Affordable Housing Developer for the purpose of service of papers in connection with the appeal;

- The name and address of the attorney or attorneys representing the Affordable Housing Developer, if any; and
- A complete copy of the application for the Affordable Housing Development, as it was submitted to the Approving Authority, including sufficient information to determine whether the proposal that is the subject of the appeal is Affordable Housing.

During the appeals process, the developer must convince the State Housing Appeals Board that:

- The proposed Affordable Housing Development complies with all Non-Appealable Local Government Requirements.<sup>3</sup> The Affordable Housing Developer must prove these elements with respect to only those aspects of the project that are in dispute; or
- Non-Appealable Local Government Requirements have been applied differently to proposals that do not include Affordable Housing; or
- The Approving Authority has a pattern of denying applications to develop Affordable Housing; or
- The Approving Authority changed the zoning of an area regarding a specific Affordable Housing Development that, but for the change in zoning, is otherwise able to proceed, or has a pattern of changing zoning of an area in regards to Affordable Housing Developments that, but for the change in zoning, are otherwise able to proceed; or
- The Approving Authority unreasonably or intentionally delayed its decision regarding a specific Affordable Housing Development that, but for the lack of timely decision by the Approving Authority, is otherwise able to proceed, or has a pattern of unreasonably or intentionally delaying its decisions on applications for Affordable Housing Developments that, but for the lack of timely decisions of the Approving Authority, are otherwise able to proceed; or
- IHDA's determination that the Local Government is exempt from the Act is incorrect based on the counting protocols set forth in Section 20 of the Act and any written guidance published by IHDA; or
- Any other unreasonable denial of the application for the Affordable Housing Development.

---

<sup>3</sup> "Non-Appealable Local Government Requirements": All essential requirements that protect the public health and safety, including any local building, electrical, fire or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment. Zoning, density and bulk restrictions may count as Non-Appealable Local Government Requirements if the Board finds that they qualify under the Act's definition of Non-Appealable Local Government Requirements.

The local government, or approving authority, has equal opportunity to present evidence and defend itself against claims made by the appealing developer.



## Appendices

## **Appendix A: Frequently Asked Questions**

### **Can a Non-Exempt Local Government appeal their exemption status?**

The State Housing Appeals Board has the authority to review the legitimacy of exemption status but only in the case of a developer's appeal related to that community. If a Non-Exempt Local Government wishes to submit information that may affect their exemption status in the eyes of the State Housing Appeals Board, then they may submit those materials to IHDA for the State Housing Appeals Board as records to be reviewed at the time of an appeal.

### **Why are Metropolitan Statistical Area figures for median household income used for some places and county figures for other places?**

The AHPAA statute specifies affordability calculations be based on the median household income of Metropolitan Statistical Area (MSA) data *where available* and county data where MSA data is *not available*. The U.S. Office of Management and Budget regularly publishes guidance on the definitions of MSAs and that information is adopted by the U.S. Census Bureau and various federal funding sources. AHPAA was written to accommodate the MSA data to ensure that areas of population concentration with a high degree of economic and social integration are treated as a whole. Counties using county data are generally rural in nature.

### **Does the count of affordable units in a local government reflect the number of households currently paying more than 30% of income?**

No. The analysis compares the cost of buying or renting a home in a given community to the area's (MSA or county) median household income and is based on census household survey responses.

### **What is the State Housing Appeals Board?**

The State Housing Appeals Board (SHAB) consists of seven members:

- 1) A zoning board of appeals member from a Non-Exempt community;
- 2) A planning board member from a Non-Exempt community;
- 3) A mayor or municipal council/board member from a Non-Exempt community;
- 4) A county board member;
- 5) An affordable housing developer;
- 6) A housing advocate; and
- 7) A retired circuit or appellate judge (who must serve as board chairperson).

IHDA's Chairman serves as an ex-officio member.

### **How does a developer file an appeal with the State Housing Appeals Board?**

A developer wishing to file an appeal should send a complete package with all materials identified in the AHPAA to the Office of Housing Coordination Services in the Strategic Planning and Reporting Department at IHDA, addressed as follows:

ATTN: Strategic Planning and Reporting Department, IHDA (16)/(OHCS)  
RE: State Housing Appeals Board  
111 E. Wacker Drive, Ste. 1000  
Chicago, IL 60611

**Does affordable housing have a negative impact on property values?**

In recent years, researchers have produced numerous studies with rigorous analytic methodologies to better understand the impact that affordable housing developments have on surrounding property values, local community safety and services. A review of the literature on the subject conducted in 2016 indicated that most studies do not find a negative impact related to affordable housing developments.<sup>4</sup> The literature review also showed that affordable housing sited in economically strong communities and dispersed across metropolitan regions are the most successful and have the least negative impacts. Another study focused on affordable housing developments in suburban New Jersey, which has a State policy similar to the Affordable Housing Planning and Appeal Act, found that affordable housing development was not associated with increased crime, decreased property values or increased taxes.<sup>5</sup>

**Are municipalities required to own the affordable housing developed within their borders?**

No. A non-exempt municipality is not expected to own or manage affordable housing in order to comply with the AHPAA statute. However, the planning requirements of the AHPAA suggest that municipalities can and are encouraged to help facilitate affordable housing development by providing local incentives, some of which may involve municipally created non-profit ownership or management of a property (e.g., a Community Land Trust under an inclusionary housing program or a Community Housing Development Organization under a HOME program). Financial public support of an affordable housing development may be more appropriate in the form of a property donation or waiver of local development building and permit fees. (In addition, non-profits and affiliates of Public Housing Authorities have also developed and managed affordable housing properties in Illinois.)

**To comply with the AHPAA statute, is a particular type of affordable housing necessary?**

No. The type of affordable housing provided within a community is strictly a local decision. Neither IHDA nor the AHPAA statute require or prefer a particular type of affordable housing to comply. Municipalities may decide to encourage affordable rental housing, affordable homeownership programs or alternative types of housing tenure. In some cases, changes to local zoning and building codes may attract developers able to build housing without any subsidies or restrictions and market them to residents at an affordable price (according to AHPAA).

**Are municipalities required to change zoning ordinances to comply with the AHPAA?**

No. The AHPAA statute does not intend to dictate or override local zoning ordinances and building codes. Compliance with the statute does not necessarily require a change in either zoning or building codes (nor density, design or unit type requirements). Some communities may utilize related incentive programs, such as the establishment of an inclusionary zoning

---

<sup>4</sup> Young, Cheryl. "There *Doesn't* Go the Neighborhood: Low-Income Housing Has No Impact on Nearby Home Values" in Trulia Research/ Affordability web report - <https://www.trulia.com/research/low-income-housing>

<sup>5</sup> Len Albright, Elizabeth S. Derickson and Douglas S. Massey. "Do Affordable Housing Projects Harm Suburban Communities? Crime, Property Values, and Property Taxes in Mt. Laurel, New Jersey" in *City & Community* (2013; 12: 2).

ordinance or other development incentives, and may choose to modify local zoning ordinances to accommodate for affordable housing developments.

**Are municipalities required to be involved with private real estate transactions?**

No. Compliance with the statute does not require municipal participation in private transactions. Unless a municipality chooses to become involved indirectly with private real estate transactions by establishing a Community Land Trust (though Community Land Trusts are generally recommended to be established as a separate legal entity), there are no statutory requirements that necessitate municipal participation in real estate transactions beyond the approval of an affordable housing plan. Municipalities and counties are encouraged to participate in such projects financially, when feasible, via local CDBG and/or HOME Program funding and other local options, e.g., TIF Districts, waiver of development fees, etc. Also approval and support of projects with affordable housing components such as LIHTC projects is encouraged.

**To comply with the AHPAA statute are municipalities required to develop property designated as parkland or open space?**

No. The purpose of the AHPAA is to strongly encourage local planning strategies that foster the development of affordable housing. The law is not intended to dictate type or location of affordable housing to be developed.

**How are communities with little available land (“built out”) going to comply with the law?**

The AHPAA does not force communities to categorically accept new developments that include affordable housing. In fact, this law may have minimal practical impact on communities that are already “built out”. Communities with little available land could choose the option of 15% of all new development and redevelopment as a set-aside for affordable housing. The law simply provides that as a community continues to grow or redevelop, it should work to include some moderately priced housing, making it possible for those who work in and serve the community to afford to live there too. Rehabilitation of existing housing and maintaining affordability is another option.

**Will development of affordable housing in a municipality give it future “exempt” status?**

This is a tricky question. First, the AHPAA law’s formula uses Census survey data to determine home values (and rent amounts), so it’s only as reliable as the local household responses regarding accuracy. Secondly, when updated, that same Census data also enumerates total changes in year-round housing stock, including all developments of non-affordable housing units.

**Are municipalities with home rule authority exempt from AHPAA?**

This matter was never directly addressed in the AHPAA statute and no home rule impact note was requested during the legislative process. In addition, no Illinois Attorney General’s opinion has been sought or rendered on the matter. As such, IHDA encourages all NELG communities to make good faith efforts to comply with the AHPAA minimum requirements.

## **Appendix B: Financial Assistance Available to Non-Exempt Local Governments**

Municipalities seeking to encourage or proactively increase the number of local affordable housing units have a number of tools at their disposal. In addition, they should be made aware of several financial resources that can aid in the creation of affordable housing.

Listed below are local tools that communities may utilize to promote affordability:

- Zoning
- Reduction in Development Fees / Fee Waivers (building permit fees; planning fees; capital facilities fees; inspection fees; “tap-on” fees)
- Expedited Permitting for Affordable Housing
- Covenants
- Land Leases
- Community Land Trusts
- Deed Restrictions (on affordability)
- Use Restrictions
- Resale Restrictions
- Inclusionary Zoning (mandatory; voluntary; negotiated / ad hoc)
- Use of Public Funding (IHDA funds; federal funding; tax credits; assistance with local subsidies, such as CDBG or HOME)
- Planned Unit Development (PUD) ordinances

Discussed below are federal, state and local resources that may be accessed for assistance by non-profit developers, for-profit developers and local governments for affordable housing:

**Community Development Block Grants (CDBG)** – CDBG funds are federal grants available to municipalities and counties through the US Department of Housing and Urban Development (HUD) that can be used to fund many different programs that provide assistance to a wide variety of grantees. Certain housing activities constitute eligible uses, such as housing rehabilitation, land acquisition and homebuyer assistance. Funds must be used to primarily assist low- to moderate-income households as defined as 50% of AMI. For more information, see Appendix D:

[https://www.hud.gov/program\\_offices/comm\\_planning/communitydevelopment/programs](https://www.hud.gov/program_offices/comm_planning/communitydevelopment/programs)

**HOME Participating Jurisdictions and Consortium Funding** – Also funded through HUD, federal HOME funds are available via a formula grant to state and local government participating jurisdictions (PJs). HOME funds can be used for rental housing production and rehabilitation loans and grants, first-time homebuyer assistance and rehabilitation assistance for homeowners. An annual portion of HOME funds (15%) is required to be set-aside for eligible Community Housing Development Organizations (CHDOs). All housing developed with HOME funds must serve income eligible households (80% AMI homeowners and 60% renter AMI limits for determining income eligibility.)

IHDA is the designated State agency to oversee HOME funds within the State of Illinois. IHDA can allocate HOME funds throughout the state, but generally gives preference to areas that

do not have their own local HOME funds as a Participating Jurisdiction or Consortium. Information on IHDA's HOME funds can be found at [www.ihda.org](http://www.ihda.org).

Please Note: HUD provides CDBG and HOME grant funds on a state, municipal or county basis. See Appendix D for a list of the local and county administrators within the Chicago Metropolitan area.

**Bond Financing** – Tax-exempt, private activity bonds are a financing tool that can be applied to both single-family and multi-family housing programs. Tax-exempt bonds can be issued locally or by IHDA and may be utilized in combination with qualifying Low-Income Housing Tax Credit projects, as well as with HUDs Risk Sharing Insurance program (which is administered by IHDA).

IHDA is a designated public agency that is authorized to issue bonds to finance affordable housing within the State of Illinois for home mortgages. Such financing is generally limited by IRS Tax Code to first-time homebuyers (except targeted areas).

For more information on homebuyer programs at IHDA, please see [www.ihda.org](http://www.ihda.org).

**Tax Increment Financing (TIF) Districts** – TIF districts can be established by municipalities for areas designated as conservation or blighted areas. Under the State's TIF law, when a municipality creates a TIF district, the amount of tax revenue the area currently generates is set as a baseline, which will serve as the amount that the local governmental taxing bodies will receive from that area for the life of the TIF, which is 23 years. As vacant and dilapidated properties are revitalized through development with TIF assistance, the value and tax revenue from those properties increases. The "increment" above the baseline is then captured and used solely for improvements and redevelopment activities in that TIF district.

There are currently many TIF districts within the State of Illinois. The TIFs that were established in the Chicago-metro area by municipalities (Chicago excluded) and designated as primarily for housing are:

#### Housing TIFs in the Chicago-Metro Area Permitting Housing Activities

City	County	District
MELROSE PARK	COOK	TIF 2
PALOS HEIGHTS	COOK	GATEWAY TIF
SUMMIT	COOK	TIF 1
STEGER	WILL	TIF II
STEGER	WILL	SOUTH CHICAGO ROAD TIF (TIF 4)
BOLINGBROOK	WILL/DuPAGE	BEACONRIDGE SUBDIVISION

**Illinois Housing Development Authority (IHDA)** – IHDA is the State's designated housing finance agency. Through IHDA financing, both communities and developers can access many sources of funding and tax credits from both State and Federal sources. IHDA's

website ([www.ihda.org](http://www.ihda.org)) is an excellent source of information, describing the purpose and application process for all the authority's funding sources.

- The Authority offers a large array of funding that can help communities in their quest to develop more affordable housing. Some of which are: Low-Income Housing Tax Credits (LIHTC) – The federal LIHTC program is a competitive program for non-profit and for-profit entities to assist in developing affordable rental housing, offering a highly competitive 9% tax credit and a competitive 4% tax credit for 10 years to approved projects. Sale or syndication of these credits usually generates large amounts of equity that is put back into the development to keep rents affordable. Please note the current (2018- 2019) annual LIHTC Qualified Allocation Plan included point scoring incentives for targeted distribution of the subsidy. Two points are awarded to projects located in AHPAA Non-Exempt Local Governments (under 10% affordable housing share). Low-income under LIHTC is defined as 60% or less of household AMI.
- Illinois Affordable Housing Tax Credits (IAHTC) (aka: State Donations Tax Credit) – Works with donations to a project and is granted on a one-time basis to a project that receives eligible donations. This is an excellent source of gap financing for rental, homeowner and employer assisted housing projects being developed or operated by a non-profit organization. Eligible units are between 50% -120% AMI levels, depending on the type of project/program.
- Illinois Affordable Housing Trust Fund – Funded through a real estate transfer fee, this State funding source assists in the provision of affordable, decent, safe and sanitary housing for low- and very low-income households for rental, homeownership and homebuyer units. Eligible proposals include: acquisition and rehabilitation of existing housing, new construction, adaptive reuse of non-residential buildings, and housing for special needs populations. The Trust Fund generally makes loans available at below market rates. Eligible households are between 50%-80% AMI.
- HOME – As discussed above, State HOME funds are administered by IHDA.
- National Housing Trust Fund – This is a state-administered HUD-funded program, operated and targeted by IHDA to extremely low-income (30% AMI or below) renter households.
- Multi Family Financing – IHDA offers a variety of other financing options specific to multi-family housing developments. The options currently available through IHDA include: Conduit Loan program, FFB Risk Share Program, Credit Advantage Mortgage Program, Affordable Advantage Mortgage Program, One Stop Plus Program and others.
- Single-Family Financing - IHDA finances mortgages through participating banks that are below the market rate, making it easier for low- and moderate-income families to qualify and afford a home (see Bond Financing). IHDA can also provide financial assistance to help with down payments and closing costs. Partnering with local non-

profit organizations and municipalities, IHDA can also finance local homebuyer assistance programs as well as home repair programs with forgivable loans for low-income homeowners who need to bring their homes up to code.

**Employer Assisted Housing (EAH)** – There are also programs (both national and statewide) that encourages employers to invest in housing for their employees. An EAH program typically includes counseling about home buying and financing, direct financial assistance with closing costs and payments, rental housing assistance and/or a real estate investment.

**Class 9 Property Tax Incentive** – Encourages new development, rehabilitation and long-term preservation of multi-family rental housing, affordable to low- and moderate-income households across Cook County by providing significant tax abatement to qualified properties. Call 312/603-7850 or visit [www.cookcountyassessor.com/forms-incentives.aspx](http://www.cookcountyassessor.com/forms-incentives.aspx)

**Federal Home Loan Bank (FHLB)** – The Affordable Housing Program (AHP) offered by the Federal Home Loan Bank (Chicago FHLB) is a subsidy fund designed to assist in the development of affordable housing for low and moderate-income households. The Chicago FHLB contributes 10% of its previous year's net income to the AHP each year. The allocation is split between the Chicago FHLB's competitive application program and the non-competitive homeownership set-aside program called Down Payment Plus. The AHP provides grants and subsidized loans to member financial institutions working with affordable housing providers to finance rental and ownership housing for low and moderate-income households. For more information, please visit [www.fhlbc.com](http://www.fhlbc.com) or call 312/565-5700.

**Community Investment Corporation (CIC)** – CIC is a not-for-profit neighborhood revitalization lender that provides financing to buy and rehab multifamily apartment buildings with five units or more in the six-county metropolitan Chicago area. Please visit [www.cicchicago.com](http://www.cicchicago.com) or call 312/258-0070.

**IFF** – A leading nonprofit community development financial institutions (CDFI), IFF strengthens non-profits and their communities through lending and real estate consulting. IFF is able to help nonprofits finance, plan and build facilities that are critical to their mission and success. IFF serves nonprofits in Illinois and other Midwestern states, with a focus on those that serve low and moderate income communities and special needs populations. For more information, please visit [www.iff.org](http://www.iff.org), or call 312/629-0060.

**Office of Housing Coordination Services (OHCS)** – Part of IHDA's SPAR Department, OHCS operates a housing information clearinghouse for affordable housing in the State of Illinois. With this clearinghouse, OHCS tracks housing finance options provided by IHDA and other State programs, federal programs as well as private resources. For more information, please visit [www.ihda.org](http://www.ihda.org), or contact the Office of Housing Coordination Services at (312) 836-5364.

Additional information on other IHDA programs, including those in foreclosure prevention, blight reduction, community revitalization and homeownership assistance can also be found in the Annual Comprehensive Housing Plan, which is listed on the IHDA website.



## **Appendix C: Technical Assistance Available to Non-Exempt Local Governments**

A number of organizations have resources to assist local governments interested in developing affordable housing programs, incentives and/or plans for their community.

**Chicago Metropolitan Agency for Planning (CMAP)** – CMAP is the federally mandated Metropolitan Planning Organization (MPO) for the Northeast Illinois region, including Cook, DuPage, Kane, Kendall, Lake, McHenry and Will Counties. CMAP is charged with implementing the region's long-range, comprehensive plan called GO TO 2040. One of the plan's major recommendations is to achieve greater livability through land use and housing. To implement the plan, CMAP provides staff assistance to communities through the agency's Local Technical Assistance program, which seeks project proposals from communities late in the spring each year. CMAP has worked with MMC and MPC to provide housing policy plans across the region through the Homes for a Changing Region project. Currently, the community selection process is underway, with a total of 10 communities eligible to receive planning assistance to promote affordability and address challenges to creating balanced housing options. For more information, visit: [www.cmap.illinois.gov](http://www.cmap.illinois.gov).

**Metropolitan Mayors Caucus (MMC)** – The Caucus provides a forum through which the chief elected officials of the region cooperatively develop consensus on common public policy issues and multi-jurisdictional challenges. With a foundation of collaboration and consensus-based decision-making, it serves a number of functions for its partner organizations and local governments. With its partners, the Caucus has developed a number of housing related resources for its membership including: Homes for a Changing Region, a housing policy planning exercise that helps municipalities address barriers to affordability and plan for a balanced housing market. For more information please visit [www.mayorscaucus.org](http://www.mayorscaucus.org) or call 312/201-4507.

**Metropolitan Planning Council (MPC)** – For nearly eight decades, MPC has developed and implemented innovative, pragmatic solutions to planning and development challenges in Chicagoland. Through research, advocacy and demonstration projects, MPC is a trusted partner to governments, businesses and communities as each confronts the region's pressing needs so that everyone who lives and works here can thrive. Since its foundation in 1934, MPC has been committed to integrating quality homes affordable to families at a range of incomes, including very low-income households, into healthy communities with transportation options, job opportunities and quality schools. As mentioned above, MPC is also a partner in the Homes for A Changing Region Program. For more information please visit <http://www.metroplanning.org/> or call 312/922-5616.

**Business and Professional People for the Public Interest (BPI)** – BPI is a public interest law and policy center that works throughout the Chicago region. BPI's housing program works to preserve and expand the supply of housing affordable to working people, seniors and young families, especially in areas of opportunity, and seeks to stabilize and strengthen neighborhoods that already have large supplies of affordable housing. BPI frequently works in collaboration with local governments and other local partners. BPI has helped local

leaders to assess local housing needs and trends, conducted research on best practices from around the country, and helped to develop and improve local policies and programs. For example, BPI has assisted local governments in developing policies and programs that facilitate the creation of affordable housing, including incentives that allow developers to cover the cost of high-quality affordable housing at no cost to the local government. BPI has also worked with local governments to develop programs that preserve existing affordable units. For more information, please visit <http://www.bpichicago.org/> or call 312/641-5570.

## **Appendix D: CDBG and HOME Administrators Directory**

Communities that do not receive direct allocations of CDBG or HOME funds from HUD may be located in a county that does receive such funds. The county level administrators are capable of partnering with communities seeking resources for affordable housing initiatives or residential developments. Below is a list of Chicago Metropolitan Area cities and county administrators of CDBG and HOME funds in the Chicago metropolitan area.

### **City of Naperville**

City Manager's Office  
400 S. Eagle Street  
Naperville, IL 60540  
630 / 420-6044

### **Cook County**

Department of Planning and  
Development  
69 W. Washington, Suite 2900  
Chicago, IL 60602  
312 / 603-1000

### **DuPage County**

Department of Client Services  
421 North County Farm Road  
Wheaton, IL 60187  
630 / 407-6500

### **Kane County**

Office of Community Reinvestment  
719 Batavia Avenue  
Geneva, IL 60134  
630 / 208-5351

### **Lake County**

Department of Community Development  
500 W. Winchester Rd., Unit 101  
Libertyville, IL 60048  
847 / 377-2475

### **McHenry County**

Department of Planning and  
Development, Division of Community  
Development  
2200 N. Seminary Avenue  
Woodstock, IL 60098  
815 / 334-4560

### **Will County**

Land Use Department, Community  
Development Division  
58 E. Clinton St  
Joliet, IL 60433  
815 / 774-7890

## **Appendix E: 310 ILCS 67 (AHPAA Statute As Amended)**

(310 ILCS 67/1)

Sec. 1. Short title. This Act may be cited as the Affordable Housing Planning and Appeal Act.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/5)

Sec. 5. Findings. The legislature finds and declares that:

(1) there exists a shortage of affordable,

accessible, safe, and sanitary housing in the State;

(2) it is imperative that action be taken to assure

the availability of workforce and retirement housing; and

(3) local governments in the State that do not have

sufficient affordable housing are encouraged to assist in providing affordable housing opportunities to assure the health, safety, and welfare of all citizens of the State.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/10)

Sec. 10. Purpose. The purpose of this Act is to encourage counties and municipalities to incorporate affordable housing within their housing stock sufficient to meet the needs of their county or community. Further, affordable housing developers who believe that they have been unfairly treated due to the fact that the development contains affordable housing may seek relief from local ordinances and regulations that may inhibit the construction of affordable housing needed to serve low-income and moderate-income households in this State.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/15)

Sec. 15. Definitions. As used in this Act:

"Affordable housing" means housing that has a value or cost or rental amount that is within the means of a household that may occupy moderate-income or low-income housing. In the case of owner-occupied dwelling units, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.

"Affordable housing developer" means a nonprofit entity, limited equity cooperative or public agency, or private individual, firm, corporation, or other entity seeking to build an affordable housing development.

"Affordable housing development" means (i) any housing that is subsidized by the federal or State government or (ii) any housing in which at least 20% of the dwelling units are subject to covenants or restrictions that require that the dwelling units be sold or rented at

prices that preserve them as affordable housing for a period of at least 15 years, in the case of owner-occupied housing, and at least 30 years, in the case of rental housing.

"Approving authority" means the governing body of the county or municipality.

"Area median household income" means the median household income adjusted for family size for applicable income limit areas as determined annually by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937.

"Community land trust" means a private, not-for-profit corporation organized exclusively for charitable, cultural, and other purposes and created to acquire and own land for the benefit of the local government, including the creation and preservation of affordable housing.

"Development" means any building, construction, renovation, or excavation or any material change in any structure or land, or change in the use of such structure or land, that results in a net increase in the number of dwelling units in a structure or on a parcel of land by more than one dwelling unit.

"Exempt local government" means any local government in which at least 10% of its total year-round housing units are affordable, as determined by the Illinois Housing Development Authority pursuant to Section 20 of this Act; or any municipality under 1,000 population.

"Household" means the person or persons occupying a dwelling unit.

"Housing trust fund" means a separate fund, either within a local government or between local governments pursuant to intergovernmental agreement, established solely for the purposes authorized in subsection (d) of Section 25, including, without limitation, the holding and disbursing of financial resources to address the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing.

"Local government" means a county or municipality.

"Low-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that does not exceed 50% of the area median household income.

"Moderate-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50% but does not exceed 80% of the area median household income.

"Non-appealable local government requirements" means all essential requirements that protect the public health and safety, including any local building, electrical, fire, or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/20)

Sec. 20. Determination of exempt local governments.

(a) Beginning October 1, 2004, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census Bureau for each local government within the State and by an inventory of owner-occupied and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau and other relevant sources.

(b) The Illinois Housing Development Authority shall make this determination by:

(i) totaling the number of owner-occupied housing

units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area;

(ii) totaling the number of rental units in each

local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area;

(iii) adding the number of owner-occupied and rental

units for each local government from items (i) and (ii); and

(iv) dividing the sum of (iii) above by the total

number of year-round housing units in the local government as contained in the latest U.S. Census Bureau and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.

(c) Beginning on the effective date of this amendatory Act of the 98th General Assembly, the Illinois Housing Development Authority shall publish a list of exempt and non-exempt local governments and the data that it used to calculate its determination at least once every 5 years. The data shall be shown for each local government in the State and for the State as a whole. Upon publishing a list of exempt and non-exempt local governments, the Illinois Housing Development Authority shall notify a local government that it is not exempt from the operation of this Act and provide to it the data used to calculate its determination.

(d) A local government or developer of affordable housing may appeal the determination of the Illinois Housing Development Authority as to whether the local government is exempt or non-exempt under this Act in connection with an appeal under Section 30 of this Act.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/25)

Sec. 25. Affordable housing plan.

(a) Prior to April 1, 2005, all non-exempt local governments must approve an affordable housing plan. Any local government that is determined by the Illinois Housing Development Authority under Section 20 to be non-exempt for the first time based on the recalculation of U.S. Census Bureau data after 2010 shall have 18 months from the date of notification of its non-exempt status to approve an affordable housing plan under this Act.

(b) For the purposes of this Act, the affordable housing plan shall consist of at least the following:

(i) a statement of the total number of affordable

housing units that are necessary to exempt the local government from the operation of this Act as defined in Section 15 and Section 20;

(ii) an identification of lands within the

jurisdiction that are most appropriate for the construction of affordable housing and of existing structures most appropriate for conversion to, or rehabilitation for, affordable

housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned;

(iii) incentives that local governments may provide

for the purpose of attracting affordable housing to their jurisdiction; and

(iv) a goal of a minimum of 15% of all new

development or redevelopment within the local government that would be defined as affordable housing in this Act; or a minimum of a 3 percentage point increase in the overall percentage of affordable housing within its jurisdiction, as described in subsection (b) of Section 20 of this Act; or a minimum of a total of 10% affordable housing within its jurisdiction as described in subsection (b) of Section 20 of this Act. These goals may be met, in whole or in part, through the creation of affordable housing units under intergovernmental agreements as described in subsection (e) of this Section.

(c) Within 60 days after the adoption of an affordable housing plan or revisions to its affordable housing plan, the local government must submit a copy of that plan to the Illinois Housing Development Authority.

(d) In order to promote the goals of this Act and to maximize the creation, establishment, or preservation of affordable housing throughout the State of Illinois, a local government, whether exempt or non-exempt under this Act, may adopt the following measures to address the need for affordable housing:

(1) Local governments may individually or jointly

create or participate in a housing trust fund or otherwise provide funding or support for the purpose of supporting affordable housing, including, without limitation, to support the following affordable housing activities:

(A) Housing production, including, without

limitation, new construction, rehabilitation, and adaptive re-use.

(B) Acquisition, including, without limitation,

land, single-family homes, multi-unit buildings, and other existing structures that may be used in whole or in part for residential use.

(C) Rental payment assistance.

(D) Home-ownership purchase assistance.

(E) Preservation of existing affordable housing.

(F) Weatherization.

(G) Emergency repairs.

(H) Housing related support services, including

homeownership education and financial counseling.

(I) Grants or loans to not-for-profit

organizations engaged in addressing the affordable housing needs of low-income and moderate-income households.

Local governments may authorize housing trust funds

to accept and utilize funds, property, and other resources from all proper and lawful public and private sources so long as those funds are used solely for addressing the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing.

(2) A local government may create a community land

trust, which may: acquire developed or undeveloped interests in real property and hold them for affordable housing purposes; convey such interests under long-term leases, including ground leases; convey such interests for affordable housing purposes; and retain an option to reacquire any such real property interests at a price determined by a formula ensuring that such interests may be utilized for affordable housing purposes.

(3) A local government may use its zoning powers to

require the creation and preservation of affordable housing as authorized under Section 5-12001 of the Counties Code and Section 11-13-1 of the Illinois Municipal Code.

(4) A local government may accept donations of money

or land for the purpose of addressing the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing. These donations may include, without limitation, donations of money or land from persons in lieu of building affordable housing.

(e) In order to encourage regional cooperation and the maximum creation of affordable housing in areas lacking such housing in the State of Illinois, any non-exempt local government may enter into intergovernmental agreements under subsection (e) of Section 25 with local governments within 10 miles of its corporate boundaries in order to create affordable housing units to meet the goals of this Act. A non-exempt local government may not enter into an intergovernmental agreement, however, with any local government that contains more than 25% affordable housing as determined under Section 20 of this Act. All intergovernmental agreements entered into to create affordable housing units to meet the goals of this Act must also specify the basis for determining how many of the affordable housing units created will be credited to each local government participating in the agreement for purposes of complying with this Act. In specifying how many affordable housing units will be credited to each local government, the same affordable housing unit may not be counted by more than one local government.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/30)

Sec. 30. Appeal to State Housing Appeals Board.

(a) (Blank).

(b) Beginning January 1, 2009, an affordable housing developer whose application is either denied or approved with conditions that in his or her judgment render the provision of affordable housing infeasible may, within 45 days after the decision, appeal to the State Housing Appeals Board challenging that decision unless the municipality or county that rendered the decision is exempt under Section 15 of this Act. The developer must submit information regarding why the developer believes he or she was unfairly denied or unreasonable conditions were placed upon the tentative approval of the development. In the



case of local governments that are determined by the Illinois Housing Development Authority under Section 20 to be non-exempt for the first time based on the recalculation of U.S. Census Bureau data after the effective date of this amendatory Act of the 98th General Assembly, no developer may appeal to the State Housing Appeals Board until 60 months after a local government has been notified of its non-exempt status.

(c) Beginning on the effective date of this amendatory Act of the 98th General Assembly, the Board shall, whenever possible, render a decision on the appeal within 120 days after the appeal is filed. The Board may extend the time by which it will render a decision where circumstances outside the Board's control make it infeasible for the Board to render a decision within 120 days. In any proceeding before the Board, the affordable housing developer bears the burden of demonstrating that the proposed affordable housing development (i) has been unfairly denied or (ii) has had unreasonable conditions placed upon it by the decision of the local government.

(d) The Board shall dismiss any appeal if:

(i) the local government has adopted an affordable

housing plan as defined in Section 25 of this Act and submitted that plan to the Illinois Housing Development Authority within the time frame required by this Act; and

(ii) the local government has implemented its

affordable housing plan and has met its goal as established in its affordable housing plan as defined in Section 25 of this Act.

(e) The Board shall dismiss any appeal if the reason for denying the application or placing conditions upon the approval is a non-appealable local government requirement under Section 15 of this Act.

(f) The Board may affirm, reverse, or modify the conditions of, or add conditions to, a decision made by the approving authority. The decision of the Board constitutes an order directed to the approving authority and is binding on the local government.

(g) The appellate court has the exclusive jurisdiction to review decisions of the Board. Any appeal to the Appellate Court of a final ruling by the State Housing Appeals Board may be heard only in the Appellate Court for the District in which the local government involved in the appeal is located. The appellate court shall apply the "clearly erroneous" standard when reviewing such appeals. An appeal of a final ruling of the Board shall be filed within 35 days after the Board's decision and in all respects shall be in accordance with Section 3-113 of the Code of Civil Procedure.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/40)

Sec. 40. Nonresidential development as part of an affordable housing development.

(a) An affordable housing developer who applies to develop property that contains nonresidential uses in a nonresidential zoning district must designate either at least 50% of the area or at least 50% of the square footage of the development for residential use. Unless adjacent to a residential development, the nonresidential zoning district shall not include property zoned industrial. The applicant bears the burden of proof of demonstrating that the purposes of a nonresidential zoning district will not be impaired by the construction of housing in the zoning district and that the public health and safety of the residents of the affordable housing will not be adversely affected by nonresidential uses either in existence

or permitted in that zoning district. The development should be completed simultaneously to the extent possible and shall be unified in design.

(b) For purposes of subsection (a), the square footage of the residential portion of the development shall be measured by the interior floor area of dwelling units, excluding that portion that is unheated. Square footage of the nonresidential portion shall be calculated according to the gross leasable area.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/50)

Sec. 50. Housing Appeals Board.

(a) Prior to January 1, 2008, a Housing Appeals Board shall be created consisting of 7 members appointed by the Governor as follows:

(1) a retired circuit judge or retired appellate

judge, who shall act as chairperson;

(2) a zoning board of appeals member;

(3) a planning board member;

(4) a mayor or municipal council or board member;

(5) a county board member;

(6) an affordable housing developer; and

(7) an affordable housing advocate.

In addition, the Chairman of the Illinois Housing Development Authority, ex officio, shall serve as a non-voting member. No more than 4 of the appointed members may be from the same political party. Appointments under items (2), (3), and (4) shall be from local governments that are not exempt under this Act.

(b) Initial terms of 4 members designated by the Governor shall be for 2 years. Initial terms of 3 members designated by the Governor shall be for one year. Thereafter, members shall be appointed for terms of 2 years. After a member's term expires, the member shall continue to serve until a successor is appointed. There shall be no limit to the number of terms an appointee may serve. A member shall receive no compensation for his or her services, but shall be reimbursed by the State for all reasonable expenses actually and necessarily incurred in the performance of his or her official duties. The board shall hear all petitions for review filed under this Act and shall conduct all hearings in accordance with the rules and regulations established by the chairperson. The Illinois Housing Development Authority shall provide space and clerical and other assistance that the Board may require.

(c) (Blank).

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/60)

Sec. 60. Rulemaking authority. The Illinois Housing Development Authority shall adopt other rules and regulations as needed to carry out the Board's responsibilities under this Act and to provide direction to local governments and affordable housing developers.

(Source: P.A. 94-303, eff. 7-21-05.)

## Appendix F: 2018 List of AHPAA Non-Exempt Local Governments (Ordinal)

### 2018 Report of Non Exempt Local Governments

Ordinal (determination based on 2016 American Community Survey 5-year Estimates)

#	Place	County	Population	Year Round Units	Total Affordable Units	Affordable Housing Share
1	Campton Hills	KANE	11,500	3,504	27	0.8%
2	South Barrington	COOK	4,766	1,483	12	0.8%
3	Long Grove	LAKE	8,065	2,366	27	1.1%
4	Barrington Hills	COOK	3,574	1,384	18	1.3%
5	Inverness	COOK	7,844	2,714	36	1.3%
6	Western Springs	COOK	13,133	4,346	64	1.5%
7	Deer Park	LAKE	3,409	1,121	22	1.9%
8	Kenilworth	COOK	2,613	792	18	2.2%
9	Glencoe	COOK	8,870	3,081	78	2.5%
10	Oak Brook	DUPAGE	7,988	2,986	77	2.6%
11	Timberlane	BOONE	1,023	311	8	2.7%
12	Winnetka	COOK	12,437	4,014	110	2.7%
13	Frankfort	WILL	18,415	5,997	178	3.0%
14	North Barrington	LAKE	2,972	1,046	31	3.0%
15	Northfield	COOK	5,374	2,126	67	3.2%
16	Lakewood	MCHENRY	4,111	1,320	42	3.2%
17	Burr Ridge	DUPAGE	10,736	4,338	144	3.3%
18	Hinsdale	DUPAGE	17,438	5,533	184	3.3%
19	Hawthorn Woods	LAKE	7,590	2,394	81	3.4%
20	Green Oaks	LAKE	3,832	1,140	40	3.5%
21	Prairie Grove	MCHENRY	1,704	598	22	3.8%
22	Lake Bluff	LAKE	5,758	1,992	76	3.8%
23	Lincolnshire	LAKE	7,291	2,941	130	4.4%
24	Wilmette	COOK	27,367	9,551	431	4.5%
25	Bull Valley	MCHENRY	1,213	429	20	4.6%
26	Wayne	DUPAGE	2,513	929	44	4.8%
27	Lake Forest	LAKE	18,881	6,557	348	5.3%
28	Lincolnwood	COOK	12,637	4,118	227	5.5%
29	Lily Lake	KANE	1,253	385	21	5.6%
30	Riverwoods	LAKE	3,759	1,248	71	5.7%
31	Northbrook	COOK	33,538	12,647	722	5.7%
32	Homer Glen	WILL	24,385	8,337	492	5.9%
33	Kildeer	LAKE	3,976	1,308	84	6.4%
34	Plainfield	WILL	41,881	12,332	793	6.4%
35	Gilberts	KANE	7,479	2,187	156	7.1%
36	Glenview	COOK	46,559	16,782	1,223	7.3%
37	Deerfield	LAKE	18,686	6,648	486	7.3%
38	Naperville	DUPAGE	145,789	50,410	3,778	7.5%
39	Tower Lakes	LAKE	1,149	387	30	7.7%
40	Geneva	KANE	21,732	7,798	600	7.7%
41	Sleepy Hollow	KANE	3,338	1,192	92	7.7%
42	Park Ridge	COOK	37,567	13,834	1,112	8.0%
43	Elmhurst	DUPAGE	45,742	15,535	1,278	8.2%
44	La Grange	COOK	15,688	5,277	448	8.5%
45	River Forest	COOK	11,217	3,788	340	9.0%
46	Highland Park	LAKE	29,780	11,361	1,056	9.3%

## **2018 List of AHPAA Non-Exempt Local Governments (Nominal)**

### **2018 Report of Non Exempt Local Governments**

**Nominal (determination based on 2016 American Community Survey 5-year Estimates)**

<b>#</b>	<b>Place</b>	<b>County</b>	<b>Population</b>	<b>Year Round Units</b>	<b>Total Affordable Units</b>	<b>Affordable Housing Share</b>
1	Barrington Hills	COOK	3,574	1,384	18	1.3%
2	Bull Valley	MCHENRY	1,213	429	20	4.6%
3	Burr Ridge	DUPAGE	10,736	4,338	144	3.3%
4	Campton Hills	KANE	11,500	3,504	27	0.8%
5	Deer Park	LAKE	3,409	1,121	22	1.9%
6	Deerfield	LAKE	18,686	6,648	486	7.3%
7	Elmhurst	DUPAGE	45,742	15,535	1,278	8.2%
8	Frankfort	WILL	18,415	5,997	178	3.0%
9	Geneva	KANE	21,732	7,798	600	7.7%
10	Gilberts	KANE	7,479	2,187	156	7.1%
11	Glencoe	COOK	8,870	3,081	78	2.5%
12	Glenview	COOK	46,559	16,782	1,223	7.3%
13	Green Oaks	LAKE	3,832	1,140	40	3.5%
14	Hawthorn Woods	LAKE	7,590	2,394	81	3.4%
15	Highland Park	LAKE	29,780	11,361	1,056	9.3%
16	Hinsdale	DUPAGE	17,438	5,533	184	3.3%
17	Homer Glen	WILL	24,385	8,337	492	5.9%
18	Inverness	COOK	7,844	2,714	36	1.3%
19	Kenilworth	COOK	2,613	792	18	2.2%
20	Kildeer	LAKE	3,976	1,308	84	6.4%
21	La Grange	COOK	15,688	5,277	448	8.5%
22	Lake Bluff	LAKE	5,758	1,992	76	3.8%
23	Lake Forest	LAKE	18,881	6,557	348	5.3%
24	Lakewood	MCHENRY	4,111	1,320	42	3.2%
25	Lily Lake	KANE	1,253	385	21	5.6%
26	Lincolnshire	LAKE	7,291	2,941	130	4.4%
27	Lincolnwood	COOK	12,637	4,118	227	5.5%
28	Long Grove	LAKE	8,065	2,366	27	1.1%
29	Naperville	DUPAGE	145,789	50,410	3,778	7.5%
30	North Barrington	LAKE	2,972	1,046	31	3.0%
31	Northbrook	COOK	33,538	12,647	722	5.7%
32	Northfield	COOK	5,374	2,126	67	3.2%
33	Oak Brook	DUPAGE	7,988	2,986	77	2.6%
34	Park Ridge	COOK	37,567	13,834	1,112	8.0%
35	Plainfield	WILL	41,881	12,332	793	6.4%
36	Prairie Grove	MCHENRY	1,704	598	22	3.8%
37	River Forest	COOK	11,217	3,788	340	9.0%
38	Riverwoods	LAKE	3,759	1,248	71	5.7%
39	Sleepy Hollow	KANE	3,338	1,192	92	7.7%
40	South Barrington	COOK	4,766	1,483	12	0.8%
41	Timberlane	BOONE	1,023	311	8	2.7%
42	Tower Lakes	LAKE	1,149	387	30	7.7%
43	Wayne	DUPAGE	2,513	929	44	4.8%
44	Western Springs	COOK	13,133	4,346	64	1.5%
45	Wilmette	COOK	27,367	9,551	431	4.5%
46	Winnetka	COOK	12,437	4,014	110	2.7%

# **Affordable Housing Planning and Appeal Act:** **2013 Non-Exempt Local Government Handbook**

Published in accordance with the 310 ILCS 67 by:  
Illinois Housing Development Authority  
Office of Housing Coordination Services  
December 2013 (Revised January 7, 2014)



## Table of Contents

• Executive Summary	4
• Exemption Determination Process	6
○ Statutory Guidance	6
○ Data Sources	7
○ Selecting U.S. Census Bureau Data	8
○ Determining Share of Affordable Units	9
• Affordable Housing Plans	13
• State Housing Appeals Board	14
• Appendices	
A. Frequently Asked Questions	17
B. Financial Resources	20
C. Technical Assistance Resources	25
D. CDBG and HOME Administrators Directory	26
E. AHPAA Statute As Amended (310 ILCS 67)	27
F. Local Government Exemption Lists	35

## Executive Summary

The Illinois General Assembly passed the Affordable Housing Planning and Appeal Act (AHPAA) (310 ILCS 67) in 2003 to address the lack of moderately-priced housing that exists in many communities. Growth in home values continues to outpace growth in household incomes throughout the Chicago region and many people who are vital to local economies and who provide critical community services cannot afford to live in or around the places they work.

The law established a process for identifying communities with the most acute shortage of local housing stock available at an amount that would be affordable to:

- Homebuyers at 80% of the regional median household income.
- Renters at 60% of the regional median household income.

The law identifies these communities, known as Non-Exempt Local Governments, with two primary criteria:

- Non-Exempt Local Governments must be incorporated municipal governments (e.g: county, town, village, city, etc.) with a population of at least 1,000 people.
- Non-Exempt Local Governments must have a portion of the local year-round housing stock considered affordable that is below 10%, as determined by data from the U.S. Census Bureau and other relevant sources (details on pages 7 - 9).

The law requires Non-Exempt Local Governments:

- To adopt and submit an Affordable Housing Plan (details on page 13) to Illinois Housing Development Authority (IHDA). Communities that already submitted a plan to IHDA because they were previously identified as Non-Exempt Local Governments are expected to update their plans, adopt the updated version, and submit them again.

This handbook was written to accompany the 2013 List of AHPAA Non-Exempt Local Governments. It primarily serves as a reference tool.

The process used to identify the Non-Exempt Local Governments is laid out in the AHPAA statute (details on page 6), and the Illinois Housing Development Authority (IHDA) is responsible for generating this list. IHDA published the first list in 2004, but due to U.S. Census Bureau data availability, a new list was not possible until 2013. Going forward, IHDA will publish a new list approximately every five years.

Several organizations, including IHDA, are available to assist local governments in the production of Affordable Housing Plans (AHP).

The State Housing Appeals Board (SHAB) was established by AHPAA to hear appeals from affordable housing builders who feel that they have been treated unfairly by AHPAA Non-



Exempt Local Governments during the local development approval process. Four of the seven members must be local officials or administrators. In particular, the Non-Exempt Local Government must have denied approval of a project with an affordable housing component, or granted an approval with conditions that make the proposed project financially infeasible. The SHAB was fully appointed in 2012 and established a set of administrative rules through the Illinois General Assembly's Joint Committee on Administrative Rules in 2013 (published in the Illinois Register V. 37 Issue 15, April 12, 2013). At the time of this manual's publication, no appeals had been filed for SHAB review.

### **Affordable Housing Planning and Appeal Act: Exemption Determination Process**

The language within the Illinois Affordable Housing Planning and Appeal Act (AHPAA; 310 ILCS 67) outlines a process for determining which local governments the law applies to. According to the statute (as amended by P.A. 98-0287), this process must be completed by the Illinois Housing Development Authority (IHDA) at least once every five years (recent changes to the statute allow for this more frequent publication of the list with improved availability of appropriate U.S. Census Bureau data). While AHPAA makes certain aspects of the exemption determination process explicit and clear, other implicit steps must be taken to complete the determination. This report intends to make all steps taken by IHDA fully explicit and clear.

The exemption process steps mandated by AHPAA are identified in the following section of this report. Within the law there are two sections that guide the determination of community exemption status.

### **Statutory Guidance**

Section 15 (310 ILCS 67/15) of the law provides definitions, some of which directly affect the determination process. The relevant definitions are highlighted below:

"Affordable housing" means housing that has a value or cost or rental amount that is within the means of a household that may occupy moderate-income or low-income housing. In the case of owner-occupied dwelling units, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.

"Exempt local government" means any local government in which at least 10% of its total year-round housing units are affordable, as determined by the Illinois Housing Development Authority pursuant to Section 20 of this Act; or any municipality under 1,000 population.

"Local government" means a county or municipality.

Section 20 (310 ILCS 67/20) of the law describes fundamental steps that must be included in the exemption determination process. This section is quoted in its entirety below:

Sec. 20. Determination of exempt local governments.

- (a) Beginning October 1, 2004, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census

Bureau for each local government within the State and by an inventory of owner-occupied and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau and other relevant sources.

- (b) The Illinois Housing Development Authority shall make this determination by:
  - (i) totaling the number of owner-occupied housing units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area;
  - (ii) totaling the number of rental units in each local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area;
  - (iii) adding the number of owner-occupied and rental units for each local government from items (i) and (ii); and
  - (iv) dividing the sum of (iii) above by the total number of year-round housing units in the local government as contained in the latest U.S. Census Bureau and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.
- (c) Beginning on August 9, 2013 the Illinois Housing Development Authority is to publish a list of exempt and non-exempt local governments and the data that it used to calculate its determination at least once every 5 years. The data shall be shown for each local government in the State and for the State as a whole. Upon publishing a list of exempt and non-exempt local governments, the Illinois Housing Development Authority shall notify a local government that it is not exempt from the operation of this Act and provide to it the data used to calculate its determination.
- (d) Communities which develop affordable housing plans and meet one of the three statutory goals (see page 13) are then exempt from the provisions of the law, including possible appeals and submitted to the State Housing Appeal Board.

### **Data Sources**

The sections of AHPAA quoted above offer a framework for completing the exemption determination process, but Section 20a in the statute raises an important issue for beginning the exemption determination process: establishing a single source of data as “the most recent data from the U.S. Census Bureau.”

Nearly all of the data points required for the determination process are now available in the American Community Survey 5 Year Estimates (ACS 5yr Est.) and are published annually on a two-year delay. As of September 2013, the most recent ACS 5yr data set available was the 2011 5yr Estimate, which was selected as the primary data source for completing the exemption determination process.

Spatial data provided by the U.S. Census Bureau was analyzed to assign a primary county or MSA to every local government in the state (numerous local governments have jurisdictions that cross county boundaries). Land coverage within the jurisdiction of all local governments was calculated by county and a majority county or MSA was assigned to each local government to determine the median household income.

Mortgage contract terms for the calculation of affordable owner-occupied units are not explicitly defined in the statute, so industry standards and academic literature were relied on. The fixed-rate 30-year mortgage with a downpayment of 10% of the purchase price was chosen because research has shown that those are the optimal terms for both low-income homebuyers and mortgage lenders, regarding probability of negative home equity and default rates.<sup>1</sup> An average interest rate for the past five years (2008 - 2012) was calculated using the Historical Selected Interest Rates for Conventional Mortgages (Annual) published on the website for the Board of Governors of the Federal Reserve System.<sup>2</sup> This interest rate, 4.8%, was assumed for the calculation of affordable owner-occupied units. Reliable data for homeowner's insurance and homeowners association fees was not available on a community-level scale and therefore was not included in the determination process. (Note: any such data used in the determination process would only have increased the number of Non-Exempt Local Governments).

### **Selecting U.S. Census Bureau Data**

The exemption determination process outlined in Section 20b of the statute is an essential guide, but it does not explicitly identify all of the data points needed to complete the process as directed. This section connects key terms used in the statute with data points available within the 2011 ACS 5 Year Estimates.

- **Local Government:** as shown above, Section 15 of AHPAA defines local government as a county or municipality and automatically exempts any municipality with a population under 1,000. The Census Bureau's definition of 'place' includes any incorporated local government, but does not include counties or townships. In the exemption determination process IHDA included all 'places' and 'counties' within Illinois. Places with population under 1,000 and Census Designated Places (which are not incorporated as municipalities) were removed from the analysis. Parties

---

<sup>1</sup> John Y. Campbell and João F. Cocco. "A Model of Mortgage Default," National Bureau of Economic Research Working Paper 17516, October 2011. Patrie Hendershott, Robert Hendershott, and James Shilling. "The Mortgage Finance Bubble: Causes and Corrections," Journal of Housing Research, 2010. Tomasz Piskorski and Alexei Tchisty. "Stochastic House Appreciation and Optimal Mortgage Lending," Review of Financial Studies, 2011.

<sup>2</sup> <http://www.federalreserve.gov/releases/h15/data.htm>

interested in the affordability of unincorporated areas may contact IHDA for more information.

- Area Median Income (AMI): in accordance with Section 20b(i) and 20b(ii) of the statute, the median household income (MHI) was collected from each county and Metropolitan Statistical Area (MSA) in the state (when appropriate the MHI for MSA Metropolitan Divisions was used) and assigned to all local governments within that geography.
- Total Year-Round Housing Units: seasonal and recreational housing units are classified as a type of vacant housing in American Community Survey data. To avoid any concerns of inflating the true number of year-round housing units in a given community (and thereby deflating its share of affordable housing stock), only occupied housing units were included during the exemption determination process. Total year-round units were calculated by adding “owner-occupied units” and “occupied units paying rent”.
- Owner-Occupied Housing Units: “Value” of home estimates were utilized to determine how many of the owner-occupied housing units in a given local government are ‘affordable’ to potential homebuyers at 80% of the AMI. Only units that are currently occupied by homeowners are included in these estimates. “Total Median Real Estate Taxes Paid” estimates for every local government were also utilized to determine the number of affordable owner-occupied housing units. Vacant for-sale units are not included in the determination process because the U.S. Census Bureau does not collect information on their value. (Note: homeowner utility costs are not collected as part of the American Community Survey, nor does the AHPAA statute include it in its formula for affordable homeownership).
- Rental Units: “Gross Rent” estimates were utilized to determine how many of the occupied rental units in a given community would be affordable to a potential renter at 60% of the AMI. Only units occupied by renters are included in these estimates. Units occupied by renters not paying rent are not counted as affordable rental units because the Census Bureau does not collect information on the terms of occupancy.

### **Determining Share of Affordable Units**

To clarify the steps used to determine the share of affordable housing units in local governments across Illinois, following the process outlined in the statute and utilizing the U.S. Census data identified above, two examples will be illustrated.

#### City of Evanston, Cook County

Population: 74,149

Area Median Income: \$61,045 (Chicago MSA)

First, the affordable monthly rent was determined for a household at 60% of the AMI.

$\$61,045 \text{ (AMI)} \times 60\% \times 30\% \text{ (portion of income affordable for housing)} / 12 = \$916 \text{ a month}$

Now the number of affordable rental units in Evanston can be counted.

“Gross Rent” – Total Occupied Units Paying Rent: 11,775

“Gross Rent” – Less than \$200: 201

“Gross Rent” – \$200 to \$299: 235

“Gross Rent” – \$300 to \$499: 251

“Gross Rent” – \$500 to \$749: 728

“Gross Rent” – \$750 to \$999: 3,262

“Gross Rent” – \$1,000 to \$1,499: 4,130

“Gross Rent” – \$1500 or more: 2,968

The affordable monthly rental amount in Evanston, \$916, falls within the \$750 to \$999 “Gross Rent” interval. The total number of units in lower intervals is 1,415. Since \$916 represents 67% of the \$750 to \$999 interval, an estimated 2,170 units of the 3,262 units within that interval have a “Gross Rent” below \$916. Adding the two figures reaches a total of **3,585 affordable rental units** in Evanston.

Next, the affordable home value was determined for a household at 80% of the AMI. The first was determining an affordable monthly payment for this hypothetical household.

$\$61,045 \text{ (AMI)} \times 80\% \times 30\% \text{ (portion of income affordable for housing)} / 12 = \$1,221 \text{ a month}$

The median real estate taxes paid in Evanston were \$6,273, or \$523 a month. This amount was subtracted from \$1,221 to reach the final affordable monthly payment of \$698. Using the present value calculation typical for determining an affordable sales price in mortgage lending and assuming a 4.8% interest rate (the average rate for conventional mortgages over the last five years), a 30-year loan term and a 10% down payment – an affordable home value in Evanston was determined to be \$146,372.

Now the number of affordable owner-occupied units in Evanston can be counted.

“Value” - Total Owner-Occupied units: 16,896

“Value” - Less than \$50,000: 166

“Value” - \$50,000 to \$99,999: 202

“Value” - \$100,000 to \$149,999: 519

“Value” - \$150,000 to \$199,999: 1,780

“Value” - \$200,000 to \$299,999: 3,266

“Value” - \$300,000 to \$499,999: 5,218

“Value” - \$500,000 to \$999,999: 4,598

“Value” - \$1,000,000 or more: 1,147

The affordable home value in Evanston, \$146,372, falls within the \$100,000 to \$149,000 “Value” interval. The total number of units in lower intervals is 368. Since \$146,372 represents 93% of the \$100,000 to \$149,000 interval, an estimated 481 units within the

interval have a “value” below \$146,372. Adding the two figures reaches a total of **849 affordable owner-occupied units** in Evanston.

The sum of affordable housing units in Evanston equaled **4,435**. At this point the affordable housing share of total units in Evanston was calculated.

$$4,435 \text{ (affordable housing units)} / 28,671 \text{ (year-round housing units)} = \mathbf{15.4\%}$$

#### Village of Frankfort, Will County

Population: 17,464

Area Median Income: \$61,045 (Chicago MSA)

First, the affordable monthly rent was determined for a household at 60% of the AMI.

$$\$61,045 \text{ (AMI)} \times 60\% \times 30\% \text{ (portion of income affordable for housing)} / 12 = \$916 \text{ a month}$$

Now the number of affordable rental units in Frankfort can be counted.

“Gross Rent” – Total Occupied Units Paying Rent: 174

“Gross Rent” – Less than \$200: 0

“Gross Rent” – \$200 to \$299: 0

“Gross Rent” – \$300 to \$499: 0

“Gross Rent” – \$500 to \$749: 0

“Gross Rent” – \$750 to \$999: 105

“Gross Rent” – \$1,000 to \$1,499: 22

“Gross Rent” – \$1500 or more: 47

The affordable monthly rental amount in Frankfort, \$916, falls within the \$750 to \$999 “Gross Rent” interval. The total number of units in lower intervals is 0. Since \$916 represents 67% of the \$750 to \$999 interval, an estimated 70 units of the 105 units within that interval have a “Gross Rent” below \$916. The result is a total of **70 affordable rental units** in Frankfort.

Next, the affordable home value was determined for a household at 80% of the AMI. The first was determining an affordable monthly payment for this hypothetical household.

$$\$61,045 \text{ (AMI)} \times 80\% \times 30\% \text{ (portion of income affordable for housing)} / 12 = \$1,221 \text{ a month}$$

The median real estate taxes paid in Frankfort were \$8,745, or \$729 a month. This amount was subtracted from \$1,221 to reach the final affordable monthly payment of \$492. Using the present value calculation typical for determining an affordable sales price in mortgage lending and assuming a 4.8% interest rate (the average rate for conventional mortgages over the last five years), a 30-year loan term and a 10% down payment – an affordable home value in Frankfort was determined to be \$103,183.

Now the number of affordable owner-occupied units in Frankfort can be counted.

“Value” - Total Owner-Occupied units: 5,194

“Value” - Less than \$50,000: 19

“Value” - \$50,000 to \$99,999: 25

“Value” - \$100,000 to \$149,999: 41

“Value” - \$150,000 to \$199,999: 167

“Value” - \$200,000 to \$299,999: 1,047

“Value” - \$300,000 to \$499,999: 2,705

“Value” - \$500,000 to \$999,999: 1,149

“Value” - \$1,000,000 or more: 41

The affordable home value in Frankfort, \$103,183, falls within the \$100,000 to \$149,000 “Value” interval. The total number of units in lower intervals is 44. Since \$103,183 represents 6% of the \$100,000 to \$149,000 interval, an estimated 3 units within the interval have a “value” below \$146,372. Adding the two figures reaches a total of **47 affordable owner-occupied units** in Frankfort.

The sum of affordable housing units in Frankfort equaled **116**. At this point the affordable housing share of total units in Frankfort was calculated.

$116 \text{ (affordable housing units)} / 5,368 \text{ (year-round housing units)} = 2.2\%$



## **Affordable Housing Plans**

From the date on the letter/email notifying a Non-Exempt Local Government of its status under AHPAA, the local administrators have 18 months from the date the Non-Exempt Local Government list was published to develop, approve and submit an Affordable Housing Plan to IHDA, consisting of at least the following components:

- Statement of the total number of affordable housing units that are necessary to exempt the local government from the operation of the Act, as defined in Section 15 and Section 20, and based on the numbers included in AHPAA Local Government Exemption Report, published by IHDA.
- Identification of lands within the jurisdiction that are most appropriate for the construction of affordable housing, and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned.
- Incentives that the local government may provide for the purpose of attracting affordable housing to their jurisdiction.
- Selection of one of the following goals for increasing local affordable housing stock:
  - a minimum of 15% of all new development or redevelopment within the local government that would be defined as affordable housing in this Act;
  - a minimum of a 3 percentage point increase in the overall percentage of affordable housing within its jurisdiction, as defined in Section 20 of this Act;
  - a minimum of a total of 10% of affordable housing within its jurisdiction.

According to the law, Non-Exempt Local Governments must submit their Affordable Housing Plan to IHDA within 60 days of the initial local approval of the plan or approval of revisions.

## **State Housing Appeals Board**

AHPAA also assigns IHDA the responsibility of staffing the State Housing Appeals Board. The State Housing Appeals Board may hear appeals once the following conditions are met:

- A developer, believing there is a market for such housing, must obtain site control in a Non-Exempt Local Government and voluntarily come forward with a proposal that includes at least 20% of the dwelling units being subject to covenants or restrictions that require that the dwelling units be sold or rented at prices that preserve them as affordable housing for a period of at least 15 years, in the case of for-sale housing, and at least 30 years, in the case of rental housing.
- The developer's proposal must be denied, or approved with conditions that rendered the project infeasible.
- The developer must file an appeal with the State Housing Appeals Board within 45 days of the local government decision they wish to appeal. Initial pleadings filed by the developer must include the following (in paper or electronic copies):
  - a. a clear and concise statement of the prior proceedings (related to the proposed development) before all Approving Authorities, including the date of notice of the decision that the Affordable Housing Developer is appealing;
  - b. a clear and concise statement of the Affordable Housing Developer's objections to the Approving Authority's decision, indicating why the Affordable Housing Developer believes the application to develop Affordable Housing was unfairly denied, which may include an appeal of IHDA's determination of the exempt status of the Local Government as set forth in Section 395.401, or what conditions, if any, were imposed that the Affordable Housing Developer believes were unreasonable;
  - c. a clear and concise statement setting forth the relief sought;
  - d. the complete name and address of the Affordable Housing Developer for the purpose of service of papers in connection with the appeal;
  - e. the name and address of the attorney or attorneys representing the Affordable Housing Developer, if any; and
  - f. a complete copy of the application for the Affordable Housing Development, as it was submitted to the Approving Authority, including sufficient information to determine whether the proposal that is the subject of the appeal is Affordable Housing.

### **State Housing Appeals Board (Continued)**

During the appeals process the developer must convince the State Housing Appeals Board that:

- the proposed Affordable Housing Development complies with all Non-Appealable Local Government Requirements\*. The Affordable Housing Developer must prove these elements with respect to only those aspects of the project that are in dispute; or
- Non-Appealable Local Government Requirements have been applied differently to proposals that do not include Affordable Housing; or
- the Approving Authority has a pattern of denying applications to develop Affordable Housing; or
- the Approving Authority changed the zoning of an area regarding a specific Affordable Housing Development that, but for the change in zoning, is otherwise able to proceed, or has a pattern of changing zoning of an area in regards to Affordable Housing Developments that, but for the change in zoning, are otherwise able to proceed; or
- the Approving Authority unreasonably or intentionally delayed its decision regarding a specific Affordable Housing Development that, but for the lack of timely decision by the Approving Authority, is otherwise able to proceed, or has a pattern of unreasonably or intentionally delaying its decisions on applications for Affordable Housing Developments that, but for the lack of timely decisions of the Approving Authority, are otherwise able to proceed; or
- IHDA's determination that the Local Government is exempt from the Act is incorrect based on the counting protocols set forth in Section 20 of the Act and any written guidance published by IHDA; or
- any other unreasonable denial of the application for the Affordable Housing Development.

\* "Non-Appealable Local Government Requirements": All essential requirements that protect the public health and safety, including any local building, electrical, fire or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment. Zoning, density and bulk restrictions may count as Non-Appealable Local Government Requirements if the Board finds that they qualify under the Act's definition of Non-Appealable Local Government Requirements.

The local government, or approving authority, has equal opportunity to present evidence and defend itself against claims made by the appealing developer.

## Appendices

## **Appendix A: Frequently Asked Questions**

### **Can a Non-Exempt Local Government appeal their exemption status?**

The State Housing Appeals Board has the authority to review the legitimacy of exemption status but only in the case of an appeal related to that community. If a Non-Exempt Local Government wishes to submit information that may affect their exemption status in the eyes of the State Housing Appeals Board, then they may submit those materials to IHDA for the State Housing Appeals Board as records to be reviewed at the time of an appeal.

### **Why are Metropolitan Statistical Area figures for median household income used for some places and county figures for other places?**

The statute specifies affordability calculations be based on the median household income of Metropolitan Statistical Area (MSA) data where available and county data where MSA data is not available. The federal Office of Management and Budget regularly publishes guidance on the definitions of MSAs and that information is adopted by the U.S. Census Bureau and various federal funding sources. AHPAA was written to accommodate the MSA data to ensure that areas of population concentration with a high degree of economic and social integration are treated as a whole. Counties using county data are generally rural in nature.

### **Does the count of affordable units in a local government reflect the number of households currently paying more than 30% of income?**

No. The analysis compares the cost of buying or renting a home in a given community to the area's (MSA or county) median household income.

### **What is the State Housing Appeals Board?**

The State Housing Appeals Board (SHAB) consists of seven members: 1) a zoning board of appeals member from a Non-Exempt community; 2) a planning board member from a Non-Exempt community; 3) a mayor or municipal council/board member from a Non-Exempt community; 4) a county board member; 5) an affordable housing developer; 6) a housing advocate; and 7) a retired circuit or appellate judge (who must serve as board chairperson). IHDA's Chairman will also serve as an ex-officio member.

### **How does a developer file an appeal with the State Housing Appeals Board?**

A developer wishing to file an appeal should send a complete package with all materials identified in the AHPAA (see page 3 of this document) to the Office of Housing Coordination Services at IHDA, addressed as follows:

ATTN: Office of Housing Coordination Services, IHDA (14)  
RE: State Housing Appeals Board  
401 N. Michigan Ave., Ste. 700  
Chicago, IL 60611

### **Will affordable housing have a negative impact on property values?**

In recent years, scholars have produced numerous studies with rigorous analytic methodologies to better understand the impact that affordable housing developments have on surrounding property values, local community safety, and services. A review of the literature on the subject conducted in 2005 indicated that most studies do not find a

negative impact related to affordable housing developments.<sup>3</sup> The literature review also showed that affordable housing sited in economically strong communities and dispersed across metropolitan regions are the most successful and have the least negative impacts. A more recent study (2013) focused on affordable housing developments in suburban New Jersey, which has a state policy similar to the Affordable Housing Planning and Appeal Act, found that affordable housing development was not associated with increased crime, decreased property values, or increased taxes.<sup>4</sup>

**Are municipalities required to own the affordable housing developed within their borders?**

No. A non-exempt municipality is not expected to own or manage affordable housing in order to comply with the AHPAA statute. However, the planning requirements of the AHPAA suggest that municipalities can and are encouraged to help facilitate affordable housing development by providing local incentives, some of which may involve municipally created non-profit ownership or management of a property (e.g., a Community Land Trust under an inclusionary housing program or a Community Housing Development Organization under a HOME program). Financial public support of an affordable housing development may be more appropriate in the form of a property donation or waiver of local development building and permit fees.

**To comply with the AHPAA statute, is a particular type of affordable housing necessary?**

No. The type of affordable housing provided within a community is strictly a local decision. Neither IHDA nor the AHPAA statute require or prefer a particular type of affordable housing to comply. Municipalities may decide to encourage affordable rental housing, affordable homeownership programs or alternative types of housing tenure. In some cases, changes to local zoning and building codes may attract developers able to build housing without any subsidies or restrictions and market them to residents at an affordable price (according to AHPAA).

**Are municipalities required to change zoning ordinances to comply with the AHPAA?**

No. The AHPAA statute does not intend to dictate or override local zoning ordinances and building codes. Compliance with the statute does not necessarily require a change in either zoning and building codes (nor density, design or unit type requirements). Some communities may, however, utilize related incentive programs, such as establishment of an inclusionary zoning ordinance or other development incentives.

**Are municipalities required to be involved with private real estate transactions?**

No. Compliance with the statute does not require municipal participation in private transactions. Unless a municipality chooses to become involved indirectly with private real estate transactions by establishing a Community Land Trust (though Community Land Trusts are generally recommended to be established as a separate legal entity), there are no statutory requirements that necessitate municipal participation in real estate transactions beyond the approval of an affordable housing plan. Municipalities and counties, however,

---

<sup>3</sup> Nguyen, Mai Thi. "Does Affordable Housing Detrimentially Affect Property Values? A Review of the Literature" in *Journal of Planning Literature* (2005; 20: 15).

<sup>4</sup> Len Albright, Elizabeth S. Derickson and Douglas S. Massey. "Do Affordable Housing Projects Harm Suburban Communities? Crime, Property Values, and Property Taxes in Mt. Laurel, New Jersey" in *City & Community* (2013; 12: 2).

are encouraged to participate in such projects financially when feasible via local CDBG and HOME Program funding. Also approval and support of projects with affordable housing components such as LIHTC projects is encouraged.

**To comply with the AHPAA statute are municipalities required to develop property designated as parkland or open space?**

No. The purpose of the AHPAA is to strongly encourage local planning strategies that foster the development of affordable housing. The law is not intended to dictate type or location of affordable housing to be developed.

**How are communities with little available land (“built out”) going to comply with the law?**

The AHPAA does not force communities to categorically accept new developments that include affordable housing. In fact, this law may have little impact on communities that are already “built out”. Communities with little available land could choose the option of 15% of all new development and redevelopment as a set-aside for affordable housing. The law simply provides that as a community continues to grow or redevelop, it should work to include some moderately priced housing, making it possible for those who work in and serve the community to afford to live there too.

## **Appendix B: Financial Assistance Available to Non-Exempt Local Governments**

Communities seeking to increase the number of local affordable housing units have a number of tools at their disposal and they should be aware of several financial resources that can help create affordable housing.

Listed below are local tools that communities may utilize to promote affordability:

- Zoning
- Reduction in Development Fees / Fee Waivers (building permit fees; planning fees; capital facilities fees; inspection fees; “tap-on” fees)
- Expedited Permitting for Affordable Housing
- Covenants
- Land Leases
- Community Land Trusts
- Deed Restrictions (on affordability)
- Use Restrictions
- Resale Restrictions
- Inclusionary Zoning (mandatory; voluntary; negotiated / ad hoc)
- Use of Public Funding (IHDA funds; federal funding; tax credits; assistance with local subsidies, such as CDBG or HOME)
- Planned Unit Development (PUD) ordinances

Discussed below are Federal, State and local resources that may be accessed for assistance by non-profit developers, for-profit developers and local governments for affordable housing:

**Community Development Block Grants (CDBG)** – CDBG funds are federal grants available to municipalities and counties through the US Department of Housing and Urban Development (HUD) that can be used to fund many different programs that provide assistance to a wide variety of grantees. Some housing activities are considered eligible uses, such as housing rehabilitation, land acquisition, and homebuyer assistance. Funds must be used to primarily assist low to moderate income households. For more information, see Appendix D: [www.hud.gov/offices/cpd/communitydevelopment/programs/index.cfm](http://www.hud.gov/offices/cpd/communitydevelopment/programs/index.cfm)

**HOME Participating Jurisdictions and Consortium Funding** – Also funded through HUD, federal HOME funds are available via a formula grant to states and local governments participating jurisdictions (PJ). HOME funds can be used for rental housing production and rehabilitation loans and grants, first-time homebuyer assistance, and rehabilitation assistance for homeowners. An annual portion of HOME funds (15%) is required to be set-aside for eligible Community Housing Development Organizations (CHDOs). All housing developed with HOME funds must serve income eligible households (low or very-low income). For more information, see Appendix D: [www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm](http://www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm)

IHDA is the designated State agency to oversee HOME funds within the State of Illinois. IHDA can allocate HOME funds throughout the state, but generally gives preference to areas



that do not have their own, local HOME funds as a Participating Jurisdiction or Consortium. Information on IHDA's HOME funds can be found at [www.ihda.org](http://www.ihda.org).

Please Note: CDBG and HOME funds are often granted on a municipal or county basis. See Appendix D for a list of the local and county administrators within the Chicago Metropolitan area.

**Bond Financing** – Tax-exempt, private activity bonds are a financing tool that can be applied to both single-family and multi-family housing programs. Tax-exempt bonds can be issued locally or by IHDA, or by a local government ceding its local bond cap to IHDA, which can issue such bonds in behalf of the local government or independently for qualifying projects. Tax-exempt bonds can also be utilized in combination with qualifying Low-Income Housing Tax Credit projects, as well as HUDs Risk Sharing Insurance Car program.

Local governments may request IHDA to create homeownership mortgage financing programs in their community to help stimulate economic growth, to build more vibrant communities through homeownership, to help create affordable housing near jobs and support the businesses in the community, and for other reasons. IHDA is a designated public agency that is authorized to issue bonds for affordable housing within the State of Illinois. By ceding bond cap to IHDA, local governments can not only allow IHDA to issue the bonds that can fund housing and take advantage of the many other funding programs that IHDA offers, but also are relieved of major local administrative duties to operate such a program. Such mortgage financing is generally limited by IRS Tax Code to first-time homebuyers (except targeted areas).

To establish a local program municipalities may cede tax-exempt bond volume cap to IHDA so that the Authority can create a customized program for the community. The program can be tailored to address any specific population or concern for the community, and will likely contain most of these elements:

- Below market rate mortgages
- Closing cost and down payment assistance
- Mortgage credit certificates

For more information on ceding bond cap to IHDA, please see [www.ihda.org](http://www.ihda.org).

**Tax Increment Financing (TIF) Districts** – TIF districts can be established for areas designated as conservation or blighted areas. Under the State's TIF law, when a municipality creates a TIF district, the amount of tax revenue the area currently generates is set as a baseline, which will serve as the amount that the local governmental taxing bodies will receive from that area for the life of the TIF, which is 23 years. As vacant and dilapidated properties are developed, with TIF assistance, the value and tax revenue from those properties increases. The "increment" above the baseline is then captured and used solely for improvements and redevelopment activities in the TIF district.

There are currently many TIF districts within the State of Illinois. The TIFs that were established in the Chicago-metro area by municipalities (Chicago excluded) and were designated as primarily for housing are listed below:

Housing TIFs in the Chicago-Metro Area Permitting Housing Activities		
City	County	District
MELROSE PARK	COOK	TIF 2
PALOS HEIGHTS	COOK	GATEWAY TIF
SUMMIT	COOK	TIF 1
STEGER	WILL	TIF II
STEGER	WILL	SOUTH CHICAGO ROAD TIF (TIF 4)
BOLINGBROOK	WILL/DuPAGE	BEACONRIDGE SUBDIVISION

**Illinois Housing Development Authority (IHDA)** – IHDA is the State’s designated housing finance agency. Via IHDA both communities and developers can access many sources of funding from both State and Federal sources. In general, IHDA’s website ([www.ihda.org](http://www.ihda.org)) is an excellent source of information, describing the purpose and application process for all the authority’s funding sources.

The authority offers a large array of funding that can help communities in their quest to develop more affordable housing. Some of which are:

- Low-Income Housing Tax Credits (LIHTC) – The federal tax credit program can be utilized to generate a large equity contribution for affordable rental housing developments via sale of tax credits to investors. The Low Income Housing Tax Credit (LIHTC) is a competitive program for non-profit and for-profit entities to assist in developing affordable rental housing, offering a highly competitive 9% tax credit and a competitive 4% tax credit for 10 years to approved projects. Sale or syndication of these credits can generate large amounts of equity. Please note the current and (2013) and 2014 annual LIHTC Qualified Allocation Plans include geographic set-asides for targeted distribution of the subsidy. One of the set-asides is for projects located in AHPAA Non-Exempt Local Governments and communities at risk of becoming NELGs (under 20% affordable housing share).
- Illinois Affordable Housing Tax Credits (IAHTC) (aka: State Donations Tax Credit) works with donations to a project and is granted on a one-time basis to a project that receives eligible donations. This is an excellent source of gap financing for rental, homeowner, and employer assisted housing projects being developed or operated by a non-profit organization.
- Illinois Affordable Housing Trust Fund – This State funding source assists in the provision of affordable, decent, safe, and sanitary housing for low- and very low – income households for rental, homeownership, and homebuyer units. Eligible proposals include: acquisition and rehabilitation of existing housing, new construction, adaptive reuse of non-residential buildings, and housing for special needs populations. The Trust Fund makes loans available at below market rates.
- HOME – As discussed above, State HOME funds are administered by IHDA.
- Multi Family Financing – IHDA offers a variety of other financing options specific to multifamily housing developments. The options currently available through

IHDA include: Conduit Bond Financing; IHDA enhanced Bond Financing; Risk Sharing programs; Preservation Now! And Multi-Family Advantage programs; and others.

- Single-Family Financing - IHDA finances mortgages through participating banks that are below the market rate, making it easier for low- and moderate-income families to qualify and afford a home (see Bond Financing). IHDA can also provide financial assistance to help with down payments and closing costs. Partnering with local non-profit organizations and municipalities, IHDA can also finance local homebuyer assistance programs as well as home repair programs with grants for low-income homeowners who need to bring their homes up to code.

**Employer Assisted Housing (EAH)** – There are many programs (both national and state-wide) that encourages employers to invest in housing for their employees. An EAH program typically includes counseling about home-buying and financing, direct financial assistance with closing costs and payments, rental housing assistance, and/or a real estate investment. Organizations such as Metropolitan Planning Council and Housing Action Illinois have administered such programs in recent years. Local contacts for ongoing programs include the following:

North:

Affordable Housing Corporation of Lake County – 847/263-7478

Housing Opportunity Development Corporation – 847/564-2900

Northwest:

North West Housing Partnership – 847/969-0561

DuPage County:

DuPage Homeownership Center – 630/260-2500

Kane County:

Joseph Corporation – 630/906-9400

McHenry County:

Corporation for Affordable Homes of McHenry County – 815/206-5805

Chicago:

Neighborhood Housing Services of Chicago, Inc. – 312/329-4010

Metropolitan Planning Council – 312/922-5616

Statewide:

Housing Action Illinois – 312/939-6074

**Class 9 Property Tax Incentive** – Encourages new development, rehabilitation and long-term preservation of multi-family rental housing, affordable to low- and moderate-income households across Cook County by providing significant tax abatement to qualified properties. Call 312/603-7850 or visit [www.cookcountyassessor.com/forms-incentives.aspx](http://www.cookcountyassessor.com/forms-incentives.aspx)

**Federal Home Loan Bank (FHLB)** – The Affordable Housing Program (AHP) offered by the Federal Home Loan Bank (Chicago FHLB) is a subsidy fund designed to assist in the development of affordable housing for low and moderate-income households. The Chicago FHLB contributes 10% of its previous year's net income to the AHP each year. The allocation is split between the Chicago FHLB's competitive application program and the non-competitive homeownership set-aside program called Downpayment Plus. The AHP provides

grants and subsidized loans to member financial institutions working with affordable housing providers to finance rental and ownership housing for low and moderate-income households. For more information, please visit [www.fhlbc.com](http://www.fhlbc.com) or call 312/565-5700.

**Community Investment Corporation (CIC)** – CIC is a not-for-profit neighborhood revitalization lender that provides financing to buy and rehab multifamily apartment buildings with five units or more in the six-county metropolitan Chicago area. CIC's investors have grown to roughly 36 investors. These investors have pledged \$412 million through 2015 for CIC's revolving loan pool. Please visit [www.cicchicago.com](http://www.cicchicago.com) or call 312/258-0070.

**IFF** – A leading nonprofit community development financial institutions (CDFI), IFF strengthens non-profits and their communities through lending and real estate consulting. With total managed assets of more than \$270 million, IFF is able to help nonprofits finance, plan, and build facilities that are critical to their mission and success. IFF serves nonprofits in Illinois, and other Midwestern states, with a focus on those that serve low and moderate income communities and special needs populations. For more information, please visit [www.iff.org](http://www.iff.org), or call 312/629-0060.

**Office of Housing Coordination Services (OHCS)** – IHDA's OHCS operates a housing information clearinghouse for affordable housing in the State of Illinois. With this clearinghouse, OHCS tracks housing finance options provided by IHDA and other State programs, federal programs as well as private resources. For more information, please visit [www.ihda.org](http://www.ihda.org), or contact the Office of Housing Coordination Services at (312) 836-5364.

## **Appendix C: Technical Assistance Available to Non-Exempt Local Governments**

A number of organizations have resources to assist local governments interested in developing affordable housing programs, incentives and/or plans for their community. Listed below are a few of the major organizations familiar with AHPAA:

**Business and Professional People for the Public Interest (BPI)** – BPI is a public interest law and policy center that works throughout the Chicago region. BPI's housing program works to preserve and expand the supply of housing affordable to working people, seniors and young families, especially in areas of opportunity, and seeks to stabilize and strengthen neighborhoods that already have large supplies of affordable housing. BPI frequently works in collaboration with local governments and other local partners. BPI has helped local leaders to assess local housing needs and trends, conducted research on best practices from around the country, and helped to develop and improve local policies and programs. For example, BPI has assisted local governments in developing policies and programs that facilitate the creation of affordable housing, including through creation of incentives that allow developers to cover the cost of high-quality affordable housing at no cost to the local government. BPI has also worked with local governments to develop programs that preserve existing affordable units. For more information please visit <http://www.bpichicago.org/> or call 312/641-5570.

**Metropolitan Mayors Caucus** – The Caucus provides a forum through which the chief elected officials of the region cooperatively develop consensus on common public policy issues and multi-jurisdictional challenges. With a foundation of collaboration and consensus-based decision-making, it serves a number of functions for its partner organizations and local governments. With its partners, the Caucus has developed a number of housing related resources for its membership including: *Homes for a Changing Region*, a housing policy planning exercise that helps municipalities plan for a balanced housing market; *Home Grown: Local Housing Strategies in Action*, which describes a number of housing “best practices” implemented by local governments around the Chicago metropolitan region; and finally, *Housing 1-2-3*, which serves as a guide to housing planning, creation and preservation. For more information please visit [www.mayorscaucus.org](http://www.mayorscaucus.org) or call 312/201-4507.

**Chicago Metropolitan Agency for Planning (CMAP)** – CMAP is the federally mandated Metropolitan Planning Organization (MPO) for the Northeast Illinois region, including Cook, DuPage, Kane, Kendall, Lake, McHenry, and Will Counties. CMAP is charged with implementing the region's long range, comprehensive plan called GO TO 2040. One of the plan's major recommendations is to achieve greater livability through land use and housing. To implement the plan, CMAP provides staff assistance to communities through the agency's Local Technical Assistance program, which seeks project proposals from communities late in the spring each year. Since 2009, CMAP has worked with MMC and MPC to provide balanced housing policy plans to 14 municipalities across the region through the *Homes for a Changing Region* project. Currently, plans are underway for 12 more municipalities. In early 2015, CMAP anticipates distributing all of the technical tools used in the *Homes* process online and will provide several trainings to municipalities seeking to

create their own plans. For more information, visit [www.cmap.illinois.gov/homes](http://www.cmap.illinois.gov/homes) or email Drew Williams-Clark at [awilliamsclark@cmap.illinois.gov](mailto:awilliamsclark@cmap.illinois.gov).

**Metropolitan Planning Council (MPC)** – For nearly eight decades, MPC has developed and implemented innovative, pragmatic solutions to planning and development challenges in Chicagoland. Through research, advocacy and demonstration projects, MPC is a trusted partner to governments, businesses and communities as each confronts the region’s pressing needs so that everyone who lives and works here can thrive. Since its foundation in 1934, MPC has been committed to integrating quality homes affordable to families at a range of incomes—including very low-income households—into healthy communities with transportation options, job opportunities and quality schools. MPC and its partners have the following programs available to municipalities and developers: *Regional Housing Initiative*, a partnership with the regional housing authorities that pools rental subsidies to support affordable and mixed-income housing in high opportunity communities; *Homes for a Changing Region*, a planning process that enables municipal leaders to chart future demand and supply trends for housing in their communities and develop long-term housing policy plans; and *Home Grown: Local Housing Strategies in Action* and *Housing 1-2-3*, which includes “best practices” in housing that are being implemented by Chicago area governments and a guide to housing planning, creation and preservation. For more information please visit <http://www.metroplanning.org/> or call 312/922-5616.

## **Appendix D: CDBG and HOME Administrators Directory**

Communities that do not receive direct allocations of Community Development Block Grant (CDBG) or HOME funds from the federal government may be located in a county that does receive such funds. The county level administrators are capable of partnering with communities seeking resources for affordable housing initiatives or residential developments. Below is a list of Chicago Metropolitan Area cities, and county administrators of CDBG and HOME funds in the Chicago metropolitan area.

### **City of Naperville**

City Manager's Office  
400 S. Eagle Street  
630 / 420-6044

### **Lake County**

Department of Community  
Development  
500 W. Winchester Rd. Unit 101  
Libertyville, IL 60048  
847 / 377-2475

### **Cook County**

Department of Planning and  
Development  
69 W. Washington, Suite 2900  
Chicago, IL 60602  
312 / 603-1000

### **McHenry County**

Department of Planning and  
Development, Division of Community  
Development  
2200 N. Seminary Avenue  
Woodstock, IL 60098  
815 / 334-4560

### **DuPage County**

Department of Client Services  
421 North County Farm Road  
Wheaton, IL 60187  
630 / 407-6500

### **Will County**

Land Use Department, Community  
Development Division  
58 E. Clinton St  
Joliet, IL 60433  
815 / 774-7890

### **Kane County**

Office of Community Reinvestment  
719 Batavia Avenue  
Geneva, IL 60134  
630 / 208-5351

## **Appendix E: 310 ILCS 67 (AHPAA Statute As Amended)**

(310 ILCS 67/1)

Sec. 1. Short title. This Act may be cited as the Affordable Housing Planning and Appeal Act.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/5)

Sec. 5. Findings. The legislature finds and declares that:

(1) there exists a shortage of affordable,

accessible, safe, and sanitary housing in the State;

(2) it is imperative that action be taken to assure

the availability of workforce and retirement housing; and

(3) local governments in the State that do not have

sufficient affordable housing are encouraged to assist in providing affordable housing opportunities to assure the health, safety, and welfare of all citizens of the State.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/10)

Sec. 10. Purpose. The purpose of this Act is to encourage counties and municipalities to incorporate affordable housing within their housing stock sufficient to meet the needs of their county or community. Further, affordable housing developers who believe that they have been unfairly treated due to the fact that the development contains affordable housing may seek relief from local ordinances and regulations that may inhibit the construction of affordable housing needed to serve low-income and moderate-income households in this State.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/15)

Sec. 15. Definitions. As used in this Act:

"Affordable housing" means housing that has a value or cost or rental amount that is within the means of a household that may occupy moderate-income or low-income housing. In the case of owner-occupied dwelling units, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.

"Affordable housing developer" means a nonprofit entity, limited equity cooperative or public agency, or private individual, firm, corporation, or other entity seeking to build an affordable housing development.

"Affordable housing development" means (i) any housing that is subsidized by the federal or State government or (ii) any housing in which at least 20% of the dwelling units are subject to covenants or restrictions that require that the dwelling units be sold or rented at



prices that preserve them as affordable housing for a period of at least 15 years, in the case of owner-occupied housing, and at least 30 years, in the case of rental housing.

"Approving authority" means the governing body of the county or municipality.

"Area median household income" means the median household income adjusted for family size for applicable income limit areas as determined annually by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937.

"Community land trust" means a private, not-for-profit corporation organized exclusively for charitable, cultural, and other purposes and created to acquire and own land for the benefit of the local government, including the creation and preservation of affordable housing.

"Development" means any building, construction, renovation, or excavation or any material change in any structure or land, or change in the use of such structure or land, that results in a net increase in the number of dwelling units in a structure or on a parcel of land by more than one dwelling unit.

"Exempt local government" means any local government in which at least 10% of its total year-round housing units are affordable, as determined by the Illinois Housing Development Authority pursuant to Section 20 of this Act; or any municipality under 1,000 population.

"Household" means the person or persons occupying a dwelling unit.

"Housing trust fund" means a separate fund, either within a local government or between local governments pursuant to intergovernmental agreement, established solely for the purposes authorized in subsection (d) of Section 25, including, without limitation, the holding and disbursing of financial resources to address the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing.

"Local government" means a county or municipality.

"Low-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that does not exceed 50% of the area median household income.

"Moderate-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50% but does not exceed 80% of the area median household income.

"Non-appealable local government requirements" means all essential requirements that protect the public health and safety, including any local building, electrical, fire, or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/20)

Sec. 20. Determination of exempt local governments.

(a) Beginning October 1, 2004, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census Bureau for each local government within the State and by an inventory

of owner-occupied and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau and other relevant sources.

(b) The Illinois Housing Development Authority shall make this determination by:

(i) totaling the number of owner-occupied housing

units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area;

(ii) totaling the number of rental units in each

local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area;

(iii) adding the number of owner-occupied and rental

units for each local government from items (i) and (ii); and

(iv) dividing the sum of (iii) above by the total

number of year-round housing units in the local government as contained in the latest U.S. Census Bureau and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.

(c) Beginning on the effective date of this amendatory Act of the 98th General Assembly, the Illinois Housing Development Authority shall publish a list of exempt and non-exempt local governments and the data that it used to calculate its determination at least once every 5 years. The data shall be shown for each local government in the State and for the State as a whole. Upon publishing a list of exempt and non-exempt local governments, the Illinois Housing Development Authority shall notify a local government that it is not exempt from the operation of this Act and provide to it the data used to calculate its determination.

(d) A local government or developer of affordable housing may appeal the determination of the Illinois Housing Development Authority as to whether the local government is exempt or non-exempt under this Act in connection with an appeal under Section 30 of this Act.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/25)

Sec. 25. Affordable housing plan.

(a) Prior to April 1, 2005, all non-exempt local governments must approve an affordable housing plan. Any local government that is determined by the Illinois Housing Development Authority under Section 20 to be non-exempt for the first time based on the recalculation of U.S. Census Bureau data after 2010 shall have 18 months from the date of notification of its non-exempt status to approve an affordable housing plan under this Act.

(b) For the purposes of this Act, the affordable housing plan shall consist of at least the following:

(i) a statement of the total number of affordable

housing units that are necessary to exempt the local government from the operation of this Act as defined in Section 15 and Section 20;

(ii) an identification of lands within the

jurisdiction that are most appropriate for the construction of affordable housing and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned;

(iii) incentives that local governments may provide

for the purpose of attracting affordable housing to their jurisdiction; and

(iv) a goal of a minimum of 15% of all new

development or redevelopment within the local government that would be defined as affordable housing in this Act; or a minimum of a 3 percentage point increase in the overall percentage of affordable housing within its jurisdiction, as described in subsection (b) of Section 20 of this Act; or a minimum of a total of 10% affordable housing within its jurisdiction as described in subsection (b) of Section 20 of this Act. These goals may be met, in whole or in part, through the creation of affordable housing units under intergovernmental agreements as described in subsection (e) of this Section.

(c) Within 60 days after the adoption of an affordable housing plan or revisions to its affordable housing plan, the local government must submit a copy of that plan to the Illinois Housing Development Authority.

(d) In order to promote the goals of this Act and to maximize the creation, establishment, or preservation of affordable housing throughout the State of Illinois, a local government, whether exempt or non-exempt under this Act, may adopt the following measures to address the need for affordable housing:

(1) Local governments may individually or jointly

create or participate in a housing trust fund or otherwise provide funding or support for the purpose of supporting affordable housing, including, without limitation, to support the following affordable housing activities:

(A) Housing production, including, without

limitation, new construction, rehabilitation, and adaptive re-use.

(B) Acquisition, including, without limitation,

land, single-family homes, multi-unit buildings, and other existing structures that may be used in whole or in part for residential use.

(C) Rental payment assistance.

(D) Home-ownership purchase assistance.

(E) Preservation of existing affordable housing.

(F) Weatherization.

(G) Emergency repairs.

(H) Housing related support services, including

homeownership education and financial counseling.

(I) Grants or loans to not-for-profit

organizations engaged in addressing the affordable housing needs of low-income and moderate-income households.

Local governments may authorize housing trust funds

to accept and utilize funds, property, and other resources from all proper and lawful public and private sources so long as those funds are used solely for addressing the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing.

(2) A local government may create a community land

trust, which may: acquire developed or undeveloped interests in real property and hold them for affordable housing purposes; convey such interests under long-term leases, including ground leases; convey such interests for affordable housing purposes; and retain an option to reacquire any such real property interests at a price determined by a formula ensuring that such interests may be utilized for affordable housing purposes.

(3) A local government may use its zoning powers to

require the creation and preservation of affordable housing as authorized under Section 5-12001 of the Counties Code and Section 11-13-1 of the Illinois Municipal Code.

(4) A local government may accept donations of money

or land for the purpose of addressing the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing. These donations may include, without limitation, donations of money or land from persons in lieu of building affordable housing.

(e) In order to encourage regional cooperation and the maximum creation of affordable housing in areas lacking such housing in the State of Illinois, any non-exempt local government may enter into intergovernmental agreements under subsection (e) of Section 25 with local governments within 10 miles of its corporate boundaries in order to create affordable housing units to meet the goals of this Act. A non-exempt local government may not enter into an intergovernmental agreement, however, with any local government that contains more than 25% affordable housing as determined under Section 20 of this Act. All intergovernmental agreements entered into to create affordable housing units to meet the goals of this Act must also specify the basis for determining how many of the affordable housing units created will be credited to each local government participating in the agreement for purposes of complying with this Act. In specifying how many affordable housing units will be credited to each local government, the same affordable housing unit may not be counted by more than one local government.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/30)

Sec. 30. Appeal to State Housing Appeals Board.

(a) (Blank).

(b) Beginning January 1, 2009, an affordable housing developer whose application is either denied or approved with conditions that in his or her judgment render the provision of affordable housing infeasible may, within 45 days after the decision, appeal to the State Housing Appeals Board challenging that decision unless the municipality or county that

rendered the decision is exempt under Section 15 of this Act. The developer must submit information regarding why the developer believes he or she was unfairly denied or unreasonable conditions were placed upon the tentative approval of the development. In the case of local governments that are determined by the Illinois Housing Development Authority under Section 20 to be non-exempt for the first time based on the recalculation of U.S. Census Bureau data after the effective date of this amendatory Act of the 98th General Assembly, no developer may appeal to the State Housing Appeals Board until 60 months after a local government has been notified of its non-exempt status.

(c) Beginning on the effective date of this amendatory Act of the 98th General Assembly, the Board shall, whenever possible, render a decision on the appeal within 120 days after the appeal is filed. The Board may extend the time by which it will render a decision where circumstances outside the Board's control make it infeasible for the Board to render a decision within 120 days. In any proceeding before the Board, the affordable housing developer bears the burden of demonstrating that the proposed affordable housing development (i) has been unfairly denied or (ii) has had unreasonable conditions placed upon it by the decision of the local government.

(d) The Board shall dismiss any appeal if:

(i) the local government has adopted an affordable

housing plan as defined in Section 25 of this Act and submitted that plan to the Illinois Housing Development Authority within the time frame required by this Act; and

(ii) the local government has implemented its

affordable housing plan and has met its goal as established in its affordable housing plan as defined in Section 25 of this Act.

(e) The Board shall dismiss any appeal if the reason for denying the application or placing conditions upon the approval is a non-appealable local government requirement under Section 15 of this Act.

(f) The Board may affirm, reverse, or modify the conditions of, or add conditions to, a decision made by the approving authority. The decision of the Board constitutes an order directed to the approving authority and is binding on the local government.

(g) The appellate court has the exclusive jurisdiction to review decisions of the Board. Any appeal to the Appellate Court of a final ruling by the State Housing Appeals Board may be heard only in the Appellate Court for the District in which the local government involved in the appeal is located. The appellate court shall apply the "clearly erroneous" standard when reviewing such appeals. An appeal of a final ruling of the Board shall be filed within 35 days after the Board's decision and in all respects shall be in accordance with Section 3-113 of the Code of Civil Procedure.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/40)

Sec. 40. Nonresidential development as part of an affordable housing development.

(a) An affordable housing developer who applies to develop property that contains nonresidential uses in a nonresidential zoning district must designate either at least 50% of the area or at least 50% of the square footage of the development for residential use. Unless adjacent to a residential development, the nonresidential zoning district shall not include property zoned industrial. The applicant bears the burden of proof of demonstrating

that the purposes of a nonresidential zoning district will not be impaired by the construction of housing in the zoning district and that the public health and safety of the residents of the affordable housing will not be adversely affected by nonresidential uses either in existence or permitted in that zoning district. The development should be completed simultaneously to the extent possible and shall be unified in design.

(b) For purposes of subsection (a), the square footage of the residential portion of the development shall be measured by the interior floor area of dwelling units, excluding that portion that is unheated. Square footage of the nonresidential portion shall be calculated according to the gross leasable area.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/50)

Sec. 50. Housing Appeals Board.

(a) Prior to January 1, 2008, a Housing Appeals Board shall be created consisting of 7 members appointed by the Governor as follows:

(1) a retired circuit judge or retired appellate

judge, who shall act as chairperson;

(2) a zoning board of appeals member;

(3) a planning board member;

(4) a mayor or municipal council or board member;

(5) a county board member;

(6) an affordable housing developer; and

(7) an affordable housing advocate.

In addition, the Chairman of the Illinois Housing Development Authority, ex officio, shall serve as a non-voting member. No more than 4 of the appointed members may be from the same political party. Appointments under items (2), (3), and (4) shall be from local governments that are not exempt under this Act.

(b) Initial terms of 4 members designated by the Governor shall be for 2 years. Initial terms of 3 members designated by the Governor shall be for one year. Thereafter, members shall be appointed for terms of 2 years. After a member's term expires, the member shall continue to serve until a successor is appointed. There shall be no limit to the number of terms an appointee may serve. A member shall receive no compensation for his or her services, but shall be reimbursed by the State for all reasonable expenses actually and necessarily incurred in the performance of his or her official duties. The board shall hear all petitions for review filed under this Act and shall conduct all hearings in accordance with the rules and regulations established by the chairperson. The Illinois Housing Development Authority shall provide space and clerical and other assistance that the Board may require.

(c) (Blank).

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/60)

Sec. 60. Rulemaking authority. The Illinois Housing Development Authority shall adopt other rules and regulations as needed to carry out the Board's responsibilities under this Act and to provide direction to local governments and affordable housing developers.

(Source: P.A. 94-303, eff. 7-21-05.)

## **Appendix F: 2013 List of AHPAA Non-Exempt Local Governments (Ordinal)**

**Affordable Housing Planning and Appeal Act:  
2013 Report of Non Exempt Local Governments  
Ordinal  
(determination based on 2011 Annual Community Survey 5-year Estimate)**

<b>Count</b>	<b>Place</b>	<b>County</b>	<b>Population</b>	<b>Year-Round Units</b>	<b>Total Affordable Units</b>	<b>Affordable Housing Share</b>
1	Kenilworth	COOK	2565	785	4	0.5%
2	Wayne	DUPAGE	2938	948	5	0.5%
3	Barrington Hills	COOK	3847	1424	9	0.7%
4	Timberlane	BOONE	1160	335	3	1.0%
5	Western Springs	COOK	12747	4125	50	1.2%
6	South Barrington	COOK	4670	1349	18	1.3%
7	Glencoe	COOK	8666	2960	40	1.4%
8	Pingree Grove	KANE	4085	1103	15	1.4%
9	Kildeer	LAKE	3933	1183	18	1.5%
10	Hawthorn Woods	LAKE	7528	2513	40	1.6%
11	Riverwoods	LAKE	3817	1281	22	1.7%
12	Inverness	COOK	7417	2754	48	1.7%
13	Burr Ridge	DUPAGE	10539	3803	82	2.2%
14	Frankfort	WILL	17464	5368	116	2.2%
15	Sugar Grove	KANE	8567	2974	68	2.3%
16	Green Oaks	LAKE	3867	1189	28	2.3%
17	Long Grove	LAKE	7958	2356	55	2.3%
18	Northfield	COOK	5380	2026	50	2.5%
19	Sleepy Hollow	KANE	3378	1143	28	2.5%
20	Winnetka	COOK	12155	3919	100	2.5%
21	Lakewood	MCHENRY	4154	1367	37	2.7%
22	Oak Brook	DUPAGE	7888	2874	80	2.8%
23	Deer Park	LAKE	3225	1158	37	3.2%
24	Tower Lakes	LAKE	1494	506	17	3.3%
25	Homer Glen	WILL	24534	7717	255	3.3%
26	Prairie Grove	MCHENRY	1823	585	21	3.6%
27	Palos Park	COOK	4784	2041	75	3.7%

<b>Count</b>	<b>Place</b>	<b>County</b>	<b>Population</b>	<b>Year-Round Units</b>	<b>Total Affordable Units</b>	<b>Affordable Housing Share</b>
28	Lincolnshire	LAKE	7192	2854	106	3.7%
29	Gilberts	KANE	6303	2062	81	3.9%
30	North Barrington	LAKE	3262	1101	43	3.9%
31	Deerfield	LAKE	18458	6445	259	4.0%
32	Plainfield	WILL	37447	11092	447	4.0%
33	Spring Grove	MCHENRY	5437	1759	71	4.0%
34	Wilmette	COOK	27010	9432	388	4.1%
35	Campton Hills	KANE	10920	3358	139	4.1%
36	Hinsdale	DUPAGE	16545	5373	226	4.2%
37	Northbrook	COOK	32933	11970	522	4.4%
38	River Forest	COOK	11164	3886	172	4.4%
39	Lincolnwood	COOK	12483	4314	197	4.6%
40	Wadsworth	LAKE	3876	1248	60	4.8%
41	Lake Bluff	LAKE	6264	2157	104	4.8%
42	Flossmoor	COOK	9413	3431	168	4.9%
43	Bull Valley	MCHENRY	1082	427	22	5.0%
44	Geneva	KANE	21550	7484	386	5.2%
45	Olympia Fields	COOK	4750	2020	106	5.2%
46	Lake Forest	LAKE	19308	6650	370	5.6%
47	Naperville	DUPAGE	141401	48021	3011	6.3%
48	Park Ridge	COOK	37272	13746	894	6.5%
49	Bannockburn	LAKE	1549	269	18	6.7%
50	Highland Park	LAKE	29983	11473	773	6.7%
51	Cary	MCHENRY	18236	5886	407	6.9%
52	Third Lake	LAKE	1367	447	33	7.4%
53	Glenview	COOK	44134	16002	1183	7.4%
54	Algonquin	MCHENRY	29731	10103	784	7.8%
55	Morton Grove	COOK	23070	8277	651	7.9%
56	Palos Heights	COOK	12332	4886	387	7.9%
57	Oswego	KENDALL	29174	9411	767	8.2%
58	Barrington	COOK	10636	3969	327	8.2%
59	Johnsburg	MCHENRY	6328	2267	188	8.3%
60	Port Barrington*	LAKE	1675	591	53	8.9%
61	Bartlett	DUPAGE	40583	13566	1209	8.9%
62	Lake Barrington	LAKE	4852	2234	205	9.2%
63	Oakwood Hills	MCHENRY	2107	796	73	9.2%
64	Elmhurst	DUPAGE	43934	15505	1447	9.3%



<b>Count</b>	<b>Place</b>	<b>County</b>	<b>Population</b>	<b>Year-Round Units</b>	<b>Total Affordable Units</b>	<b>Affordable Housing Share</b>
65	La Grange	COOK	15487	5332	499	9.4%
66	Fox River Grove	MCHENRY	4722	1571	149	9.5%
67	Elburn	KANE	5461	1659	161	9.7%
68	New Lenox	WILL	24190	8012	778	9.7%
<p>Note: This (January 7, 2014) update corrects the previously published 2013 Non-Exempt Local Governments list which erroneously included "rental units not paying rent" in the total "year-round units". A correction for Median Household Income for one community was also made (*). No additional local governments were added to this 2013 Non-Exempt Local Governments list. However, change in affordable units and affordable housing shares did occur.</p>						

## **Appendix F: 2013 List of AHPAA Non-Exempt Local Governments (Alphabetical)**

**Affordable Housing Planning and Appeal Act:  
2013 Report of Non Exempt Local Governments**

**Alphabetical**

**(determination based on 2011 Annual Community Survey 5-year Estimate)**

<b>Count</b>	<b>Place</b>	<b>County</b>	<b>Population</b>	<b>Year-Round Units</b>	<b>Total Affordable Units</b>	<b>Affordable Housing Share</b>
1	Algonquin	MCHENRY	29731	10103	784	7.8%
2	Bannockburn	LAKE	1549	269	18	6.7%
3	Barrington	COOK	10636	3969	327	8.2%
4	Barrington Hills	COOK	3847	1424	9	0.7%
5	Bartlett	DUPAGE	40583	13566	1209	8.9%
6	Bull Valley	MCHENRY	1082	427	22	5.0%
7	Burr Ridge	DUPAGE	10539	3803	82	2.2%
8	Campton Hills	KANE	10920	3358	139	4.1%
9	Cary	MCHENRY	18236	5886	407	6.9%
10	Deer Park	LAKE	3225	1158	37	3.2%
11	Deerfield	LAKE	18458	6445	259	4.0%
12	Elburn	KANE	5461	1659	161	9.7%
13	Elmhurst	DUPAGE	43934	15505	1447	9.3%
14	Flossmoor	COOK	9413	3431	168	4.9%
15	Fox River Grove	MCHENRY	4722	1571	149	9.5%
16	Frankfort	WILL	17464	5368	116	2.2%
17	Geneva	KANE	21550	7484	386	5.2%
18	Gilberts	KANE	6303	2062	81	3.9%
19	Glencoe	COOK	8666	2960	40	1.4%
20	Glenview	COOK	44134	16002	1183	7.4%
21	Green Oaks	LAKE	3867	1189	28	2.3%
22	Hawthorn Woods	LAKE	7528	2513	40	1.6%
23	Highland Park	LAKE	29983	11473	773	6.7%
24	Hinsdale	DUPAGE	16545	5373	226	4.2%
25	Homer Glen	WILL	24534	7717	255	3.3%
26	Inverness	COOK	7417	2754	48	1.7%
27	Johnsburg	MCHENRY	6328	2267	188	8.3%
28	Kenilworth	COOK	2565	785	4	0.5%
29	Kildeer	LAKE	3933	1183	18	1.5%
30	La Grange	COOK	15487	5332	499	9.4%

<b>Count</b>	<b>Place</b>	<b>County</b>	<b>Population</b>	<b>Year-Round Units</b>	<b>Total Affordable Units</b>	<b>Affordable Housing Share</b>
31	Lake Barrington	LAKE	4852	2234	205	9.2%
32	Lake Bluff	LAKE	6264	2157	104	4.8%
33	Lake Forest	LAKE	19308	6650	370	5.6%
34	Lakewood	MCHENRY	4154	1367	37	2.7%
35	Lincolnshire	LAKE	7192	2854	106	3.7%
36	Lincolnwood	COOK	12483	4314	197	4.6%
37	Long Grove	LAKE	7958	2356	55	2.3%
38	Morton Grove	COOK	23070	8277	651	7.9%
39	Naperville	DUPAGE	141401	48021	3011	6.3%
40	New Lenox	WILL	24190	8012	778	9.7%
41	North Barrington	LAKE	3262	1101	43	3.9%
42	Northbrook	COOK	32933	11970	522	4.4%
43	Northfield	COOK	5380	2026	50	2.5%
44	Oak Brook	DUPAGE	7888	2874	80	2.8%
45	Oakwood Hills	MCHENRY	2107	796	73	9.2%
46	Olympia Fields	COOK	4750	2020	106	5.2%
47	Oswego	KENDALL	29174	9411	767	8.2%
48	Palos Heights	COOK	12332	4886	387	7.9%
49	Palos Park	COOK	4784	2041	75	3.7%
50	Park Ridge	COOK	37272	13746	894	6.5%
51	Pingree Grove	KANE	4085	1103	15	1.4%
52	Plainfield	WILL	37447	11092	447	4.0%
53	Port Barrington*	LAKE	1675	591	53	8.9%
54	Prairie Grove	MCHENRY	1823	585	21	3.6%
55	River Forest	COOK	11164	3886	172	4.4%
56	Riverwoods	LAKE	3817	1281	22	1.7%
57	Sleepy Hollow	KANE	3378	1143	28	2.5%
58	South Barrington	COOK	4670	1349	18	1.3%
59	Spring Grove	MCHENRY	5437	1759	71	4.0%
60	Sugar Grove	KANE	8567	2974	68	2.3%
61	Third Lake	LAKE	1367	447	33	7.4%
62	Timberlane	BOONE	1160	335	3	1.0%
63	Tower Lakes	LAKE	1494	506	17	3.3%
64	Wadsworth	LAKE	3876	1248	60	4.8%
65	Wayne	DUPAGE	2938	948	5	0.5%
66	Western Springs	COOK	12747	4125	50	1.2%
67	Wilmette	COOK	27010	9432	388	4.1%

<b>Count</b>	<b>Place</b>	<b>County</b>	<b>Population</b>	<b>Year-Round Units</b>	<b>Total Affordable Units</b>	<b>Affordable Housing Share</b>
68	Winnetka	COOK	12155	3919	100	2.5%
<p>Note: This (January 7, 2014) update corrects the previously published 2013 Non-Exempt Local Governments list which erroneously included "rental units not paying rent" in the total "year-round units". A correction for Median Household Income for one community was also made (*). No additional local governments were added to this 2013 Non-Exempt Local Governments list. However, change in affordable units and affordable housing shares did occur.</p>						