

PEOPLE ARE STILL WAITING

INCREASING ACCESS TO AFFORDABLE HOUSING IN MASSACHUSETTS FOR PEOPLE LIVING WITH MENTAL HEALTH CONDITIONS: NEEDS, STRATEGIES, AND RECOMMENDATIONS

May 2024



MAMH
Massachusetts Association
for Mental Health

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I. INTRODUCTION

There is a serious shortage of affordable housing in the Commonwealth. Although there are numerous initiatives and programs for the development of affordable housing, they meet only a portion of the need. Additional investment must be made to provide housing for low-income individuals, and particularly for people living with mental health conditions.

A. *Structure of This Working Issue Brief*

This working Issue Brief addresses the lack of affordable housing in the Commonwealth for adults¹ living with mental health conditions. It examines the following topics:

- The affordable housing crisis in the Commonwealth.
- The most common configurations of housing and types of support services.
- Key players in the development of affordable housing units.
- Identifying suitable locations for housing.
- Methods of construction for new affordable housing units.
- Funding affordable housing development, including a consideration of costs and sources of funding.
- Other sources of affordable housing funding.

In each of these areas, the working Issue Brief presents the current situation and pending proposals to improve access to affordable housing for people living with serious mental health conditions, as well as our recommendations. Some of these recommendations would create housing opportunities for a wider group of people – low-income people who need affordable housing – and others would create housing opportunities specifically for people living with mental health conditions.

A helpful Appendix follows, describing key programs referenced in this working Issue Brief.

B. *Definitions*

A *mental health condition* is a mental or emotional state that can affect mood, thinking or behavior. When this condition results in serious functional impairment that substantially interferes with or limits one or more major life activities, it is sometimes called a “serious mental illness.”² Many of the housing options discussed in this paper are available only to that subcategory of individuals with mental health conditions. This paper uses the term serious mental illness when citing sources that use this term. However, we prefer the term “serious mental health condition” and use that term as a synonym for “serious mental illness.”

Substance use condition occurs when the recurrent use of a substance, such as alcohol and/or drugs causes clinically significant impairment, including health problems, disability, and inability to meet major responsibilities. This paper uses the terms “substance use disorder” or “substance abuse condition” when citing to sources that use those terms. However, we prefer the term “substance use condition” and use that term elsewhere in the paper as a synonym for these other terms. Where both mental health and substance use conditions are included in a program or recommendation, we may use the term “behavioral health” to include both.

The *Massachusetts Department of Mental Health (DMH)*, the state mental health authority, is mandated by statute to “take cognizance of all matters affecting the mental health of the citizens of the commonwealth; provided, that the primary mission of the department shall be to provide for services to citizens with long-term or serious mental illness, early and ongoing treatment for mental illness, and research into the causes of mental illness.”³ DMH provides services for people with the most serious mental health needs, when such

persons have been found eligible for DMH services and such services are not provided through health insurance.⁴

Homelessness, as defined by the U.S. Department of Housing and Urban Development (HUD), includes a person or family who lacks a fixed, regular, and adequate nighttime residence, a person or family who will imminently lose their primary nighttime residence, certain unaccompanied youth under age 25 or families with children or youth who have not had a tenancy or ownership interest in a housing unit in the last 60 or more days, have had two moves in the last 60 days, and who are likely to continue to be unstably housed because of disability or multiple barriers to employment, or a persons or family who is fleeing or attempting to flee domestic violence, has no other residence, and lacks the resources or support networks to obtain other permanent housing.⁵ The term “homeless” is used in this paper synonymously with the term “unhoused.”

Chronic homelessness is defined as homelessness lasting at least a year – or repeatedly – while struggling with a disabling condition such as a serious mental health condition, substance use condition, or physical disability.⁶ This paper discusses some types of housing that are specifically for persons who are chronically homeless.

Unsheltered homelessness is defined by HUD to refer to persons sleeping in a place: not designed for or ordinarily used as a regular sleeping accommodation (e.g., streets, abandoned buildings, train stations, or camping grounds); on the grounds of a housing structure but not meant for residential use (such as a garage or shed); or a location within a housing structure not typically used for sleeping (such as a hallway in a hotel).

Affordability refers to the cost of the housing to the consumer and targets households earning below a certain income. Housing is generally considered affordable by HUD if the household pays no more than 30% of annual income on housing.⁷

Rent burdened refers to those situations in which a rent is equal to or greater than 30% of household gross income.

Types of rental housing include:

Market rate housing units – Units in a private development for which the rents correspond to the going rate in the area. These units are not subsidized. The market-rate rent may be paid by the tenant from their income, or some portion may be paid with a tenant-based subsidy, often known as a “mobile voucher.”

Subsidized housing units – Units in public or private properties for which the rents are below the market rate, and usually correspond to the income level of residents. These units include units in:

- State or federal public housing projects;
- Private properties which may have all or some of the units subsidized by the owner or by another entity (which could be public);
- Supportive housing, including for DMH clients.⁸

II. THE AFFORDABLE HOUSING PROBLEM FACING PEOPLE LIVING WITH MENTAL HEALTH CONDITIONS

Access to safe housing is a key social determinant of health. Yet, for most people in Massachusetts – apart from homeless parents with children and pregnant women – there is no fundamental right to housing.⁹ As Massachusetts experiences a housing crisis, the result is a large homeless population. For individuals living with serious mental health conditions, the crisis has even more severe effects.

For people living with serious mental health conditions, homelessness is more than just not having shelter. As homelessness contributes to poor mental health outcomes,¹⁰ lack of housing among people living with serious mental health conditions is especially problematic and hinders other recovery efforts. Housing is a critical element of clinical and personal recovery for people living with mental health conditions.¹¹

A. Numbers of People Who Are Homeless

The number of people who are homeless in the U.S. has increased dramatically since 2022. In January 2023, HUD recorded a 12% increase in homeless individuals from the previous year, the largest percentage increase since HUD began collecting data in 2007.¹² Experts attribute the rise to multiple factors, including growing rent burdens, the end of aid and protections put in place during the COVID-19 pandemic, and dislocation of migrants to northern cities. Among all states, Massachusetts experienced the fifth greatest increase in numbers of individuals who are homeless from 2022 to 2023.¹³

Estimates of the number of people who are homeless in Massachusetts show a substantial problem. HUD's January 2023 point-in-time count found that 19,141 adults and children in Massachusetts were homeless (either sheltered or unsheltered), and, of these persons, 1,362 or 7.1% were unsheltered.¹⁴ However, the Commonwealth's Homelessness Management Information System (HMIS), which holds homelessness information collected by the 12 HUD-supported regional planning bodies that coordinate housing and services for people who are homeless (known as Continuums of Care), reports that 34,579 people experienced homelessness in Massachusetts in 2022.¹⁵ This number includes adults and children, persons sheltered in an emergency shelter, DMH [Safe Haven](#), or transitional housing, and those who are unsheltered (on the streets, in cars, tents, or other places not meant for living).¹⁶ While the HUD and HMIS data points differ, this could be explained in part by the fact that the HUD count includes only those persons homeless on a particular night, while the HMIS number aggregates the number of individuals homeless at any time during the examined year.

Nationally, certain subpopulations are at greater risk of homelessness. Approximately 40% of persons who are homeless are Black, African-American or African and 28% of all homeless persons are Hispanic or Latinx.¹⁷ LGBTQ young adults are more than twice as likely to experience homelessness than their non-LGBTQ peers, with even higher rates for Black and multiracial LGBTQ youth.¹⁸ Transgender youth are almost 10 times more likely to be homeless than their non-transgender peers.¹⁹ Formerly incarcerated people are almost 10 times more likely to be homeless than the general public.²⁰ A history of physical and sexual victimization is

common in people who are homeless; a California study found that 72% of homeless people in that state had experienced physical violence and 24% had experienced sexual violence.²¹

B. Overrepresentation Of People Living with Serious Mental Health Conditions Among the Homeless Population

People living with serious mental health conditions are over-represented in the homeless population.²² In Massachusetts, 5.3% of all adults have a serious mental health condition.²³ However, among the homeless population in Massachusetts, 15% of persons are considered “severely mentally ill.”²⁴ Applying this 15% figure to the number of homeless persons in Massachusetts determined in 2023 HUD’s point-in-time count (19,141), one can estimate that approximately 2871 persons living with serious mental health conditions were homeless in Massachusetts at the time of the count.²⁵

However, the number of people who are homeless living with *some* mental health condition is much higher. According to a 2019 study of unsheltered adults in 15 states, 78% reported a mental health condition, 75% reported a substance use condition, and 50% reported co-occurring physical health, mental health, and substance use conditions.²⁶ Applying the 78% figure to HUD’s 2023 point-in-time number of 19,141 persons who were homeless, one can estimate that approximately 14,930 persons living with some mental health conditions were homeless in Massachusetts at the time of the count.

Some people living with serious mental health conditions have more specific housing needs, and they may require or be eligible for specialized resources. These special populations include women,²⁷ formerly-incarcerated individuals,²⁸ older adults,²⁹ people with substance use conditions,³⁰ veterans,³¹ and new immigrants.³²

Massachusetts has programs that provide housing to all these special populations, including:

- Transitional housing programs for people re-entering the community from carceral facilities (the [Reentry Transition Pilot Program](#), [Community-Based \[Residential\] Reentry Programs](#) (which have seen earmarked funding for women, older adults, and people with substance use conditions), and the [Emerging Adult Reentry Initiative](#);
- The [Supportive Senior Housing Initiative](#) for older adults;
- Housing for individuals recovering from a substance use condition such as the [Recovery Home Program](#);
- Housing for veterans (including [state public housing](#), the [Section 8 Veterans Housing Voucher Program](#), and the [HUD-VA Supportive Housing \(HUD-VASH\)](#) program);
- Housing for migrant families with children and pregnant women.³³

C. Shortfall of Housing Units, Including Affordable Housing Units

Nationally and in the Commonwealth, the demand for housing, and affordable housing in particular, vastly outweighs the supply. According to Freddie Mac’s 2021 estimate, the United States is short 3.8 million housing units nationwide.³⁴ In February 2023, the Massachusetts Governor’s Housing Working Group in reported that “[h]ousing experts, advocacy agencies and state leaders have aligned in agreement that Massachusetts has an estimated shortage of about 200,000 housing units.”³⁵ The Supportive Housing Pipeline Coalition suggests a goal of producing 200,000 more units, including 40,000 affordable and 20,000 deeply affordable units in the Commonwealth by 2030. Of those 20,000 deeply affordable units, the coalition calls for 10,000 of those units to be supportive housing.³⁶

Likewise, the Metropolitan Area Planning Council has predicted that, by 2040, Metro Boston and its municipalities will need more than 400,000 new housing units—mostly multifamily, and mostly in urban areas—if the region is to keep growing its economic base.³⁷

On a more granular level, the Commonwealth’s town-by-town Chapter 40B Subsidized Housing Inventory (SHI), shows substantial deficits in meeting the threshold goal of 10% of affordable housing in each community of the Commonwealth.³⁸ As of December 21, 2020, the statewide average was 10.1% of affordable housing in a community, but many towns were significantly under that percentage. Even communities that have met the 10% threshold as measured by the SHI do not necessarily have an adequate supply of such housing. One reason is that not all of the rental units in a development need be “affordable” for all the units to be counted towards a community’s SHI. “In a rental . . . development, if at least 25% of units are to be occupied by Income Eligible Households earning 80% or less than the area median income, or alternatively, if at least 20% of units are to be occupied by households earning 50% or less of area median income, and meet all criteria outlined in Section I, then all of the units in the rental development shall be eligible for inclusion on the SHI.”³⁹

Another measurement of housing availability is homeowner and rental vacancy rates. The Commonwealth’s rates are below healthy levels. In Greater Boston, homeowner and rental vacancy rates remain very low compared to the ten largest metro areas in the U.S.⁴⁰ As of 2022, homeowner vacancies were below 1%.⁴¹ As of February 2023, Massachusetts had the lowest rental vacancy rate of any state in the country, with a rate of 2.8%.⁴² The rental vacancy rate in Massachusetts has declined overall since 2013.⁴³

D. Production Deficits

As Roger Herzog, Executive Director of the Community Economic Development Assistance Corporation (CEDAC), explains, affordable housing production in Massachusetts is deterred by several key factors.⁴⁴ Massachusetts has limited land for new construction, particularly in urban areas, and available land often has environmental issues, subsurface conditions, or surrounding uses that deter building.⁴⁵ Land that is available is expensive, as is reusing existing buildings.⁴⁶ Affordable housing is heavily dependent upon government funding and such funding is limited, given high demand for these resources. The result is that getting funding takes time, which is itself costly.⁴⁷ Obtaining public funding may require obtaining local permitting and zoning approvals, another source of delays.⁴⁸

In 2023, the Governor’s Housing Working Group documented the production problem, noting that while “between 1960 and 1990, Massachusetts communities permitted almost 900,000 housing units, since 1990, communities have permitted fewer than 470,000.”⁴⁹ The result is that, on average, just 17,000 new housing units are produced annually in the Commonwealth.⁵⁰

In recent years, production has increased in Massachusetts but remains far below what is required for a healthy market. In 2023, a Boston Foundation report on the state of housing in the Greater Boston region found that permits for new housing construction generally increased regionwide over the past decade.⁵¹ However, the report noted, “developing” suburbs, which make up a large portion of Greater Boston area, “are still primarily building single-family homes, despite the urgent need for more [apartment] housing.”⁵² Moreover, production is not geographically distributed, with Metro Core communities (the high-density, inner-city communities of Boston) permitting far more than other community types.⁵³ And, despite an increase in permitting, rising construction costs may result in a slowdown in multifamily housing production in coming years.⁵⁴

Massachusetts’s permitting rate is near the bottom of all U.S. states, with only eight states below us.⁵⁵ In 2022, the overall U.S. permitting rate was 5 per 1000 residents; the Commonwealth’s rate was half that amount.⁵⁶

Massachusetts rents are exceedingly high. Boston is the third most expensive rental market among the eleven most populous Metropolitan Statistical Areas (MSAs) in the nation, behind only New York City and Los Angeles.⁵⁷ Over half of renters in the Greater Boston region are spending more than a third of their household income on housing, according to the 2023 Boston Foundation report.⁵⁸ (By a government standard set in the 1980s, households that spend more than 30% of income on housing are considered "cost-burdened.") For renters making under \$34,999, over 80% are paying more than a third of their income.⁵⁹ And, Black and Latino renters are more cost-burdened than other groups.⁶⁰

For individuals with mobile vouchers, potential units often rent for an amount that far exceeds the "fair market rent" allowed by voucher regulations (both the rent when initially searching for housing and the rents for subsequent years, when increases have been imposed). This discrepancy makes the units inaccessible to voucher holders.

Because of the gap in the supply of affordable housing, individuals and families may be forced to live in substandard housing with increased health and safety risks and/or live in overcrowded environments. The Boston Foundation reports that, in the Greater Boston region, more renters are living in overcrowded conditions now than a decade ago; on average, overcrowding increased by 65% from 2010 to 2022.⁶¹ Suffolk County saw the most severe overcrowding in the region, with the number of overcrowded households increasing from around 5,600 in 2010 to over 8,600 in 2022.⁶² Overcrowding may affect mental health, stress levels, relationships, and sleep, and may increase risk of infectious disease.⁶³

F. Evidence of Housing Crisis in the Mental Health Service System

Evidence of the Commonwealth's housing crisis for people living with serious mental health conditions can be found within the mental health treatment continuum. At each stage of the continuum that is commonly followed for many psychiatric patients who require inpatient continuing care (hospital emergency departments, inpatient acute care psychiatric units, inpatient continuing care psychiatric facilities, and community-based housing), there is lack of movement. In large part, this stasis is the result of the lack of residential placement possibilities for those people ready to reenter the community from inpatient settings.

Data shows large numbers of people in hospital emergency departments (EDs) awaiting inpatient mental health care. The Massachusetts Health & Hospital Association reports on the number of behavioral health patients waiting for behavioral health evaluation and possible inpatient admission (often called "boarding") in EDs and medical-surgical units in Massachusetts.⁶⁴ As of March 4, 2024, 428 of these patients (including 72 children and 63 geriatric patients) were boarding in these units in Massachusetts.⁶⁵

Data also shows the large number of people waiting on acute care psychiatric units for longer-term mental health care. On April 3, 2023, 104 people on acute care psychiatric units had been referred to DMH-operated or contracted inpatient continuing-care psychiatric facilities, but not yet admitted.⁶⁶ Of these people, 89 had been waiting for more than 30 days.⁶⁷

The lack of movement in the continuum also is visible in the substantial number of people waiting to be discharged from DMH-operated or contracted continuing care facilities to the community after longer terms of hospitalization. DMH reports monthly on the number of patients in these facilities that are "discharge ready but require[] hospital level care safety pending specialized treatment" or, in other words, are stuck waiting for an appropriate community-based placement.⁶⁸ In March 2024, 80 of 712 adults hospitalized in these facilities were in such a situation.⁶⁹

The lack of movement also is evidenced in the relatively small number of individuals who are discharged from DMH inpatient continuing care facilities to DMH [Adult Community Clinical Services \(ACCS\)](#) community-based residential programs. In FY23, these facilities discharged 242 individuals to the 10,254-person ACCS program.⁷⁰ In the first half of FY24, DMH discharged 141 individuals to the ACCS program.⁷¹ In addition, during this period, 35 people moved from supervised group living to housing utilizing DMH rental assistance.⁷²

All of the above data points indicate a backlog in the system, largely caused by lack of housing opportunities for those at the end of the continuum.

DMH has attempted to quantify the need for DMH operated or contracted group living environments (GLEs) (i.e., congregate care settings) for its clients. In April 2023, in a report proposing ways in which to reduce wait times and enhance access to mental health services, DMH estimated that, to provide a timely and supportive discharge placement for clients discharged from inpatient care, the number of GLEs available to DMH clients would need to increase by approximately 500 beds.⁷³ To meet this need, DMH envisioned constructing or acquiring a combination of 6, 9, 12, and 25 bed residential buildings with varying permutations of single and double bed occupancy units.⁷⁴ The agency provided three cost estimates, running from \$39.650M to \$90M.⁷⁵

III. AFFORDABLE HOUSING FOR ADULTS LIVING WITH SERIOUS MENTAL HEALTH CONDITIONS

Housing for unhoused adults can be sorted into three principal categories: shelters, transitional housing, and permanent housing. This paper focuses mainly on affordable housing that is *permanent* housing, although we also discuss some models of affordable housing that are *transitional*.

With respect to permanent housing, there are two modes: homeownership or rental. This paper will focus on rental housing because for most low-income people living with serious mental health conditions, homeownership is not possible as a near-term solution.⁷⁶

Affordable housing may be provided in a range of configurations. Support services may assist people to maintain their housing and live successfully in the community.

A. Housing Configurations

Affordable housing, including for people living with serious mental health conditions, can be provided in apartment units, studios, and single-family residences; micro units; single room occupancy units; group living environments, and placement within the private home of a caregiver. Which type is appropriate for an individual will depend on the individual's choice, the required level of supports and services, and the availability of both the units and the applicable subsidies.

1. Apartment units, studios, and single-family residences

Apartment units, studios, and single-family residences typically have their own kitchen and bath and are appropriate for a person who needs limited day to day assistance. There may be a staff person assigned to a number of units in the apartment building or to the individual resident to provide supports and/or services.

As part of its work in creating new affordable housing, the Commonwealth has continually funded traditional housing units. For example, in March 2023, the Healey Administration announced the release of \$62M in direct subsidies, some from ARPA funding, for 12 affordable housing projects that would create 460 new units, nearly all of which would be for low-income households and 317 units of which would be for very low-income residents.⁷⁷ Although these projects were not targeted for persons living with mental health conditions, some units were for people who were chronically homeless or for people living with disabilities.

2. Micro-units

Developers recently have been experimenting with small housing units, including micro-units and tiny homes.

Micro-units are very small apartments – generally between 200 and 500 square feet – developed in a new multi-family building. They may be self-contained or share facilities with other units. They typically have their own bath and a small kitchen. A micro-unit development for people living with disabilities could have a live-in housing manager.

“A Place to Live” in Worcester is the first micro-unit housing development in Massachusetts for people who are chronically homeless.⁷⁸ It was conceived in 2018 by the Massachusetts Housing & Shelter Alliance (MHSA)

in conjunction with the architectural firm of Margulies Peruzzi, regional housing authorities, community-based organizations, local governments, and health organizations.⁷⁹ The building contains 24 single-room occupancy units with bath and kitchen facilities, as well as space for a live-in house manager, common rooms, and social services. A case manager helps the tenants access the services they need, including behavioral health, primary care, job training programs, and addiction treatment.⁸⁰

Tiny homes or cottages are an emerging permanent affordable housing model for people with mental health conditions, as well as for people with substance use conditions. These tiny homes may or may not have a bath and full kitchen.⁸¹ HUD has approved the use of federal housing vouchers for one tiny home village, waiving their requirement that all units have indoor plumbing.⁸²

Tiny homes may be built in clusters, with staff located on site. Open Sky Community Services and the Worcester East Side Community Development Corporation, working with local developers, organizations, and agencies, plan to open a village of 21 tiny homes in Worcester.⁸³ Each approximately 480 square foot home will serve as permanent affordable housing to people who have struggled with chronic homelessness, mental health challenges, and substance use.⁸⁴ Subsidies will cover the cost of rent, which is based on a percentage of income.⁸⁵

Another development of tiny homes is the community of 20 cottages constructed between 2021 and 2022 on the grounds of the public Lemuel Shattuck Hospital in Boston.⁸⁶ Procured by the Commonwealth, the development now provides housing and supportive services to people with substance use conditions.⁸⁷

3. *Single Room Occupancy (SRO) units*

Single Room Occupancy (SRO) units are small, furnished single rooms, typically in a multi-unit building. Historically, SROs were often in single family homes that had been converted to lodging houses or other communal living facilities. SRO occupants typically rent their units and share a kitchen, bathroom, and, perhaps, other common spaces. Common in earlier decades but later disfavored, SROs are reemerging as an affordable housing model.⁸⁸ (However, some SROs may be considered “low-cost,” based on their low rents, but may not be a form of “affordable” or subsidized housing.)

SROs may or may not feature support services, depending on the nature of the housing. For example, in 2020, DHCD and CEDAC announced \$10M in capital resources for SRO project sponsors to create permanent housing with support services for homeless individuals.⁸⁹ The funding was to come primarily through the [Housing Innovations Fund \(HIF\)](#) and the Housing Stabilization Fund.⁹⁰ By contrast, PadSplit, a for-profit corporation operating in eighteen U.S. cities (excluding Massachusetts), rents rooms at low rates in private homes. (This model might be considered “low-cost” housing, rather than “affordable” housing.) While running the home as a new sort of SRO, PadSplit provides no supports.⁹¹

4. *Group Living Environments (GLEs)*

Group Living Environments (GLEs) are a type of congregate care housing in which residents typically share a house. GLEs are often staffed, sometimes 24/7. This type of housing may be appropriate for someone who needs a higher level of support and/or training. Many individuals who receive services through the DMH [Adult Community Clinical Services](#) program live in staffed GLEs. In some cases, GLEs are transitional.

5. *Placement within a private home of a caregiver*

Another type of housing that can offer housing and supportive services is placement within the private home of a related or unrelated caregiver. Such housing may be available through MassHealth.

For example, MassHealth’s Adult Foster Care (AFC) Program is available to persons who are unable to live alone due to certain disabilities (including a mental health condition), need daily assistance with one or more activity of daily living (but do not require continuous skilled nursing), and who meet other criteria. People with mental health conditions, including DMH clients, could access housing through the AFC service but appear to do so less frequently than Department of Developmental Services (DDS) clients (who frequently designate a family member as an approved AFC caregiver). A reason could be that people with mental health conditions may be less likely than DDS clients to seek housing in their family’s home and finding people who want to open their homes to *non-family members* may be difficult, particularly given the low reimbursement rate.

B. Supportive Services

Supportive services can help people in affordable housing be successful in their housing situation and in the larger community. Supportive services are particularly valuable for people who have experienced chronic homelessness and people living with serious mental health conditions.

Appropriate supportive service activities may vary depending on the tenant population and, even within populations, the specific supportive services offered may differ. Supportive services include case management, tenancy supports, resident services to access community-based services, substance use counselors, and childcare workers.⁹² These services are designed to build independent living and tenancy skills and to connect people with community-based health care, treatment, and employment services.⁹³ Supportive services might be offered on-site or off-site or through a combination of both, depending on project design and space available in the housing development.⁹⁴

Supportive services may be provided independently of the housing itself or in conjunction with the housing. This combination of housing and supports is known as “supportive housing.” When supportive services are offered in conjunction with *permanent* housing, the package is known as “permanent supportive housing.”

1. Supportive services independent of housing

In some instances, supportive services to help a person maintain their housing are offered independently of the provision of housing. Examples of supportive services for individuals with serious mental health conditions that are independent of the provision of housing itself include DMH’s [Program of Assertive Community Treatment \(PACT\)](#) and DMH/DPH’s [Assertive Treatment and Relapse Prevention program \(ATARP\)](#).

2. Supportive housing

Supportive housing pairs a housing unit with supportive services for the resident, often delivered by non-profit social service and health care agencies. Examples of federal programs that provide supportive housing include the [Section 811 program](#), the [Section 202 Elderly Housing Program](#), the Supportive Housing for Vulnerable Populations Program, and the [HUD-VA Supportive Housing \(HUD-VASH\) program](#). A range of funding sources also provide resources for supportive housing. An example of a state program that provides supportive housing is the DMH [Safe Haven program](#), which provides a combination of transitional housing and an array of supportive services in a single homelike setting.

Some supportive housing programs are low-threshold. These programs have reduced barriers to access to housing. They may operate pursuant to the “Housing First” model. In this model, while support services are offered and available, residents are not required to accept services as a condition of tenancy.⁹⁵ The goal of this approach is “to quickly and successfully connect individuals and families experiencing homelessness to permanent housing without preconditions and barriers to entry, such as sobriety, treatment or service

participation requirements.”⁹⁶ The [Safe Haven program](#) and [Home and Healthy for Good \(HHG\)](#) are examples of low-threshold programs.

3. *Permanent supportive housing*

When supportive services are provided in conjunction with *permanent* housing, which is housing without a designated length of stay, the service is called “permanent supportive housing” or “PSH.” Individuals enrolled in PSH programs in Massachusetts have significantly lower total per-person, per-year MassHealth costs compared to a similar group of individuals experiencing chronic homelessness.⁹⁷

Examples of PSH programs include [Home and Healthy for Good \(HHG\)](#), the combination of DMH [Adult Community Clinical Services \(ACCS\)](#) and [DMH Rental Subsidy Program \(DMH RSP\)](#), and the [Sponsor-Based Permanent Supportive Housing program](#).

In 2021, the Legislature designated \$15M to expand PSH for unaccompanied adults experiencing homelessness who had complex medical and behavioral health conditions. The Massachusetts Alliance for Supportive Housing (MASH) – a coalition of MHSA, the United Way of Massachusetts Bay (UWMB), and the Corporation for Supportive Housing (CSH) – distributed these dollars as grants to organizations across the state. MASH distributed the first grants in 2023 and the program runs until September 2026.⁹⁸

Also in 2021, MHSA, the UWMB, and the Citizens’ Housing and Planning Association (CHAPA), launched a Supportive Housing Pipeline Coalition. The Coalition seeks to promote the creation of sufficient PSH to address chronic and high-need homelessness in Massachusetts. The coalition is now led by these organizations, as well as the Massachusetts Association for Mental Health (MAMH) and the Western Massachusetts Network to End Homelessness.⁹⁹ As noted above, the Coalition has proposed housing production targets for the Commonwealth, including for affordable and deeply affordable units.

IV. KEY PLAYERS IN AFFORDABLE HOUSING FOR PEOPLE LIVING WITH SERIOUS MENTAL HEALTH CONDITIONS

There are a large number of entities involved in promoting affordable housing, including for people living with serious mental health conditions. Key players are discussed below.

A. *U.S. Department of Housing and Urban Development (HUD)*

The U.S. Department of Housing and Urban Development (HUD) is the federal agency responsible for national policy and programs that address U.S. housing needs. HUD-administered programs include the [Community Development Block Grant \(CDBG\) Program](#) to help communities with economic development, job opportunities and housing rehabilitation; the [HOME Investment Partnerships Program](#) block grants to develop and support affordable housing for low-income residents; Section 8 rental assistance for low-income households; and the production of public or subsidized housing for low-income individuals and families.

The HUD Continuum of Care (CoC) Program, authorized by the federal McKinney-Vento Homeless Assistance Act, funds efforts by nonprofit providers and state and local governments to quickly rehouse homeless individuals and families.¹⁰⁰ In Massachusetts, HUD sponsors 12 regional or local planning bodies, known as “Continuums of Care.” CoC membership is open to interested persons in the CoC’s area and members include a wide range of organizations including state agencies, non-profit homeless assistance providers, hospitals, affordable housing developers, and organizations serving homeless persons.¹⁰¹

Each of the 12 CoCs is responsible for addressing homelessness in a specific geographic area by prioritizing and funding the best projects. To do so, the CoCs may apply for money from HUD for housing funds.¹⁰² The state Executive Office of Housing and Livable Communities (EOHLC), discussed below, manages one of the 12 Massachusetts CoCs which is known as the Balance of State CoC.¹⁰³ In this role, EOHLC applies for federal homeless assistance funds annually.

CoC funding may be used for certain eligible costs listed in federal regulation.¹⁰⁴ Assistance may be used for acquisition of permanent housing (including permanent housing for persons with disabilities), transitional housing, and support services only (including acquisition, rehabilitation, relocation costs or leasing of a facility from which supportive services will be provided, supportive services apart from housing, and street outreach).¹⁰⁵

Other HUD programs include federal multifamily housing development programs such as the federal [Section 8 I I program](#) and the [Section 202 Elderly Housing Program](#).

In May 2022, the Biden Administration released a Housing Supply Action Plan, which included a number of proposals to be implemented by HUD, as well as others to be implemented by other federal entities, such as the Federal Housing Finance Agency (FHFA), to create and preserve affordable housing units.¹⁰⁶ That plan would, among other things, do the following:

- Expand existing forms of federal financing for affordable multifamily development preservation, including loans that finance both construction and a long-term mortgage;
- Expand federal financing for multifamily development and rehabilitation;
- Reward jurisdictions that have reformed zoning and land-use policies in ways that favor housing development with higher scores in certain grant processes;
- Fill financing gaps for manufactured housing, accessory dwelling units, and smaller multifamily developments;
- Further integrate affordable housing into Department of Transportation programs;
- Promote work with the private sector to address supply chain disruptions that have hindered housing development.¹⁰⁷

Some of these proposals require Congressional action.¹⁰⁸

B. Federal Home Loan Bank (FHLB) System

The Federal Home Loan Bank (FHLB) system is composed of 11 regional Federal Home Loan Banks, including the Federal Home Loan Bank Boston (FHLBB), and the Office of Finance. The FHLB system is overseen by the Federal Housing Finance Agency (FHFA), which also is responsible for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac).

The FHLBs are suppliers of lendable funds to financial institutions of all sizes and many types in their respective regions, including community banks, credit unions, commercial and savings banks, insurance companies and community development financial institutions. Funds from the banks help U.S. lenders invest in housing and other local needs.

Each FHLB must establish and fund an Affordable Housing Program. The [FHLBB's Affordable Housing Program \(AHP\)](#) annually awards grants and low-cost financing through its member banking partners to developers of affordable housing. These funds can be used alone or in combination with other financing sources, including [Low-Income Housing Tax Credits \(LIHTCs\)](#). The FHLBB's guidelines for applications for the AHP prioritize the provision of supportive services in the award process.

C. The Massachusetts Legislative and Executive Branches

The Massachusetts Legislature and Administration work together to promote affordable housing production, through both budgets and legislation. The state operating budget funds key affordable housing programs; these programs are listed in this section and referenced elsewhere. The state capital budget provides funding for long-term investments in housing and is discussed in this section. The state's five-year housing bond bill authorizes the investment, through the state's capital budget, in many of the state's affordable housing production efforts and is discussed in this section. In conjunction with the release of the 2023 housing bond bill, the Administration also issued several executive orders relevant to affordable housing, also discussed in this section. Significant pending legislation is discussed throughout this document.

1. State operating budget

Each year, the Massachusetts Legislature passes, and the Governor signs, a state operating budget to fund the day-to-day activities of state government and other important investments for the Commonwealth.

The following programs, funded through the state budget, provide housing and housing supports to DMH clients:

- DMH [Adult Community Clinical Services \(ACCS\)](#) (DMH 5046-0000)
- [DMH Rental Subsidy Program \(DMH RSP\)](#) (DMH 5046-0000) (also in HLC 7004-9033)
- Statewide Homelessness Support Services (DMH 5046-2000)
- [Save Haven program](#) (DMH 5046-2000)

In addition, these key EOHLC programs, funded through state budget line items, provide housing to Massachusetts residents with mental health conditions:

- [Home Modification Loan Program \(HMLP\)](#) (HLC 7004-0069)
- [Community Based Housing \(CBH\)](#) (HLC 7004-0071)
- [Home and Healthy for Good \(HHG\)](#) (HLC 7004-0104)
- [Sponsor-based Permanent Supportive Housing \(PSH\)](#) (HLC 7004-0105)
- [Massachusetts Rental Voucher Program \(MRVP\)](#) (HLC 7004-9024)
- [Alternative Housing Voucher Program \(AHVP\)](#) (HLC 7004-9030)

These programs, like many in the state's operating budget, may be funded with a combination of state and federal dollars.

2. State capital budget

The state capital budget is the upcoming fiscal year's capital spending plan for each state executive agency.¹⁰⁹ The state's capital budget pays for long-term investments. It is funded by long-term financing mechanisms such as bonds. The Legislature's primary role in capital budgeting is to enact bond bills, which authorize the state to issue and sell bonds to investors to fund the state's capital projects and programs.

The Governor's role in this process is to release, each year, a five-year Capital Investment Plan (CIP) and one-year capital budget detailing capital spending to happen that year.¹¹⁰

In June 2023, the Healey Administration released its initial CIP.¹¹¹ This FY 2024-2028 CIP provided \$1.5B for housing initiatives, including for construction of new, affordable housing. The CIP included \$97M in FY24 to establish a new HousingWorks initiative within EOHLC.¹¹² The goal of the initiative is to increase the supply of affordable housing by providing direct subsidies for affordable housing production, providing incentive payments to municipalities who meet zoning best practices, and funding local infrastructure. This funding can be used for housing development, preservation, or rehabilitation. Beginning in FY24, HousingWorks will incorporate and expand upon existing capital programs that support housing development, such as the Housing Stabilization Fund.¹¹³ The Administration estimates the initiative could result in the construction of 200 - 300 new affordable housing units each year.¹¹⁴

And, the CIP funds a range of other important EOHLC programs that could promote affordable housing for people living with serious mental health conditions in the areas of: housing acquisition, rehabilitation and development (such as the [Affordable Housing Trust Fund \(AHTF\)](#)); public housing reinvestment; and housing vulnerable communities (such as the [Housing Innovations Fund \(HIF\)](#), the [Facilities Consolidation Fund \(FCF\)](#), and [Community Based Housing \(CBH\)](#)).¹¹⁵ The plan also includes funding within the Office for Economic Development for demolition at the state's surplus large-scale campuses of obsolete buildings and infrastructure to enable new purposes for these properties, whether for environmental and recreational resources or future housing development.¹¹⁶

3. Housing bond bill

Every five years, the Legislature passes a housing bond bill that authorizes the investment of state funds, raised by the state's sale of bonds, in affordable housing production efforts.¹¹⁷ In this way, the housing bond bill authorizes capital spending on a range of housing programs. EOHLC administers many of the programs funded in the bill.

In October 2023, the Healey Administration released its housing bond bill, the Affordable Homes Act, which designates \$4.12B over five years.¹¹⁸ By comparison, the 2018 housing bond bill, as enacted, authorized the investment of \$1.8B over five years which was, at the time, the largest housing bond bill in the state's history.¹¹⁹

In the Governor's 2023 bill, up to 80% of funds will benefit low-income households, with up to 50% of the funds benefitting extremely low-income households or residents living with disabilities.¹²⁰ The proposal would fund or enable 22,000 new homes for low-income households, including 4,000+ homes for extremely low-income households.¹²¹

There are specific investments in the Governor's 2023 bill that would benefit people living with serious mental health conditions, including the following:

- \$70M for the [Facilities Consolidation Fund \(FCF\)](#);¹²²
- \$55M for [Community Based Housing \(CBH\)](#);¹²³
- \$800M to the state [Affordable Housing Trust Fund \(AHTF\)](#);¹²⁴
- \$200M for the [Housing Innovations \[Trust\] Fund](#);¹²⁵
- \$425M for the Housing Stabilization and Investment Trust Fund (a consolidation of the Housing Stabilization Fund and the Community Investment and Preservation Fund);¹²⁶
- \$50M to a new Residential Production Momentum Fund;¹²⁷
- \$60M for the Massachusetts Rehabilitation Commission [Home Modification Loan Program](#).¹²⁸

The Governor's 2023 housing bond bill also includes a range of policy directives designed to encourage the development of new affordable housing units in Massachusetts.¹²⁹

4. Executive orders

In conjunction with filing her 2023 housing bond bill, Governor Maura Healey also signed Executive Orders 621, 622, and 623, which further affordable housing goals.

Executive Order 621 establishes a Housing Advisory Council charged with advising the Governor and EOHLIC on the formulation of state housing policy and the development of a comprehensive housing plan for Massachusetts.¹³⁰ Chaired by the Lieutenant Governor or designee, the Council has reserved seats for agency representatives and eighteen other seats representing specific constituencies, to be appointed by the Governor.

Executive Order 622 creates a "Commission on Unlocking Housing Production" to identify ways to streamline housing production and recommend policy, programs, and other investments to improve the development environment and expand the supply of housing.¹³¹ The Commission is charged with delivering a report to the Governor and Lieutenant Governor on how state and local laws, regulations, and practices could be revised so as to increase the supply of housing that is affordable across a wide range of incomes and available throughout a broad spectrum of neighborhoods.¹³² Chaired by the Secretary of EOHLIC or designee, the Commission has reserved seats for agency representatives and twelve other seats representing specific elements, to be appointed by the Governor.¹³³

Executive Order 623 directs EOHLIC and the Division of Capital Asset Management and Maintenance (DCAMM) to create an expanded inventory of government-controlled property that may be suitable for housing.¹³⁴

While not exclusively tasked with identifying funding streams, both Executive Orders 621 and 622 will establish entities whose scope of work will encompass that duty. These newly established bodies could be tailored to ensure that funding for people living with serious mental health conditions who are homeless are a priority.

Additionally, although Executive Order 621's Council and Order 622's Commission have diverse membership, the orders lack explicit language to ensure that people with conditions and people with lived experience of mental health and substance use conditions, as well as their advocates, would be represented in their bodies. Such individuals would offer important, distinct perspectives and membership should be expanded to include them.

- ✓ *Recommendation to increase the supply of housing for people living with serious mental health conditions – Ensure representation of people with mental health and substance use conditions and people with lived experience of such conditions, and their advocates, on all existing and newly convened councils, commissions, and similar entities addressing the development of affordable housing in the Commonwealth.*

D. *Executive Office of Housing and Livable Communities (EOHLC)*

In spring 2023, Governor Healey elevated the Administration's housing work by filing legislation to reorganize the Commonwealth's housing development agencies.¹³⁵ Such a change had to be sought pursuant to Article 87 of the Massachusetts Constitution, which provides that the Legislature may engage in "expedited consideration and approval of proposals by governors to reorganize Executive Branch agencies" through a proposed reorganization plan.¹³⁶ The Legislature enacted the bill on May 4, 2023 and the changes took effect on May 31, 2023.¹³⁷

The reorganization plan created the Executive Office of Housing and Livable Communities (EOHLC), a new, cabinet-level agency with the focus on executing housing policy for the Commonwealth. This reorganization re-establishes a Housing Secretariat that had last existed in Massachusetts under the Dukakis Administration. EOHLC's mission is to create more homes and lower housing costs in every region.¹³⁸ The agency also distributes funding to municipalities, oversees the state-aided public housing portfolio, and operates the state's Emergency Assistance family shelter.¹³⁹

With this reorganization, the Department of Housing and Community Development (DHCD), formerly part of the Executive Office of Housing and Economic Development (now the Executive Office of Economic Development), became part of EOHLC. EOHLC plays a key role in the development of affordable housing and is responsible for the bulk of new housing production in the Commonwealth. (This article uses the acronym EOHLC when describing future activities that were previously the responsibility of DHCD.)

To promote affordable housing creation, EOHLC coordinates both the physical and financial aspects of housing production; oversees a variety of housing development and rental subsidies, as well as state-funded public housing; and coordinates housing development among federal, state, and local agencies and other for-profit and non-profit real estate developers. Further, EOHLC helps to establish affordable housing policy and to oversee its implementation. EOHLC's processes and priorities drive the amount and quality of affordable housing in the Commonwealth.

EOHLC establishes how developers may qualify for a variety of funding sources for affordable housing projects through its issuance of the annual Qualified Allocation Plan (QAP), discussed below.

E. *Department of Mental Health (DMH)*

The state mental health authority, the Department of Mental Health (DMH), provides services and supports to persons living with mental health conditions who meet certain eligibility criteria. To qualify for DMH eligibility-based services, one must have a qualifying mental health diagnosis that has lasted, or is expected to last, at least one year; as a result of that diagnosis, have a functional impairment in multiple domains; need a

support that DMH provides and that is not readily accessible another way; and DMH is able to provide that support.¹⁴⁰

Thus, DMH provides housing and housing supports to those DMH clients that DMH determines to need such services. DMH clients may receive emergency shelter, transitional housing, or permanent housing. Permanent housing may be in the form of community residences – typically GLEs. GLEs that house DMH clients are commonly leased or owned and operated by a DMH-contracted provider, but some are owned and operated by DMH. Permanent housing may also be in the form of an apartment (often provided through a rental subsidy administered by EOHLC). DMH may also provide its clients, regardless of setting, supportive services, including those to promote and maintain housing stability.

DMH has a housing plan to “support the Commonwealth’s effort to end homelessness for individuals experiencing mental health and co-occurring conditions.”¹⁴¹ The DMH plan aims to create movement of individuals within the continuum of services in the behavioral health system, for instance, by outlining strategies to support individuals ready to discharge from inpatient psychiatric facilities to therapeutic, community-based environments.

F. *MassHealth*

MassHealth is a state agency that administers the federal Medicaid program. MassHealth provides health benefits and help paying for them to qualifying children, families, seniors, and people with disabilities living in Massachusetts.¹⁴²

While HUD-funded rental assistance may be limited in amount, Medicaid is an entitlement available to all qualifying persons. States draw down federal funds through a Federal Medical Assistance Percentage (FMAP) formula to fund their Medicaid programs.¹⁴³ Because Medicaid is an entitlement, programs that fund housing through Medicaid funds hold appeal for states.¹⁴⁴

Generally, due to federal statute, most state Medicaid agencies are limited as to what housing services they can provide directly as a Medicaid benefit. However, state Medicaid agencies can use various strategies to have some flexibility in providing housing assistance. MassHealth’s current resources include the new [Mitigating the Cost of Housing \(MATCH\) program](#) and the expansions of existing programs – the [Flexible Services Program \(FSP\)](#), the [Community Support Program for Homeless Individuals \(CSP-HI\)](#), and [Health Related Social Need \(HRSN\) services](#).

G. *Division of Capital Asset Management and Maintenance (DCAMM)*

The Division of Capital Asset Management and Maintenance (DCAMM) is responsible for capital planning, the construction of public buildings, facilities management, and real estate services for the Commonwealth. As the custodian of the Commonwealth’s public land and structures, DCAMM is responsible for any disposition of such land or buildings and, in the process, may define or limit the future use – including for affordable housing. Governor Healey’s 2023 housing bond bill assigns to DCAMM a number of important responsibilities with respect to public properties which are designed to promote the development of affordable housing.

H. *MassHousing*

MassHousing is an independent, quasi-public agency that provides financing for affordable housing in Massachusetts by selling bonds and lending the proceeds to low and moderate-income homebuyers and homeowners, as well as to developers who are building or preserving affordable or mixed-income rental housing. MassHousing has provided more than \$30B of funding for affordable housing since its inception in

1966.¹⁴⁵ MassHousing also administers some publicly funded programs for the Commonwealth such as the [Affordable Housing Trust Fund \(AETF\)](#).

I. *Community Economic Development Assistance Corporation (CEDAC)*

As noted above, the state through EOHLC offers specific funding programs for individuals living with various types of disabilities. The Community Economic Development Assistance Corporation (CEDAC), a quasi-public community development finance institution, manages a number of these programs including the [Facilities Consolidation Fund \(FCF\)](#), [Community Based Housing \(CBH\)](#), the [Housing Innovations Fund \(HIF\)](#), and the [Housing Preservation and Stabilization Trust Fund \(HPSTF\)](#). As the underwriting agent, CEDAC determines the suitability of a proposed program.

J. *Massachusetts Housing Partnership (MHP)*

The Massachusetts Housing Partnership (MHP) is a public, nonprofit affordable housing organization that works with the Administration and EOHLC to increase affordable housing supply. MHP supports communities, housing authorities, and non-profit housing organizations working to create affordable housing.¹⁴⁶ MHP drafts requests for proposals and aides with developer selection; helps communities zone for increased density; assesses site feasibility and provides other pre-development activities; provides asset management education and assistance; and plans and assesses housing needs.¹⁴⁷ MHP also finances affordable housing development through loans.

K. *MassDevelopment*

MassDevelopment is the state's development finance agency and land bank. The agency works with businesses, nonprofits, banks, and communities to stimulate economic growth in a range of ways, including by helping to fund new housing creation. To this end, the agency helps affordable housing developers access historic tax credits to preserve historic properties. MassDevelopment also issues tax-exempt bonds, the proceeds of which allow public and private entities to pursue housing development, including property acquisition, renovation, and construction.¹⁴⁸

L. *Massachusetts Housing Investment Corporation (MHIC)*

The Massachusetts Housing Investment Corporation (MHIC) is a private, non-profit funder of affordable housing and community development. MHIC provides funding to non-profit and for-profit developers and to community-based organizations. MHIC loans may be used for pre-development, property acquisition, new construction, and rehabilitation of multi-family rental, homeownership, or mixed-use projects.¹⁴⁹ MHIC also provides funding through the use of federal LIHTCs and federal historic tax credits, or a combination of both.¹⁵⁰

M. *Local Housing Authorities (LHAs)*

Local housing authorities (LHAs) administer state and federal [public housing](#) units in 231 communities in the Commonwealth. Public housing units may be in apartment complexes or in single or multi-family buildings. Public housing is rental housing provided to eligible low-income families, older adults, and persons with disabilities in properties developed and owned by public entities. LHAs own state public housing while HUD oversees federal public housing.

Pursuant to state law, LHAs are governed by five Commissioners. In towns, voters elect four and in cities, the mayor appoints four. The Governor appoints the fifth.

N. *Developers of Affordable Housing*

Nearly all new affordable housing in the Commonwealth is developed by private developers, rather than by public agencies. (Although in certain instances, public agencies, such as DMH, may contract with a private developer, to create and/or operate properties.)

Private developers may be for-profit or non-profit. Non-profits may include Community Action Agencies (CAAs). CAAs are non-profit organizations that implement the federal Community Action Program (CAP), established by the Economic Opportunity Act of 1964 to address poverty. CAPs are programs that support families in a range of ways, including housing and shelter.¹⁵¹ There are over 1000 CAAs across the country,¹⁵² and 23 in Massachusetts.¹⁵³

Developers can create affordable housing units within a larger housing development that also includes market rate units or through a project that solely has affordable units. Governmental policies and programs can channel and incentivize developers to create affordable units for specific populations, including people living with serious mental health conditions. These policies are promoted in EOHLIC's Qualified Allocation Plan (QAP) by awarding points for the Commonwealth's priorities in project selection. The availability of state and other funding programs, including those which would provide funds for people with mental health conditions, also can incentivize developers to include such units in a development. However, because affordable units cost the same as market-rate units to develop but often generate less income, the operating budget needs to provide additional sources of income to offset the income deficit.

- ✓ *Recommendation to increase the supply of housing for people with serious mental health conditions – Require representation of people with mental health and substance use conditions and people with lived experience of such conditions, and their advocates, on all Local Housing Authority boards and on the governing boards of MassHousing, the Massachusetts Housing Partnership, and MassDevelopment.*

V. IDENTIFYING LOCATIONS FOR AFFORDABLE HOUSING

To increase the supply of affordable housing, it is necessary to identify new land appropriate for development or creatively re-use already-identified or used parcels.

Developers and others must consider a range of issues when selecting parcels for affordable housing. Several of these are discussed below, with a focus on considerations for the development of affordable housing for people living with serious mental health conditions.

This section also addresses ways to promote the development of public property for affordable housing, including for housing for people living with serious mental health conditions.

A. *Considerations When Selecting Parcels for Affordable Housing for People Living with Serious Mental Health Conditions*

When selecting parcels for affordable housing for people living with serious mental health conditions, considerations include zoning, community engagement in the project, and the need to integrate people living with disabilities into the larger community.

1. *Zoning-related laws and proposed legislation to advance development of affordable housing or housing for people living with disabilities*

Both rehabilitation of existing properties and new construction require ensuring that building occurs on sites where the zoning allows the intended use or allows the developer to proceed despite the zoning. Certain laws may facilitate the siting of affordable housing for people living with serious mental health conditions, including Chapter 40B, the Dover Amendment, and the MBTA Communities Law. There is also proposed state legislation that would modify zoning laws to advance the creation and retention of affordable housing.

a. **Chapter 40B**

Chapter 40B of the General Laws,¹⁵⁴ also known as the Comprehensive Permit Law, “enables local Zoning Boards of Appeals (ZBAs) to approve affordable housing developments under flexible rules if at least 20-25% of the units have long-term affordability restrictions.”¹⁵⁵ Under the statute, “the developer (a public agency, nonprofit organization or limited-dividend company) has the right to appeal an adverse local decision to the State in communities with little affordable housing (less than 10% of its year-round housing or 1.5% of its land area).”¹⁵⁶ Therefore, when EOHLC’s established minimum criteria for the amount of affordable housing have not been met by a community, municipalities have considerably less leverage to challenge the siting or terms of a project than they would normally have. To retain full zoning control, 10% of housing in a community must be “affordable” and must meet the requirements for listing on the Commonwealth’s town-by-town Chapter 40B Subsidized Housing Inventory (SHI).

Chapter 40B has been essential in making it possible to build new projects in “reluctant” communities.¹⁵⁷ Chapter 40B has been called the “principal vehicle” for affordable housing creation in the Commonwealth.¹⁵⁸ SHI data from the 2020 U.S. Decennial Census, which measures affordable housing production or loss across

the state, show that 71 cities and towns across Massachusetts now are above the 10% threshold.¹⁵⁹ CHAPA explains why much of this affordable housing production might not have come to fruition but for 40B:

Since its inception, Chapter 40B has been responsible for the production of affordable housing developments that in most cases could not have been built under traditional zoning approaches... [including] church-sponsored housing for the elderly, single-family subdivisions that include affordable units for town residents, adaptive reuse projects involving mills, schools and other properties, multifamily rental housing developments, and mixed-income condominium or townhouse developments.”¹⁶⁰

Yet many towns still have not met the 10% affordable housing threshold. A legislative study found that one reason for the slow growth of affordable housing despite 40B was that state law had defined low and moderate-income housing as “any housing subsidized by the federal or state government under any program to assist the construction of low or moderate-income housing.” As a result, some communities did not pursue housing that was not financially subsidized by the government. To remedy this problem and encourage more housing construction, in 1990, the Legislature established the state Local Initiative Program (LIP), through which EOHLC provides technical assistance to communities and developers working together to create affordable rental properties that will qualify for inclusion on SHI. The LIP allows developments to be sponsored by the municipality with the municipality (rather than a state or federal entity) making financing, design, and construction decisions. However, LIP regulations and guidelines list certain program components that must be reviewed and approved by EOHLC, such as incomes of households served, fair marketing, profit limitation and establishing long-term affordability for the units which are built.”¹⁶¹

At the end of November 2023, EOHLC Secretary Ed Augustus announced that EOHLC intended to review and potentially revise its regulations regarding 40B.¹⁶² The goal of a revision would be to streamline legal challenges to developers involving 40B projects. Augustus explained that, while “we need to reserve ... due process,” “We know that a lot of that has been used as dilatory tactics in order to wait out a developer, make them spend money, and see who can wait the longest. ... The residents who ... filed the suit, they can wait forever, whereas the developer has got all the carrying costs, etc.”¹⁶³ In particular, he flagged the long wait and comment periods in the process.¹⁶⁴

In addition, Representative Kate Lipper-Garabedian and Senators Sal DiDomenico and James Eldridge have sponsored H.1349/S.865, *An Act Improving Municipal Access to General Existing Housing Data* (Mass. Leg., 193rd sess.), which would require EOHLC to create a database with detailed information about the number of units with affordability restrictions, the expiration date of those restrictions, and the location of all SHI-eligible developments. Moving forward, EOHLC would also be required to collect and publish information about income limits, bedroom counts, and square footage per unit at each new development.¹⁶⁵

This information would allow for “better understanding of local housing affordability challenges and gaps.”¹⁶⁶

The Joint Committee on Housing has extended the time to make a decision as to whether to report the bills out until July 10, 2024.

- ✓ *Recommendation to increase the supply of affordable housing – With the goal of continuing to rely on 40B to promote affordable housing, advocates should review forthcoming proposed EOHLC regulatory changes to expedite the process and support H.1349/S.865, An Act Improving Municipal Access to General Existing Housing Data (Mass. Leg., 193rd sess.).*

b. Dover Amendment

Another valuable tool for siting properties for persons with various disabilities in locations that are not currently zoned for the requested use is a state statutory provision known as the “Dover Amendment.”¹⁶⁷ Enacted in 1950, the Dover Amendment prohibits zoning rules, except for certain limited “reasonable regulations” which seek to regulate or restrict the use of land or structures for religious or educational purposes on land leased or owned by the Commonwealth, a religious entity, or a nonprofit educational corporation.¹⁶⁸ The Dover Amendment provides a mechanism for siting a building for persons living with disabilities, including serious mental health conditions, if such persons are being provided with suitable on-site “educational” services.

Because the statute did not define the term “educational purpose,” there has been debate and litigation regarding the interpretation of the term. However, the case law that has emerged make clear that the term may include the provision to persons living with disabilities of rehabilitative services to gain life skills, such as might occur in a GLE setting. For example, in *McLean Hosp. Corp. v. Lincoln*, the Supreme Judicial Court concluded that the psychiatric hospital’s proposal for a residential program to teach adolescent males skills for success in life had a predominantly educational purpose even though the facilities did not resemble a traditional school or college.¹⁶⁹

Boston has claimed that the above requirements of the Dover Amendment do not apply to the city, and the Supreme Judicial Court has not overruled that claim. However, two 1989 amendments to the statutory provision make clear that Boston (and Cambridge) cannot impose “health and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons.”¹⁷⁰

Given the potential for legal challenges to projects relying on the Dover Amendment, pursuing an exception to zoning law on the basis of an educational purpose must be carefully structured with legal counsel. However, if done carefully, the Dover Amendment can be useful to expand the universe of suitable building sites for populations with disabilities.

- ✓ *Recommendation to increase the supply of housing for people living with serious mental health conditions – Advocates could conduct seminars for non-profit developers in which attorneys review the requirements for use of the Dover Amendment.*

c. Massachusetts Bay Transportation Authority (MBTA) Communities Law

In January 2021, the Legislature enacted the Massachusetts Bay Transportation Authority (MBTA) Communities Law, which mandates, in certain localities with mass transit, at least one zoning district in which multi-family housing is permitted as of right.¹⁷¹ The law allows but does not impose affordable requirements.¹⁷²

Advocates are suggesting reforms that would promote the creation of affordable housing in the MBTA multi-family zoning districts and beyond those districts. The Massachusetts Association of Community Development Corporations wants the MBTA Communities Law implemented in a way that further encourages and incentivizes the creation of affordable housing.¹⁷³ As State Senator Lydia Edwards writes: “The Commonwealth’s newest MBTA zoning policy ... should not only require more housing but should also establish baseline affordability goals for communities that lack inclusionary zoning, strengthen fair housing laws, and expand programs that secure long-term affordability.”¹⁷⁴

- ✓ *Recommendation to increase the supply of affordable housing – Amend the MBTA Communities Law to better encourage and incentivize the creation of affordable housing.*

d. Proposed legislation encouraging multi-family zoning, waiving parking mandates, facilitating Accessory Dwelling Units, and easing the rule-making process

Sponsored by Representative Andres Vargas, Representative Kevin Honan, and Senator Brendan Crighton, H.1379/S.858, *An Act to promote yes in my backyard* (Mass. Leg., 193rd sess.), seeks to promote housing production, including affordable housing production. The bills establish a statewide housing production goal of 427,000 new units by 2040, 85,400 of which would be income restricted. They create a streamlined process through which the state would be required to turn vacant land and commercial properties into multi-family housing and prioritizes the disposition by DCAMM of state-owned land for affordable housing.

The bills also propose new zoning provisions to encourage housing production:¹⁷⁵

- Require multi-family zoning and removing parking mandates around public transportation and other suitable locations throughout the state.
- Legalize accessory dwelling units (ADUs) as of right (i.e., without the need for special zoning) statewide.¹⁷⁶
- Allow communities to adopt inclusionary zoning ordinances by simple majority.

The Joint Committee on Housing has extended the time to make a decision as to whether to report the bills out until July 10, 2024.

- ✓ *Recommendation to increase the supply of affordable housing – Pass H.1379 & S.858, An Act to promote yes in my backyard (Mass. Leg., 193rd sess.).*
- ✓ *Recommendation to increase the supply of affordable housing – Develop model local accessory dwelling unit (ADU) zoning bylaws to increase the overall number of potential housing units on existing parcels.*

The Governor's 2023 housing bond bill incorporates these ideas. The bond bill prohibits communities from imposing owner-occupancy requirements as well as parking mandates within one-half mile of transit.¹⁷⁷ The bond bill includes a policy reform regarding ADUs, permitting ADUs of under 900 square feet to be built by-right in single-family zoning districts in all communities.¹⁷⁸ The bond bill adds inclusionary zoning ordinances and bylaws to the list of zoning changes municipalities can pass by a simple majority instead of a 2/3 super majority vote of a municipality's legislative body.¹⁷⁹

- ✓ *Recommendation to increase the supply of affordable housing – Support Governor Healey's housing bond bill provisions reforming zoning practices.*
- ✓ *Recommendation to increase the supply of affordable housing – EOHLC should investigate methods for long-term affordability of ADUs so that they will qualify for the subsidized housing inventory.*

e. Proposed legislation to address discriminatory zoning hindering affordable housing

Discrimination of various sorts continues to pose barriers to people living with serious mental health conditions being able to access and retain affordable housing. Pending legislation seeks to combat discrimination that hinders such access. Sponsored by Representative Christine Barber and Senator Julian Cyr, H.1295/S.859, *An Act promoting fair housing by preventing discrimination against affordable housing* (Mass. Leg., 193rd sess.), would prohibit discrimination through zoning, permitting, or other actions to limit or exclude affordable housing under the state's fair housing law Chapter 151B. The bills would protect, among other categories of individuals, people making under 80% of median income and people living with disabilities.

The Joint Committee on Housing has extended the time to make a decision as to whether to report the bills out until July 10, 2024.

- ✓ *Recommendation to increase the supply of affordable housing – Pass H.1295 & S.859, An Act promoting fair housing by preventing discrimination against affordable housing (Mass. Leg., 193rd sess.).*

2. Engagement of the community in the process of developing affordable housing

When identifying locations for affordable housing, another consideration is how to engage the community in the process of developing a project. Community opposition remains an obstacle to affordable housing development. Common worries of community members include those related to potential for a rise in traffic and/or crime, environmental impact, whether the project will fit into the neighborhood both architecturally and communally, that increased service demand will result in an increase in local taxes, increased numbers of students in the schools, and whether there is actually a need in the community for affordable housing.¹⁸⁰

There are effective approaches to address these and other community concerns. The Massachusetts Housing Partnership (MHP) has created a Housing Toolbox to help proponents of affordable housing respond to community concerns.¹⁸¹ It provides framing and information to combat misunderstanding about the impacts of affordable housing development. In addition, MHSA, informed by both service providers and developers, has issued recommendation for engaging the community in the process of siting and gaining approval for Permanent Supportive Housing.¹⁸² Providers and developers informed MHSA of the importance of “being active in the community through attendance of neighborhood meetings, events, or going from door to door to provide information.”¹⁸³ In addition, providers and developers valued having preestablished relationships with decision makers in the community,” noting the need for a variety of expressions of community support for a project in order to satisfy the requirements of various funders.¹⁸⁴ MHSA recommended that service providers build and maintain strong relationships with the community and with local politicians and, when projects are proposed, listen to and address community concerns.¹⁸⁵ Further, there needs to be collaboration between groups, such as through “a local task force on homelessness, a housing partnership, or a collection of community members seeking to address homelessness.”¹⁸⁶

- ✓ *Recommendation to increase the supply of affordable housing –Support MHP’s efforts to collect resources and facilitate collaborative discussions to help non-profit providers and developers promote community engagement in affordable housing projects.*

3. Integration of people living with serious mental health conditions into the community

Another issue when identifying locations for affordable housing for people living with serious mental health conditions is the extent to which a proposed project would result in the segregation apart from the wider community. One way in which this may occur is if a project has so many units designated to house persons living with disabilities that it recreates the segregation that may occur in a facility for care of such a population. In its 1999 *L.C. v. Olmstead* decision, the U.S. Supreme Court, interpreting the Americans with Disabilities Act (ADA), held that “unnecessary segregation” of persons living with disabilities is a “form of discrimination” prohibited by the ADA.¹⁸⁷

Olmstead, subsequent case law, and U.S. Department of Justice regulations and guidance make clear that housing that resembles congregated settings, with large numbers of residents with disabilities living together, can be suspect as a segregated facility, even if located in the larger community. The preamble to the DOJ’s “integration regulation” explains that “the most integrated setting” is one that “enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible . . .”¹⁸⁸ Even a cluster of separate buildings housing people living with disabilities on a site could constitute problematic segregation, depending on the factual details. Thus, *Olmstead* may lend pause to developers who are proposing to place large numbers of residents with disabilities in one setting.¹⁸⁹ (Even some of the configurations discussed earlier, such as developments of micro units, SROs, or certain GLEs, may raise *Olmstead* concerns.)

Thus, in light of the *Olmstead* decision, developers of housing for people living with serious mental health conditions should evaluate the proportion of affordable units for this population within proposed housing developments. One creative way to avoid a violation of *Olmstead* while still creating a significant number of units for this population might be to distribute the units across a scattered-site housing development (financeable using federal LIHTCs in appropriate instances).

In addition to *Olmstead*, there may be other reasons not to house some people living with serious mental health conditions in congregate settings. Some people may need their own housing units for therapeutic reasons; for example, some people may find it difficult to tolerate the noise of communal living environments. And, in addition to *Olmstead*, there are other reasons to choose housing sites that are integrated into communities. People with lived experience of a mental health condition want housing near good public transportation, businesses, and other public amenities.¹⁹⁰

The Commonwealth has a plan to support integration of people living with disabilities. The 2018 Massachusetts *Olmstead* Plan includes benchmarks to expand access to affordable, accessible housing with supports for people living with all types of disabilities, including people living with serious mental health conditions.¹⁹¹ Methods to expand access include capital assistance, rental assistance, policy initiatives, and interagency collaboration.¹⁹²

Several of the plan's goals were designed to increase housing supply for persons living with disabilities who are homeless. These goals included:

- Providing capital assistance via the [Facilities Consolidation Fund \(FCF\)](#);
- Providing capital assistance via the [Affordable Housing Trust Fund \(AHTF\)](#);
- DHCD's Housing Choice Grant Program providing grants to municipalities with high rates of housing production;
- Expanding the [MassHousing 3% Priority Program](#) beyond DMH & DDS;
- Interagency Council on Housing and Homelessness Committee for Supportive Housing Production and Services developing goals for production;
- Ensuring providers of PSH funded by EOHLC's Supportive Housing Rounds are serving the intended populations.¹⁹³

The Commonwealth also has developed a corresponding benchmark document, aligned with the plan, to track progress across 24 activities. In March 2023, the Executive Office of Health and Human Services (EOHHS) issued a revised benchmark document, updated with Year 2-3 progress to date.¹⁹⁴

In February 2024, EOHHS and EOHLC issued a request for information as part of the process to update its 2018 *Olmstead* Plan.¹⁹⁵

- ✓ *Recommendation to increase the supply of housing for people living with serious mental health conditions – Continue to implement the goals of the 2018 Massachusetts *Olmstead* Plan, including through the accountability benchmark document and through the continued convening of the *Olmstead* Planning Committee Advisory Council. In addition, a goal could be added to the *Olmstead* Plan to pursue funding for scattered-site housing.*

B. Promoting the Development of Public Property for Affordable Housing

Properties owned by the Commonwealth or quasi-public entities (hereinafter “state-owned properties”) historically have been and continue to be redeveloped for a variety of uses, including housing.

The prior dispositions of state hospital and state school properties illustrate the advantages and complexities of redevelopment of such state-owned properties for housing. Northampton State Hospital, Metropolitan State Hospital in Waltham, and Danvers State Hospital all have been redeveloped for housing. Development of other properties has taken longer. Boston State Hospital, which closed in the late 1980s, has been developed over time.¹⁹⁶ The Town of Medfield is developing Medfield State Hospital, which closed in 2003, with a requirement that 25% of units be designated as affordable.¹⁹⁷

However, there is more to do. Waltham bought the Fernald Developmental Center, a 200-acre property, from the state in 2014, but has not yet developed the property.¹⁹⁸ A project on the Lemuel Shattuck Hospital campus were paused at the end of 2023 after the state scaled back a provisional \$550M plan for Boston Medical Center to create and operate at least 75 to 100 units of PSH for homeless people and those with substance use conditions on the campus.¹⁹⁹ One might wonder if that proposal would have violated *Olmstead*.

There is also current development of other public parcels for housing. Projects planned at two former military bases, MassDevelopment's project at the former Fort Devens army base and a private project at the former South Weymouth naval air station, face various issues, in part due to the fact that the sites straddle multiple communities.²⁰⁰

While complexities and delays may be features of development at state-owned properties, the sizable parcels that the state owns (or owned and then sold to local communities) present significant opportunities for the creation of large numbers of affordable housing units. The forthcoming closure of MCI Concord, which sits on 182 acres, is a prime example.²⁰¹

The future dispositions of properties to be used as housing should contain requirements mandating affordable units, including a requirement that a portion of such affordable units be set aside for persons with mental health conditions.

- ✓ *Recommendation to increase the supply of housing for people living with serious mental health conditions – The Commonwealth should require that all properties owned by the Commonwealth or by quasi-state agencies offered for reuse as housing be mandated to contain a significant affordable housing component, and a portion of that component designated for people living with serious mental health conditions.*

Municipally-owned properties provide another source of land for affordable housing. Municipalities should be encouraged to undertake a review of their properties. For example, Boston recently undertook an audit of vacant city-owned properties appropriate for such a purpose.

Municipalities also could incentivize the use of such parcels for affordable housing (or for housing for persons living with serious mental health conditions). For example, Boston will provide developers with municipally-owned properties for free if the developer agrees to build affordable housing.²⁰² In addition, Boston Mayor Michelle Wu issued an executive order to reduce the amount of time for review of affordable housing proposals and to streamline the process of departmental coordination of such reviews.²⁰³

- ✓ *Recommendation to increase the supply of affordable housing – Establish a website to make available statewide information on tax title properties and surplus municipal properties available to developers of affordable housing and encourage EOHLC to create incentives in the Qualified Allocation Plan to use such land.*
- ✓ *Recommendation to increase the supply of affordable housing – Incentivize municipal audits of their public properties to determine which may be appropriate for affordable housing and provide guidance on how municipal processes may be improved to expedite development of affordable housing in such locations.*

Recent policy changes will facilitate the identification of state-owned properties appropriate for the location of affordable housing. As mentioned above, Governor Healey's Executive Order 623 directs EOHLC and DCAMM to create an expanded inventory of government-controlled property that may be suitable for housing, building upon an earlier Healey directive to the Executive Office for Administration and Finance to develop an initial inventory of surplus, underutilized, and vacant state-owned land that could be repurposed to increase the state's multifamily and affordable housing stock.²⁰⁴ The new review would include properties that are currently in use for other purposes, as well as properties held by all parts of government outside of the executive branch, including in particular authorities and other quasi-governmental entities.²⁰⁵

The order also directs EOHLC and DCAMM to take other tangible steps to assist in the repurposing of suitable properties for housing development.²⁰⁶ All executive offices and agencies within the executive department, upon request of the EOHLC Secretary, must provide subject matter expertise, information, and data to assist EOHLC in accomplishing these tasks.²⁰⁷

In addition, the Governor's 2023 housing bond bill includes surplus public land disposition reforms. These provisions would help streamline the disposition of land under the control of a state agency or quasi-governmental agency, when the land would be used for housing.²⁰⁸ When the state owns the land, the overall cost of developing housing may be lower (because land acquisition costs may be reduced), making it easier to build affordable units.²⁰⁹

- ✓ *Recommendation to increase the supply of affordable housing – EOHLC and the MA Division of Capital Asset Management and Maintenance (DCAMM) should evaluate all state-owned property for appropriateness for housing development in general and affordable housing in particular, create lists of such properties, and make the lists readily available to the public.*
- ✓ *Recommendation to increase the supply of housing for people living with serious mental health conditions – Pass any necessary state legislation that incentivizes the disposition of state-owned land for affordable housing, particularly for persons living with mental health conditions.*
- ✓ *Recommendation to increase the supply of housing for people living with serious mental health conditions – If DCAMM enters into the process to dispose of land that would be suitable for housing, any disposition process should incentivize inclusion of affordable units and units for persons living with mental health conditions.*

VI. CONSTRUCTION OF AFFORDABLE HOUSING UNITS

New units can be created either by constructing new housing or by rehabilitating existing buildings, known as “adaptive reuse.” However, construction is increasingly expensive. Nationally, construction costs have risen almost 50% since the start of the COVID-19 pandemic.²¹⁰

A. *New Construction of Housing*

Historically, most building has used traditional construction methods, which involve a step-by-step process, with most or all construction occurring on the building site. Traditional construction is growing increasingly expensive because of rising costs of building materials and labor. The limitations imposed by weather on traditional construction are also important.

To reduce construction costs, developers have been exploring alternative building methods, particularly modular construction. Modular construction involves building the components of a structure, other than its foundation, off-site in a factory to uniform specifications. Modular construction can result in faster and less costly construction, among other benefits.²¹¹ One developer estimated that the modular construction company they are using for one building in Somerville’s public housing complex will deliver the product 40% faster than traditional construction.²¹²

However, one modular construction company estimated in mid-2023 that only 2% of new construction in Massachusetts is modular.²¹³ One way to encourage the use of modular construction is to ensure that state building codes facilitate its use. Massachusetts’ current state building code provisions for modular construction date from 2017.²¹⁴ The 10th edition of the state building code, currently in draft form, proposes a revised chapter on manufactured homes, based on international codes.²¹⁵ The state Legislature should revise state law, to adopt the 10th edition of the state building code to encourage the use of modular construction.

✓ *Recommendation to increase the supply of affordable housing – The Legislature should adopt the 10th edition of the state building code to encourage the use of modular construction.*

B. *Adaptive Reuse of Private Properties*

There are several types of existing private properties with potential for conversion for reuse as affordable housing including: lodging houses, nursing homes, rest homes, and large residences; hotels and motels; and non-residential structures.

1. *Lodging houses, nursing homes, rest homes, and large residences*

Lodging houses,²¹⁶ nursing homes,²¹⁷ rest homes, and large residences are potential sources for redevelopment. Often, they can be converted with limited renovations to congregate housing, with private bedrooms, a shared kitchen, meeting rooms, offices, and other facilities. In some instances, a new owner can assume a lodging house’s municipal license.

A limitation on such redevelopment is the diminishing number of these facilities for such conversions. Other potential issues are the displacement of existing residents,²¹⁸ community opposition, and meeting the *Olmstead* integration mandate. For large residences, municipalities often have bylaws or rules that limit the number of unrelated persons who may live in a residential unit. Additionally, there may be zoning issues, although if

facilities provide onsite “educational” services, the developer may overcome certain zoning issues through reliance on the Dover Amendment.

- ✓ *Recommendation to increase the supply of affordable housing – Encourage municipalities to reform zoning bylaws to increase the maximum number of unrelated persons who may live together in a single residence under certain conditions.*
- ✓ *Recommendation to increase the supply of affordable housing – Develop model municipal bylaw amendments to allow such change of use.*

2. Hotels and motels

Hotels and motels can be converted to individual housing units, including for residents with serious mental health conditions. Many conversions have occurred in Massachusetts, and others are planned,²¹⁹ some spurred by the availability of COVID-relief funds. However, the Commonwealth is currently using many hotels and motels which might be appropriate for this purpose to house families who are entitled to placement under the right to shelter law, a situation which likely will continue due to the large number of newcomers arriving in the state.

If a property is converted to apartments, any families who have been placed there under the right to shelter law will need to be relocated, probably pursuant to a formal relocation plan. Further, the issue of community opposition applies here as well.²²⁰ Finally, critics have argued that conversions may not be cost-effective or expeditious.²²¹

- ✓ *Recommendation to increase the supply of affordable housing – Examine whether municipal zoning law hinders the potential for conversions of hotels and motels to affordable housing.*

3. Non-residential structures

Non-residential structures, including office buildings, manufacturing buildings, mill buildings,²²² warehouses, retail/commercial buildings, and shopping centers, all could be converted into affordable housing, although there are special issues with each of these types of properties. The advantages of rehabbing non-residential structures include the large footprints and building size typical of these properties, the often-accessible locations, and the existing infrastructure. Some common issues are zoning and building code issues and neighborhood opposition.

The [Massachusetts Urban Center Housing Tax Increment Financing \(UCH-TIF\)](#) program authorizes cities and town to encourage housing (including affordable housing) and commercial development by granting property tax exemptions on all or part of the increased value of improved real estate in designated “urban center housing zones.”²²³ EOHLC’s Division of Community Services administers the program, including by approving each designated area and each plan.²²⁴

- ✓ *Recommendation to increase the supply of affordable housing – Encourage municipalities to offer real estate tax relief to developers of affordable housing, using the Urban Center Housing Tax Increment Financing (UCH-TIF) program.*
- ✓ *Recommendation to increase the supply of affordable housing – Create incentives in the EOHLC Qualified Allocation Plan for the reuse as housing of commercial real estate including retail and office sites through the Urban Center Housing Tax Increment Financing (UCH-TIF) program and other methods.*

VII. FUNDING AFFORDABLE HOUSING DEVELOPMENT

Funding an affordable housing project is a complicated task.²²⁵ There are multiple phases in the process of creating the housing and each may have its own costs and funding sources.²²⁶ Developers must detail costs, understand the process of securing funding, and identify various types of funding.

A. Costs

There are costs associated with each phase of creating affordable housing. There are predevelopment costs including land acquisition, construction materials, and other activities that must be completed before construction can begin. There are development costs including construction or rehabilitation costs and soft costs like insurance and professional services. There are operating costs including management, maintenance, insurance, utilities, and taxes.

For programs that provide supportive services, there will be costs associated with those services, such as case management, tenancy supports, and resident services.²²⁷

B. Process of Securing Funding

Securing funding for an affordable housing project is a complex process. To complete the project, the developer will likely need to combine or “stack” a variety of public and private funding sources which may include equity, debt, grants, and subsidies. Finally, each of these sources may have multiple restrictions on, and requirements for, their use.

To obtain funding developers in Massachusetts may need to work with a range of agencies including but not limited to EOHLC, the Federal Home Loan Bank Boston, MassHousing, MassDevelopment, and the Massachusetts Housing Investment Corporation (MHIC). The funding process is complex, due to the timing of funding program availability and the competitive nature of the various programs. Moreover, changing economic circumstances can impact the costs and availability of these funding sources. At the end of 2023, for example, rising interest costs have negatively affected both debt and equity funding.²²⁸

EOHLC establishes the methods by which developers may qualify for many of the public funding sources for affordable housing projects through its issuance of the annual Qualified Allocation Plan (QAP). All states are required to draft a QAP which outlines the state’s requirements for the distribution of the state’s allocation of federal LIHTCs. The Massachusetts QAP further discusses the Commonwealth’s affordable housing priorities and the methods by which the state distributes both these tax credits and/or other housing funding sources. Developers’ applications are scored by EOHLC with respect to both how they meet the requirements for tax credits and how they meet other funding priorities, as outlined in the QAP.

The QAP provides an efficient online method known as the “OneStop” application where developers can apply to EOHLC for LIHTCs and/or many other sources of housing funding.²²⁹ The application process is divided into funding rounds, typically with twice yearly deadlines, and occasional special rounds. An excellent example of a special round that was potentially helpful for persons living with serious mental health conditions was EOHLC’s August 2023 Supportive Housing for Vulnerable Populations, Notice of Funding Availability (NOFA).²³⁰ This NOFA provided capital assistance and funds for provision of supported services.²³¹ The

broad and include homeless individuals and families, individuals or families living with behavioral health needs and individuals living with chronic disabilities.²³²

The 2023-2024 QAP prioritized the provision of units for persons living with disabilities by awarding extra points to the developer's application if they offer units for people living with disabilities within their proposed development:

B-5. Persons with Disabilities or Special Populations as Intended Consumers – 8 Points. DHCD will award points in this category to projects that offer units for persons living with disabilities integrated into larger projects. DHCD will award up to eight points to projects that offer no more than 15% of the total number of units for persons living with disabilities – either individuals or families with a household member living with a disability. The points will be awarded only if the project design, amenity package, and services are appropriate for the population to be served. Sponsors should note that approval from the Executive Office of Health and Human Services will be required before DHCD can provide certain subsidy funds to support tax credit projects with units for persons living with disabilities.²³³

This QAP provision awards points for projects that house “persons with disabilities.” This is a positive provision. However, to increase housing supply for persons living with serious mental health conditions, it could be improved by specifically incentivizing affordable housing for that population. The QAP could award additional points, beyond those awarded for “persons with disabilities,” to projects that offer units for persons living with the disability of a serious mental health condition.

- ✓ *Recommendation to increase the supply of housing for people living with serious mental health conditions – EOHLC should add additional points in the disability category of the QAP for projects that include units for persons living with serious mental health conditions.*

C. Types of Funding

The principal types of funding for affordable housing development include equity, debt, grants, and subsidies.

1. Equity funding

Equity funding is a contribution which is typically in the form of cash (but might be in the form of a contribution of land and services). Equity does not need to be repaid and reduces the amount of debt required for a project.

In affordable housing projects, low-income housing tax credit programs are key sources of equity for developers. The [federal Low-Income Housing Tax Credit \(LIHTC\) program](#) is the nation's largest source of equity for construction and rehabilitation of affordable rental housing.²³⁴ The Internal Revenue Service (IRS) allocates LIHTCs to states and states award them to developers. Developers partner with investors who provide equity for the project by purchasing the credits (which reduce the investors' tax liability). In exchange for receiving funding through the federal LIHTC program, developers must maintain a certain number of affordable units in the project for a set period (now 30 years).

The Commonwealth also has a [Massachusetts Low-Income Housing Tax Credit \(LIHTC\) program](#) which operates similarly to the federal LIHTC program.²³⁵

2. *Debt financing*

Debt financing is a loan that is typically obtained from a bank and secured by a mortgage on the property. It is generally paid back with interest. Some short-term loans may be used to fund predevelopment (including acquisition and other activities) and development (including rehabilitation and construction).²³⁶ Long-term loans (typically 20 to 30 years) are known as permanent loans.

Some portion of the debt may be in the form of “soft” loans, which may be forgiven if certain conditions are fulfilled. For example, a loan may be forgiven if the development continues to serve income-eligible residents for an extended period of time.²³⁷

Affordable housing developers may acquire financing for affordable housing at a low interest rate through programs, such as the [Federal Home Loan Bank Boston’s Affordable Housing Program \(AHP\)](#), available through their local member banks.

Another way for developers to acquire such financing is to use bond financing. Lending institutions, including MassDevelopment and MassHousing, issue tax-exempt bonds to the public²³⁸ that are used to finance affordable housing. Once these bonds are sold, the proceeds may be lent to developers at a low interest rate for use for new construction or acquisition/rehabilitation of rental housing with an affordable component. Developers may use bond financing in combination with 4% federal LIHTCs.

A range of state programs provide debt financing. For example, the [Facilities Consolidation Fund \(FCF\)](#) provides debt financing to the specific benefit of DMH clients while the [Community Based Housing \(CBH\)](#) program provides funding for integrated housing for people living with physical or mental disabilities who are not DMH clients. The [Home and Healthy for Good \(HHG\)](#) program funds low-threshold permanent supportive housing (PSH) for people experiencing chronic or long-term homelessness, including those living with complex behavioral health challenges.

3. *Grants*

Grants are a type of funding that helps fill the gap between what it costs to build affordable housing and funding that is obtained through equity and debt.²³⁹ This type of funding is known as “gap funding.” (Other types of gap funding include loans (including so-called “soft loans” that might not need to be repaid) and project-based subsidies.)

Grants are usually essential in affordable housing development because rental income will be more limited from affordable housing units than from market-rate housing units.²⁴⁰ Grants do not need to be repaid.

Grants are often provided by governmental entities.²⁴¹ Such public grants include federal block grants like the [HOME Investment Partnerships Program](#) or the [Community Development Block Grant Program \(CDBG\)](#).²⁴² Other public grants may come from state housing trust funds,²⁴³ such as the [Affordable Housing Trust Fund \(AHTF\)](#). Public grants may be available from local affordable housing trust funds. This source of funding may be critically important, as it provides evidence to potential state funders of local commitment and engagement in the project.

Grants also may come from private sources such as foundations.²⁴⁴ The [Federal Home Loan Bank Boston’s Affordable Housing Program \(AHP\)](#) also provides grants.

4. *Subsidies*

Subsidies, provided by federal and state programs, are another type of funding for affordable housing.

Development subsidies fill gaps of funding for a project and generally fund the development of the project. Development subsidies can be in the form of a lower-interest loan or a grant, both discussed above. Rental assistance subsidies supplement rental payments. Rental assistance subsidies may go to the tenant (tenant-based), to the project (project-based), or to a sponsor, such as a landlord or non-profit organization which provides affordable housing (sponsor-based). Subsidies also may support housing services.

a. **Rental assistance subsidies**

There are three types of rental assistance subsidies.

Tenant-based rental assistance pays the difference between the actual rent and the amount a tenant is able to pay based on their income. This assistance is provided to the tenant in the form of a “mobile” voucher which may be used at a location of their choice, as long as the units meet program standards. Tenant-based rental assistance programs are targeted to individuals with low incomes.²⁴⁵ They generally require the tenant to pay 30% of their income, with the program providing the balance. Other rental assistance is specifically for people living with serious mental health conditions and may include the provision of supportive services. Federal examples include HUD’s Section 8 programs. State examples include the [Massachusetts Rental Voucher Program \(MRVP\)](#), the [Alternative Housing Voucher Program \(AHVP\)](#), and the [DMH Rental Subsidy Program \(DMH RSP\)](#). Of these programs, the DMH RSP is specifically for people living with serious mental health conditions (who are DMH clients).

Project-based rental assistance is assigned to the housing unit. Project-based vouchers are provided to the building owner for specific units in the development under a long-term contract between the owner and the subsidizing agency and serve to reduce the rents in these units. Local housing authorities assign project-based vouchers to specific housing units or developments. The owner rents these units to program-eligible tenants, who receive the subsidy for as long as they continue to live in the units.²⁴⁶ Again, tenants are generally required to pay 30% of their income as rent, with the program providing the balance. Federal project-based rental assistance programs include the [Section 8 Project-Based Voucher \(PBV\) Program of the Section 8 Housing Choice Voucher Program](#), the [Section 8 I I program](#), and the [Section 202 Elderly Housing Program](#). A state example is [Massachusetts Rental Voucher Program \(MRVP\) project-based assistance](#).

Sponsor-based rental assistance is awarded to a landlord or non-profit group for affordable units which they make available to low-income persons. Participants reside in housing owned or leased by the sponsor organization. The vouchers are portable and may be moved to another unit run by the same landlord or non-profit. This type of assistance can be provided through federal or state programs. It generally includes services. A federal example of SBRA is the [federal Sponsor-Based Rental Assistance \(SBRA\) program](#). A state example is the [DMH Rental Subsidy Program \(DMH RSP\)](#) which in addition to being tenant-based, as indicated above, also may be sponsor-based.

b. **Operating subsidies and other programs that fund supportive services**

Subsidies also may cover the costs of supportive services that help residents succeed in their residential environment and maintain their community tenure. These may be operating subsidies or programs that provide supportive services directly. Both can serve to encourage developers to include people with mental health conditions in their housing developments.

Operating subsidies support people with mental health conditions so that they may be successful in their housing. One example is the [Flexible Services Program \(FSP\)](#), for MassHealth recipients. Another example is the proposed [Massachusetts Flexible Supportive Housing Subsidy Pool](#), which specifically

makes funds available for, among other purposes, operating subsidies in new or existing affordable housing units and for services to help residents access and remain in permanent housing (including permanent supportive housing). A third is the state [Housing Preservation and Stabilization Trust Fund \(HPSTF\)](#) which provides funds for a range of purposes including operating subsidies in supportive housing developments serving formerly homeless households, veterans, seniors, unaccompanied youth, and others.

Supportive services provided by the DMH for its clients include [Adult Community Clinical Services \(ACCS\)](#) and [Program of Assertive Community Treatment \(PACT\)](#) services. These programs provide or arrange clinical and other supportive services.

VIII. OTHER SOURCES OF AFFORDABLE HOUSING FUNDING

There are also a variety of other existing and proposed sources of affordable housing funding that could be pursued to maximize potential development. These sources include the Community Preservation Act, the Community Benefits Standard, a proposed flexible supportive housing subsidy pool, and a proposed real estate transfer tax.

A. *The Community Preservation Act (CPA)*

The Community Preservation Act (CPA) helps communities preserve open space and historic sites, create affordable housing, and develop outdoor recreational facilities.²⁴⁷ Since the Legislature enacted the CPA in 2000, many communities that have adopted the CPA generate monies for their local Community Preservation Funds through the implementation of a local CPA property tax surcharge of up to 3% and through the receipt of annual matching of funds, at variable rates, from a statewide CPA Trust Fund created by the Act. Only communities that have adopted the CPA are eligible to receive these matching funds each year. There is work to do to convince more communities to adopt the CPA.²⁴⁸

Additionally, a Greater Boston Real Estate Board report examining communities that had adopted the CPA found that while a few communities are spending a large percentage of CPA funds on housing, “the typical municipality devotes only 14 percent of CPA spending to housing; half of towns spend more, while half spend less.”²⁴⁹ Seventy communities failed to meet the CPA requirement of spending at least 10% of CPA dollars on affordable housing from the time they joined the program until the latest fiscal year.²⁵⁰ Suburban communities were particularly at fault in meeting the 10% threshold.²⁵¹

The report notes that the “CPA was not principally designed as an engine for housing development,” but was instead envisioned as a way to tackle suburban sprawl and unplanned development.²⁵² The authors urge renewed attention to the Act as a tool to promote expanded housing: “With clearer expectations around housing spending and new incentives to support affordable housing, the state could make CPA a valuable part of the solution to our statewide housing crisis.”²⁵³ They suggest that the threshold for CPA spending on affordable housing be raised from 10 to 20%.

Three reforms of the CPA would further promote housing construction: 1) expand the CPA trust fund to provide more funding for housing projects by raising the deed fees that support the fund; 2) incentivize community use of CPA funds for housing construction by giving more funding to communities who devote a higher percentage of their CPA funds to housing; and 3) require the Commonwealth to provide communities with funds for planning departments to do planning around housing development.²⁵⁴

The Act should be amended to effectuate all these changes, and to provide additional incentives so that communities who have yet to adopt it will be encouraged to do so.

- ✓ *Recommendation to increase the supply of affordable housing – Amend the Community Preservation Act both to promote its use for affordable housing and to incentivize communities to adopt it.*

B. *The Community Benefit Standard (CBS)*

Non-profit hospitals and health systems can provide another source of funding for affordable housing.²⁵⁵ These organizations receive tax-exempt status in exchange for their provision of a community benefit. Concerns regarding whether nonprofit hospitals provided sufficient community benefits to warrant such tax-exempt status led to the inclusion of new requirements in the Affordable Care Act.²⁵⁶ The IRS uses the Community Benefit Standard (CBS), a set of ten metrics, to assess whether hospitals benefit community health sufficiently to justify their tax-exempt status.²⁵⁷

In Massachusetts, the Office of the Attorney General issued updated Community Benefit Guidelines in 2018.²⁵⁸ The guidelines require hospitals to report in detail on their community benefit programs.²⁵⁹ The guidelines also require program expenditures to address a need identified by nonprofit hospitals in their community health needs assessments (CHNAs).²⁶⁰

To meet the requirements of the community benefits standard, organizations typically invest in social determinants of health including, in some cases, housing.²⁶¹

- The Innovative Stable Housing Initiative, a pilot project funded by Boston Medical Center, Boston Children’s Hospital, and Brigham and Women’s Hospital as part of DPH’s Determination of Need Community Health Initiative, funds efforts to address displacement and increase housing stability.²⁶²
- In 2017, Boston Medical Center announced that it would invest \$6.5M over five years to support a range of housing initiatives, including \$800,000 over four years to rehabilitate units for use as PSH for individuals with mental health and/or disability issues.²⁶³
- In 2020, Massachusetts General Hospital (MGH) announced an award of \$3.4M for community-based projects in Suffolk County, including for housing development.²⁶⁴
- Mass General Brigham gave \$1.1M to the Local Support Initiatives Corporation Boston, a community development financial institution, to seed the Community-Based Predevelopment and Acquisition Fund; the fund will provide developers – and in particular, developers of color – access to fast capital.²⁶⁵

Advocates have suggested revisions to the CBS, including some that could result in more investment in affordable housing.²⁶⁶ One suggestion is that hospitals conduct their Community Health Needs Assessment (CHNA) collaboratively with other entities, including appropriate nongovernmental organizations within the area, to better fulfill community need.²⁶⁷ Another suggestion is that some CBS-designated surplus funds be used to address social determinants of health (including homelessness).²⁶⁸

In addition to making changes at the federal level, Massachusetts officials should clarify the community benefit standard, promote high-impact provisions within it, and/or increase accountability and oversight. The Commonwealth also should set standards for nonprofit-hospital community benefit spending and community engagement and improve accountability for meeting such obligations.²⁶⁹ A number of states have enacted statutes regarding hospital CBS, setting minimum spending amounts and reporting requirements.²⁷⁰

- ✓ *Recommendation to increase the supply of affordable housing – The Commonwealth should revise the community benefit standard to encourage more investment in social determinants of health, notably affordable housing.*

C. *Proposed Massachusetts Flexible Supportive Housing Subsidy Pool (MFSHSP)*

Advocates have proposed a unified source of public funding to provide permanent housing and supports for the most vulnerable within the state’s homeless population, including people who are experiencing chronic homelessness, people with long shelter stays; and people who are experiencing homelessness and are

medically complex. This new source has been labeled “a flexible supportive housing subsidy pool (MFSHP).” Sponsored by Representative Joan Meschino and Senator Brendan Crighton, H.1354/S.855, *An Act to Create and Implement a Massachusetts Flexible Supportive Housing Subsidy Pool (MFSHSP) Program* (Mass. Leg., 193rd sess.), would create a program in a new Chapter 121H of the General Laws. The program would braid existing state line items for housing and healthcare (i.e., MassHealth) into a single flexible funding stream. EOHLIC would engage non-profit organizations to assess applicants and distribute the funds (in the form of loans, grants, or other financial assistance). Funds could be used for rental assistance, operating subsidies in new or existing affordable housing units, incentives to landlords such as security deposits and holding fees, services to help residents access and remain in permanent housing (including permanent supportive housing), and other system supports to combat homelessness, and connect homeless people to services and temporary shelter.

The legislation also would establish a Flexible Housing Subsidy Pool Program Trust Fund and a Funders Collaborative to End Homelessness to incorporate private contributions into the Trust Fund. These private contributions could be used to create local innovations, establish pilots, or evaluate programs.

The Joint Committee on Housing has extended the time to make a decision as to whether to report the Senate bill out until July 10, 2024.

The Governor’s 2023 housing bond bill would establish a Supportive Housing Pool Fund, administered by EOHLIC, “to support the production of permanent supportive housing.”²⁷¹ However, the bond bill provision does not contain all the provisions of H.1354/S.855. The bond bill language states that the program could distribute financial assistance “to projects and organizations that will provide stable housing options and supportive services to residents of permanent supportive housing, which may include, but not be limited to, staffing, case management, service coordination, or other tenancy-related services provided by a project sponsor or through a third-party, or other services or activities that the executive office has determined are essential to the day-to-day operation of permanent supportive housing.” Advocates are seeking the inclusion in the bond bill of the remaining H.1354/S.855 language, including the provisions regarding braided housing and healthcare funding, nonprofit management, trauma-informed service delivery, equitable deployment, and the role of the Funders Collaborative.²⁷² Advocates have sought the inclusion of the full language of H.1354/S.855 in the housing bond bill.

- ✓ *Recommendation to increase the supply of affordable housing – Pass H.1354/S.855, An Act to Create and Implement a Massachusetts Flexible Supportive Housing Subsidy Pool (MFSHSP) Program (Mass. Leg., 193rd sess.), either as a stand-alone bill or through the housing bond bill with modifications to the bond bill to mirror H.1354/S.855.*

D. Proposed Real Estate Transfer Fee

For a number of years, advocates have proposed legislation that would allow cities and towns to tax real estate transactions to fund affordable housing.²⁷³

An example of such legislation is the bill sponsored by Representative Mike Connolly and Senator Joanne Comerford, H.2747/S.1771, *An Act granting a local option for a real estate transfer fee to fund affordable housing* (Mass. Leg., 193rd sess.). These bills would allow municipalities to adopt a transaction fee of between 0.5% and 2% on real estate transactions above \$1M to fund a trust to support affordable housing. The municipality or regional affordable housing commission would designate whether the transfer fee would be borne by the purchaser, the seller, or some combination. In communities where the county median sales price is below \$750K, the city or town would have to opt in, in order to impose a fee on sales above the county’s median

sale price for a single-family home. The bills further allow communities to create exemptions to the tax or to set the threshold for the tax higher. Currently, to impose such a tax, a community would have to file a home rule petition, which some communities have pending before the Legislature and others are drafting.²⁷⁴

The Joint Committee on Housing has extended the time to make a decision as to whether to report the bills out until July 31, 2024.

The Governor's 2023 housing bond bill includes a provision allowing municipalities and regional affordable housing commissions to adopt a transfer fee of 0.5% - 2.0%, paid by the seller of real property, on the portion of sale proceeds over \$1M or the county median home sales price, whichever is greater.²⁷⁵ The fees would be deposited into a municipal affordable housing trust fund or regional affordable housing commission fund. Fees could be used for acquisition, construction, rehabilitation, and preservation of affordable housing for the benefit of low- and moderate-income households.

- ✓ *Recommendation to increase the supply of affordable housing – Pass legislation, either as a stand-alone bill or through the housing bond bill, to grant a local option for a real estate transfer fee to fund affordable housing.*

IX. CONCLUSION

The statutory, regulatory, and policy environment underlying the development of affordable housing for persons living with mental health conditions presents a bewildering array of agencies, programs, requirements, deadlines, and hurdles which may be daunting to even the most established developers. This working Issue Brief outlines the array of possible resources and tools that can aid in the creation of affordable housing for this population. In addition, MAMH advises potential developers to work with affordable housing experts in the field. Recognizing and relying on their expertise is essential to successfully implementing housing that is safe, affordable, permanent, and supported.

Housing and mental health advocates should continue to insert their expertise and insights into the affordable housing planning and development process in the Commonwealth. Advocates illuminate the needs, convey the interests, and lift the voices of people living with mental health conditions into policymaking for and implementation of affordable housing development.

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I. INTRODUCTION

This document outlines and describes key programs for affordable housing development, rental housing subsidy programs, federal grants to promote housing production, and state-funded supportive services for people with mental health conditions who are obtaining and maintain housing or homeless or at risk of homelessness. While this list is not exhaustive, it provides a broad menu of options when seeking to fund affordable housing development and supportive services for people with mental health conditions in the Commonwealth.

II. PROGRAMS FOR AFFORDABLE HOUSING DEVELOPMENT

The Commonwealth must encourage the production of more affordable housing units for people living with serious mental health conditions. An important source of units for this population are mixed income projects. Such projects typically include affordable units, a portion of which can be designated for people with disabilities. This production model is not only favored by developers but is also likely to result in housing that accords with the Supreme Court's *Olmstead* decision, which calls for community integration of people with disabilities. This section includes a range of programs that support mixed income projects, as well as other types of housing projects.

A Tax Credit Programs

In affordable housing projects in Massachusetts, low-income housing tax credit programs, particularly the federal Low-Income Housing Tax Credit (LIHTC) program and the Massachusetts Low-Income Housing Tax Credit (LIHTC), are key sources of equity for developers.

1. Federal Low-Income Housing Tax Credit (LIHTC) program

The federal Low-Income Housing Tax Credit (LIHTC) program is the nation's largest source of equity for affordable rental housing development.²⁷⁶ At the federal level, the U.S. Department of Housing and Urban Development (HUD) establishes nationwide affordability requirements and the Internal Revenue Service (IRS) calculates each state's annual allocation of tax credits.²⁷⁷ The IRS allocates the credits to the state housing finance agency, which establishes a distribution process and award the credits to developers.

Once awarded the credits, the developer typically contracts with institutional investors (a for-profit entity) that can benefit from the reduction of tax liability which the credits afford. In exchange for the promised credits, the investor provides equity financing to the developer.²⁷⁸ When the project is finished, the IRS allocates the tax credits to the developers who then transfer them to the investors.²⁷⁹ The investor receives tax credits paid in annual allotments, generally over ten years, reducing their federal tax liability dollar-for-dollar.²⁸⁰

As a condition of receiving funding through federal LIHTCs, developers must include a certain number of affordable units in the project. These units must remain affordable for a set number of years. Since 1990, that period has been 30 years.

There are two types of federal LIHTCs: 9% credits and 4% credits. The 9% credits, which subsidize approximately 70% of the low-income unit costs in a project, are typically reserved for new construction.²⁸¹ Developers must compete for the award of 9% credits (through their application to the state housing finance agency).²⁸²

The 4% credits, which subsidize approximately 30% of the low-income unit costs, are typically used for rehabilitation projects that also have other sources of financing.²⁸³ The allocation process for the 4% credits is non-competitive if at least 50% of the development is financed with tax-exempt bond financing, known as tax-exempt private activity bonds.²⁸⁴

Between its creation in 1986 and 2019, the federal LIHTC program funded approximately 63,000 affordable units in Massachusetts.²⁸⁵ The program was projected to provide almost \$18M in tax credits to projects in Massachusetts in 2022.²⁸⁶

As the LIHTC program gatekeeper in Massachusetts, EOHLC establishes how developers may qualify for the LIHTCs allocated to the Commonwealth. To do so, EOHLC annually drafts a Qualified Allocation Plan (QAP)²⁸⁷ in accordance with IRS regulations and current state affordable housing priorities. The QAP outlines the goals of EOHLC with respect to affordable housing and related topics. Developers' applications are scored by EOHLC with respect to both how they meet the requirements for tax credits and how they meet other funding priorities, as outlined in the QAP. The QAP provides an efficient online method (known as the "OneStop" application) where developers can apply to EOHLC for LIHTCs and/or many other sources of housing funding.

Challenge: A pressing challenge on the federal LIHTC program is the substantial unmet developer demand for these credits.²⁸⁸

Opportunity: Advocates sought to reform this process and increase the number of LIHTCs that states can receive annually through federal legislation, the Affordable Housing Credit Improvement Act (AHCIA) of 2023.²⁸⁹ Two key provisions of the AHCIA were included in the bipartisan Tax Relief for American Families and Workers Act, which passed the House of Representatives in January 2024.²⁹⁰ The tax bill would temporarily restore a 12.5% allocation increase to LIHTC and temporarily reduce from 50% to 30%, the required amount of private activity bond financing that a project utilizing 4% credits must have.²⁹¹ Advocates should urge passage by the Senate.

With respect to 4% tax credits, advocates also could encourage state officials to allocate a greater portion of the state's entire tax-exempt, private-activity bond volume to affordable rental housing.

All of these proposed changes would spur more rehabilitation projects.²⁹²

2. *Massachusetts Low Income Housing Tax Credit program (Mass. LIHTC)*

The Massachusetts Low Income Housing Tax Credit (LIHTC) program provides that EOHLC may allocate state LIHTCs for projects that qualify for the federal LIHTC.²⁹³ Modeled on the federal 9% program, these state credits supplement federal credits.²⁹⁴ Unlike the federal 9% credit, however, the state credit is only an offset to state tax liability and is taken over five years, not ten.²⁹⁵ The Massachusetts LIHTC may be used for new construction or rehabilitation and preservation of existing affordable housing that is at risk of going market rate.²⁹⁶

It was estimated that, in 2023, Massachusetts would make available \$40M in tax credits through this program.²⁹⁷

On October 4, 2023, Governor Maura Healey signed a tax relief bill into law that included provisions increasing the Massachusetts LIHTC program cap to \$60M and eliminated the program's sunset provision,²⁹⁸ changes sought and applauded by advocates.²⁹⁹

Challenge: The program cap and the sunset provision were challenges.

Opportunity: These challenges were addressed by the October 2023 tax relief bill. Monitor implementation of these changes.

3. *Massachusetts Urban Center Housing Tax Increment Financing (UCH-TIF)*

The Urban Center Housing Tax Increment Financing (UCH-TIF) program authorizes cities and town to create a source of financing to encourage housing (including affordable housing) and commercial development by granting property tax exemptions on all or part of the increased value of improved real estate in designated “urban center housing zones.”³⁰⁰ This financing may then be combined with other grants and loans.³⁰¹ To promote the program’s goal of increasing affordable housing, “improvements to real property undertaken as part of a city or town’s UCH-TIF program shall be primarily residential.”³⁰² The program requires 25% of new housing to be affordable, in most cases.³⁰³ To participate in the program, a municipality must develop a financing plan for the areas to be developed; these areas must be predominantly commercial with high business or commercial use.³⁰⁴ The plan must provide multi-unit housing in the designated area.³⁰⁵ EOHLC’s Division of Community Services administers the program, including by approving each designated area and each plan.³⁰⁶

B *Federal Multifamily Housing Development Programs*

This section includes federal programs that provide development funds for affordable housing.

1. *Section 811 Capital Advance/ Project Rental Assistance Contract (PRAC) program*

The federal Section 811 Supportive Housing for Persons with Disabilities program was historically a program that provided funding to nonprofit sponsors to help them finance the development of rental housing.³⁰⁷ The now reformed Section 811 program operates in two ways:

(1) the traditional way, by providing interest-free capital advances and rental subsidies to developers of affordable housing for persons with disabilities (known as the Capital Advance/Project Rental Assistance Contract (PRAC)); and

(2) by providing project-based rental assistance to state housing agencies (known as the Project Rental Assistance (PRA) Program) (discussed below in the section on federal project-based rental assistance programs).³⁰⁸

Challenge: In fall 2023, HUD posted grant opportunities for \$106M of Section 811 PRAC funding and the same amount for the Section 811 PRA program.³⁰⁹

Opportunity: Advocates should encourage non-profit and for-profit developers that frequently use federal LIHTC and HOME funds to use the PRA program.³¹⁰

2. *Section 202 Elderly Housing*

The federal Section 202 Elderly Housing program provides funding advances to finance the acquisition, construction, or rehabilitation of buildings to serve as supportive housing for very low-income adults ages 62 or older and provides rent subsidies to help make projects affordable.³¹¹ HUD, the administrator of the Section 202 program, distributes this funding directly to non-profit project owners.³¹² Having provided funding for 400,000 affordable apartments for lower-income seniors over 50 years, in 2016 Community Economic

Development Assistance Corporation (CEDAC) had declared the program defunct after four consecutive years of no funding.³¹³

However, the 2020 CARES Act distributed \$1M in Section 202 funding to Massachusetts³¹⁴ and in 2023, HUD awarded \$7M to 2Life Development for an elder housing development in Boston with 30 units with Project Rental Assistance Contracts. This is renewable project-based funding which covers the difference between residents' contributions toward rent and the cost of operating the project.³¹⁵

C *Bond Financing for Affordable Housing*

Bond financing provides a way for developers to acquire debt at a low-interest rate to fund an affordable housing project. Several entities issue tax-exempt bonds to the public that are used to finance affordable housing. Once these bonds are sold, the proceeds may be lent to developers at a low-interest rate for use for new construction or acquisition/rehabilitation of rental housing with an affordable component. Developers may use bond financing in combination with 4% federal LIHTCs.

1. *MassDevelopment*

Projects for new construction or preservation of affordable rental housing may be financed by a combination of bonds from MassDevelopment and 4% federal Low-Income Housing Tax Credits (LIHTCs).³¹⁶

2. *MassHousing*

Projects for new construction or preservation of affordable rental housing may be financed by a combination of bonds from MassHousing and 4% federal Low-Income Housing Tax Credits (LIHTCs).³¹⁷

3. *Massachusetts Housing Partnership (MHP)*

The Massachusetts Housing Partnership (MHP) is another agency that provides tax-exempt financing options for affordable housing, in conjunction with MassDevelopment or MassHousing.³¹⁸

D. *Other Sources of Funding for Affordable Housing Development*

The programs listed below may be used (separately or in combination with tax credit financing) to fund affordable housing development, including for people living with serious mental health conditions. When used in combination with other funding sources, this funding is known as gap-financing.

Some of these funding sources also may fund other aspects of the development and operating process, including supportive services.

1. *Affordable Housing Program (AHP) of the Federal Home Loan Bank Boston*

The Federal Home Loan Bank System is composed of regional federal home loan banks. Massachusetts is served by the Federal Home Loan Bank Boston (FHLBB). FHLBB's Affordable Housing Program (AHP) annually awards loans, grants, and interest rate subsidies through its member banking partners to developers of affordable housing. Their awards fund apartments for low-income seniors and individuals with disabilities, family housing, and supportive housing for homeless individuals and families. This program may be used in combination with many other programs.

2. *Facilities Consolidation Fund (FCF)*

Established in 1993, the state Facilities Consolidation Fund (FCF) is one of the most important resources for creating community-based housing for Department of Mental Health (DMH) and Department of

Developmental Services (DDS) clients.³¹⁹ Between 1993 and 2018, \$143.8M of FCF funds financed 2,461 units of affordable housing for this population.³²⁰

The FCF provides permanent, deferred payment loans for a term of 30 years with the possibility of EOHLC granting multiple extensions of the loan term of up to ten years, upon a determination that there continues to be a need for the housing and funding for services.³²¹

For-profit developers, non-profit developers, and local housing authorities and municipalities (in cooperation with developers) may apply for FCF dollars for rental projects.³²² FCF may be used for the acquisition of property, new construction or rehabilitation of existing structures, or for soft costs related to development.³²³ While developers typically use FCF as a “gap filler” in their applications since FCF provides smaller amounts of financing than other programs, FCF funds can cover up to 50% of total development costs, with a recommended limit of \$750K per project.³²⁴

Projects are certified by DMH or DDS through a pre-application process conducted by EOHLC.³²⁵ CEDAC is the “financial intermediary” which underwrites FCF loan applications for EOHLC, closes the FCF loans, and holds the FCF notes, loans, and mortgages.³²⁶

FCF funds may be used to create a range of types of community-based housing.³²⁷ Most DMH units supported through FCF financing are studio and one-bedroom apartments integrated into larger apartment buildings or complexes.

Challenge: In past years, only a handful of units have been dedicated to DMH clients in affordable rental housing award rounds. For instance, in the July 2021 housing award announcement, only 17 units were supported through FCF for DMH clients, with DMH units representing just 1.3% of all FCF-financed units.³²⁸

In addition, the process that sponsors and developers go through to obtain FCF financing can be complex. Since FCF is often used as gap financing in combination with other tax credits and subsidies, and constitutes a smaller portion of overall project funding, it is even more important to reduce FCF administrative and process barriers to encourage developers to use it.

Opportunity: Small, yet significant policy changes have resulted in an uptick in the number of dedicated FCF-DMH units in recent affordable rental housing award rounds. The winter FY23 Notice of Funding Availability (NOFA) of the Department of Housing and Community Development (DHCD) required that developers reserve at least 13% of the units in each project as extremely low income units and, under the 3% Priority Program (discussed below), dedicate 3% of all subsidized units for residents referred by DMH, DDS, the Massachusetts Rehabilitation Commission (MRC), and/or the Executive Office of Elder Affairs (EOEA).³²⁹ The NOFA promoted the FCF program by specifying that units set aside for DMH, DDS, and MRC clients under the FCF program would count towards the 3% Priority Program requirement.³³⁰ DHCD also promoted the use of the FCF by arranging to have DMH staff present information regarding the program at public meetings for developers and applicants.

The results of DHCD’s actions in the winter FY23 NOFA were tangible. Sponsors and developers submitted pre-applications in response to that NOFA to develop over 50 units dedicated to DMH clients using FCF financing. The response represented a significant percent increase over previous affordable rental housing rounds.

The Executive Office of Health and Human Services (EOHHS) and DMH should continue to partner with EOHLC and CEDAC to implement policy changes and to encourage developers to use the FCF. DHCD engaged in such a process with community-based providers and local housing authorities to promote the DMH Rental Subsidy Program, fielding a survey and conducting focus groups to better understand how to make the administration of the program more efficient.

Advocates also should support Governor Healey's 2023 housing bond bill, which provides \$70M for the FCF over five years for the FCF program, an increase of \$5M over the prior housing bond bill.³³¹

3. Home and Healthy for Good (HHG)

The state Home and Healthy for Good (HHG) program seeks to develop low-threshold permanent supportive housing (PSH) for people experiencing chronic or long-term homelessness who have complex medical and behavioral health challenges.³³²

HHG's flexible funding helps agencies cover construction and development costs for new projects, as well as housing operations and/or supportive services once the projects are established. The funds are often used as a gap filler in conjunction with other public or private funds.³³³ HHG dollars have been used for sponsor-based projects in Metro North and Lynn; for these projects, the Massachusetts Housing and Shelter Alliance (MHSA) is the lead project planner and leasing manager.³³⁴

Since 2006, HHG has placed 1,457 adults into permanent housing with supportive services.³³⁵ In 2023, HHG funds were supporting 900 units, including existing units and units in the process of coming online.³³⁶ MHSA administers the program.

Challenge: The demand for low-threshold PSH remains great and significant program expansion is warranted.

Opportunity: The Commonwealth should increase state budget funding for the program.

4. Community Based Housing (CBH)

The state Community Based Housing (CBH) program provides funding for integrated housing for people with physical or mental disabilities, including elders, who are not clients of DMH or DDS (who may access funding through the FCF program), with priority for individuals who are in institutions, nursing facilities or at risk of institutionalization.³³⁷ Application is through EOHLC. CEDAC manages this program.³³⁸

Challenge: The challenge is to increase the number of units produced under the CBH program.

Opportunity: Governor Healey's 2023 housing bond bill authorizes \$55M over five years for the program.

5. Affordable Housing Trust Fund (AHTF)

The state Affordable Housing Trust Fund (AHTF) provides flexible resources to a range of organizations (including government entities, community development corporations, local housing authorities, non-profits, and for-profits) who create or preserve affordable housing for households whose incomes are not more than 110% of area median income.³³⁹ Application is through EOHLC. MassHousing manages this program on behalf of EOHLC.

A source of funding for the AHTF is the National Housing Trust Fund (HTF), which provides grants to states to produce and preserve affordable housing for extremely low- and very low-income households.³⁴⁰ HUD allocates HTF funds by formula annually.³⁴¹ HTF funds may be used for the production or preservation of

affordable housing through the acquisition, new construction, reconstruction, and/or rehabilitation of non-luxury housing with suitable amenities.³⁴²

Individual municipalities also may have Affordable Housing Trust Funds which may be available to provide supplemental funding for affordable housing developers.

Challenge: The Executive Director of the Metropolitan Area Planning Council, Marc Draisen, has called the AHTF, one of “two workhouse programs of the affordable housing system” in the Governor’s 2023 housing bond bill.³⁴³ He urged legislators to maximize the amount of money given to this and the other program, the Housing Stabilization and Investment Trust Fund:

There are lots of other good new smaller programs proposed in this bill, but the workhouse programs that fund almost every single affordable housing development on the state level are these two trust funds. They are sufficiently flexible and sufficiently targeted at the lower income brackets of income, that putting more money into these two programs is probably the single most important thing you can do outside of the public housing sector.³⁴⁴

Opportunity: Governor’s Healey’s 2023 housing bond bill authorizes \$800M over five years to the AHTF.

6. *Housing Stabilization Fund (HSF)*

The state Housing Stabilization Fund (HSF) is a program that provides funding to municipalities, non-profits, or for-profit developers to support affordable rental housing production and rehabilitation.³⁴⁵ The Governor’s 2023 housing bond bill proposes to consolidate the HSF and the Community Investment and Preservation Fund into a single fund: the Housing Stabilization and Investment Trust Fund which would support preservation, new construction, and rehabilitation projects.

Challenge: As noted above, the Executive Director of the Metropolitan Area Planning Council has called the Housing Stabilization and Investment Trust Fund, one of “two workhouse programs of the affordable housing system” in the Governor’s 2023 housing bond bill and has urged legislators to maximize funding for this consolidated fund.³⁴⁶

Opportunity: Governor’s Healey’s 2023 housing bond bill authorizes \$425M over five years to the consolidated Housing Stabilization and Investment Trust Fund.

7. *Housing Innovations Fund (HIF)*

The state Housing Innovations Fund (HIF) is a state-funded program that provides funding for non-profit developers to create and preserve affordable rental housing projects.³⁴⁷ HIF provides core funding for all forms of supportive housing in the Commonwealth, including permanent supportive housing, transitional housing, and emergency shelter beds.³⁴⁸ HIF requires that at least 25% of a project’s total units be restricted to individuals and families at or below 30% of the area median income.³⁴⁹ The program is funded through state bonds and administered by CEDAC on behalf of EOHLC.³⁵⁰ HIF often is used in tandem with federal National Housing Trust Fund (HTF) to create permanent supportive housing units. HIF also supports the provision of robust supportive services.³⁵¹ While HIF funds may finance up to 50% of the total development cost of a project, EOHLC and CEDAC typically cap the assistance to a given project at \$1 million.³⁵²

Challenge: The HIF is a primary source of capital funding for supportive housing projects in Massachusetts.

Opportunity: Governor Healey’s 2023 housing bond bill authorizes \$200M over five years for the fund.

8. *Housing Preservation and Stabilization Trust Fund (HPSTF)*

The state Housing Preservation and Stabilization Trust Fund (HPSTF) provides capital, operating subsidy and service funds for supportive housing developments serving formerly homeless households, veterans, seniors, unaccompanied youth, and other populations in need of housing with services.³⁵³ Application is through EOHLC. CEDAC manages this program.³⁵⁴

E *Other Sources of State Funding for Housing*

This section includes one other source of funding for housing, although it is not an affordable housing program.

1. *Housing Development Incentive Program (HDIP) - Chapter 40V*

Although not an affordable housing development program, the state Housing Development Incentive Program (HDIP) seeks to encourage the production of market rate housing in gateway cities.³⁵⁵ The program provides two tax incentives to developers pursuing new construction or substantial rehabilitation of properties for lease or sale as multi-unit residential housing: a local option real estate tax exemption and state tax credits for Qualified Project Expenditures (QPEs). For a project to be eligible for this program, the residential housing must contain a minimum of 80% market rate units. Application is through EOHLC.³⁵⁶

Challenge: There is no requirement for a percentage of the units to be affordable.

Opportunity: The Massachusetts Law Reform Institute (MLRI) urges that the Legislature and EOHLC modify the HDIP to require a meaningful percentage of affordable units in each project.³⁵⁷ MLRI recommends that HDIP projects with more than ten units should be mixed income and include at least 20% permanently affordable units and, of these permanently affordable rental units, 10% should be reserved for households under 30% of area median income or provide proof that the municipality has approved and funded projects in the Housing Development Zone or nearby that will add at least an equivalent number of similarly affordable units.³⁵⁸

Legislation exists to accomplish these goals. Senator James Eldridge, former co-chair of the Joint Committee on Housing, has sponsored S.870, *An Act to improve the housing development incentive program* (Mass. Leg., 193rd sess.), which, among its broad provisions, requires that no less than 20% of units in HDIP buildings be affordable units. In addition, Senator Sal DiDomenico has sponsored S.863, *An Act relative to reforming the housing development incentive program* (Mass. Leg., 193rd sess.), and Representative Peter Capano has sponsored H.1300, *An Act to reform housing development incentive program tax credits* (Mass. Leg., 193rd sess.), both of which also require that no less than 20% of units in HDIP buildings be affordable units. The Joint Committee on Housing has extended all three bills until July 10, 2024.

F *Other State Programs to Incentivize Housing for People Living with Disabilities*

This section includes other state-funded programs that incentivize housing for people with disabilities.

1. *The 3 Percent Priority Program*

In 1990, EOHHS, DMH, DDS, and MassHousing entered into a Memorandum of Understanding (MOU) that required owners of properties financed by MassHousing to “set-aside” 3% of all low-and moderate-income units for applicants referred by DMH and DDS.³⁵⁹ The program was called the DMH/DDS Set-Aside Program. While this program continues to exist with developments MassHousing financed prior to September 2020,³⁶⁰ in 2020 the state created a new program — the 3% Priority Program — to replace and expand the scope of the set-aside program.

The 3% Priority Program includes *all* the state housing agencies (i.e., EOHLC, MassDevelopment, the Massachusetts Housing Partnership, and MassHousing), and is available to clients of MRC and EOE (in addition to DMH and DDS).³⁶¹ Owners of rental developments funded or overseen by MassHousing, EOHLC, MassDevelopment, or the Massachusetts Housing Partnership and having at least 17 affordable units restricted to households earning no more than 80% of area median income must now provide priority access to 3% of all subsidized units for referrals from DMH, DDS, MRC, and EOE.³⁶² MassHousing serves as the point of contact between the state housing agencies, the participating property management companies, and the involved EOHHS agencies.³⁶³ The four referring agencies identify potential applicants for housing, help to complete housing applications and collect required documentation, confirm eligibility for the 3% Program, provide appropriate services to residents, and work with property managers to resolve any problems.³⁶⁴

Challenge: In 2023, MassHousing and EOHLC created a new initiative to increase the affordability of the DMH/DDS Set-Aside and 3% Priority Programs units.³⁶⁵ The initiative sought to address the difficulties that developers were having with meeting the 3% requirements. (Tenancies were remaining unfilled because potentially-eligible tenants did not have sufficient income for rent.³⁶⁶) To provide affordability, the initiative now links these units with Massachusetts Rental Voucher Program (MRVP) project-based vouchers. The expectation is that this initiative will result in more referrals, faster lease ups, and more stable tenancies.³⁶⁷

Opportunity: Ensure adequate funding of the MRVP so that MRVP project-based vouchers can be paired with 3% Priority Program funding, and thereby keep the 3% Priority Program viable.

2. Home Modification Loan Program (HMLP)

While not specifically for DMH clients, MRC's Home Modification Loan Program (HMLP) can provide a source of funding for housing for people with disabilities. The program provides funds to modify the primary, permanent residence of an older adult or individual with a disability so that the person may remain in their home or return home from an institutional setting.³⁶⁸ HMLP is administered by CEDAC.³⁶⁹

Challenge: HMLP funding typically has been used by private parties who want to maintain a family member in a home. However, this funding also could be used by non-profit agencies who have housing units which need modifications to meet resident needs. For example, there are non-profit agencies who operated group living environments (GLEs) that house DMH clients; these GLEs may need modifications to be able to accept a client with particular accessibility needs.

Opportunity: Governor Healey's 2023 housing bond bill, which authorizes \$60M over five years for HMLP, provides: "that not more than 10 per cent shall be used for grants to assist landlords seeking to make modifications for a current or prospective tenant with disabilities, who but for such a grant would be unable to maintain or secure permanent housing."³⁷⁰ Advocates should support this language and funding level.

G State Programs that Provide Housing for Special Populations

There are a range of state programs that fund organizations and their programs (for example, community action agencies) which construct and/or provide housing and housing supports to special populations. Key programs for people living with serious mental health conditions or for populations with high percentages of persons with mental health conditions are listed below.

1. Adult Community Clinical Services (ACCS)

Adult Community Clinical Services (ACCS) is DMH's primary residential, treatment, and supportive services program for its adult clients, delivered across all housing settings.³⁷¹ Housing through the ACCS program is offered through non-profit providers who have contracted with DMH. The ACCS program helps its clients access treatment, develop skills, establish natural supports, and gain resources to live successfully in the community.³⁷² Most DMH clients who receive ACCS services live either in affordable housing units or in GLEs. Goals of ACCS include progression towards more independent housing and housing permanency.³⁷³

2. Safe Haven Program

DMH's Safe Haven program provides low-threshold ("Housing First"), transitional housing to individuals who are chronically unhoused or housing insecure, and who have serious mental health conditions and often co-occurring substance use conditions. DMH contracts with providers who own and operate these GLEs.

An alternative to shelter placement,³⁷⁴ the Safe Haven program provides housing, connections to behavioral health and medical services, and a bridge to permanent housing to hard-to-reach or hard-to-engage individuals, many of whom have trauma histories. Safe Haven programs provide a home with no treatment demands and seek to build trust and engagement over time. Safe Haven program staff offer meals, engagement services, assessment, service planning, referral, service and linkages, self-help, crisis intervention, medication monitoring, substance use services, medical management, housing planning, and community reentry skills. Diverting people from emergency departments, hospital beds, emergency medical services, the criminal legal system, and incarceration, the program reduces overall public expenditures.

Challenge: In 2023, Massachusetts had 14 Safe Haven programs with a total of 113 beds.³⁷⁵ That year, the average annual operating cost for a Safe Haven program was \$500K. Funding is needed to expand the program statewide and thereby ensure geographically equitable access.

Opportunity: Funding for the Safe Haven program is provided through the DMH Statewide Homelessness Support Services account in the state budget.³⁷⁶ While historically, there has been an earmark for the program in that account, the Governor's FY25 state budget provides no such earmark. Advocates should seek an earmark and an increase in state budget funding.

3. Intensive Community Services (ICS) Young Adult Therapeutic Care (YATC)

DMH's Intensive Community Services (ICS) Young Adult Therapeutic Care (YATC) program housing as well as clinically intensive treatment and outreach to young adults ages 18 to 25.³⁷⁷ YATC provides two levels of support: staffed apartments (GLEs) and supported apartments.³⁷⁸ Both levels provide therapeutic support to help young adults live, work, attend school and participate in their communities.³⁷⁹ YATC providers are independent agencies which contract with DMH.³⁸⁰

4. Reentry Transition Pilot Program

Administered by EOHLC in consultation with the Executive Office of Public Safety and Security (EOPSS), the Reentry Transition Pilot Program serves individuals re-entering the community from carceral facilities who are participants in certain Department of Correction-funded reentry programs. The program provides supportive housing services, as well as rental subsidies to people from the Stable Start Housing Initiative, a partnership between EOPSS and EOHLC.³⁸¹

Challenge: The Governor's FY25 H2 budget proposes \$3M for the EOHLC line item (7004-9034), level funding the account when compared to the FY24 General Appropriations Act.

Opportunity: Advocates are seeking a substantial increase in funding for FY25, to \$9M and a change in language so that persons being released from Houses of Correction are among those eligible for the program.

5. Community-Based [Residential] Reentry Program

The Massachusetts Probation Service administers the Community-Based [Residential] Reentry Program, which serves individuals returning to the community from county correctional facilities and state prisons. The state provides grants to community-based, residential reentry programs which provide transitional housing, workforce development, and case management. The program is funded through a line item within the Trial Court budget.³⁸²

In early 2024, the program housed individuals at five locations across the state.³⁸³ The FY25 Governor's budget continues earmarks within the account for women and older adults returning from incarceration and for individuals released on parole who would live in sober and transition housing.³⁸⁴

Challenge: The Governor's FY25 H2 budget proposes \$1.5M for this program (Trial Court line item 0339-101 I). The FY24 General Appropriations Act funded the account at \$2M.

Opportunity: Advocates should seek to increase funding.

6. Emerging Adult Reentry Initiative

Administered by the EOPSS Office of Grants and Research, the Emerging Adult Reentry Initiative serves individuals ages 18 to 25 who are returning to the community from county correctional facilities and state prisons. The program funds nonprofit service providers who partner with carceral facilities to provide pre- and post-release services to this population and help them avoid future criminal legal system involvement.³⁸⁵ Participants also may access rental subsidies from the Stable Start Housing Initiative, a partnership between EOPSS and EOHLC.³⁸⁶

Challenge: The Governor's FY25 H2 budget proposes \$7M for this program (EOHLC line item 7004-9034), level funding the account when compared to the FY24 General Appropriations Act.

Opportunity: Advocates are seeking to increase funding to \$9M.

7. Supportive Senior Housing Initiative

The Supportive Senior Housing Initiative provides an assisted-living level of care to elderly residents living in state or federal public housing.³⁸⁷ The supports may include rent.³⁸⁸ The program is operated by EOHLC and EOEI.³⁸⁹

8. Recovery Home Program

The Recovery Home Program provides funding for transitional housing ("sober homes") to individuals in recovery from a substance use condition.³⁹⁰ Funding for the program comes from HUD pursuant to the Support for Patients and Communities Act.³⁹¹ Funding may be used for rehabilitation and reconstruction of multi-unit residential buildings and for relocation payments and other assistance for individuals and families.³⁹² The program began as a collaboration between DHCD and the Bureau of Substance Addition Services (BSAS) of the Department of Public Health (DPH), which oversees the certification of sober homes.³⁹³ The program operates through an interagency agreement among EOHLC, DPH, and the Center for Community Recovery Innovations (CCRI), a nonprofit subsidiary of MassHousing.³⁹⁴ CCRI has awarded more than \$15.5M in grants for the creation or preservation of nearly 3000 units of sober housing.³⁹⁵ An individual may

stay in a program-supported sober home for only a time-limited period: two years or until the individual secures permanent housing, whichever occurs first.³⁹⁶

H. Public Housing

Public housing is rental housing provided to eligible low-income families, older adults, and persons with disabilities in properties developed and owned by public entities. Local housing authorities manage public housing.

1. Federal Public Housing

Federal public housing provides rental housing for eligible low-income families, older adults (ages 62 or older), and persons with disabilities.³⁹⁷ HUD administers federal aid to local housing authorities which, in turn, manage the housing at rents that are affordable to low-income residents. HUD (not EOHLC) oversees federal public housing.

Much federal public housing in Massachusetts was constructed between the 1960s and 1974, when President Nixon issued a moratorium on housing spending. Therefore, many developments need extensive rehab which would likely necessitate federal funds.

2. State Public Housing

Massachusetts began constructing state-funded public housing in 1948, with housing for veterans.³⁹⁸ The 1960s saw substantial state public housing construction.³⁹⁹ There are currently 41,500 state public housing units.⁴⁰⁰

EOHLC oversees state public housing, offering a number of programs, including those described below.

Challenge: Most state-funded public housing in Massachusetts was constructed decades ago. The state estimates that local housing authorities have a \$3.2B backlog for renovations to these properties.⁴⁰¹ In addition, as of September 2023, 2,300 state public housing apartments were vacant, although the state was paying local housing authorities to maintain and operate the units.⁴⁰² One reason for the vacancies is an inefficient wait list system.⁴⁰³

Opportunity: The Governor's 2023 housing bond bill includes \$1.6B for state public housing repair, rehabilitation, and modernization. Advocates should support opportunities to rehab and/or expand public housing and encourage cooperation with developers to advance funds for this purpose.

a) Public housing for seniors and people with disabilities (Chapter 667)

Chapter 667 state-funded, public housing for seniors and people with disabilities is open to households where one member of the household is age 60 or older or has a disability and meets certain income guidelines. Apartments are usually studios and one-bedroom units, although there are a few two-bedroom apartments. There are approximately 32,250 Chapter 667 public housing apartments in this program across the state.⁴⁰⁴

Challenge: This program limits the percentage of non-elderly people with disabilities who are allowed to rent to no more than 13.5% of a housing authority's state-funded elderly and disabled apartments.⁴⁰⁵ Some communities have been at this 13.5% cap for many years, and it is difficult for non-elderly people with disabilities to obtain Chapter 667 housing.⁴⁰⁶

Opportunity: Increase the 13.5% cap which limits the percentage of non-elderly people with disabilities who are allowed to rent these apartments.

b) Chapter 689 and Chapter 167 Special Needs Housing

Two Massachusetts laws, Chapter 689 of the Acts of 1974 and Chapter 167 of the Acts of 1987, created a state housing program for adults with special needs who require 24-hour care. Chapter 689 operates through a partnership between the local housing authority and DMH or DDS, along with EOHLC and usually a service provider.⁴⁰⁷ Historically, Chapter 689 has been used by DDS for its clients. However, in recent years, DDS has released some of these properties and they have been taken over for use as GLEs for DMH clients leaving chronic care psychiatric facilities.

Chapter 167 housing operates similarly and houses people with chronic mental illness, also serving people as they leave chronic care facilities. For both programs, housing authorities own the properties.⁴⁰⁸ Housing authorities enter into lease agreements with DMH, with DMH being the guarantor and DMH-contracted service providers holding the lease.⁴⁰⁹ DMH selects residents.⁴¹⁰

Challenge: At the end of 2023, approximately 700 people in 95 properties were housed under the Chapter 689 and Chapter 167 programs.⁴¹¹ Many of these properties need rehab, renovations, and possible expansion.

Opportunity: The Commonwealth should pursue rehab, renovation, and possible expansion of properties under the Chapter 689 and Chapter 167 programs with funding from EOHLC or through the participation of outside entities.

III. RENTAL HOUSING SUBSIDY PROGRAMS

A Federal Tenant-Based Rental Assistance Programs

This section includes federal programs that provide tenant-based rental assistance to specific populations.

1. Section 8 Housing Choice Voucher Program (HCVP)

HUD's Section 8 Housing Choice Voucher Program (HCVP) is the major federal program for assisting very low-income families, older adults, and persons with disabilities to access affordable rental units in the private market.⁴¹² Participants find their own housing and are not limited to units located in subsidized housing projects.⁴¹³ EOHLC contracts with eight regional housing agencies and one local housing authority to administer the program.⁴¹⁴ The housing authority pays the subsidy to the landlord and the family pays the difference between the rent and the subsidy.⁴¹⁵ Under certain circumstances, if authorized by the housing authority, a family may use its voucher to purchase a modest home.⁴¹⁶

Challenge: Voucher holders find it difficult to find housing for a variety of reasons, including due to ongoing discrimination.

Opportunity: In a change in late 2023, the voucher amount, previously based on the fair market rent in 19 geographic regions of the state, now will be based on zip code.⁴¹⁷ The state also is planning a media campaign to address discrimination.⁴¹⁸

2. Section 8 Housing Options Program (HOP)

Section 8 Housing Options Program (HOP) provides housing assistance in the form of Section 8 HCVP vouchers and support services to low-income disabled persons who are homeless or at risk of homelessness.

HOP operates through a collaboration of EOHLC, DMH, DPH, EOHHS, and MRC.⁴¹⁹ The program serves DMH Metro Boston Area clients only, based on referral from the DMH Metro Boston Area Office to Justice Resource Institute (JRI) Health, the program operator.⁴²⁰

In addition to a voucher, program clients receive ongoing supportive services from ACCS, DMH case managers, or JRI HOP staff, who are trained housing counselors.⁴²¹

3. Section 8 Veterans Housing Voucher Program (VHVP)

The Section 8 Veterans Housing Voucher Program (VHVP), managed by EOHLC, serves homeless veterans with disabilities, severe psychiatric conditions, and/or substance use conditions.⁴²² EOHLC administers the program in cooperation with the state Executive Office of Veterans Services.⁴²³ Services may include housing search assistance, community-based management services, and outpatient health services.⁴²⁴ The program has a limited number of Section 8 vouchers available for very low-income, homeless veterans with disabilities, or psychiatric or substance use conditions.⁴²⁵

4. Section 8 Designated Housing (DSG) program and the One-Year Mainstream Housing Program (MS1) for People with Disabilities (tenant-based)

The Section 8 Designated Housing (DSG) program and the One-Year Mainstream Housing Program (MS1) provide Section 8 tenant-based vouchers to very low-income non-elderly disabled families and individuals.⁴²⁶

5. HOME Investment Partnerships Program Tenant-Based Rental Assistance

HOME Investment Partnerships Program Tenant-Based Rental Assistance provides rental assistance to low-income households.

B State Tenant-Based Rental Assistance Programs

This section includes state programs that provide tenant-based rental assistance to specific populations.

1. Massachusetts Rental Voucher Program (MRVP) tenant-based assistance

The Massachusetts Rental Voucher Program (MRVP) provides tenant-based (or mobile) rental vouchers to help low-income individuals, families, people with disabilities and older adults access housing.⁴²⁷ The income limit for eligibility for MRVP is 80% of area median income.⁴²⁸

As of February 2023, approximately 9,500 Massachusetts households relied upon a MRVP voucher (5,700 mobile and 3,800 project-based).⁴²⁹ The Governor's FY25 state budget included a \$40M increase in funding to the MRVP program, sufficient to create 750 new MRVP vouchers, including project-based vouchers.⁴³⁰

Challenge: Researchers believe that 240,000 additional households could be served by the MRVP program with an additional \$3.2B allocation.⁴³¹ Additionally, the program exists only in the Massachusetts state budget and is not codified in statute.

Opportunity: Sponsored by Representative Adrian Madaro and Senator Joan Lovely, H.1351/S.888, *An Act codifying the Massachusetts Rental Voucher Program* (Mass. Leg., 193rd sess.), would improve the MRVP program by increasing state funding for the program, thereby allowing the Commonwealth to issue more vouchers, and codifying the program in statute to best protect it from potential modification.⁴³² In March 2024, the Joint Committee on Housing referred the House bill to the Joint Committee on Ways and Means.

2. *Alternative Housing Voucher Program (AHVP)*

The Alternative Housing Voucher Program (AHVP) provides rental assistance to people with disabilities under age 60, who either live in, or are eligible to live in, elderly/disabled state assisted public housing.⁴³³ The income limit for eligibility for AHVP is approximately 80% of area median income.⁴³⁴

These vouchers have traditionally been tenant-based, although the FY24 state budget authorized the creation of project-based vouchers through the AHVP to propel development of accessible housing for the AHVP target population.⁴³⁵

Challenge: The demand for AHVP vouchers vastly outstrips the supply.

Opportunity: Sponsored by Representative Rob Consalvo/Representative Marjorie Decker and Senator Robyn Kennedy, H.1305/S.884, *An Act to create affordable homes for persons with disabilities* (Mass. Leg., 193rd sess.) would align the AHVP program better with other rental assistance programs – like the MRVP, increase state funding to the program (allowing for the issuance of more vouchers, and allow AHVP to issue project-based vouchers. The Joint Committee on Housing has extended the bills until July 10, 2024.

3. *Department of Mental Health Rental Subsidy Program (DMH RSP)*

The Department of Mental Health Rental Subsidy Program (DMH RSP) is typically sponsor-based but may be tenant-based.⁴³⁶ The program is discussed below in the section on state sponsor-based programs.

4. *HomeBASE*

HomeBASE is designed to divert certain low-income homeless families with children (or pregnancy) from the shelter system. The program provides up to \$30,000 over a two-year period, with the possibility of a third year of help. HomeBASE funding may be used to pay first and last month's rent, security deposits, and broker's fees for a new apartment, as well as help with rent payments for up to three years. Funding can also be used for furniture, moving expenses, utilities, overdue rent and/or utility bills. The program also provides case management to help recipients find community supports and services. EOHLC administers the program.

Challenge: HomeBASE has been difficult to access because the program is understaffed and underfunded.⁴³⁷ There are also bureaucratic barriers to accessing the service.⁴³⁸

Opportunity: The Governor's H2 FY25 budget provides \$57.3M for HomeBASE, a \$20M increase over the FY24 General Appropriations Act.⁴³⁹ Advocates should also seek to codify HomeBASE in statute to ensure a funding stream⁴⁴⁰ and support the establishment of an ombudsman for the program.⁴⁴¹

C *Federal Project-Based Rental Assistance Programs*

This section includes federal programs that provide project-based rental assistance.

1. *Section 8 Project-Based Voucher (PBV) program of the Section 8 Housing Choice Voucher (HCV) program*

HUD's Section 8 Project-Based Voucher (PBV) program, a component of HUD's Section 8 Housing Choice Voucher (HCV) program, is the primary form of new project-based assistance currently available. This assistance may be used for 100% of the units in developments serving the elderly or people with disabilities or for supportive housing developments or single-family homes; otherwise, it cannot be used for more than 25% of the units in a building.

Through this program, a local housing authority uses a portion of its *tenant-based* voucher funding to allocate *project-based* units to a project. Projects are typically selected for PBVs through a competitive process managed by the housing authority, although in certain cases projects may be selected non-competitively.

A local housing authority may use up to 20% of its authorized voucher units for project-based units in a specific project if the owner agrees to either rehabilitate or construct the units, or the owner agrees to set-aside a portion of the units in an existing development. In certain cases, the housing authority may use an additional 10% of its authorized voucher units for PBV assistance.⁴⁴²

2. Section 8 Moderate Rehab for Single Room Occupancy (SRO) program

The Section 8 Moderate Rehab for Single Room Occupancy (SRO) program provides project-based rental assistance for housing for homeless individuals. EOHLC is responsible for the oversight.⁴⁴³

3. Section 811 Project Rental Assistance (PRA) program

The Section 811 Project Rental Assistance (PRA) program provides project-based rental assistance to state housing agencies for projects serving adults with disabilities who need supportive housing.

The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act distributed \$6.93M in Section 811 PRA funding to Massachusetts.⁴⁴⁴ In Massachusetts, the Section 811 PRA Program provides rental assistance to extremely low-income adults with disabilities who are under age 62.⁴⁴⁵

Eligible individuals are those in an institution, at risk of institutionalization, or homeless.⁴⁴⁶ Additionally, to be eligible, individuals must either receive services through the Home and Community-Based Services (HCBS) Waiver or receive services through DDS, DMH, MRC or the Community Support Program (CSP) for Homeless Individuals program.⁴⁴⁷ The program is a partnership between EOHLC and EOHHS.⁴⁴⁸

4. Section 202 Elderly Housing program

The Section 202 Elderly Housing program, discussed above, provides project-based rental assistance for projects serving adults ages 62 and older.

5. HUD-VA Supportive Housing (HUD-VASH)

U.S. Department of Housing and Urban Development-U.S. Department of Veterans Affairs Supportive Housing (HUD-VASH) is a project-based voucher program for homeless veterans. The program combines HUD's Housing Choice Voucher (HCV) rental assistance with VA-provided supportive services (such as case management, health care, mental health treatment, and substance use counseling).⁴⁴⁹ To be eligible for an award, local housing authorities must have the support of a partnering VA facility and meet any utilization threshold requirements.

Challenge: A 2021 Office of the Inspector General Audit of the program found that local housing authorities were not able to use all of their allocated program vouchers, in part because of the high cost of housing and the lack of available housing options such as one-bedroom housing units.⁴⁵⁰

Opportunity: The auditor suggested an extension of federal CARES Act waivers could ameliorate some of the concerns identified.⁴⁵¹

D. State Project-Based Rental Assistance Program

This section includes a state program that provides project-based rental assistance.

1. Massachusetts Rental Voucher Program (MRVP) project-based assistance

The MRVP, discussed above, offers project-based vouchers through regional non-profit housing agencies and local housing authorities in the Commonwealth.⁴⁵² (The program also provides “tenant-based” vouchers.)

E Federal Sponsor-Based Rental Assistance Program

This section includes a federal program that provide sponsor-based rental assistance.

1. Federal Sponsor-Based Rental Assistance (SBRA) program

The HUD SBRA program provides rental assistance to homeless and formerly homeless people who live in affordable housing owned or leased by a sponsor agency. The sponsor agency may be a private, nonprofit organization, or a community mental health agency established as a public nonprofit organization.⁴⁵³ Up to five years’ worth of rental assistance may be awarded to a project in one competition.⁴⁵⁴

If the sponsor agency owns the units, the agency leases units directly to program participants. If the sponsor agency leases the units, the agency subleases units to program participants through a mechanism known as a “master lease.”⁴⁵⁵ If the participant moves, the sponsor may lease or sublease the unit to a different participant or use the SBRA in a different unit (for the original or a different participant). Regardless, the SBRA stays with the sponsor.⁴⁵⁶

In addition to using SBRA subsidies for rental assistance sponsor agencies may use them to provide supportive services to help the household achieve stability.⁴⁵⁷ HUD has defined supportive services in its CoC program regulations.⁴⁵⁸

F State Sponsor-Based Rental Assistance Programs

This section includes state programs that provide sponsor-based rental assistance.

1. Department of Mental Health Rental Subsidy Program (DMH RSP)

The DMH RSP is a state-funded rental subsidy program for DMH clients. The program is administered by EOHLC.

DMH RSP subsidies are typically sponsor-based (in which case the lease is between the DMH-contracted community provider and the property owner), but sometimes tenant-based (in which case the lease is between the DMH client and the owner).⁴⁵⁹ The provider supports the client’s wellness and helps maintain the tenancy, such as by helping meet inspection requirements. Property managers have 24/7 access to these providers should tenancy issues arise.

DMH clients pay 30% of their adjusted income toward rent and the rental vouchers cover the balance. This program is competitive in rental markets where federal vouchers are difficult to use; acceptable contract rents for new units and for rent increases may be up to 110% of HUD’s Fair Market Rents. The standards for the evaluation of the tenant’s eligibility for the program, while formally requiring CORI and income verification, provide flexibility.

While eligible properties include an apartment building, a rooming, lodging, or boarding house, or certain private residences,⁴⁶⁰ the DMH RSP is most often used to allow DMH clients to move from GLEs (or sometimes psychiatric units) to their own apartments, opening up beds in the psychiatric continuum of care. When a DMH RSP is paired with supportive services from DMH (either directly or through contracted service providers), it is an example of PSH.

As of October 2023, 2350 individuals were housed through the DMH RSP, with 100 individuals housed in the preceding four months.⁴⁶¹

Challenge: The success of DMH RSP is jeopardized by the lack of affordable units, which makes finding a unit difficult, and by the competitive rental market, which has led property owners to refuse to lease to voucher holders. Given that a housing coordinator has only 90 days once the necessary eligibility documentation is collected to find a unit in the community that meets the program requirement, these obstacles hinder success of the program.

Opportunity: Funding for the DMH RSP program is through two state line items: DMH Adult Mental Health and Support Services⁴⁶² and EOHLC's DMH RSP account.⁴⁶³ In FY24, the program utilized \$14.3M in funds from the DMH account and \$16.548M in funds from the EOHLC account. The Governor's FY25 state budget is level-funded for both accounts with the FY24 General Appropriations Act. Advocates should seek increased state budget funding for DMH RSP.

2. Home and Healthy for Good (HHG)

Home and Healthy for Good (HHG), discussed above, may be used for sponsor-based PSH projects for individuals experiencing homelessness.

3. Sponsor-based Permanent Supportive Housing (PSH)

The Sponsor-based Permanent Supportive Housing (PSH) program supports PSH units for individuals experiencing homelessness.⁴⁶⁴ In the FY23 state budget, a portion of program funds were directed to the MSA to sustain low-threshold sponsor-based leasing that had been previously linked to the pay-for-success projects funded through the Social Innovation Financing Trust Fund. This program is administered by EOHLC.

IV. FEDERAL GRANTS

This section includes important federal grants that provide funding to states and localities for affordable housing.

A Community Development Block Grant (CDBG) Program

The Community Development Block Grant (CDBG) is a HUD-funded block grant that provides annual grants on a formula basis to states, cities, and counties for activities including development of affordable housing.⁴⁶⁵ The federally-required Consolidated Plan coordinates, prioritizes, and aligns affordable housing, homeless response, and community development spending in the community.⁴⁶⁶

Communities with populations of 50,000 or greater (known as entitlement communities) receive CDBG funds directly from HUD.⁴⁶⁷ Communities with populations under 50,000 receive grants from states; in Massachusetts, the Community Development Fund distributes these funds.⁴⁶⁸ CDBG funds may be used for housing rehabilitation and development.⁴⁶⁹

Per HUD requirements, Massachusetts produced a 2020-2024 Five-Year Consolidated Plan and a draft One-Year Action Plan for federal FY24.⁴⁷⁰

B HOME Investment Partnerships Program Grants

The HOME Investment Partnerships Program provides federally-funded grants to states and localities to fund activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or

providing direct rental assistance to low-income people.⁴⁷¹ Often states and localities use HOME grants in partnership with local nonprofit groups.⁴⁷² HOME is the largest federal block grant to state and local governments exclusively for the creation of affordable housing.⁴⁷³ HOME funds may be used for a number of purposes: grants, direct loans, loan guarantees or other forms of credit enhancements, or rental assistance or security deposits.⁴⁷⁴

V. STATE-FUNDED SUPPORTIVE SERVICES FOR PEOPLE WITH MENTAL HEALTH CONDITIONS WHO ARE OBTAINING AND MAINTAIN HOUSING OR HOMELESS OR AT RISK OF HOMELESSNESS

A State-Funded Supportive Services to Help People Living with Mental Health Conditions Obtain and Maintain Housing

This section includes other key state programs, in addition to DMH ACCS, the Safe Haven program, DMH's Intensive Community Services (ICS) Young Adult Therapeutic Care (YATC) program, and Section 8 Housing Options Program (HOP), discussed above, that provide supportive services for people with mental health conditions so that they may obtain and maintain housing.

1. DMH Case Management

DMH Adult Case Management is a state-operated service that provides assessment of needs, service planning development and monitoring, service referral and care coordination, and family/caregiver support. Not all DMH clients receive case management from DMH staff, but some do, including some clients who receive housing through the DMH RSP. (Many more adult DMH clients receive care coordination through their ACCS teams.) DMH case managers can provide and refer their clients to supportive services.

2. Program of Assertive Community Treatment (PACT)

DMH's Program of Assertive Community Treatment (PACT) program is a community-based, multi-disciplinary team which provides the treatment, rehabilitation and support services needed to enable adults with severe and persistent mental illness to engage in an individual process of recovery. The team consists of a psychiatrist, nurses, master's level clinicians, vocational specialists, addiction specialists, a housing specialist, and a case manager. This self-contained team organizes and provides all services in partnership with the participant. Most services are delivered in the individual's home.

PACT is a closed referral program, with DMH and Massachusetts Behavioral Health Partnership (MBHP), the state's behavioral health vendor, being the only referring sources.

PACT clients may rely on a DMH, state, or federal rental subsidy to live in the community including DMH RSPs, Section 8s, or MRVPs.

3. Assertive Treatment and Relapse Prevention program (ATARP)

The Assertive Treatment and Relapse Prevention (ATARP) program is a partnership between DMH and DPH to provide housing supports.⁴⁷⁵ ATARP Housing Specialists pursue relationship building, provide housing search assistance, and develop and maintain relationships with landlords and property managers to secure housing opportunities and/or support tenancies. They may provide transportation for individuals to housing-related appointments and assist with apartment set-up. Services are designed to provide entrance into housing with few preconditions.⁴⁷⁶

4. *DDS-DMH Intensive Community Wrap Around Supports*

DDS and DMH partners to provide the DDS-DMH Intensive Community Wrap Around Supports service to transition age youth ages 18 to 30 who have autism spectrum disorder and mental health challenges. The service provides supports, including supports to avoid homelessness. These include, but are not limited to, housing search support and tenancy preservation. The service is mostly for people living at home. The service is hourly, up to 30 hours per week.

The program has a joint DMH-DDS referral process. To be eligible, one must be eligible for DDS supports and have either a diagnosis of a serious mental condition consistent with DMH Service Authorization clinical criteria (whether formal eligibility has been established or not at the time of the referral) or significant mental health challenges associated with ASD; and have the need for intensive coordinated services. The service recipient could be a dual DDS and DMH client or could be someone who is not yet a DMH client. People who will be provided a DMH RSP through the service will likely need to become a DMH client.

Currently, there are five program sites, one in each of the five areas of the state, serving 100 people in total. DDS issued the Request for Response and all contracts have now been awarded. The goal is to determine if this is a needed service.⁴⁷⁷

The RFR states that the Total Estimated Value of Engagement is up to \$1.5M for the first 4 months, \$4.2M annually after that, and \$18.3M over the five years of the contract. The program is funded with COVID Relief/American Rescue Plan Act (ARPA) dollars, through a Centers for Medicare and Medicaid (CMS)-approved project.

5. *Elder Mental Health Outreach Teams (EMHOTs)*

Elder Mental Health Outreach Teams (EMHOTs) serve older adults age 60+. Teams assess individuals for mental illnesses, provide counseling, provide and/or connect elders to crucial social services, facilitate connections to primary care providers (PCPs), and provide support to other municipal staff and community partners who in turn can improve their interactions with elders experiencing mental health issues.

The service is regional and covers many communities but is not yet available statewide. EMHOTs may be provided through Municipal Councils on Aging (COAs), Aging Services Access Points (ASAPs), Area Agencies on Aging (AAAs), other community-based human services organizations, or behavioral health care providers.

EMHOTs are funded through the Executive Office of Elder Affairs budget.⁴⁷⁸

B *State-Funded Homeless Outreach Programs for People with Mental Health Conditions*

DMH funds two services which provide outreach to homeless individuals with mental health conditions.

1. *Homeless Outreach Team (HOT)*

DMH's Homeless Support Services include the Homeless Outreach Team (HOT), a program that provides outreach and engagement to adolescents and adults with the goal being to help individuals find housing.⁴⁷⁹ The HOT connects individuals with mental health needs with a range of services including behavioral health and primary care, employment, housing, and assistance in applying for benefits.⁴⁸⁰

2. *Projects for Assistance in Transition from Homelessness (PATH)*

Projects for Assistance in Transition from Homelessness (PATH) is a DMH's largest homeless outreach program. PATH serves individuals living with serious mental health conditions, as well as those with co-occurring substance use conditions who are homeless or at risk of homelessness. PATH is supported by both an annual federal grant from the Substance Abuse and Mental Health Services Administration (SAMHSA) and state DMH funding.⁴⁸¹ In 2021, an additional \$950K over four years was added to the program budget through ARPA funding.

PATH operates statewide through a contract with Eliot Community Human Services.⁴⁸² Outreach Clinicians and Engagement Specialists visit more than 50 sites where homeless individuals live across the state to engage, assess and develop a treatment plan.⁴⁸³ Services include direct care, housing search, benefits, advocacy, and referrals to health and behavioral health care services. The goal is transition to community housing.⁴⁸⁴

Challenge: There is a need to maintain the increased staffing resulting from a \$950K infusion of ARPA dollars.

Opportunity: The ARPA funding should be annualized in the state budget so that the increased staff level can be sustained over time.

C *Housing Search Tools*

1. *Housing Navigation Assistance*

Housing Navigation Assistance is a service which aids people in housing search. The State Mental Health Planning Subcommittee on Housing of the State Mental Health Planning Council has led an effort to have people with lived experience of mental health conditions serve as peer supporters for individuals conducting housing search. Recommendations to reach this goal include expanding the number of peer supporters, increasing housing knowledge among peers, forming regional groups of peers focused on supporting clients in housing, and expanding housing training opportunities for peers.⁴⁸⁵ SAMHSA Mental Health Block Grant technical assistance funds were committed to initiate implementation of the recommendations.

Challenge: Individuals who are homeless, particularly those living with serious mental health conditions, need assistance with housing search.

Opportunity: The Commonwealth should increase state budget funding to train and employ peers and housing search experts. Such individuals could consult with providers doing housing searches or work directly with individuals with mental health conditions in their housing searches.

2. *Housing Navigator search engine*

The Housing Navigator search engine, available at <https://housingnavigatorma.org/>, is a tool to assist individuals looking for available affordable and/or supportive housing in Massachusetts.

D. *Medicaid-Funded Programs to Benefit People Needing Affordable Housing and Particularly Those Living with Mental Health Conditions*

State Medicaid agencies can use various strategies to provide housing assistance. MassHealth's resources include new programs like the Mitigating the Cost of Housing (MATCH) program, as well as expansions of the Flexible Services Program (FSP), the Community Support Program (CSP) for Homeless Individuals, and Health Related Social Need (HRSN) services. Programs in other states that fund housing and housing supports with Medicaid dollars can inform future advocacy.

1. Mitigating the Costs of Housing (MATCH) program

Mitigating the Costs of Housing (MATCH) is a new program, funded with federal dollars through the American Rescue Plan Act (ARPA), providing eligible MassHealth members who are moving into community-based housing with up to \$5,500 for one-time housing-related costs.⁴⁸⁶ Eligible costs and expenses include security deposits, first month's rent, moving expenses, utilities, furniture, furnishings, toiletries, clothing, cleaning and pest control, and food pantry and cleaning supplies.⁴⁸⁷

Eligible members must be enrolled in MassHealth, must be moving from a place where they are not currently responsible for housing costs, and must have secured community-based housing.⁴⁸⁸ MATCH assistance can be requested up to 60 days before the move and up to 60 days after the move.⁴⁸⁹ Only designated agencies can refer MassHealth members for MATCH assistance. The program will continue through March 2025 or until all funding is used.

2. Flexible Services Program (FSP)

Through its Flexible Services Program (FSP), certain MassHealth members can receive tenancy preservation and nutritional support services. In fall 2022, the federal Centers for Medicare and Medicaid (CMS) approved Massachusetts' current Section 1115 Demonstration ("Section 1115 waiver") for its FSP. Section 1115 waivers are used by states to make, with federal approval, experimental or pilot demonstration changes to their state Medicaid program.

The FSP is available to MassHealth members, ages 0 to 64, enrolled in an Accountable Care Organization (ACO), meet the definition of homelessness (or who are at risk of homelessness), and meet the requirements for at least one health need.⁴⁹⁰ FSP services include pre-tenancy supports such as assistance with budgeting for tenancy and with obtaining, completing, and filing housing applications. FSP also may include transitional assistance, such as help with one-time household set-up costs and move-in expenses including but not limited to first month's rent, security deposits, cost of applications, and purchase of household furnishings, as well as tenancy-sustaining supports such as assistance with applications, tenancy trainings, and legal advocacy related to tenancy. Additionally, FSP may fund home modifications to ensure a member's health, welfare, and safety or to enable independent functioning.⁴⁹¹

The 2022 waiver approval expanded access to FSP services. For example, the program will be available to members who are up to 12 months postpartum (and meet the other necessary criteria).⁴⁹² These new changes are set to go into effect no later than January 1, 2025.⁴⁹³

3. Community Support Program for Homeless Individuals (CSP-HI)

Through the Community Support Program for Homeless Individuals (CSP-HI) program, MassHealth provides pre-tenancy and tenancy-sustaining supports to members with behavioral health needs who are chronically homeless or homeless and frequent users of acute MassHealth services.⁴⁹⁴ CSP includes an array of services delivered by community-based, mobile, paraprofessional staff, supported by a clinical supervisor, to members with mental health or substance use condition diagnoses, or to members whose psychiatric or substance use condition diagnoses interfere with their ability to access essential medical services.⁴⁹⁵ CSP services are available for members receiving services from Managed Care Organizations (MCOs), Accountable Care Partnership Plans (ACPPs), One Care plans, Senior Care Organizations (SCOs), and MBHP.⁴⁹⁶ These are pre-tenancy and tenancy sustaining services for

CSP-HI became available in April 2023, following the approval of MassHealth's September 2022 Section 1115 waiver extension request to expand these services. In addition to CSP-HI, MassHealth also made available

two other CSPs at that time: the CSP Tenancy Preservation Program (CSP-TPP) which provides tenancy sustaining services for members who are facing eviction due to behavior/disability; and the CSP for Individuals with Justice Involvement (CSP-JI) which provides services to justice involved members who are experiencing barriers to accessing or consistently using medical and behavioral health services.⁴⁹⁷

CSP-HI services include assistance in obtaining housing.⁴⁹⁸ CSP-HI services include assistance from specialized professionals who have the ability to engage and support individuals experiencing homelessness in searching for PSH; preparing for and transitioning to an available housing unit; and, once housed, coordinating access to physical health, behavioral health, and other needed services geared towards helping them sustain tenancy and meet their health needs.⁴⁹⁹ CSP-HI services must also include pre-tenancy supports, including engaging the member and assisting in the search for an appropriate and affordable housing unit; support in transition into housing, including assistance arranging for and helping the member move into housing; and tenancy sustaining supports, including assistance focused on helping the member remain in housing and connect with other community benefits and resources.⁵⁰⁰ According to data provided by EOHHS, between April 1, 2023 and March 20, 2024, the Commonwealth spent over \$9M on CSP-HI services.⁵⁰¹

4. Health Related Social Need (HRSN) services

In April 2024, CMS approved MassHealth's request to expand coverage under the Commonwealth's Section 1115 waiver for certain Health Related Social Need (HRSN) services.⁵⁰² As part of this expansion to cover HRSN housing supports and related services for Medicaid-eligible individuals, MassHealth may cover up to six months of Short-Term Post-Hospitalization Housing (STPHH), board, and supportive services for persons transitioning out of institutions and are at risk of utilizing other state plan services, such as inpatient hospitalization and emergency department visits.⁵⁰³

This waiver approval aligns with a November 2023 CMS guidance regarding Medicaid coverage to meet HRSN services.⁵⁰⁴ The new HRSN framework permits use of Medicaid funds for STPHH, following transition from institutional care (including from emergency shelters, carceral settings, foster care settings, and hospitals or nursing homes for people with disabilities and older adults).⁵⁰⁵

5. Programs in other states

Other states also have taken steps to use Medicaid funds to pay for housing and housing supports.

- Arizona has used \$30M in state Medicaid funds to pay for supportive housing.⁵⁰⁶ In October 2022, HHS approved Arizona's Medicaid 1115 demonstration initiative targeting housing insecurity.⁵⁰⁷
- Oregon uses state Medicaid funds to cover housing supports, including rental assistance or temporary housing (e.g., rental payments, deposits, utility assistance) for up to six months; home modifications; pre-tenancy and tenancy support services (e.g., housing application, moving support, eviction prevention) and housing navigation and/or case management.⁵⁰⁸
- The California Advancing and Innovating Medi-Cal (CalAIM) program of California's Department of Health Care Services introduced "in lieu of services (ILOS)" or Community Supports, which, at the option of a Medi-Cal managed care health plan (MCP) and a member, can substitute for covered Medi-Cal services as cost-effective alternatives.⁵⁰⁹ Starting on January 1, 2022, CalAIM encouraged MCPs to offer one or more community supports, including Housing Transition Navigation Services, Housing Deposits, Housing Tenancy and Sustaining Services, and Short-Term Post-Hospitalization Housing.⁵¹⁰

Even without federal Medicaid dollars, there is the possibility of using state Medicaid dollars more pointedly to target homelessness. For example, in Philadelphia, a city-led nonprofit was created to provide mental health and addiction care for persons receiving Medicaid. The nonprofit used some of its funds (such as savings due to having a nonprofit rather than a for profit company provide care) to pay for clients' rent. The Philadelphia Department of Behavioral Health and Intellectual Disability Services has used at least \$101M in savings from Medicaid to pay rent, give cash stipends, develop affordable housing, and fund new homeless initiatives. The program has provided housing for 2,300 previously homeless persons, with rent costing about \$24K per year. Ultimately, the plan is for tenants to apply for HUD subsidies to pay their rent and not rely on Medicaid.⁵¹¹

Challenge: To expand the use of federal and state Medicaid dollars to provide housing and housing supports to MassHealth recipients with mental health conditions in additional contexts.

Opportunity: CMS has been open to expanding coverage to address homelessness and has recognized people with mental health conditions as a target population.

XI. ENDNOTES

¹ Expanding housing opportunities for low-income minors with serious mental health conditions who are living apart from their families is an important topic, but beyond the scope of this paper.

² National Institute of Mental Health, Mental Illness, <https://www.nimh.nih.gov/health/statistics/mental-illness>.

³ Mass. Gen. L. ch. 19, § 1.

⁴ Exec. Office of Health and Human Services, Department of Mental Health (DMH), <https://www.mass.gov/orgs/massachusetts-department-of-mental-health>.

⁵ Substance Abuse and Mental Health Services Admin. (SAMHSA), SOAR WORKS, Definitions of Homelessness, <https://soarworks.samhsa.gov/article/definitions-of-homelessness>. This cite also provides a definition of “at risk of homelessness.”

⁶ See Nat’l Alliance to End Homelessness, *Chronically Homeless*, <https://endhomelessness.org/homelessness-in-america/who-experiences-homelessness/chronically-homeless/#:~:text=People%20who%20are%20chronically%20homeless,Updated%20April%202023>.

⁷ <https://www.huduser.gov/portal/pdredge/pdr-edge-featd-article-081417.html>.

⁸ Citizens’ Housing and Planning Ass’n (CHAPA), Housing Search Guide for People with Disabilities in Massachusetts 6 https://www.chapa.org/sites/default/files/CHAPAHousingSearchGuide2013_2.pdf.

⁹ The emergency assistance program creates an entitlement to shelter to eligible homeless children and their adult caretakers and pregnant women, commonly known as a “right to shelter.” Mass. Gen. L. ch. 23B, § 30.

¹⁰ Deborah K. Padgett, *Homelessness, Housing Instability and Mental Health: Making the Connections*, B.J. PSYCH. BULL. (Oct. 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7525583/>.

¹¹ Myra Piat et al., *(Em)placing Recovery: Sites of Health and Wellness for Individuals with Serious Mental Illness in Supported Housing*, HEALTH & PLACE 71 (Sept. 2017), <https://www.sciencedirect.com/science/article/pii/S1353829217302253>.

¹² Jason DeParle, *Homelessness Rose to Record Level This Year, Government Says*, THE NEW YORK TIMES, Dec. 15, 2023, <https://www.nytimes.com/2023/12/15/us/politics/homelessness-record-level.html>.

¹³ Office of Community Planning and Development, U.S. HUD, The 2023 Annual Homelessness Assessment Report (AHAR) to Congress, Part 1: Point-In-Time Estimates of Homelessness (Dec. 2023), <https://www.huduser.gov/portal/sites/default/files/pdf/2023-AHAR-Part-1.pdf> at 17 (Exhibit 1.8A).

¹⁴ *Id.* at 8 (Exhibit 1.7). Of that homeless population, 12,882 were people in families; only 3 of these people were unsheltered. *Id.* at 45 (Exhibit 3.7).

¹⁵ Exec. Office of Housing and Livable Communities (EOHLC), Interagency Council on Housing and Homelessness, The Rehousing Data Collective Public Dashboard, <https://www.mass.gov/info-details/the-rehousing-data-collective-public-dashboard#who-is-experiencing-homelessness?> (visited Mar. 13, 2024).

¹⁶ *Id.*

¹⁷ *Id.* at 14. Western Massachusetts housing advocates found that, in January 2023, Blacks were overrepresented by 4.6 times and Hispanics by 2.9 times as compared to whites among the adult homeless population in the four western Massachusetts counties that were studied. Western Mass. Network to End Homelessness, Housing Justice Happens Here 3, 6 (May 12, 2023), <https://www.westernmasshousingfirst.org/wp-content/uploads/2023/05/WMNNEH-Annual-Regional-Gathering-2023-5-12.23-final.pdf> at 7.

¹⁸ Youth.gov, Homelessness and Housing, <https://youth.gov/youth-topics/lgbtq-youth/homelessness>.

¹⁹ Carolyn Jones, *Transgender Youth Almost 10 Times More Likely to be Homeless as their Peers, Data Shows*, EDSOURCE, June 7, 2021, <https://edsource.org/updates/transgender-youth-almost-10-times-more-likely-to-be-homeless-as-their-peers-data-shows>. And homeless transgender students were more likely to be forced into sexual activities than their peers. *Id.* The data for LGBTQ youth is particularly concerning as 45% of this population considered suicide in the past year, 73% experienced symptoms of anxiety, 58% experienced symptoms of depression, and 82% wanted mental health care. The Trevor Project, 2022 National Survey of LGBTQ Youth Mental Health, <https://www.thetrevorproject.org/survey-2022/>.

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²⁴ U.S. Dep’t of Hous. and Urban Dev. (HUD), *HUD 2022 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations* (Dec. 6, 2022), [CoC_PopSub_State_MA_2022.pdf](https://www.hudexchange.info/data-reports/homeless-populations-and-subpopulations) (data based on point-in-time information).

²⁵ Western Massachusetts housing advocates, counting in the four western Massachusetts counties, found that 18% of its January 2023 homeless population were adults with serious mental illness (598 adults of 3305 homeless individuals). Western Mass. Network to End Homelessness, *supra* note 17.

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⁵³ *Id.*

⁵⁴ *Id.* at 20.

⁵⁵ *Id.* at 23.

⁵⁶ *Id.*

⁵⁷ *Id.* at 36.

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- ⁹⁹ Mass. Supportive Housing Pipeline Coal., <https://www.masupportivehousingcoalition.org/>.
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- ¹⁰¹ See 24 CFR § 578.5(a).
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- ¹⁰³ EOHLIC, Continuum of Care Programs (COC), <https://www.mass.gov/service-details/continuum-of-care-programs-coc>. The Balance of State CoC works to address homelessness in a number of ways including through Permanent Supportive Housing, Rapid Rehousing and Transitional Housing, and Supportive Services for those who are homeless, and by collaborating with organizations serving this population within the 115 Balance of CoC communities. The CoC also conducts an annual Point in Time Count of homeless persons, typically in the last week of January. This survey counts homeless people reported by homeless service providers as well as homeless people on the streets identified by local police departments and volunteer groups. See *id.*
- ¹⁰⁴ 24 CFR § 578.37(a).
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- ¹¹³ *Id.*
- ¹¹⁴ *Id.* at 7.
- ¹¹⁵ *Id.* at 32-35.

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¹²⁵ *Id.* at § 4, line item 7004-0076.

¹²⁶ *Id.* at § 4, line item 7004-0073.

¹²⁷ *Id.* at § 5, line item 7004-4784. This section establishes a flexible, low-cost source of funding for the development of mixed-income and workforce multifamily housing. *Id.* Administered by MassHousing, the funding may be in the form of debt, equity, or other types of funding. *Id.* At least 20% of units of a project must be for households with incomes between 60 and 120% of area median income. *Id.*

¹²⁸ *Id.* at § 4, line item 7004-0069.

¹²⁹ The practice of including such policy provisions is consistent with the 2018 housing bond bill which expanded and extended the Massachusetts LIHTC and the Community Investment Tax Credit, extended the Brownfields Tax Credit and the Housing Development Incentive Program, and expanded Massachusetts Historic Rehabilitation Tax Credits. CHAPA, \$1.8 Billion Housing Bond Bill Signed into Law, *supra* note 119.

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¹³⁶ Robert C. Ross, *Massachusetts Gov. Proposes Reorganization Plan for Housing Development under Article 87*, GREENBERG TRAUERIG (Mar. 13, 2023), <https://www.gtlaw.com/en/insights/2023/3/massachusetts-gov-proposes-reorganization-plan-for-housing-development-under-article-87>.

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¹⁴³ Lucy Tompkins, *If Housing Is a Health Care Issue, Should Medicaid Pay the Rent?*, THE NEW YORK TIMES, June 14, 2022, <https://www.nytimes.com/2022/06/14/headway/medicaid-housing-rent-health.html>; see also Peggy Bailey, *Housing and Health Partners Can Work Together to Close the Housing Affordability Gap*, CENTER ON BUDGET AND POLICY PRIORITIES, Jan. 17, 2020, <https://www.cbpp.org/research/housing/housing-and-health-partners-can-work-together-to-close-the-housing-affordability> (fact that Congressional funding allotments are limited means that 75% of households eligible for federal rental assistance not receiving it, with need high among people with disabilities). However, one risk of linking housing to Medicaid funding is that people would lose funding if no longer Medicaid eligible. *Id.*

¹⁴⁴ In addition to the programs discussed in this paper, as of summer 2023, MassHealth was preparing to submit a waiver request to the federal Center for Medicare and Medicaid Services (CMS) that would include short-term (6 months) housing after a hospitalization in an acute inpatient setting as an allowable health-related social needs service. If approved, this service would be available effective January 1, 2025. See MASS. OFFICE OF MEDICAID, MASSHEALTH SECTION 1115 DEMONSTRATION AMENDMENT REQUEST (Aug. 2, 2023), <https://www.mass.gov/doc/masshealth-section-1115-demonstration-amendment-request-2/download>.

¹⁴⁵ MassHousing, About MassHousing, <https://www.masshousing.com/en/about> (visited Mar. 14, 2024).

¹⁴⁶ Mass. Hous. Partnership, Community, <https://www.mhp.net/community>.

¹⁴⁷ *Id.*

¹⁴⁸ MassDevelopment, Providing Financing for Multifamily Housing Projects, <https://www.massdevelopment.com/who-we-help/housing/>. Another interesting program of MassDevelopment is the Underutilized Properties Program, which funds upgrades and improvements to underutilized, abandoned or vacant properties. As of December 2022, the program had awarded over \$29M to 69 projects. Lauren LeBel, *Ware Awarded Funds Through Underutilized Properties Program*, THE REMINDER, Dec. 19, 2022, <https://www.there minder.com/localnews/ware/ware-awarded-funds-through-underutilized-propertie/>.

¹⁴⁹ Mass. Housing Investment Corp., Lending, https://www.mhic.com/Products_lending.cfm.

¹⁵⁰ Mass. Housing Investment Corp., Housing Tax Credits, https://www.mhic.com/Products_htc.cfm.

¹⁵¹ Mass. Ass'n for Community Action (MASSCAP), Community Action Programs, <https://www.masscap.org/>.

¹⁵² Wikipedia, Community Action Agencies, https://en.wikipedia.org/wiki/Community_Action_Agencies.

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¹⁵⁴ Mass. Gen. L. ch. 40B.

¹⁵⁵ CHAPA, Fact Sheet on Chapter 40B The State's Affordable Housing Zoning Law, Oct. 2011, <https://www.chapa.org/sites/default/files/Fact%20Sheet%20on%20Chapter%2040B%202011%20update.pdf>. A developer would have to provide that at least 25% (or 20% in certain cases) of the new units have long-term affordability restrictions. See DHCD, Guidelines, Mass. Gen. L. Ch. 40B Comprehensive Permit Projects Subsidized Housing Inventory (updated Dec. 2014), <https://www.mass.gov/files/documents/2017/10/10/guidecomprehensivepermit.pdf> at II.A.2.b.(1).

¹⁵⁶ *Id.* "Communities that have not yet met one of these thresholds can also receive one- or two-year exemptions from state appeals by adopting a housing production plan and meeting short-term production goals." *Id.*

¹⁵⁷ CHAPA, Chapter 40B, <https://www.chapa.org/housing-policy/chapter-40b>.

¹⁵⁸ Ryan Forgione, *A New Approach to Housing: Changing Massachusetts's Chapter 40R from an Incentive to a Mandate*, SUFFOLK UNIVERSITY LAW REVIEW (Mar. 2020), <https://bpb-us-el.wpmucdn.com/sites.suffolk.edu/dist/3/1172/files/2021/02/199-220-Forgione.pdf> at 208.

¹⁵⁹ MAPC, New Subsidized Housing Inventory Figures Provide an Estimate of Affordable Housing (Aug. 4, 2023), <https://www.mapc.org/planning101/new-subsidized-housing-inventory-figures/>.

¹⁶⁰ CHAPA, Fact Sheet on Chapter 40B The State's Affordable Housing Zoning Law, *supra* note 155.

¹⁶¹ See Regional Housing Services Office, *What Types of Housing Subsidy Programs are Found in the RHSO Area?*, <https://www.rhsohousing.org/home/faq/what-types-housing-subsidy-programs-are-found-rhso-area?>; EOHLIC, Local Initiative Program, <https://www.mass.gov/service-details/local-initiative-program>.

¹⁶² Greg Ryan, *Augustus Eyes Changes to Controversial 40B Affordable Housing Program*, BOSTON BUSINESS JOURNAL, Dec. 1, 2023, <https://www.bizjournals.com/boston/news/2023/12/01/massachusetts-affordable-housing-40b.html>. The comprehensive permit regulations are found at 760 CMR 56.

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ MAPC, *supra* note 159.

¹⁶⁶ *Id.*

¹⁶⁷ Mass. Gen. L. ch. 40A, § 3.

¹⁶⁸ *Id.* In addition to reasonable regulations, it is important to note that cities and towns also may “apply non-zoning requirements that are related to legitimate municipal concerns, such as public health, safety or the environment.” Mass. Municipal Ass’n, *Dover Amendment Can Present Challenges for Cities, Towns*, June 4, 2018, <https://www.mma.org/dover-amendment-can-present-challenges-for-cities-towns/>. This may also extend to some zoning requirements. See, e.g., *The Southern New England Conference Association of Seventh-Day Adventists vs. Town of Burlington*, 21 Mass. App. Ct. 701 (1986) (Mass. Gen. L. ch. 40A, § 3 did not exempt a proposed church building and related parking area from provisions of a town’s zoning bylaw requiring a special permit for construction within a wetland). Legislation was subsequently filed to codify this decision in statute. See Sam Minton, *Local Lawmakers Speak on Dover Amendment, Its Impact on Nahant/Northeastern Plans*, Item Live, July 27, 2021, <https://itemlive.com/2021/07/27/local-lawmakers-speak-on-dover-amendment-its-impact-on-nahant-northeastern-plans/>.

¹⁶⁹ 483 Mass. 215, 220, 225 (2019).

¹⁷⁰ Mass. Gen. L. ch. 40A, § 3 (“Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town shall not discriminate against a disabled person. Imposition of health and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons shall constitute discrimination. The provisions of this paragraph shall apply to every city or town, including, but not limited to the city of Boston and the city of Cambridge.”); see also Jennifer Honig, *Group Home Zoning for People with Mental Illness* 6, THE ADVISOR, Fall 1996 (on file with author).

¹⁷¹ Chapter 358 of the Acts of 2020. The resistance of some communities to comply with the new law is unfortunate, but the responses from the executive branch in the case of Milton should send a warning to communities that make that choice. See Andrew Brinker, *Healey Administration Bars Milton From State Grants After Defiant Housing Vote. It’s About More Than Money*, THE BOSTON GLOBE, Feb. 21, 2024, https://www.bostonglobe.com/2024/02/21/business/healey-administration-bars-milton-state-grants-after-defiant-housing-vote-its-about-more-than-money/?pI=BGSearch_Overlay_Results; Andrew Brinker, *It’s Massachusetts v. Milton in a Key Test of State’s Ambitious New Housing Law*, THE BOSTON GLOBE, Feb. 27, 2024, https://www.bostonglobe.com/2024/02/27/business/milton-lawsuit-campbell-housing/?pI=BGSearch_Overlay_Results.

¹⁷² See EOHLIC, *Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act* (rev. Aug. 17, 2023), <https://www.mass.gov/doc/compliance-guidelines-for-multi-family-zoning-districts-under-section-3a-of-the-zoning-act/download>.

¹⁷³ See Mass. Ass'n of Comm. Development Corps., 2023-2024 Advocacy Agenda, <https://www.macdc.org/2023-2024-advocacy-agenda>.

¹⁷⁴ Lydia Edwards, *How To Repair and Rebuild a Cracked Foundation for Housing Justice*, THE BOSTON GLOBE, Feb. 27, 2023, <https://www.bostonglobe.com/2023/02/27/opinion/how-repair-rebuild-cracked-foundation-housing-justice/>.

¹⁷⁵ A new law in Vermont goes further; Act 47, also known as the HOME Act, establishes a list of land uses that municipalities may only regulate in a limited way. Projects in this category include churches, schools, hospitals, waste management facilities and state-owned buildings. Patrick Adrian, Valley News, Plan for Low-barrier Shelter in Downtown White River Junction Gets Approval, VTDigger, Dec. 21, 2023, <https://vtdigger.org/2023/12/21/plan-for-low-barrier-shelter-in-downtown-white-river-junction-gets-approval/>.

¹⁷⁶ An ADU is a residential unit located on the same lot as a single-family home. ADUs have their own entrance, a full kitchen and bath, as well as living and sleeping space, but are smaller than the primary residence. Local building and zoning codes historically restricted the development of ADUs in Massachusetts. ADUs provide one way to ease the housing crisis, but ADUs are not necessarily affordable housing units.

¹⁷⁷ H.4138, *The Affordable Homes Act* (Mass. Leg., 193rd sess.), §13.

¹⁷⁸ *Id.* at § 12.

¹⁷⁹ H.4138, *The Affordable Homes Act* (Mass. Leg., 193rd sess.).

¹⁸⁰ See Mass. Housing Partnership, Addressing Community Concerns about Affordable Housing, Housing Toolbox for Massachusetts Communities (July 2017), <https://www.housingtoolbox.org/assets/files/resources/MA-Housing-Toolbox-Addressing-Community-Concerns.pdf>.

¹⁸¹ *Id.*

¹⁸² Antonio Serna, Master in Public Policy Student, University of New Hampshire, *Siting Permanent Supportive Housing: Recommendations for Social, Economic and Political Engagement*, MASS. HOUSING AND SHELTER ALLIANCE (2022), <https://mhsa.net/wp-content/uploads/2023/03/Siting-Permanent-Supportive-Housing.pdf>.

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.* at 16.

¹⁸⁶ *Id.*

¹⁸⁷ 527 U.S. 581 (1999). A pending class action lawsuit in Massachusetts, *Simmons et al. v. Baker et al.*, Civ. Action No. 22-11715 (D.Ct. Mass. 2022), filed on behalf of six people with disabilities who were allegedly unnecessarily institutionalized in nursing facilities, relies on *Olmstead*. Plaintiffs allege that the Commonwealth has an obligation under the ADA to provide community residential services and supports for this class of nursing home residents.

¹⁸⁸ 28 CFR Pt. 35, App. A (2010).

¹⁸⁹ See, e.g., the settlement agreement in *United States v. State of New York*, in which the U.S. Department of Justice challenged the use of "adult homes" in New York City in which 25% or more of the residents were persons with serious mental illness. Civil Rights Division, U.S. DOJ, *Olmstead Enforcement*, https://archive.ada.gov/olmstead/olmstead_cases_list2.htm#ny.

¹⁹⁰ Serna, *supra* note 182. MHSA recommended including people with lived experience in the siting process. *Id.* at 15.

¹⁹¹ *Olmstead Planning Committee, Committee on Housing and Services for People with Disabilities, Interagency Council on Housing and Homelessness, 2018 Massachusetts Olmstead Plan* (2018), <https://www.mass.gov/files/documents/2018/09/20/olmstead-final-plan-2018.pdf>.

¹⁹² *Id.*

¹⁹³ *Id.*

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- ¹⁹⁴ EOHHS, *Olmstead Implementation Accountability Benchmark* (March 2023), <https://www.mass.gov/doc/olmstead-implementation-accountability-benchmark-march-2023>.
- ¹⁹⁵ COMMBUYS, *Bid Solicitation: BD-24-1039-EHS01-ASHWA-97746*, <https://www.commbuys.com/bso/external/bidDetail.sdo?docId=BD-24-1039-EHS01-ASHWA-97746&external=true&parentUrl=bid>.
- ¹⁹⁶ Catherine Carlock, *At Old Boston State Hospital, a Community Grows*, THE BOSTON GLOBE, Apr. 24, 2023, <https://www.bostonglobe.com/2023/04/24/business/old-boston-state-hospital-community-grows/>.
- ¹⁹⁷ James Sullivan, *In Medfield, Music Will Fill this Empty Space*, THE BOSTON GLOBE, Apr. 19, 2023, https://www.bostonglobe.com/2023/04/19/arts/medfield-music-will-fill-this-empty-space/?pI=BGSearch_Overlay_Results.
- ¹⁹⁸ John Hilliard, *In Waltham, Families of Former Patients, Workers at Fernald Demand Role In Deciding Property's Future*, THE BOSTON GLOBE, Feb. 27, 2024, <https://www.bostonglobe.com/2024/02/27/metro/ferald-school-waltham-legacy-planning/>.
- ¹⁹⁹ Danny McDonald, *On Both Sides of the Issue, Questions Persist About State's Plans for Shattuck Hospital*, THE BOSTON GLOBE, Apr. 27, 2023, <https://www.bostonglobe.com/2023/04/27/metro/franklin-park-shattuck-hospital/>; DCAMM, *Shattuck Campus Redevelopment at Morton Street Proposal*, <https://www.mass.gov/info-details/shattuck-campus-redevelopment-at-morton-street-proposal>; Chris Serres, *'Far Too Large and Costly': State Backs Away from Scale of Shattuck Hospital Expansion Plan: The Healey Administration and Boston Medical Center Are in Talks to Downsize the Development*, THE BOSTON GLOBE, Dec. 11, 2023, <https://www.bostonglobe.com/2023/12/11/metro/shattuck-hospital-expansion-franklin-park/>.
- ²⁰⁰ Jon Chesto, *Housing at Military Bases? Developments Proposed for Empty Properties in Devens and South Weymouth*, THE BOSTON GLOBE, Dec. 11, 2023, https://www.bostonglobe.com/2023/12/10/business/devens-south-weymouth-military-bases-housing/?pI=BGSearch_Overlay_Results.
- ²⁰¹ John Hilliard, *As MCI Concord Faces Closure, Advocates Say Inmates Should Have a Voice In What Comes Next*, THE BOSTON GLOBE, Feb. 22, 2024, <https://www.bostonglobe.com/2024/02/22/metro/mci-concord-prison-inmate-closure/>. Outside sections 74 and 107 of the Governor's FY25 budget would provide for the closure of MCI Concord and authorize the transfer of the property to the Division of Capital Asset Management and Maintenance to effectuate further disposition.
- ²⁰² Ross Crisantiello, *Mayor Wu Gives Update on Plan to Offer Vacant Lots to Builders for Affordable Housing*, BOSTON.COM, May 21, 2023, <https://www.boston.com/news/local-news/2023/05/21/mayor-michelle-wu-update-vacant-lots-builders-affordable-housing-boston/>.
- ²⁰³ *Id.*
- ²⁰⁴ Exec. Order 623, *supra* note 134.
- ²⁰⁵ *Id.*
- ²⁰⁶ *Id.*
- ²⁰⁷ *Id.*
- ²⁰⁸ H.4138, *The Affordable Homes Act* (Mass. Leg., 193rd sess.), § 104.
- ²⁰⁹ *Id.*
- ²¹⁰ Kennedy, Ciurczak, & Schuster, *supra* note 40, at 26, Figure 18.
- ²¹¹ Karthik Subramanya, Sharareh Kermanshachi, & Behzad Rouhanizadeh, *Modular Construction vs. Traditional Construction; Advantages and Limitations: A Comparative Study*, Proceedings of the Creative Construction e-Conference (June 2020), https://www.researchgate.net/publication/342154568_Modular_Construction_vs_Traditional_Construction_Advantages_and_Limitations_A_Comparative_Study

²¹² Catherine Carlock & Tim Logan, *The \$600,000 Problem: Why Does It Cost So Much to Build in Greater Boston, and What Can Be Done?*, THE BOSTON GLOBE, Dec. 22, 2023, <https://apps.bostonglobe.com/2023/10/special-projects/spotlight-boston-housing/construction-costs/>.

²¹³ Yasmin Amer, *Massachusetts Hasn't Embraced Factory-made Housing. Some Say it's Time*, WBUR, June 5, 2023, <https://www.wbur.org/news/2023/06/05/modular-offsite-affordable-construction>.

²¹⁴ 780 CMR 110.R3, <https://www.mass.gov/doc/chapter-110-special-regulations-r3/download>; Mass. Division of Occupational Licensure, Manufactured Building Program, <https://www.mass.gov/service-details/manufactured-building-program>.

²¹⁵ Nick Ostrowski, *MA Building Code 10th Edition*, CODE RED CONSULTANTS (June 20, 2020), <https://coderedconsultants.com/insights/new-information-regarding-the-10th-edition-of-780-cmr/>.

²¹⁶ Lodging houses typically have a municipal license which often may be assumed by the development entity.

²¹⁷ Nursing homes, while not licensed by the municipality, frequently have the advantage of being fire-sprinklered, which saves considerable expense when upgrading the building.

²¹⁸ For nursing homes, there is an existing protocol provided by the state for transferring the current residents to other facilities. For lodging houses, it is more difficult, and often dictated by the funding agency which may require the developer to provide a "relocation plan" for existing residents.

²¹⁹ For example, in July 2022, DHCD and CEDAC awarded The Community Builders funding to renovate the Aurora Hotel in Worcester and create 85 micro-units. Tréa Lavery, *Former Aurora Hotel in Worcester to be Converted to 85 Affordable Apartments*, MASSLIVE, July 21, 2022, <https://www.masslive.com/worcester/2022/07/former-aurora-hotel-in-worcester-to-be-converted-to-85-affordable-apartments.html>. Of the units, 30% would be for persons with extremely low incomes and those transitioning from homelessness, with Open Sky Community Services providing supportive services. Donna Kimura, Christine Serlin & Aly J. Yale, *Massachusetts Officials Award \$31 Million to Housing and Shelter Developments*, AFFORDABLE HOUSING FINANCE, July 28, 2022, https://www.housingfinance.com/finance/massachusetts-officials-award-31-million-to-housing-and-shelter-developments_o. Similarly, in May 2023, the Boston Planning and Development Agency board approved Pine Street Inn and The Community Builders' proposed conversion of Comfort Inn to 99 units of PSH with on-site support staff for older adults who were formerly homeless. Gintautas Dumcius, *City Approves Converting Comfort Inn in Dorchester to Housing for Homeless*, WBUR, May 12, 2023, <https://www.wbur.org/news/2023/05/12/homelessness-housing-boston-hotel>.

²²⁰ See, e.g., Danny McDonald, *At Mass. and Cass, BMC Shutting Down Roundhouse Clinical Programs*, THE BOSTON GLOBE, Feb. 22, 2023, <https://www.bostonglobe.com/2023/02/22/metro/mass-cass-bmc-shutting-down-roundhouse-clinical-programs/> (dried up funding streams threatening closure of clinical support services for treating substance use and 60 units of new transitional housing in Roundhouse Best Western hotel where community opposition has been vocal); Shirley Leung, *'Permanent Supportive Housing' May Be Controversial to Would-be Neighbors, But It's Been Beneficial to Those Who Live In It*, THE BOSTON GLOBE, Dec. 20, 2022, at <https://www.bostonglobe.com/2022/12/20/business/permanent-supportive-housing-may-be-controversial-would-be-neighbors-not-those-who-live-it/?event=event25> (proposals to convert two hotels into PSH in Charlestown and Dorchester face pushback from some neighbors who fear the crime, drugs, and loitering they see on Mass. and Cass will come to their part of town).

²²¹ Michele Steeb & Stephen Eide, *Why Converting Hotels Into Homeless Housing Doesn't Usually Work*, TEXAS PUBLIC POLICY FOUNDATION, Mar. 28, 2022, <https://www.texaspolicy.com/why-converting-hotels-into-homeless-housing-doesnt-usually-work/>.

²²² Many former mill buildings in Massachusetts have been converted into housing and there is substantial potential stock for future development. For example, WinnDevelopment reported in May 2023 that they had converted over 30 mills to mixed-income housing, bolstered by tax benefits offered in Massachusetts. Sam Turken, *Once-Abandoned Mills Are Now Home to Thousands of Massachusetts Residents*, WGBH, May 11, 2023, <https://www.wgbh.org/news/local-news/2023/05/11/once-abandoned-mills-are-now-home-to-thousands-of-massachusetts-residents>. As of that date,

developers had mill conversion projects underway in Worcester, Dudley, New Bedford, and Lawrence. *Id.* Pollution associated with past industrial usages and issues related to location along waterways has hindered development. *Id.*

²²³ Mass. Gen. L. ch. 40, § 60; 760 CMR 58; see also EOHLC, Urban Center Housing Tax Increment Financing (UCH-TIF), <https://www.mass.gov/service-details/urban-center-housing-tax-increment-financing-uch-tif>.

²²⁴ *Id.*

²²⁵ HUD, A Primer on Affordable Housing Development and Key Funding Sources, *supra* note 92.

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ See Carlock & Logan, *supra* note 212.

²²⁹ To apply for tax credits and/or many other sources of funding in Massachusetts, both from EOHLC and other agencies, developers fill out a spreadsheet template known as a “One Stop.” This document asks for detailed information concerning the size and number of units, the proposed rents, the requested subsidies, and a variety of questions designed to determine the degree to which the proposal reflects the priorities of the QAP.

²³⁰ EOHLC, Supportive Housing for Vulnerable Populations Notice of Funding Availability HTF, HIF, and Other Sources, Aug. 2023, <https://www.mass.gov/doc/sh-2023-nofa/download>.

²³¹ *Id.* at 2.

²³² *Id.* at 1.

²³³ DHCD, Low Income Housing Tax Credit Program 2023-2024 Qualified Allocation Plan (As Amended), <https://www.mass.gov/doc/2023-2024-qap-0/download>. B-5 continues:

“DHCD also will award points in this category to projects that serve other populations in need of support services. DHCD was a member of the Governor’s Interagency Supportive Housing Working Group (SHWG) that, between 2013 and 2015, was instrumental in helping achieve the SHWG’s goal of creating 1,000 SH units in less than two years. DHCD remains active in the Supportive Housing Production and Services Committee of the Interagency Council on Housing and Homelessness, and, in 2022-2023, the Department will continue its financial assistance to supportive housing projects.” Under this QAP, DHCD will provide up to eight points in this category for projects that provide units with services that are appropriate for special populations that may include, but are not limited to, persons with disabilities, including but not limited to homeless veterans, other homeless individuals or households with identified special needs, frail elderly to be served in service-enriched senior housing or assisted living facilities. The points will be awarded only if at least 20% of the units in the project are reserved for a special population and if the project design, amenity package, and population-specific services are appropriate for the population to be served.” *Id.*

²³⁴ 6 U.S.C. § 42 (§ 42 of the Internal Revenue Code) created by the Tax Reform Act of 1986.

²³⁵ Mass. Gen. L. ch. 23B, § 3; Mass. Gen. L. ch. 62, § 6I; Mass. Gen. L. ch. 63, § 31H; 760 CMR 54; see also Massachusetts Department of Revenue, Low Income Housing Tax Credit (LIHTC), <https://www.mass.gov/info-details/low-income-housing-tax-credit-lihtc>

²³⁶ HUD, A Primer on Affordable Housing Development and Key Funding Sources, *supra* note 92.

²³⁷ Housing Toolbox for Massachusetts Communities, Types of Funding, <https://www.housingtoolbox.org/financing-and-funding/basics>.

²³⁸ These bonds are exempt from federal taxes, and in certain cases, Massachusetts state taxes. MassDevelopment, Bond Financing, <https://www.massdevelopment.com/what-we-offer/financing/bond-financing/>.

²³⁹ Housing Toolbox for Massachusetts Communities, Types of Funding, *supra* note 237.

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² Pamela Blumenthal, Ethan Handelman & Alexandra Tilsley, How Affordable Housing Gets Built, Urban Institute, July 26, 2016, <https://www.urban.org/urban-wire/how-affordable-housing-gets-built>.

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ Eligibility for rental subsidies is ordinarily based on the individual's or the family's household size, and their income as a percentage of "area median income (AMI)." Since each U.S. market area has different living costs and income levels, AMI is based on the specific location as adjusted for household size. Different subsidy programs have different eligibility requirements, often characterized as a percentage of AMI, varying between 30 and 80% depending on the particular subsidy program and the funding source for the project. The income limits for affordable housing programs differ depending on the program and fluctuate year to year with the changes in the AMI.

²⁴⁶ EOHLC, Massachusetts Rental Voucher Program (MRVP), <https://www.mass.gov/service-details/massachusetts-rental-voucher-program-mrvp>.

²⁴⁷ Comm. Preservation Coal., CPA: An Overview, <https://www.communitypreservation.org/about>.

²⁴⁸ Approval has been hindered by a common misconception that the CPA surcharge raises the tax rate for the adopting community. It does not, but instead assesses a surcharge on property tax bills after calculation based on the community's current tax rate. Comm. Preservation Coal., Where Does CPA Funding Come From? <https://www.communitypreservation.org/funding>.

²⁴⁹ Center for State Policy Analysis, Tufts University, Missed Opportunities: Funding Housing Through the Community Preservation Act 6 (June 2023), <https://mahousingsolutions.com/wp-content/uploads/2023/06/grbreb-report-design-for-website-final-final.pdf>.

²⁵⁰ *Id.* at 7. A subsequent review of state data by THE BOSTON GLOBE found that 63 communities spent less than 10% on housing. The Editorial Board, THE BOSTON GLOBE, Dec. 26, 2023, <https://www.bostonglobe.com/2023/12/26/opinion/cpa-community-preservation-housing/>.

²⁵¹ Center for State Policy Analysis, *supra* note 249, at 4.

²⁵² *Id.* at 3.

²⁵³ *Id.* at 4.

²⁵⁴ The Editorial Board, THE BOSTON GLOBE, *supra* note 250.

²⁵⁵ To receive tax-exempt 501(c)(3) status from the IRS, nonprofit hospitals must meet certain requirements, including providing a community benefit. "Community building" activities, which could include "physical improvements and housing," can be considered a community benefit in some cases. See Center for American Progress, *Nonprofit Hospitals Can Improve Community Health Through Housing Investments*, Feb. 21, 2023, <https://www.americanprogress.org/article/nonprofit-hospitals-can-improve-community-health-through-housing-investments/>. In addition to investments to increase the supply of housing, hospitals and health systems may also fund rental assistance and supportive services.

²⁵⁶ The ACA added section 501(r) to the Internal Revenue Code. Julia James, *Nonprofit Hospitals' Community Benefit Requirements*, HEALTH AFFAIRS, Feb. 25, 2016, <https://www.healthaffairs.org/doi/10.1377/hpb20160225.954803/>.

²⁵⁷ Sunjay Letchuman *et al.*, *Revise The IRS's Nonprofit Hospital Community Benefit Reporting Standard*, HEALTH AFFAIRS, Apr. 15, 2022, <https://www.healthaffairs.org/content/forefront/revise-irs-s-nonprofit-hospital-community-benefit-reporting-standard>.

²⁵⁸ Mass. Office of the Attorney Gen., Community Benefits Guidelines, <https://www.mass.gov/service-details/community-benefits-guidelines>.

²⁵⁹ Atkeson & Higgins, *supra* note 270.

²⁶⁰ *Id.*

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- ²⁶¹ See also Christine Serlin, *Six Health Institutions Increase Affordable Housing Efforts*, AFFORDABLE HOUSING FINANCE, Mar. 7, 2019, https://www.housingfinance.com/news/six-health-institutions-increase-affordable-housing-efforts_o; Lincoln Institute of Land Policy, *Why Pioneering Health Institutions are Investing Upstream to Improve Community Health*, https://www.lincolnst.edu/sites/default/files/pubfiles/cci_issue_brief_health_institutions_motivations_1.pdf; and Karen Hacker et al., *CDC's Approach to Social Determinants of Health*, JP HMP DIRECT, Oct. 7, 2022, <https://jphmpdirect.com/2022/10/07/cdcs-approach-to-social-determinants-of-health/>.
- ²⁶² Innovative Stable Housing Initiative - Boston, <https://www.ishiboston.org/>.
- ²⁶³ Boston Medical Center, Boston Medical Center to Invest \$6.5 Million in Affordable Housing to Improve Community Health and Patient Outcomes, Reduce Medical Costs, Dec. 7, 2017, <https://www.bmc.org/news/press-releases/2017/12/07/boston-medical-center-invest-65-million-affordable-housing-improve>.
- ²⁶⁴ Leslie Aldrich, Exec. Dir. Center for Comm. Health Improvement, Mass. Gen. Hosp., Mass General Awards \$3.5 Million to Community-based Projects to Address Housing, Access to Behavioral Health and Workforce Development in Suffolk County, MASS. GEN. HOSP. Nov. 19, 2020, <https://www.massgeneral.org/news/press-release/mass-general-awards-3-point-4-million-for-community-based-projects-to-address-housing-access>.
- ²⁶⁵ Id.
- ²⁶⁶ Letchuman et al., *supra* note 257.
- ²⁶⁷ Id.
- ²⁶⁸ Id.
- ²⁶⁹ Center for American Progress, *supra* note 255.
- ²⁷⁰ Allie Atkeson & Elinor Higgins, *How States Can Hold Hospitals Accountable for Their Community Benefit Expenditures*, NATIONAL ACADEMY FOR STATE HEALTH POLICY, Mar. 15, 2021, <https://nashp.org/how-states-can-hold-hospitals-accountable-for-their-community-benefit-expenditures/>.
- ²⁷¹ H.4138, *The Affordable Homes Act* (Mass. Leg., 193rd sess.), § 45.
- ²⁷² Letter of coalition of organizations to Senator Lydia Edwards and Representative James Arciero, Chairs, Joint Committee on Housing (Jan. 1, 2024) (available from MAMH).
- ²⁷³ In fall 2023, housing advocates urged the Governor to support this idea, possibly rolling it into the Housing Bond Bill. Michael P. Norton, *Housing Activists Look to Bond Bill for Funding, Possible Transfer Fee*, COMMONWEALTH, Sept. 5, 2023, <https://commonwealthmagazine.org/housing/housing-activists-look-to-bond-bill-for-funding-possible-transfer-fee/>; State House News Service, *Healey Expected to Propose Major Housing Bond Bill This Month*, MASSLIVE, Sept. 5, 2023, <https://www.masslive.com/politics/2023/09/healey-expected-to-propose-major-housing-bond-bill-this-month.html>.
- ²⁷⁴ Sam Drysdale, *Pitched as Affordable Housing Boost, Bill Would Give Mass. Cities and Towns Flexibility Around Real Estate Transfer Fee*, WBUR, June 7, 2023, <https://www.wbur.org/news/2023/06/07/home-sale-real-estate-transfer-fee-bill>.
- ²⁷⁵ H.4138, *The Affordable Homes Act* (Mass. Leg., 193rd sess.), § 20.
- ²⁷⁶ 6 U.S.C. § 42 (§ 42 of the Internal Revenue Code) created by the Tax Reform Act of 1986.
- ²⁷⁷ Tax Foundation, *An Overview of the Low-Income Housing Tax Credit* (Aug. 2020), <https://files.taxfoundation.org/20200810100355/An-Overview-of-the-Low-Income-Housing-Tax-Credit.pdf>.
- ²⁷⁸ Id. If a developer were a for-profit company, the developer could claim the LIHTCs for themselves, but most non-profit and for-profit developers find an outside investor to provide equity for the project. Novogradac, *About the LIHTC*, <https://www.novoco.com/resource-centers/affordable-housing-tax-credits/about-lihtc>.
- ²⁷⁹ Tax Foundation, *supra* note 277.
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⁴⁵³ 24 CFR 578.51(d).

⁴⁵⁴ 24 CFR 578.51(d).

⁴⁵⁵ A master lease is a mechanism which may be used in conjunction with SBRA. Under a master lease, the owner gives the lessee (the sponsor) the right to control and sublease the property during the term of the lease while the owner retains the legal title. A master lease can exist with or without sponsor-based subsidies.

Either arrangement can have advantages to all involved. First, individuals who might have barriers to access housing on their own may more easily receive housing. In some, but not all, instances, a sponsor agency might be able to more easily house individuals who lack reliable income or rental history or who have a criminal record. Second, those organizations which master lease units may be able to eliminate costs to the property owner, such as application fees and credit checks, which can serve as a barrier. Third, sponsor-based master leasing can expedite the leasing process because the sponsor knows the prospective tenant. Fourth, master leasing may facilitate the use of large, single-family homes as housing, when a developer or a community organization leases the home and then offers the organization’s clients individual leases for private rooms within the house. Fifth, property owners may be more willing to rent to those perceived to be risky tenants if a community organization is involved to offer support services. Sixth, master leasing might reduce discrimination in the private rental market against marginalized groups – groups who are overrepresented among the overall homeless population. See Kris Freed, Chief Program Officer, LA Family Housing, *How Master Leasing Can Help the Affordable Housing Crisis*, NAT’L ALLIANCE TO END HOMELESSNESS, May 17, 2022, <https://endhomelessness.org/blog/how-master-leasing-can-help-the-affordable-housing-crisis/>; HUD Exchange, Homeless System Response: Project Funding and Structure Brief: Master Leasing, <https://files.hudexchange.info/resources/documents/COVID-19-Homeless-System-Response-Project-Funding-and-Structure-Brief-Master-Leasing.pdf>.

One recent example of master leasing is Chelsea Commons, which opened in January 2023. The building is owned and was renovated by Jim D’Amico of Century 21. The building has 52 units of PSH for men who were previously homeless. MHSA manages those units and Bay Cove Human Services provides on-site supportive services. Mass. Housing and Shelter Alliance, MHSA Celebrates Ribbon Cutting at Chelsea Commons, <https://mhsa.net/news/mhsa-celebrates-ribbon-cutting-at-chelsea-commons/>.

⁴⁵⁶ See HUD Exchange, Types of Rental Assistance, <https://www.hudexchange.info/homelessness-assistance/coc-esg-virtual-binders/coc-eligible-activities/coc-rental-assistance/types-of-rental-assistance/>.

⁴⁵⁷ 24 CFR § 578.37(a) (program components and uses of assistance) (1) (permanent housing).

⁴⁵⁸ 24 CFR § 578.53(e).

⁴⁵⁹ See 760 CMR 38.08 (1) and (2); DHCD, MA Department of Mental Health Rental Subsidy Program (DMHRSP) Guidance, FY2019, <https://www.mass.gov/doc/dmhrsp-guidance-fy19-rev-sept-2018/download>; DMH, Department of Mental Health Rental Subsidy (DMHRSP) Regulations & Guidance Refresher Training (updated Mar. 2023), <https://www.mass.gov/doc/dmhrsp-refresher-training-handouts-march-2023/download>.

⁴⁶⁰ 760 CMR 38.02 (eligible property definition).

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- ⁴⁶¹ Presentation of Joseph Vallely, DMH, Housing Subcommittee Meeting of the State Mental Health Planning Council, Dec. 14, 2023.
- ⁴⁶² DMH line item 5046-0000.
- ⁴⁶³ EOHLC line item 7004-9033.
- ⁴⁶⁴ EOHLC line item 7004-0105.
- ⁴⁶⁵ The program was established by Title I of the Housing and Community Development Act of 1974, Public Law 93-383 and is currently codified at 42 U.S.C. 5301 et seq.
- ⁴⁶⁶ HUD Exchange, A Primer on Affordable Housing Development and Key Funding Sources 4
<https://files.hudexchange.info/resources/documents/Primer-Affordable-Housing-Development-Key-Funding-Sources.pdf>.
- ⁴⁶⁷ EOHLC, Community Development Block Grant (CDBG), <https://www.mass.gov/info-details/community-development-block-grant-cdbg>.
- ⁴⁶⁸ Id.
- ⁴⁶⁹ Id.
- ⁴⁷⁰ Commonwealth of Mass. and EOHLC, One Year Action Plan FFY2024, Mass. Community Development Block Grant Program, <https://www.mass.gov/doc/ffy-2024-draft-cdbg-one-year-action-plan/download> at 2.
- ⁴⁷¹ HUD, Home Investment Partnerships Program, https://www.hud.gov/program_offices/comm_planning/home.
- ⁴⁷² Id.
- ⁴⁷³ Id.
- ⁴⁷⁴ Id.
- ⁴⁷⁵ DMH line item 5046-2000, Statewide Homelessness Support Services.
- ⁴⁷⁶ Bryan Curiel, *Massachusetts: Homeless Support, Housing First Services*, THE IMPRINT – YOUTH AND FAMILY NEWS, Sept. 30, 2016, <https://imprintnews.org/grants/massachusetts-homeless-support-housing-first-services>.
- ⁴⁷⁷ COMMBUYS, Bid Solicitation: BD-24-1023-1023C-1023L-94294, <https://www.commbuys.com/bsol/external/bidDetail.sdo?docId=BD-24-1023-1023C-1023L-94294>.
- ⁴⁷⁸ EOEALine item 9110-1604, Geriatric Mental Health Services Program.
- ⁴⁷⁹ DMH line item 5046-2000, Statewide Homelessness Support Services.
- ⁴⁸⁰ See DMH, DMH Adult Services, <https://www.mass.gov/doc/dmh-adult-services-descriptions/download>.
- ⁴⁸¹ The PATH program is a formula grant authorized by the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, 104 Stat. 4673, reauthorized by Section 1218 of the Consolidated Appropriations Act, 2023 (P.L. 117-328); DMH line item 5046-2000, Statewide Homelessness Support Services.
- ⁴⁸² Eliot Community Human Services, Homeless Outreach, <https://www.eliotchs.org/homeless-outreach/>.
- ⁴⁸³ Id.
- ⁴⁸⁴ Id.
- ⁴⁸⁵ MAMH, Role of Peer Supporters in Housing Report, Sept. 30, 2021, <https://www.mamh.org/library/role-of-peer-supporters-in-housing>.
- ⁴⁸⁶ MassHealth, MassHealth MATCH Program, <https://www.mass.gov/masshealth-match-program>.
- ⁴⁸⁷ MassHealth, MassHealth MATCH Program Assistance, <https://www.mass.gov/info-details/masshealth-match-program-assistance>.
- ⁴⁸⁸ MassHealth, MATCH Program Eligibility, <https://www.mass.gov/info-details/masshealth-match-program-faq#match-program-eligibility>.
- ⁴⁸⁹ Id.

⁴⁹⁰ Letter from Chiquita Brooks-LaSure, Administrator, Centers for Medicare and Medicaid Services (CMS) to Amanda Cassel Kraft, Assistance Secretary, MassHealth (Sept. 28, 2022), <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/ma-masshealth-ca1.pdf> (Attachment R, 1-3).

⁴⁹¹ To receive FSP services, members must: be enrolled in an ACO; have at least one defined health need; and meet at least one defined risk factor. *Id.* (Attachment R, 3-5).

⁴⁹² *Id.*

⁴⁹³ *Id.*

⁴⁹⁴ CSP for Homeless Individuals was formerly known as CSP for Chronically Homeless Individuals (CSP-CHI), which had replaced CSP for People Experiencing Chronic Homelessness (CSPECH). CSPECH began operating as a pilot in 2006, when MassHealth approved the reimbursement of CSPECH services as a type of CSP specialty service. U.S. Health and Human Services, Improving the Coordination of Services for Adults with Mental Health and Substance Use Disorders: Profiles of Four State Medicaid Initiatives, Massachusetts State Profile, https://aspe.hhs.gov/sites/default/files/migrated_legacy_files/105311/4Initiative-MA.pdf. However, unlike standard CSP services which were reimbursed through a fee-for-service arrangement, MBHP reimbursed CSPECH services using a flat case rate. *Id.* A principal goal of CSPECH was to promote the state's Housing First Initiative and the expansion of low-threshold housing; many CSPECH clients were substance users and had criminal records who were residing in Home and Healthy for Good-supported homes. *Id.*

A 2017 report analyzed the impact of CSPECH on the utilization and cost of health care services administered by the Massachusetts Behavioral Health Partnership (MBHP), MassHealth's behavioral health contractor for its Primary Care Clinician plan. The researchers found significant savings through the implementation of CSPECH, including data showing that the initiation of CSPECH services was associated with up to an \$11,914 reduction in annual per-person health care costs, due to reduced behavioral health and medical costs (for both categories, both inpatient and outpatient costs were reduced). These savings more than offset the cost of CSPECH services, resulting in annual per-person net savings of up to \$7,013. Thomas Byrne & George Smart, Estimating Cost Reductions Associated with the Community Support Program for People Experiencing Chronic Homelessness, Mass. Medicaid Policy Institute, Blue Cross Blue Shield Found. of Mass. & Pine Street Inn (Mar. 2017), https://www.bluecrossmafoundation.org/sites/g/files/cspkws2101/files/2020-10/CSPECH_Report_Mar17_FINAL.pdf.

⁴⁹⁵ MassHealth, Managed Care Entity Bulletin 44: Community Support Program for Chronically Homeless Individuals (Oct. 2020), <https://www.mass.gov/doc/managed-care-entity-bulletin-44-community-support-program-for-chronically-homeless-individuals/download>.

⁴⁹⁶ *Id.*

⁴⁹⁷ EOHHS, Health Related Social Needs Listening Session 6 (Apr. 2023). CSP and Specialized CSP Services must operate in accordance with 130 CMR 461 (Community Support Program Services), 101 CMR 362 (Rates for Community Support Programs), MassHealth, Managed Care Entity Bulletin 99: Specialized Community Support Program Services (Mar. 2023), <https://www.mass.gov/doc/managed-care-entity-bulletin-99-specialized-community-support-program-services/download>, and MassHealth, MassHealth Guidelines for Medical Necessity Determination for Community Support Program, <https://www.mass.gov/guides/masshealth-guidelines-for-medical-necessity-determination-for-community-support-program>.

⁴⁹⁸ 130 CMR 461.410(B)(4)(d).

⁴⁹⁹ 130 CMR 461.410(C)(1).

⁵⁰⁰ *Id.*

⁵⁰¹ Letter from Hayley Carr, Records Access Office, EOHHS to Jennifer Honig (Mar. 22, 2024) (on file with MAMH).

⁵⁰² Letter from Daniel Tsai, Deputy Administrator and Director, Center for Medicaid and CHIP Services, to Mike Levine, Assistant Secretary, EOHHS (Apr. 19, 2024), <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/ma-masshealth-ca-04192024.pdf>.

⁵⁰³ Expanded coverage also included rent/temporary housing with room and board for up to six months for Medicaid-eligible pregnant individuals and families with children who are experiencing homelessness, participating in the Massachusetts Emergency Assistance (EA) Family Shelter Program, and demonstrate qualified clinical criteria. *Id.*

⁵⁰⁴ Daniel Tsai, Deputy Administrator and Director, Center for Medicaid and CHIP Services, CMCS Informational Bulletin (Nov. 16, 2023), <https://www.medicaid.gov/media/166286>. (allowing Medicaid coverage to address HRSN services to benefit, among other populations, individuals who are or are at risk of becoming homeless, individuals with serious mental illness and/or substance use disorder, and individuals experiencing high-risk care transitions.)

⁵⁰⁵ *Id.* at 3, n. 11.

⁵⁰⁶ Lucy Tomkins, *If Housing Is a Health Care Issue, Should Medicaid Pay the Rent? With Federal Housing Money in Short Supply, State and Local Authorities Are Looking to Health Dollars To Help Tackle Homelessness*, THE NEW YORK TIMES, June 14, 2022, <https://www.nytimes.com/2022/06/14/headway/medicaid-housing-rent-health.html>.

⁵⁰⁷ Through the “Housing and Health Opportunities” program, Arizona will provide:

- Services to help more people become and remain stably housed;
- Support for community and transitional housing for those with unique clinical needs or transitioning out of institutional care; and
- Rent and temporary housing for up to six months for individuals transitioning out of places such as congregate settings, homeless shelters, the child welfare system, and a range of other options to transition more people out of homelessness.

The Arizona Medicaid program will also offer case management, outreach, and education to advance those services. HUD, HHS Approves Arizona’s Medicaid Intervention to Target Health-Related Social Needs, Oct. 14, 2022, <https://www.hhs.gov/about/news/2022/10/14/hhs-approves-arizonas-medicaid-interventions-target-health-related-social-needs.html>.

⁵⁰⁸ Oregon Health Authority, What’s Changing in the 2022-2027 1115 Demonstration Waiver, <https://www.oregon.gov/oha/HSD/Medicaid-Policy/Pages/Changes.aspx>.

⁵⁰⁹ California Advancing and Innovating Medi-Cal (CalAIM), Cal. Department of Health Care Services, Medi-Cal Community Supports, or In Lieu of Services (ILOS), Policy Guide 3 (July 2023), <https://www.dhcs.ca.gov/Documents/MCQMD/DHCS-Community-Supports-Policy-Guide.pdf>.

⁵¹⁰ *Id.* Short-Term Post-Hospitalization Housing provides temporary housing for a period of up to six months to persons without a residence and who have high medical or behavioral health needs and who have such medical/behavioral health needs that experiencing homelessness upon discharge from the hospital, substance use or mental health treatment facility, correctional facility, nursing facility, or recuperative care would likely result in hospitalization, re-hospitalization, or institutional readmission. *Id.* at 25-26.

⁵¹¹ Tomkins, *supra* note 506.