

**Report on Letters of Eligibility for Comprehensive Permits  
and the Production of Low- and Moderate-Income Housing Pursuant to  
R.I.G.L. Sec. 42-55-5.3(c)**

**ACTIVITY FOR CALENDAR YEAR 2018**

Submitted by RIHousing

February 15, 2019

**Background**

Under the Rhode Island Low and Moderate Income Housing Act, Chapter 53 of Title 45 of the Rhode Island General Laws (the “Act”), any applicant proposing to build housing in which at least twenty-five percent (25%) of the housing is low- or moderate-income housing may submit an application for a comprehensive permit in lieu of separate applications to applicable local boards. Housing is considered to be “low or moderate income housing” if the housing is subsidized by a federal, state or municipal government under any affordable housing program, and if the housing is subject to an appropriate deed restriction that provides for the continued affordability of the housing for no less than thirty (30) years (R.I.G.L. Sec. 45-53-3(9)). An applicant for a comprehensive permit must submit a “letter of eligibility” (“LOE”) in order to use the comprehensive permit process (R.I.G.L. Sec. 45-53-4(a)(1)(i)). RIHousing is charged with the issuance of LOEs to applicants who seek to follow the comprehensive permit process under the Act (R.I.G.L. Sec. 42-55-5.3(a)).

An LOE indicates a proposed project’s eligibility to apply for a comprehensive permit based on the following factors:

- Eligibility to receive or compete for a housing subsidy that will assist with the creation or rehabilitation of low- to moderate-income housing
- The applicant controls the site
- The initial pro forma appears financially feasible
- A site visit and review of pertinent information

It should be noted that the number and type of homes proposed in LOEs for comprehensive permits reflect developers’ plans at the very earliest stages of project review and approval. Characteristics of these proposed developments may change significantly as they move through the local review process. Local decisions on comprehensive permits may be appealed to the State Housing Appeals Board (“SHAB”). Appellate review of SHAB decisions may be taken to Superior Court.

Although RIHousing issues the majority of LOEs each year, comprehensive permits are occasionally initiated with LOEs issued directly from funders of the proposed project. Under R.I.G.L. Sec. 45-53-4(a)(1)(i) developers may seek LOEs for municipal subsidies that are described in local ordinances such as density bonuses. Municipalities may also begin local comprehensive permit review by accepting a LOE in the form of direct subsidy award letters issued by the United States Department of Housing and Urban Development (“HUD”). Developers who initiate

comprehensive permits with a LOE indicating eligibility for one subsidy source may also compete at a later time for a different subsidy and/or for additional state, federal or municipal subsidies.

Pursuant to R.I.G.L. Sec. 42-55-5.3, RIHousing is required to provide an annual report to the Governor, the Speaker of the House, the President of the Senate, and the Secretary of the State Planning Council on its activities with respect to issuance of LOEs and for affordable housing development activity in the state. Specifically, RIHousing is required to annually report on the following information:

- (1) The number of letters of eligibility issued, the federal and state subsidy programs under which they were eligible, and the number of proposed subsidized units involved, by city and town, during the preceding calendar year;
- (2) The number of units of low- and moderate-income housing constructed under federal and state subsidy programs, during the preceding calendar year;
- (3) The average annual number of units of low- and moderate-income housing constructed under federal and state subsidy programs for the three (3) preceding calendar years; and
- (4) The number of units of low- and moderate-income housing likely to be constructed in the current calendar year based on the three (3) year average of units constructed, adjusted for any changes in law that either increased or decreased funding available for subsidizing the construction of low- and moderate-income housing.

This document constitutes RIHousing’s annual report under this section of the Act.

**Letters of Eligibility for Calendar Year 2018**

In calendar year 2018, a total of seven (7) LOEs were issued by RIHousing in five municipalities with the intention to initiate local comprehensive permit applications. Below is a table that notes each LOE issued, the city or town where the proposed development would be located, the subsidy program(s) under which the development appears eligible, and the number of proposed market rate and subsidized units involved.

<b>Development Name</b>	<b>City or Town</b>	<b>Subsidy Program(s) project is eligible for</b>	<b>Proposed Market Rate units</b>	<b>Proposed Subsidized Units</b>
Fry Brook Terrace	East Greenwich	<ul style="list-style-type: none"> <li>• Federal - Low Income Housing Tax Credits (“LIHTC”)</li> <li>• Federal - HOME program</li> <li>• Federal - Housing Trust Fund</li> </ul>	0	96
The Imperial on Greenwich	East Greenwich	<ul style="list-style-type: none"> <li>• Municipal program</li> </ul>	30	10
Breakneck Hollow	Lincoln	<ul style="list-style-type: none"> <li>• Federal - LIHTC</li> <li>• Federal - HOME program</li> </ul>	0	44

		<ul style="list-style-type: none"> <li>• State – Building Homes Rhode Island (“BHRI”)</li> </ul>		
Hope Mill	Scituate	<ul style="list-style-type: none"> <li>• Federal – LIHTC</li> </ul>	115	78
Sand Trace	Smithfield	<ul style="list-style-type: none"> <li>• Federal – HOME program</li> <li>• State – BHRI</li> <li>• Municipal program</li> </ul>	135	45
West River Estates	Smithfield	<ul style="list-style-type: none"> <li>• Federal – HOME program</li> <li>• State – BHRI</li> <li>• Municipal program</li> </ul>	12	4
18 Railroad Ave	South Kingstown	<ul style="list-style-type: none"> <li>• Municipal program</li> </ul>	1	1

**Proposed Low and Moderate Income Homes through Letters of Eligibility**

The seven (7) LOEs represent comprehensive permit applications that propose a total of 571 homes, which includes both market rate and low- and moderate-income homes. Of the 571 total homes under these LOEs, 278 are affordable to low- and moderate-income households. The seven LOEs issued in 2018 represent an increase of five letters from the two LOEs issued in 2017 that proposed creating six low- and moderate-income homes.

The following chart shows the number of subsidized units proposed through a Letter of Eligibility, by city and town, in 2018:

<b>City or Town</b>	<b>Proposed Subsidized Units</b>
East Greenwich	106
Lincoln	44
Scituate	78
Smithfield	49
South Kingstown	1
<b>TOTAL</b>	<b>278</b>

**Low- and Moderate-Income Home Production**

The table below lists the number of low- and moderate-income homes projected to be produced with a federal or state subsidy in 2018, and total homes produced with a federal or state subsidy during the three (3) prior years. These numbers are drawn from the Low and Moderate Income Homes by Community Chart for these years. The chart is compiled annually based on the number of low- and moderate-homes (“LMI”) homes that have received Certificates of Occupancy by December 31. Because some of these figures are updated and refined each year, the total number of new homes produced as shown in this report may be somewhat different from the change in units that you would find simply comparing the chart from year to year. The draft 2018 chart will be published for public comment; therefore the number of homes produced in 2018 shown below is a draft number and may be modified as a result of feedback from the cities and towns.

<b>Low- and Moderate-Income Home Production under State or Federal Subsidy Programs</b>	
<b>Year</b>	<b># Units Produced</b>
2018	156*
2017	193
2016	148
2015	157

*\*preliminary estimate*

The current estimated 2018 production of 156 LMI homes represents a 19% decrease in production from 2017.

**Projected Low- and Moderate-Income Home Production for 2019**

R.I.G.L. Sec. 42-55-5.3(c)(4) describes the method for projecting the number of low- and moderate-income homes likely to be produced in the next calendar year. The average number of homes created during the previous three (3) years is to be used as the basis for projecting the production number. The resulting production number is then adjusted for any changes in law that could either increase or decrease funding available for subsidizing the construction of low- and moderate-income homes.

The average number of low- and moderate-income homes constructed during calendar years 2016 to 2018 was 165. However, last year RIHousing anticipated that changes to the federal tax code would likely erode the value of the federal Low Income Housing Tax Credit, resulting in fewer housing units developed with this resource. LIHTCs, which are the primary financing source for affordable housing, have seen, on average, a 10% - 12% drop in value over the past year. Due to this factor, we expect that the projected number of units to be constructed in 2019 may decline by around 10 units from what would be expected without the change to the federal tax code.