

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 2020

Submitted by RIHousing

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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 2020

In calendar year 2020, a total of twelve LOEs were issued by RIHousing in nine municipalities with the intention to initiate local comprehensive permit applications. Below is a table that notes each LOE issued, the subsidy program(s) under which the development appears eligible, and the number of proposed market rate and subsidized units involved by city or town where the proposed development would be located.

City or Town	Development Name	Subsidy Program(s) Project is Eligible for	Proposed Market Rate Units	Proposed Subsidized Units
Charlestown	Village Walk	Municipal subsidy	8	12
Coventry	Fairview Apartments	Municipal subsidy	7	3
	Residences at Boyd Brook	Municipal subsidy	72	24
East Greenwich	Post on Main	Municipal subsidy	22	8
Jamestown	Baker’s Pharmacy	Municipal subsidy	6	3
Lincoln	Walker Lofts	Municipal subsidy	96	32
Scituate	Cold Brook Terrace	Building Homes RI	9	3
South Kingstown	Matunuck Beach Road Condominiums	Municipal subsidy	9	3

	The Village at Curtis Corner	Municipal subsidy	24	8
Smithfield	Georgiaville Place	Municipal subsidy	4	5
Warren	Settlers Green	Building Homes RI	90	30
	300 Main St & 31 Nobert St	Municipal subsidy	12	4

Proposed Low and Moderate Income Homes through Letters of Eligibility

The twelve LOEs represent comprehensive permit applications that propose a total of 494 homes, which includes both market rate and low- and moderate-income homes. Of the 494 total homes under these LOEs, 135 are affordable to low- and moderate-income households. The twelve LOEs issued in 2020 represent an increase of one letter from the eleven LOEs issued in 2019 that proposed creating 113 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 2020:

City or Town	Proposed Subsidized Units
Charlestown	12
Coventry	27
East Greenwich	8
Jamestown	3
Lincoln	32
Scituate	3
South Kingstown	11
Smithfield	5
Warren	34
TOTAL	135

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 2020, and total homes produced with a federal or state subsidy during the three (3) prior years. The 2017-2019 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-income (“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 2020 chart will be published for public comment; therefore the number of homes produced in 2020 shown below is a draft number and may be modified as a result of feedback from the cities and towns.

Low- and Moderate-Income Home Production under State or Federal Subsidy Programs	
Year	# Units Produced
2020	311*
2019	490
2018	96
2017	193

**preliminary estimate*

The current estimated 2020 production of LMI homes represents a 36% decrease in production from 2019.

Projected Low- and Moderate-Income Home Production for 2021

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 2018 to 2020 was 299. There are several factors that may impact housing production moving forward. On March 2, voters will vote on a series of new bonds including a \$65 million Housing & Community Development bond. The bond would finance new housing construction, renovation, and acquisition projects. The Governor’s budget had initially also included a dedicated funding stream for housing, but this was removed in the final FY21 budget.

There could potentially be new federal resources available for affordable housing development, and regulatory changes that make current financing more favorable. In December, Congress passed a bill fixing the LIHTC rate at 4%, making the equity generated by these tax credits more predictable. Projections from Novogradac estimated that this change could produce an additional 65,000 homes nationally over 10 years.

Rhode Island also received \$1.25 billion in CARES Act funds along with other boosts to Community Development Block Grants, Emergency Solutions Grant (ESG), and the HOME Program – for the most part these funds have been used to support emergency rental assistance but moving forward there is the potential that some funds could be used to support capital/acquisition projects.