

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 2021

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 2021

In calendar year 2021, a total of nine LOEs were issued by RIHousing in eight municipalities with the intention to initiate local comprehensive permit applications. Additionally, one LOE that was originally issued in a previous year was updated in 2021 to include an increased number of proposed units. 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	Summer Winds	Municipal Subsidy	33	11
Cumberland	Orellana Jayro	Municipal Subsidy	2	2
Jamestown	91 Carr Lane	Municipal Subsidy	2	2
Lincoln	Cobble Hill Road/Reservoir Ave	Housing Trust Fund	1	1
Middletown	Rosebrook Commons	Municipal Subsidy; LIHTC	93	51
North Kingstown	289 Essex Road	Zero Energy Ocean State (ZEOS)	0	2
	Pinewood Village	Municipal Subsidy	66	22

	Quonset Apartments ¹	Municipal Subsidy	21	7
Richmond	Richmond Place	Municipal Subsidy	51	18
South Kingstown	Oak Dell Cottage	Municipal Subsidy	0	1

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

The ten LOEs issued or updated in 2021 represent comprehensive permit applications that propose a total of 386 homes, which includes both market rate and low- and moderate-income homes. Of the 386 total homes under these LOEs, 117 are affordable to low- and moderate-income households. The following chart shows the number of subsidized units proposed through a letter of eligibility, by city and town, in 2021:

City or Town	Proposed Subsidized Units
Charlestown	11
Cumberland	2
Jamestown	2
Lincoln	1
Middletown	51
North Kingstown	31
Richmond	18
South Kingstown	1
TOTAL	117

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 2021, and total homes produced with a federal or state subsidy during the three (3) prior years. The 2018-2020 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 2021 chart has not yet been published for public comment; therefore, the number of homes produced in 2021 shown below is a draft number and may be modified as a result of feedback from the cities and towns.

¹ Letter of Eligibility for Quonset Apartments in North Kingstown was originally issued in 2019 for 21 market rate units and 7 subsidized units. This LOE was updated in 2021 to include an additional 21 market rate units and 7 subsidized units for a total of 42 market rate and 14 subsidized units.

Low- and Moderate-Income Home Production under State or Federal Subsidy Programs	
Year	# Units Produced
2021	175*
2020	91
2019	490
2018	96

**preliminary estimate*

The 2021 production of LMI homes represents a 92% increase in production from 2020, largely as a result of delays caused by the onset of the COVID-19 pandemic during 2020.

Projected Low- and Moderate-Income Home Production for 2022

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 2019 to 2021 was 252. There are several factors that may impact housing production moving forward. The past year has seen significant new investments in housing production and preservation. The Housing Resources Commission has begun awarding funding under the \$65 million 2021 Housing Bond. The bond is financing new housing construction, renovation, and acquisition projects. The FY22 state budget also included a new Housing Production fund that was capitalized with a \$25 million appropriation with ongoing funding coming from an increase in the conveyance tax. The state has also directed \$27 million in State Fiscal Recovery Funds under ARPA to be used for the acquisition and development of affordable housing, and Governor McKee has requested in his budget proposal that a total of \$250 million be dedicated to housing uses including \$90 million for affordable housing development and \$25 million for site acquisition. RIHousing also received \$13.5 million in federal relief funding to address housing related needs for the homeless and those at risk of homelessness, of which \$9 million will be dedicated to the production of affordable housing.

There could potentially be new federal resources available for affordable housing development, and regulatory changes that make current financing more favorable. Just over a year ago, 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. Congress is also considering the Build Back Better Act which currently includes historic investments in housing programs.

Together these resources will certainly increase affordable housing production, although most of the increase in completed developments will likely occur after 2022.