

## **760 C.M.R. 61.00:**

### Data Collection for Government Assisted Housing in Massachusetts

#### **Section**

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#### **61.01: Applicability**

760 CMR 61.00 applies to assisted housing and state or federal rental assistance programs.

#### **61.02: Purpose**

The purpose of these regulations is to comply with Chapter 334 of the Acts of 2006 ("the Act"), which provides for the gathering, compiling, and reporting of data by the Department of Housing and Community Development (DHCD) to provide current, accurate, and detailed information on the number, location, and residents of assisted housing units and recipients of state or federal rental assistance in the Commonwealth. These regulations are also intended to ensure that the Commonwealth affirmatively furthers fair housing.

DHCD will use this data to analyze and evaluate applicable housing programs, and to provide information to the legislature and other interested parties.

#### **61.03: Definitions**

The following definitions shall apply:

Accessible means that assisted housing units are functional for and can be safely and independently entered and used by persons with disabilities.

Assisted housing means state and federal public housing, housing supported with public subsidy, and housing assisted with federal funds administered by the state. Assisted housing shall not include subsidies provided directly to households not secured by residential real-estate.

Disabled means (a) a person with a physical or mental impairment which substantially limits one or major life activities; or (b) as otherwise defined in guidelines, instructions, and/or forms developed by DHCD for data collection purposes.

Ethnicity means the appropriate designation, as determined by the household member, of

"Hispanic or Latino" or "not Hispanic or Latino" as those terms are defined by the U.S. Census Bureau.

Ethnic minority means Hispanic or Latino.

Head of household means the one adult member of the household designated by the household or by the subsidizing agency.

Household Type means:

- (1) Single/non-Elderly (one-person household in which the person is not elderly);
- (2) Elderly (one or two person household with a person defined as elderly by the applicable program);
- (3) Related/Single Parent (a single parent household with a dependent child or children);
- (4) Related-Two parent (a two-parent household with a dependent child or children); or
- (5) Other (any household not included in the above four definitions, including two or more unrelated individuals).

Income level means one of the following categories:

- (1) at or below 30% of the Area Median Income, adjusted for household size as determined by HUD;
- (2) at or below 50% of the Area Median Income, adjusted for household size as determined by HUD;
- (3) at or below 80% of the Area Median Income, adjusted for household size as determined by HUD; or
- (4) other income levels as directed by DHCD.

Number and location of assisted housing unit means the physical address of the assisted housing unit and the city or town in which it is located.

Other funding contracts means:

- (1) Contracts, grants or agreements providing public subsidy; and
- (2) Contracts, grants or agreements regarding the sale, rental or management of properties receiving public subsidy.

Public subsidy means the grant through a state housing program of direct financial assistance or indirect financial assistance through insurance, guarantees, or other means.

Race means the following:

- (1) "White";
- (2) "Black or African American";
- (3) "Asian";
- (4) "American Indian or Alaska Native";
- (5) "Native Hawaiian or Other Pacific Islander"; or
- (6) Other or combination of any of the above.

The terms (1) through (5) above are subject to the definition of the U.S. Census Bureau.

Racial minority means a race that is not White alone.

State or federal rental assistance means rental assistance through the Massachusetts Rental Voucher Program, the Alternative Housing Voucher Program, the Department of Mental Health Rental Subsidy Program, and the federal Section 8 program.

Subsidizing agencies means DHCD and any other state instrumentalities, as designated by DHCD, that administer assisted housing or state or federal rental assistance programs.

Tenure means whether the unit is ownership or rental.

Type of building means whether the unit is detached single family or multi-unit housing.

Type of housing means housing occupancy designated as: elderly; disabled; elderly/disabled; family; mixed; special needs; or other type as determined by DHCD.

#### **61.04: Collection of Data**

1. Subsidizing agencies shall collect data, as required by 760 CMR 61.04, on assisted housing units and state or federal rental assistance that they administer. Subsidizing agencies may designate such data collection responsibility to entities including but not limited to project sponsors, property owners, and managers. Subsidizing agencies or their designees shall collect data in a manner and schedule that complies with guidelines, instructions, and/or forms developed by DHCD.
2. Data shall be collected on the number and location of assisted housing units and state or federal rental assistance.
3. Data shall be collected for the term of the subsidy, including upon turnover and rent re-determination, and resale where applicable as determined by DHCD.
4. Data shall be collected on:
  - (a) tenure of the unit;
  - (b) the type of housing;
  - (c) the type of building;
  - (d) the number of bedrooms per housing unit;
  - (e) the number of accessible units for mobility impairments;
  - (f) the number of accessible units for sensory impairments;
  - (g) the source and term of any and all subsidy;
  - (h) the size of each household;
  - (i) the income level of each household;
  - (j) the race and ethnicity of the head of household of each household, and, if available as determined by DHCD, a designation of whether or not the household contains at least one adult member that is a racial minority and and/or ethnic minority;
  - (k) the number of children under 18 years of age in each household;
  - (l) the number of children under 6 years of age in each household;
  - (m) to the extent possible, as determined by DHCD, the number of households that requested an

accessible unit;

(n) to the extent possible, as determined by DHCD, the number of households in paragraph (m) that received an accessible unit; and

(o) the household type, if available as determined by DHCD.

5. To the extent possible, as determined by DHCD, data shall be collected on the combined race and ethnicity of each head of household as follows:

(a) "White, Hispanic"

(b) "White, non-Hispanic"

(c) "Black or African American, Hispanic"

(d) "Black or African American, non-Hispanic"

(e) "Asian, Hispanic"

(f) "Asian, non-Hispanic"

(g) "American Indian or Alaska Native, Hispanic"

(h) "American Indian or Alaska Native, non-Hispanic"

(i) "Native Hawaiian or Other Pacific Islander, Hispanic"

(j) "Native Hawaiian or Other Pacific Islander, non-Hispanic"

(k) "Other, Hispanic"

(l) "Other, non-Hispanic."

6. As DHCD determines appropriate, reasonable, and consistent with all applicable state and federal laws, data regarding disability shall be collected.

7. Any and all inquiries made on the basis of race, ethnicity, national origin, age, and disability for the purpose contained in 760 CMR 61.02 must include notice that responses are voluntary.

8. Inquiries of disabled persons must comply with 24 C.F.R. § 100.202(c).

9. Regulatory agreements and other funding contracts shall contain provisions providing for compliance with the Act and the regulations contained in 760 CMR 61.00 et seq.

#### **61.05: Reporting of Data**

1. Subsidizing agencies or their designees shall report data collected, as required by 760 CMR 61.04, to DHCD. Subsidizing agencies may designate such data reporting responsibility to entities including but not limited to project sponsors, property owners, and managers. Subsidizing agencies or their designees shall report data in a manner and schedule that complies with guidelines, instructions, and/or forms developed by DHCD.

2. DHCD shall annually report to the legislature on December 31 as required by the Act.

#### **61.06: Limitations on Use of Information**

1. DHCD and every party receiving information pursuant to 760 CMR 61.00 et seq. and the Act shall not use any such information for any purpose described in Section 603(d)(1) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(d)(1)) or in any manner that would cause DHCD and every party receiving information pursuant to 760 CMR 61.00 et seq. and the Act to be considered a "consumer reporting agency" under Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681a(f)).

2. Unless otherwise expressly directed by the General Court, DHCD shall report only aggregated, de-identified data to the General Court and take such other measures it deems

necessary to protect the right to confidentiality of the data subjects afforded by M.G.L. c. 214 § 1B.

**61.07: Privacy Act Compliance**

1. DHCD is authorized to have access to the data required by 760 CMR 61.00 et seq., as such access is consistent with the purposes of the Fair Information Practices Act, M.G.L. c. 66A.
2. Collection and reporting of data, as required by 760 CMR 61.04 and 761 CMR 61.05 respectively, is subject to the requirements of the Fair Information Practices Act, M.G.L. c. 66A, and all other applicable statutes and regulations, and personal data shall not be reported to the public in a manner that does not comply therewith.

**61.08: Waiver**

The Director of DHCD may waive, in writing, any provision contained in 760 CMR 61.00 et seq. when exceptional circumstances exist and strict compliance would not be in the public interest and would be inconsistent with the purposes of the Act.

REGULATORY AUTHORITY: 760 CMR 61.00; M.G.L. c. 23B; St. 2006, c. 334