

**MEMORANDUM OF UNDERSTANDING**  
**among**  
**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**  
**and**  
**DEPARTMENT OF MENTAL HEALTH**  
**and**  
**DEPARTMENT OF MENTAL RETARDATION**  
**and**  
**HOUSING FINANCE AGENCY**  
**on**  
**SET-ASIDE UNITS**  
**for**  
**DEPARTMENT OF MENTAL HEALTH AND DEPARTMENT**  
**OF MENTAL RETARDATION**

**1990 Agreement, Amended December 1996**

**(A) PRINCIPLES**

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1. The Massachusetts Housing Finance Agency (MHFA) agrees to continue to set aside 3% of all subsidized units for which closing documents currently include a set-aside agreement. In addition, MHFA agrees to execute 3% set-aside agreements at the time of closings with all developers of new projects with whom, in the opinion of MHFA's legal counsel, MHFA has the authority to do so. These set-aside units will be for consumers referred by the Department of Mental Health (DMH) or the Department of Mental Retardation (DMR), according to the "DMH/DMR Interagency Agreement on MHFA Set-Asides" that the Departments have established. MHFA's assignment of specific set-aside units to DMH or DMR consumers will be guided by the "DMH/DMR Interagency Agreement on MHFA Set-Asides" which identifies equitable methods for distributing available units between DMH and DMR.

2. DMH and DMR agree to offer and encourage the applicants/tenants of the set-aside units to accept services and supports as necessary to enable them to live with reasonable success in integrated housing. Nothing in this Agreement shall be considered to supersede existing obligations or place further

obligations on Department of Housing and Community Development (DHCD) relative to the units for which they have financial or regulatory responsibility.

3. This Agreement concerns individuals referred by DMH or DMR for tenancy in set-aside units and who may need continuing or periodic services or assistance from DMH or DMR. The primary day to day relationship is between the Owners/Management Agents and the tenant, with the DMH/DMR case manager or designated service provider available to facilitate this relationship, including providing assistance in problem resolution when necessary.

4. This Agreement outlines responsibilities of MHFA, Owners/Management Agents and DMH and DMR. The goal of this Agreement is to plan and arrange for the provision of accommodations and supportive services as may be available and necessary to insure successful integration of DMH and DMR consumers into MHFA developments. This Agreement is created for the benefit of MHFA, DMH, DMR, and EOHHS. No third party beneficiaries are created or intended to be created by this Agreement.

5. Referred applicants will be expected to meet the same eligibility standards, with reasonable accommodations provided as negotiated, as other applicants, including but not limited to: income eligibility; the ability to pay rent, maintain the apartment and live reasonably with other tenants; and otherwise comply with lease provisions.

6. DMH and DMR will designate a single contact person in each area (DMH) and region (DMR) to handle problems locally, if possible. EOHHS, DMH, DMR, and MHFA each shall designate a contact

person at their central offices who shall be responsible for coordination of responsibilities and problem resolution pursuant to this Agreement. (Although DHCD is not a party to this Agreement, the parties will request DHCD to designate a central contact person who will be responsible for resolving any problems relating to DHCD's financial or regulatory responsibilities for some MHFA units.)

7. This Agreement may be supplemented by:
  - a. Area (DMH) and/or regional (DMR) agreements with the Owners/Management Agents at each development outlining procedures, responsibilities, individual and systemic problem resolution plans, contact persons for that area (DMH) and/or region (DMR), and mutually agreed upon procedures to monitor that all parties involved herein are abiding by applicable reasonable accommodation plans.
  - b. Reasonable accommodation agreements, where reasonable accommodations are necessary, among the Owner/Management Agent, the tenant, and DMH or DMR as appropriate. These agreements must be written and signed by all parties.
  
8. This Agreement does not cover individuals who apply for or occupy MHFA units other than set-aside units, by way of the property manager's standard tenant selection process. Nothing in this Agreement shall be construed to affect the right of any individual to apply for and obtain a unit through said process.

## B. IMPLEMENTATION

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1. 3% of the units in each MHFA financed development in accordance with Section A(1) shall be set aside by MHFA for referrals from DMH and/or DMR in proportions agreed upon in the DMH/DMR Interagency Agreement on MHFA Set-Asides. Owners, at their discretion, may set aside additional units if requested by DMH/DMR except in the case of SHARP developments where DHCD's obligation to subsidize units may not exceed 3%. Tenants of any additional units shall undergo the same application process and receive the same range of services as tenants who occupy the 3% units. Such additional set-asides, however, shall be for anticipated vacancies only and shall not apply to units for which individuals are applying or occupying through the property manager's standard selection process.

2. MHFA will designate a central contact person who will coordinate rent-up meetings and be available to DMH and DMR to resolve administrative problems involving matching units and DMH or DMR referrals.

MHFA will send lists of units under construction to the designated central office contact persons at DMH and DMR six months before anticipated rent-up or as soon as the Owners/Management Agent notifies MHFA. MHFA will notify these central office contact persons of the date of the rent-up meeting. The DMH/DMR central office contact person will inform the appropriate DMH Area or DMR Regional contact person who will attend the rent-up meeting and make sure that appropriate applicants will be ready for referral at the time of rent-up. At the meeting the DMH/DMR Area regional contact person and the Owner/Management Agent will negotiate the number, size and type of units to be set aside.

3. DMH Area or DMR Regional Contact Persons shall take necessary steps to ensure that vacant set-aside units are filled within "normal turnover time" as defined herein. For the purposes of this agreement, "normal turnover time" shall mean the first 5 days of the next rental period after a tenant has vacated set-aside unit, provided that such period shall be extended if (1) the unit is not ready for move-in within this 5 day period, until the date on which the unit is ready for move-in; or (2) there is no other applicant/tenant from the waiting list for the development that is ready to move-in (or pay rent) by the end of this 5 day period, in which event DMH/DMR will have the opportunity to fill the vacant unit at anytime prior to the date on which the next available applicant from the regular waiting list can be ready to move in or pay rent.

In order to accomplish this goal, the applicable DMH/DMR Regional Contact Persons must submit completed applications for the next set-aside tenant as soon as they become aware of an upcoming vacancy. DMR and DMH must designate appropriate staff or vendors of their agencies to maintain contact with the tenants of set-aside unit in order to learn of potential vacancies resulting from a tenant's planned move, long-term hospitalization or likely eviction. In addition, upon learning of a vacancy or expected vacancy, the Owner/Management Agent shall immediately notify by fax both the DMH and the DMR Central Contact Persons of the date the vacant unit will be available and request applications for such units.

To retain the vacant unit as a set-aside unit, the Contact Persons must submit applications as soon as possible. Applications must be submitted in the order in which they should be processed. The Owner/Management Agent shall process applications from the Department having control of the unit before considering applications from the other Department. If the Owner/Management Agent denies all

applications received from the Department having control of the unit or if all applicants from such Department refuse the unit, then the Owner/Management Agent must offer the unit to applicants from the other Department, provided such applicant may be processed within "normal turnover time". The applicants from the other Department must also be processed in the order in which they were received by the Owner/Management Agent. If no applicants are placed from DMH or DMR within "normal turnover time", the Owner/Management Agent may follow the regular procedure for filling vacancies.

Notwithstanding anything provided above, the Owner/Management Agent may simultaneously proceed to process applications through regular procedures upon learning of the upcoming vacancy. The Owner/Management Agent must, however, give priority to a set-aside applicant who can be processed within the "normal turnover time". The Owner/Management Agent must also give priority to a set-aside applicant when either Department within the "normal turnover time" exercises its option to retain the unit by stating in writing that the Department intends to make a one-month vacancy payment. The vacancy payment shall be equal to the current contract rent and applicable utilities. The option to retain the unit by making a vacancy payment may be extended for additional months by agreement between the Department in control of the unit and the Owner/Management Agent to the extent allowed by applicable Housing and Urban Development (HUD) or state regulations. DMH/DMR may terminate an extension agreement by giving the owner a 30 day written notice of intent to end vacancy payments.

If neither DMH nor DMR has made arrangements for a vacancy payment and if neither has submitted applications which can be processed in a timely manner as described above, and if all such applicants are denied, the Owner/Management Agent may fill the unit with an applicant through regular procedures. In that case, DMH/DMR will have the opportunity to fill the next available, comparable unit. The

Owner/Manager Agent will give the respective DMH/DMR Area/Regional Contact Persons an estimated date when that unit will be available. If the unit occupied was a subsidized unit, the next unit offered must also have the same type or comparable subsidy.

When both bedrooms of two bedroom units subsidized under the State Housing Assistance Rental Program (SHARP) and under DMH control are vacated, it is the general intent of this Agreement to transfer these units to DMR. The specific decision to do so will be made by the DMH and DMR Area/Regional Contact Persons and Owner/Management Agents on a case by case basis. DMR must fill any transferred unit in accordance with the process set forth in this Section.

When a vacancy occurs in one bedroom of two bedroom units at any SHARP-funded Development under DMH control, the DMH/DMR Area/Regional contact person and the Owner/Management Agent will also make a case by case decision regarding turnover of these units to DMR. When a vacancy occurs in one bedroom of a two bedroom unit, the remaining tenant of such a unit is responsible for the full amount of the rent that is not covered by the DHCD Subsidy unless otherwise specified by the lease. If neither the tenant nor the DMH Area/Regional Contact person agrees temporarily to pay the full rent plus utilities as needed, the DMH Area/Regional Contact person will assist the tenant in finding other housing, which may include an internal transfer to an available one bedroom unit in the development. If the full rent is paid, the DMH Area/Regional Contact person shall explore the feasibility of finding a roommate who is known and acceptable to the remaining tenant and who meets eligibility and screening standards. The eligibility and screening must be determined within the time that the temporary payment of the full rent continues. In no case shall the tenant be forced to accept a roommate. If the full rent is not paid by either the Department in control of the unit or the tenant, the Owner/Management Agent may start eviction proceedings allowed under the law.

4. Applicants referred to Owner/Management Agent will supply sufficient information to enable the Owner/Management Agents to verify that the Applicant could by him or herself or with available assistance meet the same eligibility requirements as other applicants (as described in Section A.5 and set forth in this section). Lack of recent tenant history in the community is not sufficient grounds in and of itself to deny an application. In such situations the applicant's behavior in recent living situations shall be acceptable evidence as to the ability of the applicant to live in the community assuming relevant community supports are in place. If the information supplied indicates that assistance would be needed in certain areas, DMH or DMR, Owner/Management Agents, and the applicant must develop a Plan of Reasonable Accommodation and offer specific services that are necessary to accommodate the applicant. DMH/DMR shall make every effort to assist the tenant in adhering to the agreed upon Plan of Reasonable Accommodations to assure a successful tenancy. DMH/DMR shall continue to offer all services necessary for a successful tenancy.

Such services may include, but are not limited to, the following:

- a) assisting the tenant to obtain rent payments, and assisting with financial planning and/or monitoring;
- b) periodic housekeeping checks or homemaker services; and
- c) identification of intervention techniques that management could reasonably use to reduce behaviors that violate lease provisions; Note: In some instances, manager or tenant service staff need to be part of the community support team. Owner/ Management agents or their staff do not provide any kind of social services not normally provided to other tenants; rather, they need to be informed when certain kinds of behavior indicate a need to call DMH/DMR Area/Regional Contact person and how to respond to behaviors that may have an impact on the development. This kind of arrangement



should be based on information supplied by the applicant. DMH or DMR may supply additional information as necessary pursuant to applicable statutes and regulations regarding the disclosure of such information.

If the Owner/Management Agent concludes that the accommodations being offered would not be sufficient to enable the Tenant to meet reasonable standards of tenancy, the Owner/Management Agent may reject the Applicant on the grounds that the Applicant cannot meet the standard(s) in question. The Applicant may appeal the rejection by following regularly established MHFA procedures.

5. DMH and DMR have an obligation to refer applicants who may reasonably be expected to have a good chance of successful integration into a particular building environment. For example, a high crime area would require a higher ability to observe security measures. This example is not meant to exclude any individual or class of individuals from any particular development; rather it is meant to suggest the importance of taking practical considerations such as the above into account in making a referral that has a good chance of succeeding.

6. DMH, DMR and MHFA will work with Owner/Management Agents to develop local systems for resolving systemic as well as individual service problems. These systems will include at a minimum a designated Area (DMH) or Regional (DMR) contact person to resolve problems and a clear chain of command up through EOHHS.

MHFA will also establish a clear problem resolution path so that systemic or procedural issues will be discussed between DMH, DMR, and EOHHS and MHFA when they cannot be resolved at a local level. If the DMH, DMR, or EOHHS local or central office designees are unable to resolve a serious

problem of general significance in a manner satisfactory to MHFA, MHFA may authorize, for the units under their authority, the Owner/Management Agent to offer future units to the other department (DMH or DMR) or stop participating in the Agreement until the issue is resolved, as appropriate.

7. In accordance with general practice regarding new tenants of MHFA units, the Owner/Management Agent will have an orientation or pre-occupancy meeting with the new DMH or DMR tenant, once accepted, to go over the development procedures and regulations. At this meeting, the Owner/Management Agent and tenant will review the reasonable accommodations that have been agreed to by all parties. In addition, DMH or DMR or the service provider will encourage Owner/Management Agents and tenants to discuss ways that can make the new relationship work. The new tenant may of course decline such informal conversation beyond the topic of the agreed to reasonable accommodation.

8. In accordance with general practice regarding tenants of MHFA units, Owner/Management Agents will discuss any problems, should they occur, directly with the tenant. If the tenant violates the lease, the Owner/Management Agent will offer to meet with the tenant and the DMH or DMR Area/Regional Contact person to discuss the cause and what steps can be taken to correct the situation. At this time, the designated Department will immediately make all reasonable efforts to offer, and strongly encourage the tenant to accept, all necessary stabilizing services. If the Owner/Management Agent concludes that the new services or plan will not sufficiently correct serious or chronic lease violations, Owner/Management Agent may proceed with an eviction process, pursuant to applicable legal requirements.

If new services and/or new accommodations are put in place and said serious or chronic lease violations continue, DMH or DMR will immediately make every reasonable effort to locate and then strongly encourage the tenant to accept either a temporary or permanent housing alternative.

9. If eviction proceedings occur, DMH or DMR will answer all questions relating to services offered and delivered relating to the specific tenancy problem in dispute in order for the judge to make a decision as to whether the Owner/Management Agent and DMH or DMR made all reasonable efforts to assist the tenant in maintaining a satisfactory tenancy. Nothing in this Agreement shall be construed to require a disclosure by any party of any information considered to be confidential or private under state or federal laws or applicable court decisions.

10. DMH, DMR, and MHFA will provide training to involved DMH/DMR and housing management staff subsequent to the execution of this Agreement and will provide periodic training thereafter.

<u>Marylou Sudders</u>	<u>7 Jan 97</u>	<u>Philip Campbell</u>	<u>1/31/97</u>
Marylou Sudders, Commissioner Department of Mental Health	Date	Philip Campbell, Commissioner Department of Mental Retardation	Date

<u>John R. Ford</u>	<u>1/31/97</u>	<u>Steven D. Pierce</u>	<u>4/28/97</u>
Joseph Gallant, Secretary Executive Office of Health & Human Services	Date	Steven D. Pierce, Executive Director Massachusetts Housing Finance Agency	Date

### CLARIFICATION OF MHFA/DMH/DMR SET-ASIDE AGREEMENT

April 24, 1997

This addendum is to clarify the MHFA housing programs that are covered by the 1990 Memorandum of Understanding among the Executive Office of Human Services, the Department of Mental Health, the Department of Mental Retardation and the Massachusetts Housing Finance Agency, as amended in December 1996.

All the MHFA multi-family programs currently covered by the Set-Aside Agreement continue to be covered. They are: Section 236, Section 8 (except mod rehab,) 13A, SHARP, 80/20, and expiring use developments that were financed after January 1, 1978 and that have a written Set-Aside Agreement among their closing documents. Any new developments under these programs will also be covered.

All the multi-family programs currently excluded from the Set-Aside Agreement continue to be excluded. They are the DMH/DMR Options for Independence Program and Elder Choice. All developments for whom MHFA is the contract administrator, but which MHFA did not finance are excluded.

All single family programs are currently excluded from the Set-Aside Agreement.

An MHFA multi-family program beginning after the date of this addendum will be covered by the Set-Aside Agreement only if MHFA decides that such coverage is appropriate or the program is otherwise required by law to provide units for the mentally ill or mentally retarded. MHFA in determining whether a new program should be covered, will consult with DMH, DMR and EOHHS and consider in good faith the housing needs of the clients served by these agencies and the appropriateness of the clients for the program type. DMH and DMR each separately reserve the right to determine whether they will participate in any new program which MHFA proposes to be covered by the Set-Aside.

<u>M. Sudders</u>	<u>6-04-97</u>	<u>Gerald Morrissey</u>	<u>5/19/97</u>
Marylou Sudders, Commissioner Department of Mental Health	Date	Gerald Morrissey, Commissioner Department of Mental Retardation	Date

<u>Joseph Gallant</u>	<u>4/28/97</u>	<u>Steven D. Pierce</u>	<u>4/28/97</u>
Joseph Gallant, Secretary	Date	Steven D. Pierce, Executive Director	Date