

**Rhode Island Housing
Intergovernmental Relations Committee**

The Intergovernmental Relations Committee (“Committee”) of the Board of Commissioners of Rhode Island Housing met on May 7, 2014 at 8:30 a.m. at the offices of Rhode Island Housing. In attendance were committee chairman Stephen McAllister and committee member Chris Feisthamel. Staff members attending were Mike Milito and Amy Rainone.

Staff made a presentation to the Committee regarding several broad policy areas affecting the activities of Rhode Island Housing, and recommended positions to be adopted by Rhode Island Housing for each. Following a period of discussion of each policy area, including consideration of any pending legislation, the Committee adopted the positions recommended by staff. A copy of the position paper is attached as Exhibit A.

The Committee may need to meet again as new bill introductions are posted to analyze individual pieces of legislation that address these policy areas and any other bills that may have an impact on the agency.

The meeting of the Committee was adjourned at 10:00 am.

Respectfully submitted:

Stephen McAllister, Committee Chair

Date

Exhibit A

Legislative Positions for the 2014 Session of the General Assembly

1. Rhode Island Housing and Quasi-Public Oversight

a. Quasi-Public Oversight

Senator Sheehan and Representative Ucci have re-introduced legislation to standardize reporting and operational practices and increase transparency of quasi-public agencies.

- House Bill 7138 sponsored by Representative Ucci (Companion Senate Bill 2585 sponsored by Senator Sheehan) This act would impose standards of accountability and transparency on quasi-public corporations.

Status: Senator Sheehan has requested feedback on several changes to the language in last year's bill. Rhode Island Housing has signed off on the language changes.

Staff Recommendation:

- Monitor and provide comments as appropriate.

b. Rhode Island Housing Mortgage Programs

No bills have been introduced to date dealing with Rhode Island Housing's lending activity.

Status:

Rhode Island Housing staff met several times with our lending partners and members of the RI Mortgage Bankers Association to address concerns they had with changes made to Rhode Island Housing's lending platform in 2013. At its March meeting, the Rhode Island Housing Board of Commissioners passed a resolution which was drafted with significant input from these partners to address those concerns. Staff has notified the Governor's office and the leadership of the House and Senate about the adoption of the Resolution.

Staff Recommendation:

- Continue to work with the Mortgage Bankers Association, the Bankers Association and our participating lenders to educate them about our program changes and address any concerns they may have.
- Continue to keep the Governor's Office, the leadership of the General Assembly and the House and Senate Oversight Committees informed about these changes and how they benefit homebuyers and lenders while ensuring that Rhode Island Housing has the resources to continue our support for housing and homelessness programs.

- Monitor legislation and seek changes to any bills that may be introduced which limit our ability to achieve our mission and remain financially sound.

2. State Investment in Affordable Housing and Ending Homelessness

a. Opening Doors

A number of bills have been introduced which would provide capital and rental assistance funding to support implementation of Opening Doors Rhode Island and meet the housing needs of the state. These include legislation increasing funding for the state's new homeless rental assistance program; bond referendum requests for the Neighborhood Opportunity Program (NOP) and the Building Homes Rhode Island Program (BHRI); and legislation that would create a permanent funding stream for rental assistance through an increase in the real estate transfer tax.

- House Bill No. [7735](#) sponsored by Representative Slater (Companion S2497 sponsored by Senator Crowley)
This act would appropriate three million four hundred thousand dollars (\$3,400,000) for the housing rental subsidy program and four hundred thirty-nine thousand dollars (\$439,000) for homeless prevention and assistance.
- Senate Bill No. [2461](#) sponsored by Senator Crowley
This act would increase the real estate conveyance tax from two dollars (\$2.00) to two dollars and fifty cents (\$2.50) per five hundred dollars (\$500) of the sale price, with the increase to go to the affordable housing rental subsidy account.
- House Bill No. [7818](#) sponsored by Representative Ferri (Companion S2696 sponsored by Senator Goodwin)
This act would create the Neighborhood Opportunities Program, and would reference a referendum at the general election in November 2014 on a proposition to issue seventy-five million dollars (\$75,000,000) in bonds to fund that program.
- Senate Bill No. [2462](#) sponsored by Senator Pichardo
This act would provide for a bond referendum which would authorize the issuance of bonds for Affordable Housing in the amount of fifty million dollars (\$50,000,000), at the election to be held in November, 2014.

Status:

- On February 22, 2014 an Op Ed by Senator Pichardo supporting a housing bond referendum ran in the Providence Journal.
- On February 26, 2014, the RI Coalition for the Homeless held a "Homeless Connect" event at the statehouse at which the 2014 annual homeless numbers

were released and speakers called for fully funding Opening Doors implementation in the FY15 budget.

- On March 17, 2014 an Op Ed by United Way President and CEO Tony Maione and Crossroads President Anne Nolan supporting funding to implement Opening Doors Rhode Island ran in the Providence Journal.
- On March 17, Richard Godfrey and staff met with Senator Pichardo to discuss housing issues in the current session including Senator Pichardo's bill to put a housing bond on the ballot. Senator Pichardo suggested one or more joint hearings of the Senate Committee on Housing and Municipal Government Committee, which he chairs, and the Senate Finance Committee to discuss the need for state investment in addressing housing and homelessness issues, and the best mechanisms for that investment.
- On May 6, Richard Godfrey participated in a joint hearing of the Senate Committee on Housing and Municipal Government and the Senate Finance Committee to discuss the need for state investment in housing and homelessness programs.

Staff Recommendation:

- Support all funding requests that support implementation of Opening Doors Rhode Island and meeting the state's housing needs. Prioritize support for \$3.4 million rental assistance request.

b. Assisted Living

Senator DiPalma and Representative Gallison have again introduced legislation to restore funding that was cut from the State's SSI reimbursement for low-income individuals participating in the Rhode Island Housing Assisted Living Waiver Program in the FY12 budget. The three facilities funded through the Rhode Island Housing Assisted Living Waiver Program are Forest Farms in Middletown, Franklin Court in Bristol and St. Elizabeth's in Providence.

- House Bill No. [7251](#) sponsored by Representative Gallison (Companion S2471 sponsored by Senator DiPalma)
This act would increase the state social security income enhanced reimbursement for low-income individuals in assisted living to five hundred thirty-eight dollars (\$538) monthly, and would require the executive office of health and human services to pursue reimbursement rate reform for assisted living.

Status:

- Richard Godfrey and staff discussed the impact this funding cut had on the three participating facilities at a meeting with House Fiscal staff on March 14.
- Representative Gallison has been elevated to Chair of House Finance which should improve the chances for this provision to move ahead.

Staff Recommendation:

- Support the restoration of SSI funding for Rhode Island Housing Assisted Living Waiver Program sites.

c. Lead Hazard Reduction Program

Since 1993, the State of Rhode Island has provided funding to address lead based paint hazards in Rhode Island's housing stock. This funding, together with lead hazard reduction funds from HUD, has reduced lead hazards for more than 3,315 households. Rhode Island Housing applies for and administers this federal funding on behalf of the state and the competitiveness of the application is tied to the level of state funding committed to the program. The current HUD Lead Hazard Reduction Grant to Rhode Island Housing is for \$2.3 million and runs from 2013- 2016. As part of that application, the Housing Resources Commission committed \$590,000 for the first year of the grant cycle, with continued support anticipated annually. The Governor's FY15 budget cut funding for both the Housing Resource Commission's Lead Hazard Reduction Program and the Department of Health's Lead Poisoning Prevention Program.

- House Bill No. [7803](#) sponsored by Representative Handy (Companion S2674 sponsored by Senator Goodwin)
This act would provide that in the event of insufficient federal funds for the environmental lead program, the General Assembly shall appropriate no less than six hundred thousand dollars (\$600,000) per year for support and maintenance of the environmental lead program, and five hundred ninety thousand dollars (\$590,000) per year for the state match for the lead hazard abatement program.

Status:

- Richard Godfrey and staff discussed the cut to the lead program funding at our meeting with House Fiscal staff on March 14. House fiscal staff is working to clarify exactly how much funding was cut by the Governor's budget.
- Rhode Island Housing is coordinating with the Childhood Lead Action Project and other community partners to build support for restoring the funding.

Staff Recommendation:

Support level funding for the Housing Resources Commission's Lead Hazard Reduction Program budget and for the Department of Health's Lead Poisoning Prevention Program.

d. Thresholds

The Thresholds program is funded by the Department of Behavioral Health, Developmental Disabilities and Hospitals (BHDDH) and administered by Rhode Island Housing. The program provides funding to be used to develop housing for

people with serious and persistent mental illness, and developmental disabilities and is an important resource to assist in implementation of Opening Doors Rhode Island.

Status: The Governor's FY15 budget included \$1.3 million for Thresholds.

Staff Recommendation:

- Support the Governor's request for \$1.3 million for Thresholds in the FY15 budget.

e. Other Investments

For several years advocates for the homeless have discussed the possibility of using a new investment tool called Social Impact Bonds (SIB) to fund social service programs that will result in cost savings to the state. SIBs raise funds from non-government investors to pay for the provision of a service, and if the service improves financial and social outcomes, thereby alleviating financial support from the state, investors receive investment returns from the state. This model has been piloted in the United Kingdom and Massachusetts is currently implementing a \$27 million SIB program to reduce recidivism in the juvenile justice system. Homelessness is another area that has been discussed as a good SIB model since moving the homeless from shelters into permanent supportive housing has been shown to reduce costs to the state for institutional and emergency services.

- Senate Bill [2196](#) sponsored by Senator Miller
This act would establish the Rhode Island Social Impact Bond pilot program and study commission within the department of administration. The act would also authorize the department of administration to develop a mechanism for the use and issuance of such bonds, and would allow the issuance of up to twenty-five million dollars (\$25,000,000) in social impact bonds over a five (5) year period.

Staff Recommendation:

Monitor and provide technical assistance as needed.

3. 8% Law

A number of bills have been introduced this year dealing with the state law that sets the tax rate for deed restricted affordable apartments at 8% of gross potential rents. This includes legislation identical to the bill that was passed by the General Assembly last year and vetoed by the Governor which would have raised the rate at which affordable apartments are taxed from 8% of gross potential rents to 10%. Legislation has also been introduced which would clarify that the 8% law applies to new construction of affordable apartments as well as rehabilitation. Representative O'Grady, who spearheaded efforts in the House last session to oppose raising the

8% rate, has also introduced legislation which would establish an assessment-based process for taxing affordable apartments.

- House Bill No. [7430](#) sponsored by Representative Malik
(Companion to H7485 sponsored by Representative Casey and S2018 sponsored by Senator Picard)
This act would increase the maximum tax from eight percent (8%) to ten percent (10%) of gross scheduled rental income to be eligible for low-income housing.
- House Bill No. [7872](#) sponsored by Representative Valencia
(Companion to S2477 sponsored by Senator Goldin)
This act would clarify that the 8% tax rate applies to both new construction and rehabilitated low and moderate income housing.
- House Bill No. [7895](#) sponsored by Representative O’Grady
This act would change the way qualifying residential property subject to certain low income housing covenant restrictions is taxed. The bill is based on a similar law in New Hampshire.

Status:

- At the request of the Senate President, Rhode Island Housing has researched the tax treatment of affordable apartments in Newport and in the state as a whole. That analysis has shown a wide range of approaches to the taxation of affordable housing between and even within municipalities.
- Staff put together a “Myths vs. Facts” sheet on the 8% issue which we have shared with our housing partners and with members of the General Assembly.
- We have discussed the issue with a number of General Assembly members including the House and Senate Leadership, House and Senate Finance members and staff, Senate bill sponsors Goodwin and Picard, and Representatives Jay O’Grady, Blazejewski, Cimini, Hearn and Marcello. We also met recently with the League of Cities and Towns staff to discuss their members’ concerns with the law.
- On March 4, the Providence City Council passed an ordinance reaffirming Providence’s long-standing approach of applying the 8% law tax treatment to both newly-constructed and rehabilitated deed-restricted apartments.
- HousingWorks RI is working on an issue brief to explain why stable and predictable the tax treatment like that provided under the 8% law is critical to the development and sustainability of affordable homes in Rhode Island.

Staff Recommendation:

- Support the continuation of a set, fair, reliable and affordable tax rate for affordable apartments.

- Oppose legislation that would undermine the viability of existing affordable apartments underwritten at the 8% rate.

4. **Low and Moderate Income Housing Act**

Legislation has once again been proposed which would automatically qualify all mobile homes as counting toward a community's 10% affordable housing goal. Legislation has also been re-introduced this year that authorizes municipalities to establish a fee-in-lieu of developing affordable homes required under a community's inclusionary zoning ordinance. Revenue generated from the fee must be used to develop low- and moderate-income housing. The RI Builders Association is supporting similar legislation that would make inclusionary zoning optional for developers as well as authorizing the fee-in-lieu.

- House Bill No. [7628](#) sponsored by Representative Keable (Companion S2085 sponsored by Senator Fogarty)
This act would allow mobile and manufactured homes which are a part of a mobile and manufactured home park to be counted as low and moderate income housing for purposes of compliance with the requirements of the city or town's comprehensive land use plan.
- House Bill No. [7279](#) sponsored by Representative Hearn (Companion S2086 sponsored by Senator Bates)
This act would allow inclusionary zoning ordinances to provide that affordable housing must be built on-site or, in the alternative, be produced off-site, by donation of land & by the payment of a fee-in-lieu of the construction or provision of affordable housing.
- House Bill No. [7632](#) sponsored by Representative Shekarchi (Companion S2550 sponsored by Senator Crowley)
This act would provide that zoning ordinances that contain inclusionary zoning must provide incentives to developers who build affordable housing or would allow a developer to pay a fee-in-lieu of constructing the affordable housing. It would be the developer's choice as to whether to construct affordable housing or pay a fee-in-lieu of construction of the affordable housing. Further, this would set forth what a municipality is to do with fees paid in lieu of construction.
- House Bill No. [8069](#) sponsored by Representative Walsh
This act would place a one year moratorium on for-profit developers' submissions of plans for low and moderate income housing developments under chapter 45-53, which encourages the development of low and moderate income housing, until June 1, 2015 for submission of new applications unless by agreement with the city or town authorities.

Status:

- The Housing Act of 2013 Implementation Oversight Commission, chaired by Representative Walsh and Senator Pichardo, has been meeting since the beginning of the year. Rhode Island Housing has a seat on the Commission. Richard gave a presentation on January 8, 2014 on the housing needs in the state, some of the state plans that are guiding housing policy to meet those needs and the progress that has been made under those plans. In total, the Commission has met five times to date. We believe the Commission has concluded its hearings for this legislative session.
- The League of Cities and Towns has polled its members on the Low and Moderate Income Housing Act and the 8% Law. Results of the survey are mixed, but generally municipalities do not believe that the 10% rate is appropriate for all communities and support regional affordable housing goals.
- Staff has developed a one-page document with questions and answers about the Low and Moderate Income Housing Act. We have shared this sheet with General Assembly members.

Staff Recommendation:

- Continue to support the transfer of all legislation dealing with the Act to the Commission for review.
- Coordinate with community partners to develop consistent messaging and educational materials on the Act and respond to recommendations that come out of the Commission.
- Ensure that the new State Housing Plan currently in development supports continued requirements for all communities to meet their affordable housing goals and the tools necessary to achieve those goals.

5. Historic Preservation Tax Credit

FY14 budget included a limited State Historic Preservation Tax Credit which made available \$34.5 million in previously allocated tax credits which had not been utilized. In August the state awarded all of the credits by lottery for 31 development proposals which include over 100 affordable apartments.

Status:

- The Governor's FY15 budget included \$52 million to continue the State Historic Preservation Tax Credit Program.
- Hearings on the proposal were held in the House Finance Committee on February 26 and in Senate Finance on February 27. Rhode Island Housing submitted testimony supporting the proposal and offering assistance in creating a prioritization process for funding projects similar to our own Housing Credit program.

Staff Recommendation:

- Support creation of a State Historic Preservation Tax Credit program that would improve the cost effectiveness of the program and promote developments that best align with state priorities including the creation of affordable homes and fostering KeepSpace communities.

6. **Support Regulatory Relief for Development Activity**

Several bills have been introduced to streamline the development process including legislation that would shorten the time for awarding building permits. Legislation has also been introduced to extend the Code Consistency Council that was established by legislation passed last year and to delay their report on recommendations for changes.

Staff Recommendations:

- Monitor and provide feedback as appropriate.

7. **Foreclosure Issues**

a. **Statewide Foreclosure Mediation**

In the last session Rhode Island Housing worked with the Attorney General's office and with our partners in the banking community to successfully negotiate legislation to take the foreclosure conciliation process in effect in five Rhode Island communities to the statewide level. The legislation was passed by the General Assembly and went into effect in mid-September. Rhode Island Housing is currently providing mediation services under the new law. Technical amendments may be needed to the new law to address several procedural concerns raised by servicers and title insurers.

Status:

- Rhode Island Housing staff has met with staff from the Attorney General's office and with representatives of the banking community, foreclosure attorneys and title insurers to discuss potential technical corrections needed to the law.

Staff Recommendation:

- Work with the Attorney General's Office, DBR and other interested parties to draft technical corrections to the foreclosure mediation law.
- Support the legislation in the 2014 session.

b. **Just Cause for Eviction**

Last year Rhode Island Housing participated on a Commission chaired by Senator Metts focused on developing legislation providing protections to tenants in foreclosed properties, termed "Just Cause". Just Cause legislation has again been introduced this session by Senator Metts and Representative Edwards.

Rhode Island Housing's recommendations from last session's Commission were incorporated into the legislation.

- House Bill No. [7449](#) sponsored by Representative Edwards (Companion S2659 sponsored by Senator Metts)
This act would create a new process for the eviction of residential tenants in mortgage foreclosed property which requires the existence of just cause.

Staff Recommendation:

- Monitor and provide technical assistance as appropriate.

c. Other Foreclosure Legislation

Legislation has been introduced on behalf of the Attorney General dealing with a mortgagee's responsibility to maintain properties facing potential foreclosure and appointing an agent in the state to address municipal concerns about the property.

- House Bill No. [7613](#) sponsored by Representative Edwards (Companion S2637 sponsored by Senator Metts)
This act would require mortgagees, upon filing notice of intent to foreclose against a mortgagor, to file a copy of that notice with the city or town municipal clerk, and appoint an agent for service of process within the state. Further, the act would require a mortgagee who initiates a foreclosure proceeding against a residential property located in the municipality, to maintain the property in accordance with state and local housing codes if the property becomes vacant during the foreclosure proceeding.

Staff Recommendation:

- Monitor and recommend changes as appropriate.

8. The Madeline Walker Act

To date, no legislation has been introduced dealing with the Madeline Walker Act.

Status:

- On December 16, the Madeline Walker Advisory Committee met to discuss the current status of implementation of the Act and to provide feedback on Rhode Island Housing's approach to homeowners who have not been responsive to outreach and the disposition of properties we foreclose our right of redemption on.
- Staff met with Senator Metts and Representative Diaz to update them on implementation of the Act and inform them that we would not be seeking legislation amending the Madeline Walker Act in the current session.
- Richard Godfrey and staff met with Senate Oversight Committee Chairman Sheehan and House Oversight Committee Chairman Marcello in February. The Madeline Walker Program was discussed at both meetings.

- On March 3, Chairman Marcello made a request for information dealing with the implementation of the Madeline Walker Act. Our response to that information request is attached. A hearing of the House Oversight Committee to discuss implementation of the Act was scheduled for March 27, but cancelled in light of the leadership transition in the House.
- At the request of the City of Providence, Rhode Island Housing is moving forward with a pilot effort to foreclose our right of redemption, through a separate provision of state law, on five vacant and abandoned Providence properties for which we hold the lien. R.I.G.L. §44-9-25. We currently have foreclosures pending on 5 properties through this pilot and hope to expand it to other municipalities in 2014.

Staff Recommendation:

- Develop detailed program guidelines for outreach to Madeline Walker clients and disposition of properties whose liens have reached the 5-year mark with the input of the Madeline Walker Advisory Committee and the General Assembly.
- Expand pilot program for foreclosing our right of redemption on vacant and abandoned properties.
- Monitor legislation for bills that limit our ability to effectively administer the program.