

Rhode Island Housing Intergovernmental Relations Committee

The Intergovernmental Relations Committee (“Committee”) of the Board of Commissioners of Rhode Island Housing met on December 17, 2015 at the offices of Rhode Island Housing. In attendance were Committee Chair Steve McAllister, Chair Retsinas and Commissioner Orth.

Commissioner Kelly Rogers, designee for General Treasurer Magaziner was in attendance. Rhode Island Housing staff members present were Executive Director Barbara Fields, Deputy Director Carol Ventura, Michael Milito, Deputy Assistant Director and Amy Rainone, Director of Policy and Intergovernmental Relations.

Members of the public were also in attendance.

A quorum being present, Committee Chair McAllister called the meeting to order at approximately 8:30 am.

Amy Rainone presented the Committee information on the four legislative proposals submitted to Governor Raimondo and on the broad policy areas outlined below, along with recommendations for action as to each item.

State Legislative Priorities and Policy Positions for 2016

A. Legislative Proposals Submitted to Governor Raimondo

Earlier this year, the Administration requested that all state departments and quasi-public agencies provide them with their legislative proposals for the 2016 General Assembly session. Rhode Island Housing submitted the following four proposals.

1. **\$100 million housing bond:** Rhode Island Housing recommended that the Governor include in her FY17 budget a \$100 million housing bond to be allocated through the existing Building Homes Rhode Island (BHRI) program. This bond would target three important needs: housing for very low-income Rhode Islanders with special needs, apartments for our families and workforce, and homeownership opportunities for those ready to make the step to a home of their own. Funding would be used to produce new homes, but also be available to preserve the long-term affordability of existing homes. We conservatively estimate that this bond would support the development and preservation of 2,000 homes and leverage an additional \$400 million from other public and private sources while creating approximately 3,700 jobs. The bond would appear on the ballot in November 2016 and be disbursed over four years beginning in FY18.
2. **\$10 million for the Housing Preservation and Production Program:** Rhode Island Housing recommended that the Governor include \$10 million for the Housing Preservation and Production Program in her FY17 budget to leverage 4% and 9% Federal Low Income Housing Tax Credits (LIHTC) and support the development and preservation of affordable homes. The Governor’s FY16

budget included \$3 million for the program to leverage federal 4% LIHTC, a resource that is currently underutilized due to the lack of gap funding needed to make these deals financially feasible. We received \$6 million in requests for this funding and have already allocated \$1.5 million to fund the preservation of 288 affordable apartments. This proposal requests an increase in funding in FY17 and expanded eligibility to include filling funding gaps for 9% LIHTC funded developments which also face serious funding gaps now that all previous housing bond funds have been exhausted. This appropriation will provide a critical gap funding bridge until housing bond funds proposed above are available. We anticipate that a \$10 million appropriation would leverage an additional \$37.5 million in other federal, state and private resources to fund the development or preservation of 750 affordable apartments and support approximately 560 jobs.

3. **Madeline Walker Act:** Rhode Island Housing recommends introducing legislation to streamline administration of the Madeline Walker Program and address administrative issues with the law. This proposed legislation would make three changes to the existing Madeline Walker statute.
 - Eliminate the requirement that municipalities provide 90 day notice to Rhode Island Housing of properties listed for tax sale. Rhode Island Housing does not begin to actively reach out to homeowners or evaluate properties listed for tax sale until we receive the 40 day notice. This change would reduce the administrative burden for both municipalities and Rhode Island Housing without impacting consumers.
 - Provide municipalities with the option to submit the list of tax sale properties to Rhode Island Housing electronically (instead of hard copy). The option of electronic submittal could cut processing time and cost without impacting consumers.
 - Clarify that Rhode Island Housing is not liable for code violations or injuries at properties we have purchased tax liens on for five years. Rhode Island General Laws exempts private tax title purchasers from liabilities associated with enforcement or penalties arising from violations of environmental or minimum housing standards prior to the expiration of one year from the date of the tax sale, since they may not foreclose their right of redemption during that period. Since Rhode Island Housing many not foreclose our right of redemption for five years, this language would clarify that our exemption from liability should extend through that time frame.

4. **Return funding of the Neighborhood Opportunities Program (NOP) to the state.** The NOP program, which funds capital and rental assistance/operating support for permanent supportive housing and housing for very low-income families working at minimum wage, was established by the state in 2000 and administered by the Housing Resources Commission (HRC). The program was designed to serve very low-income tenants, so funding awards generally included both capital funding to support the development of affordable homes, and operating assistance sufficient to allow funded developments to continue to serve this targeted population for at least ten years. Since FY12, the state budget has included no funding for NOP, but has instead directed Rhode Island Housing to fund the program. . Since many NOP funded developments

are reaching the end of their initial 10 year term of affordability, Rhode Island Housing has only been able to extend operating support for these existing developments, rather than support new development. That cost will rise significantly in the future as more of the NOP funded developments exhaust their original operating allocation. If the state continues to require Rhode Island Housing to bear the cost of funding this program, we will likely have to reduce our support for other critical programs such as funding for new housing development, homebuyer and homeless assistance. Rhode Island Housing recommends that this directive be removed from the state budget and that funding for the program be included in the Housing Resources Commission's budget as it was prior to FY12.

B. Broader Policy Agenda

In deciding to take a position on legislation, Rhode Island Housing considers how the proposed bill would affect our ability to fulfill our mission and its alignment with the Governor's agenda. Generally our role would be limited to monitoring or offering technical assistance for legislation that does not meet either of the above criteria. The following topics related to Rhode Island Housing or our work may be addressed in legislation in the upcoming session. A brief synopsis of the issue, organizations that will likely support or oppose the initiative and a recommendation regarding the position to be taken by Rhode Island Housing is set forth for each topic.

1. Rhode Island Housing/ Quasi-publics

- **Board Membership:** During the 2015 session, the administration introduced legislation that would have replaced the Department of Business Regulation's seat on Rhode Island Housing's Board with the Secretary of Commerce and makes the Secretary of Commerce Vice Chairperson. The bill was heard but not acted upon.

Proponents: Rhode Island Housing supported this legislation in 2015.

Opponents: None

Staff Recommendation: Continue to support this legislation if re-introduced in 2016.

- **Bonding Authority:** During the 2015 session, legislation was introduced that would require the approval of the General Assembly for quasi-public agencies like Rhode Island Housing to issue bonds. This legislation would have significantly impeded Rhode Island Housing's ability to issue bonds at the optimal time to secure the lowest interest rates possible that we are then able to pass on to our customers and to refinance our own debt at lower interest rates. The bill was heard but not acted upon.

Proponents: The legislation was co-sponsored by a number of Republican Representatives who are concerned about 38 Studios and have sought to restrict bonding authority in various ways.

Opponents: Rhode Island Housing and other quasi-publics, opposed the legislation.

Staff Recommendation: Continue to oppose or seek modifications to legislation that would restrict our ability to sell bonds if re-introduced in 2016.

2. Appropriations

- **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. The FY16 budget included \$1 million for Thresholds.

Proponents: This does not tend to be a high profile program, but certainly has the support of groups working with the disabled and the homeless.

Opponents: None.

Staff Recommendation: Support funding of at least \$1 million for Thresholds in FY17.

3. Taxation of Deed-Restricted Properties (8% Law)

Since 2013, legislation has been introduced every year to change the way Rhode Island taxes affordable apartments. State law currently requires that rent-restricted residential properties that have been issued an occupancy permit on or after January 1, 1995 be taxed at a rate not to exceed 8% of the property's previous years' gross scheduled rental income. This law helps provide sustainability and predictability for operating costs in these developments which is critical to investors. Past legislation has included efforts to raise the rate to 10%-15%. In 2015, House Finance Chairman Gallison also introduced legislation that would have clarified the current law to make it clear that the 8% law applies to both rehabilitated developments and new construction. In 2015 no legislation dealing with the 8% law passed the General Assembly.

Proponents: The City of Woonsocket and its elected representatives have been the primary drivers of efforts to raise the 8% rate. The RI League of Cities and Towns also supported legislation to raise the 8% rate in 2015. The Housing Network and the Rhode Island Coalition for the Homeless (RICH) were the primary supporters of Chairman Gallison's clarification bill.

Opponents: For-profit and nonprofit affordable housing developers, owners of Section 8 properties, property managers, investors, affordable housing advocates, the Rhode Island Builders Association have all opposed efforts to raise the 8% rate. Chairman Gallison's clarification bill drew the strong opposition of conservative groups which portrayed the bill as establishing two classes of tax payers in the state.

Staff Recommendation: Continue to support a set, fair, reliable and affordable tax rate for affordable apartments and clarification of existing law if that legislation is re-introduced. Oppose legislation that would undermine the viability of existing affordable apartments underwritten at the 8% rate, and deter investment in future housing development.

4. Low and Moderate Income Housing Act

Legislation that proposes changes to the Low and Moderate Income Housing (LMIH) Act is regularly introduced. This has included legislation to expand what is counted as affordable housing under the law to include mobile homes, rental assistance vouchers and market rate but affordably priced homes, and exempting communities from the requirements of the law entirely. In 2015, a number of bills were introduced that would have eliminated the requirement for an affordable housing plan in municipal comprehensive plans. Some members are also exploring legislation to provide resources to or otherwise incentivize communities that have achieved their 10% affordable housing goal. None of the proposed bills were acted on during the 2015 session.

Legislation passed in 2013 revived an Oversight Commission responsible for overseeing the implementation of the LMIH Act and recommending any changes to the law by March 1, 2017. The Commission, which includes Rhode Island Housing, met a number of times in 2014, but has not reconvened since its House Co-Chair, Representative Walsh, lost her seat in 2014.

Proponents: Some municipalities, particularly the more rural ones support eliminating or relaxing the 10% goal set in the law and including more housing in the official count. Some conservative groups came out strongly during the last session in opposition to requirements that municipalities meet affordable housing goals or that allow developers to override local zoning decisions as they can under the LMIH Act.

Opponents: Rhode Island Housing has traditionally recommended that any bill seeking to amend the Act be referred to the Commission and have affirmed our belief that the law is achieving its purpose. Other organizations opposing attempts to overturn or water down the law include the Housing Network, RICH and the Office of Housing and Community Development.

Staff Recommendation: Continue to support the transfer of all legislation dealing with the law to the Commission for review and in general oppose efforts

to reduce the state's commitment to increasing affordable housing opportunities throughout the state.

5. Support Housing Development

In recent years a number of bills have been enacted that reduce barriers to housing development including standardizing wetland requirements and the calculation of building permit fees and changing how properties under development are taxed. We anticipate additional legislative proposals in 2016 to reduce the cost or other barriers to housing development including potentially the following:

- **Land Court:** Legislation to create a Land Court similar to one in Massachusetts to handle property related litigation such as matters arising out of decisions by local planning boards and zoning boards of appeal.
- **Impact Fees:** Legislation to standardize how impact fees are set by municipalities.

Proponents: For profit and nonprofit developers will likely support bills that make it easier and less expensive to develop housing.

Opponents: Municipalities and the RI League of Cities and Towns may oppose efforts to reduce their flexibility in setting fees or their authority around setting and enforcing zoning requirements.

Staff Recommendations: Monitor and provide feedback as appropriate.

7. Foreclosure Issues

- **Vacant and Abandoned Properties:** For several years the Attorney General has introduced legislation imposing requirements on foreclosing lenders to maintain those properties. It is likely that some version of that bill will be re-introduced in 2016.
- **SUN Initiative:** Boston Community Capital has supported legislation in recent years to make it easier to utilize their SUN Initiative in Rhode Island. This initiative helps homeowners facing foreclosure remain in their homes by allowing them to purchase the property from the lender at a discount and providing a new mortgage to the homeowner that they can afford.

Proponents: The Attorney General has spearheaded legislation to improve maintenance of foreclosed properties. Boston Community Capital and DARE are the lead supporters of the SUN Initiative legislation.

Opponents: Lenders have consistently opposed the Attorney General's legislation.

Staff Recommendation: Monitor and provide information as needed.

8. Fair Housing

- **Source of Income Protections:** Housing advocates are expected to support legislation in 2016 that would prohibit landlords from discriminating against renters based on the source of their income. The legislation is intended to make it easier for tenants with Section 8 rental assistance to find an apartment and assist the State and public housing authorities in meeting their obligation to affirmatively further fair housing.

Proponents: Rhode Island Coalition for the Homeless, possibly Public Housing Authorities.

Opponents: Realtors have consistently opposed legislation like this in the past. Apartment owners or property managers may also have concerns.

Staff Recommendation: Support legislation and provide technical assistance.

9. Renewable Energy/ Climate Change

On December 8, 2015 Governor Raimondo signed Executive Order 15-17 establishing the Lead by Example Program to oversee and coordinate efforts at State agencies to reduce energy consumption and greenhouse gas emissions. Among other things, the Executive Order directed State agencies to reduce energy consumption by 10% by the end of FY19, transition electricity consumption to renewable sources by 2025 and incorporate high standards of green building operations and maintenance in all state facilities. It is likely that additional legislation and funding proposals will be introduced in 2016 to further support efforts to improve the use of renewable energy and address climate change.

Staff at Rhode Island Housing has been exploring opportunities to support the use of renewable energy and improve energy efficiency through our programs. The agency is also undertaking facility improvements that will result in energy efficiency improvements, including the replacement of all lighting fixtures in our facility with high efficiency LED fixtures that will result in an expected annual savings of approximately \$40,000.

Proponents: The Administration, environmental groups, possibly a broader coalition depending on the legislation that is proposed.

Opponents: Would depend on legislative proposals.

Staff Recommendation: Continue to explore opportunities for Rhode Island Housing to support the Administration's efforts in this area, and ensure that any legislation achieves energy and climate change goals without creating barriers to housing development.

Following the presentation, the Committee engaged in a discussion regarding these proposals. Following a period of discussion, on a motion made by Chair Retsinas and seconded by Commissioner Orth, the Committee unanimously voted that the proposed Legislative Priorities and Policy Positions presented to the Committee be recommend to the full Board for adoption.

The Committee requested that it be reconvened as necessary in the determination of staff once the 2016 session is underway, to analyze individual pieces of legislation that address these policy areas and any other bills that may have an impact on the agency.

Federal legislative priorities were also discussed, but no recommendations on federal legislative priorities are being made at this time.

There being no further business to discuss the meeting was adjourned at approximately 9:45 am.

Respectfully submitted,

Barbara G. Fields
Executive Director and Secretary of the Intergovernmental Relations Committee