

Illinois Housing Development Authority

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The Affordable Housing Planning and Appeal Act

Presentation prepared for:

DEFINING AFFORDABLE HOUSING FOR WINNETKA

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Illinois Housing Development Authority

Affordable Housing Planning and Appeal Act

- ◆ **Affordable Housing Planning and Appeal Act (310 ILCS 67/)**

- P.A. 93-595 - Signed into law on August 26, 2003 creating the Affordable Housing Planning and Appeal Act (AHPAA)
- P.A. 93-678 – Amendment to the AHPAA signed into law on June 28, 2004, updating a definition and making administrative changes
- P.A. 94-303 - Amendment to the AHPAA signed into law July 21, 2005, makes additional administrative changes and provides municipalities and counties additional tools to use to plan for affordable housing

- ◆ Recognizes the importance of mixed income communities for the vibrancy of our State's economy and culture.
- ◆ Addresses the mismatch between location of job growth and affordable housing.
- ◆ The Illinois Housing Development Authority (IHDA) is named the State-administering agency in the AHPAA.
 - Serves solely in an administrative rather than advocacy role.



AHPAA: Who Must Comply?

- ◆ Every community (defined as a municipality or county) with a population of 1,000+ that has less than 10% of its housing stock as qualified as affordable is considered to be non-exempt from the law and must comply.
- ◆ Currently, 49 of 1,287 Illinois municipalities must comply (all counties were determined to be exempt).
- ◆ The AHPAA does not specifically provide for a home rule exemption.
 - All AHPAA-related bills have been silent on this issue
 - Municipalities or counties wanting further clarification should consult their own legal counsel.



Determining the Non-Exempt Communities

- ◆ Determining non-exempt communities requires:
 - Calculations to determine the number of rental units affordable to households earning 60% of the Area Median Income
 - Calculations to determine the number of homeownership units affordable to households earning 80% of the Area Median Income within each community in Illinois.
(Calculations must be based on Decennial Census Data (currently still using 2000 Data, though that will soon change)).
 - The total of these two counts is divided by the total number of housing units in the community to provide the affordable housing percentage for each community.
- IHDA contracted with a non-biased 3rd party (University of Illinois - Building Research Council) to produce report noting the exempt and non-exempt communities



Affordable Housing

- ◆ Housing is considered to be “affordable” to its occupant when that occupant pays no more than 30% of their income for housing costs
- ◆ Per the AHPAA:
 - Rental units are considered affordable when a household earning up to 60% of the Area Median Income (AMI) can afford the rent, paying no more than 30% of their income for housing costs;
 - Ownership units are considered affordable when a household earning up to 80% of the AMI can afford the principal and interest of any mortgages placed on the unit, property taxes, and insurance, as well as homeowner, neighborhood, or condominium association fees, paying no more than 30% of their income for housing costs



Planning Requirement

- ◆ Non-Exempt Communities are required to create an Affordable Housing Plan
 - Initial round of plans had to be approved locally by April 1, 2005
 - Winnetka has an AHPAA-related Affordable Housing Plan on file with IHDA

- ◆ Each non-exempt community's plan must include four elements:
 1. A statement of the total number of affordable housing units needed to exempt the local government from the 10% requirement
 2. The identification of land and structures for affordable housing construction, conversion and renovation
 3. Local incentives to be provided to attract affordable housing development
 4. A goal for the municipality that is at least one of the following:
 - 10% overall affordable housing; or
 - 15% minimum of affordable housing on all new developments or redevelopments; or
 - A 3% increase in the amount of affordable housing



State Housing Appeals Board

- ◆ Affordable housing developers will have the opportunity to appeal some local government decisions that impact affordable housing to the State Housing Appeals Board (SHAB).
- ◆ SHAB is comprised of Governor-appointed representatives of local government, county government, zoning boards of appeals, plan commissions, developers, and housing advocates and will be chaired by a retired circuit court judge. IHDA's executive director is a non-voting member of the Board.
- ◆ SHAB authorized to hear appeals as of January 2009.
- ◆ No appeals have been brought to the SHAB as of September 1, 2011.



State Housing Appeals Board

◆ Developer-Driven Appeal Process

- Developer bears the burden of showing that the development was “unfairly denied,” or that “unreasonable conditions” were placed upon the development (rendering the development infeasible) because the proposed development had an affordable housing component.

◆ If the SHAB affirms the appeal, the SHAB MAY:

- Reverse the local decision to deny or the conditions placed upon the proposed Affordable Development;
- Modify the conditions of placed upon the Affordable Development;
- Add Conditions to the local decision

◆ The SHAB can also dismiss appeals:

- Community has met AHPAA Planning Requirement and can demonstrate progress towards stated goals
- Reason for appeal is a “non-appealable local government requirement” pertaining to the protection of public health, safety, or the environment



Recommended Non-Exempt Community Responsibilities

- ◆ See Procedural Guidelines for Compliance (www.ihda.org)
- ◆ Create and Make Good Faith Effort to Fulfill Goals of an Affordable Housing Plan
- ◆ Track Exempt Status and Progress Towards Affordable Housing Goals
- ◆ Maintain Documentation of Progress



Tools for Compliance

- ◆ Enhanced Affordable Housing Planning
- ◆ Establishment of local housing trust funds
- ◆ Community Land Trusts
- ◆ Teardown Fees
- ◆ Use of Tax Increment Financing and other tax incentives
- ◆ Density bonuses in zoning ordinances



IHDA Responsibilities

- ◆ Review and file submitted Affordable Housing Plans
- ◆ Provide annual update to Non-Exempt Community List and fully update this list upon full availability of 2010 Census Data
- ◆ Provide an annual schedule of affordable sales and rental prices based on HUD AMI by household size
- ◆ Create and update recommended Procedural Guidelines
- ◆ Recommend forms / formats for each community to use to track progress
- ◆ Collect SHAB membership nominations and submit them to the Governor's Office



Additional AHPAA Information

www.ihda.org

Or

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