RESOLUTION 2025-62

RESOLUTION ADOPTING AN OPERATING MANUAL FOR ADMINSTRATION OF AFFORDABLE SALE UNITS

WHEREAS, On March 10, 2015, the Supreme Court transferred responsibility to review and approve housing elements and fair share plans from the Council on Affordable Housing (COAH) to designated Mount Laurel trial judges within the Superior Court; and

WHEREAS, on June 12, 2015, the Township submitted a Declaratory Judgment Action to the New Jersey Superior Court; and

WHEREAS, the Colts Neck Township Planning Board, under protest with the intent to appeal the Court Orders of November 21, 2024, adopted on February 11, 2025 a Third Round Housing Element and Fair Share Plan as being consistent with the goals and objectives of the Colts Neck Township Master Plan, as guiding the use of lands in the municipality in a manner which protects public health and safety and promotes the general welfare in accordance with N.J.S.A. 40:55D-28, and as achieving access to affordable housing to meet present and prospective housing needs in accordance with N.J.S.A. 52:27D-310;

WHEREAS, the Township's Third Round Housing Element and Fair Share Plan was prepared consistent with the November 21, 2024 Orders issued by the Hon. Linda Grasso Jones, albeit under protest with the intent to appeal the Orders once the matter is deemed final;

WHEREAS, the Township agrees to comply with the Court's November 21, 2024 Orders, albeit under protest, with the intent to appeal the Orders once the matter is deemed final and reserves all rights and positions in connection with any appeal;

WHEREAS, the Township prepared an operating manual for affordable sale units to ensure compliant administration of sale affordable units in the Township;

WHEREAS, the Township's operating manual is compliant with the Fair Housing Act N.J.S.A. 52:27-301 and UHAC, N.JA.C. 5:80-26.1 et seq.; and

NOW THEREFORE, BE IT RESOLVED the Township Committee of Colts Neck Township, Monmouth County, State of New Jersey, hereby adopts the operating manual for sale affordable units.

I, Trina Lindsey, do hereby certify the foregoing to be a true and accurate copy of a resolution passed by the Township Committee of Colts Neck Township during a regular meeting held on the 12th day of February 2025

Trina Lindsey, Municipal Clerk

RECORD OF VOTE					
	M S	Yes	No	NV	Ab
Mayor Torchia Buss		X			
Deputy Mayor Viola	M	X			
Buzzetta		X			
Fitzpatrick	S	X			
Rizzuto		X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent					

Operating Manual for Sale Affordable Units
Township of Colts Neck, Bergen County

February 2020, updated January 2025

FOR-SALE OPERATING MANUAL CHECKLIST
Minimum Standards

At a minimum the For-sale Operating Manual must clearly describe the procedures and policies for the following:

	Affordable Housing Program & Opportunities
☐	Identify where Housing Element and Fair Share Plan can be viewed.
☐	Identify local Affordable Housing Programs & Affordability Assistance Programs
☐	Include overview of local for-sale and resale process
	Affirmative Marketing
☐	Approved Affirmative Marketing Plan included
☐	How will new units be marketed?
☐	How will resales be marketed?
☐	Will there be a regional preference?
☐	Who will implement marketing new units and resales?
☐	Prepare sample marketing materials, including a sample display ad and Public Service Announcement
☐	**Random Selection & Applicant Pool**
☐	What level of verification will be completed before the lottery process – pre-application or full applications?
☐	Will the pool of applicants be randomized each time a unit is available?
☐	Will there be categories of applicant pools?
☐	**Matching Households to Available Units**
☐	How will households be matched to available units? Will there be categories of applicant pools?
☐	**Household Certification**
☐	Standards for reviewing applicant household eligibility and certifying applicant households, including how long applicant has to submit required documents
☐	Verification documentation required
☐	Eligible Income/Ineligible Income
☐	Maximum Monthly Payment
☐	Housing Counseling
☐	Basis for Dismissing Applications
☐	Appeals
☐	**Determining Affordable Sales Prices**
☐	Development Considerations and Compliance Issues
☐	Determining Maximum Initial Sales Prices
☐	Determining Resale Prices
☐	Establish resale procedures
☐	**Waivers and Exemptions**
☐	Identify Hardship Waivers
☐	Identify Income Waiver
☐	Identify Exempt Transactions
☐	**Application Fees**
☐	**Violations, Defaults and Remedies**
☐	**Maintenance of Records**
☐	List documents to be filed
☐	Monitoring information required

Table of Contents

INTRODUCTION **1**

What Is Affordable Housing? 1

Who Qualifies For Affordable Housing? 2

Local Affordable Housing Programs And Opportunities ..... **Error! Bookmark not defined.**

Other Affordable Housing Programs And Opportunities 2

Fair Housing And Equal Housing Opportunities 3

Overview Of The Affordable Housing Administration Process 3

Overview Of The Resale Process 4

ROLES AND RESPONSIBILITIES **6**

Responsibilities of the Municipal Housing Liaison 6

Responsibilities of an Administrative Agent 7

Responsibilities of the Municipal Attorney 9

Responsibilities of Developers 10

Responsibilities of an Owner 10

AFFIRMATIVE MARKETING **12**

Overview of the Requirements of an Affirmative Marketing Plan 12

Regional Preference 14

Implementation of the Affirmative Marketing Plan 14

Developer, Affordable Housing Sponsor 14

RANDOM SELECTION & APPLICANT POOL(S) **16**

MATCHING HOUSEHOLDS TO AVAILABLE UNITS **18**

APPLICATION FEES **20**

HOUSEHOLD CERTIFICATION **20**

Procedure for Income-Eligibility Certification 20

The Real Estate Asset Limit 22

Income from Real Estate 23

Maximum Monthly Payments 24

Housing Counseling 24

The Applicant Interview 24

Records Documents Household Composition and Circumstances 25

Approving or Rejecting a Household 25

Dismissal of Applications 26
Appeals 27

DETERMINING AFFORDABLE SALES PRICES 30
Development Considerations and Compliance Issues 30
Determining Maximum Initial Sales Price 31
Additional Regulations for an Ownership Development 31
Determining Resale Prices 32
Requests for Increases in Maximum Sales Price 32
Determining the Recapture Mortgage Amount 33

WAIVERS AND EXEMPTIONS 33
Hardship and Income Waivers 33
Exempt Transactions 34

LOCAL AFFORDABILITY ASSISTANCE PROGRAM .....Error! Bookmark not defined.

VIOLATIONS, DEFAULTS AND REMEDIES 35

MAINTENANCE OF RECORDS AND APPLICANT FILES 35
Files To Be Maintained on Every Applicant 36
Files To Be Maintained on Every Unit 36
Files To Be Maintained on Every Project 36
Files To Be Maintained on The Applicant Pool 36
Monitoring 37

APPENDIX

A. COAH Annual Illustrative Sale Prices By Housing Region
B. COAH Annual Regional Income Limits Chart
C. Affirmative Marketing Plan
D. List of HUD-Certified Housing Counseling Agencies
E. Resale Procedures for Owners Wishing to Sell an Affordable Unit
F. Fee Schedule

INTRODUCTION

This Operating Manual has been prepared to assist in the administration of for-sale units in the Township of Colts Neck Affordable Housing Program. It will serve as a guide to the program staff.

This manual describes the basic content and operation of the program, examines program purposes and provides the guidelines for implementing the program. It has been prepared with a flexible format allowing for periodic updates of its sections, when required, due to revisions in regulations and/or procedures.

This manual explains the steps in the initial sale process and in the resale process. It describes the eligibility requirements for participation in the program, record keeping and overall program administration.

Implementation of any procedure, even if it is not included in this Operating Manual, shall be in accordance with the Federal Fair Housing Act and Equal Opportunities laws[1], the Uniform Housing Affordability Controls (UHAC) N.J.A.C. 5:80-26.1 et seq.[2], the substantive rules of the Council on Affordable Housing N.J.A.C. 5:93 and 5:91 and the affordable housing regulations of the Township of Colts Neck (hereafter referred to as the "Regulations").

In accordance with the Federal Fair Housing Act and Equal Opportunities laws it is unlawful to discriminate against any person making application to buy or rent a home with regard to age, race, religion, national origin, sex, handicapped or familial status.

WHAT IS AFFORDABLE HOUSING?

Affordable housing, unlike market rate housing, has affordability controls limiting the price for at least 30 years. COAH considers housing "affordable" if the household pays approximately 28% or less of the household's gross income on housing costs. Affordable housing is priced to be affordable to households earning up to 80% of the area median income for the region in which the affordable housing is located.

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[1] http://www.hud.gov/offices/fheo/FHLaws/index.cfm

[2] http://www.nj.gov/dca/affiliates/coah/regulations/uhac.html

WHO QUALIFIES FOR AFFORDABLE HOUSING?

In order to be eligible for affordable housing in New Jersey, a household's income must be below the income limit for the region in which the affordable housing is located, either for low or moderate levels. A moderate-income household is classified as earning between 50 percent and 80 percent of the area median income. A low-income household is classified as earning less than 50 percent of area median income. COAH has included a new category for very low-income households, which are classified as earning less than 30 percent of area median income. Municipalities are not required to provide affordable sale housing to very low-income households.

The six COAH housing regions are as follows:

Regions	Counties
1	Bergen, Hudson, Passaic, Sussex
2	Essex, Morris, Union, Warren
3	Hunterdon, Middlesex, Somerset
4	Mercer, Monmouth, Ocean
5	Burlington, Camden, Gloucester
6	Atlantic, Cape May, Cumberland, Salem

The COAH Regional Income Limits Chart (Appendix B) provides information about income limits for each of COAH's six housing regions. Each region has different calculated median incomes, which are adjusted annually.

An applicant does not have to currently live in the region in which the applicant is interested in applying for an affordable unit. An applicant's income qualification is determined by the Region Income Limits for where the applicant wants to live.

AFFORDABLE HOUSING PROGRAMS AND OPPORTUNITIES

Affordable housing is administered by a wide variety of organizations and agencies. COAH does not administer affordable housing but links to affordable housing resources can be found on COAH's website at http://www.nj.gov/dca/affiliates/coah/resources/looking.html.

Individuals interested in applying for affordable housing should contact the Municipal Housing Liaison in the municipality in which they are interested in living. Each municipality under COAH's jurisdiction has a Municipal Housing Liaison who is responsible for administering the municipality's affordable housing program. Some municipalities administer their own affordable housing and have their own application process. If not, the Municipal Housing Liaison can direct applicants to developers, nonprofit agencies, State agencies or consultants that may administer the affordable housing within the municipality. A list of Municipal Housing Liaisons can be found at http://www.nj.gov/dca/affiliates/coah/resources/muniliaisons.pdf.

The New Jersey Housing and Mortgage Finance Agency has established New Jersey's Housing Resource Center, an on-line, searchable database of affordable housing in the

State. The Housing Resource Center provides a listing posted by developers, landlords, and municipalities of available affordable housing. Available units are listed with contact and application information. Look for the Housing Resource Center at www.njhousing.gov.

The New Jersey Guide to Affordable Housing, which can be found at http://www.nj.gov/dca/codes/affdhousing/affdhsgguide/index2.shtml, is a listing compiled by the New Jersey Department of Community Affairs Division of Codes and Standards. It lists all types of affordable housing by county. The housing units on the list have a variety of qualification requirements, including age-restricted housing and housing for the developmentally disabled.

Applicants who do not have access to the Internet should call 211 for assistance

FAIR HOUSING AND EQUAL HOUSING OPPORTUNITIES

It is unlawful to discriminate against any person making application to buy or rent a home with regard to race, creed, color, national origin, ancestry, age, marital status, affect ional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression or source of lawful income used for mortgage or rental payments.

For more information on discrimination or if anyone feels they are a victim of discrimination, please contact the New Jersey Division on Civil Rights at 1-866-405-3050 or http://www.state.nj.us/lps/dcr/index.html.

OVERVIEW OF THE AFFORDABLE HOUSING ADMINISTRATION PROCESS

- The Municipal Housing Liaison serves as an initial point of contact for unsolicited calls to the municipality about affordable housing and where appropriate directs applicants to an Administrative Agent, who may be developers, nonprofit agencies, State agencies or consultants that may administer the affordable housing within the municipality.

- The Administrative Agent implements the municipality's Affirmative Marketing Plan.

- The Administrative Agent serves as the initial point of contact for all inquiries generated by the affirmative marketing efforts and sends out pre-applications to interested callers.

- The Administrative Agent, the developer or the affordable housing sponsor will accept these returned pre-applications for a specific period of time, for example, 30 to 90 days. At the end of this time period, all applications will go to the

Administrative Agent where these applications will be randomly selected, through a lottery, to create a pool of applicants.

- The Administrative Agent pre-qualifies applicants in the applicant pool for income eligibility and sends either a rejection letter to those over income or a preliminary approval letter to those who appear income-eligible.

- When a unit becomes available, the Administrative Agent will interview the applicant households and proceed with the income qualification process. Applicant households seeking for-sale units must obtain a mortgage pre-approval.

- The Administrative Agent must notify applicant households in writing of certification or denial within 20 days of the determination. Once all documents are filed and recorded, and returned to the Administrative Agent for inclusion in the file, the Administrative Agent will process a release of the original documents.

- Certified households that are approved for a for-sale affordable housing unit will work with the Administrative Agent to secure a mortgage in a timely fashion and, where applicable, obtain homeownership counseling.

- The Administrative Agent will prepare a Deed, a Recapture Mortgage and Recapture Mortgage Note, and Disclosure Statement (Appendix J) and may attend the closing for each unit.

- The filing and recording of documents is the responsibility of the buyer's attorney, but the Administrative Agent may also elect to file the documents. Once all documents are filed and recorded, and returned to the Administrative Agent for inclusion in the file, the Administrative Agent will process a release of the original documents.

- The certified household moves into the affordable ownership unit.

OVERVIEW OF THE RESALE PROCESS

When an Owner of a restricted unit wishes to sell, the sale must be processed through the Administrative Agent. At the initial date of purchase, the Owner makes a certification regarding his or her understanding of this requirement.

- Typically, the resale process begins when an Owner inquires about the maximum resale price (MRP) of their unit. At that time the Administrative Agent provides the Seller with a "Notice of Intent to Sell" form and the written "Resale Procedures for Owners Wishing to Sell an Affordable Unit".

- The Owner/Seller returns the completed "Notice of Intent to Sell" form to the Administrative Agent.

- The Administrative Agent reviews the unit and any eligible capital improvements, and calculates the MRP. The MRP is calculated by using COAH's Resale Price Calculator, which is based on COAH's Annual Regional Income Limits Chart.

- The Administrative Agent uses the current applicant pool, which is based on a previous affirmative marketing process, or affirmatively markets the unit and conducts random selection if there is no current applicant pool.

- If the Administrative Agent maintains a pool of certified households, the first randomly selected eligible household whose household size matches the bedroom size of the available unit is sent a "Housing Opportunity Letter" inviting them to contact the Buyer to view the unit.

- If the Administrative Agent maintains a pool of preliminarily eligible households, the first series (five is a recommended standard) of eligible households that match the bedroom size of the available unit are sent a "Housing Opportunity Letter" and "Application for Certification" (including a list of required documentation) to complete.

- Interested households complete the application and generally contact the Administrative Agent for an interview. Interested eligible households are certified, and ineligible households are noticed in writing and removed from the applicant pool.

- Certified households obtain a mortgage pre-approval based on the MRP. The first randomly selected interested certified household from the applicant pool is invited to view the unit and has a limited period of time in which to make an offer (three days is a recommended timeframe). A certified interested household makes an offer.

- The Owner/Seller and the certified interested household (now Buyer) execute a "Contract of Sale." The Administrative Agent ensures that the Deed, Recapture Mortgage, Recapture Mortgage Note and Disclosure Statement (Appendix J) form are submitted as part of the closing package to the attorney responsible for the closing or other closing agent.

- The Administrative Agent generally attends the closing to ensure that all necessary documentation is executed and subsequently recorded in the County Clerk's Office in the county in which the unit is located.

- Annually, the Administrative Agent shall send a mailing to the Owner of the affordable unit reminding them of the rights and requirements of owning an affordable unit.

ROLES AND RESPONSIBILITIES

Responsibilities of the Municipal Housing Liaison

The Municipal Housing Liaison is responsible for coordinating all the activities of the municipal government as it relates to the creation and administration of affordable housing units, in conjunction with the Municipal Attorney, where appropriate (see **Responsibilities of the Municipal Attorney**). The primary purpose of the Municipal Housing Liaison is to ensure that all affordable housing projects are established and administered according to the Regulations as outlined in an Operating Manual. The duties of the Municipal Housing Liaison include the following duties, and may include the responsibilities for providing administrative services as described in the next Section under, **Responsibilities of an Administrative Agent**.

Monitor the status of all restricted units in the municipality's Fair Share Plan. Regardless of any arrangements the municipality may have with one or more Administrative Agents, it is the Municipal Housing Liaison's responsibility to know the status of all restricted units in their community.

Serve as the municipality's primary point of contact for all inquiries from the State, Administrative Agents, developers, affordable housing sponsors, owners, property managers, and interested households. The Municipal Housing Liaison serves as the municipality's primary point of contact on affordable housing issues. Interested applicants should be provided with information on the types of affordable units within the municipality and, where applicable, the name of the Administrative Agent that manages the units and the contact information for the Administrative Agent.

Compile, verify and submit annual reporting. Administrative Agents are responsible for collecting much of the data that is ultimately included in an annual COAH monitoring report. However, it is the Municipal Housing Liaison's responsibility to collect and verify this data and consolidate it into the annual report to COAH. Any requests from COAH for additional information or corrections will be directed to the Municipal Housing Liaison.

Coordinate meetings with Administrative Agents and Developers/Affordable Housing Sponsors/Owners. When a new affordable unit or series of units is in the planning process, the Municipal Housing Liaison should coordinate a meeting between the Administrative Agent and the developer, affordable housing sponsor or owner. The developer, affordable housing sponsor or owner may serve as their own Administrative Agent, if they meet the applicable requirements and are approved by the municipality and COAH. The purpose of this initial meeting is to develop a clear division of labor between the parties and to transmit any components of the Operating Manual – including copies of all COAH-related local ordinances -- that have already been adopted by the municipality.

It is the responsibility of the Municipal Housing Liaison, in conjunction with the Municipal Attorney, to have the affordable housing provisions of any Master Deed and Public Offering reviewed for consistency with COAH and UHAC regulations, before they are recorded and submitted to DCA for approval.

Provide Administrative Services, unless those services are contracted out. The responsibilities for providing administrative services are described in the next Section under, **Responsibilities of an Administrative Agent.**

Responsibilities of an Administrative Agent

The primary responsibility of an Administrative Agent is to establish and enforce affordability controls and ensure that units in the Administrative Agent's portfolio are sold to eligible households. Administrative Agents must:

Secure written acknowledgement from all developers, affordable housing sponsors and owners that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.

Create and adhere to an Operating Manual. All Administrative Agents are required to follow the policies and procedures of an Operating Manual, as applicable to the scope of services they have been contracted to perform.

Implement the municipality's Affirmative Marketing Plan. The Administrative Agent, the developer, affordable housing sponsor or owner could be responsible for implementing the Affirmative Marketing Plan adopted by the municipality. At the first meeting with the Municipal Housing Liaison, Administrative Agent and the developer, affordable housing sponsor or owner, this responsibility should be discussed. Affirmative marketing includes conducting regional outreach and advertising for available affordable units. Advertising costs may also be delegated to the developer, but this must be established by ordinance and a condition of approval of the Planning Board or Zoning Board.

Accept applications from interested households. In response to marketing initiatives or by referral from the Municipal Housing Liaison, interested households will contact the Administrative Agent. The Administrative Agent will supply applicants with applications, provide additional information on available units and accept completed applications.

Conduct random selection of applicants for sale and resale of restricted units. The Administrative Agent is responsible for conducting the random selection in accordance with the Affirmative Marketing Plan and any related local ordinances, and as described in the Operating Manual.

Create and maintain a pool of applicant households. This includes reaching out to households in the applicant pool to determine continued interest and/or changes in household size and income.

Determine eligibility of households. The task of collecting application materials and documentation from applicant households and analyzing it for eligibility is the responsibility of an Administrative Agent. A written determination on a household's eligibility must be provided within twenty (20) days of the Administrative Agent's determination of eligibility or non-eligibility. Whether or not the household is determined to be eligible for a unit, it is an Administrative Agent's responsibility to secure all information provided by the household in individual files and to maintain strict confidentiality of all information regarding that household. An Administrative Agent is required to ensure that all certified applicants execute a Disclosure Statement acknowledging the rights and requirements of owning an affordable unit, in the form of Appendix J of UHAC, as applicable.

Establish and maintain effective communication with owners and property managers. Owners and property managers of restricted units should be instructed and regularly reminded that the Administrative Agent is their primary point of contact. The Administrative Agent must immediately inform all owners and property managers of any changes to the Administrative Agent's contact information or business hours. The Administrative Agent must create and distribute annual mailings to all Owners of affordable units reminding them of the rights and requirements of owning an affordable unit.

Owners should be instructed to immediately contact the Administrative Agent in the following circumstances:

- If they are considering or have decided to sell their home.
- In the event they wish to refinance their mortgage or take out a home equity loan and, consequently, will be seeking a subordination of their mortgage.
- If they are seeking an increase in the sales price of their unit due to capital improvements.
- If they are seeking a Hardship Waiver to allow them to rent their unit.

Preserve affordability controls during the sale of restricted units. Immediately upon being notified of an Owner's intent to sell their property, an Administrative Agent should inform the Owner of the Owner's role in the marketing and sale of the home. An Administrative Agent is responsible for extinguishing the affordability controls with the Seller and re-establishing them with the Buyer. An Administrative Agent is responsible for providing closing attorneys/agents with the appropriate legal instruments.

Ensure cancellations of Recapture Mortgages are effectuated. It is the Administrative Agent's responsibility to ensure that Recapture Mortgages are cancelled at the conclusion of the control period when the Recapture Mortgage is satisfied. If the Recapture Mortgage is being cancelled due to a sale of the property during the control period, then the Administrative Agent may wish to cancel the original Recapture Mortgage only after the Recapture Mortgage with the new Owner has been recorded.

Send out annual mailings about restrictions. Administrative Agents must annually mail to all Owners of affordable housing units a reminder of their rights and responsibilities as Owners of an affordable unit.

Ensure unit has Continuing Certificate of Occupancy at final transfer. To help ensure a healthy and safe living environment for all families, an Administrative Agent is responsible for obtaining an inspection or a certified statement from the local Building Inspector at the first sale after the expiration of the minimum affordability control period.

Serve as the custodian of all legal documents. An Administrative Agent is responsible for maintaining originals of all legal instruments for the units in their portfolio. Throughout the duration of a control period, an Administrative Agent must maintain a file containing its affordability control documents. This includes, but is not limited to, the recorded Declarations of Covenants, Conditions and Restrictions, Deed Restrictions, Deeds, Recapture Mortgages, Recapture Mortgage Notes and Disclosure Statement (Appendix J).

Serve as point of contact on all matters relating to affordability controls. It is recommended that the Administrative Agent develop a system to be notified by lenders when a unit is at risk of foreclosure. In the event of a foreclosure, the Administrative Agent should work with the foreclosing institution to ensure that the affordability controls are maintained. The Administrative Agent should seek the counsel of the municipality's attorney on legal matters that threaten the durability of the affordability controls.

Provide annual activity reports to Municipal Housing Liaison for use in the annual COAH monitoring report. An Administrative Agent is responsible for collecting the reporting data on each unit in the Administrative Agent's portfolio.

Maintain and distribute information on HUD-approved Housing Counseling Programs.

Responsibilities of the Municipal Attorney

The Municipal Attorney assists the municipality with developing, administrating, and enforcing affordability controls, including but not limited to:

- Assisting the Municipal Housing Liaison with the review of the affordable housing provisions of any Master Deed and Public Offering for consistency with COAH and UHAC regulations, before they are recorded and submitted to DCA for approval.

- Providing all reasonable and necessary assistance in support of the Administrative Agent's efforts to ensure compliance with the housing affordability controls, including reviewing legal documents and legal actions required on foreclosures and violations.

Responsibilities of Developers

When a new affordable unit or series of units is in the planning process, the developer of affordable housing should contact the Municipal Housing Liaison, who shall coordinate a meeting with the Administrative Agent, where applicable, and the developer, affordable housing sponsor or owner.

The purpose of this initial meeting is to develop a clear division of labor between the parties and to transmit any components of the Operating Manual – including copies of all COAH-related local ordinances -- that have already been adopted by the municipality.

If provided for by ordinance and made a condition of the approval of the planning board or zoning board of adjustment, the developer may be responsible for the costs of advertising affordable units.

The Administrative Agent will secure from the developer written acknowledgement that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.

Responsibilities of an Owner

Owners should read annual mailings from the Administrative Agent, and cooperate with any and all requests for information from either the Municipal Housing Liaison or the Administrative Agent.

The Owner may sell the unit only to a household that has been approved in advance and in writing by the Administrative Agent. No sale of the unit shall be lawful unless approved in advance and in writing by the Administrative Agent. No sale shall be for a consideration greater than the maximum resale price, as determined by the Administrative Agent.

When an Owner wishes to sell an affordable unit, it is the Owner's responsibility to notify the Administrative Agent and to execute a "Notice of Intent to Sell". If a potential, certified Buyer makes an offer of the maximum resale price of an affordable unit, then the Owner is obligated to enter into a sales contract with that Buyer for the sale of that unit or withdraw the "Notice of Intent to Sell".

An Owner may not rent out the Owner's unit to any other person, not even to members of the Owner's family.

The Owner shall at all times maintain the unit as his or her principal place of residence, defined as residing at the unit at least 260 days out of each calendar year.

An Owner shall make no improvements to the unit that would effect its bedroom configuration or to increase the maximum permitted resale price, except for improvements approved in advance and in writing by the Administrative Agent.

The Owner shall pay all taxes and public assessments and assessments by the condominium association levied upon or assessed against the unit, or any part thereof, when they become due and before penalties accrue.

The Owner shall pay all charges of any utility authority when they become due and before penalties accrue.

The Owner shall not permit any lien, except those approved by the Administrative Agent, to attach and remain on the property for more than 60 days.

The Owner must have approval of the Administrative Agent if they wish to refinance their mortgage or take out a home equity loan and, consequently, will be seeking a subordination of their mortgage.

In the event that any first mortgagee or other creditor of an Owner of a low- and moderate-income unit exercises its contractual or legal remedies available in the event of default or nonpayment by the Owner of a low- and moderate-income unit, the Owner shall notify the Administrative Agent in writing within 10 days of such exercise by the first mortgagee or creditor and no later than 10 days after service of any summons and complaint.

An Owner shall notify the Administrative Agent within 10 days, in writing, of any default in the performance by the Owner of any obligation under either the master deed of the condominium association, including the failure to pay any lawful and proper assessment by the condominium association, or any mortgage or other lien against the low- and moderate-income unit, which default is not cured within 60 days of the date upon which the default first occurs.

AFFIRMATIVE MARKETING

Overview of the Requirements of an Affirmative Marketing Plan

All affordable units are required to be affirmatively marketed using the Township of Colts Neck's Affirmative Marketing Plan. An Affirmative Marketing Plan is a regional marketing strategy designed to attract households of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affect ional or sexual orientation, disability, age, or number of children to housing units which are being marketed by an Administrative Agent or a developer, sponsor, owner or property manager of affordable housing. The primary objectives of an Affirmative Marketing Plan are to target households who are least likely to apply for affordable housing, and to target households throughout the entire housing region in which the units are located.

The Township of Colts Neck's Affirmative Marketing Plan can be found in the Appendix.

Every Affirmative Marketing Plan must include all of the following:

- Publication of at least one advertisement in a newspaper of general circulation within the housing region; and
- Broadcast of at least one advertisement by radio or television throughout the housing region.
- At least one additional regional marketing strategy such as a neighborhood newspaper, religious publication, organizational newsletter, advertisement(s) with major employer(s), or notification through community and regional organizations such as non-profit, religious and civic organizations.

Although not a requirement of UHAC, COAH encourages municipalities to list all affordable housing units in their community on the New Jersey Housing Resource Center at www.njhousing.gov. The New Jersey Housing Resource Center is a free service to both owners and administrators of affordable housing and households seeking affordable housing opportunities.

A municipality may require that the costs of advertising affordable units are to be a developer's responsibility. Such a requirement must be a condition of the municipal planning board or zoning board approval and required by ordinance. If required by ordinance, the Operating Manual should include this requirement and outline a process to bill the developer for the advertising costs.

For each affordable housing opportunity within the municipality, the Affirmative Marketing Plan must include the following information:

- The address of the project and development name, if any

- The number of units, including number of sale units
- The price ranges of the sale units
- The name and contact information of the Municipal Housing Liaison, Administrative Agent or property manager
- A description of the Random Selection method that will be used to select applicants for affordable housing.
- Disclosure of required application fees, if any.

Advertisements must contain the following information for each affordable housing opportunity:

- The location of and directions to the units
- A range of prices for the housing units
- The bedroom size(s) of the units
- The maximum income permitted to qualify for the housing units
- The locations of applications for the housing units
- The business hours when interested households may obtain an application for a housing unit
- Application fees, if any

It is also recommended that the following information be included in the advertisements:

- Last date applications will be accepted
- Contact number of the Municipal Housing Liaison, Administrative Agent, or property manager
- A statement concerning the availability of credit, budget and/or homeownership counseling services
- If already adopted by ordinance, a statement concerning regional preference.

COAH recommends including the following statement on all advertisements. "Visit www.njhousing.gov for more affordable housing opportunities."

Regional Preference

The Township of Colts Neck has by ordinance provided that households that live or work in COAH Housing Region 4 comprised of the following counties Monmouth, Ocean and Mercer Counties shall be selected for an affordable housing unit before households from outside this region. Units that remain unoccupied after households who live or work in the region are exhausted, may be offered to the households outside the region.

Municipalities that wish to give preference to applicant households that live or work in their housing region must state this preference in the form of an ordinance. This preference cannot be limited to families that live or work in the host municipality – if preference is given, it must be given to all households that live or work in the housing region.

Implementation of the Affirmative Marketing Plan

The affirmative marketing process for affordable units shall begin at least four months prior to expected occupancy. In implementing the marketing program, the Administrative Agent shall undertake all of the strategies outlined in the Township of Colts Neck Affirmative Marketing Plan. Advertising and outreach shall take place during the first week of the marketing program and each month thereafter until all the units have been sold. Applications for affordable housing shall be available in several locations in accordance with the Affirmative Marketing Plan. The time period when applications will be accepted will be posted with the applications. Applications shall be mailed to prospective applicants upon request.

An applicant pool will be maintained by the Administrative Agent for re-sales.

When a resale affordable unit becomes available, the applicants will be selected from the applicant pool and, if necessary, the unit will be affirmatively marketed as described above.

The selection of applicants from the applicant pool is described in more detail in this manual under Random Selection & Applicant Pool(s).

Developer, Affordable Housing Sponsor

If permitted by the municipality, the developer or affordable housing sponsor may be responsible for advertising the affordable housing in accordance with the municipality's adopted Affirmative Marketing Plan. Prior to publication or broadcast, draft copies of the marketing material must be submitted to the Municipal Housing Liaison for approval. Proof of publication must be submitted, including a copy of the final advertisements with a copy of the paid bill. Public Service Announcements shall be submitted by the municipality.

Question: *How often should we advertise?*

Answer: Administrative Agents responsible for new developments, or newly hired Administrative Agents, must advertise initially to create an applicant pool. For new developments, advertising should begin four months prior to the anticipated occupancy of the units. Advertising should continue monthly until all units are sold or rented. Once all vacant units are filled with eligible households, the Administrative Agent can either close the applicant pool or keep it open. If the applicant pool has sufficient eligible households for approximately two years worth of turnover, COAH recommends that the applicant pool be closed and applications no longer be accepted. In this case, advertising does not need to be conducted until four months before the applicant pool is to be reopened. If the Administrative Agent wishes to keep the applicant pool open, they must conduct some form of advertising on a monthly basis. However, all the components of the Affirmative Marketing Plan do not need to be implemented every month. One strategy can be implemented each month on a rotating basis. The section on Random Selection provides more information on random selection and applicant pool maintenance to help determine how often advertising should be conducted.

Question: *My county doesn't have a library. How do I comply with the application availability rule?*

Answer: Only 11 of New Jersey's 21 counties have a county library (a list is included on COAH's website for Administrative Agents). If one or more of the counties in a housing region do not have county libraries, applications must be made available at the county administration building.

Question: *Our affordable housing development is very small. It is unnecessary for us to conduct monthly marketing initiatives and the number of applicants in our existing pool already exceeds the two-year rule of thumb. Is there any way for us to maintain compliance without conducting monthly outreach initiatives?*

Answer: COAH suggests that you attempt to partner with other municipalities in your housing region to help defray time and cost or close the applicant pool and do not accept applications until the applicant pool contains fewer applicants and affirmative marketing is implemented.

Question: *We have moderate-income units available, but not low-income units. Can we keep only the moderate portion of the applicant pool open?*

Answer: Yes. In fact, if you regularly have a type of unit that is hard to fill, you may tailor marketing initiatives to fill that type of unit. However, households that submit applications and are not interested or eligible for the targeted unit type must be notified that they will not be placed in the applicant pool until it is reopened for their unit type.

Question: *Are all developments required to conduct affirmative marketing, or just those with a certain number of units, for example, more than five units?*

Answer: All affordable units governed by UHAC are required to be affirmatively marketed. If it is burdensome for a small development to conduct its own affirmative marketing, the municipality and Administrative Agent(s) should consider conducting the affirmative marketing for all the units within the municipality at the municipal level, not at the development level. An alternative is to contract with an Administrative Agent who will do the affirmative marketing for your units as well as other units they manage.

RANDOM SELECTION & APPLICANT POOL(S)

Initial Randomization

Applicants are selected at random before income-eligibility is determined, regardless of household size or desired number of bedrooms. The process is as follows:

After advertising is implemented, applications are accepted for 30 days.

To help analyze the impact and success of various marketing initiatives, it is recommended that the Administrative Agent ask the applicants where they learned of the housing opportunity.

At the end of the period, sealed applications are selected one-by-one through a lottery (unless fewer applications are received than the number of available units, then all eligible households will be placed in a unit).

The Administrative Agent may also pre-qualify applicants as soon as applications are received, and only place preliminarily income-eligible applications in the lottery, provided that applicants are notified in writing of eligibility and non-eligibility in advance of the lottery.

Households are informed of the date, time and location of the lottery and invited to attend.

A municipal representative should also be invited to attend the lottery.

An applicant pool is created by listing applicants in the order selected.

Applications are reviewed for income-eligibility. Ineligible households are informed that they are being removed from the applicant pool or given the opportunity to correct and/or update income and household information.

Eligible households are matched to available units based upon the number of bedrooms needed (and any other special requirements, such as [regional preference or] the need for an accessible unit).

If there are sufficient names remaining in the pool to fill future resales, the applicant pool shall be closed.

Two years of turnover is a recommended standard.

When the applicant pool is close to being depleted, the Administrative Agent will re-open the pool and conduct a new random selection process after fulfilling the affirmative marketing requirements. The new applicant pool will be added to the remaining list of applicants.

Alternatively, for future resales only, the Administrative Agent can keep the applicant pool open after the initial lottery and add names to the existing list based on time and date of submission. This procedure may only be followed if the Administrative Agent engages in ongoing monthly affirmative marketing efforts according to the approved

Affirmative Marketing Plan to ensure outreach to the housing region.

Randomization After Certification

Random selection is conducted when a unit is available, and only certified households seeking the type and bedroom size of the available unit are placed in the lottery. The process is as follows:

After advertising is implemented, applications are accepted for 30 days.

All applications are reviewed and households are either certified or informed of non-eligibility. (The certification is valid for 180 days, and may be renewed by updating income-verification information.)

Eligible households are placed in applicant pools based upon the number of bedrooms needed (and any other special requirements, such as [regional preference or] the need for an accessible unit)

When a unit is available, only the certified households in need of that type of unit are selected for a lottery.

Households are informed of the date, time, and location of the lottery and invited to attend.

After the lottery is conducted, the first household selected is given 14 days to express interest or disinterest in the unit. (If the first household is not interested in the unit, this process continues until a certified household selects the unit.)

Applications are accepted on an ongoing basis, certified households are added to the pool for the appropriate household income and size categories, and advertising and outreach is ongoing, according to the Affirmative Marketing Plan.

MATCHING HOUSEHOLDS TO AVAILABLE UNITS

In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to implement the following policies:

- Provide an occupant for each unit bedroom;
- Provide children of different sex with separate bedrooms;
- Prevent more than two persons from occupying a single bedroom;
- Require that all the bedrooms be used as bedrooms; and
- Require that a couple requesting a two-bedroom unit provide a doctor's note justifying such request.

The Administrative Agent cannot require an applicant household to take an affordable unit with a greater number of bedrooms, as long as overcrowding is not a factor.

A household can be eligible for more than one unit category, and should be placed in the applicant pool for all categories for which it is eligible.

Question: *What happens if a moderate-income household "walks in" (when the applicant pool is closed and no affirmative marketing is being conducted) and I have a moderate unit available with no eligible moderate-income households in the applicant pool?*

Answer: If the Administrative Agent notices that a specific unit type is hard to fill and few eligible households are in the applicant pool, the Administrative Agent should conduct ongoing affirmative marketing for that unit type to ensure a steady stream of certified households and keep the list open for that unit type. The walk-in can be added to the list.

Question: *I am working with an applicant household that requires an accessible unit. Do they skip ahead on the list when an accessible unit becomes available?*

Answer: UHAC does not provide any guidance on this situation. However, COAH suggests that the Administrative Agent consider an accessible unit a unit type, just as a unit is defined by bedroom size. Therefore, if the Administrative Agent is using the initial randomization model, the first household on the randomized list that requires an accessible unit should be selected when an accessible unit becomes available. If the Administrative Agent is using the randomization after certification model, all households of the appropriate size who are in need of an accessible unit, would be selected, and randomized.

Question: *An applicant household has a daughter that has room and board at her college. Can they request a unit that is large enough for her to have a bedroom when she is at home?*

Answer: Yes. If the household has a student away at college who is still claimed as a dependent and maintains the parents' address as a legal address, the student should be counted in the household size.

Question: *If an Owner of an affordable unit receives a bid on their home from the first household selected from random selection and this offer is for less than the maximum resale price (MRP), must the Seller accept this price or can they ask that the next household selected bid on the house in hopes of getting the maximum resale price?*

Answer: The Seller of an affordable unit does not have to accept a bid that is less than the maximum resale price and may request that the next applicant household bid on their unit. However, if after a number of applicant households bid on the unit, the maximum resale price is not offered, the Seller could return to the highest bidding household or simply reject all offers and take the unit off the market. Sellers, however, should recognize that in some situations the resale market will not support holding out for maximum resale price, such as the condition of the unit or the unit in comparison to other units in the area.

Question: *Do I have to place a one-person household in a two-bedroom unit if there is no one-bedroom units available or the applicant requests a two-bedroom unit?*

Answer: A household should not be placed in a unit where there is more than one bedroom per household member. In order to deviate from these standards, the Administrative Agent must obtain written approval from COAH. If a development does not have any one-bedroom units, for example, the Administrative Agent should inform one-person households that they will not be offered a unit unless there are no eligible households with more than one person. The Administrative Agent should also refer one-bedroom households to other Administrative Agents within the municipality or region that offer one-bedroom units. The Administrative Agent must demonstrate that every effort has been made to find a household of the appropriate size and composition and that a hardship exists that would justify deviating from the established standard.

Question: *I am working with an applicant household that consists of two parents and five children. This household is applying for a three-bedroom unit. Should this household only be offered a four-bedroom unit?*

Answer: No. The administrator must strive to prevent more than two people from occupying one bedroom, as outlined in N.J.A.C. 5:80-26.4(c), but may not force a family to purchase or rent a larger unit as long as it does not violate municipal regulations for over-crowding.

APPLICATION FEES

The Administrative Agent's fee schedule can be found in the Appendix.

HOUSEHOLD CERTIFICATION

Before any household can purchase a restricted unit, the Administrative Agent must certify the household as eligible. Certification of a household involves the verification of two critical pieces of data: 1) Household size and composition, including gender; and 2) The total income and assets for all household members over 18 years of age. The certification process begins with the applicant completing an application in its entirety and providing the required backup documentation. Once eligibility documents and data have been collected, the Administrative Agent can begin the process of calculating the household's income.

Procedure for Income-Eligibility Certification

The Administrative Agent shall require each member of an applicant household who is 18 years of age or older to provide documentation to verify their income. Income verification documentation should include, but is not limited to the following for each and every member of a household who is 18 years of age or older:

- Four current consecutive pay stubs [including both the check and the stub], including bonuses, overtime or tips, or a letter from the employer stating the present annual income figure or if self-employed, a current Certified Profit & Loss Statement and Balance Sheet.

- Copies of Federal and State income tax returns for each of the preceding three tax years - A Form 1040 Tax Summary for the past three tax years can be requested from the local Internal Revenue Service Center or by calling 1-800-829-1040.

- A letter or appropriate reporting form verifying monthly benefits such as

    - Social Security or SSI – Current award letter or computer print out letter

    - Unemployment – verification of Unemployment Benefits

    - Welfare -TANF[3] current award letter

    - Disability - Worker's compensation letter

    - Pension income (monthly or annually) – a pension letter.

- A letter or appropriate reporting form verifying any other sources of income claimed by the applicant, such as alimony or child support – copy of court order

[3] TANF – Temporary Assistance for Needy Families

or recent original letters from the court or education scholarship/stipends – current award letter.

- Current reports of savings and checking accounts (bank statements and passbooks) and income reports from banks or other financial institutions holding or managing trust funds, money market accounts, certificates of deposit, stocks or bonds (In brokerage accounts – most recent statements and/or in certificate form – photocopy of certificates).

- Evidence or reports of income from directly held assets, such as real estate or businesses.

- Interest in a corporation or partnership – Federal tax returns for each of the preceding three tax years.

- Current reports of assets – Market Value Appraisal or Realtor Comparative Market Analysis and Bank/Mortgage Co. Statement indicating Current Mortgage Balance. For rental property, attach copies of all leases.

The following is a list of various types of wages, payments, rebates and credits. Those that are considered as part of the household's income are listed under Income. Those that are not considered as part of the household's income are listed under Not Income. Restricted units constructed with Federal funds should consult the appropriate regulations, for example, HUD Section 42, to ensure compliance with applicable Federal regulations.

Income

1. Wages, salaries, tips, commissions
2. Alimony
3. Regularly scheduled overtime
4. Pensions
5. Social security
6. Unemployment compensation (verify the remaining number of weeks they are eligible to receive)
7. TANF
8. Verified regular child support
9. Disability
10. Net income from business or real estate
11. Interest income from assets such as savings, certificates of deposit, money market accounts, mutual funds, stocks, bonds

12. Imputed interest (using a current average annual rate of two percent) from non-income producing assets, such as equity in real estate. Rent from real estate is considered income, after deduction of any mortgage payments, real estate taxes, property owner's insurance.

13. Rent from real estate is considered income

14. Any other forms of regular income reported to the Internal Revenue Service

Not Income

1. Rebates or credits received under low-income energy assistance programs

2. Food stamps

3. Payments received for foster care

4. Relocation assistance benefits

5. Income of live-in attendants

6. Scholarships

7. Student loans

8. Personal property such as automobiles

9. Lump-sum additions to assets such as inheritances, lottery winnings, gifts, insurance settlements

10. Part-time income of persons enrolled as full-time students

11. Court ordered payments for alimony or child support paid to another household shall be deducted from gross annual income

To calculate income, the current gross income of the applicant is used to project that income over the next 12 months.

Student Income

Only full-time income of full-time students is included in the income calculation. A full-time student is a member of the household who is enrolled in a degree seeking program for 12 credit hours or more per semester; and part-time income is income earned on less than a 35-hour workweek.

The Real Estate Asset Limit

Except for federal programs, if an applicant's primary residence, which is to be sold upon purchase of an affordable unit, has no mortgage debt and is valued at or above the regional asset limit as published annually by COAH with COAH's Annual Regional Income Limits Chart, the household must be determined ineligible for certification.

However, if the applicant's existing monthly housing costs including taxes, homeowner insurance, and condominium or homeowner association fees exceed 38 percent of the household's eligible monthly income, the household will be exempt from the asset limit.

An applicant must provide a recent, Market Value Appraisal or Realtor Comparative Market Analysis, on the home they own unless the applicant has mortgage debt on the home or can demonstrate that the existing monthly housing costs exceed 38 percent of the household's eligible monthly income, in which case the applicant is exempt from the asset limit.

Before obtaining a professional appraisal, the applicant should review the property's tax appraisal and the current market value and compare it to the asset limit to avoid any unnecessary expense. For instance, if homes are commonly selling in the applicant's neighborhood for over $250,000, it is unlikely that an appraisal will determine a value below the asset limit.

Income from Real Estate

If real estate owned by an applicant for affordable housing is a rental property, the rent is considered income. After deduction of any mortgage payments, real estate taxes, property owner insurance and reasonable property management expenses as reported to the Internal Revenue Service, the remaining amount shall be counted as income.

If an applicant owns real estate with mortgage debt, which is not to be used as rental housing, the Administrative Agent should determine the imputed interest from the value of the property. The Administrative Agent should deduct outstanding mortgage debt from the documented market value established by a market value appraisal. Based on current money market rates, interest will be imputed on the determined value of the real estate.

Maximum Monthly Payments

The percentage of funds that a household can contribute toward housing expenses is limited. However, an applicant may qualify for an exception based on the household's current housing cost (see below). The Administrative Agent will strive to place an applicant in a unit with a monthly housing cost equal to or less than the applicant's current housing cost.

A certified household is not permitted to purchase a unit that would require more than 33 percent of the verified household income to pay principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable. However, at the discretion of the Administrative Agent, this limit can be exceeded if the applicant:

- Obtains a firm mortgage loan commitment at the higher level from a licensed financial institution, under terms consistent with the requirements of the New Jersey Home Ownership Security Act of 2002, N.J.S.A. 46:10B-22 et seq.; and

- Submits a certification from a non-profit counselor approved by HUD or the New Jersey Department of Banking and Insurance that the household has received counseling on the advisability of the loan transaction.

Housing Counseling

The Administrative Agent is responsible for providing housing counseling, or providing referrals for counseling, as a part of the Affirmative Marketing Plan and during the application process. Although housing counseling is recommended, a household is only required to attend counseling if their monthly housing expense exceeds UHAC standards. A HUD-approved housing counseling agency, or a counseling agency approved by the NJ Department of Banking and Insurance, meets UHAC's requirements for an experienced Housing Counseling Agency. If the Administrative Agent is not approved by HUD or by the NJ Department of Banking and Insurance, the Agent will make referrals to one of the HUD-approved housing counseling agencies in New Jersey. This counseling to low- and moderate-income housing applicants will focus on subjects such as budgeting, credit issues, and mortgage qualification, and is free of charge. A list of non-profit counselors approved by HUD and/or the New Jersey Department of Banking and Insurance is included on COAH's website and is available from the Administrative Agent.

The Applicant Interview

Ideally, the prospective applicant will be available to meet with the Administrative Agent to review the certification and random selection processes in detail and ask any questions they may have about the project or the process. However, scheduling time off from work may prove burdensome to the applicant. Applicants may also have mobility issues or special needs that also pose an obstacle to an interview. Therefore, the Administrative Agent is prepared to complete the certification process via telephone and mail. If an

interview is to be conducted, the Administrative Agent will attempt to achieve the following objectives:

- Confirm and update all information provided on the application.

- Explain program requirements, procedures used to verify information, and penalties for providing false information. Ask the head of household, co-head, spouse and household members over age 18 to sign the Authorization for Release of Information forms and other verification requests.

- Review the applicant's identification and financial information and documentation, ask any questions to clarify information on the application, and obtain any additional information needed to verify the household's income.

- Make sure the applicant has reported all sources for earned and benefit income and assets (including assets disposed of for less than fair market value in the past two years). Require the applicant to give a written certification as to whether any household member did or did not dispose of any assets for less than fair market value during the past two years.

- Explain the requirement of obtaining a mortgage commitment in for-sale properties.

Records Documents Household Composition and Circumstances

The following are various records for documenting household information:

- Social Security records or cards. Either individual Social Security card or letter from Social Security Administration

- Adoption papers, or legal documents showing adoption in process

- Income tax return

- Birth Certificate or Passport

- Alien Registration Card

Approving or Rejecting a Household

Administrative Agents must notify applicant households of their eligibility within twenty (20) days of the Administrative Agent's determination.

Households with a verified total household income that exceeds 80 percent of the regional income limit for the appropriate family size are ineligible for purchase or rental of restricted units. A letter rejecting the household's application shall be mailed to the household.

Similarly, households with a verified total household income that is within the income limits, but too low to afford any of the units administered by the Administrative Agent shall be sent a letter rejecting the household's application, and/or referring them to housing counseling.

Households with a verified total household income of less than 80 percent shall be issued a letter certifying eligibility. This certification is valid for 180 days. If the Administrative Agent is unable to place the household in a restricted unit at the conclusion of 180 days, an extension may be granted once the household's eligibility is verified.

Once the applicant is certified and matched to an available unit, the Administrative Agent must secure from the applicant a signed and notarized acknowledgement of their requirements and responsibilities in purchasing a restricted unit. UHAC's Disclosure Statement (Appendix J) shall be forwarded to the applicants.

In addition to non-eligibility based on income, the Administrative Agent may deny a certification because of the household's failure or inability to document household composition, income, assets, sufficient funds for down payment, or any other required facts and information. A household may also be denied certification if the Administrative Agent determines that there was a willful or material misstatement of fact made by the applicant.

Dismissal of Applications

Applications can be dismissed for the following reasons:

1. The application is not signed or submitted on time.

2. The applicant commits fraud, or the application is not truthful or complete.

3. The applicant cannot or does not provide documentation to verify their income or other required information when due.

4. The household income does not meet the minimum or maximum income requirements for a particular property.

5. The applicant owns assets that exceed the Asset Limit.

6. The applicant fails to respond to any inquiry in a timely manner.

7. The applicant is non-cooperative or abusive with the staff, property manager, landlords or the Sellers of affordable units.

8. The applicant changes address or other contact information without informing the Administrative Agent in writing.

9. The applicant is unable to obtain suitable and legitimate financing for a sale unit or fails to verify attendance in a homebuyer credit counseling program when required to do so by the program rules.

10. The applicant does not respond to periodic update inquiry in a timely fashion.

11. The applicant fails to sign the Compliance Certification, Certificate for Applicant, Contract for Sale, Deed Restriction as may be required.

12. The applicant, once approved, fails to close on a sale in a timely manner.

Applicants will also be removed from all lists held by the Administrative Agent once they have been approved for an affordable unit. However, these applicants may re-apply for other opportunities in that municipality once they have occupied their unit.

Applicants who are dismissed must re-apply. A minimum time period of six months applies in most situations where the applicant has been withdrawn for fraud, poor credit, uncooperative behavior or other serious matters.

Applicants are not automatically removed from sales lists if they do not respond to a Notice of Availability.

Applications may be held in abeyance for a period not to exceed 60 days if there is an error on the credit report, so that the applicant can correct the error and re-apply. Units will not be held open for that applicant. However, once the credit report is corrected, the applicant will be given a priority for the next opportunity at that property.

Appeals

Appeals from all decisions of an Administrative Agent shall be made in writing to the Executive Director of the Council on Affordable Housing (COAH), 101 South Broad Street, P.O. Box 813, Trenton, New Jersey 08615. The Executive Director's written decision, which shall be made within 15 days of receipt of an appeal, shall be a final administrative action of COAH.

Question: *Is it a requirement of UHAC that Administrative Agents meet with applicants in person?*

Answer: Because an applicant interview could prove to be burdensome to many households it is not a pre-requisite to purchase or occupancy, although it is encouraged. Administrative Agents should be prepared to conduct the household certification via mail.

Question: *With households filing taxes through e-filing, we are having trouble getting copies of tax returns. How can we get copies of e-filed tax returns?*

Answer: According to the IRS website, transcripts of previously filed tax returns can be ordered by completing a Form 4506-T or calling (800) 829-1040 and following the prompts in the recorded message. There is no charge for the transcript and you should receive it in 10 business days from the time they receive your request. Tax return transcripts are generally available for the current and past three years.

Question: *How can child support payments that are made in cash be documented?*

Answer: If the applicant is depositing the cash child support payments into a bank account, a series of statements from that account should be used to establish a trend of payments. If not, a notarized statement from the former spouse should be obtained to document the income.

Question: *Is it a requirement that the Administrative Agent always obtain a written statement from the household's employer(s) confirming their income and job status?*

Answer: No. However, when evaluating overtime and other income trends, such as bonuses, working directly with the employer is typically much more efficient and reliable than simply evaluating pay stubs.

Question: *Are there any potential issues with selling to a separated family that has a divorce pending?*

Answer: Yes, until a divorce is finalized, a spouse can make claim on a residence purchased by the other spouse. Until a divorce is finalized, it is suggested that Administrative Agents place these types of cases on hold.

Question: *How can income eligibility be established for someone that may have been out of work for two years, but had a job during the most recent tax year?*

Answer: As long as the applicant is currently employed, a series of consecutive pay stubs (at least 3 months) should be used to establish the income of an applicant in this or similar situations.

Question: *Can an applicant be required to attend and graduate from a Housing Counseling Program in order to purchase or rent a restricted unit?*

Answer: No. A household is only required to attend housing counseling if their monthly housing expense exceeds UHAC standards. Administrative Agents, however, are required to provide housing counseling or refer applicants to an approved Housing Counseling Program.

Question: *Do households with Section 8 vouchers automatically qualify for affordable housing under UHAC?*

Answer: Yes, a Section 8 voucher is acceptable for income qualification, provided the applicant meets the criteria of the lending institution. The Administrative Agent must still collect income verification documentation to match the household to an appropriately priced unit.

Question: *Does the Administrative Agent need to impute the value of a household's stocks as an asset?*

Answer: Only dividends from stock count towards a household's income. IRS Form-1099 from the previous year should be requested from the applicant if it was not part of their initial application.

Question: *In order to overcome inadequate or poor credit, can an applicant have a cosigner on a*

mortgage?

Answer: No one outside the household, as certified by the Administrative Agent, may cosign or otherwise be party to any financing or legal instruments.

Question: *Does UHAC set a minimum income for eligibility for affordable housing?*

Answer: No, UHAC does not specify a minimum income for affordable housing units. However, an applicant household must be able to afford the unit and must not pay more than 33 percent for sale units or 35 percent for rental units of its monthly income (or 40 percent for age-restricted units), unless they meet the exemption criteria set forth in N.J.A.C. 5:80-26.7(b) or N.J.A.C. 5:80-26.13(b).

Question: *After I certify an applicant, how long is that certification valid?*

Answer: Pursuant to N.J.A.C. 5:80-26.16(b), an initial certification is valid for 180 days and may be extended for an additional 180 days once the household's eligibility is verified.

Question: *How do I document third-party assistance from a guarantor? For example, a relative is providing funds toward the applicant's purchase.*

Answer: Third-party funds should be placed into an applicant's bank account or in escrow prior to closing. In the case of a rental unit, the applicant should demonstrate regular deposits from third party assistance, or a notarized letter from the third party documenting future assistance. The Administrative Agent must receive a copy of the policy regarding guarantors from the developer, affordable housing provider or owner, so as to assure the policy is applied consistently.

Question: *If an applicant for affordable housing has a "reverse mortgage", how does an Administrative Agent count income from that mortgage?*

Answer: An applicant for affordable housing with a "reverse mortgage" would not be eligible for affordable housing unless that mortgage was satisfied or, at a minimum, a contract for sale of the market unit was in place. "Reverse mortgages" require that the mortgaged property remain the principal place of residence of the person taking the mortgage. Since this is also a requirement of affordable housing only one such residence can be owned or leased at any given time.

Question: *For the purpose of income-qualification, what is considered part-time income of full-time students?*

Answer: Under UHAC, part-time income of persons enrolled as fulltime students, who are reported as dependents to the IRS, is not included in income calculations for determining eligibility. COAH recommends stipulating in the Operating Manual the following criteria in applying this rule:

- A full-time student is a member of the household who is enrolled in a degree seeking program for 12 or more credit hours per semester; and
- Part-time income is income earned on less than a 35-hour workweek.

Please note that full-time income of full-time students is included in the income calculation.

DETERMINING AFFORDABLE SALES PRICES

To determine the affordable sale prices the Administrative Agent uses the COAH calculators located at http://www.nj.gov/dca/affiliates/coah/resources/calculators.html.

Development Considerations and Compliance Issues

There are several regulations that must be considered from the development perspective before the sales prices of individual units can be calculated. These requirements should be discussed at the first meeting between the Municipal Housing Liaison, Administrative Agent and developer or affordable housing sponsor. The following is a summary of the requirements for ownership projects.

Bedroom Distribution. The standards on the distribution of unit sizes for affordable developments require that:

- The combined number of efficiency and one-bedroom units may be no greater than 20 percent of the total low- and moderate-income units;
- At least 30 percent of all low- and moderate-income units must be two-bedroom units;
- At least 20 percent of all low- and moderate-income units are three-bedroom units; and
- The remainder, if any, may be allocated at the discretion of the developer.

Age-restricted Units. Affordable age-restricted units are not held to these bedroom distribution standards. For affordable age-restricted units, the number of age-restricted low- and moderate-income bedrooms must be equal to or greater than the number of age-restricted units within the development. In other words, the average bedroom size in an age-restricted development must be equal to or greater than one bedroom per unit. For example, if the overall age-restricted development is 25 percent efficiencies, and 50 percent one-bedroom units, and 25 percent two-bedroom units, that equals an overall development bedroom size of exactly one bedroom per unit. An age-restricted development can meet this standard by creating all one-bedroom units or by creating a two-bedroom unit for each efficiency unit, or any other combination that will equal a minimum of one bedroom per unit.

Pricing by Household Size. Initial sales prices and rents are based on targeted "model" household sizes for each size home as determined by the number of bedrooms. Initial sales prices and rents must adhere to the following rules. These maximum sales prices and rents are based on COAH's Annual Regional Income Limits Chart at the time of occupancy:

- A studio shall be affordable to a one-person household;
- A one-bedroom unit shall be affordable to a one- and one-half person household;
- A two-bedroom unit shall be affordable to a three-person household;
- A three-bedroom unit shall be affordable to a four- and one-half person household; and
- A four-bedroom unit shall be affordable to a six-person household.

Size of Unit	Household Size Used to Determined Max Rent
Studio/Efficiency	1
1 Bedroom	1.5
2 Bedrooms	3
3 Bedrooms	4.5
4 Bedrooms	6

The above rules are only to be used for setting initial sales prices. They are not guidelines for matching household sizes with unit sizes. The pricing of age-restricted units may not exceed affordability based on a two-person household.

Determining Maximum Initial Sales Price

To determine the initial sales prices the Administrative Agent uses the COAH calculators located at http://www.nj.gov/dca/affiliates/coah/resources/calculators.html.

The maximum sales price for an ownership unit is determined by first calculating the amount that an appropriately sized household can afford for housing expenses at various income ranges. Several related expenses (homeowner insurance, private mortgage insurance (PMI), association fees and taxes) must then be subtracted from the household's maximum monthly contribution toward housing expenses to arrive at the maximum monthly mortgage payment. The calculated mortgage amount, a five percent down payment, and the current lending rate must be used to arrive at the maximum sales price.

Additional Regulations for an Ownership Development

In addition to the regulations in the previous Section entitled **Development Considerations and Compliance Issues,** ownership developments must also comply with the following regulations:

Division of Units: Low- and Moderate-income. In each affordable ownership development, at least 50 percent of all affordable units must be affordable to low-income households. The remaining affordable units must be affordable to moderate-income households.

Affordability Average. Each affordable development must achieve an affordability average of no more than 55 percent of the regional median income for restricted ownership units. In achieving this affordability average, moderate-income ownership

units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type. Calculation of the affordability average is also available on COAH's website.

Maximum Initial Sales Price. The maximum initial sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of the regional median income.

Condominium/Homeowner Association Fees. Owners of affordable units and owners of market-rate units must be charged identical condominium or homeowner fees and/or special assessments.

However, affordable housing developments subject to a municipal ordinance adopted before October 1, 2001 may be exempt from this regulation if the ordinance establishes differing association fees or special assessments for market-rate and affordable unit owners. Condominium or Homeowner Association fees and increases must be considered when determining the maximum sales price and applicant's eligibility.

Determining Resale Prices

Calculating the maximum resale price (MRP) for an ownership unit involves applying the annual percentage increase corresponding with each calendar year since the Seller bought the house. No increase is permitted during the balance of the calendar year immediately after the sale. A Resale Price Calculator has been created by COAH to assist Administrative Agents with this calculation and is available on COAH's website. By selecting the proper county and inputting the year the home was purchased, along with the price the current Owner paid for the home, the calculator will determine the MRP for the home. The spreadsheet also includes a calculation to determine the maximum amount a homeowner may refinance, which requires the approval of the Administrative Agent.

Requests for Increases in Maximum Sales Price

The Seller of an ownership unit may ask the Administrative Agent to increase the sales price of their home beyond the maximum sales price under limited circumstances. Only those improvements "that render the unit suitable for a larger household or that add an additional bathroom" can increase the calculated maximum sales price. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger households. Additionally, the purchase of a central air conditioning system installed subsequent to the initial sale and not included in the initial sales price may be made a condition of the resale provided the price, subject to a 10-year straight-line depreciation, for example, a 10 percent reduction in value each year since installation, may be approved by the Administrative Agent. In this instance, the approved value of the central air conditioning does not increase the resale price, but is listed as a separate item on the HUD 1 form. Options or upgrades purchased at the time of the initial sale are not considered part of the initial sales price and therefore do not affect the value or sales price at the time of resale. Unless otherwise approved by the Administrative Agent, the

purchase of any property other than central air conditioning shall not be made a condition of the unit resale.

Determining the Recapture Mortgage Amount

The amount that the Mortgage Note recaptures is the difference between the fair market value and the restricted maximum sales price. Fair market value is based on either an appraisal of its unrestricted price or the unit's equalized assessed value of its unrestricted price, at the time of each purchase. For example, if the restricted sales price of the unit is $110,000 and the appraised unrestricted market value of the unit is $200,000, the Recapture Mortgage Note would be for $90,000. The Township of Colts Neck has determined to use the appraised value to establish the amount of the Recapture Mortgage.

WAIVERS AND EXEMPTIONS[4]

Hardship and Income Waivers

An Owner may not rent out the Owner's unit to any other person, not even to members of the Owner's family. The Administrative Agent may grant a Hardship Waiver for the following extenuating circumstances:

- The Owner's employer is temporarily sending the Owner to a work place a great distance from the Owner's home.
- The Owner is called up for military service

An Owner of a low-income unit may request that the unit be sold to a household whose income exceeds the established income eligibility criteria for a low-income household by submitting a written request for an Income Waiver to the Administrative Agent. The Owner must demonstrate that this request is consistent with the following reasons for an Income Waiver:

- The Owner has made a good faith effort to sell the unit to a certified household for 180 days in accordance with procedures required by the Administrative Agent and no certified household has made a "reasonable" offer during the180-day period. (A" reasonable" offer is any offer at or above the maximum sale price for a new unit at the original range of affordability at the time of the current sale)
- The Owner has demonstrated a willingness to consider price offers lower than the maximum allowable resale price, taking into account current market conditions and the marketability of the unit.
- The Owner has advertised the unit's availability in newspapers and other locations likely to be noticed by potential purchasers.

[4] Revised 4.24.08

The Administrative Agent may grant an Income Waiver upon demonstration that the Owner has made a good faith effort to sell the unit and subject to COAH determining that there is an insufficient number of low-income purchasers in the market to permit prompt occupancy of the unit.

Upon receipt of a request for an Income Waiver,[5] the municipality shall have first option to purchase the unit at the approved resale price and holding, renting or conveying it to a certified household. The municipality shall have 30 days in which to exercise this option.

The Administrative Agent shall approve or deny a Hardship Waiver in writing within 30 days of receipt all requested verification.

The Administrative Agent shall approve or deny an Income Waiver in writing within 10 days of receipt of all requested verification from the Owner and a determination by COAH that there are an insufficient number of low-income purchasers in the market to permit prompt occupancy of the units. The Income Waiver shall be provided to the Owner with a copy to the Buyer at the time of closing. The original shall be filed with the Deed. The Income Waiver is only valid for the designated resale transaction. All future resales will be in accordance with the Deed restrictions and sold to income eligible households for no more than the approved indexed resale price.

The approval of an Income Waiver for a particular resale does not guarantee receipt of the maximum resale price to the Owner.

If the Administrative Agent denies a Hardship Waiver or Income Waiver, the Owner may appeal the decision of the Administrative Agent within 30 days from the date of notification of the decision of the Administrative Agent (see **Appeals**). If a written request has not been received within 30 days following the household's receipt of notification, the denial will be final. Owners shall be required to produce documentation to support their claim.

Exempt Transactions

The following title transactions shall be deemed "non-sales" and the Administrative Agent shall provide the Owner receiving title with written confirmation of the exemption to those restrictions that determine occupancy of the unit.

- Transfer of ownership between former spouses ordered as a result of a judicial decrees of divorce or judicial decree of separation (but not including sales to third parties);
- Transfer of ownership between family members by will or intestate succession;
- Transfer of ownership through an Executor's Deed to a Class A beneficiary; and
- Transfer of ownership by Court Order.

[5] Rev 5.16.08

An exempt transfer of ownership does not terminate the resale restrictions or existing liens on the property. All liens must be satisfied in full prior to subsequent resale and all subsequent resale prices must be calculated using the resale price index in compliance with the term of the affordable housing regulations.

The exempt transaction shall not be considered as a recorded transaction in calculating subsequent resale prices.

The Owner shall notify the Administrative Agent in writing of any proposed transaction that requires approval as an exempt transaction. The Owner shall supply the Administrative Agent with all necessary documentation to demonstrate that the transaction qualifies as an exemption as defined above. The Administrative Agent shall approve or deny in writing a request for a Certificate of Exemption within 15 days of the receipt of the request.

If the Administrative Agent denies the exemption, the Owner may appeal the decision of the Administrative Agent within 30 days from the date of notification of the decision of the Administrative Agent (see Appeals). If a written request has not been received within 30 days following the household's receipt of notification, the denial will be final. Owners shall be required to produce documentation to support their claim.

A Certificate of Exemption shall be filed with the Deed at the time of transfer of title.

VIOLATIONS, DEFAULTS AND REMEDIES

In the event of a threatened breach of any of the regulations governing the affordable unit by an Owner, the Administrative Agent shall have all the remedies provided at law or equity, including the right to seek injunctive relief or specific performance, it being recognized by both parties that it will cause irreparable harm to the municipality, in light of the public policies set forth in the Fair Housing Act and the obligation for the provision of low- and moderate-income housing.

Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

MAINTENANCE OF RECORDS AND APPLICANT FILES

Pursuant to N.J.A.C. 5:80-26.14(a)8, N.J.A.C. 5:80-26.15(c) and N.J.A.C. 5:80-26.17 current records must be maintained by the Administrative Agent and outdated records must be given to the municipality for safe-keeping. A file must be created and maintained on each restricted unit for its control period.

Administrative Agents maintain detailed records on all marketing initiatives.

Files To Be Maintained on Every Applicant

The Administrative Agent will maintain files on every applicant. All files will contain a preliminary application. If an applicant's preliminary application is approved, and the applicant files a formal application, the file will contain at a minimum:

- Application Form.
- Income Verification
- Letter of Certification of Eligibility or Letter of Determination of Ineligibility.

Individual files will be maintained throughout the process.

Files To Be Maintained on Every Unit

The Administrative Agent will maintain files on every unit for the length of the affordability controls. The unit file will contain at a minimum:

- Base sales prices
- Identification as low- or moderate-income
- Description of number of bedrooms and physical layout
- Floor plan
- Original deed restriction
- Affordability control documents, including Declarations of Covenants, Conditions and Restrictions, Deed Restrictions, Deeds, Recapture Mortgages, Recapture Mortgage Notes, Disclosure Statement (Appendix J)
- Application materials, verifications and certifications of all present owners, pertinent correspondence, any documentation of home improvement, hardship or income waivers or other approvals granted by an AA, certificate of exemption

Files To Be Maintained on Every Project

The Administrative Agent will maintain files on every project for the length of the affordability controls. The project file will contain at a minimum:

- Condominium Master Deed
- Condominium Public Offering
- Crediting Information

Files To Be Maintained on The Applicant Pool

- Any changes to the applicant pool
- Any action taken with regard to the applicant pool
- Any activity that occurs that affects a particular applicant
- Current applications for all applicants whose status is active in the applicant pool
- The application, the initial rejection notice, the applicant's reply to the notice, a copy of the Administrative Agent's final response to the applicant, and all documentation of the reason the applicant's name was removed from the applicant pool.

Monitoring

A sample Deed must be submitted for each project. Additionally, the current annual monitoring information required to be maintained and reported annually to the Municipal Housing Liaison can be found on COAH's website at http://www.nj.gov/dca/affiliates/coah/resources/muniliaisons.pdf. The information required for each unit includes but is not limited to:

- Street Address
- Block/Lot/Qualifier/Unit Number
- Housing Type
- Income: Very Low/Low/Moderate
- Initial Sale Price
- % of affordability
- Bedroom Type
- Age-restricted
- Handicap accessible/adaptable
- Co #, date
- Effective date of affordability controls
- Length of affordability controls (yrs)
- Date Affordability controls removed
- 95/5 unit

Question: *How long must the Administrative Agent keep files on applications for affordable housing units and certified Owners/tenants of affordable housing units?*

Answer: Pursuant to N.J.A.C. 5:80-26.14(a)8, N.J.A.C. 5:80-26.15(c) and N.J.A.C. 5:80- 26.17 current records must be maintained by the Administrative Agent and outdated records must be given to the municipality for safe-keeping. A file must be created and maintained on each restricted unit for its control period.

For-sale Housing Program Audit Checklist

☐	**UP-TO-DATE OPERATING MANUAL**	Comments
☐	Income Limits	
☐	Sample Forms and Letters	
	AFFIRMATIVE MARKETING	
☐	Copies of Display Ads	
☐	Copies of PSA Requests	
☐	Copies of Marketing Requests	
	RANDOM SELECTION	
☐	Log of Applications Received	
☐	Log of Random Selection Results	
☐	Database of Referrals	
	MAINTENANCE OF RECORDS	
	Files To Be Maintained on Every Applicant	
☐	Preliminary Application.	
☐	Application Form.	
☐	Income Verification, including spreadsheet to calculate applicant's income	
☐	Letter of Certification of Eligibility or	
☐	Letter of Determination of Ineligibility	
	Files To Be Maintained on Every Unit	
☐	Base sales prices	
☐	Identification as low- or moderate-income	
☐	Description of number of bedrooms and physical layout	
☐	Floor plan	
☐	Original deed restriction	
☐	Affordability control documents, including Declarations of Covenants, Conditions and Restrictions, Deed Restrictions, Deeds, Recapture Mortgages, Recapture Mortgage Notes, Disclosure Statement (Appendix J)	
☐	Application materials, verifications and certifications of all present owners, pertinent correspondence, any documentation of home improvement, hardship or income waivers or other approvals granted by an AA, certificate of exemption	
	Files to Be Maintained on Every Project	
☐	Condominium Master Deed	
☐	Condominium Public Offering	
☐	Crediting Information	
	MONITORING INFORMATION	
☐	Complete Monitoring Reporting Forms	