

# **Affordable Housing Planning and Appeal Act:** **2013 Non-Exempt Local Government Handbook**

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## Executive Summary

The Illinois General Assembly passed the Affordable Housing Planning and Appeal Act (AHPAA) (310 ILCS 67) in 2003 to address the lack of moderately-priced housing that exists in many communities. Growth in home values continues to outpace growth in household incomes throughout the Chicago region and many people who are vital to local economies and who provide critical community services cannot afford to live in or around the places they work.

The law established a process for identifying communities with the most acute shortage of local housing stock available at an amount that would be affordable to:

- Homebuyers at 80% of the regional median household income.
- Renters at 60% of the regional median household income.

The law identifies these communities, known as Non-Exempt Local Governments, with two primary criteria:

- Non-Exempt Local Governments must be incorporated municipal governments (e.g: county, town, village, city, etc.) with a population of at least 1,000 people.
- Non-Exempt Local Governments must have a portion of the local year-round housing stock considered affordable that is below 10%, as determined by data from the U.S. Census Bureau and other relevant sources (details on pages 7 - 9).

The law requires Non-Exempt Local Governments:

- To adopt and submit an Affordable Housing Plan (details on page 13) to Illinois Housing Development Authority (IHDA). Communities that already submitted a plan to IHDA because they were previously identified as Non-Exempt Local Governments are expected to update their plans, adopt the updated version, and submit them again.

This handbook was written to accompany the 2013 List of AHPAA Non-Exempt Local Governments. It primarily serves as a reference tool.

The process used to identify the Non-Exempt Local Governments is laid out in the AHPAA statute (details on page 6), and the Illinois Housing Development Authority (IHDA) is responsible for generating this list. IHDA published the first list in 2004, but due to U.S. Census Bureau data availability, a new list was not possible until 2013. Going forward, IHDA will publish a new list approximately every five years.

Several organizations, including IHDA, are available to assist local governments in the production of Affordable Housing Plans (AHP).

The State Housing Appeals Board (SHAB) was established by AHPAA to hear appeals from affordable housing builders who feel that they have been treated unfairly by AHPAA Non-

Exempt Local Governments during the local development approval process. Four of the seven members must be local officials or administrators. In particular, the Non-Exempt Local Government must have denied approval of a project with an affordable housing component, or granted an approval with conditions that make the proposed project financially infeasible. The SHAB was fully appointed in 2012 and established a set of administrative rules through the Illinois General Assembly's Joint Committee on Administrative Rules in 2013 (published in the Illinois Register V. 37 Issue 15, April 12, 2013). At the time of this manual's publication, no appeals had been filed for SHAB review.

### **Affordable Housing Planning and Appeal Act: Exemption Determination Process**

The language within the Illinois Affordable Housing Planning and Appeal Act (AHPAA; 310 ILCS 67) outlines a process for determining which local governments the law applies to. According to the statute (as amended by P.A. 98-0287), this process must be completed by the Illinois Housing Development Authority (IHDA) at least once every five years (recent changes to the statute allow for this more frequent publication of the list with improved availability of appropriate U.S. Census Bureau data). While AHPAA makes certain aspects of the exemption determination process explicit and clear, other implicit steps must be taken to complete the determination. This report intends to make all steps taken by IHDA fully explicit and clear.

The exemption process steps mandated by AHPAA are identified in the following section of this report. Within the law there are two sections that guide the determination of community exemption status.

### **Statutory Guidance**

Section 15 (310 ILCS 67/15) of the law provides definitions, some of which directly affect the determination process. The relevant definitions are highlighted below:

"Affordable housing" means housing that has a value or cost or rental amount that is within the means of a household that may occupy moderate-income or low-income housing. In the case of owner-occupied dwelling units, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.

"Exempt local government" means any local government in which at least 10% of its total year-round housing units are affordable, as determined by the Illinois Housing Development Authority pursuant to Section 20 of this Act; or any municipality under 1,000 population.

"Local government" means a county or municipality.

Section 20 (310 ILCS 67/20) of the law describes fundamental steps that must be included in the exemption determination process. This section is quoted in its entirety below:

Sec. 20. Determination of exempt local governments.

- (a) Beginning October 1, 2004, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census

Bureau for each local government within the State and by an inventory of owner-occupied and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau and other relevant sources.

- (b) The Illinois Housing Development Authority shall make this determination by:
  - (i) totaling the number of owner-occupied housing units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area;
  - (ii) totaling the number of rental units in each local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area;
  - (iii) adding the number of owner-occupied and rental units for each local government from items (i) and (ii); and
  - (iv) dividing the sum of (iii) above by the total number of year-round housing units in the local government as contained in the latest U.S. Census Bureau and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.
- (c) Beginning on August 9, 2013 the Illinois Housing Development Authority is to publish a list of exempt and non-exempt local governments and the data that it used to calculate its determination at least once every 5 years. The data shall be shown for each local government in the State and for the State as a whole. Upon publishing a list of exempt and non-exempt local governments, the Illinois Housing Development Authority shall notify a local government that it is not exempt from the operation of this Act and provide to it the data used to calculate its determination.
- (d) Communities which develop affordable housing plans and meet one of the three statutory goals (see page 13) are then exempt from the provisions of the law, including possible appeals and submitted to the State Housing Appeal Board.

### **Data Sources**

The sections of AHPAA quoted above offer a framework for completing the exemption determination process, but Section 20a in the statute raises an important issue for beginning the exemption determination process: establishing a single source of data as “the most recent data from the U.S. Census Bureau.”

Nearly all of the data points required for the determination process are now available in the American Community Survey 5 Year Estimates (ACS 5yr Est.) and are published annually on a two-year delay. As of September 2013, the most recent ACS 5yr data set available was the 2011 5yr Estimate, which was selected as the primary data source for completing the exemption determination process.

Spatial data provided by the U.S. Census Bureau was analyzed to assign a primary county or MSA to every local government in the state (numerous local governments have jurisdictions that cross county boundaries). Land coverage within the jurisdiction of all local governments was calculated by county and a majority county or MSA was assigned to each local government to determine the median household income.

Mortgage contract terms for the calculation of affordable owner-occupied units are not explicitly defined in the statute, so industry standards and academic literature were relied on. The fixed-rate 30-year mortgage with a downpayment of 10% of the purchase price was chosen because research has shown that those are the optimal terms for both low-income homebuyers and mortgage lenders, regarding probability of negative home equity and default rates.<sup>1</sup> An average interest rate for the past five years (2008 - 2012) was calculated using the Historical Selected Interest Rates for Conventional Mortgages (Annual) published on the website for the Board of Governors of the Federal Reserve System.<sup>2</sup> This interest rate, 4.8%, was assumed for the calculation of affordable owner-occupied units. Reliable data for homeowner's insurance and homeowners association fees was not available on a community-level scale and therefore was not included in the determination process. (Note: any such data used in the determination process would only have increased the number of Non-Exempt Local Governments).

### **Selecting U.S. Census Bureau Data**

The exemption determination process outlined in Section 20b of the statute is an essential guide, but it does not explicitly identify all of the data points needed to complete the process as directed. This section connects key terms used in the statute with data points available within the 2011 ACS 5 Year Estimates.

- **Local Government:** as shown above, Section 15 of AHPAA defines local government as a county or municipality and automatically exempts any municipality with a population under 1,000. The Census Bureau's definition of 'place' includes any incorporated local government, but does not include counties or townships. In the exemption determination process IHDA included all 'places' and 'counties' within Illinois. Places with population under 1,000 and Census Designated Places (which are not incorporated as municipalities) were removed from the analysis. Parties

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<sup>1</sup> John Y. Campbell and João F. Cocco. "A Model of Mortgage Default," National Bureau of Economic Research Working Paper 17516, October 2011. Patrie Hendershott, Robert Hendershott, and James Shilling. "The Mortgage Finance Bubble: Causes and Corrections," Journal of Housing Research, 2010. Tomasz Piskorski and Alexei Tchisty. "Stochastic House Appreciation and Optimal Mortgage Lending," Review of Financial Studies, 2011.

<sup>2</sup> <http://www.federalreserve.gov/releases/h15/data.htm>



interested in the affordability of unincorporated areas may contact IHDA for more information.

- Area Median Income (AMI): in accordance with Section 20b(i) and 20b(ii) of the statute, the median household income (MHI) was collected from each county and Metropolitan Statistical Area (MSA) in the state (when appropriate the MHI for MSA Metropolitan Divisions was used) and assigned to all local governments within that geography.
- Total Year-Round Housing Units: seasonal and recreational housing units are classified as a type of vacant housing in American Community Survey data. To avoid any concerns of inflating the true number of year-round housing units in a given community (and thereby deflating its share of affordable housing stock), only occupied housing units were included during the exemption determination process. Total year-round units were calculated by adding “owner-occupied units” and “occupied units paying rent”.
- Owner-Occupied Housing Units: “Value” of home estimates were utilized to determine how many of the owner-occupied housing units in a given local government are ‘affordable’ to potential homebuyers at 80% of the AMI. Only units that are currently occupied by homeowners are included in these estimates. “Total Median Real Estate Taxes Paid” estimates for every local government were also utilized to determine the number of affordable owner-occupied housing units. Vacant for-sale units are not included in the determination process because the U.S. Census Bureau does not collect information on their value. (Note: homeowner utility costs are not collected as part of the American Community Survey, nor does the AHPAA statute include it in its formula for affordable homeownership).
- Rental Units: “Gross Rent” estimates were utilized to determine how many of the occupied rental units in a given community would be affordable to a potential renter at 60% of the AMI. Only units occupied by renters are included in these estimates. Units occupied by renters not paying rent are not counted as affordable rental units because the Census Bureau does not collect information on the terms of occupancy.

### **Determining Share of Affordable Units**

To clarify the steps used to determine the share of affordable housing units in local governments across Illinois, following the process outlined in the statute and utilizing the U.S. Census data identified above, two examples will be illustrated.

#### City of Evanston, Cook County

Population: 74,149

Area Median Income: \$61,045 (Chicago MSA)

First, the affordable monthly rent was determined for a household at 60% of the AMI.

$\$61,045 \text{ (AMI)} \times 60\% \times 30\% \text{ (portion of income affordable for housing)} / 12 = \$916 \text{ a month}$

Now the number of affordable rental units in Evanston can be counted.

“Gross Rent” – Total Occupied Units Paying Rent: 11,775  
“Gross Rent” – Less than \$200: 201  
“Gross Rent” – \$200 to \$299: 235  
“Gross Rent” – \$300 to \$499: 251  
“Gross Rent” – \$500 to \$749: 728  
“Gross Rent” – \$750 to \$999: 3,262  
“Gross Rent” – \$1,000 to \$1,499: 4,130  
“Gross Rent” – \$1500 or more: 2,968

The affordable monthly rental amount in Evanston, \$916, falls within the \$750 to \$999 “Gross Rent” interval. The total number of units in lower intervals is 1,415. Since \$916 represents 67% of the \$750 to \$999 interval, an estimated 2,170 units of the 3,262 units within that interval have a “Gross Rent” below \$916. Adding the two figures reaches a total of **3,585 affordable rental units** in Evanston.

Next, the affordable home value was determined for a household at 80% of the AMI. The first was determining an affordable monthly payment for this hypothetical household.

$\$61,045 \text{ (AMI)} \times 80\% \times 30\% \text{ (portion of income affordable for housing)} / 12 = \$1,221 \text{ a month}$

The median real estate taxes paid in Evanston were \$6,273, or \$523 a month. This amount was subtracted from \$1,221 to reach the final affordable monthly payment of \$698. Using the present value calculation typical for determining an affordable sales price in mortgage lending and assuming a 4.8% interest rate (the average rate for conventional mortgages over the last five years), a 30-year loan term and a 10% down payment – an affordable home value in Evanston was determined to be \$146,372.

Now the number of affordable owner-occupied units in Evanston can be counted.

“Value” - Total Owner-Occupied units: 16,896  
“Value” - Less than \$50,000: 166  
“Value” - \$50,000 to \$99,999: 202  
“Value” - \$100,000 to \$149,999: 519  
“Value” - \$150,000 to \$199,999: 1,780  
“Value” - \$200,000 to \$299,999: 3,266  
“Value” - \$300,000 to \$499,999: 5,218  
“Value” - \$500,000 to \$999,999: 4,598  
“Value” - \$1,000,000 or more: 1,147

The affordable home value in Evanston, \$146,372, falls within the \$100,000 to \$149,000 “Value” interval. The total number of units in lower intervals is 368. Since \$146,372 represents 93% of the \$100,000 to \$149,000 interval, an estimated 481 units within the

interval have a “value” below \$146,372. Adding the two figures reaches a total of **849 affordable owner-occupied units** in Evanston.

The sum of affordable housing units in Evanston equaled **4,435**. At this point the affordable housing share of total units in Evanston was calculated.

$$4,435 \text{ (affordable housing units)} / 28,671 \text{ (year-round housing units)} = \mathbf{15.4\%}$$

#### Village of Frankfort, Will County

Population: 17,464

Area Median Income: \$61,045 (Chicago MSA)

First, the affordable monthly rent was determined for a household at 60% of the AMI.

$$\$61,045 \text{ (AMI)} \times 60\% \times 30\% \text{ (portion of income affordable for housing)} / 12 = \$916 \text{ a month}$$

Now the number of affordable rental units in Frankfort can be counted.

“Gross Rent” – Total Occupied Units Paying Rent: 174

“Gross Rent” – Less than \$200: 0

“Gross Rent” – \$200 to \$299: 0

“Gross Rent” – \$300 to \$499: 0

“Gross Rent” – \$500 to \$749: 0

“Gross Rent” – \$750 to \$999: 105

“Gross Rent” – \$1,000 to \$1,499: 22

“Gross Rent” – \$1500 or more: 47

The affordable monthly rental amount in Frankfort, \$916, falls within the \$750 to \$999 “Gross Rent” interval. The total number of units in lower intervals is 0. Since \$916 represents 67% of the \$750 to \$999 interval, an estimated 70 units of the 105 units within that interval have a “Gross Rent” below \$916. The result is a total of **70 affordable rental units** in Frankfort.

Next, the affordable home value was determined for a household at 80% of the AMI. The first was determining an affordable monthly payment for this hypothetical household.

$$\$61,045 \text{ (AMI)} \times 80\% \times 30\% \text{ (portion of income affordable for housing)} / 12 = \$1,221 \text{ a month}$$

The median real estate taxes paid in Frankfort were \$8,745, or \$729 a month. This amount was subtracted from \$1,221 to reach the final affordable monthly payment of \$492. Using the present value calculation typical for determining an affordable sales price in mortgage lending and assuming a 4.8% interest rate (the average rate for conventional mortgages over the last five years), a 30-year loan term and a 10% down payment – an affordable home value in Frankfort was determined to be \$103,183.

Now the number of affordable owner-occupied units in Frankfort can be counted.

“Value” - Total Owner-Occupied units: 5,194

“Value” - Less than \$50,000: 19

“Value” - \$50,000 to \$99,999: 25

“Value” - \$100,000 to \$149,999: 41

“Value” - \$150,000 to \$199,999: 167

“Value” - \$200,000 to \$299,999: 1,047

“Value” - \$300,000 to \$499,999: 2,705

“Value” - \$500,000 to \$999,999: 1,149

“Value” - \$1,000,000 or more: 41

The affordable home value in Frankfort, \$103,183, falls within the \$100,000 to \$149,000 “Value” interval. The total number of units in lower intervals is 44. Since \$103,183 represents 6% of the \$100,000 to \$149,000 interval, an estimated 3 units within the interval have a “value” below \$146,372. Adding the two figures reaches a total of **47 affordable owner-occupied units** in Frankfort.

The sum of affordable housing units in Frankfort equaled **116**. At this point the affordable housing share of total units in Frankfort was calculated.

$116 \text{ (affordable housing units)} / 5,368 \text{ (year-round housing units)} = 2.2\%$

## Affordable Housing Plans

From the date on the letter/email notifying a Non-Exempt Local Government of its status under AHPAA, the local administrators have 18 months from the date the Non-Exempt Local Government list was published to develop, approve and submit an Affordable Housing Plan to IHDA, consisting of at least the following components:

- Statement of the total number of affordable housing units that are necessary to exempt the local government from the operation of the Act, as defined in Section 15 and Section 20, and based on the numbers included in AHPAA Local Government Exemption Report, published by IHDA.
- Identification of lands within the jurisdiction that are most appropriate for the construction of affordable housing, and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned.
- Incentives that the local government may provide for the purpose of attracting affordable housing to their jurisdiction.
- Selection of one of the following goals for increasing local affordable housing stock:
  - a minimum of 15% of all new development or redevelopment within the local government that would be defined as affordable housing in this Act;
  - a minimum of a 3 percentage point increase in the overall percentage of affordable housing within its jurisdiction, as defined in Section 20 of this Act;
  - a minimum of a total of 10% of affordable housing within its jurisdiction.

According to the law, Non-Exempt Local Governments must submit their Affordable Housing Plan to IHDA within 60 days of the initial local approval of the plan or approval of revisions.

## State Housing Appeals Board

AHPAA also assigns IHDA the responsibility of staffing the State Housing Appeals Board. The State Housing Appeals Board may hear appeals once the following conditions are met:

- A developer, believing there is a market for such housing, must obtain site control in a Non-Exempt Local Government and voluntarily come forward with a proposal that includes at least 20% of the dwelling units being subject to covenants or restrictions that require that the dwelling units be sold or rented at prices that preserve them as affordable housing for a period of at least 15 years, in the case of for-sale housing, and at least 30 years, in the case of rental housing.
- The developer's proposal must be denied, or approved with conditions that rendered the project infeasible.
- The developer must file an appeal with the State Housing Appeals Board within 45 days of the local government decision they wish to appeal. Initial pleadings filed by the developer must include the following (in paper or electronic copies):
  - a. a clear and concise statement of the prior proceedings (related to the proposed development) before all Approving Authorities, including the date of notice of the decision that the Affordable Housing Developer is appealing;
  - b. a clear and concise statement of the Affordable Housing Developer's objections to the Approving Authority's decision, indicating why the Affordable Housing Developer believes the application to develop Affordable Housing was unfairly denied, which may include an appeal of IHDA's determination of the exempt status of the Local Government as set forth in Section 395.401, or what conditions, if any, were imposed that the Affordable Housing Developer believes were unreasonable;
  - c. a clear and concise statement setting forth the relief sought;
  - d. the complete name and address of the Affordable Housing Developer for the purpose of service of papers in connection with the appeal;
  - e. the name and address of the attorney or attorneys representing the Affordable Housing Developer, if any; and
  - f. a complete copy of the application for the Affordable Housing Development, as it was submitted to the Approving Authority, including sufficient information to determine whether the proposal that is the subject of the appeal is Affordable Housing.

## State Housing Appeals Board (Continued)

During the appeals process the developer must convince the State Housing Appeals Board that:

- the proposed Affordable Housing Development complies with all Non-Appealable Local Government Requirements\*. The Affordable Housing Developer must prove these elements with respect to only those aspects of the project that are in dispute; or
- Non-Appealable Local Government Requirements have been applied differently to proposals that do not include Affordable Housing; or
- the Approving Authority has a pattern of denying applications to develop Affordable Housing; or
- the Approving Authority changed the zoning of an area regarding a specific Affordable Housing Development that, but for the change in zoning, is otherwise able to proceed, or has a pattern of changing zoning of an area in regards to Affordable Housing Developments that, but for the change in zoning, are otherwise able to proceed; or
- the Approving Authority unreasonably or intentionally delayed its decision regarding a specific Affordable Housing Development that, but for the lack of timely decision by the Approving Authority, is otherwise able to proceed, or has a pattern of unreasonably or intentionally delaying its decisions on applications for Affordable Housing Developments that, but for the lack of timely decisions of the Approving Authority, are otherwise able to proceed; or
- IHDA's determination that the Local Government is exempt from the Act is incorrect based on the counting protocols set forth in Section 20 of the Act and any written guidance published by IHDA; or
- any other unreasonable denial of the application for the Affordable Housing Development.

\* "Non-Appealable Local Government Requirements": All essential requirements that protect the public health and safety, including any local building, electrical, fire or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment. Zoning, density and bulk restrictions may count as Non-Appealable Local Government Requirements if the Board finds that they qualify under the Act's definition of Non-Appealable Local Government Requirements.

The local government, or approving authority, has equal opportunity to present evidence and defend itself against claims made by the appealing developer.

## Appendices



## **Appendix A: Frequently Asked Questions**

### **Can a Non-Exempt Local Government appeal their exemption status?**

The State Housing Appeals Board has the authority to review the legitimacy of exemption status but only in the case of an appeal related to that community. If a Non-Exempt Local Government wishes to submit information that may affect their exemption status in the eyes of the State Housing Appeals Board, then they may submit those materials to IHDA for the State Housing Appeals Board as records to be reviewed at the time of an appeal.

### **Why are Metropolitan Statistical Area figures for median household income used for some places and county figures for other places?**

The statute specifies affordability calculations be based on the median household income of Metropolitan Statistical Area (MSA) data where available and county data where MSA data is not available. The federal Office of Management and Budget regularly publishes guidance on the definitions of MSAs and that information is adopted by the U.S. Census Bureau and various federal funding sources. AHPAA was written to accommodate the MSA data to ensure that areas of population concentration with a high degree of economic and social integration are treated as a whole. Counties using county data are generally rural in nature.

### **Does the count of affordable units in a local government reflect the number of households currently paying more than 30% of income?**

No. The analysis compares the cost of buying or renting a home in a given community to the area's (MSA or county) median household income.

### **What is the State Housing Appeals Board?**

The State Housing Appeals Board (SHAB) consists of seven members: 1) a zoning board of appeals member from a Non-Exempt community; 2) a planning board member from a Non-Exempt community; 3) a mayor or municipal council/board member from a Non-Exempt community; 4) a county board member; 5) an affordable housing developer; 6) a housing advocate; and 7) a retired circuit or appellate judge (who must serve as board chairperson). IHDA's Chairman will also serve as an ex-officio member.

### **How does a developer file an appeal with the State Housing Appeals Board?**

A developer wishing to file an appeal should send a complete package with all materials identified in the AHPAA (see page 3 of this document) to the Office of Housing Coordination Services at IHDA, addressed as follows:

ATTN: Office of Housing Coordination Services, IHDA (14)  
RE: State Housing Appeals Board  
401 N. Michigan Ave., Ste. 700  
Chicago, IL 60611

### **Will affordable housing have a negative impact on property values?**

In recent years, scholars have produced numerous studies with rigorous analytic methodologies to better understand the impact that affordable housing developments have on surrounding property values, local community safety, and services. A review of the literature on the subject conducted in 2005 indicated that most studies do not find a

negative impact related to affordable housing developments.<sup>3</sup> The literature review also showed that affordable housing sited in economically strong communities and dispersed across metropolitan regions are the most successful and have the least negative impacts. A more recent study (2013) focused on affordable housing developments in suburban New Jersey, which has a state policy similar to the Affordable Housing Planning and Appeal Act, found that affordable housing development was not associated with increased crime, decreased property values, or increased taxes.<sup>4</sup>

**Are municipalities required to own the affordable housing developed within their borders?**

No. A non-exempt municipality is not expected to own or manage affordable housing in order to comply with the AHPAA statute. However, the planning requirements of the AHPAA suggest that municipalities can and are encouraged to help facilitate affordable housing development by providing local incentives, some of which may involve municipally created non-profit ownership or management of a property (e.g., a Community Land Trust under an inclusionary housing program or a Community Housing Development Organization under a HOME program). Financial public support of an affordable housing development may be more appropriate in the form of a property donation or waiver of local development building and permit fees.

**To comply with the AHPAA statute, is a particular type of affordable housing necessary?**

No. The type of affordable housing provided within a community is strictly a local decision. Neither IHDA nor the AHPAA statute require or prefer a particular type of affordable housing to comply. Municipalities may decide to encourage affordable rental housing, affordable homeownership programs or alternative types of housing tenure. In some cases, changes to local zoning and building codes may attract developers able to build housing without any subsidies or restrictions and market them to residents at an affordable price (according to AHPAA).

**Are municipalities required to change zoning ordinances to comply with the AHPAA?**

No. The AHPAA statute does not intend to dictate or override local zoning ordinances and building codes. Compliance with the statute does not necessarily require a change in either zoning and building codes (nor density, design or unit type requirements). Some communities may, however, utilize related incentive programs, such as establishment of an inclusionary zoning ordinance or other development incentives.

**Are municipalities required to be involved with private real estate transactions?**

No. Compliance with the statute does not require municipal participation in private transactions. Unless a municipality chooses to become involved indirectly with private real estate transactions by establishing a Community Land Trust (though Community Land Trusts are generally recommended to be established as a separate legal entity), there are no statutory requirements that necessitate municipal participation in real estate transactions beyond the approval of an affordable housing plan. Municipalities and counties, however,

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<sup>3</sup> Nguyen, Mai Thi. "Does Affordable Housing Detrimentially Affect Property Values? A Review of the Literature" in *Journal of Planning Literature* (2005; 20: 15).

<sup>4</sup> Len Albright, Elizabeth S. Derickson and Douglas S. Massey. "Do Affordable Housing Projects Harm Suburban Communities? Crime, Property Values, and Property Taxes in Mt. Laurel, New Jersey" in *City & Community* (2013; 12: 2).

are encouraged to participate in such projects financially when feasible via local CDBG and HOME Program funding. Also approval and support of projects with affordable housing components such as LIHTC projects is encouraged.

**To comply with the AHPAA statute are municipalities required to develop property designated as parkland or open space?**

No. The purpose of the AHPAA is to strongly encourage local planning strategies that foster the development of affordable housing. The law is not intended to dictate type or location of affordable housing to be developed.

**How are communities with little available land (“built out”) going to comply with the law?**

The AHPAA does not force communities to categorically accept new developments that include affordable housing. In fact, this law may have little impact on communities that are already “built out”. Communities with little available land could choose the option of 15% of all new development and redevelopment as a set-aside for affordable housing. The law simply provides that as a community continues to grow or redevelop, it should work to include some moderately priced housing, making it possible for those who work in and serve the community to afford to live there too.

## **Appendix B: Financial Assistance Available to Non-Exempt Local Governments**

Communities seeking to increase the number of local affordable housing units have a number of tools at their disposal and they should be aware of several financial resources that can help create affordable housing.

Listed below are local tools that communities may utilize to promote affordability:

- Zoning
- Reduction in Development Fees / Fee Waivers (building permit fees; planning fees; capital facilities fees; inspection fees; “tap-on” fees)
- Expedited Permitting for Affordable Housing
- Covenants
- Land Leases
- Community Land Trusts
- Deed Restrictions (on affordability)
- Use Restrictions
- Resale Restrictions
- Inclusionary Zoning (mandatory; voluntary; negotiated / ad hoc)
- Use of Public Funding (IHDA funds; federal funding; tax credits; assistance with local subsidies, such as CDBG or HOME)
- Planned Unit Development (PUD) ordinances

Discussed below are Federal, State and local resources that may be accessed for assistance by non-profit developers, for-profit developers and local governments for affordable housing:

**Community Development Block Grants (CDBG)** – CDBG funds are federal grants available to municipalities and counties through the US Department of Housing and Urban Development (HUD) that can be used to fund many different programs that provide assistance to a wide variety of grantees. Some housing activities are considered eligible uses, such as housing rehabilitation, land acquisition, and homebuyer assistance. Funds must be used to primarily assist low to moderate income households. For more information, see Appendix D: [www.hud.gov/offices/cpd/community\\_development/programs/index.cfm](http://www.hud.gov/offices/cpd/community_development/programs/index.cfm)

**HOME Participating Jurisdictions and Consortium Funding** – Also funded through HUD, federal HOME funds are available via a formula grant to states and local governments participating jurisdictions (PJ). HOME funds can be used for rental housing production and rehabilitation loans and grants, first-time homebuyer assistance, and rehabilitation assistance for homeowners. An annual portion of HOME funds (15%) is required to be set-aside for eligible Community Housing Development Organizations (CHDOs). All housing developed with HOME funds must serve income eligible households (low or very-low income). For more information, see Appendix D: [www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm](http://www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm)

IHDA is the designated State agency to oversee HOME funds within the State of Illinois. IHDA can allocate HOME funds throughout the state, but generally gives preference to areas

that do not have their own, local HOME funds as a Participating Jurisdiction or Consortium. Information on IHDA's HOME funds can be found at [www.ihda.org](http://www.ihda.org).

Please Note: CDBG and HOME funds are often granted on a municipal or county basis. See Appendix D for a list of the local and county administrators within the Chicago Metropolitan area.

**Bond Financing** – Tax-exempt, private activity bonds are a financing tool that can be applied to both single-family and multi-family housing programs. Tax-exempt bonds can be issued locally or by IHDA, or by a local government ceding its local bond cap to IHDA, which can issue such bonds in behalf of the local government or independently for qualifying projects. Tax-exempt bonds can also be utilized in combination with qualifying Low-Income Housing Tax Credit projects, as well as HUDs Risk Sharing Insurance Car program.

Local governments may request IHDA to create homeownership mortgage financing programs in their community to help stimulate economic growth, to build more vibrant communities through homeownership, to help create affordable housing near jobs and support the businesses in the community, and for other reasons. IHDA is a designated public agency that is authorized to issue bonds for affordable housing within the State of Illinois. By ceding bond cap to IHDA, local governments can not only allow IHDA to issue the bonds that can fund housing and take advantage of the many other funding programs that IHDA offers, but also are relieved of major local administrative duties to operate such a program. Such mortgage financing is generally limited by IRS Tax Code to first-time homebuyers (except targeted areas).

To establish a local program municipalities may cede tax-exempt bond volume cap to IHDA so that the Authority can create a customized program for the community. The program can be tailored to address any specific population or concern for the community, and will likely contain most of these elements:

- Below market rate mortgages
- Closing cost and down payment assistance
- Mortgage credit certificates

For more information on ceding bond cap to IHDA, please see [www.ihda.org](http://www.ihda.org).

**Tax Increment Financing (TIF) Districts** – TIF districts can be established for areas designated as conservation or blighted areas. Under the State's TIF law, when a municipality creates a TIF district, the amount of tax revenue the area currently generates is set as a baseline, which will serve as the amount that the local governmental taxing bodies will receive from that area for the life of the TIF, which is 23 years. As vacant and dilapidated properties are developed, with TIF assistance, the value and tax revenue from those properties increases. The "increment" above the baseline is then captured and used solely for improvements and redevelopment activities in the TIF district.

There are currently many TIF districts within the State of Illinois. The TIFs that were established in the Chicago-metro area by municipalities (Chicago excluded) and were designated as primarily for housing are listed below:

Housing TIFs in the Chicago-Metro Area Permitting Housing Activities		
City	County	District
MELROSE PARK	COOK	TIF 2
PALOS HEIGHTS	COOK	GATEWAY TIF
SUMMIT	COOK	TIF 1
STEGER	WILL	TIF II
STEGER	WILL	SOUTH CHICAGO ROAD TIF (TIF 4)
BOLINGBROOK	WILL/DuPAGE	BEACONRIDGE SUBDIVISION

**Illinois Housing Development Authority (IHDA)** – IHDA is the State’s designated housing finance agency. Via IHDA both communities and developers can access many sources of funding from both State and Federal sources. In general, IHDA’s website ([www.ihda.org](http://www.ihda.org)) is an excellent source of information, describing the purpose and application process for all the authority’s funding sources.

The authority offers a large array of funding that can help communities in their quest to develop more affordable housing. Some of which are:

- Low-Income Housing Tax Credits (LIHTC) – The federal tax credit program can be utilized to generate a large equity contribution for affordable rental housing developments via sale of tax credits to investors. The Low Income Housing Tax Credit (LIHTC) is a competitive program for non-profit and for-profit entities to assist in developing affordable rental housing, offering a highly competitive 9% tax credit and a competitive 4% tax credit for 10 years to approved projects. Sale or syndication of these credits can generate large amounts of equity. Please note the current and (2013) and 2014 annual LIHTC Qualified Allocation Plans include geographic set-asides for targeted distribution of the subsidy. One of the set-asides is for projects located in AHPAA Non-Exempt Local Governments and communities at risk of becoming NELGs (under 20% affordable housing share).
- Illinois Affordable Housing Tax Credits (IAHTC) (aka: State Donations Tax Credit) works with donations to a project and is granted on a one-time basis to a project that receives eligible donations. This is an excellent source of gap financing for rental, homeowner, and employer assisted housing projects being developed or operated by a non-profit organization.
- Illinois Affordable Housing Trust Fund – This State funding source assists in the provision of affordable, decent, safe, and sanitary housing for low- and very low – income households for rental, homeownership, and homebuyer units. Eligible proposals include: acquisition and rehabilitation of existing housing, new construction, adaptive reuse of non-residential buildings, and housing for special needs populations. The Trust Fund makes loans available at below market rates.
- HOME – As discussed above, State HOME funds are administered by IHDA.
- Multi Family Financing – IHDA offers a variety of other financing options specific to multifamily housing developments. The options currently available through

IHDA include: Conduit Bond Financing; IHDA enhanced Bond Financing; Risk Sharing programs; Preservation Now! And Multi-Family Advantage programs; and others.

- Single-Family Financing - IHDA finances mortgages through participating banks that are below the market rate, making it easier for low- and moderate-income families to qualify and afford a home (see Bond Financing). IHDA can also provide financial assistance to help with down payments and closing costs. Partnering with local non-profit organizations and municipalities, IHDA can also finance local homebuyer assistance programs as well as home repair programs with grants for low-income homeowners who need to bring their homes up to code.

**Employer Assisted Housing (EAH)** – There are many programs (both national and state-wide) that encourages employers to invest in housing for their employees. An EAH program typically includes counseling about home-buying and financing, direct financial assistance with closing costs and payments, rental housing assistance, and/or a real estate investment. Organizations such as Metropolitan Planning Council and Housing Action Illinois have administered such programs in recent years. Local contacts for ongoing programs include the following:

North:

Affordable Housing Corporation of Lake County – 847/263-7478

Housing Opportunity Development Corporation – 847/564-2900

Northwest:

North West Housing Partnership – 847/969-0561

DuPage County:

DuPage Homeownership Center – 630/260-2500

Kane County:

Joseph Corporation – 630/906-9400

McHenry County:

Corporation for Affordable Homes of McHenry County – 815/206-5805

Chicago:

Neighborhood Housing Services of Chicago, Inc. – 312/329-4010

Metropolitan Planning Council – 312/922-5616

Statewide:

Housing Action Illinois – 312/939-6074

**Class 9 Property Tax Incentive** – Encourages new development, rehabilitation and long-term preservation of multi-family rental housing, affordable to low- and moderate-income households across Cook County by providing significant tax abatement to qualified properties. Call 312/603-7850 or visit [www.cookcountyassessor.com/forms-incentives.aspx](http://www.cookcountyassessor.com/forms-incentives.aspx)

**Federal Home Loan Bank (FHLB)** –The Affordable Housing Program (AHP) offered by the Federal Home Loan Bank (Chicago FHLB) is a subsidy fund designed to assist in the development of affordable housing for low and moderate-income households. The Chicago FHLB contributes 10% of its previous year's net income to the AHP each year. The allocation is split between the Chicago FHLB's competitive application program and the non-competitive homeownership set-aside program called Downpayment Plus. The AHP provides

grants and subsidized loans to member financial institutions working with affordable housing providers to finance rental and ownership housing for low and moderate-income households. For more information, please visit [www.fhlbc.com](http://www.fhlbc.com) or call 312/565-5700.

**Community Investment Corporation (CIC)** – CIC is a not-for-profit neighborhood revitalization lender that provides financing to buy and rehab multifamily apartment buildings with five units or more in the six-county metropolitan Chicago area. CIC’s investors have grown to roughly 36 investors. These investors have pledged \$412 million through 2015 for CIC’s revolving loan pool. Please visit [www.cicchicago.com](http://www.cicchicago.com) or call 312/258-0070.

**IFF** – A leading nonprofit community development financial institutions (CDFI), IFF strengthens non-profits and their communities through lending and real estate consulting. With total managed assets of more than \$270 million, IFF is able to help nonprofits finance, plan, and build facilities that are critical to their mission and success. IFF serves nonprofits in Illinois, and other Midwestern states, with a focus on those that serve low and moderate income communities and special needs populations. For more information, please visit [www.iff.org](http://www.iff.org), or call 312/629-0060.

**Office of Housing Coordination Services (OHCS)** – IHDA’s OHCS operates a housing information clearinghouse for affordable housing in the State of Illinois. With this clearinghouse, OHCS tracks housing finance options provided by IHDA and other State programs, federal programs as well as private resources. For more information, please visit [www.ihda.org](http://www.ihda.org), or contact the Office of Housing Coordination Services at (312) 836-5364.



## **Appendix C: Technical Assistance Available to Non-Exempt Local Governments**

A number of organizations have resources to assist local governments interested in developing affordable housing programs, incentives and/or plans for their community. Listed below are a few of the major organizations familiar with AHPAA:

**Business and Professional People for the Public Interest (BPI)** – BPI is a public interest law and policy center that works throughout the Chicago region. BPI's housing program works to preserve and expand the supply of housing affordable to working people, seniors and young families, especially in areas of opportunity, and seeks to stabilize and strengthen neighborhoods that already have large supplies of affordable housing. BPI frequently works in collaboration with local governments and other local partners. BPI has helped local leaders to assess local housing needs and trends, conducted research on best practices from around the country, and helped to develop and improve local policies and programs. For example, BPI has assisted local governments in developing policies and programs that facilitate the creation of affordable housing, including through creation of incentives that allow developers to cover the cost of high-quality affordable housing at no cost to the local government. BPI has also worked with local governments to develop programs that preserve existing affordable units. For more information please visit <http://www.bpichicago.org/> or call 312/641-5570.

**Metropolitan Mayors Caucus** – The Caucus provides a forum through which the chief elected officials of the region cooperatively develop consensus on common public policy issues and multi-jurisdictional challenges. With a foundation of collaboration and consensus-based decision-making, it serves a number of functions for its partner organizations and local governments. With its partners, the Caucus has developed a number of housing related resources for its membership including: *Homes for a Changing Region*, a housing policy planning exercise that helps municipalities plan for a balanced housing market; *Home Grown: Local Housing Strategies in Action*, which describes a number of housing “best practices” implemented by local governments around the Chicago metropolitan region; and finally, *Housing 1-2-3*, which serves as a guide to housing planning, creation and preservation. For more information please visit [www.mayorscaucus.org](http://www.mayorscaucus.org) or call 312/201-4507.

**Chicago Metropolitan Agency for Planning (CMAP)** – CMAP is the federally mandated Metropolitan Planning Organization (MPO) for the Northeast Illinois region, including Cook, DuPage, Kane, Kendall, Lake, McHenry, and Will Counties. CMAP is charged with implementing the region's long range, comprehensive plan called GO TO 2040. One of the plan's major recommendations is to achieve greater livability through land use and housing. To implement the plan, CMAP provides staff assistance to communities through the agency's Local Technical Assistance program, which seeks project proposals from communities late in the spring each year. Since 2009, CMAP has worked with MMC and MPC to provide balanced housing policy plans to 14 municipalities across the region through the *Homes for a Changing Region* project. Currently, plans are underway for 12 more municipalities. In early 2015, CMAP anticipates distributing all of the technical tools used in the *Homes* process online and will provide several trainings to municipalities seeking to

create their own plans. For more information, visit [www.cmap.illinois.gov/homes](http://www.cmap.illinois.gov/homes) or email Drew Williams-Clark at [awilliamsclark@cmap.illinois.gov](mailto:awilliamsclark@cmap.illinois.gov).

**Metropolitan Planning Council (MPC)** – For nearly eight decades, MPC has developed and implemented innovative, pragmatic solutions to planning and development challenges in Chicagoland. Through research, advocacy and demonstration projects, MPC is a trusted partner to governments, businesses and communities as each confronts the region’s pressing needs so that everyone who lives and works here can thrive. Since its foundation in 1934, MPC has been committed to integrating quality homes affordable to families at a range of incomes—including very low-income households—into healthy communities with transportation options, job opportunities and quality schools. MPC and its partners have the following programs available to municipalities and developers: *Regional Housing Initiative*, a partnership with the regional housing authorities that pools rental subsidies to support affordable and mixed-income housing in high opportunity communities; *Homes for a Changing Region*, a planning process that enables municipal leaders to chart future demand and supply trends for housing in their communities and develop long-term housing policy plans; and *Home Grown: Local Housing Strategies in Action* and *Housing 1-2-3*, which includes “best practices” in housing that are being implemented by Chicago area governments and a guide to housing planning, creation and preservation. For more information please visit <http://www.metroplanning.org/> or call 312/922-5616.

## **Appendix D: CDBG and HOME Administrators Directory**

Communities that do not receive direct allocations of Community Development Block Grant (CDBG) or HOME funds from the federal government may be located in a county that does receive such funds. The county level administrators are capable of partnering with communities seeking resources for affordable housing initiatives or residential developments. Below is a list of Chicago Metropolitan Area cities, and county administrators of CDBG and HOME funds in the Chicago metropolitan area.

### **City of Naperville**

City Manager's Office  
400 S. Eagle Street  
630 / 420-6044

### **Lake County**

Department of Community  
Development  
500 W. Winchester Rd. Unit 101  
Libertyville, IL 60048  
847 / 377-2475

### **Cook County**

Department of Planning and  
Development  
69 W. Washington, Suite 2900  
Chicago, IL 60602  
312 / 603-1000

### **McHenry County**

Department of Planning and  
Development, Division of Community  
Development  
2200 N. Seminary Avenue  
Woodstock, IL 60098  
815 / 334-4560

### **DuPage County**

Department of Client Services  
421 North County Farm Road  
Wheaton, IL 60187  
630 / 407-6500

### **Will County**

Land Use Department, Community  
Development Division  
58 E. Clinton St  
Joliet, IL 60433  
815 / 774-7890

### **Kane County**

Office of Community Reinvestment  
719 Batavia Avenue  
Geneva, IL 60134  
630 / 208-5351

## **Appendix E: 310 ILCS 67 (AHPAA Statute As Amended)**

(310 ILCS 67/1)

Sec. 1. Short title. This Act may be cited as the Affordable Housing Planning and Appeal Act.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/5)

Sec. 5. Findings. The legislature finds and declares that:

(1) there exists a shortage of affordable,

accessible, safe, and sanitary housing in the State;

(2) it is imperative that action be taken to assure

the availability of workforce and retirement housing; and

(3) local governments in the State that do not have

sufficient affordable housing are encouraged to assist in providing affordable housing opportunities to assure the health, safety, and welfare of all citizens of the State.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/10)

Sec. 10. Purpose. The purpose of this Act is to encourage counties and municipalities to incorporate affordable housing within their housing stock sufficient to meet the needs of their county or community. Further, affordable housing developers who believe that they have been unfairly treated due to the fact that the development contains affordable housing may seek relief from local ordinances and regulations that may inhibit the construction of affordable housing needed to serve low-income and moderate-income households in this State.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/15)

Sec. 15. Definitions. As used in this Act:

"Affordable housing" means housing that has a value or cost or rental amount that is within the means of a household that may occupy moderate-income or low-income housing. In the case of owner-occupied dwelling units, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.

"Affordable housing developer" means a nonprofit entity, limited equity cooperative or public agency, or private individual, firm, corporation, or other entity seeking to build an affordable housing development.

"Affordable housing development" means (i) any housing that is subsidized by the federal or State government or (ii) any housing in which at least 20% of the dwelling units are subject to covenants or restrictions that require that the dwelling units be sold or rented at

prices that preserve them as affordable housing for a period of at least 15 years, in the case of owner-occupied housing, and at least 30 years, in the case of rental housing.

"Approving authority" means the governing body of the county or municipality.

"Area median household income" means the median household income adjusted for family size for applicable income limit areas as determined annually by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937.

"Community land trust" means a private, not-for-profit corporation organized exclusively for charitable, cultural, and other purposes and created to acquire and own land for the benefit of the local government, including the creation and preservation of affordable housing.

"Development" means any building, construction, renovation, or excavation or any material change in any structure or land, or change in the use of such structure or land, that results in a net increase in the number of dwelling units in a structure or on a parcel of land by more than one dwelling unit.

"Exempt local government" means any local government in which at least 10% of its total year-round housing units are affordable, as determined by the Illinois Housing Development Authority pursuant to Section 20 of this Act; or any municipality under 1,000 population.

"Household" means the person or persons occupying a dwelling unit.

"Housing trust fund" means a separate fund, either within a local government or between local governments pursuant to intergovernmental agreement, established solely for the purposes authorized in subsection (d) of Section 25, including, without limitation, the holding and disbursing of financial resources to address the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing.

"Local government" means a county or municipality.

"Low-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that does not exceed 50% of the area median household income.

"Moderate-income housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50% but does not exceed 80% of the area median household income.

"Non-appealable local government requirements" means all essential requirements that protect the public health and safety, including any local building, electrical, fire, or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/20)

Sec. 20. Determination of exempt local governments.

(a) Beginning October 1, 2004, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census Bureau for each local government within the State and by an inventory

of owner-occupied and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau and other relevant sources.

(b) The Illinois Housing Development Authority shall make this determination by:

(i) totaling the number of owner-occupied housing

units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area;

(ii) totaling the number of rental units in each

local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area;

(iii) adding the number of owner-occupied and rental

units for each local government from items (i) and (ii); and

(iv) dividing the sum of (iii) above by the total

number of year-round housing units in the local government as contained in the latest U.S. Census Bureau and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.

(c) Beginning on the effective date of this amendatory Act of the 98th General Assembly, the Illinois Housing Development Authority shall publish a list of exempt and non-exempt local governments and the data that it used to calculate its determination at least once every 5 years. The data shall be shown for each local government in the State and for the State as a whole. Upon publishing a list of exempt and non-exempt local governments, the Illinois Housing Development Authority shall notify a local government that it is not exempt from the operation of this Act and provide to it the data used to calculate its determination.

(d) A local government or developer of affordable housing may appeal the determination of the Illinois Housing Development Authority as to whether the local government is exempt or non-exempt under this Act in connection with an appeal under Section 30 of this Act.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/25)

Sec. 25. Affordable housing plan.

(a) Prior to April 1, 2005, all non-exempt local governments must approve an affordable housing plan. Any local government that is determined by the Illinois Housing Development Authority under Section 20 to be non-exempt for the first time based on the recalculation of U.S. Census Bureau data after 2010 shall have 18 months from the date of notification of its non-exempt status to approve an affordable housing plan under this Act.

(b) For the purposes of this Act, the affordable housing plan shall consist of at least the following:

(i) a statement of the total number of affordable

housing units that are necessary to exempt the local government from the operation of this Act as defined in Section 15 and Section 20;

(ii) an identification of lands within the

jurisdiction that are most appropriate for the construction of affordable housing and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned;

(iii) incentives that local governments may provide

for the purpose of attracting affordable housing to their jurisdiction; and

(iv) a goal of a minimum of 15% of all new

development or redevelopment within the local government that would be defined as affordable housing in this Act; or a minimum of a 3 percentage point increase in the overall percentage of affordable housing within its jurisdiction, as described in subsection (b) of Section 20 of this Act; or a minimum of a total of 10% affordable housing within its jurisdiction as described in subsection (b) of Section 20 of this Act. These goals may be met, in whole or in part, through the creation of affordable housing units under intergovernmental agreements as described in subsection (e) of this Section.

(c) Within 60 days after the adoption of an affordable housing plan or revisions to its affordable housing plan, the local government must submit a copy of that plan to the Illinois Housing Development Authority.

(d) In order to promote the goals of this Act and to maximize the creation, establishment, or preservation of affordable housing throughout the State of Illinois, a local government, whether exempt or non-exempt under this Act, may adopt the following measures to address the need for affordable housing:

(1) Local governments may individually or jointly

create or participate in a housing trust fund or otherwise provide funding or support for the purpose of supporting affordable housing, including, without limitation, to support the following affordable housing activities:

(A) Housing production, including, without

limitation, new construction, rehabilitation, and adaptive re-use.

(B) Acquisition, including, without limitation,

land, single-family homes, multi-unit buildings, and other existing structures that may be used in whole or in part for residential use.

(C) Rental payment assistance.

(D) Home-ownership purchase assistance.

(E) Preservation of existing affordable housing.

(F) Weatherization.

(G) Emergency repairs.

(H) Housing related support services, including

homeownership education and financial counseling.

(I) Grants or loans to not-for-profit

organizations engaged in addressing the affordable housing needs of low-income and moderate-income households.

Local governments may authorize housing trust funds

to accept and utilize funds, property, and other resources from all proper and lawful public and private sources so long as those funds are used solely for addressing the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing.

(2) A local government may create a community land

trust, which may: acquire developed or undeveloped interests in real property and hold them for affordable housing purposes; convey such interests under long-term leases, including ground leases; convey such interests for affordable housing purposes; and retain an option to reacquire any such real property interests at a price determined by a formula ensuring that such interests may be utilized for affordable housing purposes.

(3) A local government may use its zoning powers to

require the creation and preservation of affordable housing as authorized under Section 5-12001 of the Counties Code and Section 11-13-1 of the Illinois Municipal Code.

(4) A local government may accept donations of money

or land for the purpose of addressing the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing. These donations may include, without limitation, donations of money or land from persons in lieu of building affordable housing.

(e) In order to encourage regional cooperation and the maximum creation of affordable housing in areas lacking such housing in the State of Illinois, any non-exempt local government may enter into intergovernmental agreements under subsection (e) of Section 25 with local governments within 10 miles of its corporate boundaries in order to create affordable housing units to meet the goals of this Act. A non-exempt local government may not enter into an intergovernmental agreement, however, with any local government that contains more than 25% affordable housing as determined under Section 20 of this Act. All intergovernmental agreements entered into to create affordable housing units to meet the goals of this Act must also specify the basis for determining how many of the affordable housing units created will be credited to each local government participating in the agreement for purposes of complying with this Act. In specifying how many affordable housing units will be credited to each local government, the same affordable housing unit may not be counted by more than one local government.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/30)

Sec. 30. Appeal to State Housing Appeals Board.

(a) (Blank).

(b) Beginning January 1, 2009, an affordable housing developer whose application is either denied or approved with conditions that in his or her judgment render the provision of affordable housing infeasible may, within 45 days after the decision, appeal to the State Housing Appeals Board challenging that decision unless the municipality or county that



rendered the decision is exempt under Section 15 of this Act. The developer must submit information regarding why the developer believes he or she was unfairly denied or unreasonable conditions were placed upon the tentative approval of the development. In the case of local governments that are determined by the Illinois Housing Development Authority under Section 20 to be non-exempt for the first time based on the recalculation of U.S. Census Bureau data after the effective date of this amendatory Act of the 98th General Assembly, no developer may appeal to the State Housing Appeals Board until 60 months after a local government has been notified of its non-exempt status.

(c) Beginning on the effective date of this amendatory Act of the 98th General Assembly, the Board shall, whenever possible, render a decision on the appeal within 120 days after the appeal is filed. The Board may extend the time by which it will render a decision where circumstances outside the Board's control make it infeasible for the Board to render a decision within 120 days. In any proceeding before the Board, the affordable housing developer bears the burden of demonstrating that the proposed affordable housing development (i) has been unfairly denied or (ii) has had unreasonable conditions placed upon it by the decision of the local government.

(d) The Board shall dismiss any appeal if:

(i) the local government has adopted an affordable

housing plan as defined in Section 25 of this Act and submitted that plan to the Illinois Housing Development Authority within the time frame required by this Act; and

(ii) the local government has implemented its

affordable housing plan and has met its goal as established in its affordable housing plan as defined in Section 25 of this Act.

(e) The Board shall dismiss any appeal if the reason for denying the application or placing conditions upon the approval is a non-appealable local government requirement under Section 15 of this Act.

(f) The Board may affirm, reverse, or modify the conditions of, or add conditions to, a decision made by the approving authority. The decision of the Board constitutes an order directed to the approving authority and is binding on the local government.

(g) The appellate court has the exclusive jurisdiction to review decisions of the Board. Any appeal to the Appellate Court of a final ruling by the State Housing Appeals Board may be heard only in the Appellate Court for the District in which the local government involved in the appeal is located. The appellate court shall apply the "clearly erroneous" standard when reviewing such appeals. An appeal of a final ruling of the Board shall be filed within 35 days after the Board's decision and in all respects shall be in accordance with Section 3-113 of the Code of Civil Procedure.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/40)

Sec. 40. Nonresidential development as part of an affordable housing development.

(a) An affordable housing developer who applies to develop property that contains nonresidential uses in a nonresidential zoning district must designate either at least 50% of the area or at least 50% of the square footage of the development for residential use. Unless adjacent to a residential development, the nonresidential zoning district shall not include property zoned industrial. The applicant bears the burden of proof of demonstrating

that the purposes of a nonresidential zoning district will not be impaired by the construction of housing in the zoning district and that the public health and safety of the residents of the affordable housing will not be adversely affected by nonresidential uses either in existence or permitted in that zoning district. The development should be completed simultaneously to the extent possible and shall be unified in design.

(b) For purposes of subsection (a), the square footage of the residential portion of the development shall be measured by the interior floor area of dwelling units, excluding that portion that is unheated. Square footage of the nonresidential portion shall be calculated according to the gross leasable area.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/50)

Sec. 50. Housing Appeals Board.

(a) Prior to January 1, 2008, a Housing Appeals Board shall be created consisting of 7 members appointed by the Governor as follows:

(1) a retired circuit judge or retired appellate

judge, who shall act as chairperson;

(2) a zoning board of appeals member;

(3) a planning board member;

(4) a mayor or municipal council or board member;

(5) a county board member;

(6) an affordable housing developer; and

(7) an affordable housing advocate.

In addition, the Chairman of the Illinois Housing Development Authority, ex officio, shall serve as a non-voting member. No more than 4 of the appointed members may be from the same political party. Appointments under items (2), (3), and (4) shall be from local governments that are not exempt under this Act.

(b) Initial terms of 4 members designated by the Governor shall be for 2 years. Initial terms of 3 members designated by the Governor shall be for one year. Thereafter, members shall be appointed for terms of 2 years. After a member's term expires, the member shall continue to serve until a successor is appointed. There shall be no limit to the number of terms an appointee may serve. A member shall receive no compensation for his or her services, but shall be reimbursed by the State for all reasonable expenses actually and necessarily incurred in the performance of his or her official duties. The board shall hear all petitions for review filed under this Act and shall conduct all hearings in accordance with the rules and regulations established by the chairperson. The Illinois Housing Development Authority shall provide space and clerical and other assistance that the Board may require.

(c) (Blank).

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/60)

Sec. 60. Rulemaking authority. The Illinois Housing Development Authority shall adopt other rules and regulations as needed to carry out the Board's responsibilities under this Act and to provide direction to local governments and affordable housing developers.

(Source: P.A. 94-303, eff. 7-21-05.)

**Appendix F: 2013 List of AHPAA Non-Exempt Local Governments (Ordinal)**

**Affordable Housing Planning and Appeal Act:  
2013 Report of Non Exempt Local Governments  
Ordinal  
(determination based on 2011 Annual Community Survey 5-year Estimate)**

<b>Count</b>	<b>Place</b>	<b>County</b>	<b>Population</b>	<b>Year-Round Units</b>	<b>Total Affordable Units</b>	<b>Affordable Housing Share</b>
1	Kenilworth	COOK	2565	785	4	0.5%
2	Wayne	DUPAGE	2938	948	5	0.5%
3	Barrington Hills	COOK	3847	1424	9	0.7%
4	Timberlane	BOONE	1160	335	3	1.0%
5	Western Springs	COOK	12747	4125	50	1.2%
6	South Barrington	COOK	4670	1349	18	1.3%
7	Glencoe	COOK	8666	2960	40	1.4%
8	Pingree Grove	KANE	4085	1103	15	1.4%
9	Kildeer	LAKE	3933	1183	18	1.5%
10	Hawthorn Woods	LAKE	7528	2513	40	1.6%
11	Riverwoods	LAKE	3817	1281	22	1.7%
12	Inverness	COOK	7417	2754	48	1.7%
13	Burr Ridge	DUPAGE	10539	3803	82	2.2%
14	Frankfort	WILL	17464	5368	116	2.2%
15	Sugar Grove	KANE	8567	2974	68	2.3%
16	Green Oaks	LAKE	3867	1189	28	2.3%
17	Long Grove	LAKE	7958	2356	55	2.3%
18	Northfield	COOK	5380	2026	50	2.5%
19	Sleepy Hollow	KANE	3378	1143	28	2.5%
20	Winnetka	COOK	12155	3919	100	2.5%
21	Lakewood	MCHENRY	4154	1367	37	2.7%
22	Oak Brook	DUPAGE	7888	2874	80	2.8%
23	Deer Park	LAKE	3225	1158	37	3.2%
24	Tower Lakes	LAKE	1494	506	17	3.3%
25	Homer Glen	WILL	24534	7717	255	3.3%
26	Prairie Grove	MCHENRY	1823	585	21	3.6%
27	Palos Park	COOK	4784	2041	75	3.7%

<b>Count</b>	<b>Place</b>	<b>County</b>	<b>Population</b>	<b>Year-Round Units</b>	<b>Total Affordable Units</b>	<b>Affordable Housing Share</b>
28	Lincolnshire	LAKE	7192	2854	106	3.7%
29	Gilberts	KANE	6303	2062	81	3.9%
30	North Barrington	LAKE	3262	1101	43	3.9%
31	Deerfield	LAKE	18458	6445	259	4.0%
32	Plainfield	WILL	37447	11092	447	4.0%
33	Spring Grove	MCHENRY	5437	1759	71	4.0%
34	Wilmette	COOK	27010	9432	388	4.1%
35	Campton Hills	KANE	10920	3358	139	4.1%
36	Hinsdale	DUPAGE	16545	5373	226	4.2%
37	Northbrook	COOK	32933	11970	522	4.4%
38	River Forest	COOK	11164	3886	172	4.4%
39	Lincolnwood	COOK	12483	4314	197	4.6%
40	Wadsworth	LAKE	3876	1248	60	4.8%
41	Lake Bluff	LAKE	6264	2157	104	4.8%
42	Flossmoor	COOK	9413	3431	168	4.9%
43	Bull Valley	MCHENRY	1082	427	22	5.0%
44	Geneva	KANE	21550	7484	386	5.2%
45	Olympia Fields	COOK	4750	2020	106	5.2%
46	Lake Forest	LAKE	19308	6650	370	5.6%
47	Naperville	DUPAGE	141401	48021	3011	6.3%
48	Park Ridge	COOK	37272	13746	894	6.5%
49	Bannockburn	LAKE	1549	269	18	6.7%
50	Highland Park	LAKE	29983	11473	773	6.7%
51	Cary	MCHENRY	18236	5886	407	6.9%
52	Third Lake	LAKE	1367	447	33	7.4%
53	Glenview	COOK	44134	16002	1183	7.4%
54	Algonquin	MCHENRY	29731	10103	784	7.8%
55	Morton Grove	COOK	23070	8277	651	7.9%
56	Palos Heights	COOK	12332	4886	387	7.9%
57	Oswego	KENDALL	29174	9411	767	8.2%
58	Barrington	COOK	10636	3969	327	8.2%
59	Johnsburg	MCHENRY	6328	2267	188	8.3%
60	Port Barrington*	LAKE	1675	591	53	8.9%
61	Bartlett	DUPAGE	40583	13566	1209	8.9%
62	Lake Barrington	LAKE	4852	2234	205	9.2%
63	Oakwood Hills	MCHENRY	2107	796	73	9.2%
64	Elmhurst	DUPAGE	43934	15505	1447	9.3%

<b>Count</b>	<b>Place</b>	<b>County</b>	<b>Population</b>	<b>Year-Round Units</b>	<b>Total Affordable Units</b>	<b>Affordable Housing Share</b>
65	La Grange	COOK	15487	5332	499	9.4%
66	Fox River Grove	MCHENRY	4722	1571	149	9.5%
67	Elburn	KANE	5461	1659	161	9.7%
68	New Lenox	WILL	24190	8012	778	9.7%
<p>Note: This (January 7, 2014) update corrects the previously published 2013 Non-Exempt Local Governments list which erroneously included "rental units not paying rent" in the total "year-round units". A correction for Median Household Income for one community was also made (*). No additional local governments were added to this 2013 Non-Exempt Local Governments list. However, change in affordable units and affordable housing shares did occur.</p>						

**Appendix F: 2013 List of AHPAA Non-Exempt Local Governments (Alphabetical)**

Affordable Housing Planning and Appeal Act:  
 2013 Report of Non Exempt Local Governments  
 Alphabetical  
 (determination based on 2011 Annual Community Survey 5-year Estimate)

Count	Place	County	Population	Year-Round Units	Total Affordable Units	Affordable Housing Share
1	Algonquin	MCHENRY	29731	10103	784	7.8%
2	Bannockburn	LAKE	1549	269	18	6.7%
3	Barrington	COOK	10636	3969	327	8.2%
4	Barrington Hills	COOK	3847	1424	9	0.7%
5	Bartlett	DUPAGE	40583	13566	1209	8.9%
6	Bull Valley	MCHENRY	1082	427	22	5.0%
7	Burr Ridge	DUPAGE	10539	3803	82	2.2%
8	Campton Hills	KANE	10920	3358	139	4.1%
9	Cary	MCHENRY	18236	5886	407	6.9%
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27	Johnsburg	MCHENRY	6328	2267	188	8.3%
28	Kenilworth	COOK	2565	785	4	0.5%
29	Kildeer	LAKE	3933	1183	18	1.5%
30	La Grange	COOK	15487	5332	499	9.4%

<b>Count</b>	<b>Place</b>	<b>County</b>	<b>Population</b>	<b>Year-Round Units</b>	<b>Total Affordable Units</b>	<b>Affordable Housing Share</b>
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67	Wilmette	COOK	27010	9432	388	4.1%

<b>Count</b>	<b>Place</b>	<b>County</b>	<b>Population</b>	<b>Year-Round Units</b>	<b>Total Affordable Units</b>	<b>Affordable Housing Share</b>
68	Winnetka	COOK	12155	3919	100	2.5%
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