

FREQUENTLY ASKED QUESTIONS (FAQS)

THE FOLLOWING FAQS RELATE TO NEF-FUNDED HOMEOWNERSHIP UNITS ONLY.

Owner FAQs

Q: Who establishes the maximum initial sale price for an Affordable Unit?

A: The Subsidizing Agency, or the Developer or Lottery Agent, reviewed by the Monitoring Agent and Approved by the Subsidizing Agency.

Q: What are the guidelines regarding Condo fees and special assessments for Affordable Units in mixed income developments?

A: Condo fees are part of the calculation for housing costs for determining the Maximum Sales Price. The Subsidizing Agency reviews the condo fees estimates submitted by the developer applicant and establishes and Maximum Initial Condo Fee which is used for determining the Maximum Sales Price.

Units must conform to the approved Condominium Fees as set under Maximum Sales Price. This may require a lower percentage interest than those assigned to market rate units.

The Subsidizing Agency will review the Schedule of Beneficial Interests in the Master Deed to assure the affordable units have been assigned percentage interests that correspond to the approved Condominium Fees.

Condominium Budgets (including Budget Reserves) must reflect ongoing costs of operating and maintaining extraordinary facilities (such as the cost of wastewater plants, elevators, parking garages, etc.) See “40B Guidelines” VI 6a (1), 6b (1) (2) (a)(b)(c).

Q: What are the guidelines for upgrades to units at initial sales?

A: For any Upgrades at any time after the Comprehensive Permit has been issued and Initial Sales Price has been established follow the guidelines for Capital Improvements. See the “Capital Improvements Policy and Guidance on Procedure” section of the Third-Party Affordability Monitoring Handbook for more information on permitted improvements.

Q: What counts as an improvement (vs. maintenance) that can be added to the resale price?

A: Only approved and qualified Capital Improvements can be added to the resale value. The value is based on the cost and depreciation. See the “Capital Improvements Policy and Guidance on Procedure” section of the Third-Party Affordability Monitoring Handbook for more information.

Q: I would like to finish my basement because my family is growing, and I need the extra space. Can I do this even though it does not qualify as an approved capital improvement and I understand that it will not be factored into my resale price?

A: You may refinish space in your home as long as you are not increasing the footprint of your home. However, the cost of the improvements will be completely absorbed by you and will not be factored into the resale price or the specifications of the home. For example, if your home was purchased as a 2 bedroom unit, it will be marketed and sold as a 2 bedroom unit in accordance with the resale price certificate even if there is a new finished space that can serve as an extra room. Additions to the home that increase the building footprint such as a garage or an addition are not permitted.

Q: Can I get a home improvement loan to cover the cost of major repairs?

A: Refinancing can only occur if the loan meets the requirements of the original financing and benefits the Owner. That said, it is possible to get a home improvement loan; it will depend on the amount of your unpaid principal balance and the terms of the home improvement loan you are seeking (i.e. interest rate, closing costs, term). You will need to work with your Monitoring Agent to determine what is permitted.

Q: Can I pull equity out of my home to pay for my child's education?

A: Taking out equity on your home is a type of refinancing and any refinancing can only occur if the loan meets the requirements of the original financing and benefits the Owner. That said, it is possible to pull out equity; it will depend on the amount of your unpaid principal balance and the terms of the loan you are seeking (i.e. interest rate, closing costs, term). You will need to work with your Monitoring Agent to determine what is permitted.

Q: Can I refinance with an adjustable-rate mortgage? How about a Home Equity Line of Credit (HELOC)?

A: No. Mortgages for both initial sales and refinancing must be fixed interest rate loans. HELOCs do not have fixed interest rates.

Q: I got married after I bought the house. Can I add my husband or wife to the deed?

A: Yes. As long as the spouse lives in the unit as his/her principal residence, s/he may be added to the deed. However, the Owner must contact the assigned Monitoring Agent to confirm the process and transaction cost(s) and prepare documentation as needed.

Q: My spouse is moving out although we're not getting divorced. Can I take her/him off the deed?

A: Yes. The co-signor should be removed from the deed if the unit is no longer her/his primary residence. The assigned Monitoring Agent must be contacted to confirm the process and transaction cost(s) and prepare documentation as needed.

Q: Can I start a home business from my home?

A: As long as you conform to your local zoning ordinance for home business, you are permitted to start a home business in your home.

Q: My grown child moved out my home? Can I rent out a room in my home (roommate situation)?

A: Yes, a roommate situation is permitted as long as you meet HUD or DHCD occupancy requirements for same-sized units as your home and you continue to live in your unit as your primary residence.

Q: Can I do a short-term rental of a room in my home if I am also living there full time?

A: Yes. The same rationale in the above response would apply. However, you would also need to confirm that short-term rentals would not violate your condo/HOA rules and regulations.

Q: Can I add someone to the deed who doesn't live in the property (e.g., Life Estate)

A: No. Non-household members cannot be added to the deed and are also not permitted as co-signers of the mortgage.

Q: Can I sell this home and buy another 40B unit?

A: You can sell at any time. You must meet eligibility requirements and go through the Resident Selection process for buying a new home.

Q: Do I need a broker to resell my unit?

A: No. Your assigned Monitoring Agent would be tasked to sell you unit to an Eligible Buyer. However, you may decide to engage an 3rd party real estate broker if you feel that it would hasten the sale of your unit and you are eager to exit as soon as possible.

Q: What happens when a unit owner dies?

A: A transfer by will or executor or owner of the administrator's estate to the Owner's spouse is permitted and will not trigger a resale or violate transfer restrictions in the Deed Rider provided that (1) The executor or administrator within 90 days of his/her appointment has given the Monitoring Agent notice of the transfer and (2) the Owner's spouse intends to continue to use the unit as a principal residence. Any other person who is heir, legatee, or devisee of the unit owner must demonstrate to the Monitoring Agent that s/he is an Eligible Purchaser, as defined in the Deed Rider, and the unit must be transferred in accordance with the Deed Rider.

Q: Can my children inherit the home if they are otherwise eligible?

A: No. Upon death of the Unit Owner, any heir, legatee, or devisee of the unit owner must demonstrate to the Monitoring Agent that s/he is an Eligible Purchaser, as defined in the Deed Rider, and the unit must be transferred in accordance with the Deed Rider.

Q: Can I transfer the home into a trust?

A: No. Transfer of a 40B home into a trust is not permitted.

Buyer FAQs

Q: Can a family member serve as “the bank” and loan money to an eligible buyer?

A: No. Loan must be from and institutional lender.

Q: Is there an appeals process for the lottery process?

A: The AFHMP for the project may or may not include an appeals process. If no process is available, the Lottery Applicant may contact MassHousing directly for NEF-funded projects. MassHousing is obligated to address the grievance in a manner consistent with 40B guidelines and in accordance with any existing DHCD 40B grievance policy.

Q: Are there asset limits for buyers over 55 in a non-age restricted development?

A: Yes and no. According to the 40B Guidelines, household assets shall not exceed \$275,000 in value, including equity in a dwelling (to be sold) for age-restricted homeownership Projects. However, household assets shall not exceed \$75,000 in value for non-age restricted homeownership units. So, if you are purchasing a home in a non-age restricted development, your asset limit would be the same as all other households regardless of age and the limit would be lower than if you were living in an age-restricted project.

Q: What is the difference between a “LIP” 40B and a MassHousing (NEF) 40B?

A: DHCD is the subsidizing agency for LIP projects. MassHousing is the subsidizing agency for NEF-funded projects. For information on the programs:

NEF: <https://www.masshousing.com/en/programs-outreach/planning-programs>

LIP: <https://www.mass.gov/service-details/local-initiative-program>

Monitoring Agent FAQs

Q: Who will review Affirmative Fair Housing Marketing Plan and Unit Location Plan?

A: The Monitoring Agent will be responsible for the initial review of the Affirmative Fair Housing Marketing Plan and affordable unit location plan. The Monitoring Agent will make a recommendation of approval to MassHousing and MassHousing will issue Final Approval.

Q: Who reviews/prepares the Closing Documents?

A: The Monitoring Agent will be responsible for final review coordination of the closing documents (Deed Rider/Mortgage).

Q: Who prepares the Resale Price Certificate at Initial Sale? At Resale?

A: MassHousing issues the Resale Certificate at the period of Initial Sales. Thereafter the Monitoring Agent issues it.

Q: What does Annual Compliance Reporting entail?

A: Generally, report on an annual basis, as required in Affordability Monitoring Services Agreement. Check the registry for non-compliance and check in with all unit owners on an annual basis. See the “Annual Monitoring and Reporting Policy” section of the Third-Party Affordability Monitoring Handbook for more detail.

Q: We currently implement a 12-month look back for our standard income verification of potential buyers. Some Monitoring Agents use the look forward method. Are we required to use one method versus the other? There are instances where we may use both methods when a look back would not be appropriate?

A: Income verification should conform to what is in the 40B Guidelines. If the information is not provided in the Guidelines, then MassHousing would defer to HUD's method of income verification.

Q: How do we enforce the 40B requirements when the developer has not yet completed their cost certification?

A: The Monitoring Agent should reach out to MassHousing to determine the appropriate enforcement actions before MassHousing issues final approval

Q: Should Monitoring Agents include confirmation that an Applicant has met the local preference criteria to the income certification letter for an initial lottery applicant?

A: The Monitoring Agent should specify in that an Applicant has met the local preference criteria in the income certification letter.

Q: Does Local Preference Apply at time of application or at the time of sale?

A: Local Preference applies at the time of Application.

Q: Do income limits apply at the time of lottery or at the time of sale? Does this apply even when the income limits are projected to decrease?

A: The Monitoring Agent should calculate sales prices based on the AMI at the time of the lottery.

Q: If the Resale Price Multiplier results in an unaffordable price, should the price be lowered?

A: Yes. If the Resale Price Multiplier results in an unaffordable price, the price should be reduced to the Maximum Affordable Sales Price.

Q: The Resale Price Multiplier was originally calculated incorrectly, who is responsible for correcting this mistake and how is it done?

A: We ask that Monitoring Agents draft and record an Amended and Restated Deed Rider recorded with the correct Resale Price Multiplier. MassHousing will reimburse Monitoring Agents for associated recording fees.

Q: How will Projects be awarded under the new Monitoring system?

A: Projects will be awarded to Monitoring Agents based on workload and geographical considerations. MassHousing will ensure units are distributed as equally as possible.

Q: How will the new fee structure work?

A: For initial monitoring services, including AFHMP review and initial sales monitoring, Monitoring Agent will be paid by MassHousing for Services at an initial fee of \$1,200 per affordable unit. MassHousing will adjust this initial fee for annual inflation, at a rate of 2% per year, beginning July 1, 2021.

For ongoing monitoring services, including annual compliance reporting, the collection of annual homeowner certifications, and supplemental monitoring services, Monitoring Agent will be paid an annual fee of \$130 per affordable unit. MassHousing will adjust this initial fee for annual inflation, at a rate of 2% per year, beginning July 1, 2021.

Monitoring agents will also collect resale fees for resale monitoring services, as provided in the Affordable Housing Restriction. Monitoring agents will continue to collect resale transaction fees directly.

Monitoring agents may directly collect nominal fees for supplemental monitoring services, such as requests for refinancing and capital improvements.

The Monitoring Agent will be compensated for its reasonable out-of-pocket expenses relating to any enforcement assistance services.

Q: How will fees be collected from Developers?

A: Fees will be paid to MassHousing by the Developer at Final Approval. The fee for affordability monitoring will be rolled into one fee including the application processing fee, the cost certification fee, and the limited dividend monitoring fee.

Q: Will there be a training on the new system?

A: Yes. Once Monitoring Agents are selected, MassHousing will hold an initial training to discuss expectations, procedures, and new form documents. Regular working group meetings will be held on a bi-monthly basis.

Q: How will Enforcement of the Regulatory Agreement or Deed Restriction be handled?

A: The Monitoring Agent should take all necessary preliminary action to cure non-compliance with the Deed Restriction or Regulatory Agreement, including correspondence and notification of non-compliance. Once all preliminary steps have been taken, the Monitoring Agent should consult with MassHousing on next steps. See “Non-Compliance and Monitoring Agent Role in Enforcement” section of the [Third-Party Affordability Monitoring Handbook for more information.](#)



Q: Is there a procedure we should follow when switching an old deed rider to the UDR? Currently Town and homeowner approval are both needed and the process can sometimes be lengthy.

A: Towns do not need to approve of the switch to the new deed rider, but they should be on notice. A new buyer needs to agree to the terms of the restriction, but this is covered by the process and homebuyer disclosure.