

PUBLIC COMMENTS ON:

2017 Qualified Allocation Draft Plan
Low Income Housing Tax Credit Program
Massachusetts Department of Housing and Community Development

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ORGANIZATIONS IN SUPPORT:

- *American Lung Association, Northeast*
- *Asthma & Allergy Foundation of America, New England Chapter*
- *Beacon Communities LLC*
- *Boston Alliance for Community Health*
- *Boston Children's Hospital*
- *Boston Public Health Commission*
- *Charlestown Coalition*
- *Codman Square Health Center*
- *Codman Square Neighborhood Council*
- *Dorchester Bay EDC*
- *East Boston Neighborhood Health Center*
- *Fenway CDC*
- *Harbor Health Services, Inc.*
- *Health Resources in Action*
- *Healthy Weight Initiative, HSPH*
- *Massachusetts Environmental Health Association*
- *MGH Center for Community Health Improvement*
- *New England Regional Council of the National Association of the Housing and Redevelopment Officials*
- *Peabody Properties, Inc.*
- *Public Health Advocacy Institute, Inc.*
- *Vaughan W. Rees, PhD, Director, Center for Global Tobacco Control, Department of Social and Behavioral Sciences, Harvard T.H. Chan School of Public Health*
- *Resilient Sisterhood Project*
- *South Boston Substance Abuse Prevention Collaborative*
- *South End Community Health Center*
- *Tobacco Free Mass*

We commend the Massachusetts Department of Housing and Community Development for making healthy indoor air quality part of the competitive scoring system in the Draft 2017 Qualified Allocation Plan [“QAP”]. We urge the Department to also respond, through the QAP, to the dangers posed by exposure to secondhand tobacco smoke in the home.

We recommend that the Department amend the QAP to require applicants to establish no-smoking rules and make their buildings smoke-free. Alternatively, we recommend that the QAP award points to applicants who agree to be smoke-free. No one is required to quit smoking in a smoke-free building. They simply need to go outside to smoke so the smoke stays outside, and the air inside remains healthy.

We make this recommendation for the following reasons. First, exposure to secondhand tobacco smoke is a significant threat to the public’s health. Second, much of the multiunit housing stock in Massachusetts already has transitioned to non-smoking, and it is important to ensure that this trend occurs consistently across the housing spectrum from market rate to affordable. Third, the QAP should be consistent with current recommendations for smoke-free housing already made by the Department of Housing and Community Development, HUD, and numerous private stakeholders involved in affordable housing. Lastly, smoke-free housing works. After careful observation and study, we know that smoke-free policies are achievable, work, and greatly benefit those who live and work in affordable housing. These considerations are discussed in greater detail below.

A. Exposure to Secondhand Smoke in the Home is Dangerous

The home is where most people in Massachusetts are exposed to secondhand smoke, according to the United States Surgeon General.¹ Secondhand smoke is a “Class A Carcinogen,” which means there is no safe level of exposure.² The adverse health effects, even when the smoke drifts in from a neighboring apartment, are serious.³

Each year, 7,300 lung cancer deaths among nonsmokers are caused by exposure to secondhand.⁴ Exposure increases the risk of stroke by up to 30% in adults⁵ and causes 34,000 heart disease deaths every year.⁶ Children who are exposed are more likely to experience bronchitis, pneumonia, more frequent and severe asthma attacks, and other respiratory ailments and diminished lung functioning.⁷ Exposure causes SIDS among infants.⁸

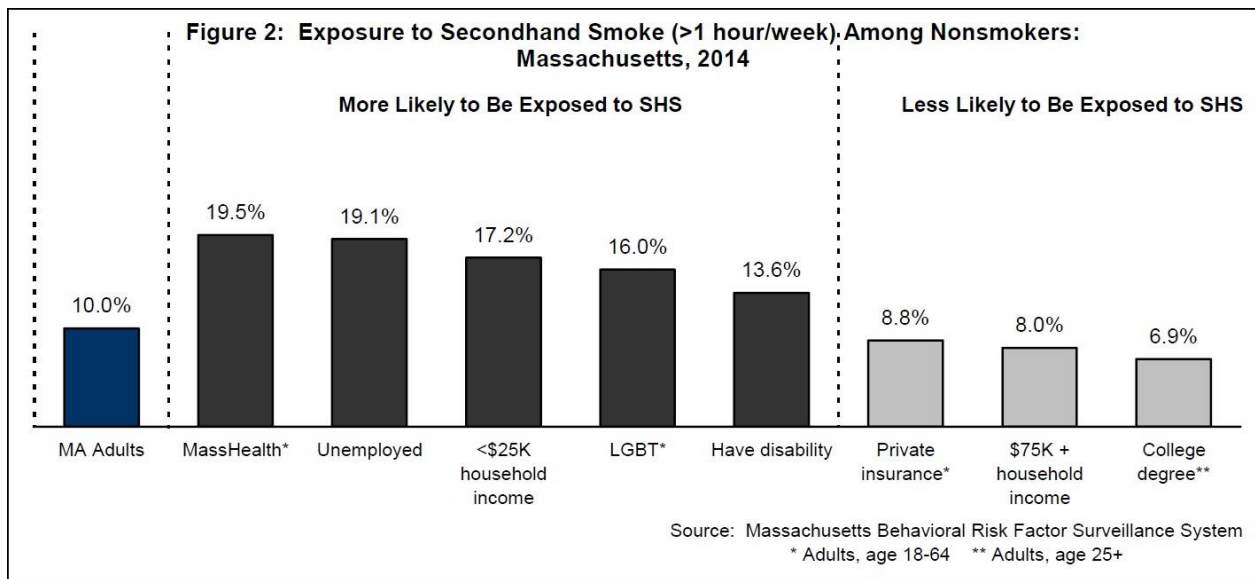
Secondhand tobacco smoke is not contained inside a smoker’s apartment. Instead, the smoke drifts into common area hallways and neighboring apartments. Numerous studies have documented high levels of involuntary exposure in multiunit buildings. For example, a 2009 study conducted in the Boston area looked at 49 low-income homes in multiunit buildings where family members did not smoke and found elevated nicotine levels in 89% of those homes.⁹ A study conducted the following year in Boston found that children living in multiunit dwellings had a 45% increase in metabolized nicotine in their bodies compared to children living in single-family detached dwellings, everything else being equal.¹⁰ The conclusion of

these, and other similar studies, is that secondhand tobacco smoke drifts from unit to unit and is to blame for elevated and unsafe exposure rates.

So, we know that when one resident in a multiunit building smokes it also means the neighboring residents are exposed to that person’s smoke. And, once the smoke infiltrates into neighboring apartments, it remains in the air for hours.¹¹ Smoke-free policies address this problem simply by keeping the smoke out of the building.

B. Exposure Rates to Secondhand Smoke Impact Some Group More than Others.

Data from 2014 indicates that over 1 million individuals (896,000 adults and 148,000 children) in Massachusetts were not protected from secondhand smoke at home.¹² Such exposure disproportionately occurs among residents living in affordable housing. For example, 2.7% to 2.8% of Massachusetts residents with a college education or with annual household incomes of \$75,000 or more are exposed to secondhand smoke in the home.¹³ The rates jump to around 16.8% to 17% for Massachusetts residents who self-report having poor mental health or with annual household incomes of \$25,000 or less.¹⁴ The statistics show that families who are trying to maintain a home free from secondhand tobacco smoke too often cannot when they live in affordable housing. Compare this experience to that of families residing in market-rate households who can more easily afford to move away from the smoke or pay for legal representation to stop the exposure.¹⁵



*Graph from MA Dep’t of Public Health, Tobacco Control Cessation and Prevention Program, Non-Smoking Adults Exposed to Secondhand Smoke (Dec. 2015)

Exposure rates also vary depending on race. During 2011 and 2012, nearly half of Black nonsmokers in the United States were exposed to secondhand compared to just 22% of non-Hispanic White nonsmokers.¹⁶ During that same time period, 2 out of every 5 children ages 3 to

11 in the United States were exposed to secondhand smoke regularly.¹⁷ For Black children, the exposure rates were much higher, 7 out of every 10 Black children.¹⁸

We feel that these alarming statistics should be considered in the distribution of funding for affordable housing so that Massachusetts can do more to ameliorate these health inequities, not prolong or exacerbate them. As such, providing smoke-free housing is a fair housing and an equity issue. HUD's Affirmatively Furthering Fair Housing Rule identifies four areas that affordable housing operators have to assess: patterns of integration and segregation; racially or ethnically concentrated areas of poverty; disparities in access to opportunity; and disproportionate housing needs. We feel the QAP could directly address these inequities by explicitly requiring or, at the very least, incentivizing the adoption of smoke-free rules.

C. The Qualified Allocation Plan Should be Consistent with the Massachusetts Department of Housing and Community Development and the United States Department of Housing and Urban Development's Positions in Support of Smoke-Free Housing

In April 2014, through its Notice 2014-8, the Department of Housing and Community Development took a position in support of smoke-free housing and encouraged all local housing authorities to be smoke-free.¹⁹ The Notice stated that "DHCD recognizes that the impacts of smoking and second-hand smoke are important health issues," and thus, "encourages local housing authorities to develop, adopt and implement a smoke-free housing policy."²⁰

The Notice provides comprehensive guidance on the process for implementing a smoke-free policy. Local Housing Authorities are instructed to engage residents in the process and prohibit smoking in all units, without grandfathering in current residents. Residents and guests who want to smoke are allowed to maintain their residency, but have to go outside away from the building. The Notice also provides a model No Smoking Lease Addendum along with other resources.

The following year in November 2015, HUD followed suit and proposed a rule mandating smoke-free policies for all federally-aided housing authorities. Prior to issuing its proposed rule, HUD had issued a series of notices encouraging federally-aid housing authorities, Section 8 Based Developments and other HUD-funded affordable properties and encouraged them to adopt smoke-free policies.²¹ HUD has provided toolkits and other resources to help landlords and property managers implement smoke-free housing policies.²²

Last month, HUD finalized its proposed rule for federally-aided housing authorities.²³ They are required to be smoke-free as of July 2018.²⁴ All residents who wish to smoke will be required to go outside, not less than 25 feet from the building.²⁵ In finalizing the regulation, Secretary Julián Castro concluded:

HUD's smoke-free rule is a reflection of our commitment to using housing as a platform to create healthy communities. By working collaboratively with public housing agencies, HUD's rule will create healthier homes for all of our families ...²⁶

In addition, numerous for-profit and non-profit buildings have made all or the vast majority of their residential buildings smoke-free. Some examples include United Housing Management, Peabody Properties, Beacon Communities, Cruz Management, and Corcoran Management. Some non-profits that operate affordable housing and that have gone or will be completely smoke free in 2017 include Asian CDC, Allston Brighton, B'nai B'rith Housing, Codman Square NDC, Dorchester Bay EDC, East Boston NOAH, Fenway CDC, Jamaica Plain NDC, Jewish Community for Housing for Elderly, S.A.M.H Corp CDC (12th Baptist Church), South Boston CDC, Viet Aid, Nuestra Comunidad, Inquillinos Boricua en Accion, Madison Park CDC. Cruz management and United Housing Management the 2 largest, black-owned businesses in Massachusetts with over 3,500 units have also gone smoke-free.

These housing providers have embraced smoke-free living as a business decision and a policy that improves the lives of residents. For example, Beacon Communities, which develops and manages affordable housing in 7 states and is based in Boston, transitioned all of its properties across the country in August 2015.²⁷ Beacon Communities prepared its staff and residents, in part, through a video, which is available on YouTube at the URL: <https://www.youtube.com/watch?v=e4CvpTVhAX4>.

Peabody Properties has implemented smoke-free policies at more than 45 properties and is actively transitioning 18 additional properties.²⁸ The Director of Resident Services for Peabody Properties, Lynne Sales, prioritized smoke-free housing because, in her words, "providing healthy environments and promoting wellness is central to our mission" at Peabody Properties.²⁹

The Boston Public Health Commission's smoke-free housing campaign, found here https://www.youtube.com/watch?v=RhEgYoX_SJI also highlights many of the reasons large and small landlords, property management companies and non-profits are making their buildings smoke-free.

It is important to note that while the Department of Housing and Community Development recognizes the importance of smoke-free housing, it has not yet recommended that mixed-financed affordable housing be smoke-free. The Department's Notice 2014-8 only covers public housing. We think a similar position should be taken with respect to all affordable housing developed under the auspices of the Department of Housing and Community Development. The health risk caused by exposure are no different in mixed financed housing compared to public housing, and there no legal reason to draw a distinction. In fact, several states already incentive smoke-free through their QAPs including Arizona, California, Colorado, Maine, Minnesota, Montana, New Hampshire, North Carolina, and Rhode Island.³⁰ We would urge the Department of Housing and Community Development to add Massachusetts to this list of states with healthier affordable housing.

D. Smoke-Free Housing Works for Residents.

Hundreds of affordable multiunit buildings in Massachusetts have gone smoke free, including over 120 local public housing authorities.³¹ Smoke-free housing is popular because it works. Smoke-free rules increase the number of residents who successfully try to quit smoking,³² reduce the frequency of smoking,³³ encourage exercise and socialization,³⁴ reduce disputes among residents,³⁵ reduce turnover costs and lengths of vacancies,³⁶ and of course, reduce exposure to secondhand smoke in the building.³⁷ In addition to these benefits, compliance rates among residents and their guests are very high. Tracey Miner, Director of Asset Management at the Franklin County Regional Housing and Redevelopment said in a May 2015 interview that compliance rates are very high and “her experience is that most residents comply after one warning” where there is a violation.³⁸

Residents support smoke-free rules. Survey and survey conducted in housing authorities in Massachusetts consistently show high levels of support.³⁹ Indeed, many smoke-free policies are often resident-driven and requested, as was the case when the Boston Housing Authority went smoke-free in 2012. Resident leader Meena Carr led efforts at her development, Washington Beech, and then across the BHA portfolio to implement a smoke-free policy.⁴⁰ Her efforts began in response to her grandson’s serious health problems. “Unless you have a child waking up two o’clock in the morning and telling you ‘I cannot breathe; my heart is going like this’ at five years old, you will not understand what I am coming from,” Carr said when asked about her involvement.⁴¹

The process of going smoke-free is relatively easy. The no smoking rule becomes part of residents’ leases through a lease addendum or by including language in the lease. The critical component is resident engagement. Resident surveys and meetings provide opportunities to educate residents on the health and safety reasons for the rule. The residents, in turn, identify issues for the property manager and/or landlord’s consideration, such as where to allow smoking outside. Where the properties open up as non-smoking, the process is even easier.

C. Conclusion

Clean indoor air is an important component of housing. Residents who need affordable housing should not be exposed to secondhand tobacco smoke as a condition of receiving housing. By amending the QAP to either require or incentivize smoke-free housing, Massachusetts can make real gains in providing healthier housing and reducing the unacceptably high rates of death and disease caused by involuntary exposure to secondhand tobacco smoke in the home.

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- ¹ See U.S. Dep't of Health and Human Services, The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of The Surgeon General (2006), http://www.ncbi.nlm.nih.gov/books/NBK44324/pdf/Bookshelf_NBK44324.pdf, [hereinafter "US Surgeon General 2006"].
- ² See U.S. Dep't of Health and Human Services, The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General (2014), <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>, [hereinafter "US Surgeon General 2014"].
- ³ See Young et al, Health, Secondhand Smoke Exposure and Smoking Behavior Impacts of No-Smoking Policies in Public Housing in Colorado, 2014-2015, 13 Preventing Chronic Disease 160008 (2016), https://www.cdc.gov/pcd/issues/2016/16_0008.htm.
- ⁴ See US Surgeon General 2006, *supra* note 1.
- ⁵ See *id.*
- ⁶ See US Surgeon General 2014, *supra* note 2.
- ⁷ See *id.*
- ⁸ See *id.*
- ⁹ See Kraev et al, Indoor Concentrations of Nicotine in Low-Income, Multi-family Housing: Associations with Smoking Behaviors and Housing Characteristics, 18(6) Tobacco Control 338 (2009).
- ¹⁰ Wilson et al., Tobacco-Smoke Exposure in Children Who Live in Multiunit Housing, 127(1) Pediatrics 85 (Jan. 2011).
- ¹¹ See California Environmental Protection Agency, Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant (2005), <http://oehha.ca.gov/air/report/health-effects-exposure-environmental-tobacco-smoke-final-report>.
- ¹² See MA Dep't of Public Health, Tobacco Control Cessation and Prevention Program, Non-Smoking Adults Exposed to Secondhand Smoke (Dec. 2015), <http://www.mass.gov/eohhs/docs/dph/tobacco-control/adults-exposed-to-secondhand-smoke.pdf>.
- ¹³ See *id.*
- ¹⁴ See *id.*
- ¹⁵ See Kline, Smoke Knows No Boundaries: Legal Strategies for Environmental Tobacco Smoke Incursions into the Home within Multi-Unit Residential Dwellings, 9 Tobacco Control 201(2000).
- ¹⁶ See US Centers for Disease Control and Prevention, Secondhand Smoke (Dec. 1, 2016), https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/ (citing CDC, Vital Signs: Disparities in Nonsmokers' Exposure to Secondhand Smoke—United States, 1999–2012, 64(4) Morbidity and Mortality Weekly Report 103-8 (2015)).
- ¹⁷ See *id.*
- ¹⁸ See *id.*
- ¹⁹ See MA Dep't of Housing and Community Development, Public Notice No. 2014-8 (April 2014).
- ²⁰ *Id.*
- ²¹ See, e.g. U.S. Dep't of Housing and Urban Dev., Notice No. PIH-2012-25, Smoke-Free Policies In Public Housing (May 29, 2012), <http://portal.hud.gov/huddoc/pih2012-25.pdf>; U.S. Dep't of Housing and Urban Dev., Notice No. H 2010-21, Optional Smoke-Free Housing Policy Implementation (Sep. 15, 2010), <http://portal.hud.gov/hudportal/documents/huddoc?id=10-21hsgn.pdf>; U.S. Dep't of Housing and Urban Dev., Notice PIH-2009-21, Non-Smoking Policies In Public Housing (July 17, 2009), <http://www.hud.gov/offices/pih/publications/notices/09/pih2009-21.pdf>.
- ²² See e.g. US Dep't of Housing and Urban Development, Smoke Free Housing: A Toolkit for Owners and Manage Agents of Federally Assisted Public and Multi-Family Housing (2014), <https://portal.hud.gov/hudportal/documents/huddoc?id=pdfowners.pdf>.
- ²³ See U.S. Dep't of Housing and Urban Dev., Notice No. 16-184, Press Release, HUD Secretary Castro Announces Public Housing To Be Smoke-Free (Nov. 30, 2016), https://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2016/HUDNo_16-184; see also Docket No. Fed. Reg. 5597-F-03 (Dec. 5, 2016). amendment to 24 CFR Parts 965 and 966, <https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-28986.pdf>.
- ²⁴ *Id.*
- ²⁵ *Id.*
- ²⁶ *Id.*

²⁷ See <https://www.beaconcommunitiesllc.com>.

²⁸ See Local Initiatives Support Corporation Boston, Green Retrofit Initiative, Spotlight on Smoke-Free Housing, (2016), http://www.bostonlisc.org/files/LISC_Boston_SpotlightOnSmokeFreeHousing.pdf.

²⁹ Id.

³⁰ See Public Health Law Center, Using the Low Income Housing Tax Credit Program to Promote Smoke-free Housing Policies Webinar (April 9, 2015), <http://publichealthlawcenter.org/sites/default/files/tclc-slides-lowincome-housing-tax-credit-2015.pdf>; Colorado Housing and Finance Authority, Draft 2017 Qualified Allocation Plan, https://www.chfainfo.com/arh/lihtc/LIHC_Documents/2017_QAP_2ndDraft.pdf; Maine State Housing Authority, 2010-2011 Qualified Allocation Plan (Feb. 23, 2010); State of New Hampshire, 2010 Qualified Allocation Plan for the Low-Income Housing Tax Credit (Oct. 22, 2009); ChangeLab Solutions, A Primer on Qualified Allocation Plans (2015), <http://kresge.org/sites/default/files/Primer-Public-Health-Affordable-Housing2015.pdf>; Rhode Island Housing, 2016 Qualified Allocation Plan, (2016), http://www.rhodeislandhousing.org/filelibrary/2016%20QAP_draft%20FINAL.pdf; Montana Board of Housing, 2017 Qualified Allocation Plan, <http://housing.mt.gov/Portals/93/shared/docs/MultifamilyDevelopment/QAP/2017QAP.pdf>

³¹ See MA Dep't of Public Health, Tobacco Control Cessation and Prevention Program, How to Go Smoke-Free: A Toolkit for Multi-Unit Housing, Step One, Getting Started, List of Smoke-Free Municipal Housing Authorities (Dec. 2016), <http://makesmokinghistory.org/smoke-free-environments/smoke-free-housing/how-to-go-smoke-free-a-toolkit-for-multi-unit-housing>.

³² See Pizacani, et al., Implementation of a Smoke-Free Policy in Multiunit Housing: Effects on Smoking Cessation and Secondhand Smoke Exposure, 14(9) *Nicotine and Tobacco Research* 1027 (Feb 2012).

³³ See id.

³⁴ See Mel King Institute, Smoke-Free Housing Training, (Oct 8, 2015), <https://melkinginstitute.org/sites/default/files/content-files/Smoke-Free%20Housing%20Training%20Presentation.pdf>.

³⁵ See Public Health Advocacy Institute, Inc., Market Demand for Smoke-Free Rules in Multi-Unit Residential Properties & Landlords' Experiences With Smoke-Free Rules (April 2009), <http://www.phaionline.org/wp-content/uploads/2009/04/phaihousingurvey.pdf>.

³⁶ See id.

³⁷ Kingsbury, et al., Clearing the Air: Smoke-Free Housing Policies, Smoking and Secondhand Smoke Exposure Affordable Housing Residents in Minnesota, 2014-2015, 13 *Preventing Chronic Disease* 160195 (2016), https://www.cdc.gov/pcd/issues/2016/16_0195.htm.

³⁸ Alexa Mills, et al, Instituting a Smoke-Free Policy in Public Housing: A Case Study of the Lowell Public Housing Authority Lowell, Massachusetts, Public Health Advocacy Institute, Boston (Oct. 2015)

³⁹ Id.

⁴⁰ See <http://www.bphc.org/whatwedo/tobacco-free-living/smoke-free-homes/Documents/BHApushesforsmoke-freehousing.pdf>

⁴¹ Id.