

FRAMINGHAM HOUSING AUTHORITY

CODE OF CONDUCT POLICY

It shall be the policy of the Framingham Housing Authority that all members of the organization shall act in a manner consistent with the code of conduct regulations of the U.S. Dept. of Housing and Urban Development and the Commonwealth of Massachusetts, Dept. of Housing and Community Development. Among other requirements, this shall include the requirements of the HUD Annual Contributions Contract, the Hatch Act (Title 5, US Code), the HUD Public Housing Authority Ethics Manual, Mass. GL Chap. 268A, DHCD Code of Conduct Regulations and the Framingham Housing Authority (FHA) Personnel Policy. These laws and rules can be complicated and it is the responsibility of the individual to seek advice from the Authority on any issue that may arise that may appear to be in conflict with this policy. The following conduct is applicable.

1) Standards in M.G.L. c. 268A

(a) Applicability to FHA. M.G.L. c. 268A specifies standards of conduct for all Massachusetts public officials and employees. Board members, employees, and professional consultants employed by FHAs are considered to be public officials or employees subject to these standards.

(b) Prohibitions. M.G.L. c. 268A prohibits improper conduct by public officials and employees. The statute also prohibits conduct which appears to be improper. A FHA board member or employee cannot have a financial interest in contracts with the FHA. A FHA board member or employee cannot accept gifts to influence a decision, and he or she cannot accept compensation, other than that paid by the FHA, in connection with any matter in which the FHA has an interest. The statute contains other standards of conduct that apply to board members and employees. When questions arise as to whether certain conduct may be improper under the statute, the affected person should consult the State Ethics Commission.

(2) Specific Standards Affecting Board Members and Employees. The following specific restrictions shall apply to FHA board members and employees:

(a) Ineligibility of Certain officials to be State-Appointed Board Members. An elected or appointed official of a state, county or municipal government, other than a town meeting member, who is in a policy making position as determined by the Department, shall

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not be eligible for appointment as the state-appointed board member of an FHA. This restriction shall not prohibit reappointment of a currently serving state-appointed board member.

(b) Ineligibility of FHA Board Members for Employment. An FHA board member shall not be eligible for any paid position, including temporary or contract work, with the FHA during his or her service as a board member or for a period of one year following the end of such service.

(c) Ineligibility of Certain FHA Employees for Employment as Clerk of the Works. A FHA executive director, assistant executive director, or director of maintenance or modernization shall not be eligible to serve as clerk of the works on any development or modernization project of the FHA for a period of one year following termination of his or her employment with the FHA.

(d) Ineligibility of Family Members for Employment. No member of the immediate family of a FHA board member or of an administrative or supervisory employee shall be eligible for employment in any capacity at the FHA without the prior written approval of the Department. The Department may in its discretion approve employment of such immediate family member provided that there has been compliance with all pertinent hiring standards and procedures, the individual is qualified for the position, and the appointment has not been influenced by any consideration other than merit.

(e) Restrictions on Supervision by Family Members. No FHA employee shall hold a position in which he or she directly or indirectly would supervise a member of his or her immediate family.

(f) Restrictions on Purchases of Goods or Services. No FHA shall contract with or purchase goods or services from an FHA board member, employee, or member of the immediate family of such board member or employee, or from any closely held entity in which an FHA board member, an employee, or a member of the immediate family of such board member or employee holds any capital stock or has any beneficial interest.

(g) Admission or Transfer of an FHA Board Member, Employee, or Family Member as a Tenant. Whenever any FHA board member, any administrative or supervisory employee or any

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() member of the immediate family of such a board member or employee seeks admission as a tenant or seeks admission as a participant in a program administered by the FHA or seeks a transfer to a different unit, all necessary information shall be forwarded to the Department, which shall make the decision on the requested admission or transfer in accordance with applicable procedures.

(h) Restrictions on Rental Assistance to FHA Board Members, Employees, and Family Members. No rental assistance shall be paid for any unit owned in whole or in part by an FHA board member, executive director, rental assistance director, any other employee of an FHA (if such person is an employee in the same municipality as the unit), or a member of any such person's immediate family under any state-funded rental assistance program without the prior written opinion of the State Ethics Commission that such payment would not be improper. The FHA shall forward a copy of the opinion to the Department.

(i) Prevention of Personal Use of FHA Property. No FHA board member or employee shall make personal use of or permit any other person to make personal use of any property belonging to the FHA. The property belonging to the FHA shall be used in furtherance of the FHA's purposes. This provision shall not be construed to limit the FHA from allowing LTOs, non-profit neighborhood or community groups, or public service organizations to use the property of the FHA for proper purposes benefiting the FHA or its tenants.

(j) Restrictions on Gifts or Compensation. No FHA board member or employee or any member of his or her immediate family (whether on his or her own behalf or on behalf of another person or entity) shall request, solicit, receive, or accept any cash, gift or compensation in any amount from any FHA tenant or any person or other entity who or which does or may reasonably be expected to do business with the FHA. No FHA employee may receive compensation (other than from the FHA) for goods or services provided to a tenant whether or not such goods or services are provided during working hours or on FHA property.

(k) Restrictions on Political Activity. In addition to any restrictions on political activity imposed by federal law, no FHA board member or employee shall solicit or receive campaign contributions, or conduct political activities during work hours, on FHA property or by use of FHA resources, or shall

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improperly use his or her official position to coerce or influence others in political campaigns.

(l) Preferential Treatment on Account of Board Membership. No family member, friend, business associate, employer, or potential employer or any like person shall be given any preferential treatment by the FHA because of his or her relationship with the board member. A tenant, who is a board member, shall receive no preferential treatment in housing or services because of his or her board membership.

(m) Limitations on a Board Member Who is an Officer of an LTO. A board member who is an officer in a local tenants' organization (LTO) (or other local tenants' association) shall not act on behalf of the LTO (or other tenants' association) before the FHA. An officer of an LTO (or tenants' association) who is a board member shall not contact the FHA or appear at any FHA meeting on behalf of the LTO (or other such association), and he or she shall not participate as a board member in any matter directly involving the LTO (or other tenants' association) in which he or she is an officer. No LTO (or other tenants' association) shall be given preferential treatment because an officer of the organization is a board member or a member of the family of a board member.

(3) Waiver of Restriction for Good Cause. The Department may in its discretion waive one or more of the restrictions in 760 CMR 4.04 (2) in a particular situation where there is a good cause for the waiver and the conduct is not otherwise prohibited.

(4) Tenant Board Members. The following restrictions shall apply to tenants who are board members of an FHA:

(a) Laws Restricting Certain Actions. In recognition of the value of a tenant on the board of an FHA, M.G.L. c. 121B §5 requires that one of the four locally appointed board members in a city must be a tenant in the FHA's housing. The only restriction imposed by the Legislature in M.G.L. c. 121B on participation by a tenant board member in the FHA's business is that he or she may not participate in any decision which affects his or her "personal interest".

The board members of an FHA are considered special municipal employees. The Commonwealth's Ethics Law, in M.G.L. c. 268A §19 prohibits a special municipal employee from participating in his or her job capacity in any matter in which the

employee (or a family member, a business in which he or she holds an office or is employed, or a potential employer with which he or she is negotiating) has a "financial interest".

Thus, a tenant board member under the Ethics Law must avoid participating in decisions which affect his or her "financial interest" (the Ethics Commission requires such an interest either to be "direct" or "reasonably foreseeable") and under c. 121B must avoid participating in decisions which affect his "personal interest". These two statutory requirements should be construed in harmony with each other in determining whether a tenant board member may participate in making a decision. The Ethics Law should not be read to prevent full and effective participation of a tenant member on an FHA board so long as he or she does not use his or her position to derive some direct personal benefit, financial or otherwise, to the board member (or to a family member or to a business or potential employer described above).

(b) Determination of When Not to Participate. The determination (whether a decision would have a direct or other reasonably foreseeable effect on a personal interest) is one which the tenant board member must make initially. He or she should look to see whether the decision would result in some actual benefit to himself or herself (or a family member or a business or potential employer described above). A benefit is something of more than minimal value which the board member (or family member or business or potential employer described above) might receive depending on the board's vote. In the event that a vote could result in such a benefit to the board member (or family member or business or potential employer described above), he or she should not participate in making the decision, unless the matter is one of general application to all tenants in a housing program.

The question, whether a decision could be considered to have such a direct benefit, may be difficult for a board member to make under certain circumstances. In such a case the member should request advice from the Ethics Commission, which has established procedures for giving both formal and informal advice.

(c) Examples of When a Tenant Board Member May or May Not Participate. A tenant board member shall not participate in discussions or votes regarding any matters which will affect his or her tenancy or housing unit exclusively, or which will benefit a number of tenancies or housing units, including the tenant member's unit, but exclude other similar tenancies or housing

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units. For example, a tenant member may not participate in a discussion or vote to provide new appliances to a number of selected units, including the member's own unit and excluding other units which also need new appliances. A tenant member may participate in a discussion or vote on policy matters if they will apply to all tenants in the same housing program equally, such as lease provisions, rules and procedures, but should not participate in a discussion or vote on policy matters which will confer a benefit on himself or herself (or a family member or to a business or potential employer described above) to the exclusion of other potentially eligible tenants.

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