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LIHTC 101: THE BASICS OF AFFORDABLE RENTAL HOUSING FINANCE AND DEVELOPMENT

August 27, 2024 | 10:15 AM

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FLORIDA HOUSING COALITION
37TH ANNUAL
STATEWIDE AFFORDABLE HOUSING CONFERENCE

Florida Housing Coalition

LIHTC 101: The Basics of Affordable Rental Housing Finance and Development

August 27, 2024

Presented by

David Leon, Partner

NELSON MULLINS

1986 – Tax Code Reform Act

- ✓ Section 42 created the Low-Income Housing Tax Credit (LIHTC) to provide incentives to the private sector to invest in affordable housing.
- ✓ Credit is a dollar-for-dollar reduction in tax.
- ✓ Credit is based on the Cost of Construction or Rehabilitation
- ✓ The Tax Credit program is 36 years old and is the oldest (longest lived) supply side housing program. More than 3.6 million units have been built under this program.

What is a Housing Tax Credit?

- Source of Equity: Housing Tax Credits are sold to investors who use the tax credit to reduce tax liability $ for $. This infusion of cash into the project reduces the need for a large mortgage and is used to pay a large portion of the development costs.
- Regulated by IRS.
- Administered by a State Agency. In Florida, the program is administered by the Florida Housing Finance Corporation (FHFC).
- What is a QAP?

QAP

Qualified Allocation Plan – each state is required to adopt a QAP which provides guidelines for their Housing Credit Programs on how the state will allocate its tax credits

The QAP outlines the policy objectives and application processes. It has three elements: 1) Set-asides, 2) Threshold Requirements, and 3) Preferences (Scoring)

State housing agencies monitor compliance with IRC Section 42 during the 15 year compliance period with notice to the IRS (IR forms 1065, 8586, 8609 and Form 8609m Schedule A must be filed annually)

Two Types of Tax Credits

- 9% Credit
  - Also known as the 70% present value credit (present value of the credit = to 70% of the cost of the low-income units)
  - In Florida, these credits are awarded annually on a competitive basis.
  - Amount of annual credit equals approximately 9% of the qualified basis
  - Rate has been fixed since 2013

- 4% Credit
  - Also known as the 30% present value credit
  - Available w/tax exempt bonds through the State’s Volume Cap Allocation.
  - Amount of annual credit equals approximately 4% of qualified basis
  - Rate was fixed at end of 2020

Increases in the Credit for High Cost Areas

- Eligible basis and the credit is increased for projects located in high cost areas
- Eligible basis of a new building (including rehab expenditures in the case where such expenditures are treated as a new building) located in a QCT or DDA shall be 130% of such eligible basis
- QCT – any census tract designated by HUD in which 50% or more of the households have incomes of less than 60% of AMI
- DDA is defined as any area which has high construction, land or utility costs relative to AMI
- Potential to generate MORE credits

Eligible Basis

- Eligible Basis = adjusted basis of building at end of 1st year credit period
- Includes common areas
- 30% Boost in QCTs or DDAs
  - Projects located in HUD-designated Qualified Census Tracts or Difficult to Develop Areas receive a 30% increase on eligible basis.

Eligible Basis, cont.

➢ Costs that **ARE** included:

- ✓ Building acquisition
- ✓ Engineering and architecture
- ✓ Appraisals
- ✓ Construction costs
- ✓ Furniture, Fixtures & Equipment
- ✓ Impact fees/permits
- ✓ Inspections
- ✓ Depreciable land improvement
- ✓ Developer fee
- ✓ Interest during production

Eligible Basis, cont.

- Costs that **ARE NOT** included:

  - ✓ Land
  - ✓ Permanent loan fees
  - ✓ Marketing and lease-up costs
  - ✓ Tax credit fees
  - ✓ Reserves
  - ✓ Syndication fees
  - ✓ Commercial or income-producing space

Eligible Basis, cont.

- Costs that **MIGHT BE** included:

  - ✓ Tenant relocation
  - ✓ Accounting
  - ✓ Legal
  - ✓ Acquisition Interest
  - ✓ Construction loan fees
  - ✓ Real estate taxes
  - ✓ Environmental

What is the 9% Credit?

- Each State receives a per capita allocation, adjusted annually. In 2022, the amount is $2.60 per capita.
- 10 Year Credit (longer compliance period – what is it??)
- Available for non-tax exempt financed new construction or substantial rehabilitation
- If doing substantial rehab, do building acquisition costs qualify for a 9% credit?
- To receive acquisition credits existing buildings must be substantially rehabbed (there are substantial rehab requirements) and buildings must not have been placed in service under LIHTC program in the ten year period prior to acquisition (there are exceptions! Section 8, 221(d)(3), 221(d)(4) or 236….), and building purchased from unrelated Seller

What is the 4% Credit?

- 4% Credit is used in tandem w/Private Activity Bonds.
- Available for acquisition of existing low-income housing which is substantially rehabbed (regardless of tax exempt financing) and for tax exempt financed new construction and rehab
- States have a Volume Cap.
  - Eligible Uses are many – from sewage plants to student loans to affordable housing
- When used with Private Activity Bonds, the 4% Credit is a 10 year Credit.
- Section 42 provides an "automatic" 4% tax credit if 50% or more of the project's eligible costs are financed with private activity bonds.
- Issuers of Bonds can be Housing Finance Agencies, Housing Authorities, Public Facility Corporations, state housing credit agencies like (FHFC), but only FHFC can award the 4% tax credits
- No FHFC scoring applies to 4% Tax Credits, but must meet Threshold Requirements of the QAP, including notifications, design, amenities, etc.

What’s a Volume Cap Allocation?

- Volume Cap refers to the maximum amount of tax-exempt private activity bonds that can be issued annually in each state (“state ceiling”)
- Annually each state receives an allocation of Volume Cap that is referred to as the “state ceiling” based on an IRS Inflation Adjustment and IRS Calendar Year Resident Population Estimates
- Private Activity Bonds are tax-exempt bonds that can be used to finance certain types of facilities and projects as enumerated in the Code
- Are 501(c)(3) bonds subject to the State Ceiling?

Affordability Requirements

- 40% or more of the units must be occupied by residents earning at or below 60% Area Median Income (AMI), or
- 20% or more of the units must be occupied by residents earning at or below 50% AMI
- Or income average test where owners can serve up to 80% AMI as long as average income limit remains where 40% of the units at an average of 60% or less AMI
- Rents must be equal to 30% of the qualifying income level (so 30% of 60% of AMI)
- Must keep project affordable for at least 30 years (some states may require longer).
- Credits are only awarded on the units that meet the long-term affordability test. Although Market Rate units are allowed, no tax credits are available for these units.

Who Determines Area Median Income

- Annually by HUD
- Calculated for each Metro Statistical Area (MSA) in the country as well as for each County not in an MSA
- LIHTC program uses AMI to determine both maximum household income limits and rents
- A residential rental unit is rent restricted if the “gross rent” does not exceed 30% of the imputed income limitation applicable to such unit
- What does gross rent include?

Important Distinction

- The 60% average area median income is not based on the individual's income level, it is based on the developer's designated unit income limits
- For example a family with income at 68% of AMI can move into a unit designated as a 70% or 80% unit since their income is less than the designated threshold
- However the number utilized in the income averaging test is the designation of the Unit (70% or 80% in this example) not the family income of 68%

The 10% Test – What is it?

- A 10% Test supports **Basis Incurred** in a project. Basis incurred must be at least 10% of the **Reasonably Expected Basis** of the project on a specific date.
  - ✓ **Basis Incurred:** Total costs incurred to date which represents a project's depreciable basis plus land.
  - ✓ **Reasonably Expected Basis:** A project's depreciable basis plus land costs. This amount is generally stipulated by the Owner as part of the Carryover Allocation.

** Note: 10% tests are only for 9% competitive credits*

The 10% Calculation

10% ≥

Basis Incurred (land + depreciable basis)

Reasonably Expected Basis
(total expected land + depreciable basis)

Specific Tests for Tax Exempt Bonds – 50% Test

- The 50% Test is calculated by dividing the Bond Proceeds by the Aggregate Basis of the Project. For these purposes:

  - ✓ Bond Proceeds: Include only the amount of bonds used to finance the acquisition, hard construction and soft costs of the project. Generally this will equal the mortgage amount. Bond Proceeds include interest earned on the bonds or bond reserve funds.

  - ✓ Aggregate Basis: Includes the project's depreciable basis and land costs.

Meeting the 50% Test

- If the project meets the 50% Test, the project may claim 100% of the 4% credits on the total amount of eligible basis.

EXAMPLE

Volume Cap Bonds	$10,000,000
Aggregate Basis	$19,900,000
50% Test Ratio	50.2513%
Land in Aggregate Basis	$2,000,000
Eligible Basis	$17,900,000
Eligible Under 50% Test	100.0000%
Final Eligible Basis	$17,900,000

What Happens if the 50% Test Fails?

- If the project does not meet the 50% Test, the project is limited to 4% credits on the amount of eligible basis times the final ratio. **This has a severe impact on the available credits!**

EXAMPLE

Aggregate Basis	$20,100,000
50% Test Ratio	49.7512%
Land in Aggregate Basis	$2,000,000
Eligible Basis	$18,100,000
Eligible Under 50% Test	49.7512%
Final Eligible Basis	$9,004,975

Other Bond Rules

➢ The project must meet the **95/5 Test**. This test is often called the "good cost / bad cost" test and is typically performed by an independent accountant. For these purposes, some examples are:

- ✓ Good Costs: Building and land, common space, resident recreation and parking facilities related to the rental residential units.

- ✓ Bad Costs: Commercial space, financing fees, bond issuance costs.

Ownership Structure

- The housing development is owned by a limited partnership (LP) or limited liability company (LLC).

- Must be a pass-through for federal income tax purposes. WHY?

HOUSING DEVELOPMENT

Owner Entity, LP

or

Owner Entity, LLC

General Partner (for LP)

Manager or Developing Member (for LLC)

.01%

Investor Limited Partner (for LP)

Investor Member (for LLC)

99.99%*

*An affiliate of the investor will often act as a special limited partner/ member for administrative oversight and protection of the investor's rights.

Ownership Structure: General Partner/Managing Member/Manager/Developing Member/Administrative Member

- In an LP, the *general partner* is the controlling party and is responsible for the construction and operation of the housing development.
- In an LLC, the *manager/developing member* is the functional equivalent of the general partner.
- General Partner/Manager is often structured as an LLC (but can have another form, such as a corporation, etc.)
- The general partner or Manager is typically an affiliate of the developer/guarantor.
- Compensation is usually structured as fees and distributions paid from cash flow.

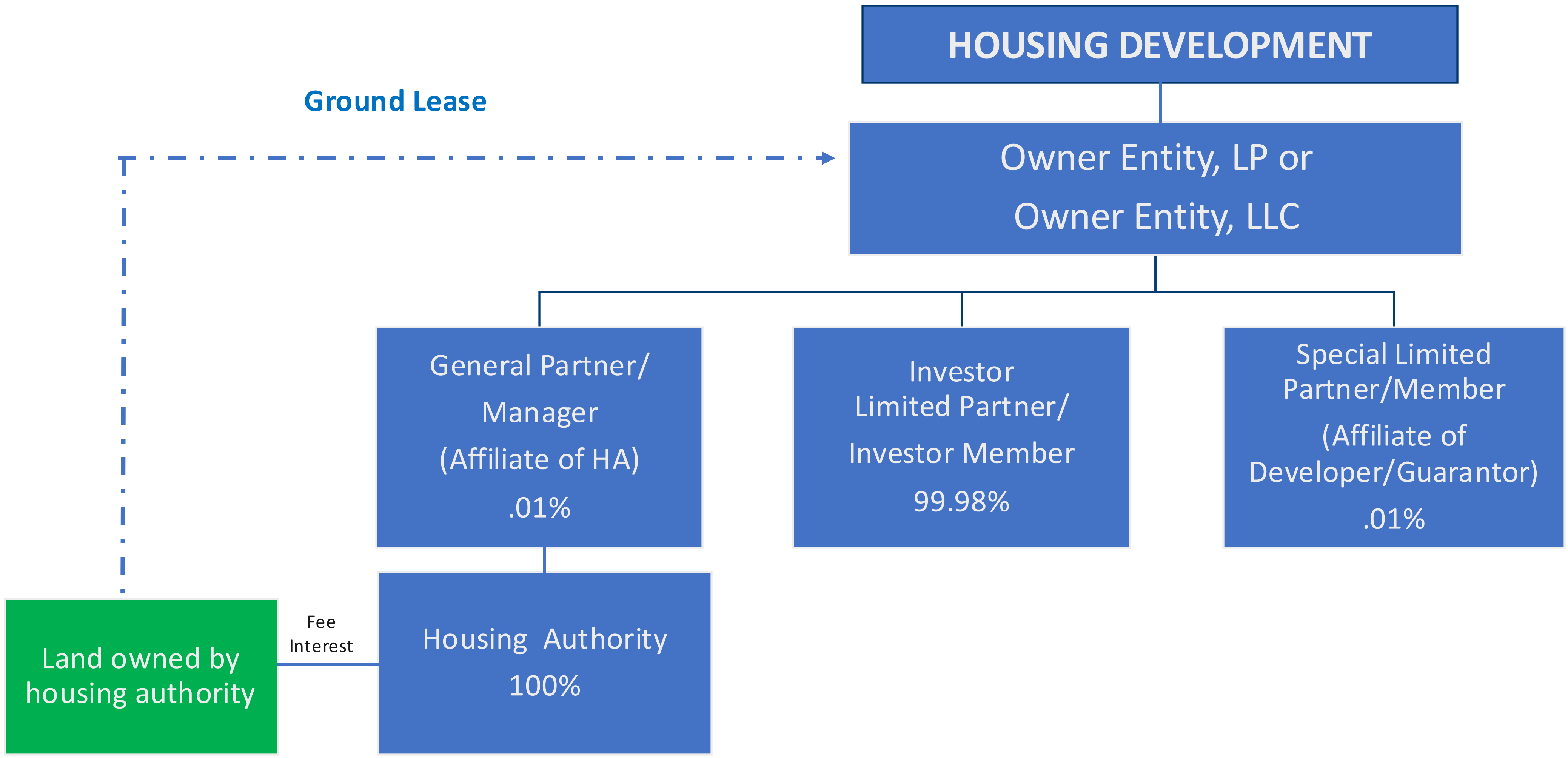
Ownership Structure: Investor Limited Partner/Investor Member

- Investor limited partner in an LP; investor member in an LLC.
- Purchases the tax credits by making capital contributions to the Owner.
- Has consent rights over major decisions in order to protect its investment.
- Typically receives an asset management fee as compensation for its oversight activities.

Ownership Structure – Ground Lease

- Used in transactions with housing authorities or nonprofits, sometimes in order to obtain a property tax exemption depending on state statute requirements for property tax exemption.
- Same LP or LLC ownership structure, with key differences:
  - The housing authority or nonprofit has legal title to the land and ground leases it to the LP/LLC owner
  - LP/LLC owner develops, owns, and operates the project.

Ownership Structure – Ground Lease, cont.



Speaking of Property Tax Exemption…

- What are the ways a project can qualify for property tax exemption in Florida?

Developer

- Responsible for coordinating all aspects of a tax credit deal from inception through stabilized operations.
- Receives a developer fee (typically limited to 18% of eligible basis).
- Often an affiliate of the general partner/manager (but not always).
- Also responsible for guaranties, either directly or through affiliates.
- Multiple developers can be structured as co-developers or through a fee sharing arrangement.

Speaker Bio

- David Leon, CPA, Esq. is the leader of the Nelson Mullins Affordable Housing Industry Group. David has spent over 27 years representing developers of tax credit and affordable housing properties across the nation, working on every aspect of the transaction. From tax-exempt bonds to LIHTC credits, using financing from HUD, GSE lenders, VA/Military, USDA, CDBG funds, TIF funds, while blending in historic tax credits, energy credits, new market tax credits, opportunity zones, and twinning transactions, etc., David has a deep depth of experience in the industry. David and his team close over a billion dollars a year in LIHTC and Exempt Bond transactions, and enjoy helping clients create safe, decent, affordable homes for families, seniors, and veterans who otherwise may not be able to afford a place to live.

Multifamily Affordable Housing Development - Perspectives on Tax-Exempt Bond Financing

Topics to be covered include:

- Policies, Procedures and Process
- Tax Exempt Bond Financing & Subsidies
- 4% Low Income Housing Tax Credit

Policies

Source of Policies and Restrictions

- Federal
  - Tax-exempt bonds
  - Tax credits
- Florida Statutes, Chapter 159, Part IV
- Authority Policies

Authority Policies

Architectural Design and Review

Income Targeting

- Type of restrictions
- Time period for restrictions

Required Financial Guaranties

- Environmental Indemnity
- Guaranty of Completion
- Guaranty of Recourse Obligations
- Guaranty of Operating Deficits

Authority Procedures and Process

Pre-Application	Financing Sources	Application
• Discuss development with HFA and other partners	• Site Control • Identify funding sources	• Submit applications to HFA and other partners

Authority Procedures and Process

Governmental Approvals

- HFA
  - Inducement
  - TEFRA
  - Financing Approval
  - Authorizing Resolution
- BOCC
  - Approval of TEFRA Findings

Financial Review

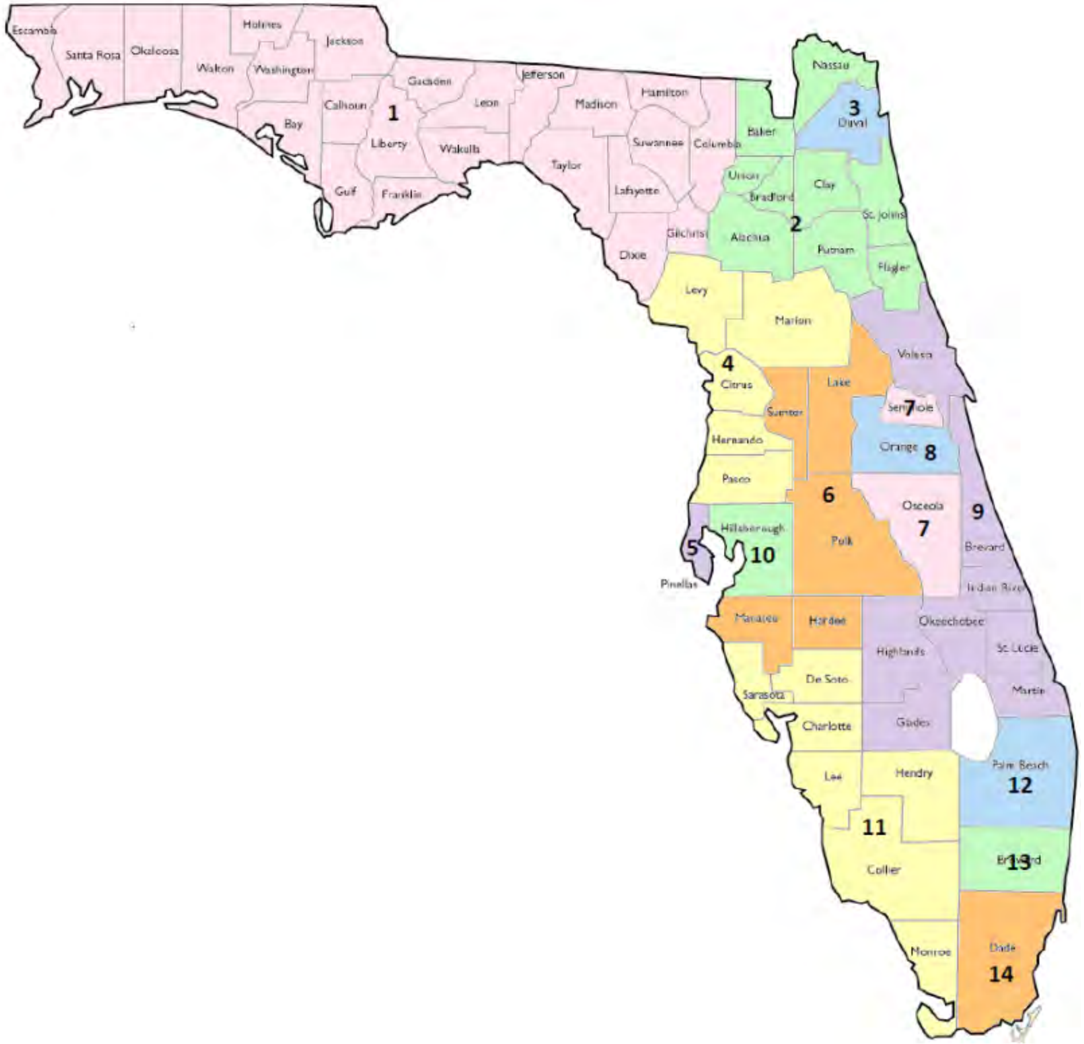
- Lender Credit Review
- Authority Credit Underwriting

Legal Documentation

- Lender Documents
- Authority Documents

Private Activity Bond Allocation

- Private activity bonds are required to obtain an allocation from the Florida Division of Bond Finance ("Division").
- The total amount of private activity bond allocation in each calendar year is limited to $75 per capita (indexed for inflation).
- Affordable Housing Allocation Pools: 50% of volume cap
  - Per capita distribution among 14 single and multi-county regions on Jan. 1
  - Unused volume cap in regions available statewide on June 1
- State Allocation Pool: Receives all unused volume cap on Oct. 1
- Carryforward Allocation Pool: Receives all unused volume cap on Dec. 1


Escambia
Santa Rosa
Okaloosa
Walton
Holmes
Washington
Jackson
Bay
Calhoun
1
Gadsden
Liberty
Gulf
Franklin
Leon
Wakulla
Jefferson
Madison
Taylor
Hamilton
Suwannee
Lafayette
Columbia
Baker
Nassau
3
Duval
Union
Bradford
Clay
St. Johns
2
Alachua
Gilchrist
Dixie
Putnam
Flagler
Levy
Marion
Volusia
4
Citrus
Lake
Sumter
Seminole
7
Hernando
Orange
8
Pasco
6
Osceola
7
9
Hillsborough
Polk
5
10
Brevard
Pinellas
Indian River
Manatee
Hardee
Okeechobee
Highlands
St. Lucie
De Soto
Sarasota
Martin
Charlotte
Glades
Palm Beach
12
Lee
Hendry
11
Broward
13
Collier
Dade
14
Monroe

Rental Housing Programs that may accompany Tax-Exempt Bonds

- Low Income Housing Tax Credits (4%)
- Subsidy Programs:
  - SAIL
  - HOME
  - SHIP
  - NHTF
  - Property Tax Exemption
  - NSP
  - HFA Funds
  - Other local, state or federal subsidy programs
- Project Based Section 8 and Public Housing

Case Study – Skyway Lofts II Apartments

- Local subsidies:
  - City of St. Petersburg
    - Total amount $6,500,000; $4,335,535 during construction
  - Pinellas County
    - Total amount $3,400,000; $2,000,000 for land acquisition (land trust) and $1,400,000 during construction
  - Florida Housing Finance Corporation
    - SAIL Loan - $750,000
    - NHTF Loan - $1,375,000

Case Study – Skyway Lofts II Apartments

Source	Lender	Construction	Permanent
Local HFA Bonds	Pinellas HFA	$13,750,000	$0
Mortgage Lender	Raymond James Bank	$0	$2,100,000
FHFC – SAIL	FHFC	$750,000	$750,000
FHFC – NHTF	FHFC	$1,375,000	$1,375,000
Local Gov't Subsidy	City of St. Petersburg	$4,335,535	$6,500,000
Local Gov't Subsidy	Pinellas County	$1,400,000	$1,400,000
HC Equity	RJAHI	$1,673,919	$11,159,454
Deferred Dev. Fee	Blue SWL2 Developer	$1,531,056	$1,531,056
TOTAL		$24,815,510	$24,815,510

Considerations for Policy Makers in Addressing Low Income Housing

- Quantity vs Quality – Should we strive to improve existing units or focus on adding additional units?
- Mixed Income Communities vs fully affordable communities (mixed income communities provide less units and require more subsidy)
- Consider Income level of population being served (i.e. 60% AMI vs 50% AMI, 40% AMI, 30% AMI)
- Consider Demographics – i.e. Elderly vs Family
- Consider Geographic Targeting Elements

AFFORDABLE HOUSING FINANCE & DEVELOPMENT

Florida Housing Coalition

August 27, 2024 | Mitch Rosenstein, Principal of Green Mills Group

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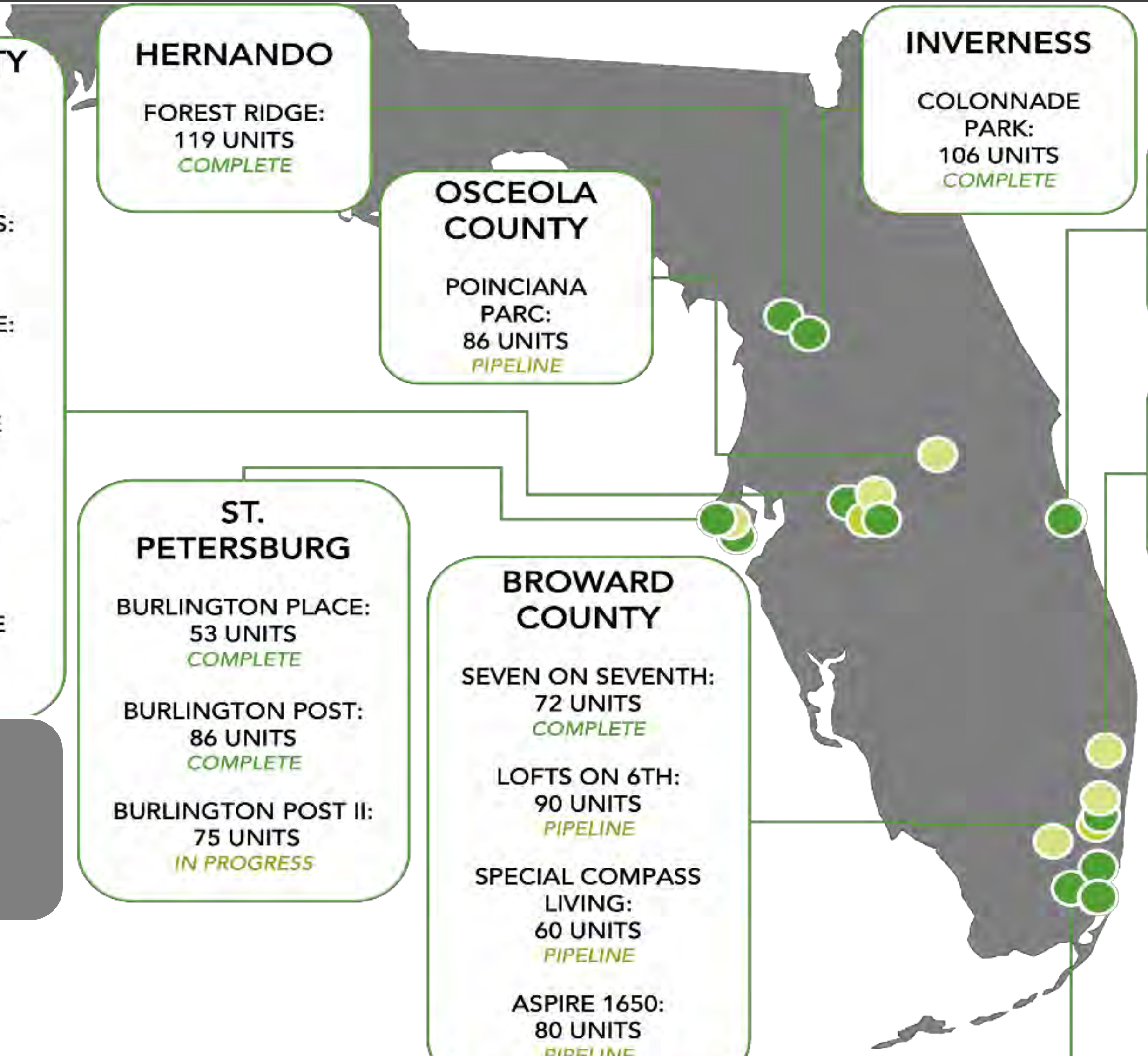

POLK COUNTY

AIDA PALMS:
96 UNITS
COMPLETE

MIDTOWN LOFTS:
80 UNITS
COMPLETE

AUBURN VILLAGE:
102 UNITS
COMPLETE

PARKER POINTE
88 UNITS
COMPLETE

GRIFFIN LOFTS
60 UNITS
IN PROGRESS

TRINITY VILLAGE
102 UNITS
PIPELINE

HERNANDO

FOREST RIDGE:
119 UNITS
COMPLETE

OSCEOLA COUNTY

POINCIANA PARC:
86 UNITS
PIPELINE

INVERNESS

COLONNADE PARK:
106 UNITS
COMPLETE

MELBOURNE

HERITAGE PARK:
108 UNITS
COMPLETE

WEST PALM BEACH

PEACE VILLAGE:
96 UNITS
PIPELINE

ST. PETERSBURG

BURLINGTON PLACE:
53 UNITS
COMPLETE

BURLINGTON POST:
86 UNITS
COMPLETE

BURLINGTON POST II:
75 UNITS
IN PROGRESS

BROWARD COUNTY

SEVEN ON SEVENTH:
72 UNITS
COMPLETE

LOFTS ON 6TH:
90 UNITS
PIPELINE

SPECIAL COMPASS LIVING:
60 UNITS
PIPELINE

ASPIRE 1650:
80 UNITS
PIPELINE

MIAMI

KARIS VILLAGE:
88 UNITS
COMPLETE

SILVER CREEK:
90 UNITS
COMPLETE

NORTHSIDE COMMONS:
80 UNITS
COMPLETE

TOTAL UNITS COMPLETE: 1168

TOTAL UNITS IN PROGRESS: 649

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AFFORDABLE HOUSING MISCONCEPTIONS

CABRINI GREEN, CHICAGO

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Low Income Housing Tax Credits (LIHTC)

HISTORY & OVERVIEW

TRA 86, IRS Code Section 42

- Simplified tax brackets
- Lowered top income tier tax rate
- Removed many RE tax shelters
- Created the Low-income Housing Tax Credit ('LIHTC')

Strategic Goals of LIHTC

- Spur investment in safe, affordable housing for lower income people
- Create a workable program dependent on public / private partnerships

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WHAT IS "AFFORDABLE" HOUSING?

- Housing is “affordable” if you don’t spend more than 30% of their gross income on shelter & utilities
- Often targeted at Median Income levels
- Minimum 15-year affordability covenant
- No reliance on gov’t operating subsidies
- Still tremendous (and growing) need for AH
- Often uses the ‘LIHTC’

What is the Low Income Housing Tax Credit (LIHTC)?

- An indirect federal subsidy given to affordable housing developments

- Credit vs. deduction

  $1 > $.21

- Tax benefits - <u>credits, depreciation, losses</u> - become the critical equity component / source

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2024 LIHTC
INCOME & RENT LIMITS

HUD release: 4/2/2024
Effective: 4/1/2024
Implement on/before: 5/16/2024

2024 Income Limits and Rent Limits
Florida Housing Finance Corporation
Multifamily Rental Programs and CWHIP Homeownership Program

	Percentage	Income Limit by Number of Persons in Household										Rent Limit by Number of Bedrooms in Unit					
County (Metro)	Category	1	2	3	4	5	6	7	8	9	10	0	1	2	3	4	5
Orange County	20%	13,520	15,440	17,380	19,300	20,860	22,400	23,940	25,480	27,020	28,564	338	362	434	502	560	617
(Orlando-Kissimmee-	25%	16,900	19,300	21,725	24,125	26,075	28,000	29,925	31,850	33,775	35,705	422	452	543	627	700	772
Sanford MSA)	28%	18,928	21,616	24,332	27,020	29,204	31,360	33,516	35,672	37,828	39,990	473	506	608	702	784	864
	30%	20,280	23,160	26,070	28,950	31,290	33,600	35,910	38,220	40,530	42,846	507	543	651	753	840	926
	33%	22,308	25,476	28,677	31,845	34,419	36,960	39,501	42,042	44,583	47,131	557	597	716	828	924	1,019
	35%	23,660	27,020	30,415	33,775	36,505	39,200	41,895	44,590	47,285	49,987	591	633	760	878	980	1,081
	40%	27,040	30,880	34,760	38,600	41,720	44,800	47,880	50,960	54,040	57,128	676	724	869	1,004	1,120	1,235
	45%	30,420	34,740	39,105	43,425	46,935	50,400	53,865	57,330	60,795	64,269	760	814	977	1,129	1,260	1,389
	50%	33,800	38,600	43,450	48,250	52,150	56,000	59,850	63,700	67,550	71,410	845	905	1,086	1,255	1,400	1,544
	55%	37,180	42,460	47,795	53,075	57,365	61,600	65,835	70,070	74,305	78,551	929	995	1,194	1,380	1,540	1,698
	60%	40,560	46,320	52,140	57,900	62,580	67,200	71,820	76,440	81,060	85,692	1,014	1,086	1,303	1,506	1,680	1,853
	70%	47,320	54,040	60,830	67,550	73,010	78,400	83,790	89,180	94,570	99,974	1,183	1,267	1,520	1,757	1,960	2,162
Median: 90,400	80%	54,080	61,760	69,520	77,200	83,440	89,600	95,760	101,920	108,080	114,256	1,352	1,448	1,738	2,008	2,240	2,471
	120%	81,120	92,640	104,280	115,800	125,160	134,400	143,640	152,880	162,120	171,384	2,028	2,172	2,607	3,012	3,360	3,706
	140%	94,640	108,080	121,660	135,100	146,020	156,800	167,580	178,360	189,140	199,948	2,366	2,534	3,041	3,514	3,920	4,324

If using LIHTC (tax credits), rents and incomes must be set at 80% AMI and below.
In Orange County, that means a family of two earning $61k/year (for example), with a 1/1 at $1,448.

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Source: Florida Housing Finance Corp. – 2024 Income Limits and Rent Limits

LIHTC ALLOCATION PROCESS

Each State adopts a Qualified Allocation Plan ('QAP') which establishes the criteria for awarding its LIHTC's

- Includes a nonprofit set aside or goal

Each state is allocated LIHTC's per capita from the Federal Gov't

State officials award the credits to developers through complex application processes

Institutional investors like banks, insurance cos., etc. buy partnership interests and receive tax credits and depreciation

Proceeds are "limited partnership" equity and pay for a majority of development costs

TYPICAL DEVELOPMENT TIMELINE

Identify Property & Negotiate Site Control

2-4 mos.

Submit LIHTC Application

4-7 mos.

Receive LIHTC Award

6-15 mos.

Design/Permitting
Close Financing

12-16 mos.

Complete Construction

6-12 mos.

Achieve Stabilized Occupancy

Development timelines typically range from 3 to 4 years…

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LIHTC AFFORDABLE HOUSING FINANCE

Two major LIHTC financing structures:

- “9% tax credit” with conventional debt
- “4% tax credit” with municipal bonds

Forest Ridge – Beverly Hills, Florida

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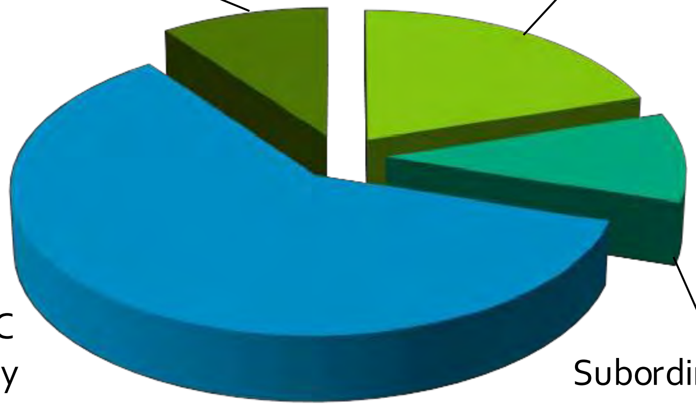
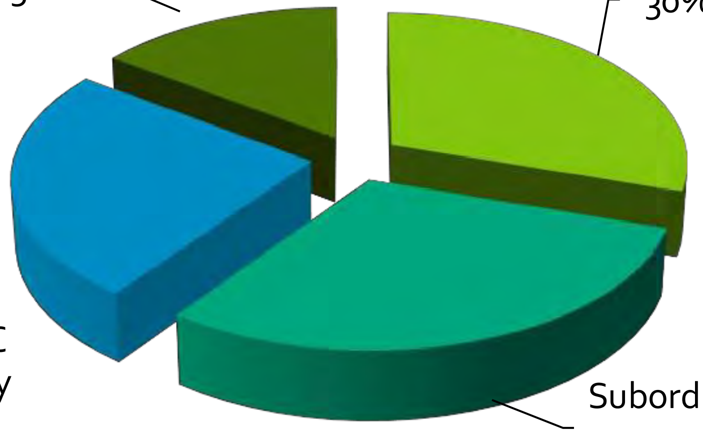
LIHTC AFFORDABLE HOUSING FINANCE

9% Structure



“9%” transactions are more competitive because there’s MUCH more LIHTC equity; more likely to balance the budget with less debt and local subsidy.

4% Structure



“4% / Bond” financing is less competitive; municipal bonds are somewhat easier to secure (albeit more complicated/expensive to finance) and the 4% credits are non-competitive, but lack of local subsidies (subordinate debt) make it (more) difficult to balance budgets.

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PARTNERSHIPS with NON-PROFITS

Seven on Seventh - Fort Lauderdale, Florida

Karis Village - Miami, Florida

Northside Commons - Miami, Florida

BURLINGTON POST

St. Petersburg, Florida

SILVER CREEK

Miami, Florida

COLONNADE PARK

Inverness (Citrus County), Florida

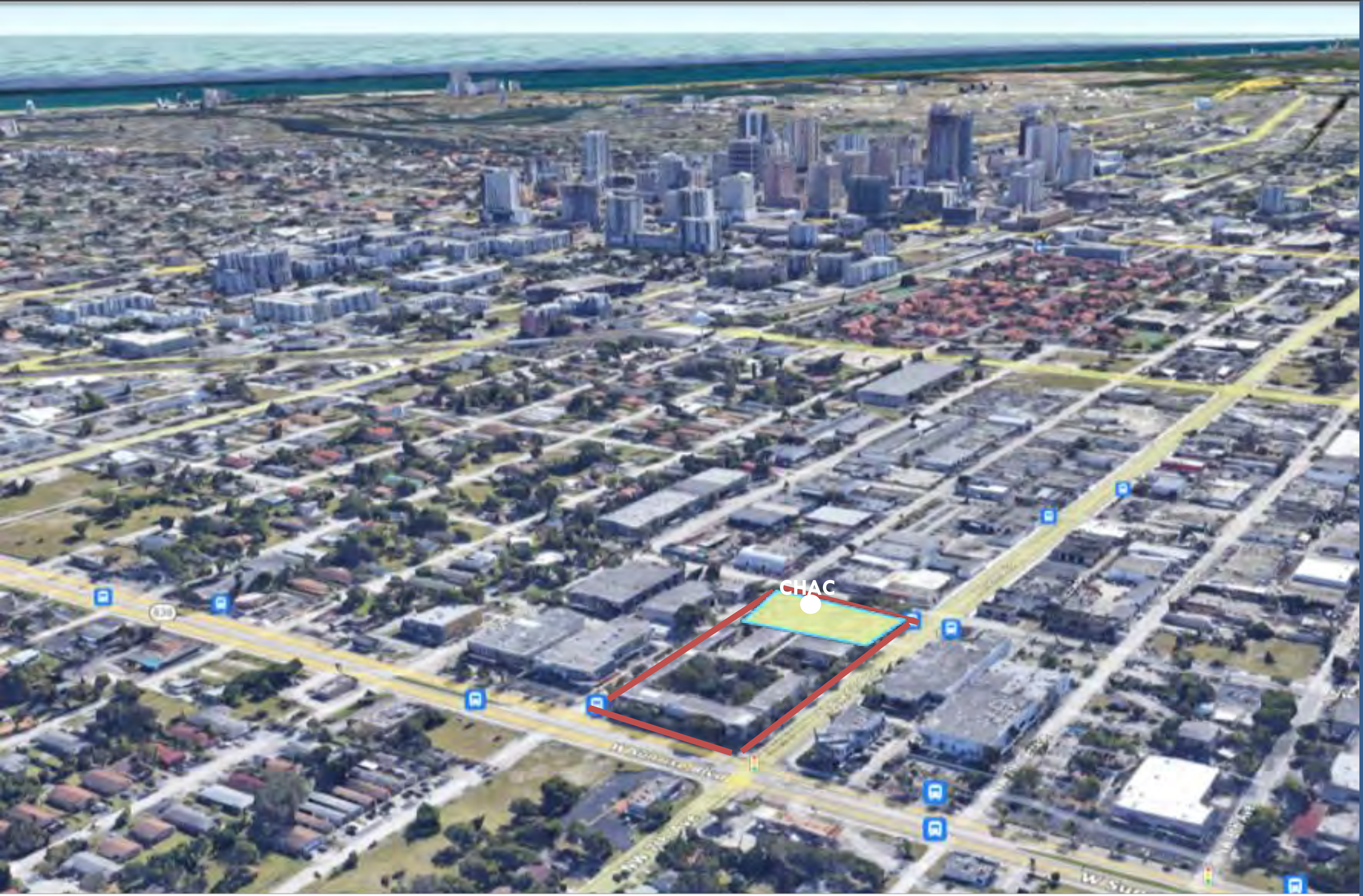
SEVEN ON SEVENTH

Affordable Housing
Public/Private
Partnership

CASE STUDY

GREEN MILLS GROUP
BUILDING COMMUNITIES

SEVEN ON SEVENTH
OPPORTUNITY OVERVIEW



- Broward Partnership for the Homeless (BPHI) is leading Homeless supportive service provider in Broward County
- The Central Homeless Assistance Center (CHAC) is Fort Lauderdale's main intake/assessment/shelter
- Excellent proximity to neighborhood amenities, public transportation, and wide array of services already provided at CHAC
- One acre surface parking lot:
    - Originally owned by County
    - Not zoned "as-of-right"
    - Complicated site plan, easements, etc.
    - FPL/cable utilities

BROWARD PARTNERSHIP

SEVEN ON SEVENTH

FORGING A PARTNERSHIP

- The ”pitch”: get the one acre site, rezone it, and let’s co-develop supportive housing for formerly homeless or “at risk”…
- Must clearly understand:

GREEN MILLS GROUP
BUILDING COMMUNITIES

SEVEN ON SEVENTH

UNIT MIX, PROJECTED OPEX

Rent Table										
Bedroom Type	# Units	Wt. Ave. Sq. Ft.	Total Sq. Ft.	AMI %	Set-Aside	2022 Max Rent	Net/Projected Rent	Monthly Rent	Rent PSF	Annual Rent
Studio	2	505	1,011	28%	ELI / H	444	407	814	0.805	9,768
Studio	2	505	1,011	60%	LI / H	952	441	882	0.873	10,584
Studio	3	505	1,516	60%	LI	952	915	2,745	1.811	32,940
1 Bed / 1 Bath	8	687	5,497	28%	ELI / H	476	425	3,400	0.618	40,800
1 Bed / 1 Bath	20	687	13,744	60%	LI / H	1,020	431	8,620	0.627	103,440
1 Bed / 1 Bath	29	687	19,928	60%	LI	1,020	969	28,101	1.410	337,212
2 Bed / 2 Bath	1	918	918	28%	ELI / H	571	398	398	0.433	4,776
2 Bed / 2 Bath	3	918	2,755	60%	LI / H	1,225	431	1,293	0.469	15,516
2 Bed / 2 Bath	4	918	3,673	60%	LI	1,225	1,159	4,636	1.262	55,632
Total	72		50,052					50,889		610,668

Set Aside Restrictions Summary					
Type	% Units	# Units	% Income	Key	
ELI / H	15.3%	11	8.8%	ELI / H	Extremely Low Income / Homeless
LI / H	34.7%	25	21.9%	LI / H	Low Income / H / Homeless
LI	50.0%	36	69.3%	LI	Low Income

Operating Expenses				
Operating Expenses	PUPY	Per Annum	PSF	PUPM or %
Utilities	575	41,400	0.8271	
Real Estate Taxes	650	46,800	0.9350	
Insurance	1,100	79,200	1.5824	
R & M	750	54,000	1.0789	
Administrative	500	36,000	0.7193	
Payroll, Tax, Benefits	2,000	144,000	2.8770	
Management Fee (PUPM)	502	36,158	0.7224	$45
Security	200	14,400	0.2877	
Replacement Reserve	300	21,600	0.4316	
Other	-	-	-	
Total:	6,577	473,558	9.46	

SEVEN ON SEVENTH

CALCULATING THE TAX CREDIT EQUITY

Net Equity Calculation:	Total	Fund %	Credits	Price	Net Equity
LIHTC	21,100,000	99.99%	21,097,890	$0.9800	20,675,932
Total Eligible Basis			23,579,703	0	0
For Area	130.00%		30,653,614	0	0
Adjusted Basis			30,653,614	0	0
Qualified Fraction			100.00%	100.00%	100.00%
Qualified Basis			30,653,614	0	0
x Credit rate			9.00%	3.25%	20.00%
Subtotal LIHTC			2,758,820	0	0
TOTAL COMBINED LIHTC			2,758,820		
Tax Credit Request (max or estimate)			2,110,000	Excess (short) Basis	5,545,470
ANNUAL FEDERAL CREDITS TO PARTNERSHIP					2,110,000

Tax Credit Pricing (cents)	
Price / Federal Credit	98.00

Equity Price and Pay-ins

Capital Contribution Schedule				FEDERAL EQUITY		TOTAL EQUITY
Event	Date	Months	Duration	%	$	$
Equity @ Closing	07/01/2021		1	30.00%	$6,202,780	$6,202,780
Equity @ 25% Compl.	12/01/2021	3	5	15.00%	$3,101,390	$3,101,390
Equity @ 50% Compl.	03/01/2022	3	8	10.00%	$2,067,593	$2,067,593
Equity @ 98% Compl.	10/01/2022	4	15	20.00%	$4,135,186	$4,135,186
Equity @ Stabilization, 8609s	07/01/2023	6	24	25.00%	$5,168,983	$5,168,983
				100.00%	$20,675,932	$20,675,932

SEVEN ON SEVENTH

DETAILED SOURCES & USES

Uses of Funds:	Cost Type	Total ($)		Per Unit ($)		%
Land	Land	1,000,000		13,889		3.6%
Hard Costs	Hard Costs	17,162,141		238,363		61.0%
Hard Cost Contingency @ 4.9%	Hard Costs	858,107	5%	11,918		3.0%
Solar Panels, Green Upgrades	Hard Costs	24,948		347		0.1%
Recreational / Owner Items / FFE	Hard Costs	365,900		5,082		1.3%
Accounting Fees/Cost Cert	Soft Costs	50,000		694		0.2%
Architect Fees (includes Civil)	Soft Costs	874,949	5.1%	12,152		3.1%
Green Commissioning, Certs	Soft Costs	18,945		263		0.1%
Plan and Cost Analysis	Soft Costs	3,700		51		0.0%
Building Permits	Soft Costs	227,128		3,155		0.8%
Utility Connection Fees, utility relocation	Soft Costs	539,081		7,487		1.9%
Environmental Report + tree relocation	Soft Costs	37,911		527		0.1%
Interior Design (JTI)	Soft Costs	24,840		345		0.1%
Impact Fees	Soft Costs	135,080		1,876		0.5%
Threshold Inspection / private provider / Materials testing	Soft Costs	147,333		2,046		0.5%
Insurance	Soft Costs	156,154		2,169		0.6%
Legal Expenses	Soft Costs	248,000		3,444		0.9%
Market Study/Appraisal	Soft Costs	11,400		158		0.0%
Real Estate Taxes	Soft Costs	50,000		694		0.2%
Soft Cost Contingency	Soft Costs	155,664		2,162		0.6%
Soils Testing	Soft Costs	25,000		347		0.1%
Survey	Soft Costs	20,000		278		0.1%
Title & Recording	Soft Costs	106,000		1,472		0.4%
Misc. Marketing (photos, printing)	Soft Costs	10,000		139		0.0%
FHFC Credit Underwriting Fee	Soft Costs	20,711		288		0.1%
FHFC Admin. / Allocation / Extension Fees	Soft Costs	215,158		2,988		0.8%
FHFC Application Fee	Soft Costs	3,000		42		0.0%
FHFC Compliance Monitoring Fee	Soft Costs	216,761		3,011		0.8%
Syndication due diligence	Soft Costs	25,000		347		0.1%
Construction Period Interest	Const. Interest	310,000		4,306		1.1%
Const. Loan Fees	Financing Fees	58,350		810		0.2%
Const. Loan Closing Costs	Financing Fees	354		5		0.0%
Perm Loan Fees (SAIL/ELI Commitment)	Financing Fees	54,108		752		0.2%
Perm Loan Closing Costs (SAIL)	Financing Fees	19,500		271		0.1%
Other Legal	Financing Fees	83,628		1,161		0.3%
Lender Inspection Fees	Financing Fees	19,171		266		0.1%
Org Costs	Soft Costs	25,000		347		0.1%
Rent-up, Marketing	Soft Costs	160,000		2,222		0.6%
Operating Deficit Reserve	Reserves	1,115,150	5.0%	15,488		4.0%
Developer Fee & Overhead	Dev Fee	3,568,482	16%	49,562		12.7%
Total Uses of Funds		28,146,654		390,926		100.00%

SEVEN ON SEVENTH

CLOSING BUDGET - SOURCES & USES

Project Financing	Total	% Total	Per Unit	Per Net Sq. Ft.
FHFC SAIL	5,040,000	18%	70,000	101
FHFC ELI	370,800	1%	5,150	7
BPHI Loan	1,000,000	4%	13,889	20
LIHTC Limited Partner Equity	20,675,932	73%	287,166	413
General Partner Equity	2,000	0%	28	0
Deferred Developer Fee	1,057,922	4%	14,693	21
Total Project Financing	28,146,654	100%	390,926	562
Construction Loan	7,780,000	28%	108,056	155
LIHTC Equity During Construction	15,506,949	55%	215,374	310

Project Costs	Total	% Total	Per Unit	Per Net Sq. Ft.
Land / Acquisition / Brokerage	1,000,000	4%	13,889	20
Hard Cost Construction (includes garage, supportive svc space)	17,162,141	61%	238,363	343
Rec / Owner, Green, FF&E	390,848	1%	5,428	8
Hard Cost Contingency	858,107	3%	11,918	17
Developer Fee	3,568,482	13%	49,562	71
Construction Interest	310,000	1%	4,306	6
Financing Fees / FHFC Fees	715,741	3%	9,941	14
Operating Reserve (5% TDC)	1,115,150	4%	15,488	22
Soft Costs	3,026,186	11%	42,030	60
Total Project Costs	28,146,654	100%	390,926	562

SEVEN ON SEVENTH – FORT LAUDERDALE, FL
CONCEPTUAL RENDERINGS



SEVEN ON SEVENTH - FLOOR PLANS

Efficiency (Studio)
Typical size = 505 A/C s.f.

One-Bedroom / One-Bath
Typical size = 687 A/C s.f.

Two-Bedroom / Two-Bath
Typical size = 918 A/C s.f.

SEVEN ON SEVENTH – FORT LAUDERDALE, FL
CURRENT STATUS

- Construction completed / stabilized
    - FPL relocation took months longer than expected (delays = $$)
    - Exceeded hard cost contingency during COVID (inc. deferred fee)
- Fully occupied with wait list
- BPHI (nonprofit partner) providing / coordinating care for 50% “at risk” residents
- Management requires 'evolving' practices & procedures

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GREEN MILLS GROUP

BUILDING COMMUNITIES

LIHTC Compliance 101

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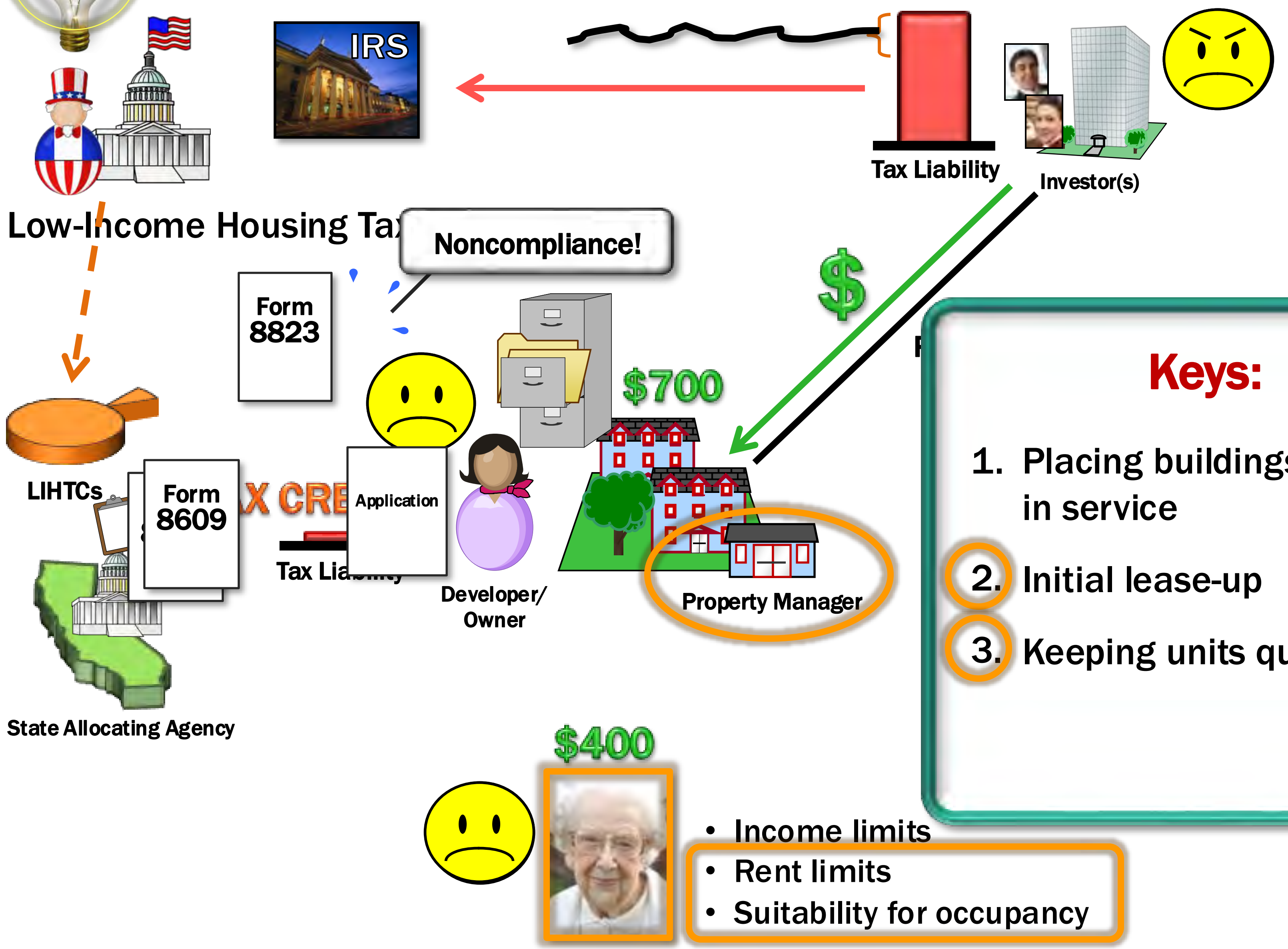
Recapture and Disallowance!



Keys:

1. Placing buildings/units in service
2. Initial lease-up
3. Keeping units qualified

- Income limits
- Rent limits
- Suitability for occupancy

DEFINITIONS

- **Accelerated Credits**
  - Credits are earned over 15 years and claimed over 10 years, there is a portion of the credits being claimed in years one through 10 that has not yet been earned.
- **What is Recapture?**
  - Should the property fail to operate as planned, the accelerated credits may have to be returned to the Internal Revenue Service (IRS) proportionate to the percentage of the property failing to operate as planned.

SUMMARY

Tax Credit Period

- Period in which credits are claimed by taxpayer
- Beginning with placed-in-service (PIS) year or succeeding year
- First-year credits not claimed due to building not being in service for a full year and gradual lease up allowed in 11th year

Compliance Period

- Period in which credits are **earned** by taxpayer
- Beginning with first taxable year of credit period
- Ends after the 15th taxable year is completed

Extended Use Period

- Federal or state minimum long term commitment of affordability
- Ending date specified by state agency (at least 15 years after the close of the compliance period)

State Agency Compliance Review Timeline

- AFTER THE INSPECTION
  - State Agencies must notify the owner of noncompliance **"promptly"**
  - **This notification begins the "Initial Correction Period"**
    - » Correction period is determined by the state
    - » **Generally, 90 days** (could be as short as one day for health and safety issues)
  - **Correction period can be extended**
    - » Up to 6 months
    - » Must be ***requested and approved*** by the state agency before the initial correction period expires
  - All noncompliance **should be** corrected before the correction period (or extended correction period) expires
    - » **Any uncorrected noncompliance will be reported differently on the Form 8823**

Now, let's discuss casualty losses…

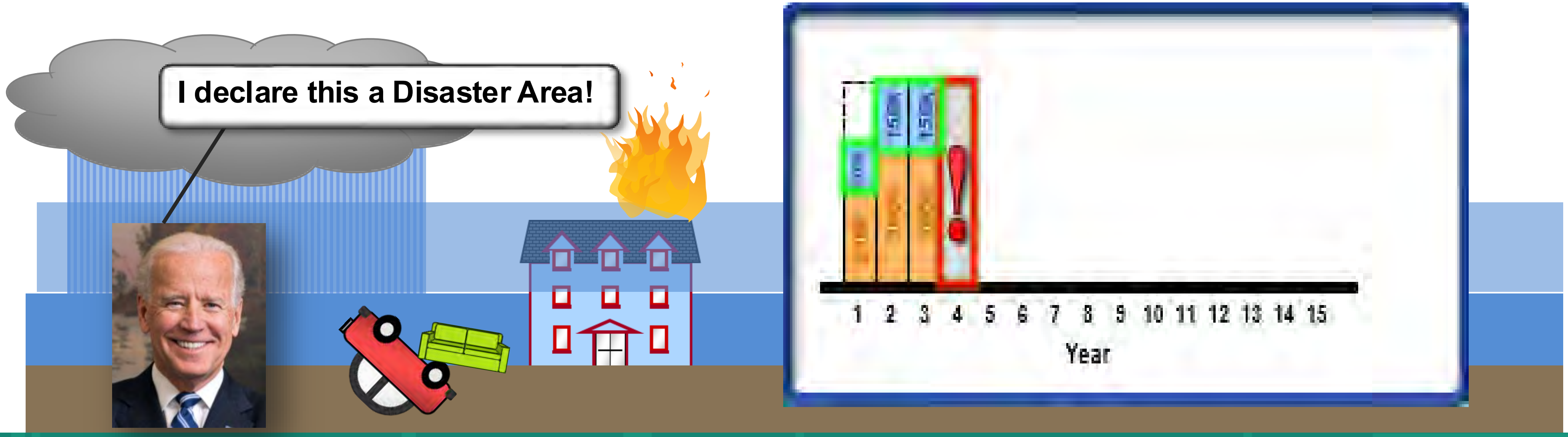
Correcting Noncompliance

Noncompliant as of year end

Reason for building/unit not being suitable for occupancy	Recapture of previously claimed credits?	Disallowance of current-year credits?
General Disrepair	YES	YES
Casualty	NO *	YES
Casualty – Federally Declared Disaster Area	NO **	NO **

*IRC §42(j)(4)(E)

**Rev. Proc. 2014-49



RECORD RETENTION

(v) The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented;

(vi) The annual income certification of each low-income tenant per unit. For an exception to this requirement, see section 42(g)(8)(B) (which provides a special rule for a 100 percent low-income building);

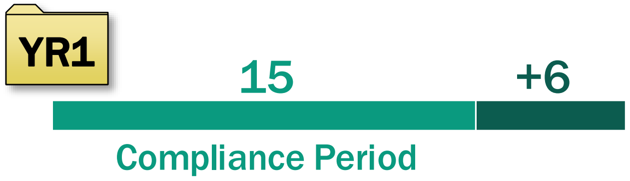
(vii) Documentation to support each low-income tenant's income certification (for example, a copy of the tenant's federal income tax return, Forms W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation). For an exception to this requirement, see section 42(g)(8)(B) (which provides a special rule for a 100 percent low-income building). Tenant income is calculated in a manner consistent with the

(2) *Record retention provision.* Under the record retention provision, the owner of a low-income housing project must be required to retain the records described in paragraph (b)(1) of this section for at least 6 years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

(3) *Inspection record retention provision.* Under the inspection record retention provision, the owner of a low-income housing project must be required to retain the original local health, safety, or building code violation reports or notices that were issued by the State or local government unit (as described in paragraph (c)(1)(vi) of this section) for the Agency's inspection under paragraph (d) of this section. Retention of the original violation reports or notices is not required once the Agency reviews the violation reports or notices and completes its inspection, unless the violation remains uncorrected.

(c) *Certification and review provisions* —(1) *Certification.* Under the certification provision, the owner of a low-income housing project must be required to certify at least annually to the Agency that, for the preceding 12-month period—

Treasury Regulation §1.42-5(b)(2)

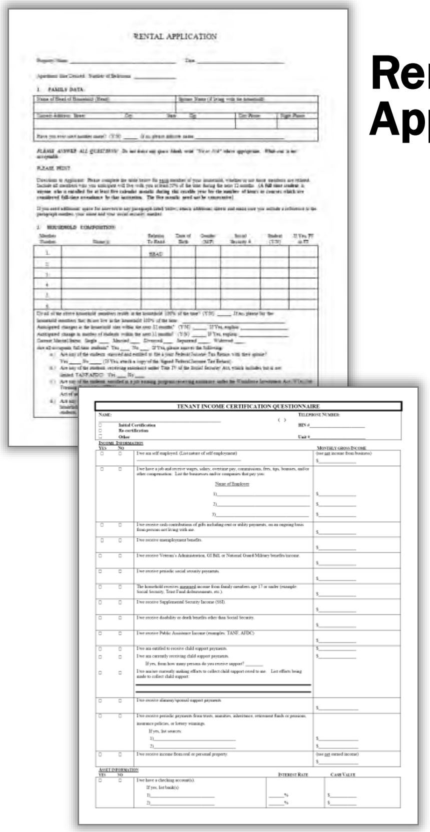


– **Records of the tenants that initially qualified the units back in Year One should be retained for *21 years***

MANAGEMENT SYSTEMS

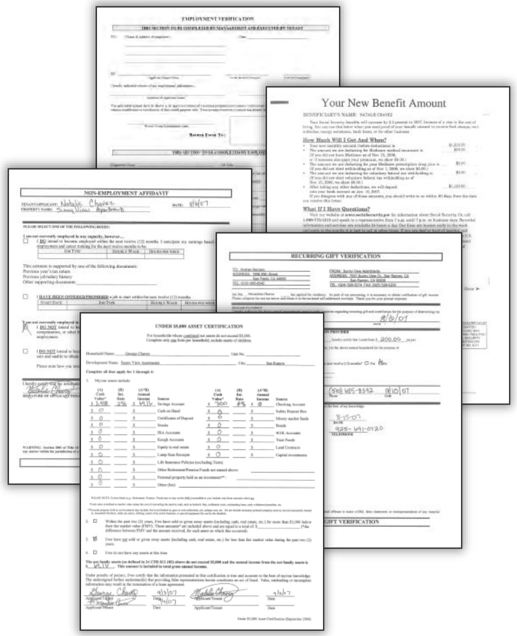
- Property management company policies
  - Sound marketing plan
  - Procedures to timely coordinate application, certification, and verification
  - System for tracking over-income units and leasing vacant units
  - Adequate review by management or third party
- Complete and accurate tenant forms
- Stay updated on HUD income and rent limits
- ***Update local utility allowances***—Treasury Regulation §1.42-10 - <u>WITHIN 90 DAYS</u>

TENANT CERTIFICATION PROCESS



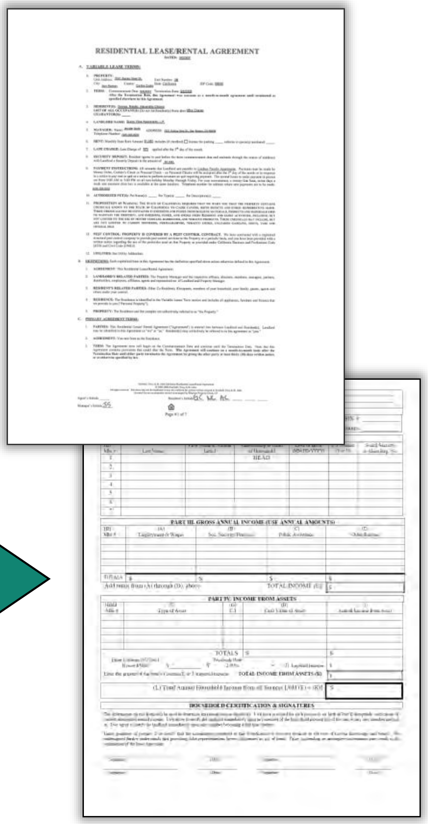
Rental Application

TIC Questionnaire



Verification Forms

Lease



Tenant Income Certification

Question

The best way to avoid credit recapture is to…

- a. Have policies in place to review files for noncompliance
- b. Check your state agency website often for updated forms and guidance
- c. Make sure noncompliance is corrected before the close of the year
- d. All of the above are good ways to avoid credit recapture

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