ILLINOIS HOUSING
DEVELOPMENT AUTHORITY
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ILLINOIS AFFORDABLE HOUSING TAX CREDITS (IAHTC)

PROGRAM COMPLIANCE

REFERENCE GUIDE

Revised 1/19/2021

INTRODUCTION

This document is a reference guide for compliance with the Illinois Affordable Housing Tax Credit (IAHTC) Program under Section 7.28 of the Illinois Housing Development Act (The Act) and Section 214 of the Illinois Income Tax Act, as amended, for projects allocated Tax Credits by Illinois Housing Development Authority (IHDA). It is intended for the use of owners, developers, management companies and on-site management personnel. It is a supplement to existing state laws and regulations regarding IAHTC compliance. Questions regarding the contents of this document should be directed to:

Illinois Housing Development Authority
111 E. Wacker Drive, Suite 1000
Chicago, IL 60601
(312) 836-5200
ATTENTION: Asset Management Services

DISCLAIMER

This Compliance Reference Guide (The Guide) is intended as a general guide to some of the requirements of the state IAHTC Program under the Act. It is intended to assist developers, owners and managers of IAHTC properties, in understanding their obligations under the IAHTC Program. However, this information is presented as guidance regarding compliance with the Act and is not a substitute for legal and accounting advice as to compliance with Section 7.28 and applicable state regulations, rulings and issuances. IHDA makes not representation as to the accuracy or completeness of the information contained herein, or in the interpretations provided.

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I. PROGRAM COMPLIANCE REQUIREMENTS

A. General Comments

In 2001, the Governor of Illinois signed into law, the Illinois Affordable Housing Tax Credit Program. The Program is authorized and governed by the Illinois Housing Development Act and the Illinois Income Tax Act. The purpose of this Program is to encourage private investment in affordable housing by providing donors to qualified non-profit affordable housing sponsors with a tax credit on their Illinois income tax, equal to 50% of the donation.

Illinois Housing Development Authority is required, under Part 355(Subpart E) to monitor projects for compliance with the requirements of the Act. This requirement applies to all projects placed in service for which the IAHTC is, or has been allocated at any time.

Compliance with the Act is the responsibility of the owner of the building for which the donation is made. IHDA's obligation to monitor for compliance with these requirements does not make IHDA liable for the owner's non-compliance.

B. Set-Aside Requirements

Each rental project that participates in the IAHTC must meet the minimum income and rent restrictions for low-income tenants, which are consistent with the Federal Tax Credit Program. The minimum set asides are as follows:

- At least 25% of the units must have rents (including tenant-paid utilities) that do not exceed, on a monthly basis, 30% of the gross monthly income of a typical household earning 60% of the area medium income, and

- must have at least 25% of the units occupied or available for occupancy by persons and families whose incomes does not exceed 60% of the median family income for the geographic area in which the residential unit is located.

The owner may elect to set aside additional units, up to 100% of the total units in the project, for low-income tenants.

C. Fair Housing and Accessibility Requirements

Owners are required to comply with the Fair Housing Act. The Act prohibits discrimination in the sale, rental and financing based on race, color, religion, sex, national origin, familial status, disability. It also mandates specific design and construction requirements regarding accessibility for multifamily housing built for first occupancy after March 13, 1991. In addition, other regulations may apply to property projects that participate in other housing programs (i.e. Section 50-4, Illinois codes, etc.). Owners are expected to comply with all local, municipal and state codes for their projects.

D. Compliance Monitoring Fee

IHDA will charge an annual fee of compliance monitoring in an amount not to exceed the following: Affordable Housing Projects containing:

- 1-10 units $75
- 11-20 units; $150
- 21 or more units $7.50 per unit
  (these fees are subject to change).

The fee must be paid at the time that compliance monitoring information is supplied to IHDA. Fees should be sent to the lock box address below:

Illinois Housing Development Authority
P.O. Box 93397
Chicago, Illinois 60673

II. INITIAL MONITORING ACTIVITIES

A. Tenant File Audit

IHDA will perform a desk audit, of prescribed forms submitted by the owner. This includes an owner's certification, concerning compliance with the Program's requirements and income and asset verifications for all low-income tenants. The initial submission will include forms for all low-income tenants. Thereafter, the annual submission will consist of forms for any new tenant along with the owner's certification. Annually, IHDA will notify the owner regarding the timing of any required submissions and of any findings resulting from the desk audit.

B. Physical Inspection Audit

IHDA will perform periodic physical inspections of the project. The initial inspection along with a tenant file review will be performed during initial occupancy; subsequent inspections will be performed every three years. The inspections will cover, at a minimum, the following: site/grounds, building(s) components: exterior, systems and common areas, individual units and compliancy with accessibility requirements. The owner will be contacted, in advance, to schedule the inspection and will be notified of any findings resulting from inspection.

C. Participation in Other IHDA Programs

If the project participates in one of IHDA's loan program (i.e. HOME, Housing Trust Fund, etc), additional and/or more extensive tenant file audits, including on-site file reviews and physical inspections may be required in certain instances. Because of separation of responsibilities, more than one department within IHDA may be involved in these activities. If this occurs, an effort will be made to avoid duplication of efforts. Asset Management Services will perform the tenant file review and conduct the physical inspection.

D. Notification of Non-Compliance

IHDA will promptly notify the owner, in writing (the Notice), as to the nature of any non-compliance issues and specify a time for correction. If the project is deemed to be in poor physical condition or has significant audit findings, more frequent tenant files audits and/or inspections may be required.

1) Below are some examples of non-compliance with the IAHTC program:
    - Failure to maintain the required low-income requirements of the program;
    - Charging low income tenants rents in excess of the maximum permissible rents;
    - Failure to maintain and/or provide adequate documentation of low-income occupancy;
    - Failure to certify tenants;
    - Improper or incorrect tenant certifications;
    - Inadequate, incorrect or improper supporting documentation of tenant certification;
    - Failure to maintain buildings in a safe and habitable condition;
    - Failure to permit or provide IHDA access to any low income housing project for the purpose of performing its compliance monitoring functions including physical inspections, and/or review of low income tenant files;
    - Failure to correct Fair Housing and local housing code violations
2) Correction Period
   The owner will, generally, be given an opportunity to correct most incidents of non-compliance within a 30-day correction period. This correction period commences on the

date of the Notice. During the 30-day correction period, the owner may be required to submit a detailed report of the actions to be taken to correct the issues of non-compliance. IHDA, in its sole discretion, may extend the correction period for up to 6 months, but only if it determines that good cause exists for granting such extension. IHDA will determine whether a particular instance of non-compliance has been satisfactorily corrected within the applicable time period. Owner will again be notified in writing of IHDA's determination.

III. CERTIFICATION OF PERSPECTIVE APPLICANTS

A. Low Income Household Certifications

Owners are required to declare and verify that the income listed on all prospective low income tenant applications, does not exceed maximum income limitations. Prior to occupancy, the owner must verify the household's income and assets (to accurately determine income derived from such assets) by obtaining a written verification of income and assets and require the tenant to sign a certification. The maximum income limits, based on HUD median income data, are published yearly by IHDA.

B. Projects Participating In Other Housing Programs

If a project is participating in other housing programs not administered by IHDA, other forms and restrictions may apply. Please check with the agency administering the housing program(s).

C. Recertification

The IAHTC Program does not require the recertification of tenants. Therefore, the annual submission of tenant files to IHDA will only consist of certifications, including back up documentation, for new tenants that have moved in during the past 12 months.

IV. ANNUAL INCOME AND ASSETS

Annual income is the anticipated total income from all sources received by the family head and spouse (even if temporarily absent) and by each additional member of the household, including all net income derived from assets for the 12-month period following the effective date of certification of income.

Please refer to the HUD Handbook 4350.3 Chapter 5 and Appendix 3 for more detailed information concerning annual income and assets inclusions, exclusions and income calculations.

V. DEFINITIONS

"Affordable housing project" ("Project") means either (i) a rental project in which at least 25% of the units have rents (including tenant-paid utilities) that do not exceed, on a monthly basis, 30% of the gross monthly income of a household earning 60% of the median family income for the geographic area in which the residential unit is located or (ii) a unit for sale to homebuyers whose gross household income is at or below 60% of the area median income and who pay more than 30% of their gross household income for mortgage principal, interest, property taxes and property insurance (PITI).

"Donation" means money, securities, or real or personal property that is donated to a not-for-profit sponsor that is used solely for costs associated with either (i) purchasing, constructing, or rehabilitating an affordable housing project in this State, (ii) an employer-assisted housing project in this State, (iii) general operating support, or (iv) technical assistance as defined by this Section.

"Median Income" means the incomes that are determined by the U. S. Department of Housing and Urban Development guidelines and adjusted for family size.

"Sponsor" means a not-for-profit organization that (i) is organized under the General Not For Profit Corporation Act of 1986 for the purpose of constructing or rehabilitating affordable housing units in this State; (ii) is organized for the purpose of constructing or rehabilitating affordable housing units and has been issued a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under provisions of the Internal Revenue Code; or (iii) is an organization designated as a community development corporation by the Unites States Government under Title VII of the Economic Opportunity Act of 1964.