

Multifamily Housing Notice 18-08

June 7, 2018

To: Developers, Sponsors and Local Housing Contacts

From: Gregory Hare, Director, Multifamily Housing

Re: ***NEW-Draft 2018 MD Qualified Allocation Plan-Income Averaging Changes***

The Department is accepting comments to proposed revisions to the State of Maryland Qualified Allocation Plan for Low Income Housing Tax Credits (the "QAP") to implement recent changes made to Section 42 of the Internal Revenue Code. Specifically, the federal Consolidated Appropriations Act of 2018, passed earlier this year, has established the option of an "Income Averaging Set Aside" for projects that receive Low Income Housing Tax Credits ("LIHTC"). If you have any comments to the proposed revisions, please submit them to dhcd.gap@maryland.gov by **Friday, July 6, 2018**.

As highlighted in Section A.3 of the draft QAP <http://www.dhcd.maryland.gov/HousingDevelopment/Pages/MFLibrary.aspx>, the proposed changes implement the Income Averaging Set Aside, thereby creating a third Set Aside as follows:

At least 40% of the housing units in the project for households with incomes at or below 80% of the area median gross income so long as the average gross income for all households in the project does not exceed 60% of the area median gross income (the "Income Averaging Set Aside").

The proposed QAP revision would enable project owners to elect the Income Averaging Set Aside until no later than the date of the execution of the project's IRS Form 8609 by CDA and the project owner in accordance with the requirements of Section E.8 of the QAP. Any project which has already executed a Low-Income Housing Tax Credit Covenant for LIHTC and wishes to amend the Covenant to incorporate the Income Averaging Set Aside prior to

execution of IRS Form 8609 would need to receive approval from CDA as described below. Any project which has already executed IRS Form 8609 would not be eligible to elect the Income Averaging Set Aside.

It is the goal of the Department to permit project owners to elect the Income Averaging Set Aside until the date of issuance of IRS Form 8609 regardless of the status or stage of the project (i.e. underwriting review, construction, lease-up, etc.), so long as the election does not affect the eligibility of the project from a scoring perspective. As outlined in the Multifamily Rental Financing Program Guide (the "Guide") <http://www.dhcd.maryland.gov/HousingDevelopment/Pages/MFLibrary.aspx>, any project that involves the use of the Multifamily Bond Program (MBP), Rental Housing Works (RHW) or FHA Risk Sharing must meet minimum scoring criteria outlined in Section 4: Competitive Scoring Criteria (page 44) of the Guide. Additionally, any project which received an award of competitive 9% LIHTC or Rental Housing Financing Program (RHFP) will be required to maintain the total score originally awarded in the applicable Competitive Funding Round.

Please Note: The changes to the Internal Revenue Code made by the federal Consolidated Appropriations Act of 2018 and described above do not extend to the set aside requirements associated with the issuance of tax-exempt bonds in accordance with Section 142 of the Internal Revenue Code. Projects that receive an allocation of 4% LIHTC in conjunction with issuance of tax-exempt bonds must meet the set aside requirements of both Section 42 and Section 142 of the Internal Revenue Code.

If you have any questions, please email at gregory.hare@maryland.gov or call at 301-429-7775.

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IMPORTANT NOTICE REGARDING EMAILING OF MULTIFAMILY NOTICES

Multifamily Housing issues periodic notices (such as the one above) to announce new initiatives, provide important news, announce funding round deadlines, significant application changes, bond program amendments, and other key dates and facts on our website and by email only. You can subscribe to receive Multifamily Housing Notices at the following link:

<http://dhcd.maryland.gov/HousingDevelopment/Pages/About.aspx>

Notices are posted to the DHCD website at the following location:

<http://dhcd.maryland.gov/HousingDevelopment/Pages/MFLibrary>