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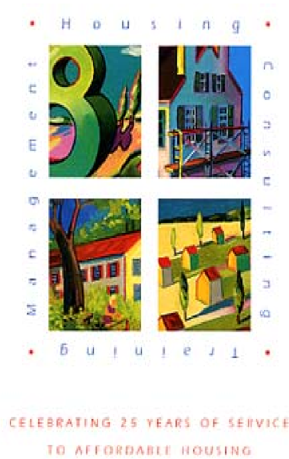
Resyndication



Issues for Compliance Professionals When an Owner Resyndicates an LIHTC Property

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Resyndication

- When an owner reaches Year 15, but plans to keep a property affordable, they may elect to apply for a new LIHTC allocation
- Each HFA announces their policy regarding allocating credits to an existing post Year-15 LIHTC property in their QAP
- For compliance professionals, what are the important issues when an owner is planning to resyndicate an existing LIHTC property?

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IRS Guidance

- The IRS has not issued a Ruling, Notice, or Revenue Procedure providing the answers owners need regarding compliance when planning to resyndicate a property
- Grace Robertson of the IRS has provided guidance, some through her timely and helpful *LIHTC Newsletter*

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Income Limits

- For the original LIHTC allocation, the owner committed to using either 50% of the AMI or 60% of the AMI to qualify applicants for the LIHTC units
- An owner with an extended use agreement must continue to qualify applicants for the low income units using the income limit in the property's minimum set aside

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Income Limits cont'd

- If an owner continues to operate under the terms of the extended use agreement, they will continue to qualify applicants using the income limit in the minimum set aside
- When an owner resyndicates an existing LIHTC property, if the owner continued to qualify applicants using the income limit in the minimum set aside, the existing LIHTC residents are income-qualified for the new LIHTC

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Question?

- Are the existing residents the owner qualified under the original LIHTC qualified under the new LIHTC if the owner commits to using a lower income limit for the new LIHTC allocation?

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Full Time Student Rule

- In their monitoring procedures for properties in their extended use periods, some HFAs do not require owners to follow the LIHTC Full Time Student Rule in their EUP
- An owner who plans to resyndicate should continue to implement the Full Time Student Rule during the EUP so the existing residents will qualify for the new credit allocation

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100% LIHTC Properties

- The IRS no longer requires the owner of a 100% LIHTC property to complete annual recertifications on their residents **(CHECK WITH YOUR HFA ON HOW THEY ARE IMPLEMENTING THIS IN YOUR STATE)**
- The industry expects the IRS to announce in the revised 8823 Audit Guide that owners must continue to require residents to certify annually each household member's status under the Full Time Student Rule

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100% LIHTC Properties cont'd

- An owner planning to resyndicate should continue to require residents to certify annually their status under the LIHTC full-time student rule during a property's 15-year compliance period and during the EUP

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100% LIHTC vs Mixed Income

- Originally, was a property 100% LIHTC or mixed income?
- Will the new allocation cover the same portion of each building in the property?
- If no, when does the owner need to make the necessary changes to maximize the value of the new LIHTC allocation?

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MTSP Income Limits

- The new MTSP income limits differentiate between Impacted and non-Impacted LIHTC properties
- To be an Impacted MTSP, a property must have been PIS prior to 2009 and located in a county for which HUD issues 2 sets of income limits for the LIHTC program
- An Impacted property uses the HERA Special 50% or HERA Special 60% income limits

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MTSP Income Limits cont'd

- An owner of an Impacted property continues to use the HERA Special income limits during its EUP
- If an owner resyndicates an Impacted Property, the property is no longer considered Impacted and the owner must begin to use the income limits for non-Impacted properties referred to as the Very Low Income Limit and the 60% Income Limit

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Question?

- When should an owner of an Impacted property who plans to resyndicate stop using the HERA Special income limits and start using the income limits for non-Impacted properties?
  - When placing the new credit allocation in service?
  - During the 1st year of the credit period for the new credit allocation?
  - When they receive a binding commitment from the HFA for the new credit allocation?

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Never Forget …

- The income limit the owner commits to in a property's minimum set aside affects:
  - Who qualifies as an LIHTC resident
  - The maximum rent the owner may charge for an LIHTC unit at the property
- When does an owner need to start charging the lower rents based on the non-Impacted income limits after receiving an award for a new LIHTC allocation?

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Outstanding Noncompliance

- What impact will any outstanding noncompliance have on an owner's ability to receive a new allocation of LIHTC for a property?
- Will a non-corrected 8823 prevent an owner from receiving a new LIHTC allocation?
- Know your HFA's policies
- Look to their QAP

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Common Noncompliance in Later Years of Compliance Period

- Violation of the Vacant Unit Rule
- Failure to maintain records for IRS audits and HFA compliance reviews
- Failure to submit Owner's Annual Certification
- Failure to maintain each building's A/F
- Failure to pay compliance monitoring fees

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Early LIHTC Properties

- The owners of early LIHTC properties – with some exceptions in some localities – were not required to sign extended use agreements
- They have completed their 15-year compliance periods and now operate without a regulatory agreement required within the LIHTC program

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Early LIHTC Properties cont'd

- If these owners elect to resyndicate their properties, because they have not been operating as part of the LIHTC program, their existing residents who did qualify for the LIHTC program do not grandfather back into the program under the new credit allocation
- The owner must qualify them again for their unit to begin to produce a new tax credit

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Additional Subsidies

- Many LIHTC properties receive assistance maintaining their affordability through other housing programs
- The assistance may come through a federal, state, or local program with its own income limit and rent restrictions
- The owner must continue to meet these restrictions so long as required by the regulations and regulatory agreements for these programs

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Questions?

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