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CAPITAL

September 30, 2022

Via Email
North Carolina Housing Finance Agency
Don Murphy, CCIM
Attn: Tara Hall & Scott Farmer
tshall@nchfa.com
bsfarmer@nchfa.com

Re: 2023 QAP 1st Draft – Comments for tax exempt / 4% LIHTC projects

Ms. Hall and Mr. Farmer,

Thank you for the opportunity to provide our comments to the 2023 QAP 1st draft. Based on our activity within the state and our review of the 2023 Draft QAP, we propose the below changes for your consideration. Please note that below changes are only specific to tax exempt bond projects and are not being proposed for the 9% competitive round:

Increase the maximum allowable developer fee to 15% to 20% of eligible basis while requiring any amount above the current maximum amount of $3,000,000 to be deferred and realized via cash flow (Section VI.B.7.)

The purpose of this request is to preserve and facilitate the development of affordable housing projects by increasing the available sources to fund affordable housing projects without increasing NCHFA's costs, without requiring NCHFA to allocate additional sources or soft funds, and without increasing the amount of realized developer fee funded by NCHFA or other state and federal resources.

- Developer Fees count as eligible basis and generate 4% tax credits. By increasing the allowable developer fee, additional equity can be raised to cover project uses without costing NCHFA or the state any additional resources.
- By requiring any developer fee above the current maximum allowable amount of $3,000,000 to be deferred and repaid through cashflow, NCHFA sources and equity raised through the sale of 4% tax credits will not be used to enrich developers and will only go toward funding project costs.
- The increased equity will not only result in projects that were otherwise not feasible, but it will also facilitate a reduced need for private activity bond allocation for certain projects, allowing bonds to be allocated to other projects and increasing the total number of projects developed in any given year.

- While each state has unique circumstances, stakeholders, and issues it must consider when crafting its program, this approach has proven to be an effective approach in many of the states in which Elmington develops and operates affordable housing projects.

Increase the limit for Lines 5 and 6 of the PDC description to a range $135,000 - $145,000 per unit. (Section IV.C.1.(b))

The purpose of this request is to bring the NCHFA project construction cost limits in line with the current cost environment for materials and labor. Additionally, it is intended to avoid a policy that compels developers to reduce the quality or scope of projects, which is not in the interest of residents. Further, a flat per unit limit is difficult to navigate depending on the project type (garden product, vs garden product with elevators, vs mid-rise, etc.), increasing the NCHFA project construction cost limits will add more flexibility to developers to design quality projects that meet NCHFA's other design requirements.

For those projects that are not utilizing NCHFA sources other than private activity tax exempt bonds and 4% LIHTC's (i.e. not using NCHFA soft funds or other funding programs that establish rent levels), allow for rents at lease-up that are consistent with the unit type/set-aside HUD published rents for the year in which lease-up occurs without requiring a Project Update, market study, or other approvals from NCHFA.

The purpose of this request is to allow projects to address inflation and operational cost increases that occur from the date of submission of the preliminary application (when rent rates are established per NCHFA's current guidelines) to completion of the project (when lease-up begins). This is typically a 2.5 to 3.5-year period, depending on the scope and nature of the project.

- Regardless of highly volatile or relatively stable inflationary periods, operational cost increases will occur from preliminary application to completion of a project, just as they will also occur during the 15-yr permanent phase (the 15-yr cash flow underwriting assumption of 3% annual costs increases reflects this fact). Requiring Project Updates or other approval processes puts additional stress on NCHFA staff, and to the extent the requests are not approved as submitted, puts additional stress on projects to convert to permanent phase financing and meet debt service coverage requirements.
- HUD publishes AMI's and rent limits for purposes of determining what the maximum allowable rent limits should be for a given county, which serves to ensure proper resident rent levels are established. Project owners and management companies are highly incentivized to maintain compliance with these standards via numerous economic and regulatory requirements.
- Project owners and operators are incentivized through the mission of providing affordable housing, commitment to equity investors, and self-interest to lease up projects quickly and maintain stabilized operations. As such, the market will dictate maximum achievable rents, if maximum rents should be lower than the HUD published rents.
- While each state has unique circumstances, stakeholders, and issues it must consider when crafting its program, this approach has proven to be an effective approach in many of the states in which Elmington develops and operates affordable housing projects.

Delay the implementation of the new proposed rule regarding retaining walls and grading slopes (Appendix B Section III.E.10).

The purpose of this request is to allow for more input from the development and construction community and to conclude a policy that doesn't reduce the preservation or delivery of new affordable projects throughout the state.

- As you know, many areas of North Carolina include significant topographical changes. Retaining walls are a necessary approach to addressing these topographical challenges. The significant set-back requirement will make many projects unfeasible, as it will either:
    - reduce density and make it difficult for projects to cover land cost, or
    - result in the need for taller structures with greater massing that will not meet zoning requirements or cannot be constructed under NCHFA's cost limits.
- The above scenario is exacerbated further in highly populated markets that experience a lot of overall development and economic activity, as developers building projects that are not targeted toward the affordable population can pay higher land costs and acquire the flatter sites within that market.

Kind Regards,

Joseph Horowitz
ECG Acquisitions, LLC

CC: Hunter Nelson, Managing Member, Elmington Capital Group