



NC Justice Center

*Opportunity
and prosperity for all*

August 30, 2017

VIA Email: rentalhelp@nchfa.com

NC Housing Finance Agency
Attn: Rental Investment
3508 Bush Street
Raleigh, NC 27609

Re: Draft 2018 QAP

Dear Sir/Madam:

I am writing on behalf of the North Carolina Justice Center regarding the NC Housing Finance Agency's draft 2018 Qualified Allocation Plan (QAP) for the Low Income Housing Tax Credit (LIHTC) Program.

There are several areas where the draft 2018 QAP could be improved, and we urge the Housing Finance Agency to adopt these comments as it finalizes the QAP.

1. Tiebreaker Criteria (P. 22) & Credits Per Unit (P. 21)

- Eliminate the changes made to the above referenced sections. It appears the changes made to these two sections of the QAP will have the effect of reducing income targeting for projects. The greatest need for housing across the NC is for families at or below 30% of AMI. Changing scoring and tiebreaker criteria to penalize projects that will serve lower income families, even if not deliberate, is misguided and inconsistent with the housing needs facing NC communities.
- 2. Require a Lease Addendum, to be signed by the tenant(s) and landlord(s), setting forth certain mandatory compliance requirements, including (1) that termination is only allowed for "good cause," (2) that tenants are subject to protections of the Violence Against Women Act (VAWA) and the federal and state Fair Housing Acts; (3) that a non-disabled tenant in a unit with accessibility features s/he does not need agrees to relocate to a non-accessible comparable unit to accommodate a household needed the accessible unit; (4) that the landlord/management company will not discriminate against "Section 8" or other housing vouchers or certificates.¹

¹ The Pennsylvania HFA requires such an addendum for LIHTC property owners/managers.

3. Tenant Selection

We wish to emphasize that screening criteria requirements can help prevent discrimination. While it is customary for management companies and landlords to use tenant screening criteria to limit financial and other risk, many such practices could have a discriminatory impact on minority and disabled applicants. The use of credit scores and criminal background checks in an overly-broad manner without individualized assessment can have a disproportionate impact on households with family members who committed minor offenses or offenses unrelated to their tenancy or distant in time. The QAP should not allow automatic or overbroad exclusions in the tenant selection process. In addition, to ensure that a wide pool of tenants not only apply for but are considered for housing, we recommend that tenant selection procedures include the following requirements:

- Those applications be accepted by mail, electronically, or in person.
- That a lottery be used to select applicants from among those who qualify, rather than using a first-come, first-serve process.
- That applications not be denied based on rental history solely due to the fact that an applicant has had an eviction action filed against him/her absent some other evidence of conduct that indicates the applicant is not an acceptable candidate for tenancy.
- Those applicants with low credit scores are provided the opportunity to establish creditworthiness through other means (such as non-traditional credit reports).
- That for projects located in high-opportunity/upper-income areas, a preference be given for Section 8/Housing Choice Voucher holders and people on PHA waiting lists in the region.

3. Siting of Projects

We appreciate that the draft QAP retains the provision to prevent concentration of units in low-income and high-minority areas in Section VI.A.5. However, we believe that this provision could be improved by the adoption of several other provisions and clarifications:

- Provide a clear definition of how the “Concentration” provision is implemented. Specifically, the QAP states that concentration is measured by “comparing the percentage of minority and low-income households in the site’s census tract with the community overall.” However, “community” is not defined, and could refer to a neighborhood, city, county, or MSA. Moreover, the definition does not indicate whether the requirement is met simply by siting a project in a census tract with lower minority and low-income rates than the surrounding community or whether some other ratio is utilized. For example, if a community were to be 90% minority and have a poverty rate of 60% would a project sited in a census tract that is only 85% minority and with a poverty rate of 58% meet these criteria?

- Setting specific goals for a specific number or percentage of projects that will be constructed in high-opportunity/high-income areas. Enacting such numerical goals provide a means to determine whether the QAP's current concentration provision is sufficient to meet AFFH requirements. Additionally, it will help the NCHFA determine whether incentives in the QAP are effective and allow the NCHFA to adjust incentives in future years, if necessary.² I believe the 2014 Massachusetts QAP offered points for siting projects in "opportunity areas," which were defined as "part of a neighborhood or community with a relatively low concentration of poverty (poverty rates \geq 15%) that also offers access to opportunities such as jobs, health care, high-performing schools, higher education, retail and commercial enterprise and public amenities."

4. Site Bonus Points

The draft 2017 QAP provides that up to 2 points may be awarded for the site(s) in a county deemed to be the most desirable investment and the most appropriate for housing in the county (section IV.A.1 (IV)). However, no further criteria are given for how this determination will be made. We recommend that the HFA provide additional guidance to applicants regarding the criteria that will be used, including whether factors that are already accounted for in the scoring may be used.

5. Miscellaneous

- Clarify in the section on Management Experience (section IV.D.2) that at least one staff person in a supervisory capacity have training in fair housing law.
- To ensure that local governments' exclusionary policies do not inhibit the development of LIHTC units in their jurisdiction, we recommend that where a project is delayed due to a local government's exclusionary zoning or other policies, the HFA allow the developer to carry-over (and the HFA re-issue) its credits to the next year.
- Provide incentives, such as additional points, if a proposed development addresses an "impediment" in a local or state government's Analysis of Impediments to Fair Housing Choice study.

Thank you for your consideration of our suggestions. We would appreciate the opportunity to meet with the appropriate NCHFA staff to discuss our proposals in more detail.

Yours truly

William D. Rowe
General Counsel/Deputy Director of Advocacy

² Both the Pennsylvania and Massachusetts QAPs have such requirements.