



NC Justice Center

*Opportunity
and prosperity for all*

August 30, 2019

VIA Email: rentalhelp@nchfa.com

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

Re: Draft 2020 QAP

Dear Sir/Madam:

We are writing on behalf of the Fair Housing Project of Legal Aid of North Carolina and the North Carolina Justice Center regarding the NC Housing Finance Agency's draft 2020 Qualified Allocation Plan (QAP) for the Low Income Housing Tax Credit (LIHTC) Program.

We are encouraged that the draft 2020 QAP contains a number of elements that are designed to ensure that the LIHTC Program in North Carolina not only results in the development of quality affordable housing in the state but also Affirmatively Furthers Fair Housing (AFFH).

However, we also believe that the proposed changes to the tiebreaker scoring criteria – and in particular the removal of the prior First Tiebreaker (“The project in the census tract with the lowest percentage of families below the poverty rate”) will result in fewer projects being built in high-opportunity neighborhoods, frustrating North Carolina's efforts to meet its AFFH obligations. The removal of the prior First Tiebreaker undermines NCHFA's ability to use the LIHTC to reverse segregated housing patterns and open up new opportunities for low income families of color and would be a disappointment in light of the strong legal requirement that NCHFA must “affirmatively further fair housing” in its LIHTC program. 42 U.S.C. § 3608(d).

Extensive research demonstrates that “LIHTC developments in high-opportunity neighborhoods with low poverty, low crime, and strong schools can deliver particularly powerful benefits for their residents.” See Fischer, Will, “Low-Income Housing Tax Credit Could Do More to Expand Opportunity for Poor Families,” Center on Budget and Policy Priorities, August 28, 2018, p. 2.

By prioritizing projects in locations with the lowest percentage of families below the poverty rate, the prior First Tiebreaker aimed to incentivize more developments in areas with lower

poverty, providing a range of benefits to residents. To the extent that developers in previous years used the tiebreaker to propose projects in locations that were not suitable for multifamily housing, we believe that the HFA could address those concerns by adding qualifications, such as that the proposed site be predominantly a residential neighborhood, that there be additional numbers of amenities within a specified distance of the site, or that the site not be located within a specified distance of certain incompatible uses.

We are also concerned that the proposed First Tiebreaker (“The project requesting the least amount of federal tax credits per low-income unit based on the Agency’s equity needs analysis”) could lead to unrealistic underwriting assumptions on the part of applicants, and recommend that this tiebreaker be removed or made the third tiebreaker.

An additional concern is how the lowest LIHTC per unit tiebreaker relates to the points for being within the regional average. We are not development experts, but the two appear to create conflicting or at least incompatible incentives.

We understand and agree with the policy motives behind encouraging applications in underserved counties. However, such goals are secondary to complying with long-standing federal fair housing mandates.

We urge the HFA, as it finalizes the QAP, to consider reinstating the prior First Tiebreaker or adjusting it, if there are concerns that prior applicants were using this tiebreaker to site projects in locations that are not appropriate for multifamily housing.

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. Please contact Bill Rowe at (919) 856-2177; bill@ncjustice.org with any questions and to set up a time to meet to discuss our comments.

Sincerely yours,

Bill Rowe
General Counsel/Deputy Director of Advocacy
North Carolina Justice Center

Jeffrey Dillman
Co-Director, Fair Housing Project
Legal Aid of North Carolina

cc: Scott Farmer
Jennifer Percy