Chris Austin

From: Tab Bullard <tbullard@wilhoitproperties.com>
Sent: Tuesday, August 25, 2020 2:39 PM
To: Chris Austin
Subject: First Draft 2021 QAP

Chris,

We would like to submit the following comment on the draft 2021 QAP for North Carolina:

1. Section II, Subsection G, Item 2, as it relates to returning 2018 credits for 2021 credits: NCHFA should modify the new language to allow for review and consideration by the Agency, on a case-by-case basis, applicability of the penalties implemented on any deal seeking to "exchange" credits due to the current pandemic and challenging times of COVID-19. It is our belief the intent of the added language "The project must place in service in 2021. Repeated use of this provision by a Principal may result in the Principal being considered not in good standing with the Agency" is meant to be a deterrent to Principals / entities with a history of returning / refreshing / exchanging credits for a single deal, or multiple deals, within a short period of time. However, as written, the provision would negatively impact those who have not sought multiple reliefs under the same "exchange" provisions but are experiencing delays nonetheless.

   Therefore, we would like to request NCHFA remove the requirement for PIS in 2021 for any project seeking its **first** exchange of credits and allow those the full Federal 2-year PIS deadline. Any project that has previously exchanged credits, or sought other forms of financial relief from the Agency, could and should be held to the 2021 PIS requirement, and other penalties proposed under the provision, as well as the potential to be considered "not in good standing."

   Additionally, the Agency should provide provisions in the QAP for them to have limited discretion in "exchanging" credits and the application of the penalties proposed, such as sitting out the following year's competitive application cycle or expedited PIS requirements. The limited discretion could be on a case-by-case basis again whereby the Agency would consider "repeated use of the [exchange] provision" in the past 3 or 5 years, a principal's repeated requests for modifications on previous awards and developments, and other aspects listed under Section VII, Subsection A, Allocation Terms and Revocation. It should be up to the principal(s) requesting the "exchange" of credits in any given year to make the case for why he/she should not be subject to the penalties provided for in the "exchange" provisions. Also, these requests should be available to the principals at any point of time in which the deal is required to be PIS, or when an Investor requires an exchange of credits prior to closing the syndication because the projected construction schedule estimates a completion within 90 days of the current PIS deadline. This last provision would require review and consideration, also on a case-by-case basis, by the Agency prior to "exchanging" and the Agency could impose specific limitations and penalties for the exchange after their review and consideration.

   It is extremely risky for Investors, as well as developers, to have to wait for a future QAP to be amended, commented on, modified and then approved for a deal to seek an "exchange" of credits. Each year is an uncertainty of whether or not the Agency will allow an inherent right provided by the Federal IRC, one that poses no risk to the Agency, to exchange credits. Furthermore, there is no penalty to an Agency for exchanging credits. Most developers do not desire to sit on an allocation of credits as they do not earn income from, or recover monies invested in the deal until it is closed, completed and stabilized. The only time any developer would/should "sit" on an allocation would be for the same unforeseen circumstances the Agency gives itself the ability to "make decisions and interpretations regarding project applications and the Plan" as stated under Section I, Subsection C, paragraph #1. Those are (i) natural disasters, (ii) pandemics / epidemics, (iii) disruption

in financial markets and (iv) loss of financial resources. Each of these provisions could impose undue harm on developers if they are required to proceed in uncertain times. Also, if the Agency has this ability, shouldn't the same be afforded to those Principals / entities considered to be in "good standing" with NCHFA?

Thanks for your consideration of this matter. I hope the Agency will seriously consider the potential negative impacts the proposed modified provision will have on Principals and entities, especially those that aren't burdening the Agency with multiple exchange requests and who are doing all they can to deliver quality affordable housing to NC residents.

Sincerely and respectfully,
Tab

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