So You Want to Be a LIHTC Developer: The Many Meanings of 'Mixed Income'

Many in the affordable rental housing development community may think they know what is meant by the term "mixed income," but, in fact, the phrase has many different interpretations depending on person, jurisdiction, property type, ownership structure and more. In the latest installment in the Tax Credit Tuesday podcast's So You Want to Be a LIHTC Developer series, Michael Novogradac, CPA, and Mark Shelburne, Novogradac housing policy consultant, discuss six different ways the term can be interpreted. Later, the pair discusses three potential impacts these terms can have on investor interest, additional debt burden and property compliance.

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Transcript

Introduction

[00:00:13] **Michael Novogradac, CPA:** Hello, I'm Michael Novogradac, and this is Tax Credit Tuesday. This is the March 26th, 2024, podcast.

As our viewers on YouTube can see, I'm pleased to have Novogradac Housing Policy Consultant Mark Shelburne back as my guest this week. Mark is one of Novogradac's leading experts on the low-income housing tax credit, which makes him a great guest for today's topic.

In this episode, we're going to discuss a term that developers, investors, state housing agencies, and others working in affordable rental housing use quite frequently, though it has multiple meanings. And it's used in a variety of contexts. So what is that term? The term is mixed income.

Now when you hear the term mixed income, you may be thinking, "I know what mixed income means, Mike." And if you're thinking that, that's why we're doing this episode.

Typically, I myself think of "mixed income" when used in a rental housing context as a single property with a single owner that has both market-rate and rent-restricted low-income units. And I do venture to guess that that's what many of you, our listeners, are thinking, too.

Now the purpose of today's podcast is really twofold. First, my guest, Mark Shelburne, will share with you six different meanings that he has identified of the term mixed income. These are not exclusive and they're not exhaustive. If you think about a Venn diagram, you can think of circles kind of overlapping within these six definitions.

And if you're, if you're really thoughtful, maybe you could email me to cpas@novoco.com how you think a Venn diagram would look with these six identified definitions or uses. I'd really enjoy seeing that. So if you're up for the challenge, please share it with us.

Second, with respect to the goals for the podcast today, Mark and I are going to focus our discussion on the intersection between mixed-income housing and the low-income housing tax credit.

But more particularly, we'll discuss three ways in which mixed-income tax-credit housing differs from 100% affordable low-income housing tax credit housing.

Now the three areas that we've identified that we're going to focus on are: how it affects the level of investor interest, how it affects the property compliance burden and how it affects financial feasibility through the higher debt service.

Now these are three areas, among many, that need to be considered when credit allocating agencies, generally states, adopt various mixed income policies as part of their qualified allocation plan or QAP. Now, as a listener, I do want to note that one way you can become more involved in the policymaking front is by joining the Novogradac Low-Income Housing Tax Credit Working Group.

We talk about that working group a lot in our various podcasts, and I will include more about our tax credit working group in today's show notes.

Now, there's a lot to talk about on this topic, so if you're ready, let's get started.

Guest Introduction

Mark, I said in December we shouldn't make it two years before you return to the podcast. And here you are just over two months later. Welcome back to Tax Credit Tuesday.

[00:03:37] **Mark Shelburne**: Thank you. Happy to be here.

[00:03:39] **Michael Novogradac, CPA**: It's a pleasure to have you back on the podcast. And before we get started with today's topic, though, I always like to invite guests to share some of the information about the services you provide to Novogradac clients, so I'll give you that opportunity now.

[00:03:52] **Mark Shelburne**: Certainly. What I've done the most is help state housing allocating agencies draft and implement their policies, primarily through revising QAPs. I've also done more work with local governments doing similar type of work, including how they intersect with the housing credit program. And if you want to be a developer in North Carolina, I can help you apply there.

And so and then just also just general policy advice, discussions, explaining how HFAs think, that kind of thing. I'm available.

Six Interpretations of Mixed Income

[00:04:30] **Michael Novogradac, CPA**: Great. Thank you for that, Mark. Now, in the introduction, I gave my personal definition of mixed income or the common usage that I think of when I think of mixed income, and it's obviously in the tax credit context, a usage that's fairly familiar to many of our audience.

You know, more basically, when I, when one thinks of mixed income, you think, well, that's a mix in a single property, both affordable and market-rate apartments. That said, you did write an article in a recent tax credit journal, Novogradac Journal of Tax Credits piece that listed six different ways that you've identified that the term mixed income is used in the context of rental housing.

So if you could start, please quickly outline the six that you've identified, and then we'll talk about each one specifically.

[00:05:23] **Mark Shelburne**: Yes. And you're, and it's the March issue. So anyone who's not currently a subscriber, you need to do so right now so you can see this article and many other good ones.

So the six are, the first is to not just think about the project itself, but to think about the neighborhood as a whole, the surrounding areas.

The second is development where you have separate ownership entities, but the, from a real estate perspective, from a resident perspective, it seems like it operates together as one property.

The third is all the apartments are income and rent restricted but at varying levels.

The fourth is what are called 80-20 developments.

The fifth is a property, and these, these, these last two, five and six, seem kind of similar, but there's an important difference. It's a property where it's just one property, one owner, and there's, they have, as we talked about the beginning, some affordable, some market rate, but the there's very different rents for the market rate and the affordable.

So that's number five. And number six is that same setup, market rate, affordable, same property, but the rents are all about the same. So those are the six.

[00:06:41] **Michael Novogradac, CPA**: Great. Thank you for those six. Now let's start to unpack each of those six and starting with the one that you mentioned first, which I'll ponder is the less-common usage of the term, or at least when folks are listening, you hear the term mixed income, and that's the neighborhoods and larger areas with homes at a variety of income levels. So, please touch on that.

[00:07:07] **Mark Shelburne**: Yes, so it's important to remember that the properties that we are developing or awarding, depending on your role, sit in a surrounding context. And that sounds obvious, but it's when you're making policies, when you're thinking about what kind of outcomes do we want for our housing developments, for housing programs, it's really important to remember that because you don't have to accomplish all of your goals within the boundaries of the site, the track, the real estate itself.

And so if you place low-income housing in a high income neighborhood, then you are achieving a mix of income. Those are folks that are all going to go to play in the same parks, they're going to go to the same

schools, they're going to go shop at the same stores, they're going to be on the same T-ball teams, go to the same churches, etc.

So the incomes are mixing, because that's how they live. They're in the same community. And I'm not an expert on all the research that folks like Raj Chetty out of Harvard have done, but what I have looked at, what I do know of it, is the outcomes that those types of researchers have produced that say that being in a mixed-income community, creating high opportunities, is good for individuals, it helps people to live better lives.

That's what they're talking about, is being in a high-income, high-opportunity area. Now, that's not to say that that's the only type of development that should ever happen, by no means. That's a whole different subject that we could talk about for a long time, but to the extent that the goal is to achieve income mixing, again, it's important to remember one of the ways to accomplish that is by having low-income housing in areas that are surrounded by higher-income folks.

[00:08:58] **Michael Novogradac, CPA**: Great, thank you for that introduction of the first of your six. It is an interpretation that casts a wide net and it does emphasize some of the benefits of having mixed income developments, or as you've mentioned, you know, 100% affordable developments in high-opportunity communities.

Now, second in the list was the concept of development with separate owners for the affordable and market-rate elements. It's almost like you have two projects within one project. So maybe explain to our listeners how you carve this out as the second of your six.

[00:09:42] **Mark Shelburne**: Right. And so this, I'm including in part for the sake of completeness, but also because I want to have the audience understand that while this is theoretically an option, it's not a very common one.

So the idea being that you have one single building or one single site where there's two different LLCs, two different limited partnerships that own the two different buildings or parts of the site. Maybe there's a ground lease, there's a building condominium. And the idea being that one of those is market rate, one of those is affordable, and so they have their own financing their, you know, their own debt, their own equity their own general limited partners, et cetera, but they're all tied together.

They have the same, you know, maybe they share a parking lot, maybe they share a lobby that kind of thing. And so, so again, those do happen, but they're rare because the transactional costs for creating that type of overall development is tremendous. It's much, it's more than either one of them would be separately because you have to connect them together.

Things like the cross-access easements, if you do the condo approach, how to set up the condominium regime. That's all very complicated. So, again, it's theoretically possible and well, not even just theoretically, it does happen, but the people that have done it will say that it involves the most mental work and the most time that of any type of property that they ever developed.

So, you need to know it's possible, but don't expect that you're going to be able to do one of those in very many circumstances.

[00:11:19] **Michael Novogradac, CPA**: And listeners might be thinking why there's such a, why does something like that exist, and I would just note, we're going to talk a bit later in the podcast about investor interest, property compliance, you know, debt service burden, things of that nature, and one of the reasons why this concept of two separate owners of essentially the same physical development, or at least intertwined development, is to try to deal with some of these other issues.

And as Mark pointed out, it solves some issues, but creates a lot more. So it just depends on balance. Is it worth going through some of the challenges that Mark mentioned?

We'll get more on that in a moment. Let's move on to our next of the six, the third one of the six, and that's where all apartments or all units in a property are income and rent restricted, but those income and rent restrictions are at different levels. So if you could explain that concept, Mark.

[00:12:20] **Mark Shelburne**: Yes, so this is something that is fairly common, maybe even you could say very common among housing credit properties is having different levels of AMIs targeted within the same development.

And so, that, it's not like that's revealing some big secret that it occurs, but the key is having folks appreciate that that is income mixing. And so, with the help of our colleague, Thomas Stagg, I asked him what's just a very typical jurisdiction in America, and not surprisingly, as the expert on all things incomes, he took about 30 seconds and said San Antonio, Texas.

And so San Antonio is about average across the country in terms of the incomes and rent limits. And so, if you had a property there, the targeted 60% and 30%. Well, you might think, well, okay, yeah, that one's one of those is half the other, but it really becomes stark when you look at what that translates to in terms of numbers.

So for a family of four, it's 60%. That's just a little under $53,000 annual income. And so whereas for the same, if that same family of four was at 30%, that would be at $26,000, a little over $26,000. So that's, that's a big difference in incomes. I mean, one of the, in some jurisdictions that $26,000, that could be minimum wage potentially and so, whereas $52,000 is definitely above that. So, and that's just using the 60% and 30%.

If we have average income, that could be 80% and 20%. That would be possible to do. And I think that's less common, but whereas 60% and 30% is pretty common. But the point is that folks need to appreciate, again, that they, to the extent, the goal, the desire is to create mixed-income housing, if you have thirties and sixties, you're doing it. That's it. Those are, that's a mix of incomes.

[00:14:31] **Michael Novogradac, CPA**: So, so, you know, I appreciate you pointing out the average income option, where you get up to 80% AMI. And as listeners know, if you're doing average income for the entire development, you have to have offsetting that much sort of below 60% to have a blend of at least 60%, depending upon your state requirements and the rest.

And that is a form of mixed-income housing where you're getting tax credits on 100% of the units versus generally when I think about tax credits and mixed-income housing, the mixed income is the market-rate piece that's above the 60% and potentially above 80% where you wouldn't be getting tax credits on that piece.

So now let's turn to what's commonly referred to as 80-20 developments. Eighty-twenty developments have historically been popular in one particular geography. And it's in a geography that has their own separate allocation of tax credits. If that, that narrows it down to two, but the 80-20 isn't driven by the fact that they have a separate allocation of tax credits.

It's tax-exempt bond driven. And if you could explain what an 80-20 transaction is, and for the listeners haven't quite figured out what geography I'm referring to, if you could share that as well.

[00:15:54] **Mark Shelburne**: Yes, that's, that's the Big Apple, New York City, that area. And really, the reason it's different is because it's just different.

There's, I don't know the current population number, but 8-9 million people living in a very small area. It's basically the population of my home state here in North Carolina in the size of one of its counties. And so everything about it's different from a real estate perspective.

And so, so they have their, at least in the past, I don't know the current status of the extent to which these deals are currently being done, but funded what are called, again, 80-20, the 80 being market rate, the 20 being low income. And that reflects the minimum set aside expectation that at least 20% of the units have to be LIHTC eligible in order to have a functional project. And so, the, those do, at least again, at least have been done there.

I would imagine at least to an extent they're still being done there, but they don't really get done anywhere else. And it's because the, as we'll discuss later, the investment market and to an extent the developers have developed an expertise, a specialty in doing those types of developments there that simply just doesn't exist anywhere near to the same extent elsewhere in the country.

Now, there are, certainly are 80-20s done in other parts of the country. I believe there's even one down the road from me in Charlotte from a long time ago. There probably are some in the other jurisdiction that has its own credits, Chicago, but they're just nowhere near as plentiful as they are again in New York City.

[00:17:30] **Michael Novogradac, CPA**: I would just note for our listeners, when you think of 80-20, you might be saying, why isn't it 81-19? Why isn't it 85-15 and the rest? And I won't even get into that because there's some other special set asides for New York City with respect to the low-income housing tax credits. As a general rule, 80-20 is referring to, for private activity bond purposes, if they issue tax-exempt bonds you can set aside 20% of the units at 50% income levels, and as, and then the entire bonds are free of the interest income of the bonds are free of tax, which historically on average, not always, had meant a lower borrowing rate for the entire development.

So, the concept being you set aside 20 percent of the units and rent them to individuals at 50 percent or below air median income, and you get financing on the entire project, and that financing can be issued at taxes and bond rates, so you get lower, you get savings, interest savings on the entire development.

I say historically, because then you layer in rent restrict, you layer in rent restrictions as well, the 20% units, and then you get additional, then you get tax credits, you can get tax credit equity. And as Mark mentioned, it can be a challenge marketing that, getting an investor for that 20% piece.

I also note that as it's gotten more competitive for private activity bond allocations, many agencies, and we've worked on a number of projects in different states, including California, where the developer went in to do, say, an 80-20, and they ended up getting private activity bonds for just the 20% piece.

The state didn't want to allocate bonds to the other 80% piece because they want to use that for other housing. So you can get some very creative structures here in the 80-20 front. But that's more detail than we really were planning on going into here.

So let's move on to the next definition and the one that I think is familiar to many in our audience, and that's where you have a single owner of a property and the property has market rate, meaning non-tax credit-eligible units, and rent-restricted low-income units that could be, that would be tax credit eligible.

[00:19:48] **Mark Shelburne**: Yes, and so these, and these last two five and six here really are, to an extent, tied together, because they both start with the premise that you just described, where some percent, often, say, 75%, 80%, 90% of the units do qualify for the housing credit, and so then the remaining 25%, 20%, 10%, whatever percent it is, are unrestricted.

They're what people would call market rates. So what separates these last two distinctions is when those, is the rents on those unrestricted units relative to the housing credit units. Are those rents a lot more or are they fairly similar? And so, to the extent there are a lot more, they're in that fifth definition.

To the extent that they're fairly similar, they're in that sixth definition.

[00:20:49] **Michael Novogradac, CPA**: So, thank you for that. Now, the last is a twist of the former, the one you just mentioned. So, the one you just mentioned is where you have a mixed income development, wherein you have some units being rented at market rents and some are being rented at restricted rents to low-income families.

Number six is where you have, theoretically, market-rate units, or maybe I'll call them non-tax credit units, but those units are being charged the same rent as the tax credit units. So maybe you could explain that version.

[00:21:34] **Mark Shelburne**: Exactly. That's the last category, category six. And so it'd be where the market, they're, they're technically unrestricted units. You could charge, in theory, a lot of rent, but for whatever the circumstances in that local geography, that market-rate rent is not a lot more, or maybe even basically the same as what you're charging in theory for the 60% or 80% market tax credit units. And so that's the that's the main definition that I wanted to focus on here in our next part of our discussion.

Three Potential Impacts

[00:22:16] **Michael Novogradac, CPA**: So, we'll let's move on to the three impacts or the three effects of mixed income in the context of cash flow to housing, but I will just note on this latter one, we just discussed, you know, some of the choices getting made between these sort of six definitions are a function of the effects of mixed income and trying to adjust from the standpoint that am I optimizing rent to the detriment of management challenge and level of investor interest. And they all kind of weave together somewhat in that way.

So I'll start with investor interest. So, Mark, if you could sort of explain how a tax, and when I think about investor interest, I mean a tax credit investor, how a tax credit investor's interest in a particular property is affected when it goes from instead of being 100% affordable, it ends up being, say, 80% affordable and 20% market rate.

[00:23:20] **Mark Shelburne**: Right. And so I think as a caveat, I need to say that what I'm about to describe are generalities.

There, I guess, we can't speak to what every investor does or doesn't care about. And different syndicators have different business models, different structures. So not describing everyone and everything. These are just high-level general concepts that apply to a lot of market participants, but certainly not everybody.

But the general notion is that by having the unrestricted units. So another way to think about that is, you know, when I teach the program, we talk about the applicable fraction. And so if the applicable fraction is less than 100%, then what that does is it can have the effect of limiting the number of investors that want to be in that property.

And so, the way to understand that is that there are two different worlds and groups of investors. There are ones that have learned how to and specialize in the housing credit. They do tax investing. And then there's others that do real estate investing. They're looking for cash flow. And so they have a different sense of how to underwrite each of those types of developments.

And so the more you bring those two types of deals together, the more you're expecting each one of those two different groups of investors to understand what the other one does. And you might think, well, that's no big deal. Of course they should build it.

Well, no, that is a big deal because this is a competitive environment. Folks live or die by doing the deals well. And so they want to be certain that they're understanding and executing these properties in as efficient and effective and successful high rate producing way. And so to the extent then that you ask them to step out of what they do five days a week, you know, 365 days a year, you're asking them to do something that puts at risk that ability to be inefficient, to be effective, to get the kind of real return that they want.

And that makes them hesitant to do it, which I don't say as a criticism, that's, it's perfectly reasonable. All of us have difficulty when we have to step outside of our comfort zones. And so that makes them have to think twice about it, the more, the higher the percent. And there's, and the rule of thumb that you hear is any more than 20% unrestricted gets it to where that housing credit investor has to start thinking twice about whether they want to be in it. Less than that, they can kind of manage that risk.

[00:26:02] **Michael Novogradac, CPA**: And one of the areas, you know, as you know, that the investors get concerned about with market-rate units is what the market rate rent is going to be for the next 50 years. When you look at the rent restricted units, you know, normally there's a notable rent advantage between the market rents and the tax credit rents, so that the sensitivity to market rents is lessened.

There's a greater sensitivity to HUD income limit calculations, and we have an income limit working group that addresses those concerns, but those are different concerns, and investors have managed

those concerns, and they understand those, and the ability to underwrite market rate rent risk, you know, isn't something that they're signing up for.

And when Mark mentions the 20%, at some level, that's a function of saying, well, the rent contribution isn't so great that they have to be focused on it as much. And the smaller the market-rate rent piece, the smaller that fits into the underwriting. So certainly, the market-rate rent piece over the 15 years is a sort of reasonable concern underwriting matter that they have to address.

There's also a second matter investors have to address, which turns into, and I should say, an additional risk factor that investors have to consider in a mixed income development. And that's derivative of the next, the second of our three effects, and that's property compliance.

So we've done lots of podcasts in the past about property compliance and property compliance on the mixed income transaction in and of itself can be an entire podcast that maybe we should do someday. Stephanie Naquin's probably hearing me right now saying, OK, I know what Mike's going to call me and ask me to do. But until that, if you could give a super abridged teaser on that future podcast.

[00:28:07] **Mark Shelburne**: Well, yeah, super abridged is all I would try to do when we've got experts like Stephanie and Thomas on our team to talk about the actual nuts and bolts, but the big challenge when you have, in my assessment, the biggest issue and problem with having less than 100% applicable fractions, you know, where you've got some units are unrestricted, is you give up what is a federal allowance to not have to, not have to have tenants recertify annually. And so if all the units are low income, then under the code, you don't have to have annual recerts and that is a tremendous gift of time both to property managers and to the tenant households themselves.

And so walking away from that, forcing everyone to go through that process every year of annually recertifying. Now some states may do recerts anyway for different reasons but, or maybe some of them will do a recert after the first year, but then they'll stop after the second year. And that's, that's totally an option, but yeah.

If you have some unrestricted units, it stops being an option. You have to do it every year and that's just a huge pain. But that is just one of them.

Another would be that the notion of the next-available unit rule becomes much more consequential and significant and scary and risks having a problem for which then you would then need to hire Stephanie to come and figure out how to work out, how to fix your, your, what you got wrong.

[00:29:36] **Michael Novogradac, CPA**: And I'm just going to say two words, creeper units. So there's definitely additional challenges with market rate blended in with tax credit units for a tax credit property.

So now let's turn to the third effect, and that's the additional debt service burden. And if you could discuss the -- when I say additional debt service burden, explain to listeners what I mean and how that adversely affects financial feasibility in most situations.

[00:30:13] **Mark Shelburne**: Right, so, and again, I always like to go back to the fact that, you know, I teach this material, like for example, the pre-conference workshop in San Francisco in May. Always look forward to that. And so when I teach it, one, the first thing that I would like to focus on is the calculation of how you get to the maximum allocation.

And so, because that, those four components, that calculation or the key to understanding everything about this program, and one of the components of that calculation, again, is the applicable fraction. And Congress very appropriately did not want the housing credit generated because of the property having market-rate units.

They said, to the extent you've got those, you're going to cut back on the amount of subsidy you get. And as we all know, when you cut back on the subsidy, when you cut back on the credit, you then cut back on the equity. So, but you don't cut back on the costs. You still have to, every, you're still building those apartments, you still need the drywall, and so what you're doing is since you have the same cost, but you're giving up equity, you've got to replace it with debt.

And so that's where that, this distinction that we get to with those last two between whether the rents are high or low for those market-rate units, to the extent that you're bringing in market-rate units and giving up equity, bringing up more debt, but you're not bringing on a lot of extra rent, then you're creating yourself a problem circumstance that's really less than ideal at best, if not problematic.

[00:31:42] **Michael Novogradac, CPA**: And I would say, generally speaking, when you're saying, and you can tell me if you agree or not, when you see tax credit developments that aren't private activity bond financed and have market-rate units, it's generally because the state, as part of their application process, are giving points or otherwise incentive to be market-rate units.

[00:32:05] **Mark Shelburne**: Absolutely. Yeah, the state or it could be that the locality–

[00:32:12] **Michael Novogradac, CPA**: Good point.

[00:32:12] **Mark Shelburne**: Is offering. Yes, exactly. And someone on the city council has some notion that, oh, we want, you know, doctors and lawyers to live in this property as well as the low-income folks. And so in order to get their money, then you have to put in some, some unrestricted units, which then becomes ironic because then you need more of their money.

That's meant, like HOME or trust fund, whatever the source may be, more of that money to pay for the market-rate units. And so basically that's what they're paying for, which is at best an arguable way to spend that money.

[00:32:47] **Michael Novogradac, CPA**: No, that's a good point about the fact that when I mentioned a credit allocating agency, you know, sort of giving incentive to do that or some other government agency giving you some incentive to do that, to have those market-rate units.

And to your point, when you describe mixed income in the first context of being in a neighborhood, you do wonder how much benefit it is that are having the market, the 20% market rate in those particular units versus them being across the street.

[00:33:19] **Mark Shelburne**: Right? Exactly. Yeah, I mean, I was a renter not too long ago because of where my daughter was going to school and I didn't meet any of my neighbors in that property, but interact in the community, went to the park, etc.

But, and to go back to your earlier point about why someone would do a property where you've got different ownership structures, different financing in the same development is to, because of all of what we just discussed. And so you can avoid the notion of having to do research, having the next available unit rule, having to worry about your investor not being interested because of having to underwrite it two different ways.

You can avoid all that if you have the two different, develop two different ownership structures in the same development. But then you bring all those other complications of having to do all the cross-access easements, et cetera. So, it's a tradeoff.

[00:34:08] **Michael Novogradac, CPA**: You can think of it simplistically as, you know, a development with five buildings.

And then you said, I just have, you know, a market-rate owner of one building that's market rate, but and then the other four buildings, and then you end up with state agency saying you have to intermix the units because that's, because I, you know, that's not exactly what the policy is, you know, probably principally designed to support, and then you end up intermixing the units and then you come up with a condo structure where all the units themselves are owned individually, but I digress.

Maybe you could talk about these three effects in the context of a credit allocating agency trying to decide on a policymaking front what they should be doing. And not that you'll tell them what to do, but maybe you could just share a little bit more about these considerations in the drafting of a qualified allocation plan.

[00:35:00] **Mark Shelburne**: Well, and yeah, I certainly am willing to tell them what I think they should do when in the client context. So that's, that's, I'm always happy to do that. But yes, as a general matter, the key is understanding the realities of what you're generating with these properties and so an understanding and asking yourself, are these policies that we have in place really accomplishing what we want them to accomplish and at what cost is that cost worth what we're getting out of it?

And so, and I know that's something that agencies do at a certain level all the time, but it's also easy to just get stuck into the notion of, well, this is how I've always done it. And so that's, we all, everyone does that. It's just human nature.

But in this context, if you have a set of incentives to have unrestricted units. You really need to step back and say, what are we really accomplishing with this? And really think about it, like, are we having to put more of our own debt in these deals because of it? Are, it Is there, are there really folks that are in those units that are at higher incomes? If that's the idea that is generating it and what kind of compliance challenges are we creating?

And that's something that happens too often is the compliance team and allocation team don't talk quite enough. And about what the one is doing for the other. And so that's again, at a very high level, what I would encourage agencies to think about.

[00:36:28] **Michael Novogradac, CPA**: I can't say enough or emphasize enough your comment there about just trying to understand what the impacts of what the policies are having and going in with that level of intentionality and understanding to know what impacts. And when you have a qualified allocation plan of all the various sort of pieces, I always sort of comment, and you've probably said this many times, Mark, it's almost like a QAP has an invisible hand.

And it'll direct activities and you want to be trying to divine out what those, what the invisible hand is leading developer applicants to do and be confident that that's what you want to be incentivizing. It's having the effects you want it to have.

[00:37:19] **Mark Shelburne**: Exactly. And I would also say, though, that the other party responsible for this are the people outside of the agencies, especially the equity providers.

Developers are often not shy about saying what they think, but there's nowhere near as much input, in my experience, from the equity community to the policy makers as there really ought to be on issues like this and others.

There's a tremendous amount, particularly since they share some interests. And so the agencies hearing from them could really learn and benefit.

Wrap Up

[00:37:53] **Michael Novogradac, CPA**: So thank you, Mark. I wanted to give you an option, a last opportunity to say a few more things about mixed income housing, any additional comments you wanted to make and or any additional resources you wanted to share with the listeners?

[00:38:09] **Mark Shelburne**: Well, it's mainly the resources, yes, that again, well, as we mentioned at the top of the podcast, got an article going further into this in our Journal of Tax Credits, which really everyone ought to sign up for it. It's very, very thoughtful. I get to edit articles every now and then, and they're just remarkably helpful and thoughtful and insightful perspectives on issues that really everyone needs to know about in our industry.

And, of course, we'll talk about this sort of thing and others at our housing credit conference May 2nd and 3rd. And so in San Francisco. And as always, I'm looking forward to going to that.

[00:38:49] **Michael Novogradac, CPA**: And I'd encourage anyone listening to reach out to Mark with any questions they have about mixed income housing or other topics that we discussed today.

And please join us in San Francisco, May 2 and 3, and come and meet Mark and me in person. In a second, I'm going to move into our Off-Mike Section, but I'd like to first remind our audience, please subscribe to Tax Credit Tuesday on your favorite podcast platforms, that way you'll make sure you don't miss an episode.

It also makes it easier for others to find the podcast by having more subscribers. I'd also encourage you to share Tax Credit Tuesday with your colleagues so they can learn more about tax credit housing, just tax credits more generally, because obviously we do go well beyond the low-income housing tax credit.

And I would also encourage you, if you have new members of your team, have them binge watch our LIHTC Developer series.

Off-Mike Section

So now we've reached our Off-Mike Section and recently in this Off-Mike Section, I've given my guests an opportunity to give a shout out to someone working in the tax credit community and giving so much back to those and helping others. So, Mark, I wanted to give you a chance to give someone a shout out. Who do you have in mind?

[00:40:13] **Mark Shelburne**: Yes, so it took me about two seconds to think of who this would be, and the first person that came to mind was Jill Cromartie. She and I met in my brief time when I stepped away from the firm to go work for the housing agency in Georgia.

She was in charge of the compliance and asset management team, whereas I did the allocation underwriting. And we became immediate friends and supported each other in our respective roles. And then for a brief period before I left, she was actually my boss and that was great. I really liked having her in that role.

She stepped up to be in charge of basically just about everything there in the rental context. And so and then, she then, after a few years in that role where made some tremendous impacts really did an excellent job leading all those programs, got to a point where she just needed to step away, and so she's now a solo practitioner, lives in Florida, but does a lot, still does a lot of work in, in Georgia as well.

And one of the best things that she ever did for me was to nominate me for the ally with the Women's Affordable Housing Network. And that has led to me getting to be involved in WAHN for now coming up on several years and it's just been a remarkably rewarding experience.

I mean, I'm now, as I like to joke, well into the extended use period of my career. Here I am getting to start something brand new, which is really neat and fun. And so I'm always being indebted to her for that.

[00:41:51] **Michael Novogradac, CPA**: Oh, that's funny about the extended use period of your career. I'm past the extended use period of mine. Fortunately, I'm in California where there's a 55 year–

[00:42:03] **Mark Shelburne**: There you go. Exactly.

[00:42:07] **Michael Novogradac, CPA**: And let me echo your shout out to Jill Cromartie. Thanks for all that you've done for the state of Georgia and continue to do and provide to the affordable housing community.

And I was sad when Mark took his brief departure from Novogradac & Company and couldn't have been happier when he rejoined. So let's just not do that again.

[00:42:29] **Mark Shelburne**: Definitely.

[00:42:31] **Michael Novogradac, CPA**: Thank you, Mark.

[00:42:32] **Mark Shelburne**: Very good, thank you.

[00:42:34] **Michael Novogradac, CPA**: I'm Mike Novogradac. Thanks for listening.

Additional Resources

Email

Mark Shelburne

Working Group

LIHTC Working Group

Conference

Novogradac 2024 Affordable Housing Conference

Magazine

Novogradac Journal of Tax Credits