

**WYOMING COMMUNITY
DEVELOPMENT AUTHORITY
(WCDA)**

2003-2004 DRAFT

AFFORDABLE

RENTAL

HOUSING

COMPLIANCE MONITORING PLAN

COMPLIANCE MONITORING PLAN

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I. INTRODUCTION

The Wyoming Community Development Authority "WCDA" is required by HUD's HOME Investment Partnership Program at 24 CFR Part 92 to monitor HOME projects for noncompliance. WCDA is also required by Section 42 of the Internal Revenue Code of 1986, as amended ("IRC 42"), to monitor Low-Income Housing Tax Credit ("LIHTC") projects for noncompliance with the provisions of IRC 42, and to notify the Internal Revenue Service ("IRS") of such noncompliance of which the Agency becomes aware. In addition, the WCDA will monitor the projects during the remaining term of the Land Use Restrictive Covenants Agreement.

WCDA has delegated the compliance monitoring function to an Authorized Delegate. WCDA has prepared this Compliance Monitoring Plan (the "plan"), and the Authorized Delegate has prepared a Compliance Monitoring Manual (the "Manual"), which sets forth the procedures that WCDA and the Authorized Delegate shall follow, and those procedures that an owner of a HOME and/or LIHTC project (the "Project Owner") is required to follow. It is important to note, however, that the Plan and Manual are to be used only as a supplement to compliance with 24 CFR Part 92 for HOME projects and Section 42 of the Internal Revenue Code of 1986 and the Treasury Regulations thereunder for Tax Credit projects. The Plan and Manual should not be considered a complete guide on compliance. The responsibility for compliance lies with the owner of the building(s). Because of the complexity of these Programs and the necessity to consider its applicability to specific circumstances, owners are urged to seek competent professional legal and accounting advice regarding compliance issues. WCDA's and the Authorized Delegate's obligation to monitor for compliance with the requirements of the Regulations does not make WCDA and/or the Authorized Delegate liable for an owner's noncompliance.

The Compliance Monitoring Manual is available on WCDA's web site at www.wyomingcda.com.

As a condition to the allocation of HOME Program Funding and/or Low-Income Housing Tax Credits, Project Owners are required to enter into a binding agreement to comply with the terms and conditions of the Plan and do so upon submission of an application. The Plan is part of the Agency's Affordable Housing Allocation Plan for the State of Wyoming.

II. OWNER'S RESPONSIBILITIES

A. RECORDKEEPING AND RETENTION REQUIREMENTS

Each owner of a low-income rental housing project must keep records for each qualified low-income building in the project that show for each year in the compliance period

- 1) The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);
- 2) The percentage of residential rental units in the building that are rent restricted units;
- 3) Designation of each unit as "Market", "HOME", and/or "Tax Credit";
- 4) The rent charged to each tenant on each residential rental unit in the building (including any utility allowances);
- 5) The rent subsidy and source received on each residential rental unit in the building;
- 6) The number of occupants in each restricted unit;
- 7) The restricted unit vacancies in the building and information that shows when, and to whom, the next available units were rented;
- 8) The annual income certification of each tenant in restricted units;
- 9) Documentation to support each tenant's income certification;
- 10) The Ethnicity of Head of Household for each restricted unit;
- 11) Type of Household (Single/non-elderly, Elderly, Related/Single Parent, Related/Two Parent, Other, or Vacant Unit);
- 12) The Character and use of the nonresidential portion of the building; and
- 13) The eligible basis and qualified basis of the building at the end of the first year of the credit period (applies to Tax Credit project only).

Forms to meet these requirements are available in the Compliance Monitoring Manual.

Owners must retain the original local health, safety, or building code violation reports or notices that were issued by the State of local government unit and copies of all documents pertaining to fair housing complaints which have been filed for WCDA's and/or the Authorized Delegate's inspection. Retention of the original violation reports or notices is not required once the Authorized Delegate reviews the violation reports or notices and completes its inspection, unless the violation remains uncorrected.

Under the record retention provision for HOME funded Projects, the owner must retain the general records for five years after project completion. Tenant income, rent and inspection information must be kept for the most recent five years, until five years after the affordability period ends.

Under the record retention provision for tax credit projects, the owner must retain the records described above for at least 6 years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period however, must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

II. OWNER'S RESPONSIBILITIES (Cont.)

B. CERTIFICATION

The owner of a HOME funded projects is required to submit an Annual Re-Certification Form for each project.

The owner of a low-income housing Tax Credit project is required to submit to the Authorized Delegate, a Certification as required by IRC §1.42-5(c)(1).

The required Certification forms are available in the Compliance Monitoring Manual.

C. SUBMISSION OF REPORTS TO WCDA

Each year during the Compliance period, Every every project must submit annually the following documents by February 15th of each Compliance Year as required by the Authorized Delegate:

- Copies of any and all local/state/other health, safety, or building code violation reports, stating whether the violation has been corrected
- Copies of all documents pertaining to fair housing complaints which have been filed
- Any other reports required by the Authorized Delegate in the Compliance Monitoring Manual

HOME Funded Projects must also submit:

- Annual Re-certification form

Tax Credit Projects must also submit:

- Owner's Certificate of Continuing Program Compliance
- Compliance Monitoring Fees
- Executed IRS Form 8821 (Tax Information Authorization)
- Any other IRS forms necessary for compliance monitoring

All projects must submit Year End Financial Statements to WCDA by March 31 of each year during the compliance period. (Audited if available)

III. REVIEW & INSPECTIONS

As a condition of HOME funding or the allocation of Tax Credits, WCDA and/or the Authorized Delegate has the right to perform on-site inspections of any restricted building or project.

An on-site review of tenant certifications including the applications, third-party verifications and supporting documentation of income, and physical inspections will be conducted in accordance with the applicable regulations. WCDA and the Authorized Delegate shall have access to all official project records, including IRS reporting forms, upon reasonable notification. All official project records or complete copies of such records must be made available to WCDA and/or the Authorized Delegate upon request.

1. HOME PROJECTS

The Authorized Delegate will conduct on-site inspections of all buildings in the project no less than:

- i) every three years for a project of one to four units,
- ii) every two years for a project with five to 25 units, and
- iii) annually for projects with 26 or more units.

The Authorized Delegate will physically inspect at least 20 percent of the project's restricted units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units; and

The Authorized Delegate will randomly select which restricted units and tenant records are to be inspected and reviewed by the Authorized Delegate. The unit and tenant records to be inspected and reviewed will be chosen in a manner that will not give owners of restricted projects advance notice that a unit and tenant records for a particular year will or will not be inspected and reviewed. However, the Authorized Delegate may give an owner reasonable notice that an inspection of the building and restricted units or tenant record review will occur so that the owner may notify tenants of the inspection or assemble tenant records for review

2.) TAX CREDIT PROJECTS

- a.) The Authorized Delegate will review annually the Certification submitted under paragraph "B" for compliance.
- b.) The Authorized Delegate will conduct on-site inspections of all buildings in the project by the end of the second calendar year following the year the last building in the project is placed in service and at least once every 3 years thereafter. The Authorized Delegate will physically inspect at least 20 percent of the project's restricted units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units; and

III. REVIEW & INSPECTIONS (Cont.)

The Authorized Delegate will randomly select which restricted units and tenant records are to be inspected and reviewed by the Authorized Delegate. The unit and tenant records to be inspected and reviewed will be chosen in a manner that will not give owners of restricted projects advance notice that a unit and tenant records for a particular year will or will not be inspected and reviewed. However, the Authorized Delegate may give an owner reasonable notice that an inspection of the building and restricted units or tenant record review will occur so that the owner may notify tenants of the inspection or assemble tenant records for review.

IV. NOTIFICATION OF NONCOMPLIANCE REQUIREMENTS

The Authorized Delegate will give notification to owners within 60 days of any findings of noncompliance. The owner will be allowed a correction period which will be determined by The Authorized Delegate on an individual basis. The owner must notify The Authorized Delegate of any and all corrections. If non-compliance is not corrected during the Correction Period, the owner is responsible for paying any fees necessary to conduct an audit and/or re-inspection to obtain a corrected 8823.

For Tax Credit projects, WCDA will promptly notify the IRS of any project noncompliance within its responsibility as contained in the Code. Neither the Authorized Delegate nor WCDA have jurisdiction to interpret or administer the Code, except in those instances where specific delegation has been authorized.

Violations of the WCDA Extended Use Agreement are non-compliance issues and reportable to the IRS.

V. MODIFICATION OF THE COMPLIANCE MONITORING PROCEDURE

This Compliance Monitoring Procedure is subject to modifications by WCDA in order to comply with Section 42 of the Code, all regulations, rules, rulings, policies, procedures and any other official comments promulgated and issued by the Internal Revenue Service, or the Treasury Department (including currently existing and future promulgations and issuances) in the case of Low Income Housing Tax Credit projects, or 24 CFR Part 92 in the case of projects under the HOME Investment Partnerships Program. Further, this Compliance Monitoring Procedure is also subject to any other modifications that WCDA in its sole discretion, considers necessary.

VI. LIABILITY

COMPLIANCE WITH THE REQUIREMENTS OF THE HOME PROGRAM AND/OR THE TAX CREDIT PROGRAM IS THE RESPONSIBILITY OF THE **OWNER** OF THE BUILDING FOR WHICH THE FUNDING AND/OR CREDIT IS ALLOWABLE. WCDA'S OBLIGATION TO MONITOR FOR COMPLIANCE WITH THE REQUIREMENTS DOES NOT MAKE WCDA LIABLE FOR THE OWNER'S NONCOMPLIANCE.

VII. COMPLIANCE FEES

A Tax Credit Project Owner is required to submit to WCDA the compliance fees annually on before the 15th of February. The compliance fee is \$35.00 per unit due annually during the compliance period. The compliance period is defined as the IRS Initial compliance period, plus the extended compliance period agreed to in the application, plus the IRS required Extended Use period, plus the 3 year vacancy de-control period. This fee may be adjusted from time to time as WCDA deems necessary.