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## Arizona Department of Housing 2021 Information Bulletin

**REGARDING PROGRAMS: Rental Compliance**

**REGARDING FUNDING SOURCES: Low Income Housing Tax Credit (LIHTC), HOME, State and National Housing Trust Fund (HTF) and Neighborhood Stabilization Programs (NSP) Compliance**

**INFORMATION BULLETIN No. 05-21**

**ISSUED: January 15, 2021**

**RE: COVID-19 Compliance Guidance for ADOH Assisted Rental Properties**

The Arizona Department of Housing (“ADOH”) has been monitoring the situation regarding COVID-19 and how it affects our business operations. For ADOH, that means understanding how it impacts our employees, residents, owners/agents, and then making the necessary adjustments to our operations.

Our priority is to keep you, your residents and our employees safe. For this reason, we are providing the following guidance below with updates from IRS Notice 2021-12, published January 15, 2021 and HUD CPD’s Availability of HOME Waivers updated December 10, 2020:

### **On-Site Visits – UPDATE**

While the IRS has allowed for site visits to be delayed, the Arizona Department of Housing, for the time being, will continue with its current schedule through April. It is of great importance that we ensure projects are being kept in compliance with UPCS Protocol. Owners/Agents for projects that are due for an on-site inspection will be contacted individually with further instructions.

### **Site Visit response deadlines – No change.**

ADOH may grant extensions if there is good cause. Please submit any extension requests, via email, to the Officer in Charge of the visit. If applicable, please explain in your request how COVID-19 is preventing the correction of the issue and the date that you believe you can resolve the matter in order to provide a complete response to ADOH.

- Projects in the Compliance Period – In the absence of federal guidance, staff cannot grant extension beyond what is permissible under Section 42 for 8823 reporting purposes.
- Post-15 Projects - ADOH may have some flexibility in extending response deadlines further.

### **Resident Services/Common Areas – UPDATE**

June 29, 2020 AZ-Executive Order 2020-43 was issued effectively limiting public gatherings in excess of 50 individuals. The Executive Order also clarifies that multi-family pools can remain open provided you are following all safety precautions. ADOH’s recommendation is to ensure you are

abiding by all CDC, State and Local guidance pertaining to the proper operation and safety measures for common areas and amenities.

Pools:

[https://azgovernor.gov/sites/default/files/guidance\\_for\\_pools.pdf](https://azgovernor.gov/sites/default/files/guidance_for_pools.pdf)

On January 15, 2021 the IRS issued common area guidance which states; *If an amenity or common area in a low-income building or project is temporarily unavailable or closed during some or all of the period from April 1, 2020 to September 30, 2021, and if the unavailability or closure is in response to the COVID-19 pandemic, and not because of other noncompliance for § 42 purposes, then this temporary closure does not result in a reduction of the eligible basis of the building.*

It will be at the sole discretion of owner/agent to limit access to common area amenities. Please note: should you choose to limit access to the office, you must still keep the line of communication open with residents as much as possible during regular office hours. Please notify the Compliance Program Manager if you intend to limit access to these areas.

ADOH would highly recommend continuing conversation with your legal counsel concerning liability of any associated party who is not adhering to social distancing and/or any other COVID-19 safety precaution.

#### **Recertifications - UPDATE**

ADOH has allowed various documents to be received and signed electronically. While we did not allow for the Tenant Income Certification or lease to be signed electronically, we are temporarily lifting this restriction to allow for recertifications to be completed as timely as possible while still adhering to all CDC and local health official recommendations as well as IRS regulations.

LIHTC:

On January 15, 2021 the IRS issued recertification guidance which states; *An Owner of a low-income building is not required to perform income recertifications under § 1.42-5(c)(1)(iii) in the period beginning on April 1, 2020, and ending on September 31, 2021. The Owner must resume the income recertifications as due under § 1.42-5(c)(1)(iii) no later than October 1, 2021.*

While the guidance allows income recertifications to be delayed until September 31, 2021, it does not delay or exempt owners/agents from ensuring LIHTC households are still meeting student eligibility requirements. If an owner/agent chooses to utilize the income recertification delay allowed by the IRS, ADOH will require the following be in a resident's file to ensure household's meets student status requirements under the LIHTC Program:

- The ADOH Self Certification TIC with Part IV – Student Status completed.
- Or owner/agent's company created Student Status form.

The waiver listed above only applies to recertifications for in place residents. Owners/Agents are still required to income qualify households at move in to ensure eligibility under the LIHTC Program.

HOME / State HTF / NSP:

ADOH has required annual full source document recertifications for HOME assisted units. On December 10, 2020 the Office of Community Planning and Development issued an extension and

expansion of previous waivers offered to HOME assisted units. One of those expansions was the ability to utilize self-certifications for HOME assisted units. This applies to communities with affordability periods of 10 or more years. Effective immediately ADOH will align with this waiver to allow the use of self-certifications for all HOME/State HTF/NSP assisted units. You may use the sample self-certification found at the link below. ADOH is in the process of creating a HOME Self-certification form and will provide once completed. Questions regarding your community's eligibility for this waiver can be sent to ADOH Compliance & PBCA Administrator.

<https://www.hudexchange.info/resource/6069/home-sample-self-certification-of-annual-income-form/>

The waiver listed above only applies to recertifications for in place residents. Owners/Agents are still required to income qualify households at move in to ensure eligibility under the HOME/State HTF/NSP Programs.

### **Annual Reports – NEW GUIDANCE**

LIHTC Annual Reports: Due on March 15, 2021.

The Owner's Certification (Exhibit A) can be signed electronically. The entire report can be submitted electronically via our Compliance Annual Report Portal. Please follow the instructions outlined on the portal webpage.

<https://housing.az.gov/portals/document-upload-portals/compliance-annual-report-portal>.

If your project chose to utilize the waiver allowing owner/agent to forgo income verifications and documentation, owners/agents are still be required to enter student status information into HDS' NextGen reporting system. In addition to student status, rent restrictions and rent charged to the unit as of December 31, 2020 must also be entered.

For owner/agents of new constructions and acquisition/rehabilitation project, if your intention is to begin claiming credits in 2020 an Annual Report must be submitted by March 15, 2021. Prior to entering tenant information, Owner/Agents are required to enter unit numbers and unit square footage into the HDS NextGen system. Please contact our Data Division via email at [wcsupport@azhousing.gov](mailto:wcsupport@azhousing.gov) for access to your project in the HDS NextGen system.

HOME/HTF/NSP Annual Reports: Due August 1, 2021.

The Owner's Certification can be signed electronically. The entire report can be submitted electronically via our Compliance Annual Report Portal. There are currently no other changes to the HOME/HTF/NSP reporting.

<https://housing.az.gov/portals/document-upload-portals/compliance-annual-report-portal>.

### **LIHTC Compliance Monitoring Fee – NEW GUIDANCE**

Compliance Monitoring will be due on or before March 15, 2021. In the past ADOH has emailed invoices out to listed owner/agent contact. This process has changed for 2021. A Compliance Fee Invoice page has been created on the ADOH website. Owner representatives can easily access their project's invoice by visiting the link below. You can search by project name, management company and invoice/TC number. If you cannot locate your project, please contact the Compliance & PBCA Administrator. ALL FEES AND INVOICES HAVE BEEN UPDATED FOR NEW PROJECTS.

<https://housing.az.gov/documents-links/housing-invoices>

**Other federal laws – No Change**

At this time, there are no waivers of the requirements under the Federal Fair Housing Act, the Violence Against Women Act, Section 504 of the Rehabilitation Act, or the Americans with Disabilities Act. Your property must continue to make reasonable accommodations and process transfer requests related to disabilities or VAWA protections.

**Vacant units – UPDATED**

Vacant low-income/state assisted units must be leased to qualified households. At this time, there is no relief to use low-income/state assisted units for any other purpose, even if it is related to COVID-19. The IRS requires vacant unit to be made rent ready in a reasonable timeframe. ADOH considers 30-days to be reasonable time. Any unit found to be vacant and not rent ready within 30-days must be reported to the IRS via form 8823. Please submit any requests for additional time in making a unit rent ready to the Compliance & PBCA Administrator.

If you have any questions please contact Juan Bello, Compliance & PBCA Administrator, at 602-771-1074 or via email at [juan.bello@azhousing.gov](mailto:juan.bello@azhousing.gov).



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