HUD sets 2011 Rent & Income Limits for Section 8 and Low-Income Housing Tax Credit (LIHTC) programs

Management Agents and Owners take notice.

Date Posted: Wednesday, June 15, 2011

The 2011 LIHTC income limits are effective May 31, 2011 and must be implemented no later than July 14, 2011.

MULTIFAMILY TAX SUBSIDY PROJECTS

The Housing and Economic Recovery Act (HERA) of 2008 made statutory changes to how income limits are calculated for LIHTC and bond-financed properties. HERA protected owners from rent decreases in 2009, and established a new system for owners to hold their income limits and rents harmless beginning in 2010.
A Multifamily Tax Subsidy Project (MTSP) is a project financed through the LIHTC and/or tax exempt bond programs. For MTSPs, HUD issues two sets of income limits:

• One set of income limits for HUD hold-harmless impacted projects, otherwise referred to as Impacted MTSPs; and
• One set of income limits for non-Impacted MTSPs.
An Impacted MTSP is any project with income limits determined in 2007 or 2008 under HUD's hold-harmless policy. A project qualifies as an Impacted MTSP only if it was placed in service before the end of 2008.

A single building project qualifies as an Impacted MTSP if the owner placed the building in service before the end of 2008.
A multi-building project qualifies as an Impacted MTSP if the owner placed its first building in service before the end of 2008. Remember that a multi-building project is defined on Line 8b of each building's 8609 form. A building is part of an Impacted MTSP only if is included in a project that had at least one building in service before the end of 2008.

For an acquisition/rehab project, the owner places its acquisition credits in service on the date of acquisition and places the rehab credits in service for each building when completing its rehabilitation activities. A project qualifies as an Impacted MTSP if its acquisition credits were in service before 2009.

Going forward, the income limits for each non-Impacted project will not decline and will be held harmless at the highest level attained during its qualifying period. As long as the income limits for a county or metro area do not decline, all non-Impacted projects in the area will use the same income limits. However, once an area experiences a decrease in HUD’s income limits, it will see LIHTC projects using various income limits and rent structures. HUD will publish historical data on income limits, but each owner should maintain a file documenting their project’s income limits and rents since placing in service.

Applying the New Income Limits to LIHTC Properties

HERA SPECIAL INCOME LIMITS:
Four (4) Connecticut Areas have been assigned HERA Special Income Limits, in addition to a 2011 Income Limit. The HERA Special Income Limits MUST be used by developments in those affected areas that were Placed In Service (PIS) before an applicable date. The areas with HUD's special instructions are as follows:

- Bridgeport HMFA - PIS on or before May 30, 2011 *
- Milford-Ansonia-Seymour HMFA - PIS on or before Dec. 31, 2008
- Waterbury HMFA - PIS on or before Dec. 31, 2008
- Windham County - PIS on or before Dec. 31, 2008

* HUD invoked the "hold-harmless" policy for FY2011 MTSP Income Limits for the Bridgeport HMFA area. Therefore, based on the FY2011 MTSP, developments in this area would be "held-harmless" and would use the HERA Special Income Limits.

If the development was or will be placed in service on or after 5/31/2011:

- Use the current MTSP limits
- The development may NOT use the HERA Special limits
- If the income limits decreased from the limits in effect at the time of carryover allocation, the development must use the current income limits for determining tenant eligibility. However, rents can be calculated in accordance with the gross rent floor.

NOTE: The income limits are applied on a DEVELOPMENT-WIDE basis, depending on how the development is defined based on the multiple building election on the 8609s. If question 8b on the 8609s indicated that a building was part of a multiple-building development, all of the buildings in that multiple-building development will use the income limit based on the date the first building was placed in service. If question 8b on the 8609s indicated the building was NOT part of a multiple building development (in other words, it was set up as though each building is its own development), each building will use the income limit based on the date that particular building was placed in service.