



March 15, 2019

The Honorable Charles Rettig
Commissioner
Internal Revenue Service
1500 Pennsylvania Ave NW
Washington, D.C. 20220

Dear Commissioner Rettig,

We write to ask for your immediate attention to an issue that is blocking the development of new affordable housing for veterans in our states.

We have been told by our constituents that the Internal Revenue Service (IRS) has reinterpreted the statute governing Private Activity Bonds (PABs) (26 U.S.C. 142) in a way that now precludes the use of these bonds for projects that serve veterans and other populations with special needs. This unpublished policy decision changes how the 'General Public Use' criteria are applied to PABs and is a misinterpretation of the statute and congressional intent.

In 2008, Congress clarified in the statute governing low-income housing tax credits (LIHTC) that, "A project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants with special needs, who are members of a specified group under a Federal program or State program or policy that supports housing for such a specified group, or who are involved in artistic or literary activities" (26 USC 42(g)(9)). Given that LIHTCs and PABs are designed to be used in tandem, the General Public Use criteria explicitly laid out in the LIHTC statute should apply to PABs as well.

This change is having an immediate impact on planned housing projects for our veterans. For example, the IRS's new interpretation is the only impediment to breaking ground for a veteran housing project in Windsor, California. In addition, the future expansion and development plans of other veteran housing facilities – including in Texas, Hawaii, and Nevada – may be impaired without access to these tax-exempt bonds.



To ensure the completion of ongoing veteran housing projects and to facilitate future development of much-needed affordable housing in our states, we strongly urge the IRS to consider expeditiously issuing a notice clarifying that affordable housing projects that comply with the LIHTC General Public Use criteria are also eligible for PABs.

Thank you for your consideration and attention to this urgent matter.

Sincerely,

Dianne Feinstein
United States Senator

John Cornyn
United States Senator

Catherine Cortez Masto
United States Senator

Jacky Rosen
United States Senator

Kamala D. Harris
United States Senator

Mazie K. Hirono
United States Senator