

# RIVERVIEW DEVELOPMENT, LLC

December 15, 2020

## Via Upload to Federal Rulemaking Portal

CC:PA:LPD:PR (REG 119890-18)  
Room 5203  
Internal Revenue Service  
P.O. Box 7604  
Ben Franklin Station  
Washington, D.C. 20044  
Attention: Sunita Lough, Depute Commissioner for Services and Enforcement

## RE: Comments on REG-119890-18: Section 42, Low-Income Housing Credit Average Income Test Regulations

Dear Ms. Lough:

Riverview Development is currently constructing a 200-unit multi-family housing development in Everett, WA. We are very concerned about the guidance the IRS has provided regarding the average income set-aside under Section 42 of the Internal Revenue Code.

While we have elected income averaging, we will likely, in practice, revert to the fixed 60% AMI standard, as the proposed regulations subject us to potential fair housing concerns by not adjustment of the imputed income designations over time.

More than 20% of households in affordable multifamily developments have disabilities. The proposed regulations state that once an apartment home has an income designation, that unit's designation is fixed and can never be changed. This presents a very significant conflict to federal fair housing rules and overall options for reasonable accommodations. For example, a household qualifies and moves into a 2nd floor apartment designated at the 80% income level. During their residency, the household needs a lower level unit due to medical reasons and submits a reasonable accommodation request to transfer to a lower level apartment home. The household, however, does not qualify for any unit designation lower than 80% set-aside. The only lower level apartment homes are units with fixed set-asides 60% or lower. The household would not be allowed to move, resulting in a potential fair housing violation and owner liability. The proposed regulations, as presented, would have a disparate impact on disabled individuals.

We encourage your consideration of our comments.

Regards,



Philip G. Nored  
Managing Member

PO Box 4108  
Bellevue, WA 98009  
(425) 453-9556

