

November 23, 2020

Ms. Nicole Cimino  
Branch Chief  
Office of Chief Counsel  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Mr. Michael Novey  
Associate Tax Legislative Counsel  
Office of Tax Policy  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Dear Ms. Cimino and Mr. Novey:

The undersigned 140 organizations urge the Internal Revenue Service (IRS) and U.S. Department of the Treasury (Treasury) to take immediate action to provide deadline extensions and other necessary accommodations for the Low-Income Housing Tax Credit (Housing Credit) program in light of the continued severe disruptions to the development, construction and ongoing operations of Housing Credit properties as a result of the COVID-19 pandemic. It is critical that the Housing Credit program can continue to provide safe, quality affordable housing in communities nationwide, especially given the dire economic consequences of the COVID-19 pandemic impacting millions of low-income households.

We applaud the IRS' quick action in Notice 2020-53 to provide relief for Housing Credit program deadlines and requirements in response to the pandemic, and strongly support the recommendations for the continuation of these extensions and additional accommodations requested in a letter from the National Council of State Housing Agencies (NCSHA), dated November 16, 2020, attached here.

Given the continuing need to safeguard the health of Housing Credit residents, property management staff, and inspectors, we strongly urge the IRS and Treasury to issue immediate guidance.

We appreciate the IRS and Treasury's attention to these critical issues.

Sincerely,

Affordable Housing Association of Indiana  
Affordable Housing Investors Council  
Affordable Housing Management, Inc.  
Affordable Housing Tax Credit Coalition  
AHEPA Affordable Housing Management Company  
Alco Management, Inc.  
Alliant Capital  
Applegate & Thorne-Thomsen, P.C.  
Aurora Housing Authority  
Avesta Housing  
Baker Tilly  
Barker Management, Inc.  
Barnes & Thornburg, LLP  
Beacon Hill Capital LLC  
Boston Financial Investment Management  
California Housing Finance Agency  
CAMBA/CAMBA Housing Ventures, Inc.  
Cambridge Housing Authority  
Capstone Communities LLC

Charities Housing  
Cinnaire  
Citizens' Housing and Planning Association (CHAPA)  
City of Colorado Springs, Colorado  
Coalition On Temporary Shelter  
CohnReznick, LLP  
Community Revitalization and Development Corporation  
Community Roots Housing  
Community Vision Partners  
Conifer Realty LLC  
Cook Inlet Housing Authority  
Corporation for Supportive Housing (CSH)  
Council for Affordable and Rural Housing  
Council of Large Public Housing Authorities  
CREA, LLC  
Dalcour Companies  
Dauby O'Connor and Zaleski, LLC  
Disability Network Southwest Michigan  
Dominium  
Dwelling Development LLC  
Empower Missouri  
Enterprise Community Partners  
Envolve Communities LLC  
Frost Brown Todd LLC  
Gatesburg Road Development  
GHC Housing Partners  
Gorman & Company, LLC  
Grapevine Economic Development Fund  
Herman & Kittle Properties, Inc.  
Holland & Knight LLP  
Housing Advisory Group  
Housing Authority of Southeastern Utah  
Housing on Merit  
Hudson Valley HDF Company, Inc.  
Hunt Capital Partners, LLC  
Illinois Housing Council  
Institute of Real Estate Management  
Katopody, LLC  
KCG Companies, LLC  
Kentucky Affordable Housing Coalition  
Klein Hornig LLP  
Kutak Rock LLP  
Landmark Asset Services, Inc.  
LDG Development, LLC  
LeadingAge  
LHP Affordable Housing  
Local Initiatives Support Corporation/National Equity Fund  
Low Income Housing Institute  
Low Income Investment Fund  
Maine Affordable Housing Coalition  
Marble Cliff Capital

Mercy Housing  
Meridian Investments, Inc.  
Merritt Community Capital Corporation  
Metro West Housing Solutions  
MGL Partners  
Michigan State Housing Development Authority (MSHDA)  
Midwest Housing Equity Group  
Miles & Stockbridge  
Milestone Housing Group LLC  
Minnesota Housing Finance Agency  
Minnesota Housing Partnership  
National Affordable Housing Management Association  
National Affordable Housing Trust  
National Apartment Association  
National Association of Home Builders  
National Association of Local Housing Finance Agencies  
National Association of REALTORS®  
National Association of State and Local Equity Funds  
National Coalition for Homeless Veterans  
National Community Renaissance  
National Housing & Rehabilitation Association  
National Housing Conference  
National Housing Trust  
National Multifamily Housing Council  
National NeighborWorks Association  
NeighborWorks Umpqua  
Nevada HAND Inc.  
North Carolina Housing Coalition  
North Carolina Justice Center  
Novogradac LIHTC Working Group  
Ohio Capital Corporation for Housing  
Pedcor Companies  
Pennrose, LLC  
Pennsylvania Housing Finance Agency  
Plante Moran  
Preservation of Affordable Housing, Inc. (POAH)  
Public Housing Authorities Directors Association  
R4 Capital LLC  
RBC Community Investment  
Red Stone Equity Partners  
Regions Affordable Housing LLC  
RLH Development, LLC  
Royal Capital  
RPM Development, LLC  
RubinBrown LLP  
Rural Community Assistance Corporation  
Settle Meyer Law LLLC  
Smart Growth America/LOCUS  
Standard Communities  
Stewards of Affordable Housing for the Future (SAHF)  
Stratford Capital Group

Sugar Creek Capital  
Tapestry Development Group  
The Carabetta Companies  
The Commonwealth Companies  
The Community Builders  
The Gatehouse Companies  
The Michaels Organization  
The NHP Foundation  
The NRP Group  
The Wishcamper Companies, Inc.  
Trinity Financial, Inc.  
Utah Housing Corporation  
Wake County Southern Christian Leadership Conference  
Wallick Communities  
Wingate Companies  
Winterwood, Inc.  
Winthrop & Weinstine, P.A.  
WNC & Associates, Inc.  
Zimmerman Development



National Council of  
State Housing Agencies

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Associate Tax Legislative Counsel  
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Dear Ms. Cimino and Mr. Novey:

The National Council of State Housing Agencies (NCSHA), on behalf of the Low Income Housing Tax Credit (Housing Credit) allocating agencies, urges The Internal Revenue Service (IRS) and U.S. Department of the Treasury (Treasury) to extend the temporary relief provided by IRS Notice 2020-53 and to make other necessary accommodations for the Housing Credit program in light of the continuing disruption the COVID-19 pandemic is having on development and construction activities and the ongoing operations of Housing Credit properties.

NCSHA applauds IRS' quick action in Notice 2020-53 to provide relief from program deadlines and requirements in response to the COVID-19 pandemic. This action was instrumental in allowing Housing Credit developments in the construction phase to continue development this year and for existing properties to continue serving low-income residents during the extenuating circumstances the pandemic has caused.

Unfortunately, COVID-19 cases are still increasing nationally. The pandemic continues to impact the supply of construction materials, timing of permitting and local approvals, and the availability of construction workers. It also continues to limit the ability of property managers to interact with residents for regular property operations and to restrict the ability of state Housing Credit agencies to complete development approvals and regular compliance monitoring functions.

Given the continuing importance of safeguarding the health of Housing Credit residents, property management staff, and state and local inspectors, we urge the IRS and Treasury to issue immediate guidance extending the relief provided by IRS Notice 2020-53. Specifically:

- Extend the December 31, 2020 deadlines and associated requirements provided by IRS Notice 2020-53—including the carryover allocation 10% Test deadline, the minimum rehabilitation expenditure deadline, the rehabilitation period deadline for properties that suffered a casualty loss due to a Presidentially declared major disaster, the transition period requirement to meet set-asides for residential rental projects in accordance with IRS Revenue Procedure 2004-39, and the rehabilitation period requirement for bonds used for residential rental projects—to September 30, 2021, at minimum.
- Extend the waiver of the physical inspection and tenant file review requirements of IRS regulation 1.42-5 and tenant income recertification requirements provided by IRS Notice 2020-53 to September 30, 2021, at minimum.
- Extend guidance provided by IRS Notice 2020-53 clarifying that the temporary closure of property amenities and common space facilities will not negatively impact a property's eligible basis and result in loss of Credits through September 30, 2021, at minimum.

In addition to extending relief provided by IRS Notice 2020-53, we urge IRS and Treasury to make the following critical additional accommodations to keep the program operating effectively during the pandemic:

- Provide a 12-month extension of the placed in service deadline as required in IRC Section 42(h)(1)(E)(i) for all developments allocated Housing Credits in calendar years 2018-2021. While limited relief to placed in service rules is available to certain projects in accordance with IRS Revenue Procedures 2014-49 and 2014-50, this relief requires specific action by the state Housing Credit allocating agency and is only available to developments receiving a carryover allocation prior to January 20, 2020. Given the continuing interruption in construction activity, lack of a general rule extending the placed in service deadline is significantly impacting Housing Credit investor interest and equity pricing amounts.
- Provide a 12-month extension (until December 31, 2021) of the year-end deadline for property restoration for any property that suffers a casualty loss not associated with a major disaster during 2020. The year-end deadline can be a significant challenge under normal circumstances, particularly if a casualty loss occurs late in the calendar year. Construction disruptions and social distancing requirements due to the pandemic further exacerbate this challenge, and can make it impossible to meet the deadline.
- Provide a 12-month extension for all open noncompliance corrective action periods, with state Housing Credit agencies having the ability to reinstate

deadlines depending on their assessment of the situation. The ability to conduct routine maintenance and complete work orders is affected by social distancing requirements and construction material shortages, while correction of other noncompliance may be hampered by other delays and closures. The ability to provide additional flexibility on the corrective action period is necessary to avoid penalizing otherwise compliant owners for circumstances beyond their control during the pandemic.

- Provide guidance clarifying that Housing Credit allocating agencies may conduct telephonic hearings to satisfy qualified allocation plan (QAP) public approval requirements in IRC Section 42(m)(1)(A)(ii) until September 30, 2021, consistent with guidance provided in IRS Revenue Procedure 2020-49 for private activity bonds. The pandemic has restricted the ability of states to convene public hearings for the approval of QAPs, and these restrictions are continuing into 2021. Many states have successfully solicited public input using telephonic hearings as permitted for tax-exempt bonds. IRS should treat the Housing Credit QAP public approval requirement in a consistent manner to the private activity bond requirement in Section 147, as the Section 42 requirement directly references the private activity bond rules.

Depending on the duration of the pandemic, IRS may need to further extend these actions beyond the time periods requested in this letter.

We appreciate IRS and Treasury's attention to these critical issues at this busy time and stand ready to assist in any way that we can.

Sincerely,

A handwritten signature in black ink, appearing to read "Garth Rieman", with a long horizontal flourish extending to the right.

Garth Rieman  
Director of Housing Advocacy and Strategic Initiatives