NATIONAL
HOUSING
TRUST

February 10, 2017

Internal Revenue Service
Attn: CC:PA:LPD:PR (Notice 2016-77)
Room 5203
P.O. Box 7604
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Re: Notice 2016-77 – Satisfying the Required Qualified Allocation Plan Preference in Section 42 (m)(1)(B)(ii)(III) Concerning Concerted Community Revitalization Plans

To Whom It May Concern:

Thank you for the opportunity to provide comments on whether the Treasury Department or Internal Revenue Service (IRS) should provide guidance defining the term "concerted community revitalization plan" (CCRP).

The National Housing Trust (NHT) is the nation's leading expert in preserving and improving affordable housing, ensuring that privately owned rental housing remains in our affordable housing stock and is sustainable over time. Using the tools of real estate development, rehabilitation, finance, and policy engagement, the Trust is responsible for saving more than 25,000 affordable homes in 41 states, leveraging more than $1 billion in financing.

NHT believes that having a CCRP is desirable for properties receiving Low Income Housing Tax Credit (Housing Credit) allocations, but it is not appropriate for the Treasury Department or Internal Revenue Service to provide a federal, static definition of this term. One size for all CCRPs nationally does not fit all.

Each CCRP is specifically defined to meet the individual needs of a local neighborhood. State or local agencies allocating Housing Credits are the most appropriate entities for providing guidance for and evaluating the revitalization plan for a local community. State and local allocating agencies may modify the definition or requirements for a CCRP in their Qualified Allocation Plans (QAPs) over time, as needed, based on what experience demonstrates works best to incentivize substantive community revitalization. This definition also may be adjusted to respond to dynamic market conditions and demographics as they change within a community. State and local housing agencies develop QAPs through an extensive public participation process. Stakeholders in the community who are concerned with the definition of CCRPs may comment directly to the allocating agencies as part of this process.

If the Treasury Department or the IRS were to provide guidance on how a CCRP must be defined, we are deeply concerned that it would not adequately reflect the range of conditions under which revitalization may be fostered, inadvertently excluding and preventing Housing Credits from being allocated to support revitalization in situations not envisioned by federal regulators. For example, community revitalization may occur in different situations and with various kinds of community and financial support in urban, rural, and suburban communities. The appropriate approach to revitalization also will reflect the demographic profile of a community, so a plan that would work in a neighborhood filled with low income families may not be suitable in an area populated primarily by senior citizens. A static definition or set of guidelines defined by Treasury or IRS may inhibit state and local housing agencies from allocating Housing Credits to meet the needs of a specific community not identified by federal agencies.

NHT studies and comments on each state Housing Finance Agency's (HFA) QAP annually. Currently, 42 state HFAs provide guidance regarding CCRPs. State and local agencies learn from the language and experience of others, which is more appropriate than a federal, static definition for a CCRP.

Having a CCRP in place in conjunction with a Housing Credit allocation is desirable, but we believe it should not be dispositive, most especially for the preservation of existing affordable housing. The preservation of valuable affordable housing occupied by low income households should not be forfeited simply because the local government does not have the capacity, resources, or time to develop a CCRP. In some areas, private and non-profit organizations may be investing in efforts to strengthen a low income community, but the local government may be slow to adopt a formal revitalization plan. This should not deter investors and developers from supporting much needed investment in these communities. To make a CCRP dispositive in such cases is tantamount to discriminating against current residents (often minorities) who occupy already existing affordable housing.

Rather than focusing exclusively on the qualified census tract (QCT) preference that requires some kind of CCRP, the Treasury Department also should consider how to best utilize all three required Housing Credit allocation preferences described in 26 U.S.C. § 42(m)(1)(B)(ii) to enable and further the preservation and improvement of existing affordable housing. In addition to the QCT/CCRP preference (26 U.S.C. § 42(m)(1)(B)(ii)(III)), § 42(m)(1)(B)(ii) also requires Housing Credit allocation preferences for:

- projects serving the lowest income tenants (§ 42(m)(1)(B)(ii)(I)), and
- projects obligated to serve qualified tenants for the longest periods (§42(m)(1)(B)(ii)(II)).

Considering the role of each of these required preferences, and their collective effect, is critical to ensure that Housing Credits are utilized to preserve and rehabilitate existing affordable housing in different communities with varying housing markets (urban, suburban, small town and rural communities; strong and weak markets, both changing and static).

Thank you for your consideration of these comments. Please contact Ellen Lurie Hoffman, NHT's Federal Policy Director at 202-333-8931 x130 with any questions or for additional information.

Sincerely,

Michael Bodaken
President
National Housing Trust