
Contents

CHAPTER 1—LIHTC PROPERTY MANAGEMENT	19
In This Chapter	19
1.01 Overview	19
1.02 Importance of a Good Property Manager	20
1.03 Minimum Set-Asides	20
1.04 Minimum Set-Asides—Multiple Building Development	22
1.05 Documentation	23
1.06 Proper Tenant File Retention Techniques	24
1.07 Important Time Periods	26
1.08 Resyndicated Properties	32
Conclusion	34
1.09 Eviction or “Termination of Tenancy”	34
Good Cause	34
Owner Fails to Renew Lease	35
1.10 Eviction or “Termination of Tenancy” HUD Financing	36
CHAPTER 2—INCOME	39
In This Chapter	39
Introduction	39
2.01 Income Restrictions	39
2.02 Income Limits—Area Median Gross Income (AMGI)	39
2.03 Income Limits—Multifamily Tax Subsidy Projects (MTSP)	40
2.04 Income Limits—National Nonmetropolitan Median Income (NNMI)	41
2.05 Income Limits—How Income Limits are Calculated	42
2.06 Income Limits—Rural Properties	48
2.07. Income limits—Combining USDA and LIHTC Rent Limits	48
2.08 Income Limits—Household Size	53
2.09 Determining Tenant Income	56
2.10 Determining Tenant Income—Income Inclusions	56
2.11 Determining Tenant Income—Income Exclusions	57
2.12 Determining Tenant Income—Verification of Income and Assets	58
2.13 Determining Tenant Income—DOMA	73
2.14 Determining Tenant Income—Assets—Inclusions	74

2.15 Determining Tenant Income–Assets–Exclusions	75
2.16 Determining Tenant Income–Income from Assets	76
2.17 Determining Tenant Income–Asset Verification–Less Than \$5,000	77
2.18 Income Certifications	81
2.19 Completing the Income Certification–Initial	81
2.20 Income Certification–Retroactive	81
2.21 Income Recertifications	83
2.22 Income Recertification–Change in Income–Next-Available-Unit Rule	84
2.23 Income Recertification–Change in Income–Next-Available-Unit Rule– Average Income	85
2.24 Income Recertifications–Change in Household Size	88
2.25 Income Certification–Recertification Waiver–100 Percent Affordable Properties	90
2.26 Tenant Income Certification Effective Dates for Rehabilitation Developments	91
2.27 Resyndication and Deeper Restrictions Required by State Agencies	94
CHAPTER 3–RENT	99
In This Chapter	99
Introduction	99
3.01 Rent Restrictions	99
3.02 Rent Limits–Pre-1989	100
3.03 Maximum Rent	101
3.04 Sales Tax in Rent	101
3.05 Mandatory Renters’ Insurance in Rent	101
3.06 Other Fees in Rent	102
3.07 Section 8 and Other Rental Assistance Payments	103
3.08 Supportive Services	105
3.09 Fees for Optional Assisted Living Services	105
3.10 Utilities	106
3.11 Utility Allowance	108
3.12 Utility Allowance–Buildings Assisted by Rural Housing Service	108
3.13 Utility Allowance–Buildings with RHS-Assisted Tenants	108
3.14 Utility Allowance–Buildings Regulated by HUD	108
3.15 Utility Allowance–Non-HUD/RHS Regulated Buildings	108
3.16 Utility Allowance–Non-HUD/RHS Regulated Buildings–PHA Utility Allowance	109
3.17 Utility Allowance–Non-HUD/RHS Regulated Buildings–Utility Company Estimate	109

3.18 Utility Allowance–Non-HUD/RHS Regulated Buildings–Agency Estimate	110
3.19 Utility Allowance–Non-HUD/RHS Regulated Buildings– HUD Utility Schedule Model	110
3.20 Utility Allowance–Non-HUD/RHS Regulated Buildings– Energy Consumption Model	111
3.21 Utility Allowance–Non-HUD/RHS Regulated Buildings– Determining the Right Utility Allowance	111
3.22 Utility Allowance–Updating	111
3.23 Utility Allowance–Submetering	112
3.24 Rent Floor	114
CHAPTER 4–LOW-INCOME HOUSING TAX CREDIT BUILDINGS	117
Introduction	117
4.01 Next-Available-Unit Rule	117
4.02 Next-Available-Unit Rule–Units Occupied Before First Year of Credit Period	118
4.03 Next-Available-Unit Rule–Different Bedroom Sizes	119
4.04 Next-Available-Unit Rule–Same Bedroom Sizes	120
4.05 Next-Available-Unit Rule–Procedures for Compliance	121
4.06 Vacant-Unit Rule	121
4.07 Suitable for Occupancy	123
4.08 Students	124
4.09 Additional Guidance on Full-Time Student Rule–PLR 200339022	127
4.10 Non-Transient Occupancy	128
4.11 Unit Transfers	129
4.12 Multiple Building Selection–How to Answer Form 8609 Question 8B	130
4.13 Unit Transfers–Within a Building	131
4.14 Unit Transfers–Between Buildings	131
4.15 Unit Transfers Between Buildings–Certifications	132
4.16 Unit Transfers Between Buildings–First Year Of the Compliance Period	132
4.17 Unit Transfers–Between Buildings–If Property is 100 Percent Affordable	132
4.18 Unit Transfers–Acquisition/Rehabilitation	133
4.19 Model Units	133
4.20 Manager’s Unit	133
4.21 Community Service Facility	135
4.22 Common Area	135

TABLE OF CONTENTS

4.23 Common Area–Inclusion of Vehicles in Eligible Basis	136
4.24 Community Service Facility vs. Common Area	137
4.25 Acquisition/Rehabilitation Issues	137
4.26 Temporary Major Disaster Relief from IRC Sections 42 and 142 Requirements	144
CHAPTER 5–MANAGEMENT TOOLS TO COMPLY WITH LIHTC REQUIREMENTS	149
Introduction	149
5.01 Reports	149
5.02 Occupancy Status Report	150
5.03 Annual Report	150
5.04 Annual Owner Certification	151
5.05 Other Reports	151
5.06 Drafting a Rental Agreement	153
5.07 Drafting a Rental Agreement–Tenant’s Representation to the Owner	153
5.08 Drafting a Rental Agreement–Owner Representations to the Tenant	155
5.09 Compliance Items to Monitor Carefully	156
5.10 Move-in Last Day of the Month	158
5.11 General Public Use	158
5.12 Deep Rent Skewing Set-Aside	159
5.13 Critical Documents for LIHTC Property Managers	160
5.14 Rent & Income Calculator [©]	162
APPENDIX A	171
Internal Revenue Code Section 42	171
APPENDIX B	231
Treasury Regulations	231
§ 1.42-5 Monitoring compliance with low-income housing credit requirements.	232
Reg §1.42-5T. Monitoring compliance with low-income housing credit requirements (temporary).	240
§ 1.42-9 For use by the general public.	242
§ 1.42-10. Utility allowances.	243
§ 1.42-11 Provision of services.	248
§ 1.42-15 Available unit rule.	249
§ 1.42-18 Qualified contracts	251
APPENDIX C	259
Legislative History General Explanation 1986	259
Legislative History General Explanation 1986	260

APPENDIX D	267
Changes and Excerpts from HUD Handbook 4350.3	267
4350.3 Rev. 1 Chg 1...(8/2004)	268
4350.3 Rev. 1 Chg 2...(6/2007)	271
4350.3 Rev. 1 Chg 3...(6/2009)	285
4350.3 Rev. 1 Chg 4...(8/2013)	290
Excerpts From HUD Handbook 4350.3 Rev. 1 Chg 4	309
APPENDIX E	503
Audit Technique Guide IRC Section 42 Low-Income Housing Credit	503
APPENDIX F	505
NCSHA Standardized Compliance Reports, Forms and Certifications	505
APPENDIX G	567
Allowances for Utilities and Other Services	567
APPENDIX H	577
Public Housing Authority Income Verification	577
APPENDIX I	579
24 CFR 5.703: HUD Housing Standards	579
APPENDIX J	583
Index of Authoritative Sources	583
APPENDIX K	589
Selected IRS Guidance	589
Gross Rent Floor (IRS Revenue Procedure 94-57)	590
Unit Vacancy Rule - Reasonable Attempts to Rent (Chief Counsel Advice 200137028)	593
Decrease in Area Median Gross Income (IRS Revenue Ruling 94-57)	595
Assets Documentation (IRS Revenue Procedure 94-65)	599
Fees for Meals (Private Letter Ruling 8921035)	601
Fees for Optional Services (Private Letter Ruling 8920003)	603
Optional Fee Charged for Access and Use of Garage (Private Letter Ruling 201149011)	606
Community Service Facility (IRS Revenue Rulings 2003-77)	610
Utility Allowance Requirements (IRS Notice 89-6)	613
Utilities Paid by Tenant of Submetered Rent-Restricted Unit (IRS Notice 2009-44)	616

TABLE OF CONTENTS

Termination of a Building’s Extended Use Period (Chief Counsel Advice 201146016)	619
Manager’s Unit (IRS Revenue Ruling 92-61)	621
Answers to 12 Questions (IRS Revenue Ruling 91-38)	624
Answers to 12 Questions about Low-Income Housing Credit (IRS Revenue Ruling 2004-82)	641
Community Building’s Extended Use Period (Chief Counsel Advice 201146016)	657
Acq/Rehab of a Residential Rental Property (Private Letter Ruling 200044020)	661
Memorandum of Understanding Between IRS, HUD, and DOJ	668
IRS Section 42 Buildings Damage by Casualty Events (Chief Counsel Advice 200913012)	671
Temporary Shelter for Individuals Displaced by Hurricane Sandy (IRS Notice 2013 – 9)	674
Terms “Husband and Wife,” (IRS Revenue Ruling 2013-17)	678
Minimum Number of Low-Income Units For Which a State or Agency Must Conduct Physical Inspections and Reviews (IRS Revenue Procedure 2016-15)	693
Units for Resident Managers or Maintenance Personnel in Building Eligible for LIHTCs. (IRC POSTN-111812-14)	700
Tax-Exempt Housing Bonds (Section 142(d))	704
Form 8609 Exhibits and Instructions	709
Form 8609 Exhibits and Instructions	710
APPENDIX L	711
Property Compliance for Tax-Exempt Bond Projects	711
APPENDIX M	719
State Property Compliance Contacts	720
Territory Property Compliance Contacts	724
Glossary	725
Index	757