

VHDA

Affordable Housing Starts Here

Mr. Eric Solomon
Acting Assistant Secretary for
Tax Policy and Regulatory Affairs
Department of the Treasury
1500 Pennsylvania Ave., NW
Room 3120
Washington, DC 20220

Re: Qualified Contract Price

Dear Mr. Solomon:

The IRS is currently working on guidance and clarification to the rules regarding the Qualified Contract Price (QCP) and procedures outlined in Section 42 of the IRS Code. As the first properties became eligible for the Option Year, Virginia Housing Development Authority believed it was necessary to establish state guidance for owners who may wish to exercise their right to sell their property at the QCP. We established procedures, subject to further guidance from the IRS, similar in nature to several other states.

We instituted use of a spreadsheet for owners to input tax information and calculate the QCP and have determined that the QCP may, in some cases, exceed the Fair Market Value (FMV) of a property. One reason this could occur is the calculation for "Adjusted Investor Equity" where owner investments are adjusted by a cost of living index such as the CPI, which, over fifteen years can add up to a substantial amount.

We are concerned that as other restrictions expire, owners will elect to exercise the Option and establish a legally allowed QCP that exceeds FMV. Therefore, we endorse Washington State's suggestion that the IRS consider placing a cap on the low-income portion of a property, not to exceed the FMV for that portion, as determined by an independent licensed appraiser approved by the State Allocating Agency. We believe this would allow an owner to sell the property at a fair price to another owner who wishes to continue the affordability period of the property and would prevent the loss of low-income units due to an unrealistically high and financially infeasible sale price. This interpretation would be consistent with the intent of Section 42(h)(6)(F) as to the IRS prescribing "such regulations ... to prevent the manipulation of the amount determined" using the qualified contract calculation method.

Please contact me at 804-343-5786 if I may provide further information. I appreciate your consideration of this request.

Sincerely,

James M. Chandler
Director of Tax Credit Programs

cc: Sharon Kay

VIRGINIA HOUSING DEVELOPMENT AUTHORITY
601 SOUTH BELVIDERE STREET
RICHMOND, VIRGINIA 23220
PHONE: 877/VHDA123
TDD: 804/783-6705
WWW.VHDA.COM