WHEDA MULTIFAMILY UPDATE

News from WHEDA's MULTIFAMILY GROUP

The new income limits HUD published on 12/11/12 are available on our website. HUD released new income limits on 12/4/12 and then superseded those limits on 12/11/12. According to IRS Publication LIHC Newsletter #50 published December 2012, “since the December 11th income limits supersede the income limits released December 4th, the IRS will treat the income limits released December 11th as if they were released on December 4th for all IRC §42 purposes.”

Existing Projects

All existing Section 42 and Tax Exempt projects may continue to use the higher of the new MTSP limits, or the limits that the property relied on in past years (e.g. if the project placed in service in 2010 and the income limits decreased in each of 2011 and 2012, the project may continue to use the income and rent limits published for 2010). This is known as the "hold-harmless" provision so that the income and the rents for a project will never decrease.

If the project was also placed in service as of 12/31/08, the project may use the HERA Special Limits, if applicable. Check the HERA Special Income Limit Income and Rent Limits to see if the county is listed for the particular project.

New Projects

For new projects where the first building was placed in service on or after 12/4/12, the new income and rent limits apply. The property is not eligible for any "hold-harmless" provisions until the following year. However, the new limits do have a 45 grace period, so an owner who places in service within this 45 day window may choose to rely on either the prior year's limits for 2013 or the newly published limits. The 45 day grace period ends on 1/17/2013.

As an example: Project placed-in-service 12/10/12. The project may choose to rely on the higher of the income and rent limits that were effective 12/1/11 or 12/4/12, and under the hold harmless provisions, may continue to use these limits until HUD publishes higher new limits. A project that places-in-service 1/18/13 or later must use the new limits that were effective 12/4/12.

Gross Rent Floor

Because of the “hold harmless” provision, existing projects generally will not have to be concerned with the gross rent floor. The ‘hold harmless” provision establishes that income and rent will never decrease from the prior year. However, the Gross Rent Floor may come into play for new developments. The Gross Rent Floor provision establishes that rents will never go below the gross rent floor that was set by default at the time of allocation; or at the owner's election, at the placed in service date. Very few, if any owners have elected to set the gross rent floor at the placed in service date. In order to have established the rent floor at the optional placed-in-service date, an owner would have had to notify WHEDA prior to the Placed-in-Service Date that they wished to establish the Gross Rent Floor at the Placed-in-Service Date.

As an example: Income limits decreased in 2012 and 2013. Project was allocated in March 2011. Project did not make the optional election to set the rent floor as of the PISD. Project placed in service 3/1/13. The project rent floor will be established by the rent limit that was in place as of March 2011, but households will be subject to the 2013 income limit published December 2012.

Please contact the owner if you have any questions concerning the date the Gross Rent Floor was established.

Multiple Building Projects

For multiple building projects, the determination of the correct income limit for the entire project is predominately set by the placed in service date of the first building; unless the owner has elected on their 8609s to have each building (BIN) treated as a separate project or combined buildings into separate project(s). In these situations, each building (BIN) or group of projects may have different income limit requirements based on its own PISD.

Section 8

Section 8 limits are not subject to any hold harmless provisions and are effective on the published date of December 11, 2012.

WHEDA Tax-Exempt Bond Financed Projects

For tax exempt bond financed projects issued by WHEDA that did not also receive an allocation of LIHC, the income and rent limits will be based on the date the first unit in the first building is given an Occupancy Certificate.

WHEDA Financed Projects

Income and rent limits will be based on the loan documents and regulatory agreements of the property. These documents will determine what guidelines were established to qualify residents for admission to the project.

ARRA

Projects that received TCAP or Exchange funds will follow the rules set forth for the Section 42 developments.

If you have any questions please contact your Compliance Officer, Asset Manager, or Risk Officer.