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VIA EMAIL: 2016QAPMailbox@ohiohome.org

Ohio Housing Finance Agency
57 East Main Street
Columbus, Ohio 43215

Dear Ohio Housing Finance Agency:

On behalf of our low-income clients, the undersigned organizations appreciate the opportunity to comment on the Ohio Housing Finance Agency's (OHFA) draft proposals for the 2016 Qualified Allocation Plan (QAP). We represent the low-income tenants that the Low Income Housing Tax Credit (LIHTC) program is designed to serve, and we thank OHFA for giving us an opportunity to share our comments. We greatly appreciate the conversations we have had about the program over the past months, and we look forward to continuing this dialogue.

We understand that OHFA is developing the specific policies that will form the 2016 QAP. In light of the major revisions that OHFA is planning, we wanted to provide our positions on a few broad policy matters early in the process. In addition to these comments, we look forward to participating in the regional public forums and the statewide policy conference on December 16. As the draft 2016 QAP develops in detail, we will supplement these comments with further specific suggestions.

As advocates, we support an approach to allocating tax credits that: (i) promotes the preservation and redevelopment of current subsidized and public housing and the development of Permanent Supportive Housing options for our clients; and (ii) that expands low-income affordable housing developments into areas of Ohio that lack housing options for very low-income families. The QAP should balance these policy priorities, and we are glad to see that OHFA has attempted to reach such a balance in revising the QAP. We appreciate OHFA's dedication to our clients.

As a general matter, we appreciate OHFA's general plan to allocate credits through policy-based pools. As discussed below in more detail, we agree with OHFA that this approach will allow the agency to target credits to areas of the state that have not received them and will also allow it to balance other critical needs, like preservation and Permanent Supportive Housing, which are currently in the QAP.

LEGAL SERVICES IN

Brown County

Butler County

Clermont County

Clinton County

Hamilton County

Highland County

Warren County



While all of our clients share the same basic need for a safe and affordable place to call home, they do not have the same housing location goals and needs. Some want the chance to move to areas of Ohio where there currently is no affordable housing. Some of our clients want to strengthen the neighborhoods in which they currently live. Finally, others need supportive housing with intensive services in place. In addition, it is critical that housing is examined as one component that works in conjunction with other factors, such as access to transportation, education opportunities, health care and employment options, and that housing resources be available in a manner that allows for our clients to access the other services and supports that they may need depending on their individual situations. We think the QAP can work toward the needs of all of our low-income clients, and we appreciate OHFA's attempts to do so.

1. The QAP should increase incentives for developers to make rents affordable to people with extremely low incomes.

There is a substantial gap between the demand for affordable housing among people with extremely low incomes and the supply of this housing in Ohio. As discussed in previous comments, according to a joint study between the National Low Income Housing Coalition and the Coalition on Homelessness and Housing in Ohio (COHHIO), entitled *Out of Reach 2014*, 32% of renters in the state do not earn enough to afford a two-bedroom apartment at fair market rent. The study emphasizes that the problems are particularly heavy for extremely low-income households, which the LIHTC is designed to serve.

Since the LIHTC program is by far the largest program for providing housing to low-income Ohioans, it is critical to make sure that the program is addressing the needs of those most in need. Of course, without support from other sources of funding and other subsidies for tenants, developers may have a difficult time making rents truly affordable for Ohioans with extremely low incomes.

To ensure that LIHTC developments are serving extremely low-income Ohioans, new developments should give voucher holders a priority on their waitlists. This is especially important as OHFA expands to opportunity areas, which may have somewhat higher rents. This preference would be in addition to the current requirement of non-discrimination against voucher holders. Without a priority for vouchers, new opportunity-based developments may serve only a limited range of families and exclude people with extremely low incomes.

We prefer an across the board rule that provides a preference for voucher holders that is outside of the current scoring system; however, OHFA could also put such a preference in place as a practical matter by awarding points to LIHTC developers who provide a preference for voucher holders. We are aware that developers will generally take the steps needed to obtain points in this competitive process.

OHFA should take other steps to make LIHTC developments more affordable for extremely low-income Ohioans. For example, the 2016 QAP should continue to provide points and other incentives for developments that include funding through project-based Section 8, rural development, HOME, CDBG, and other forms of funding that include specific rules for assisting the extremely low-income population. In addition to awarding points for participation with State and local programs, the 2016 QAP should also directly reward developers who set aside at affordable rents a significant portion of a development, such as 20% of units, to tenants that have extremely low incomes. In making LIHTC developments more affordable and accessible for extremely low-income Ohioans, OHFA should prohibit developments from establishing a minimum income requirement.

2. We support OHFA's plan for creating a policy-based allocation pool that will target developments for low-income families in opportunity areas, and we urge OHFA to make rents in these developments affordable for our clients.

We are excited by OHFA's proposed plan to create an LIHTC allocation pool targeted toward the construction of family developments in opportunity areas. Such developments will give our clients the choice to move into areas of the state that lack sufficient affordable housing options. In addition to creating this pool, we urge OHFA to make sure there are rules in place to make rents at these developments affordable for our clients. As discussed in point four below, OHFA should also make sure that these developments serve larger-sized families.

The LIHTC program is the most important affordable housing program in the country. The LIHTC program plays a critical role in promoting housing opportunities to families outside of the traditional locations for subsidized housing. As the Poverty & Race Research Action Council (PRRAC) recently noted, "LIHTC developments should provide housing in situations where vouchers are difficult to use, in particular in high-opportunity neighborhoods where few housing units can be reached within voucher payment standards, and where landlords may prefer unsubsidized tenants." PRRAC, *Creating Balance in the Locations of LIHTC Developments* (February 2013) at 2. Policies that promote LIHTC developments in high opportunity areas also affirmatively further fair housing.

OHFA should make a commitment to reward LIHTC developments proposed in high opportunity areas. Opportunity areas and mapping are a specialty of the Kirwan Institute for the Study of Race and Ethnicity. John Powell, while Executive Director of the Kirwan Institute, explained

“Decades of empirical research validate these intuitions, and vividly illustrate a powerful series of relationships between family residence and an individual’s projected life chances along a number of scales. The geographically varying set of institutions, systems and markets dramatically influence a person’s achieved socioeconomic status. Together, these institutions, systems and markets constitute the “opportunity structure.”

Because the opportunity structure is spatial, it can be represented and mapped using geographic information systems technology. The Kirwan Institute, for example, has used five different opportunity areas (Education and Child Welfare; Economic Opportunity and Mobility; Housing, Neighborhood and Community Development; Public Health, Public Safety; and Criminal Justice) to map the state of Ohio. These maps geographically represent the State in terms of the quintiles very high, high, moderate, low, or very low opportunity. This mapping is necessary to understand where opportunity exists and where it does not.

We know that place matters. The report of the Congressional bi-partisan Millennial Housing Commission, entitled *Meeting Our Nation’s Housing Challenges*, states

[n]eighborhood quality plays an important role in positive outcomes for families. Stable housing in an unstable neighborhood does not necessarily allow for positive employment and child education outcomes.

Access to housing opportunity has important implications for an individual’s future. Economically poor areas limit employment options, contribute to poor health, expose individuals to high crime rates, and provide access to least performing schools. For example, LIHTC developments are disproportionately located near low-performing schools and schools with high rates of students receiving free and reduced-price lunch.

Few LIHTC allocations have been made for developments in high opportunity areas. For example, according to an analysis by the Kirwan Institute, only three (or less than 8%) of the Lucas County LIHTC developments were built in high or very high opportunity areas, while sixty (or 80%) had been developed in low and very low opportunity areas. State-wide, only 25% of the LIHTC developments are in high or very high opportunity areas while 59% are in low and very low opportunity areas. While not a perfect measure of

opportunity areas, it is also important to note that OHFA has funded very few suburban family projects in recent years. For example, according to our analysis of awards between 2007 and 2014, there were no suburban family developments awarded in Southwest Ohio during that time period. Instead, the projects that are generally funded outside of the major cities are for senior citizens only. Developers are responding to QAP incentives in not proposing family projects in suburban areas. In 2014, of the twenty-three proposed suburban projects, only three of those projects were family projects, based on the 2014 HTC Proposal Summaries. In 2014, there were forty eight family projects in cities and rural areas.

Because of this historic lack of family developments in opportunity areas, we greatly appreciate OHFA's plan to have a pool specifically designed to ensure such developments going forward. Without a specific set-aside for family developments in opportunity areas, there is no reason to believe that such developments would actually be approved.

OHFA, however, must ensure that low-income people will actually have a reasonable opportunity to access these developments. There is little reason to subsidize more development in opportunity areas if this development does not serve as a means of bringing people out of poverty. As a result, OHFA should make sure, as explained above, that voucher holders are not only permitted to apply, but in fact have a priority on the list of those seeking apartments.

In addition, OHFA should require these developments to be limited to families at 50% of Area Median Income (AMI). Again, as these developments are being placed in opportunity areas, we can safely assume that the market is serving the needs of the middle-income renters. OHFA is adding an incentive to bring in people with lower incomes so that they will benefit from the opportunities in the area. It does little good if those people cannot reasonably access the units.

3. The QAP should eliminate points for local support, especially in the pool for family in opportunity areas.

The 2015 QAP provided significant points for developments that are favored by state legislators and local elected officials. The twenty points that a development could obtain from the combination of support from a state legislator and from local government was frequently decisive in the competitive funding process. To the extent that some proposed developments may be unpopular with some constituents, local officials will face criticism for supporting housing even though it meets local zoning and other local plans. This politicization of the LIHTC program is counterproductive. Moreover, it tends to allow opposition that may be based on unlawful discrimination.

There is no requirement for OHFA to give points to developments that have acquired the support of local officials. In fact, federal law, 26 U.S.C. § 42(m)(1)(A)(ii), simply requires that the agency “do no more than notify ‘the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such project and provides such an individual a reasonable opportunity to comment on the project.’” PRRAC, *Building Opportunity: Civil Rights Best Practices in the Low Income Housing Tax Credit Program* (December 2008) at pg. 10. Moreover, without taking into account control of points, local officials already have significant input and leverage with developments in their jurisdiction through zoning powers and through the allocation of money through programs like HOME and CDBG. Giving local officials a say on points as well gives them an outsized role in the LIHTC process.

We believe that municipal officials already have significant tools to impact development in their areas through their zoning and planning powers, and we do not believe they should receive more power through the QAP process. This is especially important as OHFA seeks to expand development into opportunity areas. While we believe that local approval should not be tied to points, we especially urge OHFA to eliminate points for local control in its pool for new family developments in opportunity areas.

4. The QAP should require family developments to serve larger families.

Our clients with multiple children or other family members have a particularly hard time finding good, affordable rental housing. The LIHTC program should help these families meet this need. We did not see any points in the 2015 QAP for developments designed to support larger families. OHFA should require family developments to include some larger family apartments. Instead of giving points for this, OHFA should make it a minimum requirement for family developments.

5. The 2015 QAP should address the needs of rural communities.

We support the idea of having a rural pool with projects targeted to rural communities. In addition, we are encouraged that OHFA continues to provide incentives to build in Appalachia. In order to promote further development in these areas, we would like to see developments in Appalachia receive more points, including additional points for developments located in the region’s high opportunity areas. Developers building in Appalachia may want to take advantage of less expensive real estate located outside higher opportunity areas. This would further isolate our clients and perpetuate the cycle of poverty.

6. The QAP should continue to support visitability.

As organizations that often advocate on behalf of individuals with disabilities, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Fair Housing Act greatly inform many of our views with respect to community integration and accessibility of affordable housing. Indeed, a major priority for individuals with disabilities is the ability to live and work in the community, and have access to programs, facilities, housing and services so they can live full lives integrated in the larger community and are able to maintain relationships with family, friends and neighbors.

We applaud OHFA's previous work in implementing accessibility policies including visitability and universal design. Further, we applaud OHFA for moving forward with implementing higher standards for visitability by removing the Visitability Exception Pilot Program from the 2015 QAP. Since 2007, the year that OHFA adopted visitability requirements, over 1,000 units have been built that incorporate visitability features that would not have been built otherwise under prevailing Fair Housing requirements. These standards are an important step in creating fully accessible communities.

However, we remain concerned about the Reconsideration of Visitability Requirements option. This option allows developers of new construction units to request a waiver of visitability requirements if the project has topography or site/design limitations that are unable to support visitability requirements. A waiver of the visitability requirements reinforces the marginalization of individuals with disabilities and undermines OHFA's past good work. Developers should not be allowed to waive visitability requirements under any circumstances. We support OHFA's efforts in allowing applicants to discuss their plans and find solutions to visitability issues in site/design with an OHFA architect, but if a solution cannot be found, the application should be removed from consideration. OHFA has demonstrated through past successes that there are plenty of applicants who are able meet visitability requirements, and these types of projects should be funded in the future as we move towards more accessible and inclusive communities.

7. OHFA should continue to fund Permanent Supportive Housing and preservation developments.

As explained above, the QAP process should truly balance the different needs of our low-income clients. This includes continuing the commitment to the development of Permanent Supportive Housing and to the preservation and redevelopment of subsidized and public housing. We are excited about the pool for family developments in opportunity areas, but as discussed above, our clients are still well served by the development of Permanent Supportive Housing and the preservation and redevelopment of subsidized and public

housing. We believe OHFA's plan to have policy pools that includes all of these categories is the correct approach.

8. OHFA should require developments that receive tax credits to include a "good cause" addendum to their leases.

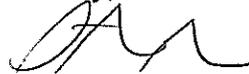
Under existing law (26 U.S.C. § 42(h)(6)(B)(i) and related IRS issuances), landlords may terminate or fail to renew a LIHTC lease only for good cause. Unfortunately, tenants, landlords, attorneys, and judges generally are unaware of this important protection. This is due in part to the fact that OHFA has not required LIHTC owners to include this good cause requirement in their LIHTC leases. Tenants, and the judges reviewing their cases, typically look to the lease to state the rights and responsibilities of the parties under the tenancy. Without a clear statement in the LIHTC lease of this good cause requirement, tenants too often lose this important federal right, especially when they are unrepresented and especially when the tenants are unaware that they are living in a LIHTC property.

As a result, we urge OHFA to establish a lease addendum that includes this good cause requirement, and to require the use of this lease addendum in all LIHTC leases at all LIHTC funded developments. This lease addendum becomes especially important with OHFA's plan to expand into areas of Ohio that have few, if any, LIHTC developments. Judges and attorneys in counties that have very few LIHTC developments will have little to no experience with the good cause requirement and may not recognize it without a specific lease provision. This directly impacts a tenant's ability to have stable housing and, therefore, undermines OHFA's policy basis for having more developments in opportunity areas. In fact, tenants will only benefit from living in areas of opportunity if they are not constantly required to move at the end of lease terms. Such moves undermine the educational benefits that our clients' children derive from living in areas of opportunity. See Rebecca Cohen and Keith Waldrip, *Should I Stay Or Should I Go? Exploring the Effects of Housing Instability and Mobility on Children*, Center for Housing Policy (February 2011) at 4. OHFA should take steps, in line with other organizations, to limit frequent moves and the adverse impact resulting from the moves. For example, the Tacoma Housing Authority has partnered with an elementary school to up to five years of rental assistance to increase housing stability and improve education outcomes. See The Urban Institute, *Crossroads: The Intersection of Housing and Education Policy*, available at <http://datatools.urban.org/features/crossroads-housing-education-policy> at Chapter 2. OHFA can promote stability by adding a clear good cause provision in the LIHTC lease because it will let tenants and judges know that, absent good cause, the tenants have a right to stay in their apartments.

Likewise, under the existing law (24 C.F.R. § 92.253(c)), owners may terminate or refuse to renew a lease for a HOME assisted rental unit only for good cause and only after serving a 90-day notice of termination. For the same reasons as those stated above for the LIHTC leases, we urge OHFA to establish a lease addendum, which includes the good cause requirement and 90-notice of termination requirement, and to require the use of this lease addendum in all OHFA HOME assisted rental units.

In general, we continue to support OHFA in its mission to promote affordable and sustainable housing for our clients. We appreciate the priority OHFA places on the preservation of current affordable housing and the efforts it has taken to expand affordable housing into new areas. The 2015 QAP reflected those priorities in many ways and it included support for interesting new projects, such as points for transit-oriented development, which will also help our clients. However, more changes are needed to promote affordable housing for all. We look forward to further discussing these matters and to continue our dialogue on these important topics.

Sincerely,



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