



**METROPOLITAN ST. LOUIS EQUAL HOUSING AND OPPORTUNITY COUNCIL**  
*Working to ensure equal access to housing and places of public accommodation for all people*

www.ehocstl.org  
1027 S Vandeventer Ave  
6th Floor  
St. Louis, MO 63110  
PH) 314.534.5800  
FX) 314.534.2551  
Toll Free) 800.555.3951  
MO tty) 800.735.2966  
IL tty) 800.526.0844

December 4, 2017

Kip Stetzler  
Executive Director  
Missouri Housing Development Commission  
920 Main Street, Suite 1400  
Kansas City, MO 64105

RE: Draft 2018 Qualified Allocation Plan (QAP)

Dear Mr. Stetzler:

The Metropolitan St. Louis Equal Housing and Opportunity Council (EHOC) thanks you for the opportunity to comment on the 2018 Qualified Allocation Plan (QAP) for Low Income Housing Tax Credits (LIHTC). EHOC is a private fair housing organization working to ensure equal access to housing for all people through education, counseling, investigation, and enforcement. We appreciate the efforts of Missouri Housing Development Commission (MHDC) in recent years to address fair housing issues and ensure that all programs are Affirmatively Furthering Fair Housing. As part of this obligation to Affirmatively Further Fair Housing, MHDC must proactively work to promote residential racial integration and increase meaningful access to opportunity for all people.

We first wish to express concern regarding the elimination of the State LIHTC funds, as documented in the draft 2018 QAP.<sup>1</sup> We are concerned that the reduction of funds will exacerbate the affordable housing needs in the state of Missouri, particularly affecting the housing needs for seniors, people with disabilities, and low- and moderate-income families. Developing affordable housing, particularly in ways that meet housing needs and provide access to opportunity for members of protected classes, is a critical way that the state of Missouri meets their affirmatively furthering fair housing obligation. By eliminating the State LIHTC through a last minute process with limited public input and no clear replacement proposal for the future, MHDC threatens how they are meeting fair housing obligations and addressing critical housing needs for vulnerable populations throughout the state of Missouri.

Additionally, we wish to comment on the QAP related to how MHDC is fulfilling their obligation to affirmatively further fair housing.<sup>2</sup> Although encouraging changes have been made to the QAP, LIHTC proposals are still

---

<sup>11</sup> MISSOURI HOUSING DEVELOPMENT COMMISSION, *Draft 2018 Qualified Allocation Plan for MHDC Multifamily Programs*. Accessed [http://www.mhdc.com/notices/ph/FY2018-D2/FY2018\\_LIHTC\\_QAP.pdf](http://www.mhdc.com/notices/ph/FY2018-D2/FY2018_LIHTC_QAP.pdf)

<sup>2</sup> Id.



predominantly locating in high-poverty, disproportionately or majority minority neighborhoods. For example, in the Kansas City region, the 2017 round one proposals included eleven developments in high-poverty neighborhoods (>20% on a per capita basis) and eleven developments in majority non-white neighborhoods out of twenty-one proposals with street addresses. Said plainly, about half of Missouri LIHTC proposals in the Kansas City region were in high-poverty and majority non-white neighborhoods. These proportions are similar when broken out into family and senior developments: 58% (7 of 12) and 50% (6 of 12) of proposed family developments are located in high-poverty and majority non-white census tracts, while 44% (4 of 9) and 56% (5 of 9) of proposed senior developments are located in high-poverty and majority non-white census tracts, respectively. Only three proposed developments are located in census tracts where the individual poverty rate is less than 10%. These proportions are about the same as those found for the St. Louis area in 2016.<sup>3</sup> These high-poverty neighborhoods often represent areas of lesser opportunity for the low-income families that are eligible to live in LIHTC developments. Missouri can do better. Its QAP and Developers Guide offer opportunities for improvement as we recommend below. Specifically, the main obstacles include QAP provisions (or lack thereof) related to 1) concerted community revitalization plans, 2) a transparent scoring system, 3) set-asides for development in high opportunity areas, 4) Section 8 voucher holders' access to LIHTC, 5) information on tenant recruitment and selection, 6) compliance with fair housing rules and regulations, 7) collection of demographic information, 8) standards for relocation and rehabilitation, and 9) Affirmative Fair Housing Marketing Plans. Our comments and recommendations related to each provision are detailed below.

## **1. DEFINE CONCERTED COMMUNITY REVITALIZATION PLAN**

Consistent with the Code,<sup>4</sup> Missouri's QAP gives preference to projects located in a Qualified Census Tract (QCT) for which a concerted community revitalization plan (CCRP) exists. However, neither Missouri's QAP nor its Developers Guide define what constitutes a CCRP. Without a definition, the CCRP requirement is largely meaningless. The QAP does describe three criteria analogous to CCRP. To the extent these criteria relate to the goals of the CCRP requirement, MHDC should adapt them. More fundamentally, MHDC should provide an explicit

---

<sup>3</sup> METROPOLITAN ST. LOUIS EQUAL HOUSING AND OPPORTUNITY COUNCIL to Kip Stetzler, Executive Director, Missouri Housing Development Commission (Oct. 21, 2016). (Noting that of the 21 St. Louis region LIHTC applications submitted under the 2016 QAP, "11 would be in Census Tracts that are majority African American according to the 2009-2013 American Community Survey 5-Year Estimates. Eight would be in Census Tracts with poverty rates of 20% or more.").

<sup>4</sup> 26 U.S. Code § 42(m)(1)(B). ("(B) Qualified allocation plan For purposes of this paragraph, the term "qualified allocation plan" means any plan—

...

(ii) which also gives preference in allocating housing credit dollar amounts among selected projects to—  
(III) projects which are located in qualified census tracts (as defined in subsection (d)(5)(C)) and the development of which contributes to a concerted community revitalization plan, ...



definition of CCRP so that LIHTC residents benefit from legitimately revitalizing neighborhoods.

“Concerted community revitalization plans” or “community revitalization plans” are referenced in three locations in the 2018 QAP, while “municipal redevelopment plans” or “redevelopment plans” are referenced in two locations. The three CCRP references are contained under “Selection Criteria,” “Market Characteristics,” and “Community Impact.”<sup>5</sup> In these instances, the QAP repeats the code and does not elaborate on what a CCRP entails. Contextual information under “Market Characteristics” is helpful. This section indicates a preference for projects located “in a community with demonstrated new employment opportunities and a proven need for workforce housing.” Such a preference represents a rational selection criteria: affordable housing should be located near employment opportunities, an important non-housing component of revitalization.

The QAP’s language on “redevelopment plans” likewise offers some guidance. However, we are concerned that these redevelopment plans are only authorized by elected officials or municipal governments that may exercise unnecessary veto power over plans. When seeking preference based on such a plan, Missouri LIHTC developers must “include a letter from the local authorizing official that the proposed development is part of a redevelopment plan.”<sup>6</sup> We suggest the QAP allow “redevelopment plans” to be authored by non-profits, community groups, and other social institutions. In that circumstance, local approval (i.e., local veto) can be substituted with the approval from engaged, community-focused groups as well.

These limited references should be supplemented with a complete definition of CCRP that encompasses the current references to “community revitalization plans” and the “redevelopment plans.” Creating a standard definition of CCRP would provide greater certainty for developers. More importantly, it would better meet the needs of neighborhoods, communities, and LIHTC residents seeking to revitalize or live in revitalized neighborhoods.

We recommend that Missouri adopt a definition of CCRP in its “Selection Criteria” section that details minimum criteria for any CCRP. We provide example text in the box below. Whether adopted in the form recommended below or in another form, this definition should include reference to 1) resources committed to revitalization, 2) a well-defined geographic area, 3) housing and non-housing development, and 4) goals, metrics, and follow-up tasks. These recommendations line up directly with each word in the phrase CCRP. Specifically, a “concerted” plan should include committed resources for private and public development; a “community” plan should pertain to a well-defined geographic and cultural area; a “revitalization” plan must address housing and non-housing development; and a “plan” itself should select measurable outcomes and achievable tasks.

---

<sup>5</sup>*MHDC Draft 2018 QAP*, at 19, 22, 23.

<sup>6</sup> *Id.*, at 18



## **B. Selection Criteria**

... The selection criteria incorporate both the federal preferences and selection criteria as described in §42(m)(1)(B)(ii) and §42(m)(1)(C) of the Code. The selection criteria must include:

...

- iv. Project characteristics, including whether the project involves the use of existing housing as part of a concerted community revitalization plan (CCRP);

...

The Code does not explicitly define what constitutes a CCRP, but many states have developed their own definitions. Missouri has developed a definition of CCRP consistent with the goals of LIHTC in revitalizing neighborhoods and serving communities. Specifically, any CCRP should do the following:

- i. Identify planned public and private development in the community;
- ii. Identify any resources committed to development;
- iii. Set clear geographic boundaries for the community;
- iv. Describe the community itself;
- v. Address housing and non-housing development;
- vi. Coordinate with other state and federal standards;
- vii. Identify barriers to revitalization;
- viii. Set goals;
- ix. Delineate actions to be taken; and
- x. Engage community partners.

This framework closely follows the recommendations of fair and affordable housing organizations,<sup>7</sup> and the practices of other states. For example, the “concerted” aspect of CCRP is demonstrated by the 2016 Texas QAP, which gives preference to projects in CCRPs with “sufficient, documented and committed funding” already “flowing in accordance with the plan.”<sup>8</sup> The “community” aspect of CCRP is demonstrated by Georgia’s QAP, which requires that CCRPs “clearly delineate a target area that includes the proposed project site.”<sup>9</sup> The “revitalization” aspect of CCRP is demonstrated by Pennsylvania’s requirement that CCRPs address access to public transportation, health care choices, community serving enterprises, and other non-housing aspects of development.<sup>10</sup> Finally, the “plan” aspect of CCRP is demonstrated

<sup>7</sup> POVERTY AND RACE RESEARCH ACTION COUNCIL, *Guidance and Best Practices for “Concerted Community Revitalization Plans”* (Mar. 2, 2017), [http://www.prrac.org/pdf/PRRAC\\_CCRP\\_recommendations\\_3\\_14\\_17.pdf](http://www.prrac.org/pdf/PRRAC_CCRP_recommendations_3_14_17.pdf).

<sup>8</sup> *Id.* at 3; see also TEX. DEP’T OF HOUS. AND COMM. AFFAIRS, MULTIFAMILY HOUSING RENTAL PROGRAMS, 2016 QUALIFIED ALLOCATION PLAN 28 (2015), <https://www.tdhca.state.tx.us/multifamily/docs/16-QAP.pdf>.

<sup>9</sup> GA. DEP’T OF COMM. AFFAIRS, 2016 QUALIFIED ACTION PLAN, APP. II, SCORING CRITERIA 14 (2015), <http://www.dca.state.ga.us/housing/housingdevelopment/programs/downloads/2016QAPDocs/QAP/2016QualifiedAllocationPlan.pdf>.

<sup>10</sup> PA. HOUS. FIN. AGENCY, ALLOCATION PLAN FOR YEAR 2017/2018 7 (2017), [http://www.phfa.org/forms/multifamily\\_program\\_notices/qap/2017/2017\\_2018\\_qap\\_final.pdf](http://www.phfa.org/forms/multifamily_program_notices/qap/2017/2017_2018_qap_final.pdf)



by Indiana and Georgia's requirements that CCRPs identify "implementation measures along with specific, current, and ongoing time frames for the achievement of such policies and housing activities."<sup>11</sup> Other states' CCRP definitions are succinctly summarized by the Poverty and Race Research Council in *Guidance and Best Practices for "Concerted Community Revitalization Plans."*<sup>12</sup>

## 2. CONSIDER ESTABLISHING A QUANTITATIVE SCORING SYSTEM

The vast majority of states use a scoring system to determine which projects will receive 9% credits.<sup>13</sup> In contrast, the Missouri QAP lists several selection criteria and priority areas in its QAP, but does not quantify the extent to which a project will benefit from meeting these criteria. Instead, the QAP "encourages" or "strongly encourages" projects to fulfill certain criteria or apply for certain set-asides. All other states, except Florida and (arguably Vermont) provide a quantitative scoring system.<sup>14</sup> In doing so, these states explicitly identify their priorities and guide developers to create proposals that serve the needs of their people. This necessarily means that MHDC decisions regarding which projects do and do not receive credits are less transparent than in other states with scoring systems.

To remedy this lack of transparency, we recommend that Missouri adopt a scoring system in line with other states. Such a change would lead to proposals more in line with MHDC priorities and would serve the needs of many developers and fair housing advocates. Many developers would likely prefer clear instructions on how their projects will be scored so that they can develop truly competitive proposals. Fair housing advocates in turn would like to know precisely how much weight MHDC places on various fair housing provisions, in order to inform future advocacy. Finally, the people of Missouri would benefit from a more competitive application process, as supported by quantitative scoring information.

---

<sup>11</sup> IND. HOUS. AND COMM. DEV. AUTH., 2016-2017 QUALIFIED ACTION PLAN 60 (2016),

[http://www.in.gov/myihcda/files/Final\\_2016-2017\\_QAP.pdf](http://www.in.gov/myihcda/files/Final_2016-2017_QAP.pdf); GA. DEP'T OF COMM. AFFAIRS, *supra* note 27, at 14.

<sup>12</sup> POVERTY AND RACE RESEARCH ACTION COUNCIL, *supra* note 23.

<sup>13</sup> This includes each of the states bordering Missouri: Arkansas, Illinois, Iowa, Kansas, Kentucky, Nebraska, Oklahoma, and Tennessee. For a full list of state QAPs, see <https://www.novoco.com/resource-centers/affordable-housing-tax-credits/application-allocation/qaps-and-applications/2016-qaps-and-applications>.

<sup>14</sup> The Florida QAP, which is only five pages long, allocates percentages of its tax credits to projects falling under certain broad categories. It does not indicate how "the Board" distinguishes between projects within these categories. See FLA. HOUS. FIN. CORP., 2016 QUALIFIED ALLOCATION PLAN LOW INCOME HOUSING TAX CREDITS PROGRAM 4-5 (2016), [https://www.novoco.com/sites/default/files/atoms/files/florida\\_2016\\_final\\_qap\\_101816.pdf](https://www.novoco.com/sites/default/files/atoms/files/florida_2016_final_qap_101816.pdf). The Vermont QAP differentiates between "top tier" priorities and "second tier priorities," with projects in the top tier receiving "twice the weight" of second tier priorities. The Vermont QAP therefore allows for basic quantitative analysis in the sense that a project fulfilling a top tier priority has twice the "points" of a project that does not. When differentiating between projects in the same tier, however, the QAP states only that preference will be given to projects that (1) serve the lowest income tenants, (2) serve qualified tenants for the longest period, and/or (3) rehabilitate existing projects that are federally subsidized and "at-risk." See JOINT COMM. ON TAX CREDITS, VERMONT AFFORDABLE HOUSING CREDIT PROGRAM 26-27 (2015), [https://www.novoco.com/sites/default/files/atoms/files/vermont\\_2016\\_final\\_qap\\_100715.pdf](https://www.novoco.com/sites/default/files/atoms/files/vermont_2016_final_qap_100715.pdf).



We recognize that MHDC may have legitimate reasons why it has not adopted a scoring system. MHDC may wish to reserve the authority to make qualitative decisions about which projects will do the most good, without having its hands tied by a rigid scoring system. We believe that the benefits of a transparent scoring system are compelling, however, and would give the MHDC the ability to more clearly articulate its preferences to developers at the outset of the process.

### **3. CREATE 10% SET ASIDES FOR DEVELOPMENT IN HIGH-OPPORTUNITY AREAS**

We strongly approve of the QAP's existing preference for LIHTC projects in high-opportunity areas. Specifically, the QAP prioritizes family developments in lower poverty census tracts (<15% poverty rate) that would provide access to "high-performing school systems, transportation and employment."<sup>15</sup> The QAP also requires an affirmative marketing plan and a Special Marketing Reserve to assist in recruiting and relocating families from high poverty census tracts (>40%).<sup>16</sup> These provisions are vitally important to creating opportunity through the LIHTC program. They may, however, lose out against other forces that steer LIHTC projects toward low-income, low-opportunity neighborhoods. These trends may be compounded by obligations of family developments in opportunity areas to have an affirmative marketing plan and a Special Marketing Reserve,<sup>17</sup> which require additional time and resources of developers. Such requirements are essential to the goals of LIHTC. However, they also provide an advantage to applications in lower-opportunity areas that do not have to incorporate such a plan or reserve.

The QAP and the Code have a ready-made solution to this challenge. Both give set aside priority to LIHTC applications with other desirable but challenging features. Specifically, non-profit housing has a set aside of 10% of available LIHTC credits.

To ensure that at least some credits are going to high opportunity areas in each year, we recommend an additional 10% set aside priority for development in these areas. In making these changes, MHDC can help overcome barriers to development in high opportunity areas, development that it otherwise preferences. If it can overcome these barriers, MHDC should realize better outcomes for children and families, as demonstrated in recent scholarly research on mobility.<sup>18</sup>

---

<sup>15</sup> *MHDC DRAFT 2018 QAP*, at 18

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Raj Chetty *et al.*, *Where is the Land of Opportunity? The Geography of Intergenerational Mobility in the United States*, (Jun. 2014), [https://www.rajchetty.com/chettyfiles/mobility\\_geo.pdf](https://www.rajchetty.com/chettyfiles/mobility_geo.pdf) (analyzing records of more than 40 million children to conclude that "[h]igh mobility areas have (1) less residential segregation, (2) less income inequality, (3) better primary schools, (4) greater social capital, and (5) greater family stability.")



#### 4. MONITOR TO ENSURE ACCESS BY SECTION 8 VOUCHER HOLDERS

Section 8 voucher holders routinely face discrimination from housing providers. Indeed, EHOC recently found that despite a recent City of St. Louis ordinance protecting voucher holders, landlords in St. Louis continue to discriminate based on source of income.<sup>19</sup> The Code requires that owners of LIHTC properties agree not to discriminate against Section 8 voucher holders based on source of income.<sup>20</sup> But, as seen in the case of the City of St. Louis ordinance, the existence of a prohibition does not necessarily ensure compliance. Some states ensure that project owners comply with this mandate by monitoring their behavior. For example, the Georgia QAP states that recipients of tax credits will be monitored as follows:

No project may deny a unit to Applicants possessing a Section 8 Rental Assistance certificate or voucher unless those applicants fail to meet the minimum requirements for all leaseholders. Federal statutes prohibit discrimination against Section 8 certificate and voucher holders. The number of Section 8 tenants residing at a property cannot be limited under the IRS program regulations at any property receiving [Department of Community Affairs (DCA)] Tax Credits and/or HOME [Investment Partnerships Program] funding. DCA will closely monitor whether the tenant application process is structured to avoid such discrimination or whether any actions are taken to discourage Section 8 Rental Assistance certificate or voucher holders from applying. Likewise, all lease provisions must be compatible and not in conflict with Section 8 leases.<sup>21</sup>

The Tennessee QAP takes a different approach, placing an affirmative duty on owners of LIHTC properties to actively market to Section 8 applicants:

As a part of the on-site inspection, a review will be conducted of the owner's marketing efforts to attract special needs populations and Section 8 applicants as outlined in the extended low-income housing commitment.<sup>22</sup>

We recommend that MHDC adopt a monitoring provision to ensure that owners of LIHTC properties do not discriminate against Section 8 voucher holders in violation of the Code. The Missouri QAP already indicates that MHDC will monitor developments for compliance with the Code, which prohibits discrimination against Section 8 voucher holders. We recommend, however, that MHDC include a more explicit statement affirming that the prohibition against

---

<sup>19</sup> Kameel Stanley, *Housing council says local landlord discriminated against Section 8 voucher-holders in St. Louis*, ST. LOUIS PUBLIC RADIO (2016), <http://news.stlpublicradio.org/post/housing-council-says-local-landlord-discriminated-against-section-8-voucher-holders-st-louis#stream/0>.

<sup>20</sup> 26 U.S.C. § 42(h)(6)(B)(iv).

<sup>21</sup> GA. DEP'T OF COMM. AFFAIRS, 2017 QUALIFIED ALLOCATION PLAN (2017), [http://www.dca.state.ga.us/housing/housingdevelopment/programs/downloads/A\\_HFDMMain/FdgRd/2017/QAP/Final/2017QualifiedAllocationPlan.pdf](http://www.dca.state.ga.us/housing/housingdevelopment/programs/downloads/A_HFDMMain/FdgRd/2017/QAP/Final/2017QualifiedAllocationPlan.pdf).

<sup>22</sup> TENN. HOUS. DEV. AGENCY, LOW-INCOME HOUSING TAX CREDIT 2017 QUALIFIED ALLOCATION PLAN (2016), [https://www.novoco.com/sites/default/files/atoms/files/tennessee\\_2017\\_final\\_qap\\_121216.pdf](https://www.novoco.com/sites/default/files/atoms/files/tennessee_2017_final_qap_121216.pdf).



Section 8 voucher holders will be strictly enforced. As such, we recommend the inclusion of the following language, modifying the existing “Compliance Monitoring” provision.<sup>23</sup>

MHDC will closely monitor whether the tenant application process is structured to avoid discrimination against Section 8 voucher holders or whether any actions are taken to discourage Section 8 Rental Assistance certificate or voucher holders from applying. Likewise, all lease provisions must be compatible and not in conflict with Section 8 leases.

Alternatively, or in addition to the above recommendation, MHDC could require that project owners affirmatively market to Section 8 voucher holders. We note that MHDC requires applications seeking the “Set-aside Preferences” basis boost to include a marketing plan demonstrating that the project will be affirmatively marketed to individuals with special needs and to vulnerable populations.<sup>24</sup> Missouri could require a similar marketing plan designed to attract Section 8 voucher holders in its “Secondary Documentation Review” section. For example it could require a marketing plan, per the following:

- i. Marketing Plan. A Marketing Plan signed by the owner/developer detailing how the applicant intends to attract Section 8 applicants.

## 5. REQUIRE INFORMATION ON TENANT RECRUITMENT AND SELECTION

Tenant recruitment and selection procedures can dramatically impact how well LIHTC serves vulnerable residents and the community. Missouri requires information on tenant recruitment on a post-hoc basis: The annual occupancy reports include lines for tenant income and ethnicity.<sup>25</sup> Awardees must also submit an Affirmative Fair Housing Marketing Plan, according to the Developer’s Guide.<sup>26</sup> These post-hoc measures are important to fulfilling the fair housing potential of LIHTC-supported projects. However, they provide no basis to select among the proposed projects: the relevant data and marketing plans do not exist until after the projects have been selected. In Missouri, before-the-fact tenant recruitment information is only required if special priority is sought. For example, developers seeking a “Special Needs Priority” or “Vulnerable Persons Priority” basis boost must submit a “draft referral and support agreement with the Lead Referral Agency,” a “Special Needs/Vulnerable Persons Marketing Plan,” and “rental assistance commitment letters” from the local public housing agency.<sup>27</sup> Similar requirements exist for projects seeking priority based on their location in high opportunity areas which must have an affirmative marketing plan and a special marketing reserve.<sup>28</sup> These means

<sup>23</sup> MHDC DRAFT 2018 QAP, at 30.

<sup>24</sup> MHDC DRAFT 2018 QAP, at 13.

<sup>25</sup> MO. HOUS. DEV. COMM’N, *Annual Occupancy Reports for Non-Internet Reporting*, [http://www.mhdc.com/program\\_compliance/tax\\_credit/2004\\_02\\_19\\_Ex-H-NewEthnicityData.doc](http://www.mhdc.com/program_compliance/tax_credit/2004_02_19_Ex-H-NewEthnicityData.doc).

<sup>26</sup> MO. HOUS. DEV. COMM’N, MHDC DEVELOPER’S GUIDE FOR MULTIFAMILY PROGRAMS 41 (2017), [http://www.mhdc.com/rental\\_production/2017\\_fy\\_items/FY2017\\_Developers\\_Guide.pdf](http://www.mhdc.com/rental_production/2017_fy_items/FY2017_Developers_Guide.pdf).

<sup>27</sup> MHDC DRAFT 2018 QAP, at 12 -13.

<sup>28</sup> MHDC DRAFT 2018 QAP, at 18.





of recruiting and selecting tenants need not be exclusive to special needs populations and high opportunity areas, however.

All LIHTC developers should be cognizant of their tenant recruitment and selection processes, and they should describe that process in their LIHTC application. Some analogous means of identifying, recruiting, selecting, and appropriately serving all members of a LIHTC development should be employed at other buildings as well. This imperative applies to low-opportunity areas, high opportunity areas, and everything in between.

To fulfill this promise, the Missouri QAP should at a minimum, require applicants to describe their tenant recruitment and selection strategies. Currently, the QAP uses tenant population as a selection criterion. It appropriately notes that “it is important MHDC fund developments offering quality affordable housing to the populations that need it in the locations where it is needed.” MHDC will be better able to evaluate applications along these lines if it also requires applicants to describe any relationships with referral agencies, marketing plans for different types of units, and any rental assistance commitment letters that would make the property accessible to specific populations. These suggestions mirror the requirements for applicants seeking a special needs priority basis boost and are provided below.

**Development Characteristics.** It is important the development’s characteristics are appropriate for the intended tenant population. [It is also important that the intended population has access to the development, and that the development serves the needs of those who actually live there. Accordingly,](#) the following characteristics will be reviewed closely:

**a. Tenant Population**

It is important MHDC fund developments offering quality affordable housing to the populations that need it in the locations where it is needed. Items given consideration with regard to the intended tenants include:

- i. Tenant populations with special housing needs, such as persons with physical and/or developmental disabilities, homeless individuals and families, the senior, and other underserved and/or at risk populations;
- ii. Individuals diagnosed with mental illness;
- iii. Individuals on public housing waiting lists;
- iv. Individuals with children;
- v. Youth transitioning from foster care;
- vi. Developments serving the lowest income tenants; and
- vii. The quantity, quality, and suitability of services provided or offered to the tenants.

**[b. Tenant Recruitment and Selection](#)**



It is important to attract residents who can benefit from the proposed development and to meet the needs of actual residents. For this reason, all applicants should describe their plans for tenant recruitment and selection. Such plans should include:

- i. any relationships with referral agencies and whether one will serve as a lead referral agency;
- ii. the building's marketing plan for different types of units; and
- iii. any rental assistance commitment letters that will ensure access for specific populations.

Furthermore, for projects that are seeking a special needs or vulnerable person's priority basis boost, more detail should be provided on what constitutes a "Special Needs/Vulnerable Persons Marketing Plan." This requirement is not defined in the QAP or the Developer's Guide. At a minimum, such a plan should include a description of 1) the forms of media that will be used for marketing, 2) the vendors, partners, or platforms that will be used for marketing, 3) the location of such marketing, 4) the proposed content of such marketing, and 5) the intended audience and population for that marketing. We recommend including those points in the QAP as part of the Special Needs/Vulnerable Persons Marketing Plan requirement.

## **6. COMPLY WITH FAIR HOUSING RULES AND REGULATIONS**

MHDC requires that all applications be "consistent with fair housing requirements,"<sup>29</sup> but does not require that owners/developers certify to MHDC that they understand the requirements of the Fair Housing Act and other relevant federal statutes. We believe that requiring certification at the outset would benefit both MHDC and applicants. Applicants would have clear guidance on the standards with which they must comply. MHDC, in turn, may spend less on monitoring if applicants have a better grasp of relevant federal statutes and certify compliance to that effect.

An example of this kind of certification can be found in Nebraska's 2016 QAP, which includes a form "Fair Housing Accessibility Certification" that must be submitted to the Authority after conditional reservation is granted.<sup>30</sup> While the certification form is primarily intended to ensure compliance with accessibility standards (sufficient handicapped parking, accessibility ramps, etc.), MHDC could adopt a certification form that also clearly delineates groups that cannot be discriminated against under the Code, the Fair Housing Act, the Americans with Disabilities Act, and other applicable statutes.

---

<sup>29</sup> *MHDC DRAFT 2018 QAP*, at 24.

<sup>30</sup> NEB. INV. FIN. AUTH., *LOW INCOME HOUSING TAX CREDIT PROGRAM 2016 LIHTC ALLOCATION PLAN 30* (2016), [https://www.novoco.com/sites/default/files/atoms/files/nebraska\\_2016\\_final\\_qap\\_101215.pdf](https://www.novoco.com/sites/default/files/atoms/files/nebraska_2016_final_qap_101215.pdf).



## 7. COLLECT AND REPORT DEMOGRAPHIC DATA ON TENANT POPULATIONS

Under the Housing and Economic Recovery Act of 2008, every state housing credit agency must annually provide information concerning the “race, ethnicity, family composition, age, income, use of rental assistance . . . , disability status, and monthly rental payments of households residing in each property receiving [LIHTC] credits.”<sup>31</sup> MHDC collects this information through its tenant income certification form.<sup>32</sup> However, Missouri’s QAP and Developer’s Guide do not provide indication of this requirement, although other states do.<sup>33</sup> The benefits of collecting and providing these data are similar to those regarding tenant recruitment and selection. Information on recruitment and selection is essential to ensure that individual buildings serve the intended population. Likewise information on the actual tenant population is essential to ensure that LIHTC is operating to the full benefit of Missouri’s communities and residents.

In keeping with its current format, we recommend that the QAP incorporate these information-gathering requirements in both section II.B, “Development Standards,” and in section VI, “Compliance Monitoring.” As the act requires, information on the above categories should be collected “through existing reporting processes and in a manner that minimizes burdens on property owners submitted with other compliance reporting requirements.”<sup>34</sup> Stating this requirement may better prepare developers to provide this data in a timely and accurate manner.

### **B. Development Standards**

All MHDC-financed developments (defined as a development receiving one or more of the following: Federal LIHTC, State LIHTC, an MHDC loan, or an MHDC grant) are required to:

1. Comply with the MHDC Design/Construction Compliance Guidelines (MHDC Form 1200), as may be amended from time-to-time.
2. Comply with all applicable local, state and federal ordinances and laws

...

<sup>31</sup> 42 USC § 1437z-8. In full, the rental assistance information includes: “use of rental assistance under section 1437f (o) of this title or other similar assistance.”

<sup>32</sup> [http://www.mhdc.com/program\\_compliance/LIHTC/documents/EXHIBIT\\_B\\_vi.docx](http://www.mhdc.com/program_compliance/LIHTC/documents/EXHIBIT_B_vi.docx)

<sup>33</sup> At least seventeen housing authorities provide indication of this information requirement. See POVERTY AND RACE RESEARCH ACTION COUNCIL, BUILDING OPPORTUNITY II 14 (2015), [www.prrac.org/pdf/BuildingOpportunityII.pdf](http://www.prrac.org/pdf/BuildingOpportunityII.pdf) (Listing as “strong positive” for these reporting requirements Alaska, Connecticut, Massachusetts, Maryland, Maine, Montana, Hawaii, Idaho, Ohio, New Hampshire, New Jersey, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Washington, Wyoming, and New York City). Many of these states do not indicate the means by which they collect this data. For example, Tennessee’s QAP states that “[o]wners shall submit, not less than annually during the compliance period and the extended use period, information concerning the race, ethnicity, family composition, age, income, use of rental assistance under Section 8(o) of the United States Housing Act of 1937 or other similar assistance, disability status, and monthly rental payments of households residing in the development *in a form and with substance as THDA may require.*” (emphasis added). Pennsylvania and Connecticut’s QAPs make very similar statements.

<sup>34</sup> 42 USC § 1437z-8.



3. Submit with every tenant income certification form, information concerning the race, ethnicity, family composition, age, income, use of rental assistance, disability status, and monthly rental payments of households residing in each property receiving credits. Missouri is required to collect this information and furnish it to HUD pursuant to 42 USC § 1437z-8.

#### **V. COMPLIANCE MONITORING**

Section 42(m)(1)(B)(iii) of the Code mandates that MHDC, as the State Housing Agency, monitor all placed in service tax credit developments for compliance with the provisions of the Code. ...

MHDC is also required by 42 USC § 1437z-8 to report to HUD annually information concerning the race, ethnicity, family composition, age, income, use of rental assistance, disability status, and monthly rental payments of households residing in each property receiving credits. MHDC will collect this information via tenant income certifications.

### **8. REFERENCE REHABILITATION AND RELOCATION STANDARDS**

Rehabilitation projects can cause significant disruption in the lives of tenants. As such, the MHDC requires that any project that will result in the temporary or permanent relocation of tenants submit a relocation plan detailing expected expenses and services provided. While requiring a relocation plan is important, we recommend that the MHDC further protect tenants by discouraging permanent displacement and by making clear that developers should maximize the amount of time that tenants may remain in their homes.

Several other states' QAPs seek to limit or foreclose unnecessary displacement. Maine's 2017 QAP, for example, states that "The Applicant must take all reasonable steps to minimize the displacement of existing tenants at the Project site."<sup>35</sup> The District of Columbia's 2017 Draft QAP requires that projects involving relocation submit a "Relocation and Anti-Displacement Strategy" prior to project approval.<sup>36</sup> And for several years New Hampshire's QAP contained the following language:

Permanent displacement of tenants is strongly discouraged. The Authority reserves the right to reject any applications that fail to minimize permanent displacement of tenants.

---

<sup>35</sup> ME. STATE HOUS. AUTH., 2017 LOW INCOME HOUSING TAX CREDIT QUALIFIED ALLOCATION PLAN 21 (2017), [https://www.novoco.com/sites/default/files/atoms/files/maine\\_2017\\_final\\_qap\\_080216.pdf](https://www.novoco.com/sites/default/files/atoms/files/maine_2017_final_qap_080216.pdf).

<sup>36</sup> DEP'T OF HOUS. AND COMM. DEV., 2017 DRAFT LOW INCOME HOUSING TAX CREDIT QUALIFIED ALLOCATION PLAN 19 (2017), [https://dhcd.dc.gov/sites/default/files/dc/sites/dhcd/publication/attachments/DHCD\\_2017%20QAP%20FINAL%20raft.pdf](https://dhcd.dc.gov/sites/default/files/dc/sites/dhcd/publication/attachments/DHCD_2017%20QAP%20FINAL%20draft.pdf)



Any proposed temporary or permanent relocation of tenants should generally meet standards equivalent to the federal Uniform Relocation Act (URA).<sup>37</sup>

We recommend that MHDC similarly discourage permanent displacement and make clear that temporary displacement should be minimized whenever possible. Such language could be included in the “Housing Needs” section of the QAP, which already specifies that the MHDC will not approve applications proposing the delivery of new units under certain conditions. We have included proposed language below.

**a. Housing Needs**

Developments must address the affordable housing needs of the state, region, and locality where they will be located. Important considerations regarding market need include:

...

No application proposing the delivery of new units will be approved if it is deemed by MHDC to adversely impact any existing MHDC development(s), exist in a questionable market, or create excessive concentration of multifamily units.

[For applications proposing the rehabilitation of existing housing, permanent displacement of tenants is strongly discouraged. The applicant must take all reasonable steps to minimize the displacement of existing tenants.](#)

The MHDC could also require that the “relocation plan,” which is described in greater detail in the Developer’s Guide,<sup>38</sup> include as part of its “narrative” a strategy for minimizing the displacement of residents.

**9. REQUIRE AN AFFIRMATIVE FAIR HOUSING MARKETING PLAN**

Missouri’s 2018 QAP makes clear that, pursuant to its obligations under the Fair Housing Act,

MHDC is fully committed to affirmatively furthering fair housing by taking meaningful actions to promote fair housing choice, overcome patterns of segregation, and eliminate disparities in access to opportunity, and consequently, MHDC will consider the extent to which a certain development affirmatively furthers fair housing when deciding which developments should be recommended for funding.

<sup>37</sup> N.H. HOUS. FIN. AUTH., 2013 QUALIFIED ALLOCATION PLAN FOR THE LOW INCOME HOUSING TAX CREDIT

PROGRAM 13 (2012), [https://www.novoco.com/sites/default/files/atoms/files/newhampshire\\_final\\_13\\_082912.pdf](https://www.novoco.com/sites/default/files/atoms/files/newhampshire_final_13_082912.pdf)

<sup>38</sup> MHDC DEVELOPER’S GUIDE, at 46.



In accordance with HUD guidance, MHDC requires that developers submit an Affirmative Fair Housing Marketing Plan as part of the compliance process detailed in the Developer's Guide.<sup>39</sup> We believe that MHDC should go one step further to state this requirement in the text of the QAP itself. Doing so would communicate MHDC's commitment to effectuating the fair housing mission underlying the LIHTC program, and encourage developers to think about the AFHMP *during the application process* and not just during compliance. Iowa and Illinois present excellent examples of how to implement an AFHMP provision in a QAP.<sup>40</sup> Their respective provisions specify that developers must affirmatively reach out to underserved populations when soliciting tenants. We include a model provision below, largely adapted from Illinois's version of the AFHMP provision. We recommend that this provision be included in the "Primary Documentation Review" section of the Missouri QAP.

Affirmative Fair Housing Marketing Plan. It is the policy of MHDC to administer the Tax Credit program affirmatively, so as to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion, sex, disability, familial status or national origin. Each applicant shall pursue affirmative fair housing marketing policies in soliciting tenants and outreaching to underserved populations and those least likely apply to reside in completed tax credit units. Each project receiving an allocation of Tax Credits will be required to submit an Affirmative Fair Housing Marketing Plan outlining how the Project will market units to underserved tenants, including tenants with special needs.

In conclusion, we applaud MHDC's recent actions to prioritize developments that seek to deconcentrate poverty and racially segregated areas. We urge MHDC to consider our comments and recommendations as part of the review of proposed multifamily rental production programs for 2018 and future years.

Thank you for the opportunity to provide comments.

Sincerely,

Will Jordan  
Executive Director

<sup>39</sup> MO. HOUS. DEV. COMM'N, LOW-INCOME HOUSING TAX CREDIT PROGRAM COMPLIANCE MONITORING MANUAL 13 (2006), [http://www.mhdc.com/program\\_compliance/tax\\_credit/Tax\\_Credit\\_Manual\\_FINAL\\_Posted\\_11-2006.pdf](http://www.mhdc.com/program_compliance/tax_credit/Tax_Credit_Manual_FINAL_Posted_11-2006.pdf).

<sup>40</sup> See IOWA FIN. AUTH., LOW-INCOME HOUSING TAX CREDIT PROGRAM 2017 9% QUALIFIED ALLOCATION PLAN 52 (2017), [https://www.novoco.com/sites/default/files/atoms/files/iowa\\_2017\\_final\\_qap\\_030117.pdf](https://www.novoco.com/sites/default/files/atoms/files/iowa_2017_final_qap_030117.pdf); ILL. HOUS. DEV. AUTH., 2016-2017 LOW INCOME HOUSING TAX CREDIT QUALIFIED ALLOCATION PLAN 34 (2016), [https://www.novoco.com/sites/default/files/atoms/files/illinois\\_2016\\_final\\_qap\\_032816.pdf](https://www.novoco.com/sites/default/files/atoms/files/illinois_2016_final_qap_032816.pdf).