Moving LIHTC Towards Social Housing

A Toolkit

PRRAC
Poverty & Race Research Action Council

* Low Income Housing Tax Credit (LIHTC)

Executive Summary

The future of our housing system must be one that works for everyone. To that end, tenants, organizers and advocates are working towards a system of social housing. **Social housing** is permanently and deeply affordable, permanently removed from the for-profit market, and owned and controlled by public, non-profit, or community entities, or the tenants themselves. This model effectively addresses a root cause of our housing emergency — a system that puts profit over people, characterized by runaway rents and a lack of housing stability that low-income renters face. To fully realize a widespread social housing system, we will need permanent, consistent, and direct not-for-profit funding sources that are tailored to meet our principles for social housing development, acquisition, and maintenance. In the meantime, we can and should work to move major funding resources towards our social housing goals.

The **Low Income Housing Tax Credit (LIHTC)** program, by far the largest single federal expenditure on affordable housing construction and rehabilitation, currently follows the 'profit over people' way of building housing. Consequently, LIHTC produces housing that is only temporarily affordable, not well-targeted to the neediest households, and majority-owned by for-profit developers and investors.

Still, we can reform LIHTC state by state to help produce outcomes more in-line with social housing goals by advocating for changes in state **Qualified Allocation Plans (QAPs)** — state documents outlining criteria and priorities for LIHTC projects — to require, for instance, permanent and deeper affordability, stronger tenant protections, and ultimately, property transfer from LIHTC's for-profit investors to fully effective public, non-profit, or community ownership.

LIHTC can be improved, even as we work to create more direct funding structures. By modifying state QAPs, which set rules for expenditure of LIHTC funds, we can steer these dollars towards advancing our vision of social housing as much as possible. This toolkit is intended to give tenants, organizers, advocates, and policymakers the basics on why and how to update your state's QAP.

About the Authors

The Alliance for Housing Justice is a coalition that came together to address the nation's affordable housing and displacement crisis, advance the rights of tenants, respond to harmful public policy actions, and shift the narrative from housing as a commodity to housing as a human right. Our primary strategy for achieving these goals is building and supporting the infrastructure needed for a powerful, grassroots-led housing justice movement.

The Poverty & Race Research Action Council (PRRAC) is a civil rights law and policy organization based in Washington, DC, and a founding member of AHJ. Their mission is to promote research-based advocacy strategies to address structural inequality and change the systems that disadvantage low-income people of color.

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Why Social Housing

Housing is a fundamental human need. We all need a place to call home; a place to grow up, raise a family, pursue our dreams, and age with dignity. Unfortunately, the United States systemically lacks housing that is affordable to low-and-moderate-income people. This affordability crisis is not new, but it is worsening. More and more of us are being charged rents that we cannot afford. Rent in the U.S. surpasses wages, inflation, and every other economic marker; since 2001, inflation-adjusted rents have gone up 10 times faster than wages.[1] As housing costs go up, the number of people experiencing homelessness rises, because high housing costs that exceed what people can afford are the primary driver of homelessness.

It is no wonder that most voters in the US feel pessimistic about the economy when half of renters in the U.S. are paying more than 30% of our income just on housing.[2] Nearly a quarter pay more than 50%.[3] With such high rents, we are not able to pay for groceries, health care, or our kids' education. High housing costs create misery, cause homelessness, and force millions of people into financial insecurity.

While our housing costs have soared, the profits of corporate real estate and landlords have gone up too.[4] This isn't an accident; it's how our current housing market is designed to function — by prioritizing profit over shelter. As long as profit remains the main driver of housing policy at all levels, tenants' rights, housing affordability and stability will remain a constant struggle, and we will fail to meet everyone's need for a stable home. There is a better way to ensure that everyone has a decent, safe, affordable home: **social housing.**

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Social housing is permanently and deeply affordable, especially to those most in need; is under community control; and most importantly, exists outside of the speculative real estate market.[5] Social housing can exist in different forms including public housing, land trusts, and resident co-ops. In addition,

- It can be owned by public entities, residents, or mission-driven nonprofits, but not by for-profit entities.
- It can be occupied by renters or homeowners.
- It includes public housing, community land trusts, supportive housing for anyone who needs it, new construction, existing permanently affordable housing, and conversion of current market-rate housing.
- It meets the scale of the housing crisis.
- It is environmentally friendly and climate resilient.
- It is anti-racist and inclusive of everyone.
- It includes strong tenant protections.

Transforming the U.S. housing system into one that works for all of us will not happen overnight. But if we look to the examples set by tenant organizers[6] and join together across race, class, and other identities that are so often used to try and divide us, we can ensure everyone has access to affordable, quality housing.

Unfortunately, all levels of government have drastically slashed resources for affordable housing over the past 50 years. These cuts directly gave rise to the widespread homelessness and housing insecurity we see in our communities across the nation. Instead of directly funding affordable housing, the federal government neglected and gutted public housing. It replaced public housing construction with LIHTC, an inefficient scheme that hinges on providing tax breaks to Wall Street banks and other investors to finance housing that is neither deeply nor permanently affordable.

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About LIHTC

Today, the Low Income Housing Tax Credit (LIHTC) is the federal government's largest funding program for constructing and rehabilitating affordable housing, given decades of cuts to public housing and direct funding for deeply affordable housing. Originally enacted in 1986 and made permanent in 1993, the public currently spends an average of $13.5 billion every year on LIHTC.[7]

LIHTC relies on incentivizing for-profit investors to provide the upfront capital to build affordable housing, in exchange for tax breaks (known as "tax credits').

- State and local LIHTC-allocating agencies issue the tax credits to for-profit and non-profit developers and other housing providers, who then sell the credits to for-profit investors in exchange for the capital used to construct and rehab housing for "low-income individuals"
- LIHTC defines "low-income individuals" as those making 80% of Area Median Income or less.
- The credits investors purchase are a tax break that significantly reduces their tax liability. Investors enjoy the tax break for the first 10 years of a project (see Appendix for a breakdown of the two types of tax credits, 4% and 9%).
- In addition, investors receive other valuable tax benefits like depreciation and other real estate tax deductions, further reducing their annual tax bill. These lucrative, publicly subsidized tax benefits make LIHTC credits highly sought-after by for-profit investors.
- In exchange for their investment, tax credit purchasers also receive 99% ownership of the project. Sometimes they agree to transfer ownership back to the developer or landlord partner after affordability restrictions expire, but may fail to do so and retain control of the property when it becomes market-rate.

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LIHTC is not an economically efficient way of producing affordable housing:

- **LIHTC diverts public money into lining the pockets of for-profit investors, developers, and landlords.** Investors gain more in tax breaks and other benefits than they spend on affordable housing. It would be more cost-effective for the government to directly fund production of affordable housing, instead of relying on enticing investors through tax breaks.

- **LIHTC homes are not deeply affordable.** In part because most LIHTC investors (and many LIHTC developers or owners) are profit-driven, and because other public funds to finance support deep affordability are insufficient, the homes that LIHTC produces are not affordable to the poorest households (only about half of units are occupied by extremely low income (ELI) households, compared to the majority in public housing). Most ELI residents of LIHTCs also use Section 8 vouchers to pay for their rent. Even so, 40% of LIHTC residents are rent-burdened.

LIHTC homes are only temporarily affordable. Federal regulations currently only require LIHTC properties to remain affordable for 30 years[8] (though some states have higher requirements). After this, there are no limits on rent increases.

LIHTC tenants lack protections. Federal eviction protections, where present, are vaguely written, resulting in unwarranted evictions. Additionally, critical protections, including tenants' right to organize (codified in public housing), caps on rent increases, and habitability standards are absent, insufficient, or poorly enforced at the local level.[9]

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Over its 20-year history, the LIHTC has helped create over 3 million homes[10] nationwide — over 50,000 new housing units annually. The Urban Institute estimates that between 2000 and 2019, that 25% of all new multifamily housing developments[11] built across the US was supported in some way through LIHTC. For new affordable housing — defined as serving tenants earning 80% or below area median income — those multifamily housing numbers are estimated to be closer to 90%.[12] LIHTC is clearly the dominant funding mechanism today for producing 'affordable' housing.

But LIHTC has also become increasingly dominated by the largest Wall Street investors and for-profit landlords. Large corporate landlords like Blackstone have acquired vast LIHTC portfolios. Today, 80% of LIHTC developers are for-profit entities. For-profit landlords are subjecting tenants to rent hikes, evictions, deplorable conditions, and are more likely to convert buildings to market rate after LIHTC's temporary affordability restrictions expire.[13]

We can help discourage these trends by trying to change some of the incentive structures built into LIHTC that have made it so lucrative to Wall Street investors. We must reform LIHTC to require stronger tenant protections and produce better housing outcomes. It is only reasonable to insist that the housing built with our tax dollars directly benefit and prioritize the needs of our communities rather than generating profits for large corporations as "assets."

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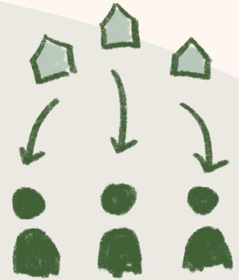
How Does LIHTC Work?

Congress Sets annual LIHTC amounts.

Treasury/IRS allocates funds to States (and a limited number of cities) based on population size.

State agencies set goals and rules through QAP for how to award 9% and 4% credits.



Developers apply for the credits.

Credits are awarded to developers for projects.

Developers sell the tax credits to for-profit investors for equity investment in their project.

Developers (general partner) construct or substantially rehabilitate buildings to create affordable housing.

The tax credit buyer (the for-profit investor), gets a percent credit off their tax liability every year for 10 years once the project is 'placed in service' in compliance. The investor also gets 99% of ownership shares of the development.

For an additional five years tax credit allocators and buyers are required to submit reports to the IRS and remain in compliance or risk losing their tax benefits.

After 30 years the federal requirement for affordability expires and the owner can convert the development to market rate, putting tenants at high risk of eviction.

What is a Qualified Allocation Plan (QAP)?

Although LIHTC is a federal program administered by the U.S. Department of Treasury, the selection of projects — and thus the awarding of credits — is largely up to the states. Reforming LIHTC at the federal level would require changing U.S. Department of Treasury regulations or Congressional action. But states may choose to set rules stricter than the federal minimums, so long as they do not contradict them.

The process by which states create the rules for selection of projects and awarding of credits is called the Qualified Allocation Plan (QAP).

QAPs are created and implemented by a state's tax credit allocating agency — often the housing finance agency (HFA). Though not required, most QAPs are updated regularly, typically annually, or every other year. The QAP outlines the procedures, requirements, and rubric used by the state to allocate LIHTC credits to projects within its jurisdiction. All states' QAPs must adhere to the federally mandated minimum guidelines, including setting "forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,"[14] giving states broad discretion to institute requirements and preferences beyond the federal minimums.

The flexibility and authority afforded to states to identify priorities for LIHTC in the QAP creates a powerful opportunity for advocates and organizers to influence the types of affordable housing that is built in their community. Using the QAP, organizers can work to ensure that LIHTC outcomes approach our vision of social housing as much as possible.

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In addition to the federal LIHTC program, over 20 states also run their own tax credit programs to supplement LIHTC. These state credits often follow the same procedures and rules as the QAP. This means that QAP reforms can have an even bigger impact in these states.

LIHTC Challenges

Despite being the largest federal affordable housing construction and rehabilitation program in the country, LIHTC has several structural flaws that undermine the program's effective role in providing long-term, stable, truly affordable, and high-quality housing for low-income tenants. ***State agencies have the power to fix some of these flaws by modifying the state's QAP.***

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Below are some of the most pressing challenges in LIHTC that prevent this federal investment from addressing the root causes of our current housing crisis.

NOTE: Many states have improved LIHTC through legislation or through the regulatory process. We'll discuss some of those below, but an overview of those can be found in the PRRAC Report, "Social Housing Goals in State Housing Allocation Plans: A 50-State Survey."

Rent Increases

Rents in LIHTC properties are not based on an individual household's income. Instead, LIHTC rules only limit the maximum rent that an owner can charge. This limit is 30% of the applicable income limitation for the unit in question. These income limitations are tied to the Area Median Income (AMI) and are calculated each year by HUD. This rent structure undercuts the LIHTC programs' affordability goals in at least two ways. First, because rents are untethered to tenant income, there can be extremely low-income tenants (for example, those with incomes at or below 30% of AMI) occupying a unit tied to a much higher AMI threshold, causing the tenant to be rent burdened — and become even more rent-burdened as their neighborhood gentrifies so that the AMI rise, even as the incomes of fixed-income or low-income tenants do not. That is why many tenants still need additional rental assistance[15] to cover their LIHTC rent (assuming they are able to access it).

Second, there are only marginal limits on the frequency or amount of annual rent increases, which exposes already rent-burdened tenants to exorbitant rent increases from one year to the next.

In April of 2024, the Biden Administration issued a rule mandating that HUD cannot increase income limitations by more than 10% from the previous year. Though a step in the right direction, since HUD income limitations only affect max LIHTC rent, the 10% cap only applies to tenants already paying maximum LIHTC rent. For tenants paying less than the maximum, their landlord can increase rent by any percentage, provided the rent remains below the maximum. State QAPs can, and have, gone further to protect LIHTC residents from large rental increases.

Evictions

Under federal rules, LIHTC property owners are required to have "good cause" to evict tenants from LIHTC units. However, the definition of "good cause" is primarily left to states and localities to clarify, according to guidance from the Internal Revenue Service (IRS).[16] The lack of a clear definition for "good cause" at the federal level leads to inconsistency and often results in interpretations that tend to favor landlords, leaving tenants vulnerable to unfair evictions. Furthermore, a vast majority of states and cities lack comprehensive statewide just cause eviction policies — and some

places with just cause eviction protections have exempted LIHTC buildings from those protections.[17] Embedding explicit good cause eviction protections into federal LIHTC regulations or state QAPs and compliance manuals would provide a more uniform and enforceable standard of tenant protections, ensuring fairer treatment across different jurisdictions.

Lack of Tenant Engagement & Right to Organize

While several state QAPs contain some tenant protections, they are inconsistent and often insufficient. In states such as California, LIHTC properties have even been exempted from legislated tenant protections. Provisions like the right to organize, freedom from retaliation, the right to counsel, tenant screening regulations, and others are needed across all states and jurisdictions.

Additionally, community engagement is lacking in the program. There is no federal mandate that calls for nearby community members, or potential/existing tenants to be consulted at any point in the awarding of tax credits. Requiring agencies to engage with residents and strengthening language to protect tenants could be achieved by reforming a state agency's QAP.

According an Associated Press investigation, affordability restrictions will expire for more than 223,000 units in the next 5 years alone. [18]

Poor Habitability & Code Enforcement

Tenants in LIHTC properties have complained of long-standing and dangerous issues in their buildings that have gone unaddressed. While federal regulations and local laws impose some standard of habitability, weak requirements for frequent and in-person inspections and underfunding and understaffing of public inspection offices lead to poor enforcement of those standards. In the context of LIHTC, tax credit awarding agencies do not adequately track resident complaints or landlord, property management, or property owner housing violations. As a result, irresponsible owners are often awarded additional tax credits despite their poor track record. QAPs must create structures for enforcement of basic habitability standards through tracking violations and complaints, and impose penalties for repeat offenders.

Temporary Affordability & Investor Takeover

A major structural flaw in the LIHTC program is that, while it is billed as an affordable housing program, the affordability requirements usually expire. Federal rules require projects to remain affordable for only 30 years. At the end of that period the projects can, and in many cases do, revert to market-rate housing. This conversion displaces

long-term residents who cannot afford market rents. While some states have extended affordability requirements beyond 30 years, permanent affordability should be the goal to prevent displacement and support long-term community stability.

One powerful social housing provision in the LIHTC program is called the “Right of First Refusal,” which, in theory, permits a qualified non-profit or tenant organization to purchase a LIHTC property below market rate after 15 years. However, this “right” has been undermined by corporate investors in several states. In addition states have not provided enough financial support to nonprofits to be able to take advantage of this provision. States should be persuaded to protect and support this right in their QAPs for all future properties.

Lack of Fair Housing Oversight

While the Affirmatively Furthering Fair Housing (AFFH) mandate of the Fair Housing Act (FHA) requires state and local agencies who administer federal funds to proactively combat housing inequities, there is a stark lack of fair housing or civil rights oversight in the LIHTC program. One of the largest areas where fair housing concerns are prevalent is in tenant screening. LIHTC property owners can follow typical market-rate housing screening procedures, such as requiring minimum credit scores, minimum income thresholds, rental history, and other financial criteria. Owners are also not required to inform applicants of the reason for denial of admission. This lack of transparency within the LIHTC application allows property owners to make housing decisions based on racialized data (e.g. screening on criminal history or credit scores), leading to potentially discriminatory admissions decisions. Other fair housing issues include discriminatory “local contribution and approval” requirements, which are used to keep LIHTC properties out of exclusionary, higher income communities; weak “affirmative marketing” plans; and lax enforcement of general community investment requirements in the federal LIHTC statute.[19]

What Is in a QAP?

Threshold Requirements: The QAP will include the threshold requirements that projects must meet to be eligible to apply for credits. Projects not meeting the threshold requirements will be immediately removed from consideration. This section of the QAP will include the federal minimum threshold requirements and any state requirements beyond these minimums. By strengthening threshold requirements set by states, advocates can influence what types of projects make it into the actual selection process.

Scoring System: To select between projects that meet all threshold requirements, most states use a scoring system to rank and prioritize projects based on how well they meet the selection criteria. By advocating to include and prioritize certain qualities on these scoring rubrics, advocates can influence what kind of projects receive credits.

Allocation/Selection Criteria: Beyond threshold requirements, preferences and priorities are laid out in the allocation/selection criteria. The federal code[20] mandates QAPs give preference to projects that:

- Serve the lowest-income tenants,
- Are obligated to serve qualified tenants for the longest periods, and

Are located in qualified census tracts and the development of which contributes to a concerted community revitalization development plan.[21]

The federal LIHTC statute also requires states' selection criteria[22] to consider a number of additional factors — but without specifying how these factors should be defined or weighed in the QAP selection process:

- Project location,
- Housing needs characteristics,
- Project characteristics,
- Sponsor characteristics,
- Tenant populations with special housing needs,
- Tenant populations of individuals with children,
- Projects intended for tenant ownership,
- Public housing waiting lists,
- Energy efficiency, and
- Historic properties.

Other elements of the QAP set out procedures for selection and distribution of credits include:

Application Process: The QAP outlines the application process, including fees, deadlines, required documentation, and submission procedures for developers seeking LIHTC allocation.

Award/Distribution Process: After reviewing applications and applying the scoring system, the state HFA will select projects to receive LIHTC allocations and will notify the developers of their award. The QAP will explain this process. The QAP may also specify how unused or returned tax credits will be reallocated to other projects.

Compliance Monitoring: QAPs include details on how and how long the HFA will monitor a projects' compliance. This includes periodic reporting, inspections, and ongoing monitoring to ensure that the project remains in compliance with LIHTC regulations throughout the compliance period.

Project Set-Aside Election: In its application, an owner must identify the percentage of low-income units in the project and the designated income limitations for those units, which will in turn determine both the maximum income a tenant can earn to qualify for the unit and the maximum rent that an owner can charge for the unit. The federal rules provide three different set-aside elections. However, the state's QAP can offer additional points for projects that will accommodate more low-income units and/or units at lower income limits (deeper rent restrictions) than under federal law.

Nonprofit Set-Aside: Federal law effectively requires 10% of a state's credits to be allocated to projects involving a nonprofit applicant or partner.[23] Lower-scoring nonprofit projects may still be funded by the state HFA to meet this minimum set-aside. States can require more credits to go toward nonprofit projects.

Prioritization of Special Needs and Community Goals: States can outline priorities that meet their specific state's housing needs in their QAP. These may be projects that address specific community needs or goals, such as housing for veterans, people experiencing homelessness, or individuals with disabilities. They may also encourage developments that support transit-oriented development, historic preservation, or other local priorities. They may also encourage deeper income prioritization through set-asides or points allocated for project affordability requirements based on lower or deeper AMIs.

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Using the QAP Process to Reform LIHTC

Where Can I Find My State's Current QAP?

States do not have a uniform method of publishing their QAPs. The Poverty Race and Research Action Council (PRRAC) has compiled social housing provisions in the latest QAP plans for all 50 states in Appendix B of their report. The consulting firm Novogradac also keeps a list of state QAPs.

When Can I Engage with My State's QAP Process?

All states have their own methods to gather community input. Typically, the allocating agency will set up stakeholder meetings (usually with developers) for input before releasing a draft of their QAP updates. Then, there is typically a public comment period before a QAP draft has been published. The comment period may be a few weeks or a few months. However, advocates do not need to wait for these official periods to begin engaging with their state's QAP process, or advocating for changes they would like to see. Advocates can request their own meetings with the allocating agency or other state housing officials at any time to make their priorities clear and learn the behind-the-scenes details of their state's QAP process.

Who's Who: Major Players & Stakeholders in LIHTC and the QAP Process

To start organizing around a QAP, it is important to get an understanding of what players are frequently involved in this process. Being aware of these various stakeholders can assist in conducting strong power mapping and analyses that inform future organizing and advocacy strategies.

STATE TAX CREDIT AGENCIES

Every state must identify an agency tasked with selecting and dispersing LIHTC credits to eligible projects. The agency may be called a housing financing agency, a housing credit agency, or another similar name. This agency is the final authority on what will be included in a state's QAP. It is important to learn your agency's leadership, its board structure, and the appointing authority of the Governor, state treasurer, and state legislature.

In California, tax credits are allocated by the Tax Credit Allocation Committee, or TCAC, an agency under the State Treasurer's Office. TCAC is led by an Executive Director who is appointed by the State Treasurer and committee members who vote on HFH or Credit Agency staff recommendations for credit allocations, including the QAP. Committee members include the State Treasurer and other members who lead state departments, who are appointed by the Governor.

DEVELOPERS (NONPROFIT & FOR-PROFIT)

The majority of LIHTC developers are for-profit real estate companies. They receive and sell tax credits and develop rental properties for the purpose of making a profit. But non-profit developers are also major players in the LIHTC program, even though the federal statute only requires a 10% non-profit set aside.

SYNDICATORS

A LIHTC syndicator is a type of financial firm that acts as a for-profit middleman, connecting developers from various projects looking to sell their credits, with investors looking to buy credits. In addition to acting as a broker, syndicators also profit from managing investor credits.

RESIDENTS

Residents are the tenants that currently live in or will live in LIHTC units, and their involvement and welfare are the priority of the reforms that can be implemented in LIHTC properties, to move these towards social housing principles.

STATE LEGISLATORS

State legislators are often involved in the LIHTC and QAP process. They often help make the rules for who can get tax credits, decide how affordable housing projects are chosen, and may even pass laws specific to how the LIHTC program operates in their state. They work closely with their state agencies, set budgets, and may help oversee the LIHTC program in their state.

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Steps to Engage in Your QAP Process

1. Identify your state housing financing agency and their QAP timeline. HUD publishes a list of state agencies managing LIHTC.

2. Prioritize reforms that you would like to see in your state's next QAP. Increasing your affordability period is always a good place to start.

3. Power map and learn who's on the allocation agency's board, how they're elected or appointed, and who they feel accountable to. Identify and reach out to champions in the state legislature and housing committee.

4. Build your coalition and plan a campaign with your alliance of organizers, advocates, mission driven housing financiers, and legislative/committee champions to push reforms through the drafting and public comment periods of your QAP cycle or in state legislation.

The members of the Alliance for Housing Justice and PRRAC are available to help you research your particular state's QAP process and help you identify steps to engage specifically at your state level. Contact us at info@allianceforhousingjustice.org.

Ways to Improve LIHTC Through The QAP

As noted above, state QAPs are highly flexible documents that can better incorporate social housing principles. This section will give some examples of provisions that you might consider advocating for in your state's plan to move LIHTC projects closer to social housing.

There are several ways to prioritize social housing goals in your state's LIHTC plan, such as:

- **Adding threshold requirements** so all projects would advance social housing goals.
- **Adding a preference or selection priority,** so projects advancing social housing goals would get a boost in their scoring and would therefore be more likely to receive credits.
- Including **set asides** of a portion of the annual tax credits to support a particular type of development.

Advocates can get creative and push to include any requirements, definitions, or priorities so long as they do not go against the federal minimums. The following sections provide example language used in state QAPs to better align with social housing principles.

Affordability

Permanent affordability is a key goal of social housing. The federal statute calls for states to consider long term affordability, and at least 31 states provide incentives or requirements in their QAPs to maintain affordability periods beyond the 30-year federal minimum.[24] This flexibility creates valuable opportunities for advocates.

The best method to increase affordability periods is through the threshold requirements section of the QAP. By increasing the threshold requirement, advocates can be sure that tax credits will only go toward projects with extended, and ideally permanent, affordability.

> **EXAMPLE: California includes in the threshold eligibility section of their QAP "Projects are subject to a minimum low-income use period of 55 years."[25]**
>
> **Vermont has gone even further and requires all competitive LIHTC projects to be permanently affordable. They achieved this by including the following language in their QAP: "all projects receiving Ceiling Credits must agree to a perpetual Housing Subsidy Covenant"[26][27]**

Longer affordability periods can be achieved by adding language like Vermont's (see box) in your state's QAP threshold eligibility section, or by adding significant points in the scoring system for developments that are permanently affordable. If your state has already increased their affordability period, you can urge the HFA to increase it further or cite Vermont's strong permanent affordability measures.

Nonprofit Ownership/Management

Certified, mission-driven nonprofit ownership and management (or public ownership by a public housing authority or similar public agency) is another basic standard of social housing. The federal tax code effectively mandates at least 10% of a state's credits be awarded to projects with a nonprofit owner or partner. This requirement is extremely beneficial because even lower-scoring nonprofit projects that would not typically be awarded may be bumped up to meet this minimum. States can increase their own minimums beyond the federal 10% through their QAPs.

> **EXAMPLE: Six states require an increase in the percent of projects allocated to nonprofits, including Pennsylvania and Georgia.**
>
> **Pennsylvania's QAP states that the agency "will target a minimum of twenty-five percent (25%) of the Competitive 9% Tax Credit towards developments involving qualified nonprofit organizations."[28]**
>
> **Georgia's QAP states that the HFA "will set aside 15% of the available 9% Credits for non-profit sponsored Applications."[29]**

Other states provide additional competitive points for nonprofit applicants in their scoring rubrics. Advocates can amend their state's QAP to require more nonprofit set-asides or greater scoring benefits to nonprofit-led projects.

In states where nonprofit projects are awarded additional points in the application process (to encourage more nonprofit ownership of LIHTC projects), some entities obtain nonprofit status only for the purpose of gaining an advantage in the application process. Some for-profit developers create nonprofit subsidiaries for this purpose. These types of faux nonprofits are profit-driven and do not operate their projects in a mission-driven way. In addition to pushing for prioritizing nonprofit ownership of LIHTC projects, advocates should consider ways to guard against faux nonprofits taking advantage of the preference.

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Community or Tenant Opportunity to Purchase

A resident organization, nonprofit partner, or government agency may have a right to purchase a LIHTC building at the end of the project's 15-year compliance period at a below-market-rate. This is called a Right of First Refusal (ROFR). However, private equity interests have developed a scheme whereby they buy the original owner's equity stake and then use their ownership rights to prevent the nonprofit partner from exercising their ROFR. They do this primarily by insisting on rigid state common law rules (like a bona fide third party offer and partner consent) when in fact this is a special ROFR that is a purely a creation of federal law with a specific purpose of facilitating the transfer of the project's ownership to the nonprofit. In the face of the private equity's tactics, the nonprofit partner is faced with a choice between litigating the issue or paying a huge ransom for the private equity partner to step aside. Either way, scarce resources are diverted away from the project, risking the long term viability of the project and the housing stability of the tenants. To ensure that the right of first refusal is protected, some states have clarified the right explicitly in their QAPs.

EXAMPLE: New Hampshire's QAP explicitly states that the right of first refusal "does not require the consent of the investor or receipt of a bona fide offer." Vermont's QAP states "The Right of First Refusal must allow the holder of the right to make the offer on the property that triggers the Right of First Refusal." By adding this line, Vermont clarified that the right exists as a standalone guarantee that does not require any third party offer to trigger.

Other states have also recognized the predatory nature of some developers who take advantage of this ambiguity and bar developers who have previously attempted to undermine the Right of First Refusal from applying for future credits.

Some states also provide tenants with an individual right of first refusal to purchase their units. Kansas awards additional points to projects that include a comprehensive plan for converting the units to tenant ownership after 15 years. Similarly, Nevada has a "Housing for Eventual Tenant Ownership" category in its General Pool allocation.

Eviction & Tenant Protections

RENT INCREASE PROTECTIONS

As stated previously, although LIHTC units have some rent regulations, rents increasing beyond affordability is an ongoing problem for many LIHTC residents and needs to be addressed. Several states have added rent caps to protect tenants; all states should follow this best practice. **In addition, there is no legal or program prohibition on states changing the basic formula for how rents are set in LIHTC buildings from one based on AMI to one based on affordability to individual tenants.** While no state has yet introduced this change, it would not be a violation of the federal regulations to do so.

> **EXAMPLE: At least 15 states have included rent increase protections in their QAP (typically no more than 5%). Michigan's QAP states "Increases on the tenant-paid portion of rent, for occupied units will be limited to no more than 5% per year for the first three years." Wyoming achieved long term rent stabilization by adding "There may be no more than a five percent (5%) differential between rent and income levels." South Carolina goes further and does not permit rent increases without approval from the Compliance Monitoring Department.**

Another serious issue are mid-lease rent increases demanded by owners when the AMI increases. This practice should and can be prohibited, in both the QAP and in an agency's compliance manual.[30]

PROTECTION FROM DISPLACEMENT

Many state QAPs include measures to prevent tenant displacement during redevelopment. Tenants are afforded some basic protections through federal guidelines, like the Uniform Relocation Act and HUD rules.[31] However, states can include more comprehensive anti-displacement protections in their QAPs.

> **EXAMPLE: Connecticut includes in their basic threshold requirements "No Resident Displacement. The Proposed Development shall be affordable to current residents (if any) so that no permanent displacement is required for reasons of affordability."**
>
> **Minnesota has a section dedicated to preventing the displacement of tenants with Housing Choice Vouchers or Project Based Vouchers: "Minnesota Housing will not accept applications that have displaced or will displace Section 8 tenants in a housing project because rents will be increased above the Section 8 Payment Standard Rent limit."**

Similar clauses could be added to other QAPs to protect against the displacement of existing low-income tenants where a property is redeveloped using LIHTC funds.

GOOD CAUSE EVICTION POLICIES

Although the LIHTC statute includes a good cause eviction provision, it does not define what "good cause" means.[32] When defined properly, this tenant protection offers tenants security and peace of mind knowing that their lease will be renewed, so long as they have not committed a major breach of the lease agreement — like consistent failure to pay rent, notable damage to the property, or endangering other tenants. However, without clear definitions, landlords are able to evict or fail to renew a lease for uncited or unfair reasons. The IRS has deferred to state law for definitions of good cause, which has caused some ambiguity, ultimately leading to unjust evictions of LIHTC tenants. Some states have clarified this ambiguity by defining "good cause" in their QAP.

> **EXAMPLE: The California LIHTC Compliance Manual defines good cause as: "serious or repeated violations of a material term of the lease, as that definition is applied with respect to federal public housing."**
>
> **Other states have recognized the need for eviction protections for LIHTC tenants in creative ways. Indiana awards additional points to a project if the applicant commits to implementing strategies that reduce the impact of eviction on low-income households, including creating an Eviction Prevention Plan. This plan must address how the property will implement management practices that utilize eviction only as a last resort and must describe strategies that will be taken with tenants on an individualized basis to attempt to prevent evictions when issues arise. [33]**

SUPPORT FOR TENANT ORGANIZING AND/OR ENGAGEMENT

Tenant associations are a powerful tool against predatory landlord practices. Tenants may organize and use their collective voice to achieve necessary repairs or address concerns with management.

EXAMPLE: Connecticut provides additional points to applicants that offer residents a signed Resident Participation Agreement. A "Resident Participation Plan must include a notification to all residents explaining residents' right to organize and to participate in tenant organization without interference for or advance action by the authority."

Other Provisions Advancing Social Housing Principles

HABITABILITY & QUALITY HOMES

Everyone should have a safe, decent and beautiful place to live. While LIHTC buildings are required to follow HUD's Uniform Physical Condition Standards (UPCS), inspection can be spotty and many states do not have a formal tenant complaint system. Additionally, once the tax-credit compliance window has closed after 15 years, penalties vary widely. States should include robust habitability requirements, inspections, and tenant complaint systems as well robust penalties for violations, including fines and prohibitions from receiving tax credits in the future.

COMMUNITY PARTICIPATION & CONTROL

Community control is a key element of social housing but is missing in most QAPs. Some states have made attempts to mandate community input on LIHTC priorities.

EXAMPLE: Georgia has established a requirement that all applicants assemble a "Community Quarterback Board" to provide input on the project. This board is "a coalition of public/private entities serving the Defined Neighborhood that:

- **Drives the revitalization initiative to make sure all related components are successful and sustainable;**
- **Ensures the people in the Defined Neighborhood are engaged, included, and served; and**
- **Serves as a single point of accountability for partners and funders."**

Georgia mandates that a board include certain percentages of residents under 80% AMI and individuals from affected industries like educationand health.

CLIMATE RESILIENCE

The climate emergency is here and is impacting communities of color and low-income communities the hardest. How and what we build and rehabilitate matters deeply, so we do not exacerbate the problem, and have housing that can withstand the impacts of a warming, climate-disaster prone world. Ensuring that LIHTC-funded buildings are part of the solution by mandating or encouraging conversion and rehabilitation, green construction methods and materials, and energy-efficient homes that can withstand storms, fires, extreme heat, and flooding should be considered in advocates' QAP planning.

COMMUNITY ENGAGEMENT & INPUT

LIHTC developers and jurisdictions should use best practices to engage community members in the application process, selection and use of LIHTC credits. The Alliance, a Minneapolis-based coalition of community-based organizations and advocacy groups, developed an Equitable Development Principles and Scorecard that may assist deep community engagement endeavors. It is important for organizers and advocates to encourage state officials to also create enforcement mechanisms that ensure equitable outcomes result from future development, and not allow this tool to be misused by developers to simply check a box.

Organizers and advocates looking to reflect on how community engagement practices could be improved to help advance community ownership, can utilize the Spectrum of Community Engagement to Ownership tool created by the Movement Strategy. This tool helps organizations move towards more community ownership of decision-making and influence.

ENSURING ACCESS TO HIGH-RESOURCE AREAS

States are required to prioritize projects that serve the lowest-income families, typically through additional points in the competitive scoring system. Many residents would also benefit from the option to live in high resource/high opportunity neighborhoods, yet most LIHTC developments for families are located in higher poverty areas. Some states award points for developments in lower poverty, well-resourced areas and this is a policy that can and should be replicated.

As is noted in AHJ's "Social Housing Principles,"

> "[S]ocial housing development investments are made not only in disinvested communities that are predominantly Black, Latinx, and Indigenous but [should] also provide low-income residents with access to well-resourced education, recreation, and other amenities...The right to choose where you live should not be restricted to people with disposable income. Abundant social housing, affordable to all, must be available in every neighborhood and community."[34]

These fair housing goals require incentives or set asides for developments in low poverty, well-resourced areas, and strong affirmative marketing to ensure that families who have been excluded in the past have the opportunity to live in new LIHTC units.[35] LIHTC funding can also be used to finance the preservation and redevelopment of aging public housing developments in high poverty areas (although this is a form of the privatization of public housing and without provisions to the contrary, results in those developments being removed from public ownership which AHJ does not advocate), and new LIHTC development can help protect residents' rights to remain in low-income neighborhoods that are experiencing gentrification. In addition, LIHTC investment in high-poverty communities must be accompanied by affordability standards that align with local community demographics, and meaningful non-housing community reinvestment under the federal LIHTC statute (the "concerted community revitalization plan" requirement).

COMMUNITY LAND TRUSTS AND LIMITED EQUITY COOPERATIVES

Community Land Trusts (CLTs) and limited equity cooperatives (LECs) are ways for people to share homeownership. While states don't currently mention or prioritize CLTs or LECs, they sometimes award LIHTC funds to such projects. In Denver, the Urban Land Conservancy has partnered on LIHTC developments to create many affordable apartments, and the Champlain Housing Trust in Vermont owns various real estate, including LIHTC properties. Mountainlands Community Housing Trust in Utah has also partnered to create and preserve homes and affordable rental projects, although they have also converted some older LIHTC-financed projects to market rate housing. States should consider prioritizing some of these alternative forms of ownership in their QAPs and CLTs, and advocates should ensure that contracts requiring transfer of ownership and shares from for-profit investors to the CLTs or LECs ensure permanent affordability cannot be broken.

EXPANDING & REHABILITATING PUBLIC HOUSING

LIHTC recipients often combine credits with other programs, such as the Rental Assistance Demonstration (RAD) and Faircloth-to-RAD, which facilitate the refinancing and rehabilitation of public housing. Although most RAD developments retain public or nonprofit ownership, an important criticism of the RAD program is that it can potentially transfer public housing to for-profit owners. State housing finance agencies can, and should specify that LIHTC funds invested in public housing can only be used to support continued public ownership. AHJ favors the creation of new publicly owned and permanently affordable housing through Faircloth-to-RAD, rather than privatization of the existing public housing stock through RAD. The Treasury Department can also support the expansion of public housing by issuing guidance on how layering LIHTC with Faircloth-to-RAD can maintain community oversight and control.

CULTURALLY APPROPRIATE AND SUPPORTIVE HOUSING

State QAPs have the potential to be versatile in their ability to meet the housing needs of different communities, and incorporate the principles of culturally appropriate and supportive housing. SAGE's affordable housing development primer shares examples of how LIHTC supported, culturally appropriate, and supportive housing has benefited the aging LGBTQ+ community. There are opportunities to advocate for updates in your state's QAP to expand LIHTC projects that develop culturally appropriate and supportive housing for many communities, including the LGBTQ+ community.

Conclusion

We need to move our housing system from one that only serves the wealthy to one that serves all of us, especially those who are completely excluded from market-based options. A fully transformed system will take time to implement, but there are things we can and must do now to pave the way. One way we can take a huge step towards that vision is by reforming our existing affordable housing funding streams to be in line with **social housing principles** — and we can do that at the state level without passing any new federal legislation or needing to create new systems from scratch.

Reforming your state's QAP could ensure that all LIHTC-funded housing is permanently affordable to even the lowest-income tenants, is community controlled, is socially owned, has robust tenant protections and habitability enforcements, and is developed in a climate resilient and culturally competent manner.

This toolkit is designed to give you the information you need to start your own QAP campaign today. Social housing is not just a pipe dream; we can make it a reality through changes to state QAPs.

Appendices

About LIHTC Credits

There are two different types of tax credits within the LIHTC:

9% CREDITS

These credits are generally used for new construction. They subsidize 70% of the non-land-related project costs, generating a substantial portion of a developer's equity. This makes 9% credits highly desirable for developers and thus more competitive. Funds are allocated through the "Qualified Allocation Plan" process, which gives state allocating agencies a great deal of flexibility in setting terms.

4% CREDITS

These credits are generally used for acquisition and rehabilitation of existing buildings. They must be paired with state or local bond funds. They subsidize only 30% of the costs to construct or rehabilitate a low-income unit rental project. These credits are typically less competitive, due to their specific application and wider availability.

LHTC Eligibility Requirements and Compliance

LIHTC properties must adhere to strict eligibility requirements to remain compliant and receive their credits. Under federal rules, units must be restricted to lower-income tenants for at least 30 years after the project is completed. State housing and tax credit agencies are in charge of reviewing each property's operations annually to monitor compliance with federal standards. They do this through an annual certification process that evaluates whether LIHTC property owners are renting to qualified tenants. Non-compliance can lead to substantial consequences, including the recapture of credits already claimed while a project was out of compliance. State tax credit agencies also monitor compliance with additional conditions set out in the Qualified Allocation Plan (and further spelled out in the state's "compliance manual" and a contract with the owner, known as the "extended use agreement").

INCOME TEST FOR TENANTS	GROSS RENT TEST
• At least 20% of units are occupied by tenants with an income of <50% of area median income (AMI); or • At least 40% of units are occupied by tenants with an income of <60% AMI; or • At least 40% of units are occupied by tenants with an income averaging no more than 60% AMI + no units are occupied by tenants with income >80% AMI	Requires that rents do not exceed 30% of either 50 or 60% of AMI, depending on the share of tax credit rental units in the project.

Source: Tax Policy Center, "**What is the Low-Income Housing Tax Credit and how does it work?**" May 2020

Additional State Documents That May Be Relevant

Your state HFA will also publish other important documents that will supplement their LIHTC QAP. Some of these documents include:

Land Use Restrictive Regulatory Agreement: This is a contract between the government entity (usually state finance agency) and development owner which documents the rent and occupancy restrictions to be imposed on the property in exchange for the allocation of a certain federal low-income housing tax credit.

Extended Use Agreement: A state's extended use agreement is the contract that awarded developers will sign and must comply with even if the property ownership changes. States may refer to this contract by other names like Vermont's "Housing Subsidy Covenant", Colorado's "Land Use Restrictive Agreement" or South Carolina's "Agreement As To Restrictive Covenants." Critically, this document can be used to give tenants a right to sue the owner for noncompliance with federal and state LIHTC rules.

Compliance Manual: States will publish a compliance manual that is meant to supplement the rules and requirements laid out in the QAP and Extended Use Agreement. The manual is mostly used as a reference guide for owners in the operation of LIHTC projects. Though its binding effect is not as clear as with regulations or related contracts, it is usually more politically feasible to get an agency to agree to changes to this document and owners tend to follow its guidance.

Reservation Letters: Reservation letters are conditional non-binding award letters to developers who have been selected to receive credits. Developers have additional steps they must take before being officially allocated credits, namely the project must be completed and placed in service to receive credits. Developers may carry over reservation letters over years to complete depending on the state's QAP and priorities.

Key Terms

Advocates may encounter the following key phrases taken directly from the federal code when researching or engaging in a state's LIHTC QAP process. As an advocate, it is not necessary to know all of these terms to effectively advocate for LIHTC QAP changes. This is merely a guide to reference back to as you encounter unfamiliar terms.

Eligible Basis:[36] The eligible basis is the portion of the cost to develop a project that is covered by the tax credit financing. It is equal to the total cost of development minus land, acquisition, and certain other fees and costs.

Applicable Percentage: The applicable percentage determines how much of a project's construction cost will be subsidized by tax credits. There are two types of applicable percentages. A 70% subsidy (also known as a "9% credit" or a "ceiling credit") will subsidize 70% of the eligible basis (developer's cost of construction). Similarly, developers receiving a 30% subsidy (also known as a 4% credit) will have 30% of their construction costs offset. Which percentage a project is eligible to receive is determined by the nature of the project. 9% credits are competitive and typically reserved for new construction and substantial rehabilitation. 4% credits are non-competitive and are mostly rehabilitation projects or projects funded through tax-exempt bonds. Both types of project may also receive other types of federal housing assistance to make the financing work for the intended mix of incomes and rents in the property.[37]

Applicable Fraction:[38] The applicable fraction is the proportion of low-income housing in a project either by number of units or square feet. This fraction is the lower of either the unit fraction (number of low-income units divided by total number of units) or the floor space fraction (floor space of low-income units divided by total floor space). This fraction determines the qualified basis.

Rent-Restricted Units: To maintain affordability, there are federal limits on the amount of rent that can be charged in rent-restricted units. Under the three income targeting tests above, rent cannot exceed 30% of maximum income allowed for each unit. These rent limits are adjusted for household size and based on AMI.[39] The Department of Housing and Urban Development (HUD) calculates and publishes these income limits each year in its Multifamily Tax Subsidy Projects (MTSP) Income Limits table.[40]

Qualified Basis: LIHTC was not created to subsidize market-rate housing. Therefore, credits are not given to produce for-profit market rate units. The qualified basis is the percentage of project cost being used to build rent-restricted units. It is calculated by multiplying the applicable fraction by the eligible basis.[41]

Placed in Service: Placed in Service (PIS) describes a LIHTC project that has been completed and is available to be rented. Being Placed in Service marks the beginning of the tax credit claiming period. LIHTC projects must be placed in service by a certain deadline, typically within two years of receiving the LIHTC allocation.

Qualified Low-Income Housing Project: To qualify for LIHTC, a project must be a residential rental property with a certain number of intended units for low-income individuals and families. To meet this threshold, projects must meet one of three income targeting systems: the 20-50 test, the 40-60 test, or the average income test.[42]

- 20-50 test: The 20-50 test requires 20% or more of the residential units to be rented to tenants whose income is 50% or less of area median gross income (AMI).
- 40-60 test: The 40-60 test requires 40% or more of the units to be occupied by tenants whose income is 60% or less of AMI.
- Average income test: The average income test requires that 40% or more of the units must have an average income of the tenants occupying those units being 60% or less of AMI.[43]

Extended Use Agreement: The Extended Use Agreement (EUA) is the contract between the HFA and developers which outlines all the terms and requirements necessary to receive the tax credits. The federal Code requires a minimum 15-year "compliance period" with an additional 15-year "extended use period" for a total 30-year Extended Use Agreement. States can require longer periods for their agreements in their QAP. This agreement may have a different name depending on the state.[44]

Compliance Monitoring: Projects must undergo regular compliance monitoring by the state housing agency or other monitoring entities to ensure that they remain in compliance with LIHTC regulations. The federal compliance period is 15 years beginning when the project is placed in service. [45]

Nonprofit Set-Aside: Technically, the statute creates a cap for for-profit development at 90% of credits. The result is commonly referred to as a Nonprofit Set-Aside. All states must set-aside at least 10% of their credits for projects with nonprofit developers or owners.[46] States may set-aside more than 10% in their state QAP. Having a nonprofit owner or partner on LIHTC projects greatly increases the likelihood that the property will be maintained as affordable housing for longer than the 30 year minimum.[15] These nonprofit partners also have the right to purchase the property at below market rates at the end of the 15-year compliance period.

Qualified Allocation Plan: Each state HFA has a duty to allocate LIHTC credits to eligible projects. To do this, HFAs must create an implementation plan called the Qualified Allocation Plan (QAP). States can include additional threshold requirements to receive their tax credits in their state QAP as well as a description of which projects will be prioritized (e.g. nonprofit, deeply affordable, etc.).[47]

Sources

[1] Joint Center for Housing Studies of Harvard University. 2024. *The State of the Nation's Housing* 2024. https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2024.pdf.

[2] Housing costs (baseline rents plus utilities) at or below 30% of tenant income is the widely accepted threshold for housing affordability.

[3] PolicyLink and USC Equity Research Institute. National Equity Atlas. https://nationalequityatlas.org/.

[4] Conley, Julia. 2024. "Corporate Landlords' Profits Soar as Tenants Drown in Rent Hikes and Fees." Common Dreams

[5] Alliance for Housing Justice. n.d. "Basic Principles: What is Social Housing?" https://www.allianceforhousingjustice.org/us-social-housing-principles.

[6] Center for Popular Democracy, The Action Lab, Alliance for Housing Justice, Debt Collective, Climate + Community Project, Urban Democracy Lab, Initiative for Community Power, PolicyLink, Housing Now!, and Tenants Together. 2024. "Building Our Future: Grassroots Reflections on Social Housing." https://www.allianceforhousingjustice.org/_files/ugd/19c39f_04190f5ffb864cf0a525281f11dcd7de.pdf?index=true.

[7] Keightley, Mark P. 2023. "An Introduction to the Low-Income Housing Tax Credit." Congressional Research Service. https://sgp.fas.org/crs/misc/RS22389.pdf.

[8] And for LIHTC properties developed before 1990, affordability restrictions expired in just 15 years.

[9] Urban Habitat and East Bay Community Law Center. 2024. "The Failure of For-Profit Affordable Housing." https://urbanhabitat.org/wp-content/uploads/2024/02/Tenant-Protections-in-LIHTC-Report-FINAL-WEB.pdf.

[10] "Low-Income Housing Tax Credit (LIHTC): Property Level Data | HUD USER." 2024. HUD User. https://www.huduser.gov/portal/datasets/lihtc/property.html.

[11] Freemark, Yonah, and Corianne Scally. 2023. "LIHTC Provides Much-Needed Affordable Housing, But Not Enough to Address Today's Market Demands." Urban Institute. https://www.urban.org/urban-wire/lihtc-provides-much-needed-affordable-housing-not-enough-address-todays-market-demands.

[12] Axel, Miriam. 2023. "The Only Tool in the Box: What It Means That LIHTC Dominates Affordable Housing." Shelterforce, December 8, 2023. https://shelterforce.org/2023/12/08/the-only-tool-in-the-box-what-it-means-that-lihtc-dominates-affordable-housing/.

[13] Urban Habitat and East Bay Community Law Center. 2024. "The Failure of For-Profit Affordable Housing." https://urbanhabitat.org/wp-content/uploads/2024/02/Tenant-Protections-in-LIHTC-Report-FINAL-WEB.pdf.

[14] 26 USC § 42 (m) 1 B

[15] Scally, Corianne, Amanda Gold, and Nicole DuBois. 2018. "The Low-Income Housing Tax Credit." Urban Institute. https://www.urban.org/sites/default/files/publication/98758/lithc_how_it_works_and_who_it_serves_final_2.pdf.

[16] Handleman, Paul. 2015. "Low-Income Housing Credit (LIHC) – Noncompliance Resulting from Conflicting Program Requirements." Internal Revenue Service. https://www.novoco.com/public-media/documents/pmta_2015-03_052615.pdf.

[17] "Affordable Housing" units, including LIHTC units are, for example, exempted from California's Tenant Protection Act that sets Just Cause eviction and rent increase restrictions.

[18] Bedayn, Jesse and Gupta, Arushi. 2024. "Takeaways from AP's report on affordable housing disappearing across the U.S.." Associated Press

[19] Taylor, Janelle, Robert Lindsay, and Philip Tegeler. 2023. "Building Opportunity III: Affirmatively furthering fair housing in the Low Income Housing Tax Credit program." Poverty & Race Research Action Council. https://www.prrac.org/building-opportunity-iii-affirmatively-furthering-fair-housing-in-the-low-income-housing-tax-credit-program-october-2023/.

[20] 26 U.S. Code § 42 (m)(1)(B)(ii)

[21] This provision has often been incorrectly interpreted as a required preference for development proposals in high poverty neighborhoods. Rather, it is a requirement that, among proposals received by an HFA in high poverty neighborhoods (QCTs), a preference should be applied for proposals that include a "concerted community revitalization plan" that includes meaningful investment beyond just the housing development itself.

[22] 26 U.S. Code § 42 (m)(1)(C)

[23] 26 U.S. Code § 42 (h)(5)

[24] 50-state survey

[25] California QAP (G)(1)(I)

[26]The "Housing Subsidy Covenant" is the name Vermont has chosen to call their "Extended Use Agreement" required by 26 U.S.C. § 42 (h)(6)

[27] Vermont QAP, Application Process, section (2)(VII)

[28] Pennsylvania Housing Finance Agency, 2022 Qualified Allocation Plan for LIHTC. 2022. https://www.phfa.org/forms/multifamily_program_notices/qap/2022/2022-lihtc-allocation-plan.pdf

[29] Georgia Department of Community Affairs, State of Georgia 2023 Qualified

Allocation Plan. 2022: p.83. https://www.dca.ga.gov/sites/default/files/2023_georgia_qualified_allocation_plan_boardapproved.pdf

[30] 26 U.S.C. § 42(h)(6)(E)(ii)(I)

[31] U.S. Department of Housing & Urban Development. n.d. "Real Estate Acquisition and Relocation Overview in HUD Programs." HUD Exchange. https://www.hudexchange.info/programs/relocation/overview/#overview-of-the-ura.

[32] California Tax Credit Allocation Committee, Compliance Online Reference Manual. https://www.treasurer.ca.gov/ctcac/compliance/manual/manual.pdf

[33] State of Indiana, 2023–2024 Qualified Allocation Plan. 2023: p.85. https://www.in.gov/ihcda/files/2023-2024-QAP-Final.pdf

[34] Alliance for Housing Justice

[35] Taylor, Lindsay, and Tegeler 2023

[36] 26 U.S. Code § 42 (d)

[37] 26 U.S. Code § 42 (b)

[38] 26 U.S. Code § 42 (c)(B)

[39] 26 U.S. Code § 42 (g)(2)

[40] Office of Policy Development & Research. 2023. "Multifamily Tax Subsidy Income Limits | HUD USER." HUD User. https://www.huduser.gov/portal/datasets/mtsp.html#data_2023.

[41] 26 U.S. Code § 42 (c)

[42] 26 U.S. Code § 42 (g)

[43] 26 U.S. Code § 42 (g)(1)(C)

[44] 26 U.S. Code § 42 (h)(6)(D)

[45] 26 U.S. Code § 42 (i)

[46] 26 U.S. Code § 42 (h)(5)

[47] 26 U.S. Code § 42 (m)(1)(B)