Affirmatively Furthering Fair Housing in the LIHTC Program: Recent Progress

Philip Tegeler
HJN 2017
Why isn’t the LIHTC program doing a better job giving families access to integrated communities?

(More than 12,000 LIHTC units in greater St. Louis)
LIHTC concentration in North St. Louis and North St. Louis County towns (Ferguson area)
Legend

1987-2012 LIHTC Allocations
- Elderly Project
- Family Project
- Unknown
- Special Needs Project

2010 Census Tracts
- 0-9.9% Below Poverty Level
- 10-19.9% Below Poverty Level
- 20-29.9% Below Poverty Level
- 30% or Greater Below Poverty Level

Baltimore City Detail

All LIHTC Projects Allocated from 1987-2012 in the Baltimore Region

Sources:
- Files produced by Maryland DHCD (11-16-2011) and HUD LIHTC Database (downloaded from http://lihtc huduser org on January 11, 2013)
- American Community Survey 5-Year Estimate 2007-2011
Connecticut LIHTC
% of LIHTC in Connecticut lower opportunity areas

- Since 2005: 79%
- Since 2011: 78%
- Lifetime of program: 69%
We know how to do better!

Suburban setasides for family units

Targeting family developments to high performing schools

Limits on LIHTC investment in higher poverty areas: “consistent with a CCRP”

Eliminating local approval and contribution requirements

Reducing incentives for development in high poverty neighborhoods
Do Qualified Allocation Plans Shape Siting Patterns of LIHTC Developments?

Ingrid Gould Ellen
NYU Furman Center

Keren Horn
University of Massachusetts Boston

Draws on Report prepared for HUD
June 16th, 2015
### METHODOLOGY AND ANALYSIS

#### Analyzing QAPs

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Transforming the LIHTC program into a housing opportunity program

Removing barriers & incentivizing opportunity

- Treasury Department guidance on local approval
- Treasury Department guidance on “concerted community revitalization plans”
- Cantwell-Hatch LIHTC bill
- NCSHA Recommended Practices Guide
- Settlement in *Baltimore Regional Housing Campaign v. Maryland*

- *Inclusive Communities Project v. Department of Treasury and Office of the Comptroller of the Currency*....
Treasury Department guidance and regulation (Dec 2016)

Treasury Department guidance on local approval: Rev. Rule 2016-29
- local notification & comment ≠ local approval
- recommended avoidance of requirements or incentives, citing fair housing concerns (cf June 2016 GAO report)

Treasury Department guidance on “concerted community revitalization plans”: IRS Notice 2016-77
- an actual plan “that contains more components than the development itself”

Treasury Department Title VI rule: 81 Fed. Reg. 89852 (December 13)
- LIHTC not (yet) considered “federal financial assistance”
S. 548

To amend the Internal Revenue Code of 1986 to reform the low-income housing credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2017

Ms. CANTWELL. (for herself, Mr. HATCH, Mr. WYDEN, Mr. SCHUMER, Mr. SCHATZ, Mr. LEAHY, Mr. HELLER, Mr. MERKLEY, Mr. BOOKER, Ms. MURkowski, Mr. YOUNG, Ms. COLLINS, and Mr. BERNSTEIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to reform the low-income housing credit, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
4 (a) Short Title.—This Act may be cited as the
5 “Affordable Housing Credit Improvement Act of 2017”.
6 (b) Table of Contents.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Elimination of local approval and contribution requirements and incentives
- citing Treasury Guidance

Incentives for development in low poverty, high opportunity areas
- citing NYU study of QAPs and Raj Chetty research

Meaningful criteria for statutory preference for “developments in a Qualified Census Tract that contribute to a Concerted Community Revitalization Plan”
- actual plan, including public and private non-housing investment
Opportunity incentives and map
Elimination of local approval and contribution (2014)
Equal points for opportunity vs QCTs
1500 net new units Baltimore area
CCRP requirements
Equalizing transit incentives
Affirmative marketing

VOLUNTARY COMPLIANCE AGREEMENT
AND
CONCILIATION AGREEMENT

Between
The United States Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
Baltimore Regional Housing Campaign
And
The State of Maryland
The Department of Housing and Community Development
For the State of Maryland

FHEO CASE NUMBERS: 03-12-0016-8, 03-11-0014-6, 03-11-0014-9
www.prrac.org/projects/LIHTC.php

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