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Re: Recommended Changes to 2015 Draft Louisiana Qualified Allocation Plan

To the staff and board of the Louisiana Housing Corporation:

After reviewing the 2015 Draft QAP, the following are our recommendations to improve compliance with the requirements of the Fair Housing Act. The Lawyers Committee for Civil Rights Under Law, at the request of advocates, conducted and presented you with an analysis of both 9% and 4% low income housing tax credit (LIHTC) projects that were awarded over the last four years. The analysis demonstrated that the majority of LIHTC funded developments were in high poverty and racially concentrated census tracts of urban areas. In the spirit of cooperation, specific recommendations accompanied this analysis in order to improve location and therefore life outcomes for residents in LHC funded housing.

As the largest supplier of affordable housing in the state of Louisiana, it is disappointing that the LHC chose to adopt none of the recommended best practices to improve fair housing choice, and that the draft QAP does not adequately address the systemic and persistent issue of siting affordable housing in chronically poor and racially segregated neighborhoods or areas of a city. The QAP should be one important facet of a strategic plan that incorporates and works across LHC administered programs to build for fair housing choice. The QAP has changed little if at all, giving civil rights advocates little reason to believe that outcomes will change.

The recommended changes provided below as excerpted line edits in the order they appear in the QAP, are based on best practices from a review of more than 30 qualified allocation plans and from conversations with national experts. The recommendations fall primary into three areas:

- 1) **Provide incentives to develop affordable housing in high-opportunity areas consistent with the State's obligation to affirmatively further fair housing under the Fair Housing Act (or Title VIII of the Civil Rights Act of 1968).** Currently, the median poverty rate of census tracts in which Low Income Housing Tax Credit developments (for which information is available) are located is 34 percent, far above what would be considered low-poverty and high-opportunity.
- 2) **Ensure that development in low-income areas is part of a meaningful Concerted Community Revitalization Plan as required by Section 42 of the Internal Revenue Code.** The QAP's current definition of a Concerted Community Revitalization Plan is not sufficiently specific, and it is important LHC staff thoroughly reviewed these plans.
- 3) **Provide sufficient incentives for developing integrated housing for people with disabilities consistent with the Supreme Court's decision in *Olmstead v. L.C.*** There is great need for supportive housing in Louisiana, and the LHC has an opportunity to create incentives for additional housing for people with disabilities that is integrated.

We were pleased to see that LHC has continued to eliminate the Congressional District allocation and, and we are hopeful that the LHC will make other equally important changes. In addition, other potential changes not specifically described here are also important for integrating communities, such as including incentives for permanent or long-term affordability through community land trusts and other strategies that can help hold down total development costs per unit and ensure that such investments stay in high-opportunity areas. The following recommendations, suggestions and edits are in the order that they appear in the draft QAP. Deletions are illustrated in strikethrough text, and additions are underlined and italicized. Explanations for the suggested changes are provided below each recommendation.

Thank you,

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NO/AIDS Task Force d.b.a. CrescentCare

Monika Gerhart
Greater New Orleans Fair Housing Action Center

Tom Silverstein
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Recommended Changes to 2015 Draft QAP

#1. Require all projects to include a minimum of 10% of housing units for people with disabilities and experiencing homelessness as a project threshold requirement. (Pages ##). The 2015 Draft QAP actually allocates fewer points for special needs set-asides than the 2010 QAP did.

EXPLANATION: Given the vast need for affordable housing for people with disabilities, the continuing homelessness crisis in Louisiana, and the correlation between mental illness and homelessness, it is important that strong incentives are used to develop housing for people with disabilities and for individuals and families who are homeless. Moreover, the Americans with Disabilities Act and the Supreme Court decision in *Olmstead* obligate states to provide people with disabilities with the “most integrated setting appropriate.” Ensuring that every LIHTC development includes a small percentage of housing for people with disabilities is a crucial step towards achieving this goal and making Louisiana a leader in this area.

F. Project Threshold Requirements

12. **Persons with disabilities: All projects must target at least ten percent (10%) of the total units to persons with disabilities or persons or families experiencing homelessness. Projects that target units under this subsection are not required to provide onsite supportive services or a service coordinator. Owners must demonstrate a partnership with a local lead agency and submit a Targeting Plan for review and certification by the Louisiana Department of Health and Hospitals (HHS). At a minimum, Targeting Plans must include:**
 - (i) **A description of how the project will meet the needs of the targeted tenants, including access to supportive services, transportation, proximity to community amenities, etc.**
 - (ii) **A description of the experience of the local lead agency and its capacity to provide access to supportive services, and to maintain relationships with the management agent and community service providers for the duration of the compliance period.**
 - (iii) **A Memorandum of Understanding (MOU) between the developer(s), management, and the lead local agency. The MOU will include:**
 - a. **A commitment from the local lead agency to provide, coordinate, and/or act as a referral agent to assure that supportive services will be available to the targeted tenants;**
 - b. **The referral and screening process that will be used to refer tenants to the project, the screening criteria that will be used, and the willingness of all parties to negotiate reasonable accommodations to facilitate the admittance of persons with disabilities into the project; and**
 - c. **A communications plan between the project management and the local lead agency that will accommodate staff turnover and assure continuing linkages between the project and the local lead agency for the duration of the compliance period.**
 - (iv) **Certification that participation in supportive services will not be a condition of tenancy.**
 - (v) **Agreement that for a period of ninety (90) days after certificate of occupancy, the required number of units for persons with disabilities will be held vacant other than for such population(s).**

- (vi) Agreement to maintain a separate waiting list for persons with disabilities and prioritizing these individuals for any units that may become vacant after the initial rent-up period, up to the required number of units.
- (vii) Agreement to affirmatively market to persons with disabilities.
- (viii) Agreement to include a section on reasonable accommodation in property management's application for tenancy.
- (ix) Agreement to accept Section 8 vouchers (or other rental assistance) as allowable income as part of property management income requirement guidelines for eligible tenants and not require total income for persons with rental assistance beyond that which is reasonably available to persons with disabilities currently receiving SSI and SSDI benefits.
- (x) A description of how the project will make the targeted units affordable to persons with extremely low incomes. NOTE: Key Program assistance is only available to persons receiving income based upon a disability. Projects targeting units to non-disabled homeless populations or persons in recovery with only a substance abuse diagnosis must have an alternative mechanism to assure affordability.

#2. Add language that more fully defines the Concerted Community Revitalization Plan (Page 38)

EXPLANATION: A Concerted Community Revitalization Plan must be specifically defined and carefully reviewed by LHC staff.

CONCERTED COMMUNITY REVITALIZATION PLAN: A plan, including made up of measurable and/or tangible objectives, approved by a local governmental unit following a public hearing which describes an area and, draws attention to the area's condition, states the incentives and the measures to coordinate and target resources to the area for purposes of redeveloping or revitalizing the area, and which identifies the strategies, financial resources (other than financing for the housing development at issue), and organizations to implement revitalization.

#3. Further define high-opportunity areas as low-poverty (Page # of Selection Criteria)

EXPLANATION: Using both income and poverty as proxies for “high-opportunity” areas makes it more likely that developments will be placed in truly high-opportunity communities. The basis boost is the ideal incentive, but a fallback would be additional points here.

I. Targeted Project Type

A. De-concentration Projects

- (ii) Geographic Diversity: Project is located in census tract in which the poverty rate is less than 10% and the median income of the census tract exceeds 120% of the area median income for the Parish

#4. Insert the Concerted Community Revitalization Plan into the Redevelopment Project criteria (Page B-3 of Selection Criteria)

EXPLANATION: Simply providing money to an area does not mean that there is a thoughtful revitalization plan in place. At that same time, having a plan with no dedicated funding is not ideal. Moreover, housing development is only one piece of a Concerted Community Revitalization Plan. Government involvement must extend beyond the housing development to include investment in areas such as transportation, infrastructure, jobs, health care, and schools.

I. Targeted Project Type

B. Redevelopment Project

Check Type:

Distressed Property: _____

Redevelopment Property: _____

Owner Occupied Property with Development Plan of Action: _____

Urban Redevelopment Property: _____

Note: Redevelopment Project must be located in a Redevelopment Area as defined by the QAP. Support documentation must include a Concerted Community Revitalization Plan and evidence that the incentives and/or resources amounting to or valued at five percent (5.0%) or more of the Total Development Costs are committed to the targeted area by local government.

#5. Remove tenant populations of individuals with children from the definition of Special Needs Households (Pages B-5 of Selection Criteria)

EXPLANATION: To ensure that developers are adequately incentivized to provide housing for people with disabilities, the QAP should not allow developers to choose to develop housing for families instead. Points for housing for individuals with children (i.e., families) should be offered separately, so that some units are for families and some are for people with disabilities. We recommend increasing the number of points offered, to further incentivize building housing for disabled individuals.

II. Targeted Population Type

A. Special Needs Households other than Elderly Households and provides Supportive Services – this does not apply to Permanent Supportive Housing (Check one or more)

- (i) Homeless Households _____
- (ii) Disabled Households _____
- (iii) Tenant populations of individuals with children _____
 - (a) Twenty Percent serve such households 105 _____
 - (b) Ten Percent serve such households 53 _____

A household may qualify if any individual living in that household has a disability or is homeless.

#6. Add language to further incentivize building integrated supportive housing for people with disabilities (PRIORITY DEVELOPMENT AREAS AND OTHER PREFERENCES Page 5 of Selection Criteria)

EXPLANATION: The proposed changes would be consistent with the 2010 QAP, providing additional incentives to develop more units of supportive housing for people with disabilities. The LHC should also clarify that a PSH household refers to any household in which someone requiring permanently supportive housing resides.

III. Priority Development Areas and Other Preferences

B. *Increased Unit Affordability and Permanent Supportive Housing*

At least 5% or more of project units serve households with incomes at or below 30% AMI.

(i) At least 5% but less than 10% of units serve households (other than PSH) with incomes at or below 30% AMI	4 _____
(ii) At least 10% but less than 15% of units serve households (other than PSH) with incomes at or below 30% AMI	5 _____
(iii) At least 5% and less than 10% of units serve PSH households with incomes at or below 20% AMI	6 _____
(iv) <u>At least 10% and less than 15% of units serve PSH households</u>	7 _____

#7. Separate the Difficult to Develop Area from the Qualified Census Tract (Page B-5 of Selection Criteria)

EXPLANATION: DDAs and QCTs should not be lumped together; DDAs are typically areas with high land costs, while QCTs are low-income areas. Moreover, if a development is located in a QCT, the provision of a Concerted Community Revitalization Plan should be a prerequisite to obtaining points as a means of avoiding concentrating affordable housing in low-income communities that are not part of a plan to develop resources and create opportunities for existing residents.

III. Priority Development Areas and Other Preferences

C. *Difficult Development Area (QCT/DDA)*

(i) Project Located in Qualified Census Tract/Difficult to Development Area (QCT/DDA) 2 _____
Census Tract Number: _____ Parish Location: _____

D. *Qualified Census Tract (OCT)*

(i) Project Located in Qualified Census Tract (OCT) 2 _____
Census Tract Number: _____ Parish Location: _____

(ii) Copy of Final Concerted Community Revitalization Plan adopted by local governmental unit must be included in Application 2 _____

PROJECT & SUBMISSION PENALTY POINTS

#8. Remove the requirement for local approval (Page B-10 of Selection Criteria)

EXPLANATION: This provision, which requires local approval from various jurisdictions, appears to discourage scattered site projects and likely limits development in high-opportunity areas.

VII. Project and Submission Penalty Points

C. Incomplete or Missing Exhibits, Appendices or Documents -4 _____

- ~~Applications for a project that will have units in more than one local government jurisdiction must provide resolutions from all jurisdictions in which there are project units.~~