June, 2018

Pennsylvania Housing Finance Agency
Low Income Housing Tax Credit Program
Interim Guidance on Income Averaging

The recently enacted federal "Consolidated Appropriations Act of 2018" establishes the possibility of "income averaging" for **new** Housing Credit developments. Developments that have already been "placed in service" are not eligible for income averaging. Under the new criteria, if state credit agencies allow, owners may choose a third minimum set-aside election when making their minimum set-aside election. Instead of the "40 at 60" and "20 at 50" standards, the new federal law provides (subject to state concurrence) that units can serve households earning as much as 80 percent of Area Median Income (AMI), so long as the average income/rent limit in the property is 60 percent or less of AMI. Owners electing income averaging must have at least 40 percent of the units in the property affordable to eligible households and must specifically identify and define the income and rent tiers (which will be irrevocable once selected and included in their compliance monitoring program for the extended compliance period).

To date, the Service has not yet provided guidance to the industry about how income averaging will work with all existing program rules. Each state credit allocation agency is currently reviewing its program to determine whether to adopt income averaging and what parameters it will impose on projects seeking to use this new tool. We are in the process of revising our next years' Allocation Plan to address Income Averaging in Tax Credit applications submitted in the future. Until that time, the Agency is providing the following interim guidance:

This program is **prospective** only. **All projects currently in the pipeline (including those holding a preliminary determination of eligibility) have been ranked and selected for processing based on the project characteristics and selection criteria and will not be considered**. The Agency will not re-underwrite or otherwise modify income and unit mixes and funding assumptions have already been performed using original projections and market studies have been reviewed based on original unit and income projections.

Likewise, 4% projects are being processed using their existing unit and income mixes. However, PHFA **may**, on a case by case basis, consider income averaging in compelling circumstances for pending tax exempt financed applications; especially if displacement can be avoided in preservation projects which currently house over-income tenants. In order to be considered for this exception, applications shall: (1) not contain any unrestricted or market-rate residential units in the development (and PHFA may further restrict multiple building applications); (2) have units of similar size and configuration throughout the building regardless of income restrictions; (3) have no more than 10 percent of the units in excess of 60 percent AMI (while still maintaining an overall less than 60 percent development AMI); (4) not elect more than four rental income targets; and (5) provide a market study supporting income and rent targeting. The Agency will not permit income averaging on preservation developments already subject to a tax credit restrictive covenant agreement. The Agency may impose additional processing and compliance fees for developments permitted to use income averaging.