PRESERVATION OF LIHTC AND OTHER INCOME-QUALIFIED HOUSING IN MCLEAN COUNTY

Issue 2B

JANUARY 2021

Introduction

The Low-Income Housing Tax Credit (LIHTC) offers affordable housing developers the ability to reduce their debt service by selling allocated tax credits to investors. In return, recipients are required to maintain affordability in their units for a 15-year “initial compliance period” where they are monitored by the IRS, followed by another 15-year “extended use period” where they are monitored by the state housing finance agency. Although some projects apply for and are granted relief from the program in this second period, the majority continue to maintain affordability for the entire 30-year span. LIHTC units can be reserved for different income levels, but are typically restricted to households at 50%-60% of the area median income. Maximum rents are equal to 30% of the target income level. The purpose of this paper is to identify the barriers to preserving the affordability of the properties after restrictions expire, and to identify local strategies that could help preserve affordability for existing and future LIHTC units.

Local housing stakeholders have a variety of incentives to preserve affordability after these restrictions expire, including the cost efficiencies in affordable housing preservation over new construction, the need to prevent displacement of low-income households whose units are aging out of the program, as well as a desire to actually grow the stock of affordable housing, rather than cycling through temporarily affordable units. Although research has shown that the majority of properties that exit the LIHTC program either maintain similar prices on the open market or take on additional financing with affordability restrictions, other properties either raise their rent to market levels well above the previous rates, or suffer from physical deterioration due to limited income streams. In addition, those properties that maintain low rents on the market still lose their income restrictions, meaning that low-income households are forced to compete for units with higher-income households.

Although LIHTC is a federal program administered at the state level, local governments can act in a variety of ways to ensure sustained affordability, both in the development of new LIHTC projects and in projects nearing their expiration and exiting the LIHTC program. In addition, partnerships with the nonprofit sector provide a key tool in maintaining long-term affordability. Although governments may have access to a variety of funding sources, one of the most effective tools for sustaining affordability is having a property owner with an explicit non-profit mission to maintain affordability. While these organizations may require some outside funding in addition to rent payments to remain perational, providing this overhead should be significantly lesscostly than incentivizing private landlords and developers to provide low-income housing. Through effective partnerships across sectors, local governments, nonprofits, and private interests can collaborate to create sustainable, income-restricted, affordable housing.

McLean County Context

The McLean County Regional Planning Commission (MCRPC) maintains a database of income-qualified housing units in McLean County that is updated yearly with data from the Illinois Housing Development Authority (IHDA), U.S. Department of Housing and Urban Development (HUD), and U.S. Department of Agriculture (USDA). According to that database, there were 21 active LIHTC properties with 1,541 income-qualified units in McLean County as of July 2020. The majority of these properties (16) were in Bloomington or Normal, while 5 properties were located elsewhere in McLean County.

In the next 5 years, 6 of these properties, containing a total of 170 income-restricted units, will expire. In the next 10 years, 11 properties with a total of 649 income-restricted units will reach expiration. An example of one of those properties is the Briarwood II Apartments located in Normal. Out of a total 120 units, 48 units are income-restricted through LIHTC and will lose their restrictions in May of 2025. As mentioned on page 1, LIHTC units are typically targeted to households at 50-60% of the area median income (AMI), though some units can be restricted to households at 30% AMI on the low end and 80% AMI on the high end. The following table illustrates what those income limits are, based on household size, in McLean County for the year 2020. The income limits are calculated on a yearly basis by the U.S. Department of Housing and Urban Development (HUD).

Household Size	Extremely Low Income (30% AMI)	Very Low Income (50% AMI)	Low Income (80% AMI)
One person	$20,050	$33,400	$53,400
Two person	$22,900	$38,150	$61,000
Three person	$25,750	$42,900	$68,650
Four person	$28,600	$47,650	$76,250
Five person	$30,900	$51,500	$82,350

During June and July 2020, McLean County Regional Planning Commission (MCRPC) staff interviewed the owners or managers of 4 LIHTC properties and one Project Based Rental Assistance (PBRA) property in McLean County, all with subsidy expirations within the next 5 years. The purpose of these conversations was to get a sense of the future plans for these properties in terms of affordability as well as to better understand the local market conditions from an owner/manager's perspective.

In terms of future plans for the properties, two owners/managers responded that they plan to retain the properties and maintain income restrictions for the foreseeable future; two responded that they plan to either exit the program or apply for new tax credits when the current ones expire, but wouldn't be able to make that decision until about a year and a half from expiration; and one manager reported that their property exited the LIHTC program early through the Qualified Contract process. With use restrictions lifted, the owner of the property is able to reach a slightly expanded pool of potential tenants and, sometimes, to charge rents that are higher than the LIHTC maximum.

In the Qualified Contract process, the owner requests the state housing finance agency to find a buyer for the property, and the state agency then has one year to find a potential buyer who will maintain the property as affordable housing. If the state is unsuccessful in finding a buyer, then the owner is entitled to be relieved of LIHTC affordability restrictions, and those restrictions phase out over 3 years.

All owners/managers reported that their properties' current unit mix and amenities are adequate to meet local demand. Some of the owners/managers reported that there was a lack of incentive to remain in the LIHTC program after the end of the compliance period. One owner said that he wished the Illinois Housing Development Authority (IHDA) would award more points to rehab projects so it would be easier for them to compete with new construction projects.[1] Another said that because the maximum LIHTC rent in McLean County is higher than in other areas, LIHTC rents are often similar to market rents, so there is not much incentive to be in the LIHTC program given the increased cost of having specially trained staff to deal with IHDA regulations. Multiple owners/managers commented that the administrative requirements associated with maintaining LIHTC regulations were burdensome and costly. They also commented that it would be helpful to have a local funding source for bigger rehabilitation projects to reduce the need to solely rely on LIHTC funding. Another observation was that not-for-profits are increasingly becoming involved as partners and owners in LIHTC properties, as they are able to access capital at lower rates and can put any profits directly back into the property.

The following are potential strategies to preserve existing and future LIHTC units in McLean County. Many of these strategies could be applied to other income-qualified or naturally affordable units as well.

Strategies for Preserving LIHTC Units

Maintenance and Rehab Incentives - This strategy allows for rental property owners to provide necessary updates to building systems while keeping their property taxes at pre-rehab levels. In return, owners sign an agreement with the municipality or other governmental entity to maintain the property's affordability for a specified amount of time. Expired building systems are one of the main barriers to maintaining affordability facing properties at the end of their LIHTC term. These types of incentives can help owners to keep their property viable and maintain affordability at the same time. Examples of these incentives include freezing assessed value from both improvements and rising property values, reducing tax burden based on individual analysis and reducing the tax burden proportionally to offset specific costs of improvements. Small property owners may require assistance in filing for tax relief.

Examples:

- Chicago Class 9 Program
- Memphis Affordable Housing PILOT Program

Access to Government Capital - With diminishing federal funding for LIHTC properties, this strategy allows for other governmental entities to provide needed capital while maintaining some control over the properties. A governmental entity can either offer current owners subsidies in return for affordability agreements or subsidize the sale of a property to an organization with an affordability mission. Access to capital can take many forms - grants, low- or no-interest loans, tax credits, local bonds, or allocation of non-LIHTC state or federal funds. Governmental entities can use a property's pro-forma to analyze the application for funding and determine the type and quantity of financing appropriate for the property.

Examples:

- Chicago - Opportunity Investment Fund
- New York City - Multifamily Housing Rehabilitation Loan Program
- Washington DC - Small Building Program

1 The LIHTC program requires states to develop a Qualified Allocation Plan (QAP) that sets out the state's eligibility priorities and criteria for awarding federal tax credits to housing properties.

Operating Subsidies - Similar to accessing government capital, local governments can offer property owners ongoing (ie. annual) subsidy payments in return for rental affordability restrictions.

Example:

- Chicago Low-Income Housing Trust Fund - Rental Subsidy Program

Acquisition of Moderate-Cost Rental Properties - If properties are offering rents that are affordable to households below the Area Median Income (AMI) without a subsidy and stakeholders are concerned about future rent increases, local governments may want to considering acquiring these properties or facilitating their acquisition by an organization that will maintain affordable rent levels. If the property is already market affordable, then it will hopefully continue to pay for its own ongoing costs, so the governmental entity or nonprofit just needs to provide funds for the purchase of the property. The management of the property depends on which entity has the most capacity, whether that be a municipal government, public housing authority or nonprofit.

Examples:

- King County (WA) Housing Authority - Moderate Income Housing
- Greater Minnesota Housing Fund - Naturally Occurring Affordable Housing

Code Enforcement - Proactively inspecting multifamily units on a regular basis can help governments address code violations before they escalate. Additionally, governments can place a lien on the property, repair it, and require repayment to return it to the owner. A rent escrow program encourages owners to make needed repairs and return the property to a safe and habitable condition. Tenants living in units under the program would pay a discounted rent, depending on the severity of the violations, to either the landlord or into an escrow account managed by the governmental entity. Funds in the escrow account could be used to make repairs, pay utilities, or allow tenants to relocate to a new apartment.

Examples:

- Los Angeles - Rent Escrow Account Program

- New York City - Emergency Repair Program

Right of First Refusal

The Illinois Housing Development Authority's (IHDA) Qualified Allocation Plan (QAP) offers extra points for developments with nonprofit partners in which the nonprofit partner has the right of first refusal upon sale of the property. Jurisdictions have also passed their own laws instituting right of first refusal regulations for subsidized properties. There are a variety of approaches this strategy can take: the seller could be required to give advanced notice of their intent to sell, but with no obligation to sell to a governmental entity or nonprofit; the seller must give the right of first refusal holder the option to match an existing offer; the governmental entity or nonprofit has the exclusive right to make an offer for a limited period of time; or the seller is obligated to sell the property at fair market value to the designated buyer.

Examples:

- San Francisco - Assisted Housing Preservation Ordinance

- Washington D.C - Tenant Opportunity to Purchase

- Portland - Local Preservation Projects - Tenant and City Notice

Considerations for Implementation

Development - How can governments encourage nonprofit involvement in local LIHTC projects, providing a built-in means of helping sustain affordability?

Resource Allocation - If expiring LIHTC properties are located in areas of concentrated poverty, should resources instead be diverted toward affordable housing in high-opportunity neighborhoods? Or will failing to invest in these expiring units just create more displacement? How should neighborhood characteristics factor into these decisions?

Administration - Most of these strategies involve ongoing monitoring to ensure that rental property owners are maintaining affordability restrictions. Which local organizations are best situated to handle administrative duties?

	PROVIDER			AGE	
	Public Sector	Non-Profit	Private Sector	New	Existing
Income					
Income Qualified					
Market Rate					
Typology					
Single Family					
Multi-Family					
Specialized Housing					
Funding					
Federal/State					
Local					
Private					

Affordable housing is a complex subject that cannot be addressed in a single white paper. This white paper is the fourth in a series of documents produced by the Regional Housing Advisory Committee that dive deeper into the specific aspects of affordable housing and what they mean in the context of McLean County. The first paper discussed what affordable housing is and the key components that affect it; the second paper discussed Area Median Income (AMI) in McLean County; and the third discussed the types and quantity of income-qualified housing in McLean County.

Each document contains the chart above, highlighting in yellow the most relevant components of affordable housing being discussed in that document.

The Regional Housing Advisory Committee is led by the McLean County Regional Planning Commission and consists of three interrelated working groups representing various housing stakeholders in McLean County: the Affordable and Supportive Housing Committee, Innovative Housing Solutions Group, and Staff Committee. The Regional Housing Advisory Staff Committee is composed of representatives from the City of Bloomington, Town of Normal, McLean County Behavioral Health Coordinating Council, Bloomington Housing Authority and Providing Access to Help (PATH).

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