# Low Income Housing Tax Credits (LIHTC)

July 26, 2013

## Overview of the LIHTC Program for Funding Rental Housing

The Low-Income Housing Tax Credit (LIHTC) is the primary federal program to encourage the production of affordable rental housing for low-income households. Financed by the federal government but administered by state housing authorities, it subsidizes the acquisition, construction, and/or rehabilitation of rental property by private developers. LIHTC accounts for the majority - approximately 90 percent - of all affordable rental housing created in the United States today. The credits are also commonly called Section 42 credits in reference to the applicable section of the Internal Revenue Code (IRC). Tax credits are more attractive than tax deductions as they provide a dollar-for-dollar reduction in a taxpayer's federal income tax, whereas a tax deduction only provides a reduction in taxable income. Without the tax credits to lower their costs, developers would have little or no interest in building such units.

The tax credit, enacted in the Tax Reform Act of 1986 and made permanent in 1993, is summarized below.

(1) **Project Affordability.** Eligible projects must have at least (1) 20 percent of residential units occupied by tenants with household income below 50 percent of the area median income; or (2) 40 percent of residential units occupied by tenants with household income below 60 percent of the area median income. Rent for these units cannot exceed 30 percent of family income.

(2) **Length of Subsidy.** Project owners must comply with the set-aside requirements and rent restrictions for 30 years. Past tax credits are recaptured with interest if the project violates the terms during the first 15 years.

(3) **Allocation and Scoring System.** State housing authorities must develop an allocation plan fulfilling general federal requirements. States typically allocate credits to projects through a competitive application process. Projects receive points for satisfying criteria outlined in the state's allocation plan. States must award at least 10 percent of their annual credit allocation to projects sponsored by non-profit organizations.

Each state is allocated about $2 in credits per resident, which state and local officials award as they see fit to projects that meet the law's criteria for affordable rents. The tax credit has drawn far more private investment into affordable housing than it has cost taxpayers in lost revenue. That cost — an estimated $6.4 billion in 2013 — is much lower, for example, than the mortgage interest deduction ($76 billion). Additionally, the scarce supply of affordable apartments forces the working poor to spend excessively on housing, endure long commutes to work from less expensive communities or go homeless, all of which are costly to taxpayers and a drag on the economy.

A majority of tax credit projects also receive subsidies from other government sources. These additional subsidies, which can include development grants and loans at below-market interest rates from local and state governments, can account for a third of total capital subsidies. The federal government also spends billions of dollars annually on rental subsidies for lower-income Americans through such programs as Section 8 rental vouchers, and they are an important part of the solution. But they do not increase the supply of low-cost apartments; and that is what the tax credit is for. And for states such as California, where the supply is far too low, the tax credit is invaluable.

## LIHTC Program Funding Criteria Linkage With Smart Growth Principles

Smart growth principles integrate transportation and land-use decisions by encouraging more compact, mixed-use development within existing urban areas that discourages dispersed, automobile-dependent development at the urban fringe or in lower density outlying areas. Another main concept of smart growth is the decentralization of services so that people may access local services – retail, service industry, schools, recreation, etc. – through alternative modes of travel, such as walking, bicycling and taking the bus. As a result, a land use pattern is established so that public facilities, retail and other commercial services are supported by residential uses and streets are designed to accommodate non-automobile traffic. This means they are safer and slower than streets designed mainly to move automobile traffic or to transport people to larger, centralized services and businesses.

Providing a range of housing choices and managing traffic congestion have been major challenges in throughout the Bay Area. City planning efforts have strived to maintain and enhance each community's high quality of life and to incorporate innovative smart growth planning strategies, such as mixed-use and transit-oriented development (TOD), to address challenges such as housing choice and traffic congestion, and to further the goal of creating a more sustainable and energy efficient communities.

### Low Income Housing Tax Credits (LIHTC)

The criteria below are from the California Tax Credit Allocation Committee regulations implementing the Federal and State Low Income Housing Tax Credit laws (California Code of Regulations Title 4, Division 17, Chapter 1) — February 29, 2012. It should be noted that for a given amenity, as described below, the LIHTC criteria give more points in their scoring system for projects located closest to various amenities. Thus, for example, there is a higher score for projects located one-quarter mile from transit than one located one-third of a mile from transit, even though both projects may be desirable from a planning standpoint. The regulations can be found at http://www.treasurer.ca.gov/ctcac/programreg/regulations.asp

The LIHTC scoring criteria below are organized by smart growth principles and the topics/criteria under LIHTC. LIHTC are competitive for both 4% and 9% tax credit and the scoring is based on how well a project meets various criteria. In some categories there are overlapping criteria and scoring is based on which of the criteria would apply.

| SMART GROWTH PRINCIPLES | LIHTC SCORING CRITERIA |
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| **Locate Near Transit** | **Transit**<br>a. The project is part of a transit-oriented development strategy where there is a transit station, rail station, commuter rail station, or bus station, or public bus stop within one-quarter mile from the site with service at least every 30 minutes during the hours of 7-9 a.m. and 4-6 p.m., and the project's density will exceed 25 units per acre.<br>b. The site is within one-quarter mile of a transit station, rail station, commuter rail station or bus station, or public bus stop with service at least every 30 minutes during the hours of 7-9 a.m. and 4-6 p.m.<br>c. The site is within one-third mile of a public bus stop with service at least every 30 minutes during the hours of 7-9 a.m. and 4-6 p.m.<br>d. The site is located within one-quarter mile of a regular public bus stop, or rapid transit system stop.<br>e. The site is located within one-third mile of a regular public bus stop or rapid transit system stop.<br>f. A private bus or transit system providing service to residents may be substituted for a public system if it (a) meets the relevant headway and distance criteria, and (b) if service is provided free to the residents. |

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| **Locate Near Community Facilities** | **Parks**<br>a. The site is within one-quarter mile of a public park, not including school grounds unless there is a bona fide, formal joint use Regulations agreement between the jurisdiction responsible for the parks/recreational facilities and the school district providing availability to the general public of the school grounds and/or facilities) or a community center accessible to the general public.<br>b. The site is within one-half mile of a public park, school grounds with a formal joint use Regulations agreement or a community center accessible to the general public.<br><br>**Library**<br>a. The site is within one-quarter mile of a book-lending public library that also allows for inter-branch lending (when in a multi-branch system).<br>b. The site is within one-half mile of a book-lending public library that also allows for inter-branch lending (when in a multi-branch system). |
| **Locate Near Services** | **Grocery Store/Supermarket**<br>a. The site is within one-quarter mile of a full-scale grocery store/supermarket of at least 25,000 gross interior square feet where staples, fresh meat, and fresh produce are sold.<br>b. The site is within one-half mile of a full-scale grocery store/supermarket.<br>c. The site is within 1.5 miles of a full-scale grocery store/supermarket.<br>d. The site is within one-quarter mile of a neighborhood market of 5,000 gross interior square feet or more where staples, fresh meat and fresh produce are sold.<br>e. The site is within one-half mile of a neighborhood market of 5,000 gross interior square feet or more where staples, fresh meat and fresh produce are sold.<br>f. The site is within one-quarter mile of a weekly farmers market certified by the California Federation of Certified Farmers' Markets, and operating at least 5 months in a calendar year.<br>g. The site is within one-half mile of a weekly farmers market. |

**Schools for Family Development**

a. For a Large Family development, the site is within one-quarter mile of a public elementary school; one-half mile of a public middle school; or one mile of a public high school, and that the site is within the attendance area of that school.
b. The site is within an additional one-half mile for each public school type.

**Senior Center or Facility for Senior Development**

a. For a Senior Development, the site is within one-quarter mile of a daily-operated senior center or a facility offering daily services specifically designed for seniors (not on the development site).
b. The site is within one-half mile of a daily operated senior center or a facility.

**Special Needs Populations — Facility Serving Special Needs Populations**

a. For a Special Needs or Single-Room Occupancy (SRO) development, the site is located within one-half mile of a facility that operates to serve the population living in the development.
b. The site is within 1 mile of a facility that operates to serve the population living in the development.

**Medical**

a. The site is within one-half mile (for Rural set-aside projects, 1 mile) of a medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital (not merely a private doctor's office).
b. The site is within 1 mile of a medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital.

**Pharmacy**

a. The site is within one-quarter mile of a pharmacy.
b. The site is within one-half mile of a pharmacy.

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| **Provide On-Sight Services that Reduce The Need to Drive** | **Availability of High-Speed Internet**<br>a. Internet service, with a minimum average download speed — 768 kilobytes/second. |