

November 23, 2020

Ms. Nicole Cimino
Branch Chief
Office of Chief Counsel
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Mr. Michael Novey
Associate Tax Legislative Counsel
Office of Tax Policy
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Ms. Cimino and Mr. Novey:

The undersigned 140 organizations urge the Internal Revenue Service (IRS) and U.S. Department of the Treasury (Treasury) to take immediate action to provide deadline extensions and other necessary accommodations for the Low-Income Housing Tax Credit (Housing Credit) program in light of the continued severe disruptions to the development, construction and ongoing operations of Housing Credit properties as a result of the COVID-19 pandemic. It is critical that the Housing Credit program can continue to provide safe, quality affordable housing in communities nationwide, especially given the dire economic consequences of the COVID-19 pandemic impacting millions of low-income households.

We applaud the IRS' quick action in Notice 2020-53 to provide relief for Housing Credit program deadlines and requirements in response to the pandemic, and strongly support the recommendations for the continuation of these extensions and additional accommodations requested in a letter from the National Council of State Housing Agencies (NCSHA), dated November 16, 2020, attached here.

Given the continuing need to safeguard the health of Housing Credit residents, property management staff, and inspectors, we strongly urge the IRS and Treasury to issue immediate guidance.

We appreciate the IRS and Treasury's attention to these critical issues.

Sincerely,

Affordable Housing Association of Indiana
Affordable Housing Investors Council
Affordable Housing Management, Inc.
Affordable Housing Tax Credit Coalition
AHEPA Affordable Housing Management Company
Alco Management, Inc.
Alliant Capital
Applegate & Thorne-Thomsen, P.C.
Aurora Housing Authority
Avesta Housing
Baker Tilly
Barker Management, Inc.
Barnes & Thornburg, LLP
Beacon Hill Capital LLC
Boston Financial Investment Management
California Housing Finance Agency
CAMBA/CAMBA Housing Ventures, Inc.
Cambridge Housing Authority
Capstone Communities LLC

Charities Housing
Cinnaire
Citizens' Housing and Planning Association (CHAPA)
City of Colorado Springs, Colorado
Coalition On Temporary Shelter
CohnReznick, LLP
Community Revitalization and Development Corporation
Community Roots Housing
Community Vision Partners
Conifer Realty LLC
Cook Inlet Housing Authority
Corporation for Supportive Housing (CSH)
Council for Affordable and Rural Housing
Council of Large Public Housing Authorities
CREA, LLC
Dalcour Companies
Dauby O'Connor and Zaleski, LLC
Disability Network Southwest Michigan
Dominium
Dwelling Development LLC
Empower Missouri
Enterprise Community Partners
Envolve Communities LLC
Frost Brown Todd LLC
Gatesburg Road Development
GHC Housing Partners
Gorman & Company, LLC
Grapevine Economic Development Fund
Herman & Kittle Properties, Inc.
Holland & Knight LLP
Housing Advisory Group
Housing Authority of Southeastern Utah
Housing on Merit
Hudson Valley HDF Company, Inc.
Hunt Capital Partners, LLC
Illinois Housing Council
Institute of Real Estate Management
Katopody, LLC
KCG Companies, LLC
Kentucky Affordable Housing Coalition
Klein Hornig LLP
Kutak Rock LLP
Landmark Asset Services, Inc.
LDG Development, LLC
LeadingAge
LHP Affordable Housing
Local Initiatives Support Corporation/National Equity Fund
Low Income Housing Institute
Low Income Investment Fund
Maine Affordable Housing Coalition
Marble Cliff Capital

Mercy Housing
Meridian Investments, Inc.
Merritt Community Capital Corporation
Metro West Housing Solutions
MGL Partners
Michigan State Housing Development Authority (MSHDA)
Midwest Housing Equity Group
Miles & Stockbridge
Milestone Housing Group LLC
Minnesota Housing Finance Agency
Minnesota Housing Partnership
National Affordable Housing Management Association
National Affordable Housing Trust
National Apartment Association
National Association of Home Builders
National Association of Local Housing Finance Agencies
National Association of REALTORS®
National Association of State and Local Equity Funds
National Coalition for Homeless Veterans
National Community Renaissance
National Housing & Rehabilitation Association
National Housing Conference
National Housing Trust
National Multifamily Housing Council
National NeighborWorks Association
NeighborWorks Umpqua
Nevada HAND Inc.
North Carolina Housing Coalition
North Carolina Justice Center
Novogradac LIHTC Working Group
Ohio Capital Corporation for Housing
Pecor Companies
Pennrose, LLC
Pennsylvania Housing Finance Agency
Plante Moran
Preservation of Affordable Housing, Inc. (POAH)
Public Housing Authorities Directors Association
R4 Capital LLC
RBC Community Investment
Red Stone Equity Partners
Regions Affordable Housing LLC
RLH Development, LLC
Royal Capital
RPM Development, LLC
RubinBrown LLP
Rural Community Assistance Corporation
Settle Meyer Law LLLC
Smart Growth America/LOCUS
Standard Communities
Stewards of Affordable Housing for the Future (SAHF)
Stratford Capital Group

Sugar Creek Capital
Tapestry Development Group
The Carabetta Companies
The Commonwealth Companies
The Community Builders
The Gatehouse Companies
The Michaels Organization
The NHP Foundation
The NRP Group
The Wishcamper Companies, Inc.
Trinity Financial, Inc.
Utah Housing Corporation
Wake County Southern Christian Leadership Conference
Wallick Communities
Wingate Companies
Winterwood, Inc.
Winthrop & Weinstine, P.A.
WNC & Associates, Inc.
Zimmerman Development



National Council of
State Housing Agencies

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Associate Tax Legislative Counsel
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Dear Ms. Cimino and Mr. Novey:

The National Council of State Housing Agencies (NCSHA), on behalf of the Low Income Housing Tax Credit (Housing Credit) allocating agencies, urges The Internal Revenue Service (IRS) and U.S. Department of the Treasury (Treasury) to extend the temporary relief provided by IRS Notice 2020-53 and to make other necessary accommodations for the Housing Credit program in light of the continuing disruption the COVID-19 pandemic is having on development and construction activities and the ongoing operations of Housing Credit properties.

NCSHA applauds IRS' quick action in Notice 2020-53 to provide relief from program deadlines and requirements in response to the COVID-19 pandemic. This action was instrumental in allowing Housing Credit developments in the construction phase to continue development this year and for existing properties to continue serving low-income residents during the extenuating circumstances the pandemic has caused.

Unfortunately, COVID-19 cases are still increasing nationally. The pandemic continues to impact the supply of construction materials, timing of permitting and local approvals, and the availability of construction workers. It also continues to limit the ability of property managers to interact with residents for regular property operations and to restrict the ability of state Housing Credit agencies to complete development approvals and regular compliance monitoring functions.

Given the continuing importance of safeguarding the health of Housing Credit residents, property management staff, and state and local inspectors, we urge the IRS and Treasury to issue immediate guidance extending the relief provided by IRS Notice 2020-53. Specifically:

- Extend the December 31, 2020 deadlines and associated requirements provided by IRS Notice 2020-53—including the carryover allocation 10% Test deadline, the minimum rehabilitation expenditure deadline, the rehabilitation period deadline for properties that suffered a casualty loss due to a Presidentially declared major disaster, the transition period requirement to meet set-asides for residential rental projects in accordance with IRS Revenue Procedure 2004-39, and the rehabilitation period requirement for bonds used for residential rental projects—to September 30, 2021, at minimum.
- Extend the waiver of the physical inspection and tenant file review requirements of IRS regulation 1.42-5 and tenant income recertification requirements provided by IRS Notice 2020-53 to September 30, 2021, at minimum.
- Extend guidance provided by IRS Notice 2020-53 clarifying that the temporary closure of property amenities and common space facilities will not negatively impact a property's eligible basis and result in loss of Credits through September 30, 2021, at minimum.

In addition to extending relief provided by IRS Notice 2020-53, we urge IRS and Treasury to make the following critical additional accommodations to keep the program operating effectively during the pandemic:

- Provide a 12-month extension of the placed in service deadline as required in IRC Section 42(h)(1)(E)(i) for all developments allocated Housing Credits in calendar years 2018-2021. While limited relief to placed in service rules is available to certain projects in accordance with IRS Revenue Procedures 2014-49 and 2014-50, this relief requires specific action by the state Housing Credit allocating agency and is only available to developments receiving a carryover allocation prior to January 20, 2020. Given the continuing interruption in construction activity, lack of a general rule extending the placed in service deadline is significantly impacting Housing Credit investor interest and equity pricing amounts.
- Provide a 12-month extension (until December 31, 2021) of the year-end deadline for property restoration for any property that suffers a casualty loss not associated with a major disaster during 2020. The year-end deadline can be a significant challenge under normal circumstances, particularly if a casualty loss occurs late in the calendar year. Construction disruptions and social distancing requirements due to the pandemic further exacerbate this challenge, and can make it impossible to meet the deadline.
- Provide a 12-month extension for all open noncompliance corrective action periods, with state Housing Credit agencies having the ability to reinstate

deadlines depending on their assessment of the situation. The ability to conduct routine maintenance and complete work orders is affected by social distancing requirements and construction material shortages, while correction of other noncompliance may be hampered by other delays and closures. The ability to provide additional flexibility on the corrective action period is necessary to avoid penalizing otherwise compliant owners for circumstances beyond their control during the pandemic.

- Provide guidance clarifying that Housing Credit allocating agencies may conduct telephonic hearings to satisfy qualified allocation plan (QAP) public approval requirements in IRC Section 42(m)(1)(A)(ii) until September 30, 2021, consistent with guidance provided in IRS Revenue Procedure 2020-49 for private activity bonds. The pandemic has restricted the ability of states to convene public hearings for the approval of QAPs, and these restrictions are continuing into 2021. Many states have successfully solicited public input using telephonic hearings as permitted for tax-exempt bonds. IRS should treat the Housing Credit QAP public approval requirement in a consistent manner to the private activity bond requirement in Section 147, as the Section 42 requirement directly references the private activity bond rules.

Depending on the duration of the pandemic, IRS may need to further extend these actions beyond the time periods requested in this letter.

We appreciate IRS and Treasury's attention to these critical issues at this busy time and stand ready to assist in any way that we can.

Sincerely,

A handwritten signature in black ink, appearing to read "Garth Rieman", with a long horizontal flourish extending to the right.

Garth Rieman
Director of Housing Advocacy and Strategic Initiatives