Agenda

- What is Income-Averaging?
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What is Income-Averaging?

- Income-averaging is a new, third, minimum set-aside option for the federal Low-Income Housing Tax Credit (LIHTC) developments.
- Enacted in March 2018 through the Consolidated Appropriations Act of 2018, or the Omnibus bill.
- Income-Averaging, or the Average Income (AI) minimum set-aside, requires at least 40% of units in a project to be rent restricted and have household income limits that average at or below 60% area median gross income (AMGI).
  - Income limits are designated in 10% increments from 20% to 80% AMGI.
- The AI minimum set-aside is applied to the designated income/rent levels of the units, not the tenant households.
General Policy

- The AI minimum set-aside election will not be allowed for resyndicated developments.
- Skewing the unit configuration, where unit AMGI designations are not reasonably distributed throughout the development, will not be allowed in the initial unit designations and throughout the affordability period.
- Income averaging will be allowed to range from 30% to 80% AMGI.
Bond Developments:

- Bond-financed developments minimum set-asides have not changed, and remain 40/60 or 20/50.
- The AI may be used with Tax-Exempt Bond developments if the development meets both the bond and the LIHTC requirements.

Use with other Program Funding:

- Calculation methods for income/rent limits for LIHTC units may not align with other programs, specifically HOME and the NHTF.
- MHDC will monitor units for the most restrictive applicable funding source.
Example – Multiple Funding Sources

<table>
<thead>
<tr>
<th>Bedrooms</th>
<th>LIHTC Rent Limits</th>
<th>HTF Program Rents</th>
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<tr>
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</tr>
<tr>
<td>5</td>
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</table>

Information from Joplin/Jasper County - 2019
Designate in the application what minimum set-aside election will be made on IRS Form 8609.

Acknowledge the minimum set-aside election made on the application is irrevocable.

Acknowledge that if AI is the minimum set-aside election, the ownership entity must also elect that all buildings in the applicant’s development are “part of a multiple building project” on IRS Form 8609.

Acknowledge that if a development:

1. Contains market units; and
2. Intends to operate the development under the AI set-aside, the development must submit a legal opinion letter before firm commitment that the proposed unit mix is in compliance with the Code.
Submit a statement from the proposed management company, acknowledging the intent to operate the development under the AI minimum set-aside.

Submit statements from all permanent non-MHDC funding source acknowledging the intent to operate the development under the AI minimum set-aside.
Application

- **Market Study**
  - Must support the operation of the development under the AI minimum set-aside.
  - Must establish LIHTC rents for all proposed unit types and rents at all AI minimum set-aside levels.

- **Unit AMGIs**
  - Designated at application
  - Should have a proportionate percentage of units at the various proposed income levels.
    - An explanation must be provided in the Exhibit A if it is appropriate to target specific unit sizes to targeted populations.
Approved Developments

- MHDC Form 3345 – Plan Review Worksheet
  - All rent bands updated, finalized at firm.

- AI Minimum Set-Aside Trainings
  - Certification of additional training must be provided by the management company prior to lease-up of the development and going forward every two years

- Refer to MHDC Program Training Requirements Notice on MHDC website
Compliance
Management Policies and Leasing Criteria

- Development Responsibilities:
  - Provide a summary of compliance tracking plan and systems as part of their Firm Commitment.
  - Describe in their lease and tenant selection criteria how units will be leased.
  - Inform applicants of the set asides that the Development offers.

- Management Company Responsibilities:
  - Maintain, and regularly update, a list indicating AI set-aside unit designations.
  - Keep compliance plan and average income tracking systems and reports available on site at all times, including during compliance inspections.
Compliance
Floating Units

- Allowed to float:
  - Unit Designations
  - AMGI designations (reviewed annually)
  - Bedroom sizes (reviewed annually)

- MHDC reserves the right to enforce a remediation plan if MHDC determines that the development has deviated from the approved development plan.
Compliance

Vacancy Tracking

- Maintaining 60% AMGI by Tracking Unit Vacancies
  - Developments must maintain separate waiting lists for each of the AMGI designations offered.
  - Vacancies should be filled from the waiting list corresponding with the previous income/rent AMGI designation of that unit.
  - If there are no prospective tenants within the correct AMGI designation, the unit may be filled by the next tenant within the 20% deviation of the AMGI unit designation.
Compliance
Next Available Unit Rule

- This rule is the same and follows Section 42 requirements:
  - If there is an increase in the income of the occupants of a low-income unit above the income limitation applicable under Section 42(g)(1), as determined by the minimum set aside elected by the Owner, such unit shall continue to be treated as a low-income unit if the income of such occupants initially met such income limitation and such unit continues to be rent restricted.
  - If the income of tenants of a low-income building in the project increased above 140% of the applicable income limit (or 170% for deep rent skewed projects), the next available unit of comparable or smaller size in the building was or will be rented to tenants having a qualifying income.
  - Leasing to an over-income household does not automatically increase the unit’s income percentage designation.
  - MHDC will not allow for the upward redesignation of units after initial income qualification.
Compliance Reporting

- Developments are required to report on their average income set aside tracking.
  - Asset Management Reporting System (AMRS) – Monthly Reports are due on the 10th of the following month (the same reporting schedule as occupancy reporting).
  - Certification Online (COL) – Annual Reports are due based on the designated reporting period of the property.
Compliance
Minimum Set-Aside

- AI Election Requirements:
  - Must be met no later than the end of the first year of the credit period.
  - At all times, the average income and rent of the occupied units must not exceed 60%.
  - Developments that do not meet the 60% AMGI average income set aside at the end of the first year of the credit period, do not meet the minimum set test.
  - Failure of a minimum set aside test is reportable on a Form 8823.

- Example: If a 100 unit development only has 80 units occupied, then those 80 units must meet the minimum set aside of 60% AMGI by the end of the first year of the credit period.
  - Still must meet applicable fraction on a building-by-building basis
Compliance
Household Above Income Limit at Move-In

- Ensure all units meet their income designations at the time of initial occupancy.
- If a household is determined to be above income limit upon initial occupancy, that unit is out of compliance (it is not considered a minimum set-aside failure).
  - Noncompliance is reportable on Form 8823.
  - Leasing to an over-income household does not automatically increase the unit’s income percentage designation.
Compliance
Annual Recertification

Which Developments do an Annual Recertification?

- 100% LIHTC properties with no other MHDC funding and no market rate units.
  - Data may be submitted on an Exhibit U (LIHTC Annual Resident Certification) after the required first-year annual recertification with approval from Asset Management.

- 100% LIHTC Properties wishing to adjust rent downward, which may be granted if:
  - It is in accordance with all applicable lease terms.
  - The income level of the household changes.
  - The unit’s AMGI designation changes.
  - 60% AMGI Income Average is maintained.
Compliance
Rent Increases

MHDC’s Rent Increase Policy:

- Will be facilitated pursuant to MHDC’s rent increase policy.
- Rent levels and rent bands will be established initially in the market study, and confirmed at Firm.
- At Firm Commitment, MHDC Form 3345 will determine approved rent levels for future rent increases and unit deviations.
- MHDC will input the approved AMGI designations into AMRS.
  - Developments can track the range for every potential income and rent level in AMRS.
Contacts

Jennifer Schmidt  
Deputy Director of Operations  
jschmidt@mhdc.com

Brianne Cabe  
Tax Credit Administrator  
bcabe@mhdc.com