From: Mara Mades <Mara.Mades@CornerstoneGrp.com>
Sent: Tuesday, February 27, 2018 2:06:52 PM
To: Trey Price; Marisa Button
Subject: Comments on proposed 67-21 Rule Changes

Enclosed please find comments on the proposed changes to Rule 67-21.

Should you have any questions, please don't hesitate to contact me.

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M E M O R A N D U M

TO: **FLORIDA HOUSING FINANCE CORPORATION**

FROM: **MARA MADES**

DATE: **FEBRUARY 23, 2018**

RE: **RULE 67-21 DEVELOPER FEE**

Thank you for holding the rule workshop this week in Tallahassee. There are two proposed rule changes that I would like to address: 1) proposed reduction in the developer overhead/fee on 4% tax credit projects from 18% to 16% and 2) proposed reduction of the developer overhead/fee on acquisitions from 18% to 4%.

Developer Overhead and Fee

Impact on New Construction: Developer overhead and fee is used to create tax credit basis and therefore create more sources to build a project. In a 9% tax credit transaction, up to 90% of the project is paid for by the syndication of the 9% tax credits and the rest is paid for by the first mortgage. Conversely, on a bond transaction, only approximately *30% of the project cost* is paid for by the syndication of the 4% tax credits. This leaves a very large financing shortfall. FHFC gap financing, such as SAIL, limits the amount of subsidy a project may receive on a percentage of cost basis (25%). Further, in the application process, FHFC awards funding in part based on the lowest amount of per unit subsidy requested. This means that FHFC subsidy funds may not fill the gap. While local subsidy may be a potential source, providers either have no material funds and/or they have similar restrictive limits and scoring criteria.

This leaves the 4% tax credit transactions with a gap that typically doesn't exist on a 9% transaction. Therefore, every single dollar of tax credit equity that can be created for the 4% tax credit project needs to be created in order to fill that gap. This new rule to reduce tax credit basis by reducing developer fee only exacerbates the situation.

It is worth reiterating that developer fee is simply included in project costs to create basis and to create the necessary sources to build the project. Without that basis, the FHFC would only create the number of units that are built using solely 9% tax credits and would lose hundreds of units that bond-financed, 4% tax credit projects can create.

Therefore, to equate the developer fee on a 9% deal that needs nominal gap financing, to a 4% tax credit project that may have a funding gap of $50,000 to $100,000 per unit is erroneous. Tax-exempt bond transactions should retain the 18% fee so that basis and therefore tax credit equity are generated to help fill the funding gap. While a finite amount of 9% credits are allocated to the state each year, 4% credits are only limited by virtue of the private activity bond volume cap and rules set forth under Section 42. Why are we looking to limit existing federal tax credit subsidy for these projects? Do we want to make the affordable housing crisis even worse in the State of Florida? Of course we don't, but that will be the result of limiting tax credit basis on tax-exempt bond transactions by reducing developer fee.

Acquisition Fee

Impact on Acquisition Rehab: The FHFC has had a long-standing policy that it will not provide any subsidy to projects that have existing LURAs in place. There are projects that committed to 30 to 50 years of set-asides that simply cannot be maintained past 15 years without a significant renovation. If they cannot be re-syndicated, the vast majority of the projects will simply revert to market when the LURA/EUA terminates. Many of those projects are coming up for EUA maturity in the next few years, as the LIHTC program was created 32 years ago.

The only way to renovate existing projects is to utilize tax-exempt bonds and 4% tax credits, unless an applicant is fortunate enough to obtain 9% tax credits. But the FHFC also prioritizes new construction with its 9% tax credits, so there are only a nominal amount of existing low income housing projects preserved each year with 9% tax credits.

If the FHFC now reduces tax credit basis and thereby tax credit equity by reducing the acquisition fee from 18% to 4%, a whole host of projects will not be renovated. Instead, their LURAs will expire, and the projects will revert to market. This would be a very bad public policy result, for not only the FHFC, but for the residents of this State.

The State of Florida understands how tax credit basis works, and in 2006, the Affordable Housing Study Commission studied preservation for the governor's office. The result is that they recommended and the FHFC implemented that the 18% fee on the renovation costs of a property should also be the fee on the acquisition cost, for 4% tax credit/bond-financed transactions.

Again, a 4% tax credit transaction already has a huge gap in financing. FHFC is not able to provide additional subsidy to renovate these properties, having made a policy decision to instead invest in new construction. Therefore, it is not logical to reduce basis in 4% LIHTC transaction, giving up the tax credit equity subsidy created therefrom. The end result will simply be more projects that have EUAs expiring. Since these projects will not generate enough tax credit equity in a 4% tax credit/bond vehicle to provide sufficient funds to perform required rehab, they will simply sell the project to a market rate developer (or keep the project, garnering higher rents now that the deed restrictions have expired).

I would urge the FHFC to not conflate developer profit with the tax credit equity created by the developer fee basis. The basis created by the developer fee is needed to renovate the project. Without it, there will be no preservation.

Modifying your existing policies with regard to fee/tax credit basis will have the unintended consequence of eliminating new construction projects built with 4% tax credits and also the unintended consequence that thousands of units of affordable housing will have their deed restrictions expire and they will not be re-syndicated because the FHFC's new fee/basis will significantly reduce tax credit equity required to effect those renovations.

I greatly appreciate your time and attention to this critical issue. Please don't hesitate to contact me at (786) 709-2231 if you would like to review the above-noted items.