TAX CREDIT HOUSING MANAGEMENT INSIDER

A LEGAL COMPLIANCE GUIDE FOR THE LOW-INCOME HOUSING TAX CREDIT COMMUNITY

SPECIAL ISSUE

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INSIDER'S 2012 SURVEY RESULTS:

Tackling the Top Compliance and Management Challenges

In today's economy, providing affordable housing to low-income families is more important than ever. There may be plenty of applicants, but there are also considerable challenges in verifying that they're qualified for the LIHTC program and in keeping up with rising operational costs. Last month, the *Insider* conducted a survey of tax credit site managers across the country to find out about these and other challenges they're currently facing.

The challenges begin at the application process: Getting applications approved quickly is an issue for 43 percent of survey respondents. Almost all respondents put the blame for this on third parties who don't return verifications in a timely manner. "Places want to charge to fill out verification forms," said one respondent. Verification of child support is particularly difficult, said another.

The delay in getting applications approved may contribute to vacancy loss, which, along with unit turnover costs, were among the top five rising costs cited by respondents. Utilities, maintenance/repairs, and insurance topped the list of rising costs.

Most respondents manage mixed-program sites, with 70 percent or more receiving Section 8 and/or HOME funds. These respondents expressed frustration with: keeping up with all the changing rules; going through "too many inspections"; figuring out how to proceed when two agencies have conflicting regulations (several cited complying with the student rule); setting up files for multiple reporting agencies; and dealing with cumbersome annual reports and the file review process. One respondent put it simply: "The paperwork is tremendous."

In light of these compliance challenges, it may be surprising that less than a third (29 percent) of respondents use consultants for com-

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pliance oversight. The tasks consultants are mainly hired for are annual audits, first-year audits, and application approval reviews before move-in.

With tax credits being used to finance the lion's share of the multifamily development, acquisition, and rehabilitation projects these days, it's no surprise that 36 percent of respondents were involved in a tax credit-financed acquisition or rehab in the past two years. Some of the major issues these respondents encountered during

SURVEY RESPONDENTS' PROFILE

LOCATION

Respondents represented the following regions of the country:

Northeast	29%
Midwest	29%
Southeast	25%
Southwest	10%
Mid-Atlantic	4%
Northwest	3%

PROGRAM PARTICIPATION

In addition to the LIHTC program, respondents also participated in:

Section 8	78%
HOME	70%
Section 202	22%

Other programs accounted for less than 10% of respondents' participation.

SITE SIZE

By size of the sites respondents manage:

More than 10 buildings	57%
4 to 10 buildings	25%
2 or 3 buildings	4%
1 building only	14%

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rent-up included: overcoming the previous property's image; dealing with a poor-quality rehab where work still had to be completed or repaired after move-in; and getting qualified tenants when most applicants were over-income.

Roughly one-third (32 percent) of respondents manage sites that are in the extended-use period. But few reported compliance challenges that are any different from compliance during the first 15 years—in fact, several respondents reported having fewer inspections and less stringent state oversight on compliance.

Based on these survey results, the *Insider* will plan future articles addressing the challenges raised here. In the meantime, please search our Web site, *www.taxcredithousinginsider.com,* for recent articles on these topics, such as:

- ✦ How to Handle Verification When Source Doesn't Return Form
- ✦ Five Compliance Differences Between Managing Mixed-Income and 100% Buildings
- ✦ How to Avoid Common Mistakes When Calculating Annual Income
- ✦ How to Keep Track of Over-Income Households to Comply with NAU Rule
- ✦ How to Hire Qualified Employees to Manage Your Tax Credit Site

TOP 5 RISING COSTS

1. **Utilities**
2. **Maintenance and repair needs**
3. **Property insurance**
4. **Unit turnover expenses**
5. **Vacancy loss**

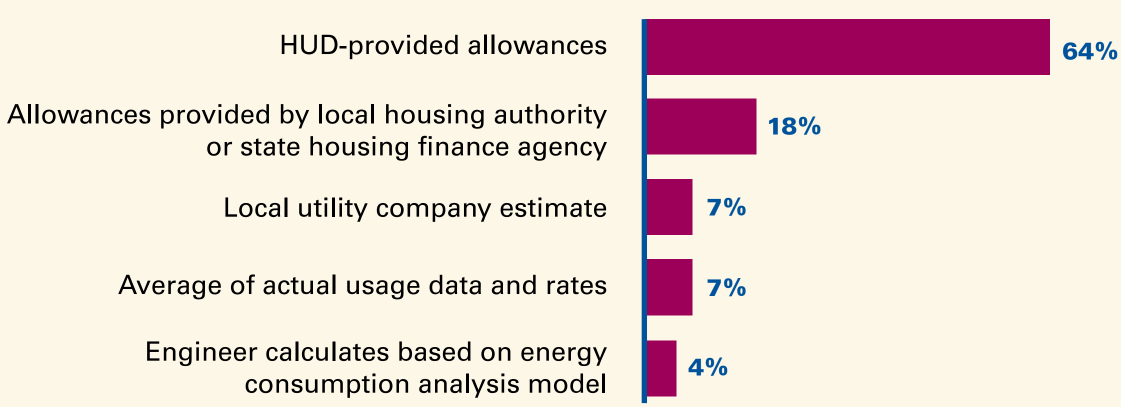
CHARGING ADDITIONAL FEES

Not all respondents' reported charging residents additional fees, but those who did charged for:

- ✦ Application processing (ranging from $12.95 – $25.00)
- ✦ Pet-related refundable security deposits
- ✦ Replacement keys
- ✦ Storage
- ✦ Overnight parking
- ✦ Clubhouse use
- ✦ Washer/dryers

CALCULATING UTILITY ALLOWANCES

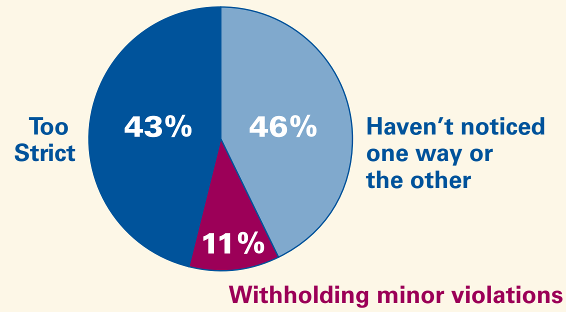
What method does your site use to establish utility allowances?



PASSING INSPECTIONS

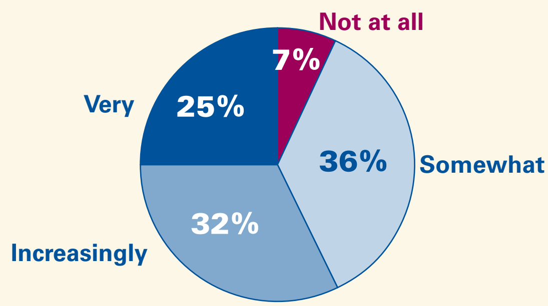
➤ *Are Inspectors Too Tough?*

Do you feel that site inspectors are too strict in reporting every violation, no matter how minor, or are they withholding the reporting of minor violations?



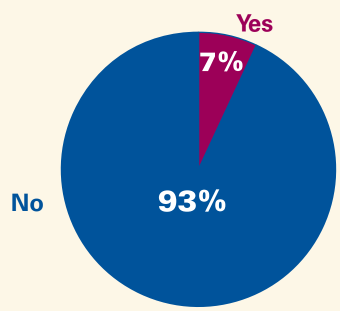
➤ *Are There Too Many Inspections?*

How burdensome are separate management reviews and physical inspections by multiple agencies/ organizations?



➤ *Will Inspections Be Consolidated?*

Have you been able (or will you soon be able) to consolidate multiple inspections into one inspection approved by all parties?



JOIN THE DISCUSSION!

Become a member of the INSIDER's **LinkedIn** discussion group, and share your ideas and opinions on today's tax credit housing trends. Recently members have posted comments on the value of various certifications, full-time student eligibility for tax credit housing, and job opportunities across the country. Look for the TAX CREDIT HOUSING MANAGEMENT INSIDER discussion group on **LinkedIn**, and get your voice heard today!

QUIZ

Are You LIHTC Fluent?

Test your knowledge of common acronyms used in the low-income housing tax credit industry. On the lines below (or on a blank piece of paper), write down the terms associated with each of the following 50 acronyms. The answers appear on p. 8. This list was provided by Karen Graham of Karen A. Graham Consulting LLC.

1. ADA ______
2. AFR ______
3. AMGI ______
4. ARRA ______
5. BIN ______
6. CD ______
7. CDBG ______
8. CFR ______
9. CO ______
10. CPM ______
11. CV ______
12. EIV ______
13. EUA ______
14. FHA ______
15. FMR ______
16. FMV ______
17. HCCP ______
18. HERA ______
19. HOME ______
20. HQS ______
21. IRC ______
22. IREM ______
23. LURA ______
24. MOR ______
25. MOU ______
26. MR ______
27. MTSP ______
28. MV ______
29. NAA ______
30. NAHB ______
31. NAHMA ______
32. NAUR ______
33. NCSHA ______
34. NH&RA ______
35. NMHC ______
36. NMTC ______
37. NOI ______
38. PHA ______
39. PIS ______
40. PLR ______
41. QAP ______
42. QCT ______
43. REAC ______
44. RD ______
45. SHCM ______
46. SSD ______
47. SSI ______
48. TANF ______
49. TCAP ______
50. UPCS ______

IN THE NEWS

➤ *ICP Responds to Texas LIHTC Program's Remediation Plan*

In the May issue of the *Insider,* we highlighted a federal court ruling that held that the Texas Department of Housing and Community Affairs (TDHCA) unintentionally discriminated in its allocation of low-income housing tax credits (LIHTCs) ["In the News: Court Rules Texas LIHTC Program Violates Fair Housing Act," p. 8]. The case was filed by The Inclusive Communities Project (ICP), a Dallas fair housing organization, which alleged that the TDHCA intentionally steered subsidized apartments away from affluent white neighborhoods and into poor minority areas.

The original complaint alleged that the TDHCA intentionally discriminates based on race by disproportionately approving LIHTC projects in predominantly minority neighborhoods and disproportionately denying LIHTC in predominantly Caucasian neighborhoods [Inclusive Communities Project v. TDHCA, March 2012].

According to the ICP, while 19 percent of all renter-occupied units in Dallas are in predominately white census tracts, only 2.9 percent of the TDHCA's LIHTC units are in these neighborhoods. And while 51 percent of all renter-occupied units in the city are in minority-concentrated census tracts, 85 percent of the TDHCA's LIHTC units in Dallas are in these neighborhoods where minorities make up at least 70 percent of the population.

TDHCA Introduces Remediation Plan

Two months later, in response to the ruling, the TDHCA submitted its plan to U.S. District Court Chief Judge Sidney Fitzwater. The plan would increase the number of points that developers can win for building in affluent areas, with the most points awarded to projects where schools and economic conditions are best. The plan also tightens requirements for winning extra funding to build in highly impoverished neighborhoods, a provision that was designed to spur economic growth in poor areas.

ICP's Counter-Response Urges More Action

The ICP recently released a summary of its position on the TDHCA's proposed plan. In it, the group said that the state should dedicate a portion of the money for apartments in desirable neighborhoods, a practice the department already uses to increase funding for other types of projects such as those in rural areas.

The group also said the department should revamp the point values for each category on which projects are scored. State law prescribes the order of the top-ranking criteria, but it doesn't specify an amount for each one. Inclusive Communities proposed new values that would narrow the point spread and lessen the weight of criteria that favor projects in blighted areas.

Most notably, the change would reduce the heavy importance of support from neighborhood associations, a factor that pushes development away from affluent areas that can be quick to organize against low-cost apartments.

In addition to these broad points, the ICP objected to a number of the provisions, including those related to the following:

- The inclusion of applications for elderly units in the plan's strengthened definition of "high-opportunity areas" and allowing elderly units to be eligible for a 130 percent basis boost.
- The addition of the remedial balance and the Revitalization Index for awarding tax credits; and
- The strengthening of incentives for properties in revitalization areas.

The ICP added that the plan fails to address several issues, including:

- The 4 percent LIHTC program;
- The threshold criteria for the 4 percent and 9 percent programs;
- The housing finance agency's discretion in awarding credits; and
- Making it clear that the remedial plan covers only the five-county remedial area.

➤ *HUD Sets Permanent Cap on PHA Executive Salaries*

On June 5, HUD announced that it's clamping down on excessive pay at public housing authorities, setting caps that extend and expand limits imposed by Congress. The action comes as HUD revealed that the top official at the Atlanta housing agency received a compensation package of $644,214, the highest in the country.

According to data from a national compensation survey conducted by HUD, Atlanta Housing Authority President and Chief Executive Renee Glover and top executives at housing authorities in Los Angeles, Philadelphia, and Chelsea, Mass., received excessive salaries in 2010. The Los Angeles' housing authority paid its executive director $606,320 in 2010, while executive directors at the Philadelphia Housing Authority and Chelsea Housing Authority earned $417,688 and $357,635 respectively. These compensation packages included salaries, bonuses, and other benefits.

In response, HUD announced a $155,500 cap on top executive salaries at larger PHAs for the 2012 fiscal year. The recently announced plan would make the limits permanent and apply them to all forms of compensation paid for with federal money.

These highly compensated officials highlighted in the report appeared to be outliers. The national survey of 2010 salaries found that most local public housing officials were compensated in amounts at or under the new limit. HUD modeled its information collection on the way that the Internal Revenue Service collects similar information from not-for-profits. And HUD determined that 97 percent of housing authority executives earn less than $155,500 in total cash compensation annually, and 93 percent earn less than $125,000 annually.

Additionally, HUD found that the average compensation for a housing authority director was $82,299. HUD said that while the housing authority executives are state employees, they are responsible for a significant amount of federal money and should be held to federal standards of fiscal responsibility. Therefore, HUD is proposing to align compensation with the federal government pay system.

Since the survey, the Los Angeles housing agency has lowered its top compensation to $260,000 and the Philadelphia agency has set its top compensation at $225,000. Chelsea, Mass., a suburb of Boston with a population of about 35,000, has lowered its top compensation to $135,000.

While the top limit planned by the Obama administration would be $155,500 for agencies managing more than 1,250 public housing units, HUD set lower limits for smaller public housing agencies. Housing authorities with between 250 and 1,250 units could pay a maximum of $125,926, and agencies handling fewer than 250 units could pay no more than $88,349.

According to HUD, the salary caps apply only to the portion of executives' compensation that comes via federal funding and they are limits on all cash compensation. This includes bonuses that executives may receive. HUD added that it would like to work with Congress to implement the compensation caps, but said that if Congress fails to act, HUD will take executive action to implement the caps for fiscal year 2013.

DOS & DON'TS

✓ *Let Prospects Pay Security Deposit by Credit Card*

If your tax credit site lets residents pay their rent by credit card, consider letting prospects pay their security deposits by credit card as well, suggests property manager Kristen Morgan. Doing so can increase the likelihood that prospects will sign a lease when they first visit your site, she says.

Morgan decided to allow prospects to pay their security deposits by credit card after noticing that many prospects didn't have their checkbooks with them when they came to visit the site for the first time. These days, people prefer to pay for things using a bank debit card or a credit card, so they don't carry their checkbooks with them, she explains. But if you let a prospect leave the leasing office with just a promise that she'll come back with a check for the security deposit, you run the risk that she won't return, says Morgan. Accepting credit cards for security deposit payments makes it easier for interested prospects to pay their security deposit and sign the lease without having to come back another day, she says.

✓ *Stagger Maintenance Staff's Work Shifts to Add Perceived Site Value*

Try staggering your maintenance staff's hours to add perceived value to your site, suggests marketing expert Tracey Hopkins. Maintenance staffs typically work the same hours that residents work, which means that most residents don't see the maintenance staff hard at work to keep the site running smooth-

(continued on p. 8)

Dos & Don'ts (continued from p. 7)

ly. But in marketing, visibility equals value, explains Hopkins.

So if you stagger your maintenance staff's work shifts so that some maintenance staff members start work early in the morning before residents leave for work and others start in the afternoon and work into the early evening when residents are coming home from work, residents will think they're getting more value for their rent dollar when they see your staff working for them "day and night," Hopkins explains. This adds perceived value to your tax credit site without your having to add hours to your maintenance staff's workload, she says.

Insider Sources

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Kristen Morgan: Property Manager, The Wheatlands, 1225 Deerfield Pkwy., Buffalo Grove, IL 60089; *www.thewheatlands.com.*

QUIZ ANSWERS

1. Americans with Disabilities Act
2. Applicable Federal Rate
3. Area Median Gross Income
4. American Recovery and Reinvestment Act of 2009
5. Building Identification Number
6. Certificate of Deposit
7. Community Development Block Grants
8. Code of Federal Regulations
9. Certificate of Occupancy
10. Certified Property Manager
11. Cash Value
12. Enterprise Income Verification
13. Extended Use Agreement
14. Fair Housing Act
15. Fair Market Rent
16. Fair Market Value
17. Housing Credit Certified Professional
18. Housing and Economic Recovery Act of 2008
19. Home Investment Partnership Program
20. Housing Quality Standards
21. Internal Revenue Code
22. Institute of Real Estate Management
23. Land Use Restriction Agreement
24. Management and Occupancy Report
25. Memorandum of Understanding
26. Market Rate
27. Multifamily Tax Subsidized Project
28. Market Value
29. National Apartment Association
30. National Association of Home Builders
31. National Affordable Housing Management Association
32. Next Available Unit Rule
33. National Council of State Housing Agencies
34. National Housing & Rehabilitation Association
35. National Multi-Housing Council
36. New Markets Tax Credit
37. Net Operating Income
38. Public Housing Authority
39. Placed in Service
40. Private Letter Ruling
41. Qualified Allocation Plan
42. Qualified Census Tract
43. Real Estate Assessment Center
44. USDA Rural Development
45. Specialist in Housing Credit Management
46. Social Security Disability
47. Supplemental Security Income
48. Temporary Aid to Needy Families
49. Tax Credit Assistance Program
50. Uniform Physical Condition Standards