Income Averaging- Creating More Housing Now!

With the goal of working towards the creation of Industry Standards, Dominium is proud to share much of what we have learned about **income averaging** through discussions with industry experts in a series of topic-based correspondence that is meant to be shared with all interested industry professionals. We hope that through the sharing of this content, we can encourage the industry to work together to create widely accepted practices of how to utilize income averaging in a way that is both consistent and marketable.

ARTICLE 4: Creating Strength Through Flexibility

In **last week's article**, we highlighted the **Community Housing Development Corporation**, an industry leading non-profit, and its use of income averaging. The Community Housing Development Corporation plans to preserve an existing Project Based Section 8 development with an expiring HAP contract with **no additional soft funding and no resident displacement**.

This week, we will discuss how creating flexibility around income averaging will empower the industry to adapt to future IRS guidance, shifting markets and will enable developers to better serve our residents.

Flexibility and Adaptability are Key

The Consolidated Appropriations Act, 2018, also known as the Omnibus Spending Bill, took several measures to increase the viability of the Low- Income Housing Tax Credit program, specifically through the addition of income averaging. While the addition of income averaging was intended to add flexibility to the program, the language is vague and leaves room for interpretation. As allocating agencies work to create implementation standards, we strongly encourage doing so in a way that **meets the Federal guidelines and leaves room for future flexibility.**

While the Treasury Department and IRS have identified income averaging in their **2018-2019 Priority Guidance Plan**, it is uncertain when that guidance will be released. With the need for affordable housing at an all-time high, we, as an industry, cannot afford to wait for that additional guidance. Instead, we ask that allocating agencies simply mirror Section 42(g)(1)(C) in their policies and allow for as many projects as possible to select income averaging as the minimum set-aside. Below is the language from the Omnibus Bill, with suggested implementation commentary:

Section 42(g)(1)(C) Average Income Test

(i) In general. The project meets the minimum requirements of this subparagraph if 40 percent or more (25 percent or more in the case of a project described in section 142(d)(6)) of the residential units in such project are both rent restricted and occupied by individuals whose income does not exceed the imputed income limitation designated by the taxpayer with respect to the respective unit.

(Article #1 - There is no Cliff! As long as 40% of the units meet the requirements, the project will remain eligible for Low Income Housing Tax Credits.)

(ii) Special rules relating to income limitation. For purposes of clause (i)-

(I) Designation. The taxpayer shall designate the imputed income limitation of each unit taken into account under such clause.

(Allow the owner and the investor partner to work together to designate units, and for those units to have the ability to float in the event of unforeseen circumstances or market shifts. Please do not require developers to "fix" their units by designating the income of every unit within the Tax Credit LURA. This will remove flexibility in the future and limit the ability for the tool to be most effectively utilized.)

(II) Average test. The average of the imputed income limitations designated under subclause (I) shall not exceed 60 percent of area median gross income.

(Please do not limit this to a number that is below 60% on average. As discussed in Article #2 - this can have significant financial impacts on the feasibility of the development by limiting the amount of supportable debt and will hamstring the effectiveness of income averaging. Additionally, we recommend that if Allocating Agencies choose to create incentives in the form of point scoring for having less than a 60% average on 9% LIHTC applications, that this remains separate from the policies around 4% transactions which generate substantially less federal tax credit equity and require the maximum amount of leverage.)

(III) 10-percent increments. The designated imputed income limitation of any unit under subclause (I) shall be 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent, or 80 percent of area median gross income.

Looking at the specific language above, the Federal code leaves room for interpretation and requires additional guidance. Rather than creating additional regulations at the local level and limiting the functionality of income averaging, we urge allocating agencies to take the opposite approach and allow room for future flexibility. Having the ability to adapt in the future will create new opportunities that will strengthen our entire industry.

Please feel free to share this information within and outside the industry so we can continue to help make income averaging as effective as possible on a national scale. If you would like to discuss income averaging please do not hesitate to reach out at **incomeaveraging@dominiuminc.com**.

Thank you!

DOMINIUM

2905 Northwest Blvd. Suite 150 | Plymouth, MN, 55441