December 5, 2023

Taylor Koch
Interim Director of Multifamily Housing
Ohio Housing Finance Agency
2600 Corporate Exchange Drive, Suite 300
Columbus, OH 43231

Dear Mr. Koch,

With OHFA's frenetic pace of drafting, revising, and adopting of QAPs, Standards, and Guidelines this year, the Ohio Housing Council continues to appreciate the enormous effort put into the process and the opportunity to provide our thoughts throughout.

Today, we write to you about the 2nd Draft of the LIHTC Rental Underwriting Guidelines. Our membership agrees that this 2nd Draft represents a considerable improvement over the 1st Draft, and we are grateful for the work that went into getting us to this point. While some of our members have individually discussed their concerns about the Other Sources of Funding section with you, we have determined that this issue is significant enough, and our membership feels strongly enough about it, that we are collectively writing to explain our concerns and rationale for asking for your reconsideration.

Specifically, our concern is with two bullets in this section:

- Competitive Sources: Any source of funds that is not at least conditionally committed will not be considered
- HOME Investment Partnerships Program (HOME) and Other Federal Funds not administered by OHFA: The applicant must submit a preliminary award letter or commitment letter reserving the funds that includes the anticipated term, amortization, rate, fees or specify that the funds will be a grant.

After thirty-seven years, OHFA is choosing to change its interpretation of the Internal Revenue Code Section 42 to read it as requiring this language. There seems to be no push from the IRS to OHFA to make this change, and most other HFA's do not follow this overly restrictive interpretation of the guidelines.

We also understand that OHFA is adding this language to guard against what we believe is a rare problem: a project stalling because the Developer was not able to secure either the other funding sources that were included in the application or a substitute funding source.

Making it much more difficult to develop affordable housing overall is not the appropriate cure for this situation when there are other ways it can be addressed.

It does not make sense that OHFA would make it more difficult to develop affordable housing at the very moment when the Governor, the legislature, and the economic development community are all uniting around the need for increased affordable housing. The new interpretation is a “solution” to something that no one else views as a real problem.

Because LIHTC typically accounts for approximately 70 percent of a project’s Total Development Costs, this is the keystone funding source for all competitive tax credit developments. Secondary funders prefer to allocate their dollars to projects that have already secured LIHTC awards because this award signals a high probability of success for the project. In fact, many secondary lenders create scoring systems that highly value LIHTC awards for this very reason and OHFA’s current proposal will result in Ohio projects being less competitive when these resources are available nationally or regionally.

Even when Ohio developments successfully compete and secure these other sources of funding, under the proposed changes these developments will often end up significantly more expensive as the development process is substantially extended. Developers will need to start seeking secondary funds well before they do under the current process. Developers will face higher costs as land sellers will need to be compensated for holding their land off the market during this extended time period. And Developers will face greater risk as longer development timelines lead to more time for inflation and crisis events to significantly impact costs. At a time when we should be doing everything we can to streamline processes and reduce the time to develop a project, these changes would take us in the other direction.

OHC has a broad and diverse membership made up of developers, investors, attorneys, CPAs, and others who have dedicated their professional lives to the development of affordable housing. Our members are responsible for most of the affordable housing that has been developed in Ohio since the creation of the Low Income Housing Tax Credit in 1986. Many of them also operate in many other states throughout the country. This gives OHC an unmatched perspective on this industry, the best practices nationally, and what it takes to successfully develop affordable housing in Ohio. As you know we only comment on issues when our membership reaches the high threshold of consensus; we hope this gives greater credibility to our concerns and that OHFA will continue to give strong consideration to these comments.

Given that there is unquestionably room to interpret the Internal Revenue Code provision less restrictively and that this proposal will cause more harm to affordable housing in Ohio than it prevents, **we strongly encourage you to continue interpreting it as OHFA has from the beginning of the program and use the language from the 2023 Multifamily Underwriting Guidelines**.

Thanks for your consideration of the above request and recommendation.

Sincerely,

Ryan Gleason

Ryan Gleason
Executive Director
Ohio Housing Council

cc: Shawn Smith, Executive Director, Ohio Housing Finance Agency
Joe Hewitt, Senior Director of Housing Programs, Ohio Housing Finance Agency