



## Delaware Housing Coalition

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December 16, 2010

Cindy Deakyne, Housing Asset Manager  
Delaware State Housing Authority  
18 The Green  
Dover, DE 19904

SUBJECT: LIHTC 2011 QAP

Dear Ms. Deakyne,

The Delaware Housing Coalition (DHC) is forwarding the enclosed comments, jointly formulated with the Diamond State Community Land Trust and NCALL Research, to the Delaware State Housing Authority (DSHA).

These comments urge the incorporation of proven long-term affordability methods into future tax credit developments to provide substantial benefits for the state including: implementing a stable, proven homeownership model, reducing demand for repeat investment of LIHTC/HDF funds in the future, increasing opportunities for LIHTC residents to become homeowners, creating a substantial future pipeline of homes-for-sale or rent for the statewide community land trust to maintain in long-term housing affordability, and a considerable increase in the number of years that investment of public and private funds keep working for Delawareans.

We, all three, request a meeting with you after the conclusion of the comment period to discuss these suggestions further.

Sincerely,

Ken Smith  
Executive Director

cc: Anas Ben-Addi, DSHA Director  
Norma Zumsteg, Chair, Governor's Council on Housing  
Ruth Sokolowski, Vice Chair, Governor's Council on Housing

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**- PRESERVATION BY DESIGN -**  
**A STRATEGY FOR PRESERVING AFFORDABILITY**

Submitted By: Diamond State Community Land Trust, Delaware Housing Coalition, and NCALL Research, Inc.

Problem: The affordable rental housing inventory created through the LIHTC system creates a demand for a continually mounting reinvestment of additional LIHTC funds and Housing Development Fund revenue at the expiration of credits. This demand exceeds the supply of tax credits and available matching HDF funds, placing units at risk of being lost to market rate rentals. This also creates difficult choices for DSHA when deciding how much current-year funding to devote to construction of much-needed new affordable rental housing versus preserving existing housing. With the forecast of straight-line or perhaps decreased funding in the years ahead, new solutions are needed to ensure maximum availability of affordable housing for Delawareans.

One Proposed Solution: PRESERVATION BY DESIGN

The current QAP includes a small number of incentive points toward increasing the compliance period and also for conversion to homeownership by residents. The State could expand its options for maintaining affordable housing if this section of the QAP were reworded and points increased to specifically encourage:

1. partnerships between tax credit project developers and entities that are in the business of long-term or permanent affordability (like community land trusts),
2. up-front planned conversion of all or portions of the housing stock at the tax credit expiration point (when more LIHTC investment is typically requested) to either homeownership, condominium, cooperative, lease-purchase or continuing rental - - under a community land trust or similar model, and
3. architectural designs that are more easily convertible to homeownership.

Incorporation of proven long-term affordability methods into future tax credit developments would result in substantial benefits for the state including:

1. creative use of LIHTC program to implement a stable, proven homeownership model,
2. reduced demand for repeat investment of LIHTC/HDF funds in the future,
3. increased opportunities for LIHTC residents to become homeowners,
4. substantial future pipeline of homes-for-sale or rent for the statewide community land trust to maintain long term housing affordability, and
5. a considerable increase in the number of years that investment of public and private funds keep working for Delawareans.

## SUGGESTED CHANGES FOR PAGE 39 AND QAP POINTS

Within the current QAP, the section on increasing the low-income housing commitment provides three (3) points to be awarded to developments that will either agree to a thirty year compliance period or will be converted to home ownership for the residents after the initial fifteen (15) year compliance period has expired.

Maintaining the long-term low-income affordability warrants more points. We suggest that this rating factor be increased from 3 points to 15 points. This would put this critical factor on par pointwise with serving lower income tenants, leveraging other resources, and site location. Giving substantial points for conversion/long-term affordability would also contribute to the solution for preserving units beyond the compliance period.

We suggest that the homeownership for residents section be expanded to include any conversion where a community land trust or other shared equity entity has the right of first refusal for the purpose of converting the units to long-term low-income affordable housing to include homeownership, condominiums, cooperatives, lease-purchase, and/or remain as low-income rental housing. Any wording that follows would be similar to the resident ownership selection such as: *The deed of easement and Declaration of Restrictive Covenants shall reflect a right of first refusal. Units must be offered at the units' fair market value. Total costs per unit is subject to the limits of Section 221 (d)(3)(ii) of Section 42. Applicants must submit a conversion plan that will be evaluated for feasibility and compliance with all regulations (Section 42, Fair Housing, and all other funding sources requirements). Syndication documents must reflect the conversion plans.*

If preservation strategies for new tax credit applications were incentivized sufficiently beginning in 2011, then the state could significantly decrease the future demand for reinvestment of LIHTC/HDF funds from 2026 forward. In addition, for existing LIHTC developments approaching the end of the tax credit period, DSHA could provide similar incentives through HDF or other funding sources to encourage conversion to long-term affordability where the housing stock, partners and structure are appropriate.

## COMMUNITY LAND TRUSTS

Background: The community land trust (CLT) model is a nationally proven, successful model for helping low-income households secure and maintain truly affordable housing. The CLT concept is being used successfully in a variety of residential developments including homeownership, condominiums, cooperatives, lease-purchase, and rental housing. While these applications differ in approach and complexity, the underlying factor is non-profit ownership of land and community (resident) control of assets. These are the principal reasons that CLT homeowners are, for instance:

- far less likely to experience foreclosure - 1/8 the national rate,
- more likely to remain homeowners - 90% remain homeowners after 5 years compared to 50% for first-time homebuyer programs, and
- build assets for more successful lives - 70% of CLT homeowners go on to buy market-rate homes.

## CONVERSION INCENTIVES AND EXAMPLES

Conversion of tax credit rental housing to condo/cooperative ownership was made possible by an IRS private letter ruling in 2007. At a training institute sponsored that same year by NeighborWorks America, one of the earliest LIHTC condo conversions and one of the first LIHTC cooperative developments were profiled. These types of deals are complex and require restructuring of debt, but the outcomes yield substantial and lasting affordable housing results for the low-income population.

Diamond State CLT is in contact with several programs around the country that Delaware can learn from going forward. Examples and points of information:

1. Ohio's LIHTC portfolio includes several thousand single-family homes that were developed on a lease-purchase model. At the end of Year 15, the homes are sold to their existing tenants, the remaining bank debt is taken out by the tenant's new mortgage, and the secondary debt is either being forgiven or converted to soft debt. The lease-purchase model could be employed in multi-family buildings by converting them to condominiums. Community Land Trust ownership of the land could be added for additional assurance of long-term affordability and operation.
2. California has a LIHTC project that was planned from the beginning as a limited equity cooperative (LEHC). A cooperative corporation was formed for the tenants prior to lease up. The cooperative leased the whole building and was responsible for its management. After 15 years the cooperative has the right to buy out the sponsor and tax credit investors. This arrangement could work well with a CLT owning the land beneath the LIHTC deal. Cooperatives can be preferred to condos because the individual tenants (homebuyers) do not have to qualify for financing of their units, the cooperative corporation finances the whole project. The legal and physical requirements for converting rental buildings to cooperatives are easier in most states than converting them to condos. The cooperative units will remain more affordable to low-income owners (cooperative members) over time.
3. A Community Land Trust could even organize a cooperative corporation that would grow over time by acquiring scattered site housing, both single-family detached along with multifamily buildings. Each household would lease a home from the cooperative housing corporation in which they could become vested as an owner/member with an opportunity for shared-equity.
4. Experts agree that it is much easier to carry out the Year 15 conversion to other forms of longer-term affordability if the deal is structured that way from the beginning.

## CONCLUSION

Looking at the long run of public financial investment, implementing Preservation by Design would substantially increase the supply of affordable housing for Delawareans and expand the reach of Delaware's Low-Income Housing Tax Credit Program.