

MEMORANDUM

TO: Joint Committee on Tax Credits, Other Interested Parties

FROM: Joe Erdelyi, Director of Development
Joshua Slade, Development Officer

RE: 2015 Qualified Allocation Plan Proposed Changes – Second Public Hearing

DATE: August 12, 2015

This memo outlines proposed changes to the 2015 Qualified Allocation Plan. There will be a meeting for the Joint Committee on Tax Credits, which is also a public hearing, on:

Wednesday, August 19, 2015
10:00 am

Vermont Housing Finance Agency, 164 St Paul Street, Burlington
(Note: meeting is expected to run 10:00am – Noon; lunch will be served)

ATTACHMENTS

- Draft Qualified Allocation Plan
<http://www.vhfa.org/sites/default/files/documents/developer/2016.%20DRAFT%20Qualified%20Allocation%20Plan.pdf>
- Draft QAP Evaluation Checklist
<http://www.vhfa.org/sites/default/files/documents/developer/2016%20DRAFT%20Evaluation%20Checklist.pdf>
- Minutes of the JCTC meeting of 7/8/15
<http://www.vhfa.org/sites/default/files/JCTC%20Minutes%20Final%20%207.8.15.pdf>
- Demographic information (Appendix 1) on Housing Needs Assessment (see QAP)
- Comments from the public
 - * Northeast VT Development Association 7/8/15 Letter
 - * Vermont Coalition of Runaway & Homeless Youth Programs 7/28/15 Letter of Support
 - * Cathedral Square Corporation 7/7/15 Letter
 - * Cathedral Square Corporation 7/17/15 Scoring comparison
 - * Cathedral Square Corporation 7/28/15 Letter
 - * Housing Vermont 7/30/15 Letter
 - * John Graham Shelter 7/25/15 Letter
 - * VA Medical Center 7/29/15 Email
 - * AARP 7/27/15 Letter
 - * American Lung Association 7/6/15 Letter
 - * Downstreet 7/8/15 Letter
 - * Champlain Housing Trust 7/31/15 Josie Curtain email
 - * Champlain Housing Trust 7/31/15 Brenda Torpy letter

SUMMARY OF PRIOR ACTIONS

At the public hearing of 7/8/2015 the Joint Committee on Tax Credits (JCTC) discussed the proposed changes to the Qualified Allocation Plan. At that meeting they reached consensus on the following recommended changes:

- Adding the staff-proposed definition for SASH, distinct from Supportive Housing.
- Adding language to clarify that both Supportive Housing and SASH service-enriched housing get the 130% basis boost.
- Changing the “State’s Con Plan Priorities / Other Priorities” threshold requirement from three top tier and one lower tier to two top tier and two more priorities.
- Adding a top-tier priority under the “State’s Con Plan Priorities / Other Priorities” for sponsors that will provide Supportive Housing units in a number that is at least 25% of the proposed Housing Credit units, either at the proposed development or elsewhere in the sponsor’s portfolio.

Open for further discussion were the following issues:

- Whether to leave in the QAP any definition of Special Needs Housing, and if so what that definition is, and if so what sort of priority would be given to Special Needs Housing. (Staff recommendation is to delete the Special Needs Housing definition).
- Whether to mandate all Housing Credit projects going forward be smoke-free. (Staff does not have a recommendation requiring this).
- Whether the use of 25% of the credit ceiling for age-restricted senior housing is a set-aside or is (as was recommended in the last mailing) a target.
- How to establish a workable enforcement mechanism to allow project sponsors to serve Supportive Housing at locations within their portfolios but not at the Housing Credit project being proposed.

SUMMARY OF OPEN PUBLIC COMMENTS

Numerous public commenters including: The Vermont Coalition of Runaway and Homeless Youth Programs (VCRHYP), The John Graham Shelter, and the VA Medical Center have written in support for the proposed change that provides incentive to have 25% of the Housing Credit units serve Supportive Housing clientele.

This is being recommended.

A number of commenters including Housing Vermont, Cathedral Square Corporation, and Champlain Housing Trust request to see the eligibility for the 130% basis boost broadened to include more (if not all) projects that use ceiling credits – not just those that provide SASH housing or Supportive Housing.

Staff has been advised by the IRS against broadly allowing essentially the entire state or the entire universe of Housing Credit applicants to receive the basis boost. The intent of giving

state's discretion in determining the basis boost eligibility was to make it available to only a distinct and defined sub-set of the potential affordable housing developments.

Commenters including Housing Vermont, Champlain Housing Trust, AARP, and Cathedral Square Corporation have requested that some definition of Special Needs Housing that includes SASH be retained, and that AHS retain a role in making the determination as to which projects qualify as meeting a Special Needs definition.

See discussion below.

Related to this issue is the request that CSC has submitted that SASH housing be a top tier priority under the "State's Consolidated Plan Priorities / Other Priorities" evaluation criterion. CSC is concerned about the competitiveness of SASH housing projects for ceiling credits

See discussion below. Staff has reviewed their retroactive analysis and does not concur with the conclusion that senior housing projects would not be competitive for ceiling credits, under that analysis (see attachment).

Cathedral Square Corporation wishes to see the proposed SASH definition changed to clarify the depth of the program and the intensity of the services.

While Staff would be open to clarifying the depth and intensity of services, the proposed wording change is geared towards SASH only and not SASH-like service packages. Staff would only support clarifying language that would encompass both potential types.

Northeast Vermont Development Association (NVDA) wishes to see a high priority for Housing Credit projects that serve mixed income to the minimum amounts possible (i.e., 20% of the units affordable to 50% of AMGI or 40% of the units affordable to 60% of AMGI).

Staff believes this change would decrease remarkably the credits each project could qualify for and the equity each project could generate and would leave many projects with large capital funding gaps, and make them financially infeasible.

A number of commenters wished to see the Common Tenant Application be required to be universally accepted rather than be required to be universally used.

Staff supports this change/clarification.

Vermont Lung Assoc. has again requested that we require all LIHTC Housing to be smoke-free.

See below.

OPEN ISSUES FROM LAST PUBLIC HEARING

Whether to leave in the QAP any definition of Special Needs Housing, and if so what that definition is, and if so what sort of priority would be given to Special Needs Housing? Staff recommendation is to delete the Special Needs Housing definition and replace it with a priority for providing Supportive Housing for the Homeless.

The current Special Needs definition appears to be out of date and has not been consistently interpreted. For seniors the original proposal, developed by a work group at AHS, was intended to apply to congregate, assisted living like housing with daily regular services, and serving those who meet the HUD definition of frail (“An elderly person who is unable to perform at least three "activities of daily living" comprising of eating, bathing, grooming, dressing, or home management activities”). AHS has said it supports dropping the current Special Needs definition, and wants a higher priority for serving the homeless persons which is a AHS highest priority and of the newest ConPlan.

Persons needing supportive and or transitional housing through the DOC, mental health, VA, domestic violence, and other public systems are likely to meet the homeless definition. Additionally it is a federal Health and Human Services best practice to integrate persons needing supportive services within all housing we build. The State has also adopted this goal through its Olmstead policy. The policy direction Staff has received indicate making Supportive Housing for the Homeless a priority above other types of housing, including senior housing with SASH services and including Special Needs Housing of other types which can be accommodated within other proposed priorities. Any senior housing project requesting ceiling credits must have a threshold “that provides sufficient on-site services directly to residents to allow them to age in place and avoid nursing home care or other institutional utilization.”

VHFA will continue, as it has done in the past, to consult with AHS about what projects meet their greatest needs, particularly when there is competition among projects serving the special or senior populations.

Whether to eliminate the top tier criteria of providing “family” housing (general occupancy 2 bedroom or more units) to make things more level has also been discussed?

Staff supports this.

We do acknowledge that family or non-age-restricted housing is harder to develop, however given the demographics and the unmet need for housing of certain unit configurations, and given the public feedback on the issue, Staff proposes dropping the top tier priority under the “State’s Consolidated Plan Priorities / Other Priorities” 1(b), that says “Project provides family housing, unless local or regional need for another type of housing is demonstrated in a market study to be greater.”

Because age restricted senior housing is limited to about 25% of the housing credit ceiling each year, Staff believes, coupled with the Staff recommendation to clarify that the 25% is an approximate cap and not a set-aside, that the unit configuration is less of an issue. In other

words, if two projects both apply for credits, one senior and one all one-bedroom general occupancy, then those projects ought to compete with one another on the merits of other QAP criteria and priorities, and not on the basis of tenancy type. The Committee should know that the public comments were divided on this issue. Several commenters felt that the inclusion of the priority 1(b) puts senior projects at a scoring disadvantage, while other commenters felt the top tier priority for larger units and family housing was sound and ought to continue.

Another option might be to move the “family housing” priority to a lower tier.

Whether the use of 25% of the credit ceiling for age-restricted senior housing is a set-aside or is a target (as was recommended in the last mailing) or cap? Staff recommends the 25% be an approximate cap and that age restricted housing with services be evaluated along with other projects.

This concept was endorsed by the VHFA Board and a majority of the general public and by a majority of the Joint Committee on Tax Credits at the last public hearing. Housing Vermont and Champlain Housing Trust have proposed alternative language for this clarification to the language staff proposed. Staff suggests that “approximate cap” might be more clarifying. The new suggested language specifically states that “up to 25%” of the ceiling could be used for senior housing, but the intent of the Committee was to allow a little flexibility in the number so long as it was around 25%, since projects can come in with different sizes and different targeting that can make it hard for some specific projects to strictly conform to the 25%.

Whether to mandate all Housing Credit projects going forward be smoke-free?

Enforcement of this from a tax credit allocation point of view is very difficult. Staff recommendation is to leave the decision to make housing smoke-free to the owners and management teams of the individual projects.

How to establish a workable enforcement mechanism to allow project sponsors to serve Supportive Housing at locations within their portfolios but not at the Housing Credit project being proposed?

Many states have requirements that projects serve some number of homeless persons onsite; however, if this is not possible because the location or other factors the Owner/General Partner can identify alternate units in their portfolio. Best practice has been, and Staff recommends, identifying all the units in the Housing Subsidy Covenant of the project receiving the Housing Credit. The Owner/General Partner will have to certify these units are additional units and still Supportive Housing units as part of their annual compliance review. Non-compliance may eliminate the General Partner or its affiliates from future allocations of housing tax credits.

OTHER CHANGES

Also related to Senior Housing and Ceiling Credits: page 19 of the redline QAP, paragraph 16, includes reference to the 2010 Consolidated Plan. Staff proposes rewording this to read:

“Current Housing Needs Assessment data and other demographic data (see Appendix 1) continue to show a much greater unmet need for smaller general occupancy affordable housing than for independent age restricted housing. This Allocation Plan’s highest priority will be to alleviate the current shortage of affordable general occupancy housing, and to reduce and eventually eliminate homelessness.”

In addition Staff proposes inserting Appendix 1.