MAYOR'S OFFICE OF HOUSING
CITY AND COUNTY OF SAN FRANCISCO

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MAYOR

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DIRECTOR

MEMO TO: Owners and managers of affordable housing projects developed with low-income housing tax credits and MOH funds

FROM: Compliance Monitoring & Loan Servicing Unit

DATE: July 24, 2009

RE: Policy change regarding annual income recertifications for MOH-funded tax credit projects

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The Housing and Economic Recovery Act of 2008 abolished the requirement that affordable housing sponsors conduct annual income recertifications for projects where 100% of the units were developed with tax credits. In accordance with this change, TCAC eliminated this requirement from their regulations, however they chose to require a 1st annual income recertification beyond the initial certification that is conducted to establish tenant eligibility. In response to these changes and to inquiries from LISC and some of our non-profit partners, the Mayor's Office of Housing is revising its current policy requiring annual income recertifications for tax credit projects financed by this office.

Current Requirements

MOH finances many tax credit and non-tax credit affordable housing projects with HOME and CDBG funds from HUD. HUD regulations require the City to ensure that annual tenant income recertifications are conducted on all projects that we finance with HOME funds, but it does not require this under CDBG. It has been MOH's policy for several years to require sponsors to conduct income recertifications annually at all projects, regardless of the funding source behind MOH's financing and whether or not a project received tax credits. In addition, sponsors of supportive housing projects for the chronically homeless that are receiving funds from the City's Local Operating Subsidy Program (LOSP) are required to do annual recertifications.

MOH allows sponsors of tax credit projects to use the recertifications that they conduct for TCAC to satisfy our annual recertification requirement. In addition, TCAC's annual recertification process satisfies HUD's requirement for annual recerts in HOME-funded projects.

New Policy

Effective August 1, 2009, and until further notice, MOH's policy requiring annual income recertifications at tax credit projects is amended as follows:

<u>All Tax Credit Projects</u> – An initial income certification to establish eligibility and a 1st annual recertification are required of all tenants. These procedures must be conducted in accordance with 24 CFR 5.609, the HUD Handbook 4350.3 and TCAC regulations.

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Non-HOME, Non-LOSP Tax Credit Projects – For projects that do not involve HOME funds and are not supported by the LOSP, no annual income recertifications are required after an initial income certification and a 1st annual recertification have been completed.

HOME Tax Credit Projects – For projects financed with HOME funds, annual recertifications are required of all tenants; however, after the 1st annual recertification, sponsors shall conduct full annual income recertifications only every 6th year of the project's *affordability period*[1] and abbreviated annual income recertifications in the interim years, as permitted by HOME program rules[2]. For purposes of this policy, a "full annual income recertification" is the equivalent procedure as the initial certification and 1st annual recertification, as required by TCAC. An "abbreviated annual income recertification" consists of the completion and execution of TCAC's Tenant Income Certification form (TIC) and the Tenant Income Certification Questionnaire (TICQ) only; no verification of income or assets is required.

LOSP Tax Credit Projects – For projects that are receiving operating subsidies from the City's Local Operating Subsidy Program, annual income recertifications must be conducted of all LOSP Clients who reside in Assisted Units, in accordance with the Grant Agreement between the sponsor and the City.

This change in policy is not retroactive. Any recertifications that have been or will be commenced prior to 8/1/09 must be completed in full in accordance with the previous policy. For non-tax credit projects, Sponsors must continue to conduct annual income recertifications if their MOH loan agreements currently require it.

Guidance on Abbreviated Income Recertifications for HOME Projects

To implement this policy change for a HOME-financed tax credit project, a sponsor should consult MOH's HOME loan agreement and the declaration of restrictions to determine when the affordability period of the project commenced and when the 6th year, 12th year, 18th year, etc., of the period occurred or will occur, as the case may be. From 8/1/09 (the effective date of this policy) until the next 6th year of the affordability period and between every 6th year thereafter (years 2-5, 7-11, 13-17, etc.), the sponsor shall conduct abbreviated annual income recertifications for all existing tenants who have completed their 1st annual recertifications. Commencing with the next 6th year of the affordability period, the sponsor must conduct full income recertifications for all tenants and must continue to do so every 6th year thereafter until the end of the affordability period. For all *new* tenants, the sponsor must continue to conduct a full initial income certification and a full 1st annual income recertification, regardless of which year of the affordability period the tenants occupy their units in the project.

The basic rule of thumb is that, for all tenants, a sponsor must conduct:

- a full initial income certification to establish eligibility;
- a full 1st annual income recertification by the 1st anniversary of the lease;
- full income recertifications every 6th year of the project's affordability period[3]; and
- abbreviated annual income recertifications in the years between every 6th year of the affordability period.

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[1] "Affordability period" corresponds to the Compliance Term, as defined in most MOH loan agreements.
[2] 24 CFR § 92.252(h)
[3] Not to be confused with every 6th year of a tenancy.

Example:

Sunnyside Community Apartments – HOME-financed, 9% tax credit project

No. of Units: 30   No. of Units Currently Vacant: 1

Date Vacant Unit Becomes Occupied: 8/6/09

HOME affordability period: 4/15/05 – 4/14/60

Every 6th year of affordability period: 4/15/11-4/14/12 (Year 6),
4/15/17-4/14/18 (Year 12),
4/15/23-4/14/24 (Year 18), etc.

Starting 8/1/09, the sponsor will cease conducting full income recertifications and will do only abbreviated annual recertifications of the existing tenant households for whom a 1st annual recertification already has been completed. The sponsor will continue conducting abbreviated annual recerts of existing tenants until 4/15/11. From 4/15/11 to 4/14/12, the sponsor will conduct full annual income recerts of existing tenants, and on 4/15/13 will resume conducting abbreviated income recerts for the next 5 years until the next 6th year of the affordability period commences on 4/15/17.

For the new household who will occupy the vacant unit, the sponsor will conduct a full initial certification prior to occupancy and a full 1st annual recertification by their lease anniversary of 8/6/10. Because their lease anniversary in 2011 falls in the 6th year of the affordability period, the sponsor also will have to conduct a full annual recert for this tenant by 8/6/11, but can then conduct abbreviated income recerts in 2012 and continue until 2017, when Year 12 of the affordability period will require the sponsor to conduct full income recerts for this tenant and all other existing tenants.

Goals of the Policy Change

This change in policy is intended to facilitate more effective management of MOH-funded tax credit properties by freeing up time property managers currently spend on the annual income recertification process and giving them more time to carry out other duties. It is also intended, as much as possible, to reduce operating costs and improve a project's financial position and/or deepen its affordability. The City's expectation is that with the implementation of this policy change, property management outcomes at MOH-funded tax credit projects will improve, e.g. reduced vacant unit turnover times and vacancy rates, maximization of project income, decreased work order processing time, greater responsiveness to problematic tenants, etc.