HOMEOWNERSHIP CONVERSION PROGRAM GUIDE FOR QUALIFIED LOW-INCOME HOUSING PROJECTS

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Louisiana Housing Corporation

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PURPOSE

The purpose of this guide is to provide guidance to owners when converting single unit residential rental properties (“Single Housing Rental Units”) within a Qualified Low-Income Tax Credit Housing Project (“Project”) to owner-occupied single family homeownership properties (“Homeownership Units”) at the end of their Compliance Periods (“Compliance Period”) as defined at Section 42(i)(1) of the Internal Revenue Code (“Code”) and prior to the end of their extended low-income commitment (“Extended Use Period”) as required in Section 42(h)(6) Code. This manual also offers guidance to owners who would like to convert rental units to homeownership units, subject to implementation of right of first refusal (“ROFR”) with existing tenants.

Additional restrictions may apply depending upon the project’s financing structure and if it involves other restrictive funding sources.

OVERVIEW

Following the delivery of a Right of First Refusal Agreement (RORFA) for the benefit of the tenant or other qualified low-low-income household purchaser, and in order to participate in the Homeownership Conversion Program, the Owner must submit to the Asset Management Division of the Louisiana Housing Corporation (“LHC”) the following:

1. A Letter of Intent as outlined below;
2. A Homeownership Plan;
3. A Comprehensive Needs Assessment (“CNA”) to establish a budget for capital improvements to address any deferred maintenance items prior to sale;
4. Evidence of 100% ownership/control by the General Partner or Managing Member of the Taxpayer/Owner;

HOMEOWNERSHIP PLAN MINIMUM REQUIREMENTS

Owners of Projects developed with Tax Credits electing to convert Single Housing Rental Units to Homeownership Units for tenants or other qualified low-income households (“Qualified Purchasers”) must first establish and submit to LHC for review and approval a Homeownership Plan. The Homeownership Plan submitted by the owners, must detail the timing and terms of sale to Qualified Purchasers following their respective Compliance

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Periods as defined at Section 42(i)(1) of the Code.

Homeownership Plans may differ; however, the components of each Homeownership Plan must ensure the opportunity for homeownership by Qualified Purchasers at an affordable price. LHC has determined that the financing of all sales to Qualified Purchasers must be processed through LHC's Homeownership Program. The LHC Homeownership Program contains a variety of affordable financing opportunities that include purchase price limits, inspection requirements, and affordability calculations to ensure that the prospective Homeownership Unit is decent, safe, sanitary, and affordable for purchase by a Qualified Purchaser at either (i) the Minimum Purchase Price ("Minimum Purchase Price") calculated in accordance with Section 42(i)(7)(B) of the Code or (ii) a Purchase Price that is affordable to a Qualified Purchaser receiving 1st mortgage financing and down payment/closing cost assistance under LHC's Homeownership Program.

The following requirements of the Homeownership Plan apply to the Project:

1. Written confirmation from LHC's Asset Management Division that the Owner of the Project is or will be prohibited from requesting a Qualified Contract from LHC;

2. Proof from the Owner that each tenant in the prospective Homeownership Unit has been made aware of the opportunity to purchase the Homeownership Unit and has been provided and/or has executed a ROFR no less than twelve months prior to the date that a Single Housing Rental Unit will be eligible for purchase;

3. Confirmation by the Owner that a Qualified Purchaser, including the existing tenant, has been advised that the sale of the Single Housing Rental Unit is subject to (i) Qualified Purchaser completing homeownership training through LHC or a HUD-approved housing counseling agency and (ii) the Qualified Purchaser being approved for mortgage financing through a LHC Homeownership Program.

4. Confirmation that the Owner has provided LHC's Asset Management Division a "Letter of Intent" to sell Single Housing Rental Units to Qualified Purchasers no earlier than twelve (12) months after the date that a ROFR has been offered and/or executed by the existing tenants.

5. Confirmation that after completion of immediate repairs and replacements evidenced in the CNA for the Single Housing Rental Units that any excess reserves at the time of sale of the Single Housing Rental Unit will be transferred to the Qualified Purchaser and used for one or more of the following purposes:

    a. Providing additional down payment assistance to the Qualified Purchaser;
    b. Discounting the sales price of the Single Housing Rental Unit by an

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amount equal to the excess reserves; or

c. Purchasing a home warranty for the Homeownership Unit for the benefit of the Qualified Purchaser.

LETTER OF INTENT – MINIMUM CONTENT REQUIREMENTS

The Letter of Intent shall include all of the following:

1. Address of each proposed Single Housing Rental Unit to be sold to a Qualified Purchaser;

2. A list of all tenants executing a ROFR (including date of execution) and a separate list of tenants refusing to execute a ROFR.

3. A certification that Single Housing Rental Units will continue to be rented to an existing tenant during the Extended Use Period if the existing tenant refuses to execute a ROFR;

4. The Minimum Purchase Price calculated in accordance with Section 42(i)(7)(B) of the Code for each Single Housing Rental Unit; and

5. The Purchase Price proposed for each separate Single Housing Rental Unit.

6. Specific time period that Single Housing Rental Units will be offered to Qualified Purchasers.

HOMEOWNERSHIP FINANCING

To participate in the Homeownership Conversion Program, tenants and Qualified Purchasers must agree to occupy the Homeownership Units purchased as their principal residence.

All Qualified Purchasers must qualify for mortgage financing through one of LHC's Homeownership Programs. LHC has a list of participating lenders, which owners must provide to tenants and prospective purchasers. LHC Homeownership Programs have specific requirements including that each Qualified Purchaser complete a Homeownership Summary and to budget not more than thirty percent (30%) of the Qualified Purchaser's household income to principal, interest, taxes, and insurance ("PITI") on a LHC mortgage loan.

Owners must ensure that the purchase price of each Homeownership Unit is either (i) the Minimum Purchase Price required by Section 42(i)(7)(B) of the Internal Revenue Code or (ii) a Purchase Price that is affordable to a Qualified Purchaser receiving 1st mortgage financing and down payment/closing cost assistance under LHC's Homeownership Program.

- The Homeownership Plan must define the term "Right of First Refusal" and the Purchase Price of each Homeownership Unit and how much, if any, of project reserve funds will be made available to a tenant to purchase a Homeownership Unit.

- The Homeownership Plan must provide information regarding LHC's HUD Approved Homebuyer Education Program.

- The owner must distribute to all tenants, one year before the Conversion Date, a copy of the Homeownership Plan, including the form of the Purchase Agreement for a Homeownership Unit.

Each tenant must be given at least six (6) months after the delivery to the tenant of the Homeownership Plan to decide whether to execute a Purchase Agreement.

LHC and owners must ensure that homebuyers receiving LHC down payment assistance record all deed restrictions required of LHC's Homeownership Program. Homebuyer must execute Regulatory Agreement ensuring that the property will be occupied by residents at 80% AMI or below with a financing that is affordable i.e. 30% of Qualified Purchaser's household income.

UNSOLD UNITS

Owners have the following options for unsold Single Housing Rental Units:

1. Maintain the remaining units of the project as rental units, adhering to the Tax Credit Regulatory Agreement ("TCRA"); or
2. Offer the units under a LHC approved Lease-To-Own option plan for LHC's approval.

PURCHASE PRICE AND PROJECT FINANCING

At the sale of each Single Housing Rental Unit, LHC will execute a partial release of the TCRA reflecting the release of the restrictions concerning only the Homeownership Unit

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that has converted.

OTHER RESALE RESTRICTIONS

The procedures in this Policy Manual pertain only to low-income units ("LIUs") in the Low-Income Housing Tax Credit ("LIHTC") program. The owner must be careful to comply with other funding source restrictions for each LIU. These restrictions, if any, must be disclosed in the Homeownership Plan.

LHC will impose a processing and administrative fee to be determined, for review of each Homeownership Plan.

OPT-IN AND OPT-OUT PROVISIONS

Any properties that had lease documents that included either lease to own and/or right of first refusal provisions will need to comply with any notice or other requirements to tenants and provide proof of such and proof that the tenants do not wish to move forward with those options before submitting any waiver request to LHC. Developers that previously selected the lease to own and right of first refusal option in applications under prior Qualified Allocation Plans, may submit a request to opt out of the requirements by submitting a written request via e-mail to AssetManagement@lhc.la.gov and LegalDevelopment@lhc.la.gov. LHC and the developers requesting to opt out will document the waiver by having it captured in an assignment and assumption agreement or an amendment to the tax credit regulatory agreement signed by both parties and recorded in the public records.

Developers that previously did not select the lease to own and right of first refusal option in applications under prior Qualified Allocation Plans may submit a request to opt in to the Homeownership Conversion Program by submitting a written request via email to AssetManagement@lhc.la.gov and SingleFamily@lhc.la.gov and by complying with the requirements of the Homeownership Conversion Policy.

In order for a developers to convert Single Housing Rental Units in their projects to Homeownership Units when the Right of First Refusal (ROFR) was not included as a special condition within the Tax Credit Regulatory Agreement, such developers must execute a ROFR agreement with the Tenants. The conversion of Single Housing Rental Units to Homeownership Units may not occur prior to 12 months following the execution of the ROFR Agreement.

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CONTACT

For questions or technical assistance regarding this guidance please contact LHC's Asset Management Department via email at AssetManagement@lhc.la.gov or LHC's Legal Department at LegalDepartment@lhc.la.gov call us at (225) 763- 8700.

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APPENDIX: TERMS

Term	Definition
Affordability Restrictions	Recorded tenant income and rent restrictions that are placed on a project by a city, state (including the state credit allocating agency), bank or other lender of funds to the project. These restrictions are monitored by designated credit agencies and are enforceable for a set period of time. The restrictions bind the property and are assumed by any purchaser of the property. q
Compliance Period	Begins the first year tax credits are taken for each building and ends at the conclusion of the 15th taxable year after the first credit year.
Conversion Date	The first date that Single Family Units may be sold to Qualified Purchasers and become Owner-Occupied Units in accordance with the Right of First Refusal ("ROFR") offered to the tenants.
Extended Use Period	Begins on the first day of the Compliance Period and ends on the later of 1) the date specified by the agency in the agreement and 2) the date 15 years after the close of the Compliance Period.
Single Housing Rental Units	Individual housing units originally developed in a multifamily project, which is being sold to a qualified homebuyer as a separate and distinct single family homeownership property.
Tax Credit Regulatory Agreement (TCRA)	The document containing the Affordability Restrictions and other restrictions placed on the project related to the Housing Tax Credits.
Minimum Purchase Price	The Minimum Purchase Price for a qualified tenant exercising their Right of First Refusal is the sum of the property's Outstanding Debt and any taxes due upon the sale of the property, as defined in IRS Code 42(i)(7)(B).
Maximum Purchase Price	The purchase price which is affordable to a tenant or a Qualified Purchaser that may be financed under LHC's HOME/MRB Program.
Outstanding Debt	The sum of all debt secured by the project, including accrued interest. Although a loan may have a 30-year term, upon a transfer, including sale to a tenant, the full

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	amount of the debt must be repaid, assumed or forgiven, unless the lender approves a modification.
Right of First Refusal (ROFR)	A right offered that gives the holder the right to purchase the property at a Minimum Purchase Price. The statutory authority for the ROFR is contained in Section 42(i)(7) of the Code, which applies to projects with Housing Tax Credits allocated after 1989.
Qualified Contract	A bona fide contract to acquire a low income housing tax credit property for the sum of the existing debt, adjusted investor equity and other capital contributions less the property cash distributions as set forth in IRC §42(h)(6)(F). The QCP will establish the minimum price for the property required by IRC Section 42.

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