

**NEW YORK CITY HOUSING DEVELOPMENT CORPORATION
2021 OWNER CERTIFICATION OF COMPLIANCE
DEEP RENT SKEW PROJECTS**

CERTIFICATION PERIOD: January 1, 2021 through December 31, 2021

BUILDING IDENTIFICATION NUMBER (BIN): _____

The New York City Housing Development Corporation's ("HDC") Low Income Housing Tax Credit ("LIHTC") monitoring procedures implement the requirements of Section 42(m)(1)(B)(iii) of the Internal Revenue Code of 1986 ("Code"). The requirements of Section 42(m)(1)(B)(iii) apply to all buildings placed in service for which the LIHTC is, or has been, allowable at any time. The Internal Revenue Service ("IRS") published final regulations on September 2, 1992, as amended effective January 14, 2000 and January 1, 2001 ("amended IRS Regulations") that create procedures for monitoring compliance with Section 42 of the Code and reporting any noncompliance to the IRS. The IRS Regulations and HDC's Monitoring Procedures effective as of January 1, 1992, as amended, require that an owner of a project that received an allocation of LIHTC from New York City Department of Housing Preservation and Development (HPD) submit certifications annually to HDC for the period during which the project is required to comply with Section 42 of the Code.

THE UNDERSIGNED HEREBY CERTIFIES TO HDC, UNDER PENALTY OF PERJURY, THAT DURING THE CERTIFICATION PERIOD SET FORTH ABOVE:

1. **MINIMUM SET ASIDE:**

- A. The project meets the requirements of the 20-50 test under Section 42(g)(1)(A) of the Code ("20-50 test") (i.e. 20% of the project's rental units are rent restricted (as set forth in Certification 3 below) and occupied by individuals whose household income is 50% or less of area median gross income); or the 25-60 test under Sections 42(g)(4) and 142(d)(6) of the Code ("25-60 test") (i.e. 25% of the project's rental units are rent restricted (as set forth in Certification 3 below) and occupied by individuals whose household income is 60% or less of area median gross income); or the

40-60 test under Section 42(g)(1)(B) of the Code (“40-60 test”) (i.e. 40% of the project’s rental units are rent restricted (as set forth in Certification 3 below) and occupied by individuals whose household income is 60% or less of area median income).

- B. The project also meets the requirements of the 15-40 test under Sections 42(g)(4) and 142(d)(4)(B) of the Code (“15-40 test”) (i.e. 15% of the project’s Low Income Units, as such term is defined in Section 42(i)(3) of the Code are rent restricted (as set forth in Certification 3 below) and occupied by individuals whose household income is 40% or less of area median gross income).

2. **ANNUAL INCOME CERTIFICATION:** An annual income certification (“Tenant Income Certification”) has been received from each of the tenants in a Low Income Unit (as such term is defined in Section 42(i)(3) of the Code) along with documentation to support such certification, and such documentation has been examined and verified and each Tenant Income Certification has been calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937.

3. **RENT RESTRICTION:** Each Low Income Unit is rent-restricted under Section 42(g)(2) of the Code in accordance with Certification 1 above. **NOTE:** To meet this test the “gross rent” as defined in Section 42(g)(2)(B) of the Code with respect to such unit does not exceed (i) 30% of the project’s applicable income limit (50% of area median gross income or 60% of area median gross income) as adjusted by the imputed income limitation set forth in Section 42(g)(2)(C) of the Code (i.e. for units which do not have a separate bedroom one occupant is assumed and for units which have one or more separate bedrooms 1.5 occupants is assumed for each individual bedroom), and (ii) for at least 15% of the Low Income Units in the project, 30% of 40% of the area median gross income as adjusted by the imputed income limitations set forth in Section 42(g)(2)(C) of the Code.

4. **USE BY GENERAL PUBLIC:** All units in the project are for use by the general public pursuant to 26 U.S.C. 7805, Section 1.42-9.

5. **NO FINDING OF DISCRIMINATION:** There has been no finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, with respect to any the

units in the project. A finding of discrimination includes an adverse final decision by the Secretary of the Department of Housing and Urban Development (“HUD”), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. 3616(a)(1), or an adverse judgment from a federal court.

6. **USE ON NON-TRANSIENT BASIS:** All units in the project are used on a non-transient basis except for transitional housing for the homeless provided under Section 42(i)(3)(B)(iii) of the Code (i.e. the term of the initial lease is at least six months, unless either of the statutorily authorized exceptions set forth in Sections 42(i)(3)(B)(iii)(I) or (II) of the Code apply. If Owner is claiming eligibility for one of these exceptions, specify which applies).

7. **SUITABLE FOR OCCUPANCY:** Each building in the project and all project units are habitable and suitable for occupancy, in accordance with all applicable federal, state and local laws, rules and regulations. These include, but are not limited to, local health, safety and building codes and the state or local government entities responsible for conducting local, health, safety or building code inspections did not issuing a violation report for any building or low income unit in the project. If a violation report or notice was issued by the government entity, including HPD, ECB and DOB, attach a copy of the violation report or notice and provide a brief summary explaining the violation or notice and a statement that the condition which caused the violation or notice has been corrected.

8. **STATUS OF ELIGIBLE BASIS: (Check the appropriate box)**

There has been no change in the eligible basis (as defined in Section 42(d) of the Code) of any building in the project.

There has been a change in the eligible basis (as defined in Section 42(d) of the Code) of a building(s) in the project. The nature of the change(s) is as follows: *(Identify changes, building by building, using building address and Building Identification Number noted on IRS form 8609. If there has been a reduction in the eligible basis, attach copies of completed IRS forms 8609 and 8586. Attach additional sheets if necessary).*

9. **STATUS OF APPLICABLE FRACTION: (Check the appropriate box)**

There was no change in the applicable fraction (as defined in Section 42(c)(1)(B) of the Code) of any building in the project.

There has been a change in the applicable fraction (as defined in Section 42(d) of the Code) of a building(s) in the project. The nature of the change(s) is as follows: *(Identify changes, building by building, using building address and Building Identification Number noted on IRS form 8609. If there has been a reduction in the eligible basis, attach copies of completed IRS forms 8609 and 8586. Attach additional sheets if necessary).*

10. **TENANT FACILITIES:** All tenant facilities included in the eligible basis (as defined in Section 42(d) of the Code) of any building in the project (such as swimming pools, other recreational facilities, and parking areas) were provided on a comparable basis without a charge to all tenants in such building.

11. **AN EXTENDED LOW INCOME HOUSING COMMITMENT** as described in Section 42(h)(6) of the Code was in effect (for buildings subject to Section 7108(c)(1) of the Omnibus Budget Reconciliation Act of 1989), including the requirement under Section 42(h)(6)(B)(iv) of the Code that an owner cannot refuse to lease a unit in the project to an applicant who holds a voucher or a certificate of eligibility under Section 8. This requirement does not apply to any project that received an allocation of LIHTC from HPD pursuant to a Credit Reservation Agreement entered into by HDC prior to January 1, 1990.

12. **VACANCIES: (Check the appropriate box)**

There were no vacancies in any Low Income Unit during this certification period.

There were vacancies in one or more Low Income Units in the project. When and if an LIHTC unit in the project became vacant, reasonable

attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to applicants having a qualifying income, before any units in the projects were or will be rented to applicants not having a qualifying income.

There were vacancies in one or more Low Income Units in the project. When and if an LIHTC unit in the project became vacant, reasonable attempts were not or have not been made to rent that unit or the next available unit of comparable or smaller size to applicants having a qualifying income, before any units in the projects were or will be rented to applicants not having a qualifying income.

There were vacancies in one or more Low Income Units in the project, which resulted in the units not being suitable for occupancy. The nature of the vacancy is as follows: *(If any units were placed offline because of necessary repairs, list of the affected unit(s), the reason the unit(s) were unsuitable for occupancy (e.g. fire damage), the date(s) the unit(s) went offline, and the date(s) that all repairs were completed. Attach additional sheets if necessary).*

13. **INCOME LIMITATIONS:** Based upon the review of the Tenant Income Certification (certified as received and reviewed in Certification 2 above) for each Low Income Unit in each building in the project: **(Check the appropriate box)**

The income of the tenants of each Low Income Unit did not increase above the limit allowed in Section 42(g)(2)(D)(ii) of the Code (i.e. 170% of the project’s applicable income eligibility limit as outlined in Certification 1 above).

The income of the tenants of one or more Low Income Units in the project increased above the limit

allowed in Section 42(g)(2)(D)(ii) of the Code (i.e. 170% of the project's applicable income eligibility limit as outlined in Certification 1 above). The household(s) over 170% of the current income limit, at the time of recertification, continued to be included in the applicable fraction because the Next Available Unit rule was followed.

The income of the tenants of one or more Low Income Units in the project increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code (i.e. 170% of the project's applicable income eligibility limit as outlined in Certification 1 above). The household(s) over 170% of the current income limit, at the time of recertification, were no longer included in the applicable fraction because the Next Available Unit rule was not followed.

14. **VIOLENCE AGAINST WOMEN ACT (VAWA):** The project has complied with the Violence Against Women Act (VAWA), which provides protections for residents and applicants who are victims of domestic violence, dating violence, or stalking and any other situation or incidence mandated by VAWA. Compliance requirements mandated by VAWA include, but are not limited to, honoring civil protection orders, eviction protection, and bifurcation of lease when required.

15. **"DEEP RENT SKEW" PROJECT:** The actual annual gross rent with respect to each Low Income Unit in the project does not exceed one half of the average annual gross rent of comparable size market rate units.

16. **EXTENDED USE AGREEMENT:** An extended low income housing commitment as described in Section 42(h)(6) of the Code is in effect for the project.

17. **OWNERSHIP STATUS:** There has been no change in the ownership status of any building in the project.

18. **ATTACHMENT:** The information set forth in the attachment hereto has been obtained from the owner's records.

19. **AUTHORITY:** I am authorized to execute this document on behalf of owner.

The undersigned acknowledges that they are making this certification under penalty of perjury, and further certifies to HDC that all of the information set forth in this Owner Certification is, and for the Certification Period was, true, correct and is based up on a review of the records kept by the project owner pursuant to the IRS Regulations and HDC's Monitoring Procedures.

PLEASE NOTE: IF OWNER IS UNABLE TO CERTIFY TO ALL THE ABOVE STATEMENTS, PLEASE SPECIFY IN A SEPARATE SHEET ATTACHED HERETO IN WHAT RESPECT EACH BUILDING IN THE PROJECT DOES NOT CONFORM TO THE FOREGOING CERTIFICATION.

AUTHORIZED SIGNATURE

(PRINT)

NAME: _____

TITLE: _____

DATE: _____

STATE OF NEW YORK)
)
COUNTY OF _____)

On this _____ day of _____, 20____, before me personally came _____, to who being by me duly sworn, did depose and say that they are the _____ of _____, owner of the above-referenced project; and that they are authorized to execute this document on behalf of owner; and that the above statements are true, correct and are based upon a review of the records kept by the project owner pursuant to the IRS Regulations and the HDC Monitoring Procedures.

NOTARY PUBLIC