

NEW YORK CITY HOUSING DEVELOPMENT CORPORATION
2023 OWNER CERTIFICATION OF COMPLIANCE
LOW-INCOME HOUSING TAX CREDIT (LIHTC) PROJECTS

CERTIFICATION PERIOD: January 1, 2023 through December 31, 2023

PROJECT NAME: _____

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 the 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: (Check the appropriate box)

A. The project met the requirements of the minimum set-aside test indicated below:

- 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 4 below) and occupied by individuals whose household income is 50% or less of area median gross income);

- 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 4 below) and occupied by individuals whose household income is 60% or less of area median gross income);
- 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 4 below) and occupied by individuals whose household income is 60% or less of area median income)
- The Average Income test under Section 42(g)(1)(C) of the Code (i.e. 40% or more (or 25% or more in the case of a project described in Section 142(d)(6)) of the residential units in the project are both rent-restricted (as set forth in Certification 4 below) and occupied by individuals whose income does not exceed the imputed income limit designated by the taxpayer concerning the respective unit. The average of the imputed income limitations designated must not be more than 60% of the area median gross income. The designated imputed income limitation of a unit can only be 20%, 30%, 40%, 50%, 60%, 70%, or 80% of the area gross median income).

B. *For Deep Rent Skewed Projects only:*

The project also met the requirements of the Deep Rent Skewing minimum set-aside test indicated below:

- 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 are rent-restricted (as set forth in Certification 4 below) and occupied by individuals whose household income is 40% or less of area median gross income).

2. INITIAL ELIGIBILITY CERTIFICATION:

An income certification (“Tenant Income Certification”) was received at the time of initial occupancy of a Low-Income Unit certifying the resident’s eligibility under the appropriate income test and the LIHTC full-time student rule.

3. ANNUAL ELIGIBILITY CERTIFICATION:

An annual recertification was received for the certification period certifying the resident’s continued eligibility under the appropriate program requirements:

- For 100% LIHTC projects, the owner documented each household’s ongoing eligibility for the LIHTC program under the full-time student rule provision.
- For Mixed-Income and Deep Rent Skewed Projects, an annual income certification (“Tenant Income Certification”) has been received from each of the tenants in a Low-Income Unit 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 and ongoing eligibility for the LIHTC program under the full-time student rule provision.

4. RENT RESTRICTION:

Each Low-Income Unit is rent-restricted under Section 42(g)(2) of the Code in accordance with Certification 1 above.

5. 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.

6. 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 of 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.

7. USE ON A 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 the Owner is claiming eligibility for one of these exceptions, specify which applies).

8. 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 issue a violation report for any building or low-income unit in the project

As of this certification, are there any open violations with the following governmental agencies?

- New York City Department of Housing Preservation & Development (HPD)
 Yes
 No

- New York City Department of Buildings (DOB)
 Yes
 No

- Environmental Control Board (ECB)
 Yes
 No

If there is an open violation report or notice issued by any of the aforementioned government entities, 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.

9. 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).*
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10. 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).*
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11. 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.

12. EXTENDED LOW-INCOME HOUSING COMMITMENT:

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.

13. VACANCIES: (Check all that apply)

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 a 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 a 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).*

14. WAITING LIST AND TENANT SELECTION: (Check the appropriate box)

A. Does the project have an active waiting list and waitlist procedures?

- Yes
- No
- N/A – Initial Lease-up Ongoing – Working off the lottery
- N/A – Project Marketed in Housing Connect 2

If “No” is selected, please include a complete copy of Attachment K: Notice of Remarketing from the HDC & HPD Marketing Handbook Attachments available on HDC’s website.

B. Has the owner refused to lease a unit at this project to an applicant based solely on the applicant’s status as a holder of a Section 8 voucher or any comparable voucher/subsidy?

- Yes
- No

If “Yes” is selected, please provide a list of the applications rejected solely on this basis and provide an explanation for the circumstances that resulted in rejection.

15. 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, 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 a lease when required.

16. OWNERSHIP STATUS:

There has been no change in the ownership status of any building in the project.

This section (#17) applies to Mixed-Income projects (non-Deep Rent Skewed) ONLY:

17. INCOME LIMITATIONS: (Check the appropriate box)

Based upon the review of the Tenant Income Certification (certified as received and reviewed in Certifications 2 & 3 above) for each Low-Income Unit in each building in the project:

- 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. 140% 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. 140% of the project's applicable income eligibility limit as outlined in Certification 1 above). The Low-Income Unit(s) over 140% of the current income limit, at the time of recertification, continued to be included in the applicable fraction until the Next Available Unit rule was satisfied. ***If this option is selected, a copy of your Next Available Unit Rule tracker for each building must be provided.***
- 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. 140% of the project's applicable income eligibility limit as outlined in Certification 1 above). The Low Income Units(s) over 140% 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. ***If this option is selected, a copy of your Next Available Unit Rule tracker for each building must be provided.***

This section (#18 – 19) applies to Deep-Rent Skewed projects only:

18. INCOME LIMITATIONS: (Check the appropriate box)

Based upon the review of the Tenant Income Certification (certified as received and reviewed in Certifications 2 & 3 above) for each Low-Income Unit in each building in the project:

- 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. ***If this option is selected, a copy of your Next Available Unit Rule tracker for each building must be provided.***

- 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. ***If this option is selected, a copy of your Next Available Unit Rule tracker for each building must be provided.***

19. DEEP RENT SKEW PROJECT RENT LIMITATIONS:

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 as required under Section 142(d)(4)(B)(iii) of the code.

20. ATTACHMENT:

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

21. AUTHORITY:

I am authorized to execute this document on behalf of the 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 on a review of the records kept by the project owner pursuant to the IRS Regulations and HDC's Monitoring Procedures.

PLEASE NOTE: IF THE 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 the 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