



LOW INCOME HOUSING TAX CREDIT (LIHTC) PROGRAM

2019 Qualified Allocation Plan (QAP) Public Hearing

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DSHA 2019 QAP Notice of Public Hearing



The Delaware State Housing Authority (DSHA) is in the process of finalizing the State of Delaware's 2019 Low Income Housing Tax Credit (LIHTC) Qualified Allocation Plan (QAP). DSHA will hold a public hearing to discuss the proposed QAP from 9:30 – 11:30 a.m. on Monday, December 17, 2018.

The public hearing will be held at the Department of Natural Resources & Environmental Control's (DNREC) Auditorium, located at 89 Kings Highway, Dover, Delaware.

Oral and written comments will be accepted until that time. Written comments may be sent to DSHA, 18 The Green, Dover, DE 19901, Attn: Cindy Deakyne. After considering the comments received, DSHA will recommend the final QAP to the Governor for approval. Once approved, the QAP will be available to the public on DSHA's website (www.destatehousing.com). TTY/ ASCII/ VOICE/ VCO users may utilize the Telecommunications Relay Service (TRS) at 800.676.3777.

If you have any questions about the LIHTC Program, please contact Cindy Deakyne, Housing Development Administrator by phone at (302)739-4263, or (888)363-8808 or via e-mail at cindy@destatehousing.com.



DSHA 2019 QAP Public Hearing Agenda



2019 Low Income Housing Tax Credit (LIHTC) Qualified Allocation Plan (QAP) Public Hearing

Department of Natural Resources & Environmental Control's (DNREC) Auditorium
89 Kings Highway, Dover, Delaware
December 17, 2018
9:30 a.m.

AGENDA

1. Welcome and Opening Remarks
2. Discussion of 2019 Draft QAP:
 - **Credits Available:** Estimate \$3,105,000
 - **Definitions and Threshold Clarifications**
 - Opportunity Zones
 - Average Income
 - Minimum Point Score
 - **Ranking Modifications and Clarifications**
 - Qualified Contract
 - DSHA Debt in Preservation
 - Serving Lower Income / Average Income
 - Cost Balance
 - Section 811 Incentives
 - **Guidelines**
 - DSHA Funding Availability
 - National Housing Trust Fund
 - Sustainable Energy Utility Funds
 - Operating Per Unit Costs
 - **Timetable**
3. Comments, Questions, Adjournment

PRELIMINARY 2019 DSHA LIHTC TIMELINE

December 17, 2018	2019 QAP Public Hearing-held from 9:30 -11:30 at the Department of Natural Resources and Environmental Control Auditorium
January, 2019	2019 QAP released
February 15, 2019	Deadline to apply to Delaware Transit Corporation for DRAFT Memorandum of Agreement
February 22, 2019	Deadline for pre-inspection notification if applying for preservation, rehabilitation, or conversion projects
March 8, 2019	Deadline for DSHA General Contractor approval and/or updates
March 15, 2019	Deadline to request DelDOT technical assistance for connectivity point category
March 28, 2019	Deadline for tax credit comparable rents, if seeking HDF funds
April 8, 2019	Deadline for all applicants to schedule site visit of development
April 29, 2019	All LIHTC applications due to DSHA by 3:00 p.m.
On or before July 5, 2019	Preliminary ranking notifications released
October 25, 2019	Commitments for all financing must be submitted to DSHA <i>DSHA will make tax credit allocations for selected projects 30-60 days after financing commitments are received</i>
December 13, 2019	Deadline for pre-closing documents for HDF-financed projects
December 13, 2019	DSHA will execute carryover allocations for selected projects on or before this date

DSHA 2019 QAP Public Hearing Transcript

Minutes from the 2019 QAP Public Hearing @ DNREC's Auditorium in Dover, DE @ 9:30 am on December 17, 2018

Cindy Deakyne, Susan Eliason and Jack Stucker started the meeting at 9:45 am. They welcomed the attendees, went over opening remarks and proceeded to go through the agenda items and timeline one by one.

At 10:07 am, Cindy opened up the meeting for public comments. The comments were as follows:

Ian Rauhauser, HDC MidAtlantic – So for preservation projects, the point incentive to be able to pay off HDF, are you looking at just principal or principal and any accrued interest in that percentage?

Jack – That will be principal and interest.

George Beer, Delaware Valley Development Company – I have four (4) comments I want to throw out there. The Development Fee Measurement – I want to preface this by saying that Development Fee is not Development Profit. Development Fee is compensation for overhead risk and a whole bunch of other things. As I read your calculus on Development Fee, as soon as my Development Costs have gone over 6.6 million dollars, I no longer get a 15% Fee. I just completed a job in Easton, MD, I was actually talking to Susan about it. It was a very clean new construction job – it cost about 15 million dollars – it was only 72 units, so under your program, I would get a million dollars on a 15-million-dollar deal and that works out to be a 6.6% Fee. I look at all the other states around here and no one puts hard caps on fees as low as you guys do. If you want to keep the Developers in business, I think you really should take a look at those hard caps. They've been sitting on the books for a long time – I think you may want to look at your neighboring states and I think you need to balance that. I did a deal 2-3 years ago down in Seaford, DE – our ultimate Developer Fee ended up at 5%. The Delaware State Housing Authority was fine with me walking away with 5%, I just don't think that that's right. My 2nd comment – on getting points for these 811s, many years ago, we were approached by DSHA to take a look at taking some 811s and voluntarily we took some 811s. We now have 37 811 vouchers in our portfolio. As I look around the room, I don't think anyone has even got a quarter of 811s and I feel that maybe you should be giving people who have already taken these 811s along the way, because we were asked and it's not an easy program, and I think there's gotta be a mechanism in there – we've played the volunteer game for many years, that there should be some mechanism where I get points for what I've already done. My third area is the Qualified Contract. You're giving people points for taking a percentage of their portfolio and

waiving the Qualified Contract rights. My portfolio is about a 1,000 units in Delaware. There are other people in the room that maybe have 50 units in Delaware, so I really don't think you can do it on percentages, you've really gotta do it on number of units because for me to give it all up and someone else who's only got a couple of units in Delaware – for them to give it up – it's a big difference, especially some of these older deals that are sitting with a lot of soft debt and there seems to be no way out and DSHA's not – I've met with Susan a couple of times and we haven't figured out a way to get through some of these old deals with a great deal of debt, so we're looking at taking away the rights that Section 42 had in them. So maybe some people in Congress in 1986 sold a bill of goods, those people are mostly dead, so I don't know what those people on the Hill are talking about because the Qualified Program came out in 1986. I had a fourth (4th) point, but can't remember what it is, so I'll give up the mic for someone else and I'll come back up.

Jack – Thank you for the comments.

Glenn Brooks, President of Leon N. Weiner & Associates – We will be submitting a letter later today with more details, so I'll limit my comments to just a couple of areas. First of all under Threshold Requirements, I just want to go on record to say that we are philosophically opposed to Qualified Contract Waiver. I know you didn't change that this year, but we objected last year and I want it noted that we object again. Following up on George's point about the QC Waiver on existing projects, I point out that just because the National Council on State Housing Agencies is suggesting this and there are some congressmen that are a little nervous about this, doesn't make it a good policy for Delaware. I know there's a little history with a Developer who threatened to take a project Qualified Contract last year, please don't make this the way DSHA works, which is an overreaction to the actions of the Developer. We too have a very large portfolio of existing Low Income Housing Tax Credit properties with no subsidies. We don't see a way out given your current QAP, so it's not quite fair when some Developers and Owners have one project and we have thousands of units. So doing it the way that you're proposing is not fair. You really need to give a way to recapitalize these properties. As you know, historically, existing 100% Low Income Housing Tax Credit properties just don't fare really well under current policies and with the huge amounts, in some cases, of existing soft debt and accrued interest, it makes it almost impossible to do a 4% bond deal. I also remind you that those of us who have active investors, while it's not a contractual obligation, our investors have expectations and to go back and retroactively change a business deal may not be viable for many projects with active investors. On the Development waiver language, you still allow three (3) – thank you for that. We thought last year there was a lot of transparency and we're huge advocates for transparency in the Low Income Housing Tax Credit program. You seemed to have removed language that promotes transparency whereby last year you published waiver requests. You've taken that language out, so I hope that's not an attempt to eliminate transparency. Finally, on the income averaging provision, I understand you want to do 55%. States like New Jersey, I believe, allow the project to proceed at up to 58% average income, so I would respectfully request that you consider a slightly higher average. It's probably going to turn out to be from a Developer perspective best practice, to go

below 60% in case a unit is threatened, but again 58, 57, some number higher than 55 may be appropriate. Again, later today, we will send a more detailed letter so thank you for hearing my comments.

Cindy – Thank you. Oh, George must have remembered.

George Beer, Delaware Valley Development Company – (with point #4) – I want to pick up on something that Glenn said: Something else to consider when asking people to give up their Qualified Contract rights, is that a lot of these older tax credit deals were done with 30-year amortizations, but only 18-year returns. So I'd say that almost every permanent one out there – I'm not sure what the exit strategy is on the hard debt side either, because you take away the one right. I don't even have a loan that takes me out any further than 18, so I think it's just a bad policy – bad idea.

Christina Stanley, Milford Housing Development Corporation – I want to reiterate the comments that both George and Glenn made. We don't agree with the Qualified Contract language. I think it's one of those things that overall we agree that it's a poor policy in general. I don't think we should be giving up Qualified Contract rights one, and two to put the new language in there seems way off. With respect to the 811 units, we also, similar to Delaware Valley, have utilized 811 on the management side – I think the program is not where it needs to be – I don't think we should penalize people for something that's not in place. Also with doing additional units, the program is not where it needs to be. I don't think we should be adding them onto other projects. Also in doing that – we have a larger portfolio as well, there's a big difference in someone who has a large portfolio and someone who has a smaller portfolio – taking on units should not be based on percentage.

Jack – Thank you.

Larry DiSabatino, DiSabatino Construction – I've made this request before – for final payment to contractors, I don't think contractors should be required to wait for the final closing on a project to take the last 2-1/2 % of their monies. Perhaps some kind of deadline could be installed once cost certification is done – "X" number of days are allowed to approve and process the contractor's cost certification and final payment should be made. Thank you.

Jack – If we don't have any more comments, I think we'd like to thank everyone for their thoughtful comments – we will take them into consideration. I do understand some of the changes with Qualified Contracts do impact existing projects, and we take that very much into consideration. I do think, although, our changes are following the National Best Practices, I also think that it's a good fit for Delaware. It is true that there have been some

Qualified Contract discussions ongoing, I think DSHA is interested in making sure that options other than Qualified Contract are incentivized, and Qualified Contract is disincentivized, so we will take your comments into consideration as we move forward with the QAP here. I think it's going to be a continuing trend that DSHA's interested in disincentivizing Qualified Contract.

Cindy – I just want to add too that I know we've had several comments here today and that if you have a fairer and more balanced approach – I'm sure you all will agree that this is a very important issue for the State and for your portfolio, so if you have a fairer balanced approach for your current portfolio, please send those to us today. We'd really appreciate hearing it from you on what's more fair.

Susan – I just want to reiterate what Jack and Cindy said that we really appreciate everyone coming today, providing comments, giving a lot of thought to the QAP and how it will best work in Delaware because in the end, that is everyone's common goal to have a QAP that works for projects in Delaware – to solve problems that are in Delaware. So again, I thank everyone for their comments. I also want to take this opportunity to say that we have heard from one of his business partners, that Jim Petrucci – a long time Developer in Delaware, suffered a massive heart attack and has died. So I wanted to share that while we were all together. Sorry to end on such a sad note, but thanks again for coming and we appreciate your comments.

The Public Hearing was adjourned at 10:25 a.m.

Respectfully submitted,

Mabel Jean Hayes
Administrative Specialist II

DSHA 2019 QAP Responses to Comments Received

Phased Developments

Commenter requested availability to allow for consecutive 9% LIHTC applications prior to stabilization of previous projects.

Response

DSHA may grant waiver of the limitations for phased developments applications at DSHA's sole discretion. Such waivers will only be considered for proven projects.

Credit Request

Commenter requested an increase in the \$1,000,000 credit request limit.

Response

This limit is in place to ensure DSHA is able to fund a sufficient number of projects with the small state set aside and will remain in place.

Pools

Commenter suggested the nonprofit pool should be more than minimum set aside.

Response

The nonprofit pool operates to provide the full amount of the request for the highest ranked nonprofit. This requested amount is typically above the minimum but DSHA maintains a minimum threshold for the IRS required set aside.

Preservation

Commenters encouraged DSHA to consider more creative options to recapitalize the existing portfolio.

Commenter appreciated the sliding scale debt repayment incentive but suggested it is not enough without additional recapitalization options.

Response

DSHA is committed to continuous conversation with Owners to utilize existing and create new opportunities to stabilize and preserve the affordable housing portfolio. DSHA continues to welcome suggestions on financing options that would serve the need for preservation of Delaware's affordable housing stock.

Waivers

A commenter requested DSHA continue to be transparent and post waiver requests after awards.

Response

DSHA will continue to post waiver requests after awards.

Appraisals

A commenter requested DSHA include "future benefits in the present value" in the "as-is" definition.

Response

The appraisal definition allows DSHA discretion to accommodate unique circumstances. DSHA may allow valuation which takes into account maximum LIHTC rents in certain circumstances.

Average Income

Commenters appreciated DSHA's adoption of the average income election and requested that the maximum average income allowed should be 58% rather than the proposed 55%.

Response

DSHA will allow up to 58% but continue to incentivize deeper affordability in the category for serving lower income residents.

Developer Fee

Commenters requested the base developer fee cap should be higher at \$1.2 million; should increase annually; and, that special consideration should be considered for large phases or 4% deals. A commenter requested that developer fee should include the full cost of Acquisition for identity of interest transactions. A commenter also requested that the identity of interest exception should be extended from 3 to 5 years.

Response

DSHA will increase the base developer fee cap to \$1,100,000 for projects over 70 units. Identity of interest transaction will continue to be allowed to include 5% of the acquisition costs in the developer fee calculation and the exception will remain 3 years. An incremental increase in the Developer Fee was also recognized for larger projects.

Target Units

A commenter described difficulties with the referral program providing eligible applicants and suggested the minimum of 5 units is unfair to small projects.

Response

Target unit referral system is being continuously improved in partnership with owners and service providers. The minimum of 5 units ensures sufficient capacity to serve this critical need in Delaware and will remain. DSHA remains committed to working together with partners to serve this demonstrated need for Delaware.

Section 811

Commenters suggested that rewarding new 811 disadvantages Owners with 811 in portfolio already. A commenter had challenges with the referral system providing eligible applicants.

Response

DSHA appreciates the commitments made by Owners currently under contract with the 811 program and advises that current 811 participants can still receive incentive scoring by electing to increase participation to the maximum 20% allowed per project. Additionally, current 811 program participants will receive incentive scoring for contract performance if >60% of 811 units under contract are occupied by 811 qualified tenants. DSHA is actively engaged in discussion with Owners, Managers, and service providers to ensure the 811 referral system is being continuously improved. DSHA remains committed to working together to use this subsidy that assists a demonstrated need for Delaware.

Social Services

A commenter described that sometimes tenants do not want the services that are offered.

Response

DSHA encourages Owners to engage in a continuous review to ensure the services offered are available and useful to the tenant population.

Increase in Compliance Period and QCP Waiver

Several commenters suggest that the method of awarding scoring based on a percentage of portfolio is unfair to larger developers and that the incentive should be based on numbers of units or not at all. A commenter was concerned that Qualified Contract waiver would require lender approval which may be difficult for projects where the loan term is > 15 years. Commenters suggested that waiver of qualified contract would impair prior contractual obligations and that removing qualified contract as an option eliminates an option for owners to recapitalize projects. Additional Commenters described how qualified contract requests pose a threat to the preservation of affordable housing and emphasized the importance of qualified contract prevention to the preservation of affordable housing stock. Some commenters support points aimed at dis-incentivizing qualified contract to preserve developments as affordable for longer. A commenter suggested DSHA should disbar developers who engage in qualified contracts from further applications.

Response

DSHA is committed to the preservation of the affordable housing portfolio and to assisting the developer community. DSHA understands development partners or lenders may have to provide consent to a qualified contract waiver, and that may not be available in all circumstances. This waiver option would not be a requirement, but an incentive for demonstrating an ongoing commitment to a project's affordability where able.

DSHA appreciates the need for project's financial stability and is committed to developing and exploring options with partners to provide opportunities for recapitalization and stabilization while preserving affordability.

DSHA remains committed to incentivizing options that preserve affordability, but will remove this incentive scoring category in the 2019 QAP, pending further consideration. DSHA may consider for 2020 QAP waiver incentives based on number of units vs. projects.

Areas of Opportunity / Distressed

A commenter suggested DSHA should grant maximum scoring when a project in distressed areas includes 20% mixed-income, market rate housing.

Response

Projects in a distressed area that is also a QCT / DDD / DDA / OZ and meaningfully contribute to the neighborhood's revitalization plan will receive maximum scoring in this category. If the project includes market rate housing and this contributes to the revitalization plan, maximum scoring would be available.

Sites and Neighborhoods

Commenters described how negative points disadvantage projects near railroads, jails, and brownfields and requested that negative site features be capped to no more than 50% of possible score in the category. A commenter requested that negative features across natural or physical barriers to be removed from consideration.

One comment requested that community centers adjacent to the project count for the construction minimum of including community space in the building

Response

The balancing of sites and neighborhoods is designed to take into account all the positive and negative amenities. Urban areas often have more positive amenities, but are sometimes located near drawbacks. It is not equitable to have an arbitrary limit to the offset of negative features.

If a negative feature is truly separated from the project site by a physical barrier, it may be considered excluded but would count as a waiver request.

Community centers are a positive factor for sites and neighborhoods and will count for sites and neighborhoods scoring. Additionally, if the community center offers qualifying services to the project, it may count for scoring as a service. It will not fulfil the construction standard of having community space in the building.

Energy Conservation and Environmental

Energy Star Homes should be a point category, Advanced Energy Standards should be Threshold not points, and specifically Energy Star Homes should be a threshold requirement.

The LEED category should include LEED BD+C for homes and Multifamily Low Rise and Mid Rise. DSHA was commended for commitment to sustainable housing by continuing to include green programs like the NGBS.

Response

DSHA is committed to the feasibility of a full range of energy efficient projects but cannot make

these standards thresholds. DSHA will continue to incentivize energy efficient development and understands that Energy Star is a component of the evaluation methods already established. DSHA will update the LEED Category to include the BD+C language

Cost Reduction

A commenter suggested that DSHA should weigh the cost category differently to take into account the cost differences across New Castle / Kent / Sussex Counties.

Response

DSHA will conduct an analysis of the cross county cost data and consider in future years.

Design and Construction Standards

Final payment to contractors should not have to wait for payment until closing. Some policy should be made so you don't have to wait for closing or cost cert to get paid.

Response

The policy on retainage was changed in 2017. Release of retainage requires an LOC/Working Cash Reserve (WCR) equal to or greater than the final 2.5% retainage. If the existing LOC/WCR is less than the 2.5% retainage, the owner must increase the LOC/WCR as necessary. If no LOC/WCR was required at initial construction closing, the owner must provide a new LOC/WCR equal to the final 2.5% retainage that will be held until final conversion. Additionally, approval of both cost certifications and written approval from all lenders, syndicator, and bonding company is required.

DESEU Funds

Commenter requested ability to count these as source of funds at initial underwriting purposes.

Response

The funds will either be loans or rebates, but will only be available after DESEU review and approval. Therefore, they cannot be considered in initial underwriting at application. Developers may at their own risk account for these funds at initial underwriting by opting to defer developer fee in expectation of receiving DESEU funds.

DSHA 2018 QAP Written Comments Received

Cindy L. Deakyne

From: Hughlett Kirby <HKirby@cinnaire.com>
Sent: Monday, December 17, 2018 3:11 PM
To: Susan R. Eliason; Jack Stucker; Cindy L. Deakyne
Cc: Susan Frank; Jim Peffley
Subject: DRAFT QAP Comments from Cinnaire

Susan, Jack & Cindy:

I was sorry not to be able to attend the public hearing this morning, due to a previous commitment. But, on behalf of Cinnaire, I did want to send in our comments before your deadline of this afternoon.

In response to the QAP Draft discussed this morning at the public hearing, Cinnaire wanted to share our concerns with one particular point category, shown on page 45 of 84 and titled: **In addition up to 5 points will be awarded to developments that agree to waive their right to request a qualified contract under Section 42(h)(6)(E)(i) of the IRC for the Applicant's current Section 42 Delaware portfolio.**

Cinnaire's large legacy loan and equity portfolios include many of the projects to which this category applies, and, as such, we want to point out the challenges of securing approval from investors and participants for such a waiver, which would impact the value of the collateral securing these investments retroactively. Many of the loan terms for these permanent loans extended 18 to 20 years, so beyond the 15-year equity retention period. So, even if the original developer has bought back the limited partnership interest, the property is still subject to the debt. The older loan funds are largely closed out, with only two or three loans remaining in each; but often the participating banks have merged or exited the market, so that notifying them of such a requested change would be difficult.

As you are aware, it is our mission and practice to fully support DSHA in efforts to increase, preserve and retain affordable housing in our state; but we felt it was important to share how challenging it would be to affect the requirement for this points category. I am happy to discuss this with you further, at your convenience. Thank you for your consideration.

Hughlett

Hughlett Kirby
Vice President, Business Development
O: 302 298 3868
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M: 302 304 9061



Community Service Building | 100 W. 10th Street, Suite 502

Cindy L. Deakyne

From: Philip Hoffert <phoffert@ncall.org>
Sent: Monday, December 17, 2018 3:50 PM
To: Cindy L. Deakyne
Subject: QAP comments

Hi Cindy,

Please see the following comments on the 2019 QAP:

- 1) p. 49 Energy conservation measures – why isn't Energy Star Homes a point category option?
- 2) p. 54 Income averaging – why isn't average closer to 58.5% rather than 55%?
- 3) DESEU programs – when receiving a reservation of available energy credits from DESEU these funds should be treated as a grant to the project and be listed as an eligible source of funds. My experience is that they are not allowed to be included per DSHA policy which creates a disincentive to use the programs.

Philip Hoffert
Housing Development Specialist



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Cindy L. Deakyne

From: Chris Paul <chris@diamondandassociates.com>
Sent: Monday, December 17, 2018 5:41 PM
To: Cindy L. Deakyne; Jack Stucker
Subject: Qualified Contract - Points

Dear Cindy and Jack-

Thank you for the presentation on the QAP today. As development consultants invested in the mission of affordable housing, we support the new points aimed at disincentivizing qualified contract claims, to preserve developments as affordable for longer.

Thanks!
Chris Paul

Chris Paul
Executive Vice President of Development
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PENNROSE

Bricks & Mortar | Heart & Soul

December 17, 2018

Cindy Deakyne
DSHA
18 The Green
Dover, DE 19901

RE: 2019 Draft Qualified Allocation Plan Comments

Dear Cindy,

Thank you for the opportunity to comment on the DSHA draft allocation plan. We applaud DSHA's efforts in recent years to rewrite it's QAP and we appreciate the opportunity to offer input into this document to help guide the production of quality affordable housing in the State of Delaware.

Please find below our comments to the current 2019 Draft QAP-

Phased Development – 9% Application schedule – To make meaningful impact in distressed or stable communities large-scale, master planned, multi-phased developments are sometimes required. Once a master-planned redevelopment has started it is critical to keep momentum to ensure community safety and limit the disruption of the residents being relocated. There is also significant savings from a construction standpoint, as multiple mobilizations can add significantly to the total construction cost of the project. For these reasons we are requesting that DSHA amend its policy of prohibiting subsequent 9% LIHTC applications until the previous 9% phase has reached stabilization. Other states also desire their developments close quickly and have instituted a “soft” policy of not awarding a subsequent phase until the previous phase has closed on all financing and started construction. We would suggest DSHA make this change to enable transformative projects to be more immediately impactful and not take a decade or more to be completed.

Areas of Opportunity/Stable/Distressed – Page 7 – We thank DSHA for enabling applications in “Distressed” areas and for offering selection points for Opportunity Zones. These Distressed areas can become Communities of Choice through master planned, multi-phase, mixed-income housing development with education, health and wellness amenities. We would ask that DSHA regularly update their mapped designations to consider improvements that large-scale redevelopment efforts are making. We would also ask that communities that are undergoing large-scale redevelopment efforts and (a) are mixed-income with at least 20% of the total units in the development being market rate units that are not rent-restricted or subject to income limits and (b) receive the maximum number of points within the “Community Revitalization, Opportunity Zones, and Downtown Development Districts” section shall be awarded five (5) points.

Developer Fee – Page 8 – The \$1,000,000 developer fee is the lowest developer fee cap in the region. We do appreciate the ability to earn more fee with larger deals or 4% phases, but those are very difficult to fund with the available funding resources and most deals will have the \$1M cap. We would



request the base cap increase to at least \$1,200,000 per project to bring it closer to being in balance with nearby states. For instance, Pennsylvania’s cap is \$1.5M with opportunities to earn more.

Developer Fee – Page 10 – Please clarify the reduction in developer fee for submitting a 4% and 9% application during the same time application cycle? Is this a disincentive to completing larger redevelopments faster?

LIHTC Allocation Cap – Page 26 – The “Tax Credit Allocations and Pools” section states “Applicant tax credit request for competitive 9% credits are limited to a maximum of \$1,000,000 per development.” In recent years DSHA per project allocations have exceeded \$1,000,000 and as DSHA has received a significantly larger amount LIHTCs to allocate, perhaps revise the language to “requests for competitive 9% credits may be limited”. Neighboring states use this language to set a limit, while remaining flexible to fund priority projects.

Application Process – Page 28 – We thank DSHA for requiring only one hard copy and one electronic copy of the application. Other states are adopting online application submissions along with one hard copy version, but those submissions do not require original signatures.

On Site Community Center – Page 47 – Several other Housing Finance Agencies recognize adjacent existing community centers for threshold or scoring criteria, as they meet the intent of providing the amenity to the residents while preserving scarce development resources that would otherwise be used in building duplicative centers.

Negative Points – Page 52 – There should be a cap on negative amenities to limit the loss to 50% of the scoring category. We understand why negative amenities such as airports would be measured “as radius”, but the other negative amenities listed should be measured along existing right-of-way. There are also situations where a significant physical barrier lies between the community and the negative amenity (river, buildings, forest, hills) and in those situations the negative amenity should not qualify for negative points.

That concludes our comments, thank you again for the opportunity to work with you to craft a Qualified Allocation Plan that helps produce high quality affordable housing designed to break the cycle of poverty and create communities of choice in the State of Delaware.

Sincerely,

Pennrose LLC

Ryan Bailey Senior Developer

cc: Director Anas Ben Addi, Delaware State Housing Authority
Mr. John Hill, Executive Director, Wilmington Housing Authority
Ms. Karen Spellman, Deputy Executive Director, Wilmington Housing Authority
Mr. Charles S. McDowell, Chairman, REACH Riverside Development Corporation
Mr. Dave Ford, Treasurer, REACH Riverside Development Corporation



LNWA

LEON N. WEINER & ASSOCIATES, INC.
HOMEBUILDER • DEVELOPER

One Fox Point Centre • 4 Henry Road • Wilmington, Delaware 19809

December 17, 2018

(Via Electronic Delivery)

Ms. Cindy Deakynne, Housing Development Administrator
Delaware State Housing Authority
18 The Green
Dover, DE 19961

Re: **Comments on 2019 Draft Qualified Allocation Plan**

Dear Ms. Deakynne:

Thank you for the opportunity to comment this morning at the Delaware State Housing Authority ("DSHA") Low Income Housing Tax Credit ("LIHTC") Qualified Allocation Plan ("QAP") hearing. As promised, I am sending you additional comments from Leon N. Weiner & Associates, Inc. ("LNWA") on the draft 2019 QAP.

For ease of discussion purposes each comment is preceded by a page number, section reference and topic description.

Page 6, Definitions: Appraisal. Please expand the Appraisal definition to discuss the key valuation term "as is". The Appraisal Institute defines value as, "the present worth of future benefits that accrue to real property". We would ask that the "as is" value be defined with language that gives DSHA discretionary right to recognize future benefits in the present value of the property.

Page 8, Definitions: Developer Fee. Please consider increasing developer fees by the same percentage basis as the year-over-year increase in Cost Containment guidelines found on page 59. We believe this is a starting point in providing compensation commensurate to the risk inherent in a more expensive project.

Page 29, Application Process: Waivers. Through both Developer Forums and coordination with a third party QAP consultant in May of 2017, the Delaware LIHTC development community, in partnership with DSHA, agreed on a sound policy for greater flexibility in 9% LIHTC transactions by allowing for 3 waiver requests per application. Furthermore, to foster transparency, the policy included the posting of waiver information after LIHTC awards are made. We find the redacted language damaging to the thoughtful conversation generated during the comprehensive QAP revision process of 2017. In addition, removing the language reduces the transparency of the DSHA LIHTC program. The public record on the DSHA website shows numerous development entities, including LNWA, commenting on this waiver provision in the last two years. Please add back the redacted language and/or clarify why the public availability of this information has been redacted after only one business cycle.

Ms. Cindy Deakynne
December 17, 2018
Page 2 of 3

Page 34, Threshold Requirements: Waiver of Qualified Contract: LNWA is adamantly opposed to the language in the QAP related to waiving rights granted under Section 42 of the Internal Revenue Code. A fundamental "pillar" in the development and enactment of the Section 42 program were various incentives to create and maintain a stock of affordable rental housing. The program was formulated to "specifically" provide mechanisms that provide a reasonable return to the developer/owner in exchange for the risk associated with the development, construction and management of such properties on a long-term basis. In exchange Congress saw fit to permit owners the right to remove the property from the affordable inventory after a reasonable and stipulated period. LNWA has not ever removed a property from the affordable housing stock, however Qualified Contract is a contractual obligation of the LIHTC program and should be respected.

Page 45, Development Characteristics: Qualified Contract Waiver: LNWA is adamantly opposed to any provision in the QAP, related to a waiver of Qualified Contract ("QC") rights under Section 42 of the Internal Revenue Code. We are particularly concerned with a retroactive provision affecting existing 100% LIHTC deals.

DSHA's proposed "weighted" points scoring criteria is targeted to induce existing Section 42 owners to waive contractual rights, reducing asset values and is clearly not in keeping with equitable treatment of private businesses as championed by the Governor and the General Assembly. Further, the rationale outlined at the QAP Public Housing whereby DSHA has added this provision because it is a National Council of State Housing Finance Agency ("NCSHA", best practice, does not mean that this provision is necessary or useful in Delaware.

Other issues with this new provision include:

This provision is an attempt by DSHA to induce existing Section 42 owners to unilaterally abrogate business deals with Section 42 investors. We do not believe that we can agree to this waiver without investor approval.

Section 42 owners with large Delaware portfolios have a much more difficult time scoring points than owners with a single property or smaller portfolios.

Waiving an owner's right to utilize the QC process without providing a mechanism to recapitalize this type of property is a recipe for disaster. Historically speaking, the DSHA QAP is not particularly suited for recapitalizing existing 100% unsubsidized LIHTC properties. Owners and dare I say, residents, deserve options to rehabilitate and recapitalize these properties if DSHA cannot promulgate a program that effectively meets this need. The QC process is the final option any owner can use to open up opportunities to recapitalize these properties.

Page 56, Cost Reduction: We applaud the steps DSHA has taken to ensure that scarce resources reach all three Delaware counties. These steps include adjustments to Income Targeting (pg 55) and Fully Accessible Units (pg 57). We would ask that the Agency consider similar provisions to the Cost

Cindy L. Deakyne

From: David Holden <dholden@Ingerman.com>
Sent: Monday, December 17, 2018 4:46 PM
To: Cindy L. Deakyne
Cc: Susan R. Eliason
Subject: 2019 QAP Comments

Please remove the language regarding additional points for agreeing to waive rights to a qualified contract on previously developed tax credit properties.

Thanks,

David



David Holden
Development Principal
p 302-661-1560
c 302-379-7799
f 302-661-1570
www.ingerman.com

1500 Shallcross Avenue, Suite 2B
Wilmington, DE 19806

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This email was Anti Virus checked by Astaro Security Gateway.

Cindy L. Deakyne

From: Christina Stanley <cstanley@milfordhousing.com>
Sent: Monday, December 17, 2018 4:01 PM
To: Cindy L. Deakyne; Jack Stucker
Cc: David Moore; Russell Huxtable
Subject: 2019 QAP Comments

Good afternoon,

The following are comments regarding the first draft of the Delaware State Housing Authority 2019 Qualified Allocation Plan (QAP).

- **Developers Fee:** Please consider alternations in this area. The developer fee is not development profit. It is primarily for overhead and risk. Currently it is capped at an artificially low number.
 - For portfolio acquisition/rehabilitation projects, the current limits disincentive creative cost saving initiatives. With the redevelopment of a larger portfolio, the development project results in a greater preservation of vital housing and taps into a more robust economy of scale. With a larger development, the developer/sponsor is taking on a substantial amount of labor and risk. This also is counter intuitive to the promotion of cost containment.
 - As noted in previous years, MHDC believes that regardless of the project, the project carries the same risk as previous projects and therefore the developer's fee should remain consistent. As such MHDC requests further consideration regarding acquisition and the creation of an Identity of Interest which currently results in lower developer fees. If the land is vacant, the developer is taking a risk on the potential that the property has. They may or may not be awarded credits. They can be seen as having a greater risk if they acquire early compared to later, so therefore the fee should also remain the same. Furthermore, as a nonprofit we are often approached by developers (previous developers) that want to leave the program. It is our mission to acquire and preserve existing affordable housing complexes. We can achieve those results by acquiring the property immediately and providing quality management and ownership that is consistent with the mission of the project. To wait for the timing to be correct with DSHA to maximize a development fee may not be the most wise course of action for the property for several reasons. Do not penalize a group from doing the right thing in this case either. DSHA has allowed for some adjustments for transition for up to 3 years. An IOI clause should not be included. If the QAP will retain a cap, MHDC requests that the term be at least 5 years.
 - MHDC advocates that acquisition cost remain part of the calculation. There was discussion in the past to look at potentially capping the fee associated with acquisition to 10%. This appears reasonable.
- **Preservation:** Although MHDC appreciates DSHA adding a sliding scale regarding the payoff of DSHA, we need to see more movement in this area. It is vital to find more creative ways to recapitalize the existing portfolio. Current policies are not adequately addressing the needs and are resulting in a deteriorating housing stock.
- **Target Units:** DSHA is overreaching in the minimum requirements for target units for special populations.
 - As previously discussed, the referral system is not operating efficiently and causes undue hardship to properties. There is a real concern with potential subsidy and/or income loss due to the need to "hold" units due to the referral system. In addition to being inefficient, the referrals sent are not property vetted (i.e. over-income applicants referred).
 - A minimum of 5 units at properties creates undue hardship for small properties.
 - Points should not be awarded for owners of existing non-subsidized, non-elderly units that opt into the Section 811 program.

- The program is not properly working. As previously noted, the referral system has failed to provide qualified applicants. It does not make sense to promote further utilization until the issues are corrected.
- If DSHA insists on further burdening the system, the point category needs to be adjusted. It is inappropriate to base the addition on a percentage of an owner's portfolio as there is too much variation in units owned across the state. For example, 20% of an owner with 50 units of affordable housing in Delaware is 10 units as opposed to 200 units for an owner with 1,000 units. This appears to penalize the primary developers/owners already existing in Delaware.
- Waiver of Qualified Contract: Qualified contract is an allowable process set up under the low income housing tax credit program. Not allowing participation of an applicant for exploring all options for a project is unjustifiable. Current policy is not allowing for adequate ways to recapitalize properties. The State needs to ensure that there is a way out or it will face a continued aging/deteriorating affordable portfolio.
 - The additional points for waiving the qualified contract right for an owner's existing portfolio needs to be removed. Furthermore, it does not address the variation of portfolio size among developers. As with the additional Section 811, it penalizes the primary and established owners of affordable housing in the state.
- Social Services: MHDC supports the needs of the residents we serve. We recognize the importance of offering opportunities to those we serve. However, it is important to note that often tenants do not want to participate in services offered. This in turn makes it more difficult to have outside providers continue to offer the services at the project.
- Nonprofit Pool: DSHA maintains the minimum set-aside requirement for the nonprofit pool. This has typically resulted in a small pool. MHDC advocates for a larger portion be set-aside for nonprofits.

Milford Housing Development thanks you for your continued support and dedication to the provision of housing.

Sincerely,

Christina E. Stanley



Christina E. Stanley, Vice President
 East Coast Property Management Company
 Milford Housing Development Corporation
 977 East Masten Circle | Milford, DE 19963
 tel (302) 422-8255 x 144 | fax (302) 422-8260



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Ms. Cynthia Deakync
Housing Development Administrator
Delaware State Housing Authority
18 The Green
Dover, DE 19901

Re: 2019 Qualified Allocation Plan (QAP) - Wilmington Housing Authority Comments

Dear Ms Deakync:

The Wilmington Housing Authority appreciates the opportunity to contribute comments and recommendations on the 2019 Draft QAP.

The WHA, Pennrose, LLC and REACH Riverside plans to pursue 9% tax credits for Phase I of the redevelopment of the Riverside Family Project, a low income development, owned and operated by the WHA. Phase I will be a mixed income community with market rate and affordable homes.

WHA and its partners would like an opportunity to compete on equal footing for LIHTCs. The QAP as currently drafted is skewed against developments situated like ours in an urban setting near railroads, jails, and brownfields. WHA envisions a sustainable new community that would dramatically change the landscape of Northeast Wilmington.

As you know, WHA currently houses ten percent of the population of Wilmington in over 4,000 Public Housing, Housing Choice Vouchers and VASH units. The agency has also demonstrated its expertise in managing over 200 tax credit properties and has completed over \$110,000,000 of new development and rehabilitation in the City of Wilmington since 2000. WHA is looking forward to an opportunity to continue to make a difference in our city and the lives of the residents we serve and sincerely wishes that the QAP can be shaped to give a community in vital need of transformation a chance to be successful.

Your kind consideration of our comments is greatly appreciated.

Sincerely,


Karen A. Spellman
Deputy Executive Director

Cindy L. Deakyne

From: Roy Diamond <roy@diamondandassociates.com>
Sent: Monday, December 17, 2018 5:40 PM
To: Cindy L. Deakyne; Jack Stucker
Subject: QAP Comment

Dear Cindy and Jack-

Thank you for the presentation on the QAP today.

D&A supports the new points aimed at disincentivizing qualified contract claims, in order to preserve developments as affordable housing.

Thank you.

Roy

Roy Diamond | Principal
Diamond & Associates
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Philadelphia, PA 19118
Office: (215) 732-3600 Extension 101
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Roy@DiamondandAssociates.com



DIAMOND AND ASSOCIATES

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FOUNDERS

David Gottfried
Michael Italiano
S. Richard Fedrizzi

December 17, 2018

Anas Ben Addi
Director
Delaware State Housing Authority
18 The Green
Dover, DE 19901

Dear Mr. Ben Addi:

On behalf of the U.S. Green Building Council (USGBC), our nearly 9,000 member companies nationwide, and our strong community in Delaware, we are pleased to provide the Delaware State Housing Authority (DSHA) with our comments regarding the State of Delaware 2019 Low Income Housing Tax Credit Qualified Allocation Plan draft.

USGBC and LEED in Delaware

USGBC is a nonprofit organization committed to transforming the way all buildings and communities are designed, built, and operated to support a sustainable, resilient, and prosperous environment that improves the quality of life for all. Our flagship green building system, Leadership in Energy and Environmental Design (LEED), is growing in the Delaware residential market, with close to 20 single-family homes and low-rise multifamily housing LEED for Homes certified projects. In addition, there are over 60 LEED-certified commercial and high-rise residential projects in Delaware, amounting to a total of almost 14 million square feet.¹

Representing the full range of the building sector, including builders, product manufacturers, professional firms, and real estate, close to a dozen Delaware-based organizations are USGBC members, and nearly 300 individuals in Delaware hold a LEED professional credential. LEED also supports the state-wide economy, contributing an estimated \$140 million to the Delaware GDP and helping to create or sustain an estimated 2,000 jobs from 2015-2018.²

LEED takes a comprehensive approach to green housing, considering resident health and comfort as well as objectives such as energy and water efficiency and indoor environmental quality. LEED projects must meet a set of rigorous criteria in a flexible system of prerequisites and optional credits that, when combined, set building projects on the path to excellence in sustainability and can support resilience. For housing advocates and tax payers, third-party LEED certification of affordable housing prioritizes accountability, total value, and building performance outcomes. For residents of LEED

¹ See [state market data briefs](#).

² [2015 Green Building Economic Impact Study](#), Booz Allen Hamilton. See [State Infographics](#).

buildings, this translates into savings on energy and water bills, addressing one of the perpetual barriers to affordability.

To learn more about how affordable housing projects benefit from LEED, see this [brief](#).

USGBC Recommendations for 2019 Delaware QAP

On behalf of our member organizations and credentialed professionals in Delaware, USGBC recommend the Delaware State Housing Authority strengthen the measures in its QAP to ensure that low income residents benefit from energy efficient, healthier housing. We note draft 2019 plan includes several measures to increase the efficiency of projects receiving LIHTC funds, including offering LEED certification as an acceptable option for meeting Energy Conservation Measures. However, the Energy Conservation Measures (including green building options) are all optional for points, and we note they are only 5 points maximum out of 225 points. According to a recent study, 80% of all states have established minimum energy efficiency or green building requirements for their state LIHTC projects.¹ To support high quality, resilient housing for low-income Delawareans, we recommend Delaware do the same.

Even if energy efficiency and green building remain options for points, in order to ensure the integrity of the Energy Conservation Measures category, USGBC recommends that ENERGY STAR certification be added as a prerequisite for any green building option earning three base points in the Energy Conservation Measures category.

Incorporating energy efficiency strategies, like those encouraged via ENERGY STAR, into building projects is an important facet of a more comprehensive and holistic resilience and sustainability approach. ENERGY STAR and LEED work together to empower property developers, owners, and occupants to enhance projects' energy and water efficiency and reduce overall power load requirements, thus enhancing opportunities for resilience. For example, the LEED for Homes system uses ENERGY STAR for Homes as a core performance standard, while LEED systems for mid-rise and high-rise existing residential buildings incorporate ENERGY STAR certification as well. While LEED represents a comprehensive approach to project sustainability, durability, and resilience, ENERGY STAR is an integral component to LEED in ensuring superior operational and financial performance.

USGBC recommends that DSHA require developments achieve certification under the most appropriate version of the ENERGY STAR Homes program. Certification provides third-party verification of the building's overall energy efficiency. We also suggest that these standards apply to every portion of the project, including common areas.

USGBC commends DSHA in maintaining a requirement for applicants to benchmark their utility data for a minimum of 15 years. As you know, benchmarking building performance data is a critical first step for facilities managers or property owners to improve the performance of a property. In order to maintain consistency and continuity in reporting, USGBC recommends that DSHA require applicant benchmarking activities to be logged and tracked through the U.S. Environmental Protection Agency's ENERGY STAR Portfolio Manager. The U.S. Department of Energy reports buildings that use ENERGY STAR Portfolio Manager to track energy performance achieve an average energy savings of 7% over three years, which DOE estimates results in a significant financial savings of \$120,000 to over \$4 million.²

USGBC recommends that ENERGY STAR Portfolio Manager should be used as a common reporting platform, while the plan should encourage the use of other tools, such as Arc⁵ to provide additional analytic functions and performance comparisons in areas beyond energy and water.

USGBC also recommends clarifications to language in the draft plan concerning LEED in order to facilitate project teams in their selection of an applicable rating system to meet project criteria. Specifically, we advise that language on page 50 of the draft plan is changed from "LEED for Homes Multifamily" to include both "LEED BD+C: for Homes and Multifamily Lowrise" and "LEED BD+C:

¹ [Green Income Criteria for Affordable Housing: QAP 2017](#), Global Green USA

² https://www.energystar.gov/sites/default/files/buildings/tools/DataTrends_Savings_20121002.pdf ⁵
<https://arcskoru.com/about>

Multifamily Midrise,” previously noted as part of 2018 DSHA’s Energy Conservation Measures.³ By offering this distinction, project teams seeking to develop sustainable, resilient, and affordable housing can pursue the LEED rating system that best addresses projects’ unique needs.

USGBC is dedicated to improving strategies that drive market transformation towards a sustainably built environment that promotes human health, protects the planet, and reduces utility burdens for households. While demand for affordable housing often exceeds supply, no one benefits from second-rate housing that can result from a shortsighted approach. We appreciate DSHA’s long view and commitment to quality, energy-efficient housing for Delaware’s low-income households by means of its approach to LIHTC credits.

State Qualified Allocation Plans play a vital role in not only setting guidelines for the allocation of Low-Income Housing Tax Credits but have an outsized ability to drive innovation and demand for better built homes and communities in Delaware.

If you have any questions or seek additional information, please contact Alysson Blackwelder at ablackwelder@usgbc.org or at (202) 552-1379. Thank you for your time and your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Alysson Blackwelder".

Alysson Blackwelder
Project Manager, Advocacy and Policy
U.S. Green Building Council

³ http://www.destatehousing.com/Developers/lihtc/2018/2018_exhibit32_energy_conservation_measures.d ocx

December 18, 2018
Jack Stucker
Delaware State Housing Authority
18 The Green
Dover, DE 19901

RE: Delaware's draft 2019 Qualified Allocation Plan

Mr. Stucker:

We are writing to request that the Delaware State Housing Authority (DSHA) take aggressive actions to address the loss of Low Income Housing Tax Credit (Housing Credit) properties through the qualified contract process.

We represent developers, lenders, and other program participants who are committed to the ongoing success of the Housing Credit program and the long-term preservation of the affordable housing we have created together. We know DSHA shares those concerns and is reviewing policies to help preserve both affordable housing broadly and Housing Credit properties in particular.

An effective and low-cost means of preserving the stock of affordable housing is to prevent the loss of Housing Credit units through the qualified contract process. Nationally, at least 10,000 affordable units are going through the qualified contract process each year. Delaware is not immune to this growing phenomenon. As you well know, these units are often being lost in areas that already have acute affordable housing shortages.

We urge DSHA to address this problem through its approach to the qualified contract process, protecting both future Housing Credit allocations and long-term affordability of existing properties. We are pleased to see that the draft 2019 QAP awards points to applicants waiving their right to a qualified contract on all or some of their existing Delaware portfolio. While we're sympathetic to the fact that it may be difficult for an owner to get each investor's approval for such a waiver, we believe that the small scale of the DE development community, coupled with the sliding scale of the incentives crafted by DSHA, provide the necessary flexibility. By including this language, DSHA makes it clear that the Agency looks negatively on the use of the qualified contract.

We also want to emphasize that DSHA has additional tools at its disposal for protecting existing affordable units from being lost through the qualified contract process. These policies include the following:

1. When an owner makes a request to DSHA for some modification to the use agreement – for example, a change in loan terms, approval of a property transfer, etc. – DSHA should condition any such action on the owner waiving any QC rights in connection with both current and future ownership of the property.
2. DSHA should make clear to owners that the agency discourages them from going through the qualified contract process and will look negatively on such action. The Michigan State Housing Development Authority (MSHDA) recently updated its qualified contract guidelines to reflect a

more proactive approach to discouraging qualified contracts: any owner seeking a qualified contract will have a discussion with the Director of Asset Management to discuss options for the property and see if there are any ways in which MSHDA can work with the owners to keep affordability at the property.

3. DSHA's Qualified Allocation Plan (QAP) should consider taking into account the practices of applicants who utilize the qualified contract process to remove affordable units. The North Carolina Housing Finance Agency takes this approach by stating, in their QAP, that the Agency may disqualify any owner, principal or management agent who requested a qualified contract for a North Carolina Housing Credit property. When the Virginia Housing Development Authority updated their 2019 QAP earlier this year, a similar approach was adopted: "any application submitted by an applicant containing a principal that was a principal in an owner that has previously requested, on or after January 1, 2019, a Qualified Contract in the Commonwealth (regardless of whether the extended low-income housing commitment was terminated through such process) shall be rejected from further consideration hereunder and shall not be eligible for any reservation or allocation of credits."
4. For properties where owners do proceed with the qualified contract process, DSHA should establish resources to help preservation-oriented developers acquire these properties. While the statutory price may be problematic, ensuring the preservation of existing properties is much less costly than funding new development, even if the amount paid for the real estate exceeds its fair market value. Equally important, the investment avoids tenant displacement and the loss of valuable affordable housing and may serve to discourage further QC requests.
5. DSHA should make sure the owner notifies its tenants immediately after it submits a request to DSHA to go through the qualified contract process. That notice should inform residents that the ownership entity has submitted a request to DSHA and that after 12 months the property may be taken outside of the affordable rent restrictions and rents may increase. MSHDA's guidelines require owners to provide notification to tenants of their intent to pursue a qualified contract at the time of making the request and to provide a copy of that notification to any prospective tenants during the qualified contract marketing period. Additionally, MSHDA require owners to notify tenants of the start and end date of the tenant protection period and to inform the tenants as to what that means for them at the end of the qualified contract marketing period. MSHDA also closely monitors that tenant protection period for owner compliance. We encourage DSHA to consider similar approaches.
6. When owners pursue the qualified contract process, DSHA should charge fees commensurate with its administrative costs of processing the qualified contact request and require owners provide all documentation necessary to determine the statutory price.

We want to emphasize that our concern about the qualified contract issue not only relates to the loss of affordable units, but also to the very future of the Housing Credit program. Particularly vulnerable is the 4% bond program, which has twice been repealed in legislation reported out of the U.S. House Ways and Means Committee. Congress expects an efficient and effective administration of this program, which was designed to provide federal subsidy in return for 30 years of affordability. Congress did not

intend the qualified contract provision to be a means of early exit after only 15 years of affordability, and widespread use of qualified contract for that purpose undermines the future of this valuable program.

If you have any questions about these suggestions or the ways in which other state Agencies address this critical issue, please feel free to follow up with Ellen Lurie Hoffman at the National Housing Trust at 202-333-8931 x130 or eluriehoffman@nhtinc.org.

Thank you for your continued work to address housing affordability in Delaware and your efforts to promote preservation of affordable housing.

Housing Partnership Network
National Housing Trust



Sustainability & Green Building
Ja
clyn S.
Toole
Assistant
Vice
President
jtoole@nah
b.org

December 17, 2018

Ms. Cindy

Deakyne

DSHA

18 The Green

Dove, DE 19901

ATTN: LIHTC Program

RE: 2019 Delaware Qualified Allocation Plan Comments

Submitted via email to cindy@destatehousing.com

Dear Ms. Deakyne,

On behalf of the National Association of Home Builders (NAHB), thank you for including the ICC 700 National Green Building Standard (NGBS) and other voluntary, above-code green building certification programs in Delaware's State Qualified Allocation Plan (QAP). We have reviewed the draft 2019 state QAP and commend the Delaware State Housing Finance Agency (HFA) for their commitment to sustainable housing by continuing to include green programs like the NGBS in the currently proposed QAP.

NAHB is a federation of more than 700 state and local associations representing more than 140,000 member firms nationwide. NAHB's members are involved in home building, remodeling, multifamily construction, land development, property management, and light commercial construction. Collectively, NAHB's members employ more than 1.26 million people and construct about 80 percent of all new housing units constructed within the U.S. each year. As such, NAHB members appreciate the green certification program options provided by the Delaware HFA towards qualifying for Low Income Housing Tax Credits (LIHTC).

It is important that builders continue to have choices when it comes to these types of green building certification programs so that they are best able to meet the needs of their client, the project, and any other local green building mandates. By continuing to include programs like the NGBS, builders and developers are provided flexibility

without compromising the rigor, yet also providing quality sustainable homes for Delaware's residents and positively impacting the local affordable housing market.

[Additional Information on the ICC 700 National Green Building Standard \(NGBS\)](#)

The NGBS continues to stand apart from other programs as the only residential-specific green building rating system to undergo the full consensus process and receive approval from the American National Standards Institute (ANSI). In addition to meeting all of the mandatory practices, the NGBS is also unique in that it requires every building to earn a minimum number of points in each practice area to achieve each level of certification. This prevents builders from focusing their efforts on only one practice area like energy efficiency to get the majority of the required points for certification and ignoring other aspects of sustainability. Additionally, all

1201 15th Street NW | Washington, DC 20005 | T 800 368 5242 | nahb.org

NGBS projects must undergo two mandatory inspections by an independent third-party verifier to ensure every green practice has been successfully incorporated in the building.

The straight-forward and low-cost nature of the NGBS certification program make it ideally suited for affordable housing development. The NGBS is utilized by builders and developers across the country to implement green building practices in their homes. To date, over **160,000 residential units** have been certified to the NGBS. A list of other state and federal programs that recognize the NGBS can be found here:

<http://www.homeinnovation.com/ngbsgreenincentives> and is updated regularly.

Conclusion

NAHB appreciates the opportunity to submit comments supporting the 2019 Delaware QAP with the inclusion of nationally recognized green building certification programs. If you have any questions or would like additional information about the NGBS, please contact my colleague Michelle Dusseau Diller at (202)266-8375 or mdiller@nahb.org.

Sincerely,



Jaclyn S. Toole, Assoc. AIA, CGP
Assistant Vice President, Sustainability & Green Building