



Frequently Asked Questions The Applicable Fraction/Qualified Basis

Question One

I am planning to develop a mixed income property using the equity raised through the syndication of low income housing tax credits. The property will consist of two, 40-unit buildings. Sixty percent of the units will be rented to tax credit residents qualifying with income no greater than 60% of AMI. The remaining units will be leased to market renters with no rent restrictions. Does it matter which units I rent to tax credit residents?

Answer One

Yes, it matters which units you rent to LIHTC residents. You need to know the size of the credit allocation for each of your two buildings. Let's assume the credit allocation covers 60% of the units for each of your two buildings. You must rent 60% of the units and 60% of the floor space in each building to LIHTC residents to maximize the value of your credit allocation. Remember that the applicable fraction is calculated by building. A building's applicable fraction is the *lesser of* the percentage of units or the percentage of floor space occupied by LIHTC residents.

Question Two

My company recently finished the redevelopment of an existing property using the LIHTC program. The property consists of one, 100-unit building with 50 one-bedroom units, 30 two-bedroom units and 20 three-bedroom units. Fifty percent of the units are now occupied by tax credit residents who qualified with income no greater than 60% of AMI, and the remaining units are rented to people paying a market rent. We ensured that the 50 LIHTC units make up at least 50% of the building's floor space. As residents move out and new residents move in, does management need to ensure the 50 LIHTC units always cover at least 50% of the building's floor space?

Answer Two

Yes. Because you plan for 50% of this building to generate a tax credit, your applicable fraction must always be at least 50%. A building's applicable fraction is the *lesser of* the percentage of units or the percentage of floor space occupied by LIHTC residents. To maximize the value of your credit allocation, 50% of your units and 50% of your floor space must be continuously occupied by low income residents.

Question Three

I operate a mixed income tax credit building. Sixty percent of the units are occupied by tax credit residents and the remaining units are occupied by residents who pay a market rent. I know I need to maintain a 60% applicable fraction, and it would be so much easier to do if we fixed the LIHTC units. Can we elect to fix our low income units?

Answer Three

The decision to fix the low income units in a mixed income building must be made during the development of a property when the owner commits to a minimum set aside. An owner commits to renting at least 20% of the units at a property to residents with income no greater than 50% of AMI, or to renting at least 40% of the units at a property to residents with income no greater than 60% of AMI (25% @ 60% of AMI in New York City). An owner may also elect to deep rent skew by committing to rent 15% of the LIHTC units to residents with income no greater than 40% of AMI.

For all tax credit properties where the owner did not commit to deep rent skew, the Available Unit Rule says that when a LIHTC resident's income increases above 140% of their current income limit, the owner must rent the next available unit of comparable or smaller size in the same building to a tax credit eligible resident. The next available unit may be a market unit but the owner must rent it to a LIHTC resident to comply with the Available Unit Rule.

When the owner of a property commits to deep rent skew, the Available Unit Rule requires the owner to rent the next available **LIHTC UNIT** to a resident qualifying at no more than 40% of AMI upon discovering a current LIHTC resident's income has increased above 170% of their current income limit. The Available Unit Rule requires the owner to rent the next available LIHTC unit to a deep rent skew household, but does not require the owner to rent an available market unit to a low income resident.

For help in answering your questions relating to determining and maintaining your applicable fraction/qualified basis, call Liz at (202) 316-0532 or send an email to Liz@lizbramletconsulting.com.