On the Brink: The Challenge of Renewing LIHTC Properties

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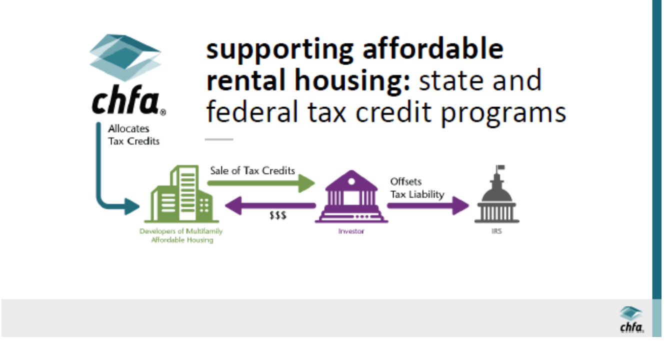
If you are a housing director or local elected official battling to address the region's top issue, be aware of some things on your flank – expiring LIHTC properties for one. While negotiating deals for new housing units, the potential existing affordable housing units to turn over can negate the gains. (See NWCCOG Housing Tax Credit Properties here.)

This lesser-known risk came to me when I was recently inquired on how to help "renew" a LIHTC property. I ended up getting an education from Kathryn Grosscup at CHFA. There are over 30 LIHTC properties across the NWCCOG region from Steamboat to Fraser to Summit and Eagle Counties to Glenwood to Aspen that house hundreds of essential workers in those communities. While Mobile Home Parks (MHPs) cannot be financed with Housing Tax credits, if we pull them into the discussion the stakes go even higher for the thousands of essential workers who may have housing with affordable rent that is at risk. For a map of LIHTC properties which may be in your jurisdiction, go here on CHFA's webpage. Click on a green dot to see the name of the property, the number of units and at the bottom, the year of the project applied for Housing Tax Credits.



LIHTC is a decades-old program still very much in use. Grosscup notes "many tax credits that date from the early 1990s may be expiring soon," which means the owner may raise rents, condominium-ize the property, or sell it at free market rates. Those that are coming to end-of-affordability term are in markets with a huge upside opportunity where the market has changed, such as FOCO (Ft. Collins), Denver, Colorado Springs, and mountain towns. She says that local leaders, if they are aware of these terms expiring, can contact the owner and "walk along side" them as they are exploring options. She went into detail about the complexity of business decisions involved with considering re-syndicating a property with Housing Tax Credits at this point of lifespan which I'll skip here.

There are a few things you ought to know about this Low-Income Housing Tax Credit (LIHTC) or Housing Tax Credit. It is a bit complicated as I'll explain later, but CHFA requires a minimum of 30 to 40-year terms. LIHTC is codified through the U.S. Department of Treasury, IRS and there is only one housing finance agency per each state. Second, federal 9% Housing Tax Credits are determined on a per-capita basis, so tax credits are very competitive. In Colorado the allocating entity is the Colorado Housing and Finance Authority. For an investor, offsetting taxes each year over a decade is valuable, and yield analysis determines the up-front investment made to a developer to build or rehabilitate a Housing Tax Credit property, which is partially why LIHTC compliance is excellent, default is rare, and entry to the program is so competitive. Grosscup shared with me that LIHTC is a public private program incentivizing partnership between developers/owners. Housing Tax Credits are taken over a ten-year period and there is a 5 year "look back" on that decade for a total of 15 years. Additionally, CHFA requires an extended affordability commitment of another 15 to 25 years, which is recorded in a land use agreement. At core, the three-way deal is simple. The developer gets capital for the project, the investor gets tax credits, and the community gets affordable housing for a term. More than a few properties financed with LIHTC as part of the capitol stack are under construction now in Gypsum, Steamboat Springs, Fraser, and Summit County. Preference is given to properties trying to "re-syndicate" at year 10 or greater of their extended use term.

Of the more than 30 LIHTC properties in the NWCCOG region (by my count) housing many hundreds of essential workers, one example is the Eagle Villa's project on Nogal Road which has over 200 units between two phases. Phase 1 is set to expire in December of 2024 which depending on the intent of the owner, could release 100 units that have been set aside at 50% and 60% AMI for the past 30 years, units that house many hundreds of essential workers, children and extended families.

Blue River Apartments - Silverthorne

Jason Dietz, Summit County Housing Director cites working with an expiring LIHTC project as "a mixed bag." He has been tracking the Blue River Apartments project in Silverthorne which has 78 units and tax credits from 1992 expiring soon. The owner of that particular project "specialize in these projects in these housing constrained regions, and once the property transitions to market rate it is worth a fortune; that is the business plan. After it was apparent that Blue River wasn't going to re-syndicate, Summit County and the Town of Silverthorne were able to partner up to negotiate up to a two year hiatus from going market rate, by paying the difference between 60% AMI and market rents for that period." His hope is for "the pipeline of other approved LIHTC and apartment properties across Summit County, to open up within the negotiated hiatus period." The approved project pipeline will bring on 409 units and consists of the Smith Ranch Apartments, Alta Verde II, the Justice Center and

Wintergreen Ridge. Dietz said that the municipalities do have some regulatory options to implement prior to such situations coming to a head. Those include tying the ability to condominiumize to a local vacancy rate, in effect blocking an expiring LIHTC project from going market rate by preventing condominium-ization of affordable housing projects when vacancy rates are below 5 or 7%. He cited Mammoth Lakes California as an example of a place that had done that.

To help residents navigate the upcoming affordability change, Dietz credits [Mountain Dreamers,] a local NPO that advocates and promotes for equitable opportunities for immigrants of diverse backgrounds. That group has taken on communications with the residents about the changes so they can make plans. He noted that the Town and County's participation provides "a longer glide path from the affordable to market rate rent transition" for residents. Even in the rarified mountain housing markets, not all affordable housing is generated by local government regulation, negotiation or investment, and though you may not have a direct role in the fate of these properties, that doesn't mean towns, counties, local non-profits and housing authorities have no role at all.


Buffalo Ridge Apartments - Avon

To assist in recognition of the challenge and a desire to be proactive in maintaining affordability, in 2016, CHFA formed a Housing Preservation network (HPN) with participation from the Colorado Division of Housing, HUD, USDA, local cities, counties and housing authorities; and mission-driven nonprofits. HPN created a statewide, master preservation database to track the inventory of subsidized affordable housing units and help identify at-risk properties. Currently, the database includes over 1,400 properties and approximately 72,000 subsidized units with a variety of property detail. Of those, 335 properties and approximately 17,000 units are at highest risk, i.e., their affordability restrictions terminate within the next five years. LIHTC, though, is an investment tool and while CHFA isn't the only game in town in Colorado, they are the biggest. Others like DOLA, CDFIs, philanthropic organizations, etc., also play important roles. None have any leverage with properties going to the free market at the end of terms.

One additional "potential loss of housing" component is the awareness of mobile home park turnover which peaked recently with legislation in Colorado attempting to help residents purchase a park providing a 90 day hold before sale. Local housing agencies can assist residents in organizing to purchase MHPs and there are laws to slow the increases in rent with new ownership. For that, the state now has a program led by Sam Albrecht at [DOLA which can be found here] amid many other housing programs at DOLAs Division of Housing.

CHFA's affordable housing preservation efforts (provided by Grosscup):

- CHFA recognizes the need to preserve affordable housing across Colorado, including in properties whose LIHTC compliance period is ending.
- This has led to the development of the Colorado Affordable Housing Preservation (CAHP) program, which provides up to $1 million per loan recipient in permanent uninsured financing for critical, fast-acting preservation of existing subsidized or naturally occurring affordable multifamily rental properties with five to 100 units.
- In addition, per the QAP, CHFA seeks to support both new construction and preservation projects with awards of Housing Tax Credits.
- Other multifamily lending products offered by CHFA may be used for preservation purposes. For example, CHFA offers financing to support the preservation of mobile home affordability.
- CHFA tracks the number of rental units preserved year to do date as part of the Housing Preservation Database.