Assessing Standards Board
Low-Income Housing Tax Credit (LIHTC)
Subcommittee Meeting

DRAFT

DATE: April 15, 2021 **TIME**: 9:00 a.m.

LOCATION: Remote Meeting through WebEx

SUBCOMMITTEE MEMBERS
(E) Excused

Bob Gagne, Chairman	Loren Martin - Excused
Joe Lessard	Betsy Patten
Jim Menihane, NHHFA	Robert Tourigny, NeighborWorks Southern NH
Kathy Temchack, Concord	

MEMBERS of the PUBLIC

Sam Greene, NHDRA	Cathy Capron, NHDRA	Jim Michaud, Hudson
Rosann Lentz, Portsmouth	Scot Heath, NHDRA	
Chris Davies, Great Bridge Properties		

Mr. Gagne convened the meeting at 9:03 a.m. Introductions followed.

Minutes

Mr. Lessard ***motioned to approve the minutes of the March 4, 2021 subcommittee meeting***; Ms. Patten ***seconded the motion***. No discussion. Mr. Gagne called the motion to approve the minutes of the March 4, 2021 subcommittee meeting as written.

Vote by Roll Call: Ms. Patten, Yes; Mr. Lessard, Yes; Mr. Tourigny, Yes; Ms. Temchack, Yes; Mr. Gagne, Yes; Mr. Menihane, Yes. ***Motion passed unanimously.***

Mr. Gagne explained this meeting is to discuss potential changes suggested at the last meeting and provide recommendations to the full Board. The following recommendations refer to rule changes that can be made immediately versus those that may need legislative action.

Recommendation 1 – Develop a Cap Rate Range versus a Single Point Estimate

Mr. Lessard ***motioned to recommend to the full Board the development of a cap rate range to replace the current single point estimate currently used***; Ms. Patten ***seconded the motion***. No discussion. Mr. Gagne called the motion.

Vote by Roll Call: Ms. Patten, Yes; Mr. Lessard, Yes; Mr. Tourigny, Yes; Ms. Temchack, Yes; Mr. Gagne, Yes; Mr. Menihane, Yes. ***Motion passed unanimously.***

<u>Recommendation 2</u> - Develop a Standard Matrix and Criteria

The development of a matrix was suggested to provide uniformity in how the point used in the range is determined, similar to the matrix used for current use. Criteria that may be appropriate for this type of property might include location, quality, size and age. To differentiate high-end properties in one community versus another, using location for example, the DRA would develop a range of cap rates for each county and the assessors would use the matrix to determine where a particular property would fall within the range. This change introduces the use of discretion by the assessor and may cause an increase in appeals, a consequence of trying to make this process fair and consistent. At this time, the only reason for an appeal is inputting the wrong numbers.

Concern was expressed about the increase in appeals, in particular, in those counties with a low cap rate where location may play a significant factor. This program was created to diminish the inconsistencies between communities and adding discretion may be going in the wrong direction. In Portsmouth, Ms. Lentz stated she has properties that do not file for this program because she gives a better cap rate than those established by the DRA. She felt this change will result in more applicants and more appeal work.

Mr. Gagne did not disagree with the concerns however the reason for this subcommittee is the continuing lack of consistency year-to-year because of the current inputs. In Manchester, the current application of this program is unfair to the LIHTC apartment property type compared to the market-based apartment property type. He suggested if a cap rate range is not adopted, another option might be to only apply the formula in the year of a revaluation which would get back to the goal of the statute to provide uniformity and predictability in this process for the taxpayers. Ms. Lentz suggested inconsistency could still occur if the formula is only used during the revaluation and higher cap rates may be applied. Her concern is returning to the previous issue and past the intent of the program.

Mr. Menihane agrees the intent is to have some predictability however he also feels it is important for the assessors to have some discretion and flexibility in this process rather than being boxed into applying a one-size fits all model for every property type.

Mr. Tourigny reiterated that before this legislation and the setting of cap rates, there was nothing; no cap rate or range and valuations were all over the place across the state. With the development of a range there is, in a sense, a cap providing a number that will not be exceeded for the jurisdiction and property.

After ten plus years of this program being in place, the formula is being revisited so see what is working and what is not. Changes can be incorporated but not without unintended consequences. Anytime there is discretion there is going to be a difference of opinion and by having the matrix, there would be some rationale for the point on the range that was determined for a property. It could still be challenged and appeal filed but there would be a reliable explanation for the decision. Mr. Gagne felt the development of a cap rate range and a matrix goes hand-in-hand but this still has to go to the full Board so there is time to think about it and provide input whether to proceed with these changes or not.

Ms. Patten ***motioned to recommend to the full Board the development of a matrix***; Mr. Menihane ***seconded the motion***. No further discussion. Mr. Gagne called the motion.

Vote by Roll Call: Ms. Patten, Yes; Mr. Lessard, Yes; Mr. Tourigny, Yes; Ms. Temchack, Yes; Mr. Gagne, Yes; Mr. Menihane, Yes. ***Motion passed unanimously.***

Development of Vacancy Ranges and Maximum Rent Ranges or Factors versus Average

A discussion took place about vacancy and collection loss, what the percentages were and whether or not they were being reported in the current spreadsheet. Statute requires both to be included when calculating net operation income and it was noted that the current spreadsheet has a separate line for vacancy loss but not for collection loss. Mr. Tourigny estimated the normal uncollected percentage is about 3% however due to COVID and the eviction moratorium it is about 8-10% monthly. He added they are working with tenants to apply to existing programs for rental relief funds.

Uncollected rents are reported on the audited financial statements and it was suggested to include that number as an operating expense in the calculation. Mr. Gagne suggested he may have been taking out the vacancy collection loss as an adjustment because there is a vacancy factor and other assessors may or may not have been doing the same. Mr. Davies, representing Great Bridge Properties, stated they include this under miscellaneous expenses. A suggestion was made to add a separate line in the spreadsheet to report collection loss to make it clear it was being included in the calculation.

Mr. Lessard ***motioned to recommend to the full Board adding a line to the existing spreadsheet for reporting collection loss***; Ms. Patten ***seconded the motion***. No further discussion. Mr. Gagne called the motion.

Vote by Roll Call: Ms. Patten, Yes; Mr. Lessard, Yes; Mr. Tourigny, Yes; Ms. Temchack, Yes; Mr. Gagne, Yes; Mr. Menihane, Yes. ***Motion passed unanimously.***

Maximum Allowed Rent

Currently, values on these properties are based on maximum potential rent however these projects are not collecting 100% of the maximum rent. One thought to adjust for this was to develop a factor representing the average actual rent collected compared to maximum rent allowed. It is unknown whether NH Housing could collect that kind information to help calculate an average as not every contract calls for maximum rent; some have a percentage of the maximum.

There was concern about making too many changes at this time and getting away from the original intent of the statute. A suggestion was made to track the program with the current proposed changes for a couple years to understand the impact and the maximum allowable rent then determine if any further changes are necessary. Ms. Temchack added that changes should not be made to the formula because of changes caused by the tax rate because that is not something that can be controlled.

Mr. Tourigny stated one of the biggest challenges has always been having to use 100% of the full published median income rent limits; it is not feasible as it does not allow any affordability window of those they can rent to. While the cap rate range may provide some stability, he felt that most owners are probably already factoring the collection loss on the expense side. Mr. Menihane agreed and added that HUD releases income and rent limits annually and that is one of the reasons they underwrite deals less than 100% so they do not have to reduce rents to comply with HUD figures.

Households are not supposed to spend more than 30% of their income on rent and utilities and these property’s rents are fixed. The window of who they can rent to varies. An analysis is completed annually and depending on the market they are trying to accommodate and income levels, the affordability window could range from 89-96% of maximum income. From an assessing standpoint, the information to look for is what is the percentage of the total affordability number versus the maximum number which could then be analyzed leading to a possible legislative fix in the future. One other consideration to include is location as that will be a significant factor for what these properties can charge for rent. It was suggested this be added as a future task.

Another suggestion added to the task list was using the formula only in the year of a revaluation which would require a legislative change. A couple challenges may include the volatility of expenses from year to year and while this suggestion may provide consistency for communities that perform revaluations once every five years, the impact for those that revalue more frequently is unknown. Also suggested for consideration was using a rolling-average of three years, for example, for expenses.

The last suggestion for the task list was whether a circuit breaker for the maximum should be considered. After a brief discussion, and no example of an existing maximum circuit breaker, this idea was generally opposed to at this time.

Other Topics.

Ms. Lentz stated she would like to see housing authorities qualify under RSA 72:23-k, as a payment in lieu of tax (PILOT) instead of the low-income housing tax credit program. The housing authorities promote developers to build LIHTC properties but the properties revert back to them at the end of the program. The LIHTC program puts a higher tax burden on these properties than if they were allowed to qualify under RSA 72:23-k and it is affecting what they are trying to do. Another suggestion was to look at the language of the real estate transfer tax because public housing authorities are tax exempt however LIHTC properties are not.

Mr. Lessard ***motioned to adjourn***; Ms. Patten ***seconded the motion***.

Mr. Gagne adjourned without exception at 10:19 a.m.

Respectfully submitted,

Stephanie Martel, ASB Clerk
Municipal and Property Division
NH Department of Revenue Administration

All meetings are recorded and available upon request.

Documentation relative to the Assessing Standards Board may be submitted, requested or reviewed by:

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