



July 8, 2024

Tara Hall  
North Carolina Housing Finance Agency  
3508 Bush Street  
Raleigh, NC 27609

Dear Ms. Hall:

Thank you for the opportunity to contribute this feedback, which we hope will inform the development of the State of North Carolina's 2025 Draft Qualified Allocation Plan. We look forward to collaborating with the North Carolina Housing Finance Agency (NCHFA / the Agency) as you develop your affordable housing priorities. Lincoln Avenue Communities (LAC) is a mission-driven affordable housing developer currently active in twenty-seven states. In North Carolina, we are focused on developing ground-up new construction affordable housing and preservation of existing affordable housing using a combination of 9 percent LIHTCs and 4 percent LIHTCs with tax-exempt bonds (TEBs).

### [Developer Fees](#)

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#### New Construction Projects

We appreciate that NCHFA has increased the per unit developer fee limit for new construction projects to \$22.5k in the 2024 QAP update. This was a positive development that has resulted in increased transactional feasibility; however, we observe that the per unit developer fee ceiling is still relatively low for projects financed with tax-exempt bonds and 4% LIHTCs. It is more common that HFAs adopt a flat percentage developer fee for projects financed with tax exempt bonds and 4% LIHTCs.

Most states permit a flat developer fee percentage of at least 15% and many states in the region have higher developer fees for 4% transactions.<sup>1</sup> The additional eligible basis generates incremental supplemental federal tax credit equity. This helps fill financing gaps and offsets rising construction costs, inflationary interest rates and operating expenses.

#### Rehabilitation Projects

As NCHFA considers further updates to the QAP we strongly encourage the agency to follow the precedent it adopted in 2024 for new construction projects and increase the allowable developer fee for rehabilitation projects in 2025. The methodology for calculating developer fees for rehabilitation projects results in a below market developer fee, fully omitting acquisition basis as well as other costs in eligible basis (e.g., GC overhead, GC profit, PMP, developer fees). In effect, developer fees can only be generated by hard construction costs. While the percentage *appears* to be relatively high (28.5%) when normalized

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<sup>1</sup> Selection of developer fee policies for 4% LIHTC transactions:

25% - Tennessee

20% - Kentucky, Ohio, North Dakota, Oklahoma, Wisconsin

19% - Arizona

18% - Florida, Iowa, West Virginia



to include the excluded eligible basis is below market and results making many affordable housing preservation opportunities financially infeasible. We have attached as an appendix to these comments a brief case study that compares the proceeds generated for a typical 4% LIHTC preservation transaction located in North Carolina using the current developer fee policy with an identical development in Tennessee and Florida. As NCHFA will see, updating the developer fee policy and bringing it in parity with other states in the region can potentially generate millions of dollars of additional tax credit equity that can be used to fill project gaps and make preservation transactions more feasible.

### Additional Context

It is important to acknowledge the role developer fees play in affordable housing transactions as well when you consider the appropriate fee setting mechanism. The IRS permits the inclusion of developer fees in eligible basis because these fees serve as the primary form of compensation for LIHTC developers. They pay for overhead of essential functions, including accounting, human resources, information technology, asset management, insurance and legal fees and many others. Developer fees also serve as the primary form of reimbursement for pre-development costs and resident services. It should also be noted that developers defer a substantial portion of this fee to fill project gaps and with uncertainty in the cost environment the additional fee effectively will serve as additional construction contingency, much drawn on today as construction costs skyrocket.

### Development Experience

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Per the 2024 QAP, to be eligible for a 9% LIHTCs, at least one Principal must have successfully developed, operated, and maintained in compliance either one 9% LIHTC Project in North Carolina or six separate 9% tax credit projects totaling in excess of 200 units. The projects must have been placed in service between 1/1/2016 and 1/1/2023. The principal must become a GP or managing member of the ownership entity, remain responsible for overseeing the project and operation for at least two years.

We recognize that successful LIHTC development experience is one of the most positive indicators for future success of a development team. We believe that positive development experience with the 4% LIHTC program should be given equal footing with 9% LIHTC experience. In our experience, 4% LIHTC transactions tend to be more challenging than 9% LIHTC developments. This is due to the typical scale of 4% LIHTC projects, the increased leverage, and the additional steps necessary to secure private activity bonds such as the TEFRA hearing, bond inducement and the placement of the bonds.

Under the current QAP policy, successful 4% LIHTC experience is not recognized when considering a 9% LIHTC applicants experience. We believe this creates an unnecessary impediment from attracting the qualified and experienced 4% LIHTC developers from participating in the 9% program and that limits capital investment in North Carolina, discourages diversity within the affordable housing ecosystem and concentrates risk amongst a small pool of developers. As fiduciaries of the state limited affordable housing resources, NCHFA should further develop experience policies that encourage the nation's most experienced and best-capitalized affordable housing developers to invest in North Carolina. Likewise, as industry stewards with a long-term outlook, it should also develop experience policies that welcome and assist next generation, emerging and MWB development companies to invest in the state.

In addition to the points made above, there are several additional flaws with the experience policy as currently administered:

- It is very difficult for experienced out-of-state developers as well as emerging developers of color that may lack *local* tax credit experience from gaining the necessary experience to compete. This requires developers to “partner” with local “experienced” developers that often times are little more than paper partners. In our experience, many of the developers willing to joint-venture with an emerging developer or an out-of-state developer bring little of value to the partnership beyond their “application experience.” They do not tend to participate substantively in the actual development work or contribute their balance sheet to support the transaction. They simply “rent” their application experience (at high fees) and are otherwise silent and indemnified partners.
- It discounts experience with the 4% LIHTCs; which, if anything is more valuable experience given the scale and difficulty of the transactions, compared to 9% transactions.
- It discounts relevant experience that professionals may have earned (either in state and/or out of state) performing the function of the developer if they were not principal of the company. An individual may have led the successful development of thousands of units of affordable housing as an employee of another firm and receive no credit under the current policy if they switch firms.
- It conflates development experience with guarantor capacity. While both are important indicators of success, they should be evaluated.

We recommend that NCHFA consider the following policy changes in its QAP:

- Treat in-state and out-of-state experience with parity. If NCHFA requires a higher standard of experience for out of state developers, we suggest 3-5 properties placed in service (over the past 5 years) is sufficient.
- Allow experience from 4% LIHTC transactions to count towards the experience requirement for 9% developments and vice-versa.
- Allow an “inexperienced” developer to submit applications to earn experience (but potentially limit the number of awards for first time developers

## Operating Deficit Reserve Policies

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To provide developers with more working capital flexibility, we urge NCHFA to consider amending its operating deficit reserve policy to allow a surety bond as an alternative to a funded operating reserve. Such a surety bond should meet stringent requirements including being backed by a S&P A rated / AM. Best Rated A++ XV Surety Company *and* be written in a way where it is “as good as cash” so that a syndicator/investor can request to have the reserve funded at any given time for any given reason. In effect, developers would still need to have the ability and balance sheet in place to fund the reserve at any time during the compliance period but would have the flexibility to invest funds in in higher yielding accounts such as certificates of deposit, treasuries, or other higher yielding investments. We note that housing finance agencies in Minnesota, Iowa, North Dakota, and Montana all specifically reference in their QAPs and related documents that a bond is an acceptable alternative to cash in funding operating



reserves. Additionally, Mississippi, Iowa and Oklahoma specifically accept Letters of Credit as an acceptable alternative to cash in funding operating reserves. We can provide contacts of reputable surety bond companies to the agency who can explain the current options in the market and answer technical questions regarding their structures, “good as cash” requirements and market pricing.

## Conclusion

Lincoln Avenue Communities appreciates the opportunity to work with NCHFA on the drafting of its 2025 Low-Income Housing Tax Credit QAP. We welcome the opportunity to discuss them with you further at your leisure and/or answer any questions you may have regarding our feedback. I can be reached at 646-585-5526 or [tamdur@lincolnavenue.com](mailto:tamdur@lincolnavenue.com).

Regards,

A handwritten signature in black ink, appearing to read "Thom Amdur", with a long horizontal flourish extending to the right.

Thom Amdur

Senior Vice President, Policy & Impact

## About Lincoln Avenue Communities

Lincoln Avenue Communities is one of the nation’s fastest-growing developers, investors, and operators of affordable and workforce housing, providing high-quality, sustainable homes for lower- and moderate-income individuals, seniors, and families nationwide. LAC is a mission-driven organization that serves residents across 27 states, with a portfolio of 150 properties comprising 26,000+ units.

## Regional Development Fee Comparison - Preservation Opportunities

North Carolina			
	Total	Per Unit	
<b>Acquisition</b>			-
Building	\$ 19,000,000		
Land	<u>2,000,000</u>		
<b>Total</b>	<b>\$ 21,000,000</b>	<b>\$ 140,000</b>	
<b>Construction Hard Costs</b>			
Base Contract	\$ 7,095,000		
GR/OH/P	1,155,000		
Contingency	825,000		
P&P Bond/Permit	<u>161,700</u>		
<b>Total</b>	<b>\$ 9,236,700</b>	<b>\$ 61,578</b>	
<b>Project Soft Costs</b>	607,500	4,050	
<b>Tax Credit Fees</b>	496,155	3,308	
<b>Bond Issuance Costs</b>	399,250	2,662	
<b>Equity Bridge Loan Costs</b>	478,676	3,191	
<b>Construction Loan Costs</b>	1,052,500	7,017	
<b>Permanent Loan Costs</b>	127,550	850	
<b>Closing Costs</b>	140,000	933	
<b>Escrows and Reserves</b>	699,071	4,660	
<b>Miscellaneous Resyndication Costs</b>	<u>300,000</u>	<u>2,000</u>	
<b>Total Uses Before Developer Fee</b>	<b>\$ 34,537,402</b>	<b>\$ 230,249</b>	
<b>Basis for Calculation of Developer Fee</b>			
Base Contract	\$ 7,095,000	\$ 47,300	
<b>Developer Fee Percentage</b>	<b>28.5%</b>		
<b>Allowable Developer Fee</b>	<b>\$ 2,022,075</b>	<b>\$ 13,481</b>	
Developer Fee as a Percentage of Project Costs	<b>5.85%</b>		
<b>Equity Generated From Developer Fee</b>			
Applicable Fraction	100%		
LP Ownership	99.99%		
TC Percentage	4.00%		
<b>Annual Credits</b>	<b>\$ 80,875</b>	<b>\$ 539</b>	
Equity Pricing	\$ 0.91		
<b>Total Equity Generated from Developer Fee</b>	<b>\$ 735,962</b>	<b>\$ 4,906</b>	
	<i>With Basis Boost</i>		
<b>Total Equity Generated from Developer Fee</b>	<b>\$ 956,750</b>	<b>\$ 6,378</b>	

  

Tennessee			
	Total	Per Unit	
<b>Acquisition</b>			-
Building	\$ 19,000,000		
Land	<u>2,000,000</u>		
<b>Total</b>	<b>\$ 21,000,000</b>	<b>\$ 140,000</b>	
<b>Construction Hard Costs</b>			
Base Contract	\$ 7,095,000		
GR/OH/P	1,155,000		
Contingency	825,000		
P&P Bond/Permit	<u>161,700</u>		
<b>Total</b>	<b>\$ 9,236,700</b>	<b>\$ 61,578</b>	
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<b>Escrows and Reserves</b>	699,071	4,660	
<b>Miscellaneous Resyndication Costs</b>	<u>300,000</u>	<u>2,000</u>	
<b>Total Uses Before Developer Fee</b>	<b>\$ 34,537,402</b>	<b>\$ 230,249</b>	
<b>Basis for Calculation of Developer Fee</b>			
TDC Less Cash Reserves	\$ 33,838,331	\$ 225,589	
<b>Developer Fee Percentage</b>	<b>25.0%</b>		
<b>Allowable Developer Fee</b>	<b>\$ 8,459,583</b>	<b>\$ 56,397</b>	
	<i>*Note 40% must be deferred*</i>		
Developer Fee as a Percentage of Project Costs	<b>24.49%</b>		
<b>Equity Generated From Developer Fee</b>			
Applicable Fraction	100%		
LP Ownership	99.99%		
TC Percentage	4.00%		
<b>Annual Credits</b>	<b>\$ 338,349</b>	<b>\$ 2,256</b>	
Equity Pricing	\$ 0.91		
<b>Total Equity Generated from Developer Fee</b>	<b>\$ 3,078,980</b>	<b>\$ 20,527</b>	
	<i>No Basis Boost</i>		
<b>Total Equity Generated from Developer Fee</b>	<b>\$ 3,429,432</b>	<b>\$ 22,863</b>	
	<i>With Basis Boost</i>		
<b>Total Equity Generated from Developer Fee</b>	<b>\$ 3,429,432</b>	<b>\$ 22,863</b>	

  

Florida			
	Total	Per Unit	
<b>Acquisition</b>			-
Building	\$ 19,000,000		
Land	<u>2,000,000</u>		
<b>Total</b>	<b>\$ 21,000,000</b>	<b>\$ 140,000</b>	
<b>Construction Hard Costs</b>			
Base Contract	\$ 7,095,000		
GR/OH/P	1,155,000		
Contingency	825,000		
P&P Bond/Permit	<u>161,700</u>		
<b>Total</b>	<b>\$ 9,236,700</b>	<b>\$ 61,578</b>	
<b>Project Soft Costs</b>	607,500	4,050	
<b>Tax Credit Fees</b>	496,155	3,308	
<b>Bond Issuance Costs</b>	399,250	2,662	
<b>Equity Bridge Loan Costs</b>	478,676	3,191	
<b>Construction Loan Costs</b>	1,052,500	7,017	
<b>Permanent Loan Costs</b>	127,550	850	
<b>Closing Costs</b>	140,000	933	
<b>Escrows and Reserves</b>	699,071	4,660	
<b>Miscellaneous Resyndication Costs</b>	<u>300,000</u>	<u>2,000</u>	
<b>Total Uses Before Developer Fee</b>	<b>\$ 34,537,402</b>	<b>\$ 230,249</b>	
<b>Basis for Calculation of Developer Fee</b>			
TDC Less Operating Reserve	\$ 33,838,331	\$ 225,589	
<b>Developer Fee Percentage</b>	<b>18.0%</b>		
<b>Allowable Developer Fee</b>	<b>\$ 6,090,900</b>	<b>\$ 40,606</b>	
Developer Fee as a Percentage of Project Costs	<b>17.64%</b>		
<b>Equity Generated From Developer Fee</b>			
Applicable Fraction	100%		
LP Ownership	99.99%		
TC Percentage	4.00%		
<b>Annual Credits</b>	<b>\$ 243,612</b>	<b>\$ 1,624</b>	
Equity Pricing	\$ 0.91		
<b>Total Equity Generated from Developer Fee</b>	<b>\$ 2,216,866</b>	<b>\$ 14,779</b>	
	<i>No Basis Boost</i>		
<b>Total Equity Generated from Developer Fee</b>	<b>\$ 2,469,191</b>	<b>\$ 16,461</b>	
	<i>With Basis Boost</i>		
<b>Total Equity Generated from Developer Fee</b>	<b>\$ 2,469,191</b>	<b>\$ 16,461</b>	