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Tax Relief for LIHTC Properties

"Paying attention to what rent includes can result in lower tax bills..."

By **J. Kieran Jennings**, as published by [Affordable Housing Finance - News](#) - February 2010

Improperly assessed property taxes on a low-income housing tax credit (LIHTC) property can destroy its economic viability. LIHTC property owners can protect themselves from destructive taxation by understanding several key issues that lead to improper tax assessments. Additionally, owners can take some practical steps to maintain proper assessments in the future.

Unlike other real estate, the values of LIHTC projects generally do not vary greatly from year to year. Restrictions placed on rents and administrative costs often leave LIHTC actual market values so low that a small incremental difference becomes immaterial. Thus, if a project is fairly assessed, it should be able to remain fairly assessed over its contract period.

Property taxes for conventional multifamily housing projects typically comprise one of the largest expenses for an owner. However, because rents are reduced and operating expenses are higher, LIHTC properties labor under significantly tighter margins than most conventional properties. As a result, taxes can mean the difference between making debt service and feeding a property.

LIHTC developments include single apartment buildings, townhomes, single-family developments, and scattered single-family home sites. Many states are coming to a consensus, assessing projects using reduced contract rents and the higher operating expenses associated with LIHTC properties. However, a problem arises because LIHTC properties can take various different forms, making it difficult for an assessor to know, without additional information, whether a property is conventional or a LIHTC property.

Because assessors cannot simply go out and look at properties and know that they carry LIHTC restrictions, the properties often sustain improperly high assessments. This forces LIHTC taxpayers to challenge assessments each and every time they go through a reassessment. Thus, a continuous battle ensues, causing additional expenses to the taxing jurisdiction and the taxpayer.

A solution for this problem is within reach. It calls for putting in place a system that helps the assessor produce a fair assessment year after year. Such a system incorporates meeting with the assessor to present information that indicates the LIHTC nature of the property. The presentation also needs to include the project's financial statements and the Land Use Restriction Agreement (LURA), all of which provide the necessary information to assist assessors in initially establishing a fair assessment. The taxpayer should work with the assessor to ensure that the property card, database, and tax bill are labeled as LIHTC.

Similar to property tax abatements, this labeling should be maintained throughout the LURA period. By employing the same mechanisms as used in abatements, an assessor can flag a property for the remaining years in the LURA period, allowing the tax authorities to identify and properly assess LIHTC properties across time.

Establishing a long-term workable solution for LIHTC assessments contemplates some compromises. In the case of property owners, this means sharing financial information with the assessors. Many property owners show some reluctance to provide assessors with income and expense information. They should not resist sharing financials because LIHTC properties' income potential is typically reduced due to the restrictions, and that income provides the basis for the tax authority to establish a fair assessment.

Taxing authorities also have to compromise. In order not to fight over assessments throughout the life of a LIHTC project, assessors need to accept the fact that LIHTC properties have a certain level of economic obsolescence.

The obsolescence can be quantified by examining the value of the property under the LURA and the value as if it were a conventional property. For example, if a LIHTC property is worth \$600,000 under the LURA and \$1 million as a conventional property, then it suffers from a 40 percent obsolescence factor. Therefore, the assessor can simply reduce the value of the property by 40 percent when reappraising it and continue to do this for the life of the LURA.

No system is perfect, but if parties can agree to a long-term assessment formula, budgets should be closer and disagreements fewer, allowing for economic sustainability for taxpayers and proper assessments by assessors.

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