Baltimore Regional Fair Housing Group

c/o Baltimore Metropolitan Council •1500 Whetstone Way • Suite 300 • Baltimore, MD 21230

Comments on Draft 2023 Maryland QAP

July 17, 2023

The Baltimore Regional Fair Housing Group is a collaboration among the Baltimore metropolitan area's HUD entitlement jurisdictions (Cities of Baltimore and Annapolis, along with Anne Arundel, Baltimore, Harford, and Howard Counties) and the public housing agencies in those jurisdictions, with staff support at the Baltimore Metropolitan Council. We work together regionally to carry out our duty to affirmatively further fair housing. As the largest funding source for affordable housing in our region, Maryland's Qualified Allocation Plan (QAP) figures prominently in our 2020 Regional Fair Housing Action Plan.

While many of our individual jurisdictions have other comments and concerns about Maryland's QAP, it is important to emphasize that the recommendations in this letter are agreed on by all of our jurisdictions and housing authorities, speaking together with one voice.

As it relates to the current 2023 draft QAP, we have the following suggested changes:

1. **Choice Neighborhoods:** While we are glad to see you expand this incentive to areas covered by a HUD Choice Neighborhoods planning grant, we are sorely disappointed that DHCD slashed this incentive from five points to two.
    a. We strongly urge you to increase this incentive to five points, as before. Choice Neighborhoods developments are crucial opportunities to right the wrongs of the past, which the draft Guide sets as a new focus area for DHCD. HUD's Choice Neighborhoods program brings comprehensive investment and opportunity to distressed public housing sites usually in historically redlined areas, righting the 20th century wrong of placing those sites overwhelmingly in areas of concentrated disadvantage.
    b. In terms of expanding the incentive to sites of planning awards, we urge you to clarify the language in the Guide to read, "Points will only be awarded to projects located within the boundaries of, and contributing to, a "Choice Neighborhood" planning or implementation grant awarded by HUD." The distinction is between HUD's planning and implementation grants, not planning grants and awards.
2. **Communities of Opportunity:** We are also extremely disappointed that the draft QAP contains no strengthening whatsoever of this incentive, despite two rounds of evidence that it is ineffectual. This is another key way to right the wrongs of the past – ensuring that new affordable housing is not relegated to historically redlined areas, but helps the

classes of people who have historically been restricted to those areas access current economic and educational opportunity.

a. We strongly urge you to increase this incentive to four points, as we did in our March comments.

b. We also urge you to apply the metro-area incentive to at least the six highest scoring Baltimore- and DC-area applications, so it can have some effect and help DHCD's opportunity/revitalization and metro area/rural balance.

3. **Year 15 Preservation:** We are glad to see an effort made in the draft to address this pressing national concern here in Maryland. Still, the national problem is voracious investors at their Year 15 exit draining the general partner and the partnership of assets needed to maintain the property afterwards. Other than forcing the applicant to face the issue at some level as they negotiate their investor letter of intent, we do not see how the new language in the draft QAP requiring a Year 15 plan at the time of application for credits will curb irresponsible investors at all.

   We urge the required actions to include the Investor/Limited Partner signing a certification at application that the following provisions will be included in the limited partnership/LLC agreement executed at project finance closing:

   - The Investor/Limited Partner will not seek to remove the general partner/management member of LIHTC limited partnership/LLC, absent clear evidence of fraud or serious mismanagement on the part of the general partner/managing member.
   - The Investor/Limited Partner will not seek to achieve early termination of LIHTC extended use agreement or other documents evidencing long-term affordability restrictions of the project.
   - The Investor/Limited Partner will honor a LIHTC right of first refusal/right of first option in favor of a non-profit sponsor executed concurrent with the initial tax credit equity closing for the LIHTC project and will not interfere with the right of first refusal (ROFR)/right of first option agreement.
   - Subject to the terms of the ROFR, Purchase Option or any other agreement that governs the Investor/Limited Partner exit from the project, the Investor/Limited Partner understands that the primary return on their investment derives from the price paid for the credits, the depreciable losses realized, and cash flow earned from project operations. Additionally, the Investor/Limited Partner understands that project reserves are crucial to the long-term financial sustainability of the project and will not be used as a resource for payment to the Investor/Limited Partner upon exit.

Thank you for your consideration of these comments. Please feel free to contact us if you have any questions or would like to discuss these recommendations further.

Sincerely,

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