

INTRODUCTION

This document is a reference guide for tenants living in rental housing under the Section 42 Low-Income Housing Tax Credit (LIHTC) program. It is designed to provide a basic program overview and to answer frequently asked questions. This manual should be a useful resource for tenants to better understand the program.

Please note, however, that this document is to be used only as a basic introduction. It should not be considered a complete guide to the LIHTC program. In addition, different properties under the program may be subject to different expectations depending on the specific terms and agreements between the property owner and the Connecticut Housing Finance Authority (CHFA).

SCOPE

This document covers program eligibility, rent restrictions, tenant protections, and tenant responsibilities under the LIHTC program. This manual is meant to be a resource for tenants or potential tenants of LIHTC housing. This manual does not discuss the full compliance requirements of the program.

Property owners or managers looking for a full description of program compliance requirements should refer to CHFA's manual entitled *CT Compliance Manual* which can be found on the Spectrum website at <http://www.spectrumlihtc.com/states/connecticut>. Developers looking for information on how to apply for credits should refer to CHFA's current Qualified Allocation Plan (QAP).

****DISCLAIMER****

The publication of this document is for convenience only. Your use or reliance upon any of the provisions or forms contained herein does not, expressly or impliedly, directly or indirectly, suggest, represent, or warrant that you as a prospective tenant (applicant) will be admitted into LIHTC housing, nor that you as a current tenant are meeting all of your tenant obligations since lease requirements and tenant rules will vary from property to property.

CHFA's obligation to monitor for compliance with the requirements of the federal program regulations does not make CHFA or its authorized delegate liable for a property owner or management agent's noncompliance.

CHFA cannot provide legal advice or aid.

Connecticut Housing Finance Authority

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Part 1: Program Introduction

The LIHTC program, also called the rental housing tax credit program, is a federal program governed by the Internal Revenue Service (IRS). The purpose of the program is to provide a tax credit to property owners/developers to create affordable rental housing. In exchange for the tax credit, the property owner must agree to: (i) restrict occupancy to program-eligible households (see Part 2 below), (ii) follow program rent restrictions (see Part 3 below), and (iii) keep the housing safe and sanitary.

Every state has a designated “allocating agency” that is responsible for overseeing the program in that state. For Connecticut, the designated agency is the CHFA. CHFA staff or CHFA’s Authorized Delegate conduct compliance audits, inspections, and annual reviews on all LIHTC properties in Connecticut to ensure that the program rules are being followed.

CHFA does not own or manage any properties and does not take any applications. Interested applicants must apply onsite at the property. In addition, CHFA strongly recommends that any households looking for housing options use the online housing search tool CT Housing Search at <http://www.cthousingsearch.com>.

Part 2: Program Eligibility

A household must meet two tests in order to be eligible for LIHTC housing. First, the household must be income eligible. Second, the household must meet the program’s student status rule. Before discussing these two rules, it is first important to understand the definition of household.

2.1 Household Size

Income limits are based on the number of individuals that will be living in the unit. For purposes of determining household size, a household includes all individuals that will reside in the unit, whether or not those individuals are related. This includes individuals temporarily absent from the household (such as children away at school), unborn children, and children in joint custody agreements that will reside in the unit at least 50% of the time, and foster children or foster adults. There are two special rules related to households:

- The household members get to choose whether or not to include a member who is permanently confined to hospital or nursing home.
- Military members away on active duty are only counted in household size if they are the head or co-head, or if they leave behind a spouse or dependent child in the unit.

Live-in aides and guests are not counted in household size.

2.2 Income Eligibility

Once the household size has been determined, this number is used to determine the correct income limit to apply. The US Department of Housing and Urban Development (HUD) annually releases program income limits based on household size. Each county or metropolitan statistical area has its own set of income limits.

LIHTC program units are designated for households at 25%, 50%, or 60% of the area median income (AMI). A unit will be designated for occupancy at one of these levels and can only be occupied by a household with an income below the applicable limit. Therefore, a unit designated at 60% could have a household at 50% AMI move into it, but a unit designated at 50% could NOT have a household at 60% AMI move into it.

Income eligibility is determined by looking at all earned income (such as employment), unearned income (such as Social Security, child support, other benefits, etc.), and asset income (such as interest

from bank accounts). The total household income from all household members from all sources (except those sources specifically excluded by program regulations) must be at or below the income limit at the time of move-in.

Example: if a household has 4 members and they wanted to move into a unit designated at 50% area median income, the property manager would have to determine household income and make sure that the income is at or below the 4 person 50% income limit in effect. If household income was above this limit, then the household would not be eligible to move-in.

2.3 Student Eligibility

LIHTC was designed to prohibit the use of the program to create dormitories or other student housing. Therefore, households in which all members are full-time students are generally ineligible to live in LIHTC program units. An individual is considered a full-time student if he or she was a full-time student (based on the definition of full-time used by the school they attend) for parts of five or more months out of the calendar year.

A household that consists entirely of full-time students may still be eligible for LIHTC housing if a certain exception is met. When applying for housing, each household must complete a student status questionnaire. This questionnaire will walk through all possible student exceptions. If all members are full-time students but an allowable exception can be documented, then the household will be considered eligible.

2.4 Applying for LIHTC Housing

An individual or household must apply for LIHTC housing at the property at which they wish to reside. The application process will include the completion of an income and asset questionnaire as well as a student status questionnaire. Any income or asset sources identified must be verified through third-party sources by property management to calculate income. After eligibility has been verified, the household must sign a "Tenant Income Certification" form certifying that all information provided was true and that the calculated household income is accurate.

All households accepted into LIHTC housing must enter into a lease agreement for no less than six months.

2.5 Tenant Selection

All LIHTC properties must comply with the program regulations regarding income and student status eligibility as described in Parts 2.2 and 2.3 above.

In addition, each property may create additional eligibility screening requirements. Common examples that are not part of LIHTC but may be required by municipalities, owners and management agents include:

- criminal background checks;
- previous landlord history background checks;
- credit history requirements;
- limits on the number of household members permitted to reside in a unit based on the number of bedrooms in the unit; and
- a minimum income requirement.

2.6 Annual Recertification

Tenants living in LIHTC units must recertify annually to confirm eligibility as an LIHTC household. The owner/agent is required to retrieve third-party verification of all income sources of all adult household members age 18 and older as well as benefits paid on behalf of minors in the household.

Rent and eligibility may change based on the following circumstances:

1. New or additional income sources
2. Change in employment status
3. Change in family composition
4. Change in assets

The recertification process is identical to the move-in eligibility process, except the income limits are increased to 140% of the median area income limit. If the household annual income at recertification increases above the qualifying income level at move-in, but is less than 140% of the median income limit, the family continues to qualify as a LIHTC unit household.

Annual recertification ensures affordable housing units are occupied by income eligible households. Every LIHTC household is expected to undergo a complete annual recertification the year following move in. Subsequent years, require a self-certification. Annual recertification does not determine continued eligibility, it does identify the 140% rule, student status, and possible household composition changes.

Part 3: Rent Restrictions

All LIHTC program units are rent-restricted. Units may be rent-restricted at 25%, 50%, or 60% of the area median income (AMI). A unit will be designated as rent-restricted at one of these levels. HUD annually releases program rent limits based on the number of bedrooms in the unit. Each county or metropolitan statistical area has its own set of rent limits. You can find these rent limits on the CHFA website at

<http://www.chfa.org/Rental%20Housing/for%20Owners%20and%20Management%20Agents/Tools%20Calculators%20and%20Look-ups/HMFALimits.aspx>

If tenants are responsible for paying their own utilities, then the property must use a “utility allowance”. This is an estimate of the average monthly utility cost for a unit.

To determine the actual rent that can be charged, the property manager must deduct the utility allowance from the rent limit in the chart released by CHFA.

For example, a household lives in a two-bedroom unit designated at 50% AMI. The CHFA chart says that the rent limit for a two-bedroom unit at 50% AMI in that county or metropolitan statistical area is \$550. The utility allowance for a two-bedroom unit at the property is \$150. The maximum amount of rent that can be charged to the household is \$400 (\$550 rent limit minus \$150 utility allowance).

NOTE: Properties are protected against future decreases in rent limits once they open for occupancy. If the CHFA published rent limit for a county or metropolitan statistical area decreases from one year to the next, a property may continue using the higher limits from the previous year if it was in service during that prior year. This means that determining a rent limit should be confirmed with individual properties.

Part 4: Tenant Protections

Tenants are provided a number of protections under the LIHTC program.

4.1 Rent Protection

All LIHTC units are rent-restricted. See Part 3 above for more information.

4.2 Protection against Future Income Increases

Income eligibility is based on the household income at the time of initial move-in. Subsequent income increases do not make the household ineligible to remain in the unit. However, if the building has a mix of market rate and program units, a household that exceeds 140% of the income limit may be converted to market rate status and lose its rent-restricted status.

Note: There is no such protection against future changes in student status. If a household fails to be student status qualified after the time of initial move-in, the household is no longer eligible to remain in the unit.

4.3 Section 8 Vouchers Accepted

LIHTC properties cannot refuse to accept Section 8 vouchers. However, voucher holders must meet all other eligibility and tenant selection criteria in order to be eligible for occupancy.

4.4 Fair Housing

All LIHTC properties are subject to the federal Fair Housing Act. Properties may not discriminate based on the seven protected classes: race, color, national origin, familial status, disability, religion, or sex. In addition, the property must allow reasonable accommodation and reasonable modification requests in accordance with the Fair Housing Act requirement.

4.5 No Eviction without Good Cause

LIHTC properties may not evict or non-renew leases without good cause. Good cause is generally defined as material violations of the lease, such as non-payment of rent, damage to property, failure to follow property rules, interference with other tenants, or fraud, and is subject to determination through applicable legal process.

Increases in income after move-in are not good cause for eviction or non-renewal.

Part 5: Tenant Responsibilities

All applicants and tenants are responsible for completely and accurately reporting information related to household size, income and asset sources, and student eligibility. This includes complying with requests for information in a timely manner, both at the time of initial application as well as at annual recertification.

Withholding or providing false information is grounds for denial (for applicants) or eviction (for existing tenants). In addition, tenants committing fraud can be reported to the IRS.

Tenants are responsible for complying with all lease terms and property rules and regulations.

In addition, tenants need to understand that their units will likely be chosen at some time for inspections by CHFA staff or CHFA's Authorized Delegate. The purpose of such inspections is to ensure that the property is being maintained in a condition that provides safe, decent, and sanitary housing. Tenants must comply when their units are selected for inspection.

Part 6: Common Misconceptions

Below is a list of common misconceptions about the program:

- CHFA does not take applications or maintain waiting lists for the LIHTC program. Applications must go directly through the property.
- The maximum allowable rent is based upon a set-aside designation assigned to the unit. Therefore, two households with significantly different incomes can be asked to pay the same rent if they are residing in units designated at the same rent set-aside. See Part 3 for more information on rent limits.

Part 7: Complaints

Tenant complaints should always first be addressed to the onsite property management staff and/or property Management Company. When a complaint cannot be resolved between the tenant and management, the tenant may contact CHFA by calling 860-721-9501 and asking to speak with the Asset Manager responsible for the property. All program related complaints or complaints about the physical condition of the property that are received by CHFA will be investigated. However, legal issues not related to specific program requirements generally cannot be addressed by CHFA.

Discrimination complaints should be directed to the Connecticut Commission on Human Rights and Opportunities (CHRO) Housing Discrimination Unit via 860-541-3403. Information is available at <http://www.ct.gov/chro>.