

INSTRUCTIONS

COMPLIANCE YEAR 2011 OWNER CERTIFICATION OF COMPLIANCE FOR LOW INCOME HOUSING TAX CREDIT PROJECTS

This certification must be completed annually throughout the compliance period. A certification must be submitted for any project which has received an IRS Form 8609 ("Low Income Housing Credit Allocation Certification") for a placed-in-service date in the prior calendar year or earlier. The certification covers the prior twelve-month calendar year.

SUBMISSION DEADLINE: Certifications must be submitted to HPD no later than March 1, 2012. (No extensions beyond this deadline will be granted.) Submit to:

NYC Department of Housing Preservation and Development
100 Gold Street, Room 7-X2, New York, NY 10038
ATTN: John Cullinan

If you have any questions, please contact Robert King at (212) 863-8204.

USE THE FOLLOWING CHECKLIST TO AVOID COMMON ERRORS IN COMPLETING THE CERTIFICATION.

- Compliance Monitoring Fee** – Submit a check payable to "NYC Department of Finance." The name of project **MUST** be shown on face of check and each check should be attached to a monitoring fee form which will ensure accurate processing. The fee is twenty-five dollars (\$25) for each LIHTC unit in the project.
- Current Form** – You must use the Compliance Year 2011 Certification form. It is not acceptable to resubmit forms from prior years.

PART A

- Provide **Owner name** (usually a limited partnership)
- State **Sponsor / Developer** (i.e. the parent organization)
- Indicate the **HPD program** under which the project was developed.
- Person preparing the form** (who can be consulted for questions) must be listed.
- List each building** on a separate line that has a separate LIHTC Building ID Number ("BIN"). The BIN can be found on the IRS 8609 Form issued by HPD.
- Consult Form IRS-8609 and/or your Tax Preparer to determine the **first year that credits were claimed**. The year may not be the same for every building in a project.
- Superintendent apartments** are not tax credit eligible, but are treated as part of the common area of the building. List them in Column C only.
- Applicable Fraction must be shown for EACH building** (Column E.) Divide the number of units in Column A by the SUM of units in Columns A & B.
- Tax ID Number** for the owner **MUST** be included. (Section II)
- Any **change in ownership** (to a new partnership) must be reported. If any sale or transfer of ownership has occurred during the compliance year, a two-part certification will be required. The initial owner will complete a certification for the period from the beginning of the compliance year to the date of transfer. The new owner must certify compliance from the date of transfer through the end of the compliance year.

PART B

- Be sure to check the correct **Minimum Set-Aside test** (question 2, page 2) that was elected by the owner on the first tax return for the project. If in doubt, consult your Tax Preparer.
- If any required statement in the Certification cannot be answered in the affirmative, the **owner must explain**. Use appropriate lines provided (or space on Page 4) to specify the buildings and apartments that do not conform, and in what respects each does not conform.
- The certification must be **signed by an officer of the general partnership and must be notarized**. IRS regulations permit the certification to be made by the managing agent, only if the managing agent has power of attorney for the purpose of making such certification.

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FOR LOW-INCOME HOUSING TAX CREDIT PROJECTS

PART B

The undersigned, under penalty of perjury, hereby certifies to the NYC Department of Housing Preservation and Development that all the information set forth in Parts A and B of this Owner Certification for Low-Income Housing Tax Credits is true. (If the owner cannot certify to any of the following statements, details must be provided in the space following the question or in the "Explanation" Section on page 4. Additional sheets may be attached if necessary.)

1. The project has been and is owned and operated in compliance with Section 42 of the United States Internal Revenue Code ("IRC") and all regulations promulgated hereunder.
2. The project has met the requirements for the minimum set-aside test specified below.

(Must check one of the boxes below)

- The 20-50 test under IRC Section 42(g)(1)(A), (i.e. at least 20% of the project rental units are rent restricted and occupied by individuals whose income is 50% or less of area median gross income)
- The 25-60 test under IRC Sections 42(g)(4) and 142(d)(6) for New York City, (i.e. at least 25% of the project rental units are rent restricted and occupied by individuals whose income is 60% or less of area median gross income)

3. The owner elected "deep rent skewed" for this project and has met the requirements specified below:

(Must check one of the boxes below)

- The 15-40 test under IRC Sections 42(g)(4) and 142(d)(4)(B) for "deep rent skewed" projects (i.e. at least 15% of the tax credit units are rent restricted and occupied by individuals whose income is 40% or less of area median gross income)
- Not applicable to this project.

4. Each tenant in a low-income unit in the project complied with the applicable income limit upon their initial occupancy in the project. If no, list the units that did not qualify:

- Yes
- No

5. The project has met the requirements for annual income certification specified below:

(Must check one of the boxes below)

- I have received an annual income certification from each and every tenant in a low-income unit in the project and documentation to support such certification, and shall make them and any and all other records available to HPD or its designee upon request.
- I have received an annual income certification and supporting documentation from all tenants except those listed below for calendar year 2011. (Specify building address, and apartment number.) Any and all records shall be made available to HPD or its designee upon request.

- The project is a 100% tax credit project.

6. Each LIHTC qualified low-income unit in the project is rent-restricted under IRC Section 42(g)(2). If no, list the units that did not qualify.

Yes No

7. All LIHTC qualified low-income units in the project were for use by the general public, and there has been no finding of discrimination under the Fair Housing Act (including an adverse final decision by the Secretary of the Department of Housing and Urban Development (HUD), an adverse final decision by a state or local fair housing agency, or an adverse judgment from a federal court). If there have been any findings, specify below.

Finding(s) No finding

8. All LIHTC qualified low-income units in the project are used on a non-transient basis (except for transitional housing for the homeless provided under Section 42(l)(3)(B)(iii) or single-room-occupancy units rented on a month-by-month basis under Section 42(l)(3)(B)(iv). If owner is claiming eligibility for this exception specify below.

All units used on non-transient basis Exception claimed (provide details)

9. Each building in the project is suitable for occupancy, taking into account local health, safety, and building codes, and no State or local government unit responsible for making local health, safety, or building code inspections issued a violation report for any building or unit in the project. (If a violation report or notice was issued during the calendar year, a summary of such violation(s) must be included below, with indication of whether or not the violation has been cleared from the records. If cleared, specify date.)

Suitable for occupancy Violation issued (provide details)

10. Check the appropriate box below regarding changes in the eligible basis.

- There has been no change in the eligible basis (as defined in IRC Section 42(d)) of any building in the project.
 - There has been a change in the eligible basis (as defined in IRC Section 42(d)) of a building(s) in the project. The nature of the change(s) is as follows: (Identify changes by building address. If there has been a reduction in the eligible basis, attach copies of completed IRS forms 8609 and 8586 filed with the most recent tax return. Also attach additional sheets if necessary.)
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11. Check the appropriate box below regarding applicable fraction.

- There was no change in the applicable fraction (as defined in IRC Section 42(c)(1)(B)) of any building in the project.
 - There has been a change in the applicable fraction (as defined in IRC Section 42(c)(1)(B)) of a building(s) in the project. The nature of the change(s) is listed below. If there has been a reduction in the applicable fraction, attach a copy of completed IRS forms 8609 and 8586 filed with the most recent tax return. (If necessary, also attach additional sheets.)
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12. All tenant facilities included in the eligible basis under IRC Section 42(d) of any building in the project, such as recreational facilities, parking areas and swimming pools are provided on a comparable basis without charge to all tenants in the building.

Yes No

13. When and if a LIHTC qualified low-income unit in the project became vacant, reasonable attempts were, are being, or will be made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income.
 Yes No
14. If the income of tenants of a low income unit in the project increases above the limit allowed in IRC Section 42(g)(2)(D)(ii), (140% of area median gross income, unless the project is a deep rent skewed project and in that case 170% of area gross median income) the next available unit of comparable or smaller size in the project was rented to tenants having a qualifying income.
 Yes No
15. An extended low-income housing commitment (regulatory agreement) as described in IRC Section 42(h)(6) was in effect (for buildings subject to Section 7108(c)(1) of the Revenue Reconciliation Act of 1989), including the requirement under section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certification of eligibility under section 8 of the US Housing Act of 1937.
 Yes No
16. For the preceding 12-month period, a) no tenants in low-income units were evicted or had their tenancies terminated other than for good cause, and b) no tenants had an increase in the gross rent with respect to a low-income unit not otherwise permitted under IRC Section 42.
 Yes No
17. The project has been operated in compliance with the HPD regulatory agreement (if applicable).
 Yes No

 AUTHORIZED SIGNATURE
(Must be officer of General Partnership)

(Print) Name: _____

Title: _____

Date: _____

On this ____ day of _____, 20____ before me personally came _____
(Name of Individual)
 who being by me duly sworn, did depose and say that (s)he is the _____
(Officer's Title in General Partnership)
 of _____,
(General Partnership Entity Name)
 general partner of the above-referenced project; and that
 (s)he is authorized to execute this document on behalf of owner; and that the above statements are true.

 Notary Public

EXPLANATIONS: (attach additional sheets if necessary)
