

# WHAT IS THE GENERAL PROCESS FOR OBTAINING A LOW-INCOME HOUSE TAX CREDIT AWARD IN ARIZONA?

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Low income housing tax credits provide a dollar-for-dollar federal tax credit to reduce tax liability for developers and investors. LIHTCs are available to encourage investment in the development of low income housing developments. Credits are available for new

construction and substantial rehabilitation/remodeling.

There are strict requirements for obtaining LIHTCs. An experienced attorney can represent nonprofit and for-profit developers, as well as housing bond issuers. Attorneys will assist in negotiating financing; structuring transactions; managing LIHTC portfolios and complying with requirements to maximize LIHTC investor equity. Involve an attorney early in the process of obtaining low-income housing tax credits.

## UNDERSTANDING THE GENERAL PROCESS FOR OBTAINING A LOW-INCOME HOUSING TAX CREDIT AWARD

Only qualifying developments will obtain a low-income housing tax credit award. Rental properties generating credits must comply with rent-restriction and program requirements for a period of 30 years following the first taxable

year in which a credit is claimed. A development can qualify if 20 percent or more of residential rental units are rent restricted and are occupied by individuals with incomes of less than 50 percent of area median gross income (AMGI). A development can also qualify if 40 percent or more of the units are rent restricted and occupied by renters whose incomes are less than 60 percent of AMGI.



Federal guidelines establish outside parameters for qualifying projects but states allocate tax credits. The state of Arizona has a Qualified Allocation Plan (QAP) that prioritizes developments that provide units to individuals with lower incomes than required by the federal AMGI.

Tax credits must be allocated to a specific development for developers or investors to claim the credits. An application must be submitted to the Arizona Department of Housing with all required forms and exhibits as well as a



\$5,000 non-refundable application fee. The application must be submitted both in CD form and in-hard copy. Supporting materials must be included in a binder, tabbed and indexed with most documents on 8 1/2 x 11 paper.

A qualified attorney can provide assistance with the completion of a LIHTC application. Extensive supporting documentation is required, including but not limited to:

- A cover letter
- A self-score sheet and set-aside selection (Form 2 and Form 2-1)
- Documentation regarding site amenities
- A certificate of good standing or a certificate of existence for limited partnerships
- A certificate of authority to transact business in Arizona or a certificate of foreign limited partnership if incorporated in another state

- Form 7 Certification of Non Profit Organization and documentation of Internal Revenue Code section 501(C)(3) or section 501(C)(4) status if operating as a nonprofit organization
- A legal opinion
- An opinion provided by a Certified Public Accountant (CPA)
- A form detailing the projected cost of the project
- A market study guide
- Compliance monitoring and marketing plans
- The resumes of the development team and development team narratives
- A project schedule
- A supportive Service Plan
- Forms describing the experience of the development team (Form 8-1: Development Team Experience)
- An architect's certificate (Form 16).
- Planning and zoning verification (Form 10)
- A title commitment and a final settlement statement if applicable
- An appraisal
- A 15-year pro forma
- A utility allowance schedule
- A checklist for sustainable development (Form 17) and any applicable cut sheets and specifications
- A certificate from a HERS rater if a Performance Based Path is being pursued
- Information on whether the design is transit-oriented, including access to high capacity transit and proximity to the bus transit system

Prior to completing and submitting an application, a developer, co-developer and/or consultant must attend LIHTC compliance training. This training must have been attended within five years of the time the application is submitted. A Low Income Housing Tax Credit application workshop must also be attended in the year prior to the submission of the application by the developer, co-developer or consultant. Proof that these requirements have been fulfilled must also be submitted along with the application.

A competitive review process is performed to determine qualification for low income housing tax credits. Only applications that include supporting documentation to demonstrate proof of compliance with all LIHTC credits will be approved. It is advisable to involve an attorney as early as possible in the process of pursuing tax credits.

## About the Author

Lotzar Law Firm, P.C. was founded in 2005, and serves clients throughout the U.S. We pride ourselves on the level of service we provide our clients and are determined to see each project through to positive results.

In addition to bringing a legal expertise to the table, we offer clients sound ideas and invaluable advice that enhances their business. One of our greatest attributes is our ability to approach projects from a business-owner perspective. Rather than narrowing in on the setbacks of a challenge and informing clients of what stands in the way, we prefer to seek innovative ways to transcend issues and create a better path for clients. With an unparalleled savvy in developing modern methods of financing, we can present you with viable and efficient options.

Our diversified portfolio of clients is comprised of entrepreneurs, real estate developers, contractors and property managers. We also do business with numerous nonprofit clients including Chicanos Por La Causa, Inc.; Tiempo, Inc.; and The Industrial Development Authority of the City of Tucson, Arizona.

We work in a team-based environment, supported by a skilled and caring staff, eager to answer your questions and provide you with consistent access to your team. Whether your needs are small or large in scope, we look forward to working with you.

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