

Flaherty & Collins Recertification Policy

It is the policy of Flaherty & Collins Real Properties (F & C) that each household occupying a Low Income Housing Tax Credit (commonly known as: Section 42) apartment or single family home must be recertified at least annually. Recertification of household income is required by statute; any household unwilling to complete the recertification process must be asked to leave the property, even if the household would normally still qualify. The community manager is responsible for a) insuring that recertifications are completed on a timely basis. b) Approving the file's income recertification information.

The IRS issued a revenue ruling, which gave the state monitoring agency the authority to waive the documentation requirements for recertification for 100% LIHTC properties. Although it is up to each state as to whether they will permit recertification waivers, only the IRS can issue them. Until the IRS formally grants the waiver in writing, the property must continue to recertify. The decision whether or not a property will seek a recertification waiver from the IRS is the sole discretion of the owner. The management needs to be very confident of the accuracy of the resident files in order to seek a waiver. Most properties dread the state agency coming in on a regular audit where only 20% of the files are examined. For a waiver, the property must undergo a 100% audit of the resident files. Each and every file is subject to scrutiny. Additionally, it is extremely expensive to request a file audit from the state. The state charges a per file auditing fee, and should the property not pass the file audit the waiver will not be issued.

Annual recertification should be completed as part of the lease renewal process, at the expiration of the lease term. **NOTE: All lease terms should be 11 months plus the prorated portion of the month.** (Example: For a household whose move in date is March 15th, 2004: the lease term would end the last day of February 2005) This type of lease term will allow the community to use the residents lease expiration date as the target date for recertification.

The paperwork associated with recertification is identical to that associated with initial qualification, with the exception of *not* having to complete new credit and background checks. Remember to compare the information given on the recertification questionnaire to the information given on the initial application, giving special attention to dates of employment, dates of accounts opening, etc. This is generally the time you will discover any misrepresentations of income on the original income certification. Should a property discover a misrepresentation of income in an original income certification the community manager should immediately contact the compliance department for further instructions.

The recertification process should include the following:

- ◆ A recertification qualification worksheet. (See attached)
- ◆ A recertification questionnaire completed by each adult household member. (See attached)
- ◆ Third party verifications of income and assets.
- ◆ Update supporting documentation as required. (Non-employment certification, Non-child support certification, etc.)
- ◆ Execution of an updated Income Certification form, based on the recertification information verified. (See attached)

The lease renewal and income recertification process should begin approximately 90 days before the lease expiration. The initial recertification notice (mailed out by corporate compliance, with a copy provided to the site for the resident file) will be sent to the household 90 days before the lease expiration. This notice notifies the resident when their lease will be expiring, what the new rental rate will be, and requests that each adult household member completes and returns the enclosed recertification questionnaire(s).

The second recertification notice (mailed out by corporate compliance, with a copy provided to the site for the resident file) will be sent to the resident 60 days before the lease expiration, if the resident did not respond to the first notice by either completing the recertification paperwork or by giving written notice of intent to vacate. This notice indicates that the management did not receive a response from the initial

notice, emphasizing the importance of the recertification process, and requests that the resident complete the enclosed recertification paperwork and/or contact the management office immediately.

The third and final notice (mailed out by corporate compliance, with a copy provided to the site for the resident file) will be sent no later than 30 days prior to the lease expiration. NOTE: should the community require a longer notice period (*example: 45 day notice to vacate*) then the timing of the notice should be adjusted to meet the notice to vacate lease requirements, please notify the compliance department. This notice informs the household that due to lack of response to the management's first two notices and that because the management has been unable to complete the income recertification process, the management has no alternative but to not renew the households lease. This notice may be withdrawn by management at their option, anytime up to the actual lease expiration, if the required documentation for the household income recertification is received. However, if the resident does not provide the documentation, then the required written notification of non-renewal will have been established. Should the household request to renew after the final notice has been issued, they should be notified that the notice of termination of the lease will not be rescinded until the recertification process is complete and the new income certification has been approved by the manager.

Provided that the recertification is received on a timely basis, the household's income upon recertification may exceed the current maximum allowable income limits by up to 40%.

If the recertification income is less than the "140% allowable":

- ◆ The household remains tax credit qualified.
- ◆ The residents may remain in their apartment.
- ◆ The residents continue to pay tax credit rents.

If the recertification income exceeds the "140% allowable":

100% LIHTC Communities

- ◆ The household remains tax credit qualified.
- ◆ The residents may remain in their apartment.
- ◆ The residents continue to pay tax credit rents.
- ◆ The "Next Available Unit Rule" goes into effect but has no immediate impact. Please report this information on the 140% Log. (see attached)

Mixed (LIHTC & Market) Income Communities

- ◆ The household remains *temporarily* tax credit qualified until a "Swap" is found. *The compliance department must be notified and approve of any "swap" before it occurs.
- ◆ The resident may remain in their apartment.
- ◆ The resident must continue to pay tax credit rents until a replacement market-rate apartment in the same building is "swapped".
- ◆ The "Next Available Unit Rule" goes into effect. The next available apartment of the same size or smaller within the same building (*exception tax exempt bond properties, within the property*) must be rented to a qualified LIHTC application until the applicable fraction is met. *Consult the compliance department.*
- ◆ Management must confirm that the applicable fraction has not been reduced.

The community manager must maintain a log of all resident becoming "over-income" at a mixed income community. The log should contain the date the apartment became "over-income", the resident name, the apartment address of the "over-income" resident, and the apartment address of the market rate apartment which was converted to a LIHTC apartment to maintain the applicable fraction.

Although not required, an interim recertification can be completed whenever there is a change in the household. A change may be a decrease, increase, or replacement of a household member. It is F & C's policy to perform an interim recertification if an adult household member is being added to the household.

A change in the size of a household is acceptable provided that the change was unanticipated at the time of move-in. *Consult the compliance department.*

There are no “grand fathering” provisions with respect to student status. If, at any time during the lease, the apartment becomes occupied in its entirety by full-time students who are not subject to one of the student exemptions, the apartment must be converted to a market rate apartment (for mixed-income communities) or the lease terminated (for 100% LIHTC communities). *Consult the compliance department.*

Acknowledgement of Receipt

By signing below I acknowledge receipt of the above policy. In addition, I accept and fully understand the policy and agree to fully enforce the policy at any LIHTC community for which I am assigned by Flaherty & Collins Properties.

Signature / Title

Date of Signature

Signature / Title

Date of Signature

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