FAIR SHARE
HOUSING CENTER

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Melanie Walter
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Via e-mail

Re: Feedback on the Qualified Allocation Plan (QAP)

Dear Executive Director Walter:

We appreciate your and the Agency's efforts to continue to refine NJ HMFA's QAP to incentive projects that impact critical housing needs. Below are the preliminary comments of Fair Share Housing Center (FSHC) on some key areas of the QAP; we will supplement these comments whenever there is a formal comment process on a new QAP proposal.

1. Urban/suburban split and targeted urban municipalities

The 60/40 split is a crucial provision that has worked well and FSHC supports continuing. That said, FSHC supports re-examining the targeted urban municipalities list to use an approach based on the current urban aid municipality list above a certain poverty threshold, as was done in previous years. We believe that using this urban aid list, along with the appropriate scoring priorities, would help focus on the areas that are most at threat of displacement and gentrification and would ensure that urban projects are truly located in the state's urban areas.[1] We also would support further prioritization or set-aside within the urban category of places experiencing gentrification and where communities may face future displacement due to a lack of affordable housing.

2. Tiebreaker

Regarding the tie breaker, currently the tiebreaker rule preferences higher income areas of the state that can support more debt service. This does not necessarily mean higher opportunity communities, but could be regions that have higher incomes based on the higher medians in certain counties. To adjust for this, the rules could account for a county's median income.

Additionally, there is an artificial boost in the system for manipulating bedroom counts, e.g. having no 1 BRs at all (while we agree that larger bedrooms are the highest area of need, 1 BRs are often required by municipal ordinances and are allowable under UHAC). One way to address this could be to have a rule that projects are held harmless in the tiebreaker if they

[1] The towns on the transitional aid list and TUMs list (Atlantic City, Camden City, Paterson City, Trenton City) are all well above the 8.1% threshold with poverty rates of 37.1%, 36.4%, 26.6%, and 28.7% respectively. The 2022 urban aid municipality list also contains three other transitional aid towns – Union City, Penns Grove Borough, and Salem City, which all have poverty rates about 8.1%.

have no more than the UHAC minimum of 20% one bedrooms, which is what most towns are allowing, and the tiebreaker is based on the cost/bedroom for the remaining 80% of bedrooms.

Finally, and crucially, the tiebreaker essentially penalizes projects that serve a disproportionate number of very low income people. If a developer wishes to have increased numbers of very low income units, that will hurt them in the tiebreaker. Similar to the suggestion about bedrooms above, the tiebreaker could hold projects harmless that exceed the minimum 13 percent very low income units.

3. Affirmative Marketing

Effective affirmative marketing is critical to ensuring that tax credit units reach communities of color and other groups that historically have been the least likely to apply, such as people who have been involved with the criminal justice system and are seeking a decent place to live as part of returning to society. Most importantly, we have heard of landlords still using first come first serve to fill available units; HMFA should ensure that there is a lottery as required by UHAC, as no matter how good the affirmative marketing strategy on paper, first come first served processes disproportionately exclude people of color. Furthermore, there should be more specific tracking of implementation of affirmative marketing plans including requiring landlords to show how they have effectively identified community partners and used dissemination strategies. Instead of simply certifying compliance as the present QAP mandates, HMFA should build on its compliance processes to affirmatively review strategies and incorporate findings of past failures of affirmative marketing into the point allocation system as a negative factor for future applications by the same developer. For example, Minnesota's HFA allows for a negative point factor for up to four funding rounds upon a finding of noncompliance on fair housing measures.[2]

4. Jobs and transit points

We support restoring the jobs category and pairing it with transit. We examined the jobs criterion with the latest data – a project fully located within a municipality with public and private sector jobs that total at least 95 percent of the housing units shall receive two points – and found that 240 municipalities qualified. Expanding the selection to municipalities that are adjacent to these 240 qualifying municipalities adds 252 more municipalities. To that end, we do not think this expanded criterion would help discern high employment areas, in that practically every municipality in New Jersey would be eligible.

One possible alternative could be to award two points for municipalities with public and private sector jobs that total at least 95 percent of the housing units OR within proximity to higher frequency transit in lieu of the current points awarded for within one-half mile of all transit. For example, on the latter points could be awarded as with the recently adopted EDA Aspire regulations "if a development is located within a one-half mile radius of the mid-point, with bicycle and pedestrian connectivity, of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations, or a high frequency bus stop, as certified by the New Jersey Transit Corporation."

5. Education Points

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[2] See https://www.mnhousing.gov/get/MHFA_216803 at 7.

Although Governor Murphy plans to phase out PARCC testing, federal law still requires to test students in math and reading and there are other standardized testing metrics that the QAP can draw from if PARCC is eliminated. The QAP could provide that if PARCC test scores no longer are utilized, HMFA can substitute whatever the state designates as the replacement and/or other existing metrics such as the Start Strong exam or the NJ Student Learning Assessment (SLA).

6. Extended Use Periods and Perpetual Controls In a prior inquiry about the QAP, HMFA asked about mandating waiving the Qualified Contract option for all projects. We continue to support this change as applied to all projects, both urban and suburban. The state is investing limited resources for which there is great competition. We are already seeing the devastating effects of expiring controls from older LIHTC and Mount Laurel units on tenants who cannot pay increased rents. The state should use the fact that there are far more applicants who want this money than funds available to ensure long-term affordability.

Furthermore, Vermont has now for many years required perpetual affordability for all 9% credit projects. Given that the default policy under UHAC is for continued affordability unless and until a municipality releases the deed restrictions, following Vermont's policy would best maximize the long-term impact of HMFA's limited investments.

7. Cost Caps

Any update of the QAP should consider how to update the cost caps to address several different issues that impact them.

First, cost caps should not discourage developers from providing additional supportive services. HMFA should reevaluate the $400,000 exemption level for community center or social service space and provide for additional ability for on-site after school care and other services for children in family developments and supportive services for seniors and people with disabilities.

Second, new funding sources that have arisen over the last few years provide for additional opportunities to use tax credits, especially 4% credits, for additional affordable housing opportunities. However, because of other state policies associated with these funding sources, it is likely not possible to stay within cost caps and use these other funds. For example, the NJEDA Aspire program requires compliance with New Jersey prevailing wage standards, which increases total development cost. The cost caps should specifically allow for increased total development cost in such situations so these important new funding tools can be used.

Finally, rapidly rising costs of construction materials should be accounted for, perhaps through giving the HMFA Board the ability to set temporary increases in cost caps in response to such situations.

Thank you for your consideration of these comments.

Sincerely,

Adam M. Gordon, Esq.
Executive Director
Fair Share Housing Center