



February 4, 2016

BY E-MAIL ONLY: Sandy.Mcdonnell@oregon.gov

Chair Mr. Aubre Dickson
Housing Stability Council
725 Summer Street NE
Salem, OR 97301

Re: Draft Lift Program

Dear Mr. Dickson:

Housing Land Advocates is a non-profit organization dedicated to advancing the cause of fair and affordable housing through intelligent land use planning.

We became aware early this week that the Council would consider a draft design framework of the LIFT program drawn up by OHCS. We appreciate the opportunity to comment on this draft. The LIFT Program will be very important in addressing the critical housing needs of low-income families with children. We believe this program can be instrumental in assisting the State, the Council and OHCS in complying with fair housing laws as well as meeting their obligation to affirmatively further fair housing. We note and appreciate that the framework includes an emphasis on geographical and racial/ethnic equity. However, we recommend the Council consider the following concerns and questions with regard to the proposed framework.

CONCERNS

1. The short timeframes and limited LIFT subsidies will discourage or prevent development in rural areas with little or no current housing development capacity. These two factors will work against the stated policy of achieving geographic diversity and further skew the distribution of affordable housing to rural areas with more economic resources. This in turn, will have a negative impact on stabilizing families who are not currently located in rural areas with larger jurisdictions. For example, the cities of Tillamook, Clatskanie and Lafayette are unlikely to be able to utilize this program.

Recommendation: Expand the timeframe for completion of the project to 48 months for rural cities with populations under 25,000. The definition of "vulnerable families" as used in the Program Outcome and output Goals (p. 1, item 3) is not included in the Draft and may be too narrow.

Recommendation: Stabilization of very-low income families with children should be the outcome.

2. The draft includes objective criteria measuring increase in stability. However, looking at how many moves a family has made within a year of residing in a program unit ignores the brutal reality for the poor. Many poor families live in housing that is substandard and make every effort to remain housed despite their awful living conditions. If anything, looking at the number of moves in the past twelve months will understate the increase in stability of these families.

Recommendation: Identify other objective indicators of stability. It might be possible to utilize a Health Impact Assessment or school attendance as objective factors.

3. The allocation criteria to set aside 50% of the funds to serve “communities of color” acknowledges the lack of housing opportunities and the quality of the housing for minority populations. However, the language implies the allocation would be limited to providing housing to only minority households and raises concerns regarding the segregative effect of this allocation.

Recommendation: Make clear the intent of this allocation is to provide housing to serve communities with high concentrations of poverty and race and ethnicity. Definitions of what constitutes a high concentration can be found within the State’s and an entitlement jurisdiction’s Analysis of Impediments and Consolidated Plan and should be adopted for uniformity. Moreover, these federally required planning documents already identify the geographic concentrations of poverty and race and ethnicity eliminating the need to do additional work to identify potential locations of housing under this program.

4. The Affirmative Marketing and Outreach obligation identifies only communities of color and fails to be inclusive of all protected class households, including people with disabilities. It is doubtful that this criteria would meet fair housing standards.

Recommendation: Adopt Affirmative Marketing and Outreach strategies and obligations under other federal programs such as Rural Development. These strategies and obligations are clearly defined, familiar to and historically understood by developers and operators of affordable housing.

5. A reduced developer's fee will be a disincentive for those local non-profits and affordable housing developers with experience and/or connection to target populations. This may prove to be a significant barrier to achieving the goals of the program.

Recommendation: Adopt a developer fee schedule similar to what is included in the Qualified Allocation Plan.

6. The compliance monitoring process raises issues involving financial stability of the project. It appears OHCS is proposing a compliance process that is analogous to what the IRS uses in reviewing tax credit projects. If so, there are risks here

that may threaten both the units that are counted within the LIFT program as well as the buildings. For example, in tax credit compliance, the first tenant to lease up qualifies that building. If the first tenant is later determined to not qualify for some reason, the tax credits for that unit and possibly even the entire building, may be lost. A non-profit or affordable housing developer will need to know the criteria it is expected to comply with and the consequences. Given the limited level of funding available, this may impact decisions about the level of funding needed for this project and the desire to go forward.

Recommendation: OHCS should clarify whether it intends to adopt the IRS compliance process wholesale or in part and whether it intends to impose penalties as contemplated by the IRS code given the goals and outcomes of the program.

7. The operational structure needs to be reevaluated and redesigned. As written, OHCS would be a limited partner (various types are listed). A limited partner generally does not have the responsibilities of a general partner. However, OHCS is reserving to itself rights and responsibilities of a general partner. Doing so may create legal issues that pose a risk to the project and the goals of the LIFT program. In addition, it is not clear what the impact on the viability of the project would be if and when OHCS decides to remove itself from ownership.

Recommendation: OHCS should articulate why, in light of the program goals and outcomes, it is necessary to have operational control of a building and identify less intrusive ways to achieve the goals and outcomes.

8. Not mentioned are tenant protections that are needed to ensure families are not churned through the building. More importantly, with the level of State funding and the high degree of involvement by the State in the operations of the projects, tenants are entitled to due process which would include good cause for termination of tenancies.

Recommendation: Include good cause protection and a grievance procedure in tenant rental agreements and leases. Language in standard Rural Development leases can be used as a model.

Thank you for your consideration of these comments and recommendations.

Sincerely,



Jennifer Bragar
President