

MEMO

TO: Gary Schmidt, Clackamas County Administrator

FROM: Devin Ellin, Director of Housing Development, HACC

DATE: March 1, 2022

RE: Draft Property Tax Exemption Policy - HACC

The purpose of this memo is to preview Housing Authority of Clackamas County's (HACC) Draft Property Tax Exemption Policy for Affordable Housing Developments in Clackamas County.

OVERVIEW

The state of Oregon is experiencing a housing crisis which has led to a shortage of affordable housing units in Clackamas County, Oregon. Property tax exemptions are an effective affordable housing tool which lessens the demand for other limited resources and especially useful to projects being developed outside of the Urban Growth Boundary (UGB) where resources like the Regional Affordable Housing Bond are not available. When available, property tax exemptions increase the amount of debt an affordable property can sustainably take on, thereby decreasing demand for other funding sources. Developers are increasingly approaching HACC with partnership requests so that they can receive a property tax exemption.

PROPERTY TAX EXEMPTION BACKGROUND

Affordable apartment communities owned by Oregon housing authorities receive a property tax exemption so long as the housing is rented to low-income households (ORS 307.092). This exemption exists even when a housing authority has an extremely limited role—e.g. a 0.01% ownership stake, no fiduciary responsibilities and no role in daily operations. Unlike other property tax exemptions, this exemption requires no local approval.

DRAFT PROPERTY TAX EXEMPTION POLICY

Consistent with HACC's mission of developing affordable housing for Clackamas County citizens, HACC seeks to formalize opportunities to partner with developers seeking property tax exemptions. This policy extends to both for-profit and non-profit project sponsors, as long as the project sponsor is willing to accept the following threshold requirements:

- An affordability commitment consistent with Low Income Housing Tax Credit (LIHTC) requirements that lasts at least 30 years. The term of the tax exemption will not extend beyond the affordability period.
- An ownership structure in which HACC:
 - Serves as a limited partner (within a limited partnership) or non-managing member (within a limited liability company)
 - Provides no guarantees and
 - Accepts no underwriting, operational or fiduciary responsibilities.
- Full indemnification by the general partner / managing member for any and all claims arising from HACC's participation in the project.

- For new construction and/or major rehabilitation projects, contemporaneous payment of all developer fee payments made to the developer which total not less than 20% of all cash and deferred developer fees received.
 - An exemption or percentage reduction for this requirement may be waived upon request for non-profit organizations by the Housing Authority Board of County Commissioners if it is determined such a requirement would cause the project to be financially unfeasible.
- An annual asset management fee paid to HACC separate from the developer fee and the ability to audit property financials and inspect units upon request.
- First right of refusal to purchase the property at fair market value prior to any sale.
- HACC's unilateral right to withdraw from the partnership under certain circumstances including, but not limited to, the developer's non-compliance with affordability covenants, acts of fraud, or gross negligence.

For developers willing to accept these threshold requirements, HACC would consider partnering to facilitate a property tax exemption so long as:

- The proposal meets locational (this could be restricted to developments located outside the UGB or "workforce" developments that serve households 60-80% AMI – development types where funding sources are scarce), design and financial sustainability criteria.
- HACC has the staff capacity necessary to oversee the process.
- The developer considers payments in lieu of taxes (PILOT) on non-subsidized rents. In the case that the developer agrees to make annual payments in lieu of taxes, HACC will consider renegotiating the developer fee split.
- Projects that also include HACC project-based vouchers will include additional payments, fees and/or incentives negotiated at the discretion of the Executive Director and approved by the Housing Authority Board of County Commissioners

BOARD REVIEW

If the Housing Authority Board of County Commissioners supports staff recommendations to offer PTE to developers developing affordable housing, official board action is unnecessary at this point because:

- Staff will vet all PTE requests from affordable housing developers with the Housing Authority Board of County Commissioners.
- Entering any ownership structure to provide a property tax exemption must be authorized via a board resolution.

These procedural steps will ensure Board review and specific authorization of any partnerships we join to provide a PTE.

HACC PROPERTY TAX EXEMPTION PROGRAM CHECKLIST

If your organization is interested in partnering with the Housing Authority of Clackamas County in order to receive a property tax exemption for your affordable housing property, please compile and submit the following information:

1. Project Narrative including project name, contact information, property address, property services and/or amenities, unit count including bedroom size, proximity to public transportation and area information.
2. Project timeline
3. Proforma
4. Proposed rents and utilities
5. Proposed plan for subsidy layering and financing
6. Proposed ownership structure, developer fee distribution, and annual asset management fee
7. Any additional information important to the project and HACC's selection approval