County Council of Howard County, Maryland

2022 Legislative Session

Legislative Day No. 6

Resolution No. 42 -2022

Introduced by: The Chairperson at the request of the County Executive

A RESOLUTION adopting Howard County's Annual Action Plan for housing and community services to qualify for the receipt of federal Community Development Block Grant and Home Investment Partnership Program funds.

Introduced and read first time Apr 4, 2022.

By order Michelle Harrod
Michelle Harrod, Administrator

Read for a second time at a public hearing on April 18, 2022.

By order Michelle Harrod
Michelle Harrod, Administrator

This Resolution was read the third time and was Adopted ✓, Adopted with amendments__, Failed__, Withdrawn__, by the County Council on May 4, 2022.

Certified By Michelle Harrod
Michelle Harrod, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; <u>Underlining</u> indicates material added by amendment

WHEREAS, the Department of Housing and Urban Development ("HUD") has determined that Howard County qualifies as an Urban County and is eligible to receive funds under the Community Development Block Grant ("CDBG") and Home Investment Partnership Program ("HOME"); and

WHEREAS, the primary objective of HUD in awarding CDBG and HOME funds is to develop viable urban communities by providing funding and programs to ensure decent housing, suitable living environments, and expanded economic opportunities, principally for persons of low and moderate incomes; and

WHEREAS, in order to keep Howard County eligible to receive Entitlement Grants, the County Council approved a Consolidated Housing Plan by adopting Council Resolution No. 54-2020 on May 4, 2020; and

WHEREAS, in order to obtain the yearly entitlement of CDBG and HOME funds, the County must adopt an Annual Action Plan that implements the Strategic Plan as required under the Consolidated Housing Plan.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Howard County, Maryland this 4 day of May, 2022 that it adopts the Howard County Annual Action Plan Federal Fiscal Year 2022 in substantially the form as attached hereto for purposes of qualifying for Community Development Block Grant and Home Investment Partnership Program funds.

Department will work with housing counselling agencies in becoming certified.

C. Risk-based Monitoring

Howard County's monitoring policy is to monitor each HOME funded rental project each year. This monitoring visit includes a file review as well as a review of financial statements for the project. A sample of units are inspected at every project every year. If a monitoring visit reveals significant project issues, a follow up visit would be scheduled within two months of the original visit to make sure all issues had been sufficiently addressed.

D. Inspection Procedures

Howard County's HOME units are inspected by the Program Specialist and Operations Supervisor. Units are held to a higher standard than UCPS which is a standard unit checklist for leasing a market rate unit. Issues ae rated in terms of what must be corrected and what is recommended to be fixed. Projects have a thirty (30) day period to make any unit improvements that have been identified as flawed.

APPENDIX B: Howard County Affirmative Fair Housing Marketing Plan

A. POLICY

Howard County Housing (DHCD) in accordance with the regulations of the HOME Investment Partnerships (HOME) Program (24 CFR 92.3510), has established this "Affirmative Fair Housing Marketing Plan" to ensure that the County and all entities to whom they have allocated HOME Funds employ a marketing plan that promotes fair housing and ensures outreach to all potentially eligible households, especially those least likely to apply for assistance.

The County's policy is to provide information and attract eligible persons to available housing without regard to race, color, national origin, sex, religion, familial status (persons with children under 18 years of age, including pregnant women), or disability. The procedures followed are intended to further the objectives of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), and Executive Order 11063, which prohibits discrimination in the sale, leasing, rent and other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

B. PROCEDURES

The HOME Final Rule regarding affirmative marketing procedures and requirements apply to all rental, homebuyer, rehabilitation, down payment assistance and TBRA projects funded with HOME Program funding.

DHCD is committed to the goals of affirmative marketing that will be implemented through the following procedures:

i. Providing equal service without regard to race, color, religion, sex, handicap, familial status, or national origin of any client, customer, or resident of any community;

ii. Keeping informed about fair housing laws and practices;

iii. Informing clients and customers about their rights and responsibilities under the fair housing laws by providing verbal and written information;

iv. Evaluating the effectiveness and compliance of all marketing as it relates to fair housing;

v. Including the Equal Opportunity logo or slogan, and where applicable the accessibility logotype, in all ads, brochures, and written communications to owners and potential tenants;

vi. Displaying the HUD's fair housing posters (at a minimum in English and Spanish versions) in rental offices or other appropriate locations;

vii. Soliciting applications for vacant units from persons in the housing market who are least likely to apply for assistance without the benefit of special outreach efforts; working with the local public housing authority and other service and housing agencies, as well as community groups, places of worship, employment centers, fair housing groups, housing counseling agencies and popular social media tools to distribute information to a wide and diversified population;

viii. Maintaining documentation of all marketing efforts (such as copies of newspaper ads, memos of phone calls, copies of letters).

vix. Maintaining a record of applicants for vacant units with a general profile of the applicant, how the applicant learned of the vacancy, the outcome of the application, and if rejected, why; maintaining this record for two years or through one compliance audit, whichever is the shorter period of time.

C. ASSESSMENT

In conjunction with the annual on-site compliance reviews, DHCD will:

i. Review and evaluate records of affirmative marketing efforts (advertisements, flyers, and electronic media spots, etc.);

ii. Evaluate outcomes and effectiveness of marketing efforts and make changes where needed.

iii. Evaluate whether good faith efforts have attracted a diversified cross-section of the eligible population.

D. CORRECTIVE ACTIONS

Failure to meet affirmative marketing requirements will result in the following corrective actions:

i. For failure to comply, DHCD will set a probationary period for compliance, not to exceed six months, during which time DHCD will provide more specific guidelines for compliance.

ii. Further failure to comply with the affirmative marketing requirements may result in the withdrawal of HOME support.

iii. Further failure to take appropriate actions to correct discrepancies in affirmative marketing programs may result in steps to recover all invested HOME funds.

APPENDIX C: Monitoring Plan

A. Objectives

The objective of the Howard County HOME Monitoring Plan is to establish standards for evaluating and reporting a grantee's compliance with program requirements. Howard County will conduct on-site reviews to verify accuracy of records/documents, review program policies and procedures, conduct housing inspections, and evaluate overall administrative compliance to HOME Regulations.

B. Monitoring Format

A written Report will be prepared and provided to the grantee following the completion of each monitoring review. The report will include the following information:

- An explanation of the purpose and scope of the review;
- A list of findings, comments, recommendations, and corrective actions to be taken;
- A list of the client files reviewed;
- A list of the houses/units inspected;
- An evaluation of project performance to date; and
- A time frame for taking corrective action.

C. Monitoring Compliance

HOME activities will be evaluated on the basis of the following program areas:

- Adherence to HOME guidelines, procedures, and regulations;
- Grantee's administration and management;
- Fair Housing;
- Housing Quality Standard Inspections;
- And Lead Based Paint, if applicable

D. Pre-Monitoring Preparation

Prior to an on-site monitoring visit, the County will provide written notification of the visit to the grantee. The notice will provide the following information:

- The date(s) and time of the visit;
- A copy of the monitoring checklist

The grantee will be asked to provide the County with the following:

- Agreements/contracts;
- Policy guidelines and procedures, administrative plans, and operation manuals;
- Beneficiary data

E. Monitoring and Inspection Schedule

DHCD staff will provide program monitoring over three phases:

i. Contract Development Phase

- Ensuring that projects are consistent with the Consolidated Plan
- Ensuring that all Environmental Review requirements have been met
- Ensuring clients are income-eligible

ii. Development Phase

- Ensuring that project costs, budgets, and timelines are adhered to
- Ensuring conformance to HOME standards through periodic property inspections

iii. Post-Development Phase (Long-Term)

- The duration and frequency of on-site grantee monitoring and inspections is based on the length of the affordability period and the total number of project units.

Appendix D: Using the Low Income Housing Tax Credits with HOME Funds

There are essentially four ways HOME funds can be used with low-income housing tax credits.

Market Rate Loan

If the HOME funds are provided at or above the applicable federal rate, these funds are not treated like a federal subsidy. The project qualifies for the 9% credit for eligible improvement costs and is eligible for the 130 percent basis for projects in "qualified census tracts" or "difficult development areas" (QCT/ DDA).

Below Market Rate Loan with 9% Credit

IfHOME funds are provided at an interest rate below the applicable federal rate, they may still be counted in the eligible basis and the project may receive a 9% credit if the project meets stricter occupancy requirements. The project may receive the 9% credit if 40% of the residential rental units are occupied by tenants with incomes at or below 50% of the area median income. However, such projects are not eligible for the 130 percent basis for projects in "qualified census tracts" or "difficult development areas".

Below Market Rate Loan with 4% Credit

Some projects qualify only for a 4% credit regardless of the way HOME funds are invested in the project. For example, a project with other Federal or tax-exempt mortgage revenue bond funds included in the basis is only eligible for a 4% credit under any circumstance, so HOME funds can be lent at any below market interest rate terms without consequence to the credit.

Grant

HOME funds may be provided in the form of a grant, but, they may not be counted in the eligible basis for the project, and therefore do not contribute to the credits for which the project is eligible. Therefore, a loan instrument is generally preferable to a grant (Note that deferred payment loans are generally permissible provided the debt service accrues and there is a reasonable expectation that the loan can be repaid no later than when the loan matures). Projects using HOME funds with Low Income Housing Tax Credits have to consider a number of items in blending the two sets of program rules. The following chart provides an overview of tax credit rules and the requirements for combining the two programs.

RULES FOR COMBINING HOME FUNDS AND TAX CREDITS

	Tax Credit Program Rules	Combining Tax Credits with HOME
Occupancy Requirements	At least 20 percent of assisted units must be reserved for households with incomes at or below 50 percent of area median; OR 40 percent of the units must be reserved for households with incomes at or below 60 percent of area median income.	If HOME funds are provided at below the market interest rate, at least 40 percent of the units must be reserved for households with incomes at or below 50 percent of the area median income to qualify for the 9 percent credit. Otherwise, on projects with 5 or more HOME-assisted units at least 20 percent of the units must serve households with incomes at or below 50 percent of area median income (to meet HOME requirements).
	Tax Credit Program Rules	Combining Tax Credits with HOME
Rent Requirements	Rents for qualified units must not exceed the rent limit set for the program. These limits are set by bedroom size and are based on the qualifying incomes of an imputed household size. They are provided by Howard County Housing.	For units to qualify as both tax credit and HOME-assisted units, rents cannot exceed either program limit. Low HOME rent units are subject to Low HOME rents and tax credit limits and High HOME rent units are subject to High HOME rents and tax credit limits.
Establishing Tenant Eligibility	Documentation --Tenants must provide acceptable documentation of income from a third party source. All sources of income are verified. Definitions --The tax credit program defines income using the Section 8 definition of annual (gross) income. Asset Income --Assets $5000 or less: tenants certify asset amount and income. Use actual income. Assets above $5000: verify amount and income. Use larger of actual income from assets or imputed asset income.	Documentation --Initial tenant eligibility documentation for both programs is the same. Definitions -DHCD requires the use of the Section 8 definition of income for HOME. Asset Income --Follow more stringent HOME rules and verify all asset income.

Reexaminations of Income	Reexaminations are performed annually following the	Tax credit/ HOME projects may request waivers in order to perform

	Procedures as at initial certification; however, an owner may request a waiver of reexamination requirements if all units in the project are tax credit	Re-examinations similar to HOME. Otherwise, the project must follow the more stringent tax credit requirements.
Over-Income Tenants	Rent for over-income tenants remains restricted. An owner may increase an over-income tenants rent, but only after the unit is replaced with another low-income unit in the project, thereby keeping the portion of low-income units above the minimum amount required for the owner to be eligible for the credit. "Over-income" IS defined as above 140 percent of the project income limit.	HOME rules defer to tax credit rules - - rent remains restricted. (In other words, in no case can the rent exceed limits set by the tax credit program).
	Tax Credit Program Rules	Combining Tax Credits with HOME
Monitoring	Projects are monitored annually throughout the affordability period. Statement of compliance IS submitted annually with documentation of occupancy. On-site inspections are conducted by DHCD	DHCD will monitor according to their program requirements.

Occupancy Requirements

Tax credit projects must set aside at least 20 percent of their units for tenants with incomes at or below 50 percent of the area median (20/ 40 set-aside) or 40 percent of their units for tenants with incomes at or below 60 percent of the area median income (40/ 60 set-aside). When combining HOME and tax credits, occupancy requirements depend on the type of credit taken and the type of HOME funding provided:

In order to take the 9 percent credit in conjunction with below-market-rate HOME funds, joint HOME/ tax credit projects must meet a higher occupancy standard than either the tax credit program or the HOME program alone requires:

- 40 percent of the units must be occupied by tenants with incomes at or below 50 percent of area median. (However, such projects are not eligible for the 130 percent increase in basis for projects in "qualified census tracts" or "difficult development areas."

- To receive the 130 percent increase, the project must either take the four percent credit, or use the HOME funds at or above the applicable federal rate.)

- In all other cases, projects must ensure that they meet both sets of program rules.

Rents

When combining the two types of funding, two sets of rent rules apply.
Qualified tax credit units must not exceed tax credit rent limits, while HOME-assisted units must meet HOME rent requirements. If a unit is being counted under both programs, the stricter rent limit applies:

- Low HOME rent units are subject to the lower of the Low HOME rent and the tax credit rent.
- High HOME rent units are subject to the lower of the High HOME rent and the tax credit rent.

When tenants receive additional subsidy through rental assistance programs such as Section 8, additional requirements apply.

- HOME allows the rent to be raised to the rental assistance program limit only if the tenant pays no more than 30 percent of adjusted income, the subsidy is project-based (not tenant-based), and the tenant's income is less than 50 percent of the area median income.
- Tax credit rules state that if the rental assistance program rent limit exceeds the tax credit rent, the unit rent may be raised to the higher limit as long as tenants pay no more than 30 percent of their adjusted monthly income for housing costs.
- In a joint tax credit/ HOME-assisted unit, the stricter HOME requirements would apply.

Establishing Tenant Eligibility

Both the HOME and tax credit programs require project owners to certify tenants' incomes, to ensure that they are income-eligible and that the project is in compliance with initial occupancy requirements.

- To demonstrate eligibility under both programs, property managers must have tenants certify their income, and obtain supporting documentation. This documentation must be kept in project unit files for review by the monitoring agencies.
- Under tax credit rules the Section 8 definition of annual (gross) income is used.
- DHCD requires the use of the Section 8 definition of annual (gross) income for HOME projects.

A difference between HOME and tax credit rules is that HOME requires verification of all asset income, whereas the tax credit rules require verification of asset income if the household's assets are greater than $5,000. For total assets of less than $5,000, the tax credit program allows tenants to provide a signed statement of asset income.

A tenant in a unit subsidized by both sources of funds would have to comply with the stricter HOME requirements.

Reexaminations of Tenant Eligibility
The tax credit program does not allow alternative methods of tenant recertification allowed under the HOME program.

For projects with both HOME funds and tax credits, owners may seek a project waiver from the state allocating agency to allow certification documentation similar to HOME. Alternatively, the project must comply with the tax credit rules (and, thus, automatically comply with the HOME requirements).

Over-Income Tenants
The HOME and tax credit programs have slightly different approaches to over-income tenants. The definition of an over-income tenant differs under the two programs. Tax credit rules define "over-income" as having income above 140 percent of the project income limit.

Under HOME, the tenants are considered over-income if their income rises above 80 percent of area median income.

Further, unlike under HOME, the rent remains restricted under the tax credit program. An owner may increase an over-income tenant's rent, but only after the unit is replaced with another low- income unit in the project, thereby keeping the portion of low-income units above the minimum amount required for the' owner to be eligible for the credit. To resolve this conflict, HOME rules state that when funds from both programs are used on the same unit, the tax credit rules should be followed.

Monitoring
Both programs require annual monitoring to ensure compliance with program rules over the length of a pre-established affordability period. DHCD will monitor according to their program requirements.

Additional Notes

- Deed of Trust- The trustee is always the current director of Finance. Typically there are two trustees, but since a Chief of Staff was not replaced, there is only one. Older deeds may show two trustees, Aaron Greenfield and Sharon Greisz,
  At time of this publication it is Stanley Milesky.
- Completed grant/loan documents should be printed single sided and only one copy of each document is required for signatures.

- Once all documents have been returned with signatures, the Deed of Trust and Regulatory Agreements should be recorded. They are sent to the Division of Land Records. If a payment is necessary to have the documents recorded, they should be sent to the Department of Finance first. If a payment is NOT necessary, the documents should still be sent to the Department of Finance, with attention to Leslie Bennett. However, if the document is exempt from payment, please use the following text in the header;

  "PURSUANT TO SECTION 3-603 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, THIS DEED OF TRUST IS EXEMPT FROM THE PAYMENT OF RECORDING FEES. EXEMPTION PURSUANT TO SECTION 12-108(a) TAX-PROPERTY ARTICLE."

APPENDIX E: Annual Rent and Income Checklist- Form 6-D

HOME Monitoring Checklist 6-D
Project Compliance Report: Rental Housing

Project Name:		Date Completed:	
Owner Name:		Reporting Period:	

A	B	C	D	E	F	G	H	I	J	K	L
UNIT NUMBER	LOW OR HIGH HOME RENT UNIT?	TENANT NAME: (LAST NAME, FIRST NAME)	NO. PERSONS	NO. BEDROOMS	DATE OF LAST INCOME CERT	MAX RENT	UTILITY ALLOWANCE	MONTHLY UNIT RENT	TENANT'S ANNUAL GROSS INCOME	COMPLIANCE Y/N ([illegible])	UNIT STATUS ([illegible])

APPENDIX F: Annual Review of Rents and Income Form

Howard County Department of Housing and Community Development

Howard County HOME Investment Partnership Program (HOME)

Annual Review of Rents and Income

Instructions: Please initial after each step is completed. Once step four (4) has been completed, the employee should print their name, sign and date below. Place the completed form, along with Checklist 6-D (Project Compliance Report) and a copy of the correspondence letter in the respective file under monitoring.

Project Name/Mgmt Company: ____

1. Emailed notice to property manager. Initials_____
2. Rent roll and Income data submitted to Howard County Housing. Initials_____
3. Review rents and income and complete checklist 6-D. Initials_____
4. Write correspondence letter to property manager. Initials_____

Review completed by (Please Print): ____________________________________

Signature: ____

Date: ____