

Attachment B

**Expiring 15-Year Tax Credits:
Best Practices Review
Housing Development Center
1/20/06**

Best Practices by Category:

Risk Assessment: Data and analysis to determine scope of problem & risk factors

Jurisdiction	Summary:
<i>California</i>	In 2001 California Housing Partnership completed the first extensive Risk Assessment of Expiring projects. Main risk factors: for profit general partners; lack of other affordability restrictions, local housing market conditions. What they found is that many of the earliest projects converted to market. With longer affordability restrictions and nonprofit tax abatements, there is more incentive to stay affordable.
<i>Washington</i>	Contracted with WA Low Income Housing Alliance in 2003 to do statewide risk assessment. Maintain extensive database on expiring tax credit projects (only a portion of the 88 fields are available on the web site.) All property records are on line, including loan documents.
<i>City of Seattle</i>	City of Seattle contracts annually with WA Low Income Housing Alliance to do a Tax Credit Assessment – original in 2004, and a 2005 Update. Developed risk methodology to identify and monitor high-risk buildings. General finding are that lack of other affordability restrictions is greatest risk. Buildings in need of major repairs, but in desirable area, could be sold even by mission driven non-profit in order to reinvest in affordable housing elsewhere.
<i>Wisconsin</i>	<i>Governor’s Task Force on Preservation Report:</i> risk factors evaluated included: 1) municipal support to allocate scarce resources; 2) housing replication – level of difficulty in replicating project elsewhere; 3) Housing Need and supply – evaluation of penetration and saturation rates; 4) loss of affordability – units serving households below 50% MFI considered high risk.

QAP Policy: eligibility for preservation set aside/or other scoring criteria

Jurisdiction:	Summary
<i>California</i>	No set-aside for preservation but a preferred funding method: use 4% credits with Multi-Family fund to equal equity from 9% credits. Because SRO's are not eligible for 4% credits, state revised statute defining "at risk" housing to include SROs, thereby making them statutorily eligible for 9% credits.
<i>Michigan</i>	30% preservation set aside of 9% credits – specifically allows expiring LIHTC projects to apply.
<i>Minnesota</i>	In scoring criteria, can earn 10 points for preservation of existing housing tax credit units that meet criteria including: units at risk of going to market rents where market rents of comparable units exceed the tax credit rent limits by 10% and proposed rents will increase by more than 30%. Risk of conversion must be supported by data. And tax credit units would no longer remain decent, safe, and affordable due to physical deterioration or deterioration of capacity of current ownership/management entity.
<i>Ohio</i>	Has a \$5 million set aside for preservation and specifically allows expiring LIHTC projects awarded between 87-94 that were completed and placed in service to apply.
<i>Washington</i>	No set-aside, but does awards points for preservation project– and allows LIHTC to apply.
<i>Wisconsin</i>	At 40% claims the largest preservation set aside in the country. Preservation is a high visibility issue because of Governor's Task Force. This is not so much a QAP policy, but a compliance issue – state will reduce reporting requirements for post-Year 15 projects that maintain affordability and meet explicit criteria.

Notification Requirements:

Jurisdiction	Summary
<i>California</i>	Recently issued a new report: <i>California Notice Provisions for At-Risk Properties: An Update for 2005</i> . Two notices to tenants are required: 12 month prior to termination or expiration of restriction, and 6 month. “Opportunity to make a Purchase Offer” Notice requirements – 12 month notice to state and all qualified entities (nonprofits, tenant organizations, public agencies, etc.) before termination to allow opportunity to make a purchase offer. State maintains a registry of qualified entities who will receive notice.
<i>Sacramento</i>	City Statute requires that owners notify tenants 12 months prior to anticipated prepayment, termination of subsidy contract, or termination of rental restrictions. During notice period city is given the right to negotiate for purchase and owner cannot do anything to prevent the negotiation.
<i>Illinois</i>	Illinois passed a Federally Subsidized Housing Preservation Act in 2004 that expanded the definition of subsidized housing to include LIHTC; requires 12 month notice; tenants have a right to purchase and can transfer that right to a non-profit or for-profit developer.
<i>Minnesota</i>	State requires notice 12-month notice to tenants and local jurisdiction. Also requires a tenant impact statement that is sent to jurisdiction. State maintains a web based log of expiring projects where owners have given notice.
<i>Washington</i>	Was the first state to develop Qualified Contract procedures, but has not been notified of intent to use. Other states are contacting Washington about using same procedures.

Preservation Funds:

Jurisdiction	Summary
<i>California</i>	Multi-Family Fund Combined with 4% credits.
<i>Minnesota</i>	Though not specifically for Preservation, Minnesota has a common application for Multifamily Rental housing applications to 8 city, county, state, and private foundation funds.
<i>New York City</i>	“New Housing Marketplace” – preservation initiative, Enterprise helped support.
<i>City of Seattle</i>	Seattle has access to housing levy funds, and housing trust funds.
<i>Wisconsin</i>	Saving Our Stock Preservation Fund (\$10M)
<i>MacArthur Foundation</i>	\$50 million initiative for Affordable Rental Housing Preservation.

Policies and Practices Regarding Expiring Tax Credits By Jurisdiction

Jurisdiction/ Organization	Contact	Preservation Set Aside QAP	Other Regulatory	Comments:
California	www.ncsha.org (organization of state housing finance agencies- has directory of all states with web addresses)	Because SRO's are not eligible for 4% credits, state statute was revised to define SRO's as "at-risk". This makes them eligible for 9% credits.	1) Statutory change to definition of at risk to cover SRO's 2) State Preservation Notice Law	1) Preferred method for funding is that expiring projects apply for 4% credits, combined with Multi-Family fund, to equal the amount that 9% equity would raise. Exception is SROs – they are eligible for 9%. 2) State notice law revised to include LIHTC projects as well as other projects with affordability requirements tied to density bonuses, parking variances, non-federal loans– some jurisdictions have their own requirements: SFO, Sacramento, LA's is pending. "If you can't save the unit, protect the tenant with notice."
California Housing Partnership www.chpc.com	Matt Schwartz, California Housing Partnership	NA	Advocate for regulatory and statutory changes.	CHP did the first risk assessment, 2001. Findings: Early For-profits likely to convert. Later risk small – for-profits have incentive to partner with non-profit because of property tax abatement benefits available only to non-profits.
City of Sacramento www.shra.org	Jerel Glasser	NA		Based on California notice laws, it specifically includes LIHTC. Requires 12-month notice to city and tenants. Gives city first right of purchase during the notice period
Florida	www.ncsha.org	No	Considering State Notification Law	Priority includes for developments that waive option to convert to market after year 14 and extend the set-aside beyond the required 30-year period.
Illinois	www.ncsha.org	\$2 million (includes refi's)	Federally Assisted Hsg Preservation Act	1) Preservation notice amended to include LIHTC – 12 month rather than 6-mo notice. Gives tenants ROFR. 2) Award if conversion to market is likely within 2-3 years, or others in need of substantial rehab.

Jurisdiction/ Organization	Contact	Preservation Set Aside QAP	Other Regulatory	Comments:
				3) State Donation Tax Credit - \$18 mil annually – thinking of this as source for preservation – to pay exit tax.
Chicago Rehab Network	Rachael Johnston	NA		1) CRN did Assessment of Tax Credit Portfolio, 2002 to counter problems – not specifically about expiration. 2) Non-profit Chicago Equity Fund did lots of early deals – wanted to convert to market – didn’t care about preservation. Nonprofits successful in buying LP’s interest with city’s support. 3) ESICS training with J. Brandenburg was hands on and very helpful to non-profits.
Massachusetts	www.ncsha.org	35%		Expiring use projects – does not specifically mention existing LIHTC, but does not exclude them.
Michigan	www.ncsha.org	30%		Specifically allows applications from expiring LIHTC projects within 2 yrs of loss of low-income restrictions – must maintain affordability for the longer of 15 years or length of mortgage.
Minnesota	Julie LaSota	No set aside, but a scoring preference for preservation	Notice requirement and tenant impact statement	1) Used to have preservation set-aside, now set-aside is for supportive housing. Instead uses scoring criteria – specifically for Preservation of existing LIHTC units 2) State maintains web log of “opt out” information from owners who give notice in accordance with notice requirements.
New York City				NYC implemented New Housing Marketplace to preserve housing. MacArthur Foundation funded preservation symposium. Enterprise a partner is preservation.

Jurisdiction/ Organization North Carolina	Contact www.ncsha.org	Preservation Set Aside QAP No	Other Regulatory	Comments: Good bibliography on expiring LIHTC articles, as of July 2004.
Ohio	www.ncsha.org	\$5M		Among others - Specifies LIHTC projects awarded between '87-'94 that were completed and placed in service.
Pennsylvania Washington	Susan Sellis Tim Sovold	20% No – awards 10 points for preservation to S8 or LIHTC projects within 5 yrs of losing affordability	Preservation Notice to tenants – 1 yr in advance	Existing LIHTC projects are eligible for set aside, but they are not seeing many apply yet. 1) State contracted with WLIHA to do risk assessment in 2003 – have QC procedure but not used yet. Is selective-tax credit rents are often market rents – scarce resource. Great database – 88 fields. All property records on line to verify ownership. 2) Just completed Post Year 15 Compliance Procedure 3) Notice requirement was already state law – no changes.
City of Seattle	Bill Runf, Seattle			1) City of Seattle contracts annually with WLIHA for risk assessment. 2) City has priority for funding expiring projects. Uses housing levy fund among others. 3) 3) Expiring LIHTC should compete on merits – restricted rents below market, low-income tenants. To date non-profits acquired with no public funds - \$20K-100K – transaction and legal fees – no exit taxes
Washington Low Income Housing Alliance	Shane Rock			Have done 3 assessments – 2003 for state, and 2004 and 2005 for City of Seattle. Developed risk methodology – identified high-risk buildings in Seattle to monitor.

Jurisdiction/ Organization Wisconsin	Contact Sharon Rambett	Preservation Set Aside QAP 40% (increased from 35% last year due to demand – also S8)	Other Regulatory	<i>Comments:</i> 1) <i>Governor’s Task Force Report on Preservation</i> – risk assessment. State doing outreach to owners with projects within 3 years of expiration – does not want to lose units. LIHTC projects do not get tax abatement – a big issue for them now. 2) Will be posting post year 15 procedures soon
Other:				
MacArthur Foundation	Steve Richards, Grant Manager			Window of Opportunity: \$50 million, 10-year initiative to preserve affordable housing. Has funded PRIs, research, seminars etc. Usually they solicit proposals, but will accept unsolicited proposals.
Fannie Mae Foundation				Tonya is checking – MacArthur article said that FM pledged \$15 billion to preserve more than 300,000 units and will lend \$100 million to larger nonprofits to purchase and improve rental properties.