NAHMA
NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION

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Community Development and Infrastructure Working Group of
the Senate Finance Committee
C/o Chairs: Sens. Dean Heller and Michael Bennet
Via email: CommunityDevelopment@finance.senate.gov

Dear Senators Heller and Bennet,

Thank you for this opportunity to submit comments on the potential reform of the Nation's tax code, in the area of Community Development and Infrastructure, on behalf of the National Affordable Housing Management Association (NAHMA). NAHMA members manage and provide quality affordable housing to more than two million Americans with very low to moderate incomes. The membership of NAHMA is comprised of the presidents and executives of property management companies, owners of affordable rental housing, public housing agencies, and providers of supplies and services to the affordable housing industry. In addition, NAHMA serves as the national voice in Washington for 19 regional, state and local affordable housing management associations (AHMAs) nationwide.

These comments will focus on the importance of the Low-Income Housing Tax Credit (LIHTC) for affordable housing development and preservation. The LIHTC program is an example of a successful public-private partnership, and serves as the primary source of federal funding to construct new affordable apartments. In the program's more than 25-year history, nearly $100 billion in private equity capital has been leveraged to finance more than 2.6 million affordable homes. Additionally, the LIHTC has spurred job growth and strengthened local economies, supporting jobs for 95,000 Americans annually.

In general, NAHMA recommends that any comprehensive tax reform bill retain the LIHTC program in its current form. We also strongly urge the Working Group, and ultimately the Senate Finance Committee, to remove occupancy barriers in the LIHTC program for full-time adult students seeking to increase their economic opportunities through education.

The 70 Percent Present Value LIHTC

The 9 percent (70 percent present value) credit has been a driving force in the LIHTC program's success, and generally functions well as a vehicle to provide new workforce housing.

A credit's value typically floats with interest rates, but the credit rate was temporarily fixed at 9 percent under the Housing and Economic Recovery Act (HERA), and this flat rate was again extended through December 31, 2013 and 2014 under two additional legislative acts. The 9 percent minimum credit rate simplified state administration of the program and removed the financial uncertainty and risk associated with underwriting LIHTC financed properties. However, since the floor expired at the end of 2014, the floating rate has returned. This may reduce the amount of equity that a development could receive.

NAHMA recommends that the Working Group and the Senate Finance Committee instead pursue legislation similar to S. 1442, the Improving the Low Income Housing Tax Credit Rate Act introduced by Senator Maria Cantwell in August of 2013, or H.R. 1142, which was introduced by Representative Pat Tiberi in late February 2015. These bills would make permanent the minimum 9 percent LIHTC rate for new buildings that are not federally subsidized at the 70 percent present value level. Making this rate permanent will provide security in the mortgage loan process and continue the LIHTC's positive impact on affordable housing production and job creation.

The 30 percent present value LIHTC

While the LIHTC is often used to drive new affordable housing construction, the preservation and rehabilitation of existing affordable housing properties is also achieved through use of the credits. States are allowed to provide housing credits from their capped allocation for the acquisition of existing properties through the 30 percent present value LIHTC. These acquisitions help maintain and increase our nation's affordable housing stock while simultaneously helping local communities recover blighted properties. Industry groups have advocated that the fixed minimum credit rate for acquisition housing credits should be set at no less than 4 percent. The 4 percent level would similarly remove the uncertainty and financial complexity of the floating rate system, simplify state administration, and facilitate preservation of affordable housing.

NAHMA recommends that the Working Group and the Senate Finance Committee pursue legislation similar to the Tiberri and Cantwell bills noted above that would establish a minimum 4 percent credit rate for existing buildings that are not federally subsidized. Making this permanent would strengthen the LIHTC and provide incentives for private investment in affordable housing preservation.

Modest Reforms to Enhance the LIHTC as an Affordable Housing Preservation Tool

Additionally, we suggest that the Working Group and the Senate Finance Committee pursue legislation that would make the LIHTC more cohesive with other federal programs to further leverage its success. The Working Group and the Senate Finance Committee should also examine ways to make the student occupancy rule for LIHTC properties more cohesive with other federal programs and remove the conflicting occupancy rules for full-time students that exist between HUD and the Treasury Department.

For example, HUD recently issued a memorandum, on Jan. 12, 2015, entitled "Occupancy Protections for HUD-Assisted Households in Properties with Low-Income Housing Credits." In the memo, HUD states, "The [HUD] lease agreement details the grounds for termination of tenancy, which do not include failure to meet LIHTC requirements, including LIHTC-specific income and student eligibility rules." As HUD's income and student eligibility rules are different than those of the

LIHTC, NAHMA is concerned that the HUD memo effectively requires owners and managers to disregard the statutory LIHTC requirements. Violating the LIHTC student rule jeopardizes the very tax credits necessary to preserve and recapitalize HUD-assisted properties. We believe this HUD memo underscores the need for a solution to the conflicting student occupancy requirements.

The Administration's FY 2016 budget request contains proposals to reform and expand the tax credit such as allowing states to convert a portion of their tax-exempt Private Activity Bond authority into allocated LIHTCs or authorizing additional income qualifying criteria for tenants. NAHMA supports these and other proposals from the budget request including adding preservation of federally assisted affordable housing as a selection criterion that must be included on Qualified Allocation Plans (QAPs). NAHMA urges the Working Group and the Senate Finance Committee to support this and other LIHTC reforms which will enhance its use as a preservation tool.

Conclusion

Thank you for the opportunity to comment on tax reform proposals as they might relate to the LIHTC. NAHMA and its members look forward to working with you on comprehensive tax reform.

Sincerely,

Kris Cook, CAE
Executive Director