Guide to Low Income Housing Tax Credit (LIHTC) Housing

Some rental units in Philadelphia are subsidized by the Low-Income Housing Tax Credit (LIHTC). Owners of buildings funded by the LIHTC must set aside a certain percentage of units for low or moderate income residents. Tenants in these units receive a modest rental subsidy based on their income level.

For most LIHTC buildings, the owner must elect one of the following before the building is placed in service:

1. At least 20 percent of the rental units must be rented to residents with qualifying income at or below 50 percent of area median income, or

2. At least 40 percent of the rental units must be rented to residents with qualifying income at or below 60 percent of area median income.

A guide to the regulations governing LIHTC units is available on the Pennsylvania Housing Finance Agency (PHFA) website here.

The Public Housing Unit at Community Legal Services advises families with issues regarding units subsidized by the low income housing tax credit.

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To apply for free legal representation:
Low Income Housing Tax Credit tenants can come for **intake** at the Center City office. For intake hours and location, click here.

Community Legal Services of Philadelphia

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Low Income Housing Tax Credit: **Admission**

Admission

Families applying for a unit in a Low Income Housing Tax Credit (LIHTC) building must complete application, verification and certification procedures.

Families must contact each LIHTC owner/agent directly for information about available units and the application process. Owner/agents must explain to prospective tenants the income limit restrictions, and families are required to provide asset and income information when they apply. Earned, benefit and asset income must be verified and be dated within 120 day prior to the move-in or recertification.

Students are generally restricted from residing in LIHTC units, but some exceptions can be made.

Low Income Housing Tax Credit: **Rent Calculation**

Rent Calculation

In Low Income Housing Tax Credit (LIHTC) units, the amount of the rent is based upon the family size, the number of bedrooms and the family income as a percentage of the area median income. The income of every family member is used in calculating rent. Earned income is counted by gross pay (before taxes are taken out) and not by take-home pay.

Calculating Rent

First, calculate the family's annual gross (pre-tax) income including income from earnings, benefits and assets.

Second, determine the maximum income limit for the LIHTC unit. PHFA publishes income/rent calculations annually based on the median income for each county in Pennsylvania. Maximum income calculations may vary based on when the building was placed in service.

Third, determine whether family's income is below the maximum income for the LIHTC unit. At recertification, the family's income must be below 140% of the maximum income limit for the unit.

Fourth, determine the gross rent based on the % area median income and the number of bedrooms. PHFA publishes income/rent calculations annually based on the median income for each county in Pennsylvania. Gross rent calculations may vary based on when the building was placed in service.

Fifth, to the extent that a tenant is directly responsible to pay for any utility bills (not including telephone or cable TV), tenants have a further adjustment to their rent as a result of utility allowances.

Example

In 2013 the Lewis family of 4 has a gross (pre-tax) income of $30,000. The LIHTC unit the family wants to rent is restricted to an income limit of 50% of area median income. The building went into service in 2013 and is in Philadelphia County, so according to PHFA the maximum income for this unit for a family of 4 is $39,600. The unit is a 4 bedroom apartment, so according to PHFA the gross rent is $1,148. The gross rent may be reduced by any applicable utility allowance.

A different family of 4 with a gross (pre-tax) income of $40,000 would not be able to rent this unit because they are over the maximum income for this particular LIHTC unit.

PHFA Income/Rent calculations for buildings placed in service in 2013 are available here.

Low Income Housing Tax Credit: **Utility Allowances**

Utility Allowances

The gross rent for Low Income Housing Tax Credit (LIHTC) units includes costs to be paid by the resident for utilities inclusive of heat, lights, air conditioning, water, sewer, oil or gas, where applicable. Utilities do not usually include telephone or cable TV unless these are required as part of the security system.

Utility allowances must be updated annually since they are included in the maximum allowable rent calculations and these updates must be implemented within 90 days.

Utility allowances for LIHTC units are usually calculated using one of two methods—the engineering-based methodology or the consumption-based methodology. More information about how LIHTC owner/agents calculate utility allowances is available here.

Low Income Housing Tax Credit: **Recertification**

Recertification

Tenants living in Low Income Housing Tax Credit (LIHTC) units must recertify annually to confirm eligibility as an LIHTC household. The owner/agent is required to retrieve third-party verification of all income sources of all adult household members age 18 and older as well as benefits paid on behalf of minors in the household.

Rent and eligibility may change based on the following circumstances:

1. New or additional income sources
2. Change in employment status
3. Change in family composition
4. Change in assets

The recertification process is identical to the move-in eligibility process, except the income limits are increased to 140% of the median area income limit. If the household annual income at recertification increases above the qualifying income level at move-in, but is less than 140% of the median income limit, the family continues to qualify as a LIHTC unit household.

Sample Recertification

In 2013 the Lewis family of 4 has a gross (pre-tax) income of $30,000. The LIHTC unit the family is renting is restricted to an income limit of 50% of area median income. The building went into service in 2013 and is in Philadelphia County, so according to PHFA the maximum income for this unit for a family of 4 is $39,600. The unit is a 4 bedroom apartment, so according to PHFA the gross rent is $1,148. The gross rent may be reduced by any applicable utility allowance.

In 2014 the Lewis family of 4 now has a gross (pre-tax) income of $45,000. The LIHTC unit the family is renting is restricted to an income limit of 40% of area median income. According to PHFA, the maximum income for this unit for a family of 4 has increased slightly to $40,100. The Lewis family appears to be over the income limit. However, since the family is recertifying, the family income must fall below 140% of the maximum income for this unit, in this case $56,140.

Since the family income falls below 140% of the maximum income for the unit, the family continues to qualify as a LIHTC unit household.

Low Income Housing Tax Credit: **Eviction**

Eviction

The owner/agent of a Low Income Housing Tax Credit (LIHTC) building must follow a legal process in order to evict a tenant. The owner may not evict a tenant without following this process and may not evict a tenant without good cause.

Lease Termination Notice

In almost all cases the owner must provide a tenant with a written lease termination notice 30 days in advance of starting the eviction process. The notice must state the grounds for termination and must inform the tenant that they have a right to discuss the matter with their manager, if a meeting is requested within 10 days.

Grounds for Lease Termination

The grounds for termination of the lease include:

1. Serious or repeated violation of the lease;
2. Any criminal activity or drug or alcohol abuse;
3. Violations of federal, state or local law that directly relate to the tenancy; and
4. Other good cause which is defined as a material violation of a provision of the lease or repeated non-material breaches.

Not Grounds for Lease Termination

The owner may not evict a tenant unless the tenant has materially violated a provision of the lease. The owner may not evict a tenant because the lease term has expired. The owner must renew the lease, unless there is good cause for termination. The owner may not evict a tenant because they do not wish to continue the tenancy or because they do not like the tenant.

Municipal Court Eviction Process

For information about the court eviction process in Philadelphia, click here.