

ARE WE STIMULATED YET?

Did the ARRA Stimulus Dollars Help Increase Development Activity for Affordable Housing?

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I. ARRA Section 1602 - Tax Credit Exchange Funding

The American Recovery and Reinvestment Act of 2009 ("ARRA" or the "Act") – signed into law February 17, 2009 with the purpose of jumpstarting the ailing economy included several provisions to further the development of affordable housing. Two such provisions are a tax credit "exchange" (grant) program (Section 1602 of the Act) and the "Tax Credit Assistance Program" (TCAP) (Title XII of the Act)

** This outline provides a general summary of the topics contained herein. It is not intended to be and should not be relied upon as legal advice.*

ARRA Section 1602 - Tax Credit Exchange Funding

(cont'd)

- Section 1602 Funding - Eligible Projects
 - Section 1602 provides for grants to IRC Section 42 LHTC state allocating agencies (SIFAs), who then can make subawards of the grants to developers of low-income housing.
 - It's not necessary to have had an allocation low-income housing tax credits ("LIHTCs")
 - May have combination of LIHTCs and Section 1602 funds
 - May use with tax-exempt bonds
 - Not necessarily 1-for-1 exchange on project level (limited to 85% of eligible basis, but eligible basis may include 30% DDT basis boost)
 - Project may be substantially complete so long as not yet placed in service
 - At this point states can only utilize the Section 1602 exchange program for up to 40% of their 2009 credit allocation, and all such funds that a state receives must be disbursed by 12/31/2011. (Note: Congress is considering a one year extension of the exchange program)

**Section 1602-
Tax Credit Exchange Funding**
(cont'd)

- The rules of IRC Section 42 apply, unless otherwise excepted in Dept of Treasury guidance
 - For example, must comply with minimum set-aside test (20-50 or 40-60), Section 42 rent and use restrictions
- Subawards *should not* be includable in a project owner's gross income for federal income tax purposes (per ARRA Conf Report)
 - What about for state Income tax purposes?
- Project will have eligible basis and depreciable basis
- "Crosscutting" federal rules generally do not apply, other than those applying to LIHTC buildings

**Section 1602 –
Tax Credit Exchange Funding**
(cont'd.)

- Loan vs. Grant
 - Treasury says Subawards are "cash assistance"
 - Can be awarded in the form of a "forgivable" loan utilizing a promissory note and security deed
 - No interest
 - No repayments can be required in any event other than a Recapture Event
- Subawards may pay for development costs "to the same extent as equity raised from LIHTCs under Section 42"

**Section 1602 -
Tax Credit Exchange Funding**
(cont'd)

- Direct Tracing is not required, but . . .
- Applicability of 10% Test
 - Does still apply – must be met within 1 year of the date that the (Section 1602) allocation is made
- Nonprofit set-aside rule applies
- An Extended Use Agreement (Section 42 LURC) is required
- Good faith effort to locate investor requirement
 - SHFAs determine what is a good faith effort based on local conditions

**Section 1602 -
Tax Credit Exchange Funding**

(cont'd)

- Asset Management Requirements
- Subaward Agreements
- Recapture Rules
 - Recapture Event when
 - applicable fraction falls below percentage of Section 1602 subaward that comprise a building's eligible basis, or
 - below minimum set-aside for building, whichever greater
 - BUT, if applicable fraction in LURC is lower than 1602 percentage, there is Recapture Event if building's applicable fraction falls below LURC applicable fraction, or minimum set-aside, whichever is greater

**Section 1602 -
Tax Credit Exchange Funding**

(cont'd)

- Recapture amount is 100% minus 6.67% for each full compliant year
- The Act says SHFAs may allow for reasonable cure period
- SHFAs are bound to enforce Recapture provisions and return Recapture penalty to the Department of Treasury (if SHFA unable to collect, despite taking "all appropriate actions", SHFA not required to return Recapture penalty amounts)

**Section 1602 -
Tax Credit Exchange Funding**

(cont'd)

- Amount of Exchange Funds Awarded and Expended
 - Alabama: \$36,456,056 awarded; \$129,369.61 expended
 - Georgia: \$195,560,045 awarded; \$26,187,589 expended
 - Maine: \$24,808,207 awarded; \$4,614,897 expended
 - Oregon: \$20,542,518 awarded; \$8,387,421 expended
 - Texas: \$594,091,929 awarded; \$7,882,140.98 expended
 - Wyoming: \$9,405,547 awarded; \$0 expended

* Information based upon telephone calls with various state agencies from 3/4/2010 - 3/10/2010

**II. ARRA Tax Credit Assistance
Program (TCAP)**

- TCAP Eligible Projects
 - Rental housing projects with "award" of LIHTC from Oct 1, 2006 to Sept 30, 2009) that require additional financing
 - Some level of credits must be awarded and allocated.
 - Good faith effort to sell and use the credits in the market must be made
 - Bond financed projects are eligible (state agency determines what "award" is)
 - In Georgia, TCAP award will be in the form of a loan to the project that must be repaid (Developer Guaranty as well)

**Tax Credit Assistance
Program (TCAP)**

(cont'd)

- Direct Tracing Required
 - Funds must be used for "capital investments" in LIHTC projects
 - Only costs that are included in eligible basis per Section 42, plus land acquisition costs, on-site demolition and hazardous material remediation
 - No swimming pools
 - Project owner must repay TCAP funds that are used for ineligible costs or for uncompleted projects or projects that don't comply with Section 42

**Tax Credit Assistance
Program (TCAP)**

(cont'd)

- HOME rules generally do not apply
- Certain federal funds "crosscutting" requirements **do** apply (e.g., environmental review, Davis-Bacon, Section 504, Fair Housing)
 - NEPA review
 - In most cases, work that has begun will need to stop until environmental review is completed

**Tax Credit Assistance
Program (TCAP)**

(cont'd)

- TCAP Funds must be awarded competitively
- TCAP Written Agreement is required
 - Must be recorded and run with the land
 - Must be binding on all owners and successors
- Timing
 - SHFA must commit 75% of funds by 2/16/2010
 - Project Owners must expend 75% of funds by 2/16/2011
 - Project Owners must expend 100% of funds by 2/16/2012

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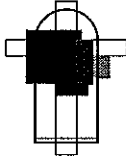
**Tax Credit Assistance
Program (TCAP)**

(cont'd)

- Amount of TCAP Funds Awarded and Expended
 - Alabama: \$31,952,086 awarded; \$1,236,940 expended
 - Georgia: \$54,481,680 awarded; \$5,892,159 expended
 - Maine: \$10,690,750 awarded; \$0 expended
 - Oregon: \$27,343,971 awarded; \$851,051 expended
 - Texas: \$148,354,769 awarded; \$2,440,146 expended
 - Wyoming: \$4,846,908 awarded; \$2,157,503 disbursed

* Information based upon telephone calls with various state agencies from 3/4/2010 - 3/10/2010

HOT TOPICS IN AFFORDABLE HOUSING




National ChurchResidences
Michelle Norris
SVP - Acquisitions and Development

NCR CORE VALUES


MISSION

We are driven by a deep sense that our work should serve God and always produce good for others.




PROFESSIONALISM

We strive to be excellent at what we do and to be sound managers of resources with solid, ethical business practices.



COMPASSION

We truly care about people and seek to treat residents, employees, and neighbors with dignity, respect, and fairness.

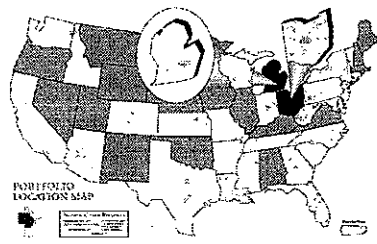


LEADERSHIP

We will be leaders in our field; setting a good example for others, visionary, growing, and constantly improving.

NCR Footprint

Over 300 affordable housing properties throughout the U.S. and Puerto Rico



PORTFOLIO LOCATION MAP

NCR Rankings

- Nation's largest not-for-profit developer of affordable housing (AAHSA: 2006, 2007, 2008, and 2009)
- #4 on Top 50 Affordable Housing Owners list (AHF: 2009)
- #7 on Top 50 Affordable Housing Developers list (AHF: 2008)
- #10 on 2009 NAHMA Affordable 100 (NAHMA: 2009)

TCAP FUNDING

(UPDATED FROM HUD JANUARY 2010)

- 75% of funds must be committed by February 16, 2010
- 75% of funds must be SPENT/EXPENDED by February 16, 2011
- Commitments are tallied on the number of TCAP Agreements/Conditional Commitments signed and input into the HUD tracking system
- Only 7 states have entered commitments for 100% of their TCAP allocation
- 17 states have entered nothing as of January, 2010

Source - National Equity Fund

TCAP UPDATE

Of the \$2.25 Billion:

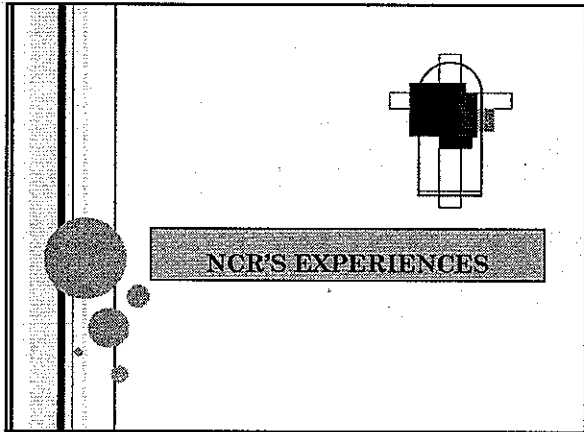
- \$758 Million (33.7%) has been committed to projects
- Number of units with committed TCAP money = 17,754
- \$69.8MM actually disbursed so far (3.1%)
- \$2.8MM average TCAP commitment per project
- 66 = average number of units in a TCAP project

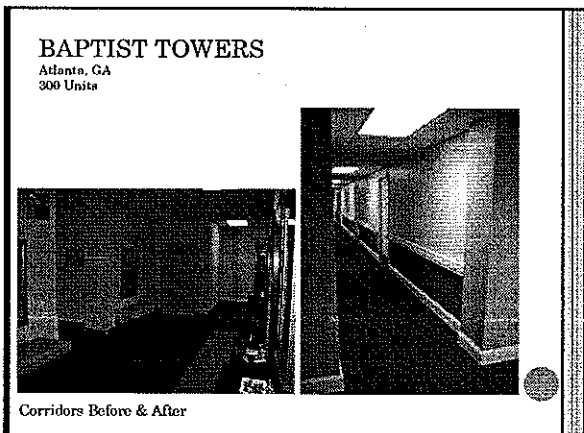
Source - National Equity Fund

TAX CREDIT EXCHANGE

- o 99 applications have been made by states to exchange credits
- o 94 awards have been made (\$4.6B)
- o 32 Agencies have participated
- o Only \$261MM drawn
- o Treasury discouraged by awards made vs draws to date

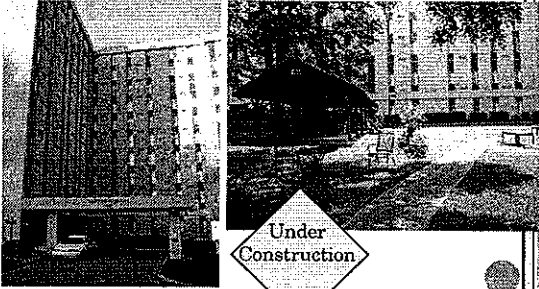
Source - National Equity Fund





BAPTIST TOWERS

Atlanta, GA
300 Units



Exterior

BAPTIST TOWERS

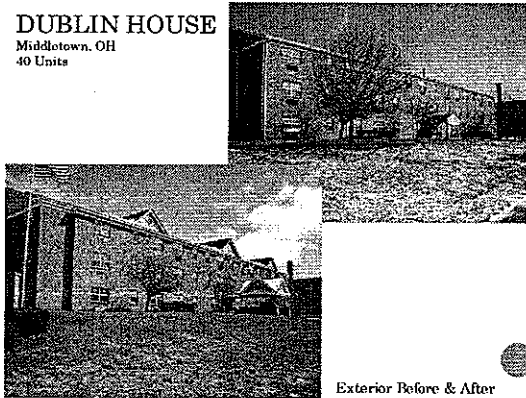
Atlanta, GA
300 Units



TCE	TCAP	Development Cost
\$0	\$1,850,000	\$16,950,484
0%	11%	

DUBLIN HOUSE

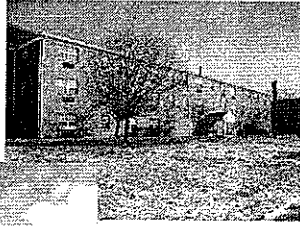
Middletown, OH
40 Units



Exterior Before & After

DUBLIN HOUSE

Middletown, OH
40 Units

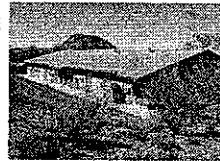


TCE	TCAP	Development Cost
\$834,361	\$0	\$5,727,044
15%	0%	

ter

SUPERIOR ARBORETUM

Superior, AZ
42 Units



SUPERIOR ARBORETUM

Superior, AZ
42 Units

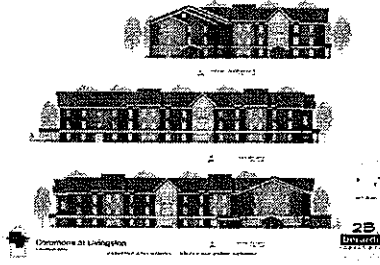


TCE	TCAP	Development Cost
\$2,164,654	\$0	\$4,884,502
44%	0%	



2009 OHIO TAX CREDIT PROJECTS

Commons at Livingston
Columbus, OH
50 Units



2009 OHIO TAX CREDIT PROJECTS

Kiwanis Village
Findlay, OH
45 Units



2009 OHIO TAX CREDIT PROJECTS

Lincoln Gardens
Columbus, OH
108 Units




2009 OHIO TAX CREDIT PROJECTS

Renaissance Senior Apartments
Toledo, OH
54 Units



2009 OHIO TAX CREDIT PROJECTS



Project	TCE	TCAP	Development Cost
Livingston	\$1,724,441	\$500,000	\$8,807,797
	25%	7%	
Kiwanis	\$1,236,906	\$3,245,000	\$6,182,039
	20%	52%	
Lincoln	\$9,719,738	\$500,000	\$11,842,300
	31%	4%	
Renaissance	\$2,303,216	\$360,000	\$10,479,287
	22%	3%	

NEGATIVE LESSONS FROM THE GROUND

- Fear of audits
- Arbitrary policies and/or retroactive policies
- Unpredictable "front door" to agency decisions
- Attempts to spread resources increases risk
- Public policy vs real estate

Source - National Equity Fund

**POSITIVE LESSONS
FROM THE GROUND**

- States trying to be good stewards of cash not just a credit allocation
- States had limited time to add capacity to take on the complicated requirements
- States pushed more money out the door faster than they ever have
- Owners were able to save projects that would have been dead without ARRA funds
- Creative solutions like debt product

Source - National Equity Fund