



Chester J. Culver
Governor

Patty Judge
Lt. Governor

Bret L. Mills
Executive Director

To: All Owners / Management Agents of Iowa LIHTC Developments
From: Julie Noland, Director Asset Management and Grants
Date: September 25, 2009
Re: LIHTC Lease Addendum

IFA was recently asked to review our Lease Addendum document for compliance with HUD regulations for those projects that utilize the project based HUD Section 8 subsidy with the Section 42 tax credits.

The current IFA LIHTC lease addendum, found on our web site, in the discussion entitled "Student Status" indicates the landlord may terminate the occupancy agreement if a household becomes a household of all full-time students and the landlord determines that the tenant's student status would disqualify the premises under the program. This statement is contradictory to RP 2005-37 and 2004-82 in that failure to qualify the unit is not considered 'good cause' for eviction.

In accordance with Revenue Procedure 2005-37, IFA provided written notice to all current development owners before December 31, 2005 informing them the owner is prohibited from evicting or terminating tenancy of an existing tenant of any low-income unit, other than for good cause throughout the entire commitment period.

In Revenue Ruling 2004-82 the IRS adopted the position that the prohibition against the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit extends to the "3 year tenant protections" after a foreclosure action, deed or instrument in lieu of foreclosure, or after one year of unsuccessful attempts to find a purchaser willing to maintain the occupancy restriction at a minimum qualified price (qualified contract) as well as to all low-income tenants throughout the extended use period.

In light of the above, IFA has determined that we must discontinue the current practice of requiring a LIHTC development owner use the IFA LIHTC Lease Addendum. This discontinuance will be effective October 1, 2009.

Owners and their representatives are still required to follow Section 42 program rules even though lease addendum will no longer be required and would not preclude their responsibility to do due diligence to maintain compliance with the Section 42 tax credit program to claim tax credits awarded in any property which subsidies are layered.

If you have any questions, or require further information, please feel free to contact either myself or Roger Brown, Senior Compliance Analyst.

2015 Grand Avenue
Des Moines, Iowa 50312

515.725.4900
800.432.7230
fax 515.725.4901

www.IowaFinanceAuthority.gov