

Revised Low Income Housing Tax Credit Lease Addendum

The Ohio Housing Finance Agency's (OHFA) Office of Multifamily Housing Compliance Division has revised the Low Income Housing Tax Credit (LIHTC) Lease Addendum currently used at LIHTC projects. The revised Lease Addendum will be posted imminently. **Owners and/or property managers must use the revised Lease Addendum, effective July 1, 2019.**

The IRS makes clear that termination/eviction in a LIHTC property can only be done on the basis of good cause. Non-renewal of the lease does not constitute good cause. IRS Revenue Rule 2004-82 provides in relevant part: Section 42(h)(6)(I) requires that an extended low-income housing commitment include a prohibition during the extended use period against (1) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit (no-cause eviction protection).

The revised addendum includes a provision (see Addendum Term #4) enabling the owner to relocate a tenant residing in an accessible unit that does not need the accessible features of the unit for purposes of serving a tenant with a need for the accessible unit.

In order to ensure protection for residents in LIHTC- or HTC-funded properties, OHFA is requiring owners/property managers to begin using the revised addendum effective July 1, 2019. The revised addendum should be used for all new move-ins beginning July 1, 2019 and moving forward. For residents that are in-place prior to July 1, 2019, owners/property managers should use the revised addendum at the time of annual re-certification or verification of student status. Failure to use the revised addendum may result in the issuance of IRS Form 8823.

Owners/property managers should keep in mind the revised LIHTC Addendum is not to be used for federally subsidized properties, i.e., HUD Section 8, USDA RD 515, or others with project-based rental assistance.

Questions regarding the revised lease addendum should be directed to alunsford@ohiohome.org