



Office of the President
Gerald M. Howard
President & Chief Executive Officer
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April 8, 2020

Ms. Nicole Cimino
Branch Chief
Office of Chief Counsel
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Mr. Michael Novey
Associate Tax Legislative Counsel
Office of Tax Policy
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Ms. Cimino and Mr. Novey:

On behalf of the 140,000 members of the National Association of Home Builders (NAHB), I am requesting that the Department of Treasury and Internal Revenue Service take immediate steps to provide deadline extensions and other relief under the Low-Income Housing Tax Credit (LIHTC) program. As many of the LIHTC units produced annually are constructed by NAHB's members, we have grave concerns that unexpected and unprecedented construction obstacles arising from COVID-19 will make it impossible to meet the statutory deadlines. These delays are beyond the control of any developer.

Within the construction industry, we face an unparalleled challenge in light of COVID-19 restrictions in continuing production. On one extreme, a number of states, including Washington, Michigan, Pennsylvania, New York and Vermont are not allowing residential construction to continue at all. Where construction is continuing, it is occurring at a much slower pace in order to accommodate CDC recommendations on workplace safety; this may require reducing the number of workers on a jobsite or taking other precautions that will slow down the pace of construction. Even the simple process of obtaining building materials may take several hours versus mere minutes as building material supply businesses limit pickups and impose other health and safety precautions.

Recent NAHB survey data (collected March 31 through April 6) indicates that 86% of builders are reporting delays with respect to obtaining plan approval for construction project and 82% are reporting delays with engineering inspections. These are unprecedented numbers.

NAHB is exploring options such as video inspections, but alternative approaches require the consent of the local government and will take time to implement. Other scenarios present obstacles we cannot overcome, such as a staff member at a permitting office receiving a diagnosis of COVID-19 requiring that city to shut down all local permitting activity. Even on the federal level, the U.S. Army Corps staff is largely working remotely, and we are seeing permitting delays as a result.

Nearly every construction project in the country is affected by this national crisis. We believe that in light of this extraordinary environment we find ourselves, the Internal Revenue Service and Department of Treasury should immediately issue guidance to allow the LIHTC development process to proceed without more disruption than what we already face in the field. Specifically, NAHB is requesting your agencies to:

- Provide a 12-month extension of the 10% test deadline for carryover allocations as required by IRC Section 42(h)(1)(E)(ii) and IRS regulation 1.42-6.
- Provide a 12-month extension of the 24-month minimum rehabilitation expenditure deadline as required by IRC Section 42(e)(3) and IRC Section 42(e)(4).
- Provide a 12-month extension of the placed-in-service deadline as required in IRC Section 42(h)(1)(E)(i).
- Provide at minimum a 12-month extension of the 25-month rehabilitation period currently allowed under IRS Revenue Procedures 2014-49 and 2014-50 to properties that suffered a casualty loss due to a Presidentially declared major disaster in the 25-month period prior to the onset of COVID-19. State Housing Credit agencies should be allowed to set restrictions within this period.
- Provide a 12-month extension of the year-end deadline for property restoration for any property that suffers a casualty loss not associated with a major disaster during 2020 (until December 31, 2021).
- Provide a 12-month moratorium on both physical inspections and tenant file reviews as required by IRS regulation 1.42-5. State Housing Credit agencies should continue to monitor emergency work orders during this time, and should be allowed to continue or resume inspections depending on their assessment of the situation in their state and their ability to do so, but there should be no penalty for states or owners if inspections are not completed during this time.
- Provide a 12-month moratorium on tenant income recertification requirements.
- Provide a 12-month extension for all open noncompliance corrective action periods.
- Suspend the yet-to-be implemented IRS regulation 1.42-5 which will increase the number of required compliance monitoring physical inspections even further than required under current regulations and exacerbate the inspection backlog.
- Provide guidance clarifying that the temporary closure of property amenities and common space facilities during the duration of the crisis (with the exception of laundry facilities) will not negatively impact a property's eligible basis and result in loss of Credits.

Thank you for considering our request.

Sincerely,



Gerald M. Howard
Chief Executive Officer
National Association of Home Builders