DOMINIUM

August 26, 2022

Kim Wilbourne
LIHTC Manager
South Carolina State Housing Finance & Development Authority
300-C Outlet Pointe Boulevard Columbia, SC 29210

Via Email Submission

Dear Ms. Wilbourne,

On behalf of Dominium, thank you for the opportunity to provide comments on the South Carolina State Housing Finance and Development Authority 2023 Draft Qualified Allocation Plan. To inform our comments, Dominium solicited feedback from our financial, legal, and development partners throughout the industry.

With 50 years of experience helping communities achieve successful affordable housing solutions, Dominium's overriding objective is to build and improve properties that people are proud to call home.

State Tax Credit Ranking

Section III of the QAP establishes the ranking criteria for allocating the state tax credit. Below are suggestions on ways to further prioritize projects.

RECOMMENDATION: RANK PROJECTS BASED ON PRIVATE ACTIVITY BOND REQUEST

States with bond efficiency criteria can build more affordable housing with their allocation of private activity bonds because their volume cap is able to stretch longer. Per the LIHTC program, at least 50% of the projects eligible costs must be financed through the use of private activity bonds. However, in states with no efficiency criteria, developers can apply for a larger amount which diminishes the ceiling allocation at a much quicker rate. This is an especially significant concern in South Carolina, in light of the 2023 state ceiling allocation plan which allocates 0% of the state's volume cap to multifamily housing. States that currently have bond efficiency criteria consistent with what we are recommending include: Georgia, Minnesota, and Colorado. Both Georgia and Minnesota have funding ceiling limits or bond limitations up to 55% of a project's eligible costs. Colorado, while similar, limits their private activity bond issuances to no less than 52% and no more than 55% of the 4% LIHTC project's eligible costs.

These policies, while efficient, do not account for the proposal in the slimmed down version of the federal *Build Back Better Act* that will decrease the threshold of bonds needed to finance a project from

50% to 25%. While potential negotiations around are ongoing, rather than instituting a limit at 55%, we would recommend limiting bond allocation requests to no more than 5% above the federal threshold.

RECOMMENDATION: RANK PROJECTS BASED ON "SHOVEL READINESS"

Most states have some form of threshold requirements that developers must reach in order to receive a bond allocation and the tax credits in the LIHTC program. For example, the South Carolina Qualified Allocation Plan currently requires items such as proper zoning, determination regarding absence or presence of wetlands, a market study etc., from all applicants. We suggest that South Carolina continue with these threshold requirements to ensure projects are ready to move forward when they apply. We view the current QAP threshold requirements as appropriate requirements the state should continue with.

In addition to the requirements already stipulated by the QAP, there are other forms of evidence a developer can exhibit to showcase their readiness to proceed. If the intent of the Housing Authority is to prioritize projects in a way that allows for resources to lead to the development of affordable housing as soon as is reasonably possible, the following suggestions help achieve that:

- A preliminary inducement from the local issuer if the applicant is not seeking bonds through the SC Housing Pool
- An application for land disturbance permits submitted
- A formal site plan and entitlement approvals applied
    - This can be justified through a copy of the application and a certification from the city that review is in progress.
- Debt/Equity LOI's – Permanent and Construction debt
- Plans and elevations for each proposed building and clubhouse
- Site plan
- Will serve Letters

RECOMMENDATION: RANK PROJECTS BASED ON SET ASIDE AMOUNTS FOR 50% AND 60% AMI RESIDENTS

As it is currently written in the South Carolina Qualified Allocation Plan, applicants that are requesting state credits must meet the federal minimum set-aside by setting aside 40% of the project's units for households with incomes of 60% or less of AMI or they must set aside 20% of the project's units for households with incomes of 50% or less of AMI. South Carolina could maximize the impact of affordable housing projects by prioritizing projects which serve the most residents at the lowest incomes. Most 4% LIHTC projects set-aside 100% of the units at 60% of the AMI because maximizing units at the highest AMI the program allows maximizes feasibility. However, if a project can work with some units rent and income restricted at 30% of 50% AMI and the developer is willing to restrict rents at lower levels for some of the units, the state would achieve more affordability for its investment.

Larger set-asides show a deeper commitment to housing affordability, and federal and state resources should be prioritized to projects that serve the most low-income households. One possible ranking strategy would be to rank projects based on the total volume of units rent restricted at 30% of the income of 50% AMI earners instead of 30% of 60% of AMI.

RECOMMENDATION: RANK PROJCTS WHICH RESTRICT RENTS AT 30% OF 55% OF AMI FOR UNITS INCOME RESTRICTED AT 60% OF AMI.

Similar to the previous suggestion, we recommend South Carolina prioritize projects which restrict their 60% AMI income-restricted units to rents at 30% of 55% of AMI. Further restricting the rent an applicant underwrites for their units demonstrates a deeper commitment to affordability and makes the housing more attainable for low-income households. This policy is similar what Georgia calls *Deeper Targeting Through Rent Restrictions,* where targeting lower income levels is not required but is incentivized. We might suggest awarding 1 point for every 60% AMI income restricted unit which is rent restricted at 30% of 55% AMI. When a 50% AMI household is paying rent at 30% of 60% of AMI, that household is paying rent equal to 36% of their income. Further restricting rents makes the housing more attainable to more households and assures the state receives more affordability for every dollar invested in the program. This is a policy which could be relaxed if economic circumstances change and development activity slows or stops due to rising interest rates, rising construction costs, etc.

Developer Fee

Section II (B)(8) of Appendix C2 establish the maximum developer fee and the maximum portion that may be deferred. We would like to commend the Housing Authority for raising the developer fee to $3 million or 15% of total development costs.

Maximizing developer fees, within reason and the constraints of the law and regulation, is a proven and successful method of increasing eligible basis, raising additional equity, and generating more production through the 4% LIHTC. In effect, progressive policy approaches to structuring developer fee can serve as an alternative to gap financing in a project and allow SC Housing to prioritize soft dollars for other needs. This is a good policy change and we are supportive of it.

The only feedback Dominium would offer is that SC Housing should require any developer fee over $3,500,000 be deferred and paid through cash flow, so long as it can be repaid within a 15-year period. This change would not only limit the cash fee of initial developer fees but would assist the financial feasibility and long-term success of developments in-line with IRS guidance.

City/County/Legislative Notification

Per Act 202, SC Housing must notify the municipality that the proposed project is in, hold a public hearing, and allow for an opportunity of public comment in order to allocate tax credits. Dominium is concerned about the weight this process will have moving forward. A project's approval does not seem to be predicated on public support, but we need clarity on the consequences associated with negative commentary at SC Housing's public hearings.

Dominium suggests that SC Housing institute a response period after public comment is heard, where applicants have time to address negative comments prior to a report being sent to JBRC. Currently, developers across the county are sometimes required to host neighborhood meetings for the constituents of a certain elected official's district to hear potential concerns related to a project. We then have time to follow up with City Councils and Board of County Commissioners to discuss how we plan on addressing those concerns. Dominium would like the opportunity for developers to supplement SC Housing's report to JBRC with a report of their own that serves as a response to the feedback received during the public comment process.

Additionally, Dominium also suggests that the feedback received during the public comment process be translated into point scoring or state tax credit ranking criteria. There are times where NIMBYism can completely derail a project, and Dominium wishes to guard against the potential for quality and highly demanded housing to be denied based on negative perspectives about affordable housing. If public support is weighted too high in the project approval process, building affordable housing will become unnecessarily more difficult to build.

Placed in Service Allocation Procedures

Based on Section IV of Appendix E, the owner must submit a PIS application within 6 months of the last building being placed in service, or the development is at risk of losing its allocation of LIHTC's. Typically, if the PIS application reflects cost increases the affected a project's eligible basis, LIHTC's are allowed to float up in order to cover eligible costs. However, based on the projects that SC Housing submitted to JBRC for consideration of the one-time authorization of $100mm that Act 202 made available, it seems as though JBRC only plans on allocating enough credits to satisfy the amount of the original credit request. With that being the case, projects that have shown cost increases will not receive enough credits.

Due to that, Dominium would like clarity surrounding whether that is a consequence of 2022 projects that were eligible for the one-time authorization of funds, or if it is something that will continue to impact credits floating up projects at the time of 8609 issuance in 2023 and beyond.

In closing, Dominium greatly appreciates your consideration of our comments and looks forward to working with you to create quality affordable housing opportunities for the citizens of South Carolina.

If you have any questions or would like to discuss any of these items further, please do not hesitate to contact Jordan Jones at (404)254-6068 or via email at jordan.jones@dominiuminc.com at any time.

Sincerely,

Nick Andersen

Vice President and Project Partner

Dominium Development & Acquisitions

[redacted]

Katessa Archer

Senior Development Associate

Dominium Development & Acquisitions

[redacted]