Shelterforce Reprint

Making Tax Credits Work for the Disabled

By Steve Gold, Kristina Klugar and Mark Schwartz

Throughout the country, low-income people with mobility disabilities face an unprecedented and growing housing crisis. Accessibility and housing costs rank high among the problems they face. Some live in places where they must crawl up and down stairs to enter or exit their homes. Many pay nearly 70 percent of their monthly incomes to rent even these inaccessible housing units. Often they are relegated to segregated housing with only other disabled persons and/or elderly individuals as neighbors, or they remain inappropriately housed in special facilities solely because they cannot find affordable, accessible and integrated housing.

There are some developers who are building housing for people with disabilities, thanks to the 1990 Americans With Disabilities Act (ADA), which mandated that all developers who receive public funding make 5 percent of the housing units they build accessible. But that doesn't mean that people who actually need the units are the ones living in them. In many instances, if a disabled person is not quickly found, units are rented to individuals who are income eligible but not disabled.

While working with the disabled community in Pennsylvania, Regional Housing Legal Services (RHLS) noticed this disconnect. (RHLS provides legal guidance and representation primarily to CDCs engaged in affordable housing and economic development projects.)

Resources

PHFA 2007 Multifamily Housing Application Package and Guidelines (see p.24)
www.phfa.org/forms/multifamily_application_guidelines/mf_program_guidelines.pdf

North Carolina's Key Program
www.nchfa.com/Forms/Forms/Rental/KPBackgroundInfo.pdf

RHLS staff and disability activists sought to encourage developers to build more accessible units for individuals earning below 60 percent of area median income (AMI). As a result of their efforts, the Pennsylvania Housing Finance Administration (PHFA), which administers the state's Low Income Housing Tax Credit program, added incentives to the program in 2005 to ensure that a number of tax credit units be designated for the lowest-income persons with disabilities. PHFA also worked with the Pennsylvania Department of Public Welfare to bring awareness of this opportunity to its clients with disabilities.

The Problem With LIHTC

Unfortunately, all across the country low-income persons with disabilities have not benefited from the LIHTC program. For several years federal Supplemental Security Income (SSI) has been the sole source of income for 40 percent of Americans with disabilities. Individuals are eligible for $603 per month; couples, $904, well below any area's median income. Despite the income being so low, the federal government does not have LIHTC unit requirements for people at that level. Though the Internal Revenue Service caps the rents of tax credit units for those whose incomes are less than 60 percent of AMI, this does not usually help very low-income persons, as most LIHTC units are targeted to households with incomes at or above 41 percent.

While the tax credit program presents barriers to very low-income earners in general, the obstacles to low-income people with physical disabilities can be far greater. The federal government distributes the roughly $3 billion set aside for LIHTC through housing finance agencies like PHFA. There is always more demand for credits than are available, so agencies award the credits according to a Qualified Allocation Plan (QAP) that stipulates the criteria developers must meet. Allocating agencies like PHFA use their QAPs to promote workforce housing, green building, public housing restructurings, senior housing and more. Typically, developers with differing agendas (from using the credits for neighborhood revitalization or to creating affordable housing options in wealthier areas) seek to influence what the QAP priorities will be (see *SF* #137). Since the disabled community does not participate in the QAP development process, it's unlikely the allocating agencies will prioritize their needs.

Partly in response to the ADA mandate, many states have required a specific, though relatively low, percentage of their tax credit units to be accessible to the low-income disabled population. Other states have given extra points in the QAP process to developers who will make a percentage of their units accessible, but the units do not have to be affordable to very low-income people. And most states have no system in place to ensure that the accessible units are rented to persons with disabilities.

Low-income persons with disabilities have not fully benefited from the LIHTC program because housing agencies have not recognized the importance of linking accessibility and affordability. And disability advocates do not understand how the tax credit program functions. Nor do they know how a QAP can be used to target resources for the housing needs of low-income people with disabilities. As a result, few of these advocates have participated in the process of setting criteria for allocating tax credits in their states.

Providing the Incentives

The change in Pennsylvania's LIHTC program was the result of several years of work. RHLS staff and disability advocates recognized the critical importance of developing working relationships with PHFA and the state welfare department. We learned how the program was structured and operated, attended PHFA's board meetings and met on numerous occa-

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How to Make Tax Credit Units Affordable *and* Accessible

In this example from Pennsylvania, a housing unit in a development built with financing through Low Income Housing Tax Credits is affordable to a household earning 50 percent of the area median income (AMI). But by raising the developer's fee, an internal rent subsidy is created to make the unit affordable to a household earning 18 percent of AMI. In parts of Pennsylvania, that makes the unit affordable to a very low-income person with a disability. Different numbers can be used in this formula in other regions of the country.

I. The Project – Before

20 units x $150,000 (development cost per unit)	$3,000,000
15 percent developer's fee	$450,000

II. The Subsidy

Maximum rent for household at 50 percent of AMI	$639
Maximum rent for household at 18 percent of AMI	-$230
Monthly rent subsidy	**$409**

Total subsidy per unit

$409 x 12 months x 15 years	$73,620

$73,620 *is required to make one unit in a 20-unit project affordable to a very low-income household.*

III. The Additional Developer's Fee

$73,620 ÷ .08 ÷ .9 ÷ 10	$102,250

The total subsidy is divided by the percentage of annual development costs on which investors can take tax credit, here 8 percent, which is then divided by $.90, the value of the tax credit to investors, and then divided by 10 years, the period that investors can use the credit.

The Additional Developer's Fee is added to the portion of the development's costs that are eligible for the tax credit. This is the source of the $73,620 in equity to fund the rent subsidy.

Subtracting this amount from the $102,250 leaves a ***Deferred Developer's Fee*** of $28,630, which must be paid to keep it in the project cost and avoid recapture of tax credits. It can be paid from cash flow, any remaining rent subsidy reserve or additional equity paid by the investor at the end of the 15 years of affordability.

IV. The Project – After

Original developer's fee	$450,000
Additional developer's fee	+ $102,250
Total Developer's Fee with subsidized unit	**$552,250**

The newly added subsidy results in an increased developer's fee of 18 percent, calculated by dividing the total developer's fee by the development cost of $3 million.

sions with its staff to discuss the desperate housing needs of the lowest-income people with disabilities. We then tried to convince PHFA to require developers to meet these needs, but the agency resisted. It preferred to devise an approach based on developer incentives, rather than program requirements.

After more discussion and encouragement from RHS, PHFA agreed to offer developers point incentives in its QAP if they provided accessible housing for disabled persons with incomes as low as 18 percent of AMI. While this change encouraged developers, by itself it would not have been enough to make the initiative successful. Beyond awarding additional points, PHFA has permitted developers who target units to this population to increase their developer fees enough to create an internal rent subsidy (see chart on page 31). Developers can then set aside these funds permanently to make rents affordable to disabled tenants with very low incomes.

To date, Pennsylvania is the only state where internal rent subsidies are used to provide LIHTC units for low-income persons with disabilities. While some state housing finance agencies have made rental subsidies available if developers accept low-income persons with disabilities, most have been extremely slow to recognize this population's needs and to use the federal tax credit program to meet them.

North Carolina is among the states that offer rental subsidies. Its program used to be optional for developers of tax credit properties, who also earned points in the QAP allowance process. But since 2004 developers have been required to set aside 10 percent of their units for low-income and disabled people earning no more than 30 percent of AMI. The state sets aside funds for the subsidy, which is awarded to developers as people who meet the income and disability criteria are accepted as tenants.

Making the connection between tenants with disabilities and the tax credit housing is the other major component of the programs in both states. In Pennsylvania's case, the PHFA serves as the coordinating agency, maintaining a database of eligible LIHTC units and informing the Department of Public Welfare when new units open up. The owners and managers of housing developments keep PHFA informed of whether units are available. For its part, the welfare agency identifies people with disabilities in the community who could live in tax credit housing, and provides the services those tenants need to live on their own.

Pennsylvania's Success

"The opportunity to live independently is crucial to improving the quality of life for persons with disabilities, and stabilizing communities," says Brian Hudson, PHFA's executive director. "The changes we made to our QAP have been very effective in influencing developers to propose tax credit developments with units that are both affordable and accessible to the very low-income families [that] need them."

In Pennsylvania there have been four allocation cycles in the two years since the affordable/accessible policy went into effect. Each of the four allocations has resulted in a larger number of accessible and affordable LIHTC units. As developers have come to understand the significance of the incentives available to them, more have chosen to participate. In the last tax credit allocation round, all the developers awarded credits chose to use these incentives to make a portion of their units accessible and affordable to tenants earning as low as 18 percent of the area median income. Developers agreed in the past two years to create close to 400 new tax credit units for very low-income persons with disabilities throughout the state, and the supply is likely to increase annually. ◆

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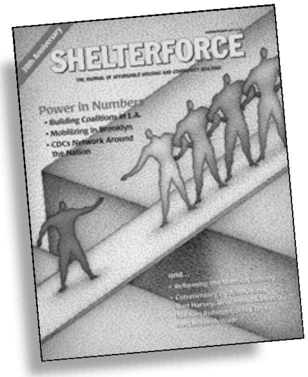

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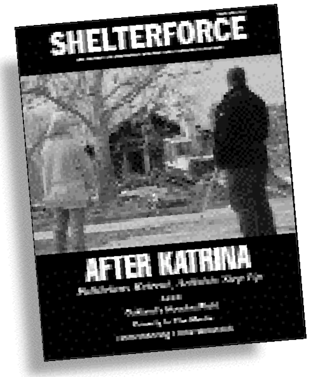

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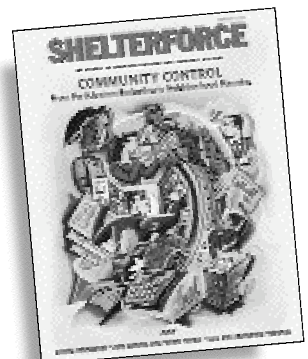

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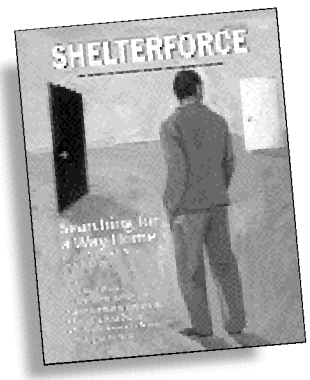

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