Monitoring of Committed Affordable rental units (CAFs)

Note: This is an internal document. Descriptions of the Housing Division's compliance work for the public are in Appendix A.

Section 1: Brief description of monitoring

All Committed Affordable rental units (CAFs) are monitored for compliance with affordability agreements. The major issues which are monitored are rent amounts and the verifications of incomes of tenants. Physical inspections of common areas and of a sample of units are also conducted.

Most CAFs are monitored by two separate sets of compliance officers, because a majority of CAF properties have support from both the County and the Virginia Housing Development Authority's (VHDA) Low-Income Housing Tax Credit (LIHTC) program. The LIHTC program has a staff of auditors and inspectors who, similar to the Housing Division, conduct monitoring via site visits and reviews of reporting.

Individual LIHTC investors (such as Boston Capital) also conduct their own compliance reviews occasionally. Several other CAF properties are monitored by the Department of Housing and Urban Development (HUD) (examples being Colonial Village West and Arlington View Terrace).

1.1: Monitoring schedule

Committed Affordable properties which are bound by current written agreements with Arlington County, but which are not monitored by any other agency, are visited by the Housing Division's Compliance Officer at least once per year. CAF properties covered by current agreements with the County, but which are monitored by other agencies, are typically monitored with a site visit from the Compliance Officer every other year.

1.2: Properties with HOME funding

Properties which have any federal HOME funds invested may be reviewed more often than prescribed in section 1.1 above.

Per the procedures cited in the Housing Division's HOME Program Manual, page 9, section C. xvi., such properties will be monitored every two years for projects containing 5 to 25 units; and every year for projects containing 26 or more units. See Appendix E for a list of all HOME properties.

1.3 Components of compliance reviews

a. <u>Occupancy reports:</u>

All properties covered by current affordability agreements with the County submit an occupancy report annually which lists unit addresses and sizes, rent amounts, household members, and household incomes. These reports are reviewed annually to ensure that the required number of affordable units are present, at every size and affordability level required.

b. File reviews:
During site visits (which again are done at least biannually for properties which are monitored by other agencies [primarily VHDA], and at least annually for those which are not), County compliance staff audit tenant files for the information mentioned in Exhibit D., "File monitoring data."

Staff will check all tenant files for properties which have 10 or fewer CAFs; 10 files for properties of 100 CAFs or fewer; and 10% of the files, up to a maximum of 20 files, for properties which have 101 CAFs or more. Additional files may be reviewed if significant numbers of errors are found.

c. Wait lists:

Properties are not required to maintain wait lists. For those that do, the wait list is reviewed to ensure that households moving in have been taken in order off the list.

d. Fair Housing:

Signage in leasing offices and language and graphics in online advertisements are reviewed to ensure compliance with Fair Housing laws. Application forms are also reviewed.

e. Physical inspections:

Physical inspections are conducted at most, but not all, properties visited by the Compliance Officer. These physical inspections are conducted by a Housing Inspector of the Housing Division.

Section 2: Definitions

Affordability level: The designation of the maximum rent allowed for a unit and the maximum household income allowed for the tenant household. This is expressed as a percentage of Area Median Income (AMI), which is a figure issued annually by the Department of Housing and Urban Development (HUD).

Committed Affordable unit (CAF): Rental units which are (1) wholly-owned by nonprofits, except any units planned to serve households with incomes above 80% of median family income; (2) guaranteed by agreement with the federal, state, or county government to remain affordable to low and moderate income; or (3) owned by organizations which received government subsidies to assist with the purchase.

LIHTC: The Low-Income Housing Tax Credit program; a nationwide program enabled by the federal tax code which supports the construction and renovation of affordable rental housing. Investors earn future tax credits by investing in affordable housing projects. In Virginia the LIHTC program is administered by the Virginia Housing Development Authority (VHDA).

Occupancy report: A list of all the affordable units at a property which includes household income amounts as well as unit size, address, number of tenants, affordability level, etc. This is similar to a rent roll, but rent rolls do not typically list household incomes, numbers of tenants, or affordability levels.

Tenant Income Certification: A form used in the Low Income Housing Tax Credit (LIHTC) program which is placed in each tenant file; it lists the tenants, their income, the rent amount of the unit, and other information. It is updated once a year and maintained in the tenant file.

Utility Allowance: The estimated amount spent on utility bills each month by a household in an affordable rental unit; this amount is deducted from the maximum rent which may be charged for the affordable units.

Section 3: Expanded description

In compliance reviews, County staff primarily ensure that:

- The required number of affordable units, by size and AMI level, are present;
- Rents are not over the maximums allowed by affordability level; and
- Management is verifying incomes of tenant households.

3.1: Affordability levels

The funding agreements made between the County and developers, such as Committed Affordable Housing Program Agreements for Site Plan projects, list the numbers of units to be affordable, their sizes by number of bedrooms, and the levels of Area Median Income (AMI) at which units should be affordable. For example, the agreement for The Spectrum includes this table:

	50% AMI	60% AMI	80% AMI	Market	Totals
Eff	1	1	2	2	6
1Br	4	14	18	8	44
2Br	5	15	20	10	50
					100

Area Median Incomes are issued annually by the Department of Housing and Urban Development (HUD), on the “huduser” site:

https://www.huduser.gov/portal/datasets/il.html

The maximum rents allowed are derived from these income limits; the maximum rent allowed for a unit is 30% of the maximum monthly income at the % level in question, assuming 1 person in a studio/efficiency, 1.5 persons in 1BR units, 3 in 2BRs, and 4.5 in 3BRs. These amounts are listed annually in the “Income and Rent Limits” spreadsheet issued by the Housing Division (example, Appendix C).

The rents charged are reviewed for all units as listed on the property occupancy report or rent roll. During the file review, rents being charged for individual units are verified by comparing the amounts listed on the occupancy report to the amount listed on the lease, and also on the Tenant Income Certification. Furthermore, any correspondence in the file which lists the rent amount is examined, again to insure that the figure listed on the occupancy report is correct. Such correspondence includes late notices send to the household, and any letters from rent assistance programs.

Utility allowances: Utility allowances are also checked during compliance reviews, to ensure that the estimated utilities costs of residents combined with their lease rents do not push the total housing cost over the maximum allowed. Most properties use the utility allowance schedule published annually by the County's Section 8 office, although several use alternate schedules approved by the LIHTC program.

Corrections: A property found to have an insufficient number of units set aside at the required affordability level must replace them immediately, either by converting a market-rate unit to be affordable (if the tenants are income-qualified); or by converting the next available market-rate unit to be affordable (if no existing market-rate tenants are income-qualified); or by converting an affordable unit down to a lower affordability level if necessary.

If any rents are found to be over the maximum allowed, the rent amount must be corrected immediately and credit must be issued to the household to make up for any overpayment which has been accumulated.

3.2: Household composition

Since the maximum income allowed for a tenant household is based on the number of members, management must know exactly who lives in the unit. Information on initial applications, leases, any lease amendments, and any correspondence is reviewed to ensure that all the tenants are known and listed.

Corrections: Any discrepancies in number and/or identity of tenants on the Tenant Income Certification, the lease, the occupancy report, or anywhere else in files and reports must be corrected immediately.

3.3: Verification of tenant household incomes

Applicants may not move into CAFs if their incomes exceed those prescribed by the affordability levels listed in the project agreements; therefore proper verification of household incomes is crucial. Methods of verification of income for most CAF properties are provided by a HUD publication, *Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs*, especially its Chapter 5. The affordability agreements for many CAF projects invoke these requirements by stating that the units will be administered according to the rules of the LIHTC program, and the LIHTC program in turn has adopted this Handbook (as have many other affordable housing programs).

More recently, CAF agreements have directed owners/managers to use "Administration of Committed Affordable Rental Units (CAFs)," a separate document attached here as Appendix B.

This document is based on the HUD *Handbook 4350.3* and eliminates the need for the affordability agreements to cite other rules.

Some other Tax Credit rules are in the "Guide for Completing Form 8823:"

https://www.novoco.com/resource-centers/affordable-housing-tax-credits/compliance/8823-guide

Corrections:

Corrections of issues with the calculation of household income depend on whether the correct income is:

- Below the maximum allowed to move in; or
- Over the maximum allowed to move in, but below the maximum allowed to renew the lease; or
- Over the maximum allowed to renew the lease.

Note: Once in place in a CAF, households may continue to renew their lease if their total gross income does not exceed 140% of the original move-in limit. (For example, if a household of 4 moved into a unit affordable at 60% AMI in 2012 with an income of $64,000 [just below the maximum of $64,500], they could have renewed the lease in 2013 with an income of $90,000 [just below the limit of $90,300].)

If a household exceeds the maximum income of 140% of the move-in limit, management may allow the household to stay in the property (at market rent) if the affordable unit is replaced by a formerly market-rate when unit when one becomes available.

Resolutions for households determined to have incomes over maximums allowed:

	Actual household income was over the move-in limit, but under renewal limit	**Actual household income is over the lease renewal limit**
Miscalculation of income due to management error	Household may remain in CAF.	Household may not renew lease.
Miscalculation of income due to tenant misrepresentation	Household may not renew lease.	Household may not renew lease.

Tax Credit note for LIHTC properties: Management will likely not be able to count the unit as affordable -- for the LIHTC program -- if the household moved in with an income over the limit allowed, regardless of the reason for the miscalculation.

Corrections regarding annual re-verification of income: In any cases in which incomes have not been verified for more than 12 months, verifications must be completed in 60 days**.**

3.4 Physical unit inspections

A Housing Inspector of the Housing Division conducts physical inspections at most properties which are visited by the Compliance Officer for file reviews. Properties which are new are less likely to be selected for inspection.

Inspections include common areas and a percentage of units, typically 10% of the CAFs. The Inspector communicates directly with management, and copies of correspondence are shared with the Compliance Officer.

Note: Inspections are also conducted by the Housing Choice Voucher program (Section 8). The units of households which have a Housing Choice Voucher are inspected by that program -- which is administered by the Arlington County Department of Human Services -- prior to move-in and every twelve months thereafter. Copies of correspondence regarding these inspections, including lists of any required repairs, should be maintained in tenant files. During file reviews, dates and results of these inspections are noted.

3.5 Site Plan violations

A violation of a condition of a Site Plan would first result in a violation notice issued by the County's Zoning Office. Ownership would have 10 days to address the violation. If the violation were not corrected in this 10 day period then ownership would be liable for fines. The fines would begin at the amount of $200 per violation for the first set of tickets. Each 10 day period moving forward from the initial fine would result in a fine of $500. If fines were to accumulate to $5,000 total, the matter would be treated as a misdemeanor and would be taken to court. Confirmed with Robert Love, Zoning Inspections Supervisor, April 2016.

3.6 Housing Division training

Training sessions for property managers who administer CAFs are held as needed upon turnover of on-site staff. County compliance staff will hold a training unless the management group is recognized as a Certified Management Agent by VHDA.

3.7 Quarterly compliance report

Quarterly compliance reports are shared with the Housing Finance Manager and also with the Housing Commission.

The quarterly reports show what exactly compliance staff are doing to monitor CAFs. This includes:

- A list of properties monitored during the quarter, with a note about which ones included physical unit inspections
- A list of trainings conducted for management staff
- A summary of the number of individual files reviewed outside monitoring reviews, with outcomes (whether the household qualified for housing or not)
- A list of other activities of compliance staff, such as administering TAFs

The details of properties monitored during the quarter will include a note that a unit was (or units were) out of compliance if:

- A unit (or units) required to be affordable at a given level (60%, 50% etc.) was not present (and so therefore a unit or units had to have rent lowered).
- A household was found to be over-income for a unit, either at move-in or renewal. These cases will be dealt with according to the table in part 3.3 above.
- A household had not had its income verified in the past 12 months at a property where this is required. Such households will need to have incomes verified within 60 days.