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Tennessee Housing Development Agency
404 James Robertson Parkway, Suite 1200
Nashville, Tennessee 37243-0900
www.thda.org

TO: Recipients of Low-Income Housing Credits
FROM: Gwen Coffey, Acting Director of Program Compliance
SUBJECT: Owner's Annual Certification of Compliance 2011

Enclosed is an Annual Compliance Certification for all owners that have received an allocation of low income housing credits from Tennessee Housing Development Agency (THDA) and are in their compliance period. These reports are mandated by federal statute 26 CFR 1.42-5 Section (c)(1) that states:

the owner of a low income housing project is required to certify annually to the Agency that, for the preceding 12 month period, the property met the provisions of the housing credit program.

Attached is a description of the reports that must be submitted to THDA for compliance year 2011. If your property was placed in service on or before December 31, 2010, you are required to submit **this** Owner's Annual Certification of Compliance. The deadline for this submission is **February 15, 2012**. All properties not submitting Certifications by the deadline or submitting incomplete Certifications will be reported to the Internal Revenue Service (IRS) for noncompliance.

Compliance with IRS Section 42 is required for the full compliance period of a housing credit property. The compliance period covers at least 15 years (for all properties), and up to 50 years for recipients subject to an extended use clause of the Land Use Restrictive Covenant. Extended use clauses cover ALL properties allocated tax credits in 1990 and subsequent years.

If your property is prepared for online compliance reporting via Certification On-Line (COL), THDA's internet compliance software, you are still responsible for the manual submission of two forms: Exhibit A and Addendum A. Please complete those forms and return them to THDA by the February 15 deadline.

If you have questions concerning any of the attached reports, please contact the Terry Malone at (615) 815-2213 from 8:00 a.m. through 4:30 p.m. Central Standard Time. Thank you in advance for your cooperation.

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INSTRUCTIONS FOR COMPLETING OWNERS ANNUAL CERTIFICATION

(Please insure that your reports are complete, since incomplete Owner's Certifications will be returned and a Report of Noncompliance will be filed by our office with the IRS.)

Exhibit A: Owner's Annual Certification of Compliance 2011

Must be submitted annually for each year in the compliance period for every low income housing credit property. (Only one form per property.) Page 4 is Addendum A: Identification of Ownership/Management.

Question 18: This question refers to how many handicapped accessible units are actually OCCUPIED by someone with a disability.

Exhibit C: Applicable Fraction Worksheet

This report must be submitted for **each building** in which designated low-income units were not occupied by qualified low-income residents on December 31, 2011.

Exhibit D: Building Status Report **(only use if Certification On-Line (COL) access is not available)**

One report per building must be submitted identifying each resident who occupied the building from January 1 through December 31, 2011. Projects with RHS and Section 8 units are NOT exempt from providing ALL information requested on Exhibit D. **In addition, attach a copy of the UTILITY SCHEDULE in effect for these units.**

If the property is not submitting Exhibit D information via COL, please complete the attached Exhibit D and contact Robert Lucas at rlucas@thda.org or (615) 815-2244 to be granted access to the COL system. Annual reporting of tenant data via COL is mandated by THDA.

Exhibit H: Participation of Nonprofit in On Going Operations

Must be submitted for **each property** that received an allocation of credits from the nonprofit set-aside. An attorney's opinion letter must accompany this report to verify continuing participation. Please visit our website at '<http://www.thda.org/procom/lihtcprocom.html>' for the opinion letter formats.

Other Reports as Necessary:

If you are planning to sell an ownership interest in a low income housing credit property you must report that sale to THDA 30 days prior to the date of the sale. Please contact our Agency with details of the transaction and for a copy of **Exhibit B: Transfer of Ownership**.

If you have experienced a casualty loss at a low-income housing credit property, you must report that loss within 30 days to THDA. Please contact our Agency with a status of the situation and for a copy of **Exhibit I: Building Casualty Loss Notification**.

Mail Reports to: **Division of Program Compliance**
Tennessee Housing Development Agency
404 James Robertson Parkway, Suite 1200
Nashville, Tennessee 37243-0900

7. Each building in the project is and has been suitable for occupancy, taking into account local health, safety and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low-income unit in the project:

YES **NO**

If “**No**”, state nature of violation on page 3 and attach a copy of the violation report as required by 26 CFR 1.42-5 and any documentation of correction.

8. There has been **no change in the eligible basis** (as defined in Section 42(d) of the Code) of any building in the project since the last certification submission:

NO CHANGE **CHANGE**

If “**Change**”, state nature of change (e.g., a common area has become commercial space, a fee is now charged for a resident facility formerly provided without charge, or the project owner has received federal subsidies with respect to the project which had not been disclosed to the allocating authority in writing) on page 3.

9. All tenant facilities included in the eligible basis under Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the buildings:

YES **NO**

10. If a low-income unit in the project has been vacant during the year, reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units were or will be rented to tenants not having a qualifying income:

YES **NO**

11. If the income of tenants of a low-income unit in any building increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size in that building was or will be rented to residents having a qualifying income:

YES **NO**

12. An extended low-income housing commitment as described in Section 42(h)(6) was in effect, including the requirement under Section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment:

YES **NO**

13. The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving “qualified non-profit organizations” under Section 42(h)(5) of the Code and its non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code:

YES **NO** **NA**

If “**YES**”, complete Exhibit H and contact Agency for format of “Opinion Letter” for nonprofit participant.

14. The owner has complied with Section 42(h)(6)(E)(ii)(I) and not evicted or terminated the tenancy of an existing tenant of any low-income unit other than for good cause.

YES **NO**

15. The owner has complied with Section 42(h)(6)(E)(ii)(II) and not increased the gross rent above the maximum allowed under Section 42 with respect to any low-income unit.

YES **NO**

16. There has been **no change in the ownership or management** of the project:

NO CHANGE **CHANGE**

List ownership and management company identification information on Addendum A.

17. What was the occupancy percentage at this project as of December 31, 2011?

_____ %

18. How many handicapped accessible units at the property were occupied by persons with disabilities as of December 31, 2011?

_____ **Units**

Note: Failure to complete this form in its entirety will result in noncompliance with program requirements. In addition, any individual other than an owner or general partner of the property is not permitted to sign this form, unless permitted by Tennessee Housing Development Agency.

This property is otherwise in compliance with the Internal Revenue Code Section 42 including any Treasury Regulations, the applicable State Qualified Allocation Plan, and all other applicable laws rules and regulations. This Certification and any attachments are made UNDER PENALTY OF PERJURY. False statements are punishable as a Class E felony under Tennessee Code Annotated (TCA) Section 13-23-133.

_____ (Ownership Entity)

By: _____

Title: _____

PLEASE EXPLAIN ANY ITEMS THAT WERE ANSWERED "NO", "CHANGE", OR "FINDING" ON QUESTIONS 1-16.

Question No.	Explanation

**CHANGES IN OWNERSHIP (to be completed ONLY if "CHANGE" marked for Question 14)
Also request and complete form Attachment B – Transfer of Ownership Interest.**

TRANSFER OF OWNERSHIP

Date of Change: _____

Taxpayer ID Number: _____

Legal Owner Name: _____

General Partnership: _____

Status of Partnership (LLC, etc.): _____

**ADDENDUM A
IDENTIFICATION OF OWNERSHIP/MANAGEMENT**

PROJECT NAME: _____ Project Identification No.: TN _____

Name of Current Owner Taxpayer I.D. No.

Name of General Partner Taxpayer I.D. No.

Owner's Address

City State Zip Code

Name of Owner Contact

Owner's Daytime Telephone Number Owner's Facsimile Number

Owner's E-Mail Address

MANAGING AGENT: _____
Name of Managing Company Taxpayer I.D. No.

Name of Management Contact Person Title

Management Company Address

City State Zip Code

Management Company's Daytime Telephone Number Management Company's Facsimile Number

Management Company's E-Mail Address

**EXHIBIT B
TRANSFER OF OWNERSHIP INTEREST**

If you plan to dispose of an ownership interest in a building which was previously allocated low income housing credits you are required to provide THDA with information concerning the new owner 30 days prior to such transfer. Also, complete Addendum A to update all contact information for the new ownerships and management. To report a transfer of ownership to THDA, type or print (in ink) and submit this form to the following address:

**Program Compliance Division
Tennessee Housing Development Agency
404 James Robertson Parkway, Suite 1200
Nashville, Tennessee 37243-0900**

PROJECT INFORMATION Building Identification No. (BIN): TN

Project Name: _____

Project Street Address: _____

City: _____ Zip Code: _____

OWNER TO WHICH TAX CREDITS WERE ALLOCATED:

Owner: _____ Taxpayer I.D. No.: _____

Address: _____

City: _____ State: _____ Zip Code: _____

General Partner: _____ Taxpayer I.D. No.: _____

Telephone: _____

Signature of General Partner

NEW OWNER INFORMATION Date Transfer Will Occur: _____

New Owner: _____ Taxpayer I.D. No.: _____

Address: _____

City: _____ State: _____ Zip Code: _____

General Partner: _____ Taxpayer I.D. No.: _____

Telephone: _____

Signature of New General Partner

INSTRUCTIONS: EXHIBIT D – 2011 BUILDING STATUS REPORT – (only use if COL access is not available)

Project Name	Indicate the building name or address as identified on IRS Form 8609 Part I-A.
Building Identification Number (BIN)	List the Building Identification Number assigned to the project, and identified on IRS Form 8609 Part I-E.
City, County	Identify the city and the county in which the project is located.
Total Number Rental Units in Building	List the total number of residential rental units in this building.
Total Number of Low-Income Units in 2010	Identify the total number of qualified low-income units in the building as of 12/31/10.
Number Low Income Units 12/31/11	Identify the low-income portion reported on line 2 of Schedule A, of IRS Form 8609 for tax year 2011 (lesser of the number of units vs. square feet).
Percent of Low Income Units 12/31/11	Total Low Income Units on 12/31/11 divided by Total Number Rental Units.
Prepared by, Title, Telephone Number	List the name, title and telephone number of the person completing the report.
Unit Number	The identifying number assigned to the unit by the owner.
Number of Bedrooms	State the number of separate bedrooms contained in the unit.
Square Feet of the Unit	State the number of square feet contained in the unit.
Move in Date	The date on which the resident(s) moved into the unit.
Resident Name	The last name of the resident(s) occupying the unit, as shown on the lease. If transferring within the same building, add (T-###) to the name. ### equals the unit identification number transferred from.
Move in Income	The ANNUAL amount of income the resident(s) earned on the date that they moved into the unit.
Move in Rent	The total monthly rent amount identified on the lease, regardless of who is responsible for the payment.
Annual Recertification Date	The date on which the resident's income was recertified during 2011.
Annual Recertification Income	The GROSS ANNUAL resident income projected for the 12 months following the date of the Annual Recertification.
Annual Recertification Rent	The total monthly rent amount identified on the lease during 2011, regardless of who is responsible for the payment.
Number in Household	The number of persons living in the unit, including non-related household members.
Non-Qualified Student (NQS)	If the unit is entirely occupied by students (adults attending college or a vocational school full time or children attending elementary or high school), the unit must have a student status exemption outlined in Section 42 (i) (3) (D). Identify whether the unit is entirely composed of students YES = Y or NO =N.
Utility Allowance	Indicate the MONTHLY amount of utilities for this unit that the OWNER does not pay. This is the amount that the resident would be responsible for monthly. Section 8 Utility Allowance Charts MUST be used for Section 8 Voucher or Certificate holders, while RHS provided allowances must be used for RHS residents. IN ADDITION, ATTACH A COPY OF THE UTILITY SCHEDULE IN EFFECT FOR THESE UNITS.
Resident Paid Rent	The resident paid portion of the monthly rent amount identified on the lease as of the date the 2011 income was recertified. THIS DOES NOT INCLUDE THE AMOUNT OF SUBSIDY PAID by Section 8 or RHS.
Special Needs Code	If this unit has been SET ASIDE for a special housing needs population, identify using the following codes: RHS (FmHA) assisted = F, Section 8 assisted = S, elderly resident(s) = ELD, disabled resident(s) = DIS, additional units set aside for very low income residents earning less than 50% of the area average median income = 20/50 and hurricane 'nonqualified' assisted residents = K.
Move Out Date	If applicable, the date the resident(s) moved out of the unit. NOTE: If the resident(s) moved out before 12/31/11, the next resident(s) to occupy the units must be identified on this report, with all rent, utility, and income amounts listed.

**EXHIBIT C
APPLICABLE FRACTION WORKSHEET**

Project No.: TN

Building No.: _____

26 Code of the Federal Register (CFR) Section 42 (c)(1)(B)(ii) states that the owner of a low income housing project must certify at least annually to the Agency that, for the preceding 12 month period, there was no change in the applicable fraction [as identified in IRC Section 42 (c) (1)(B)] of any building in the project, or if there was a change, a description of that change. To comply with this requirement, complete the worksheet for EACH building that was not 100% occupied by qualified low-income residents on December 31, 2011. Check NO, and provide an explanation for question number 2 on Exhibit A: Owner's Annual Certification of Compliance. Projects allocated tax credits on a non 100% basis should identify the percentage applicable to their project.

PREVIOUS LOW INCOME PORTION OF THE BUILDING:			
1.	Enter the low-income portion that was reported to the IRS as identified on Form 8609: Schedule A for this building on your 2010 tax return.	1.	
THE UNIT PERCENTAGE OF THE BUILDING:			
2.	Enter the number of low-income units in this building that were occupied by qualified low-income residents on December 31, 2011. <u>Include units that were vacant on December 31, 2011, but were last occupied by a qualified low-income resident.</u>	2.	
3.	Enter the total number of rental units in this building, including both low-income and market rate units. <u>Do not count a manager's unit or courtesy / security unit as a rental unit.</u>	3.	
4.	Divide line 2 by line 3 and express as a fraction carried out to 4 decimal points (for example 50% = .5000).	4.	
THE FLOOR SPACE PERCENTAGE OF THE BUILDING:			
5.	Enter the total floor space of all low-income units identified on line 2.	5.	
6.	Enter the total floor space of all rental units identified on line 3.	6.	
7.	Divide line 5 by line 6 and express as a fraction carried out to 4 decimal points (for example 50% = .5000).	7.	
APPLICABLE FRACTION OF BUILDING:			
8.	Enter the lesser of line 4 or line 7. This is the applicable fraction, or the low-income portion for this building. If line 8 is different from line 1, then the applicable fraction for this building has changed from the previous year (2010). Answer "No" to Question 2 of Exhibit A; Owner's Annual Certification of Compliance and explain on Exhibit A, the reason for the change.	8.	

**EXHIBIT H
PARTICIPATION OF NONPROFIT IN ON GOING OPERATIONS**

IRC Section 42(h)(5) requires the State Allocating Agency to set aside not more than 90 percent of the annual housing credit ceiling to projects other than those involving qualified nonprofit organizations. Projects involving qualified nonprofit organizations are defined under Section 42(h)(5)(b) as 'if the qualified nonprofit organization is to own an interest in the project (directly or through a partnership) and materially participate (within the meaning of section 469(h)) in the development and operation of the project throughout the compliance period'.

Please submit for our review an attorney's opinion letter (in the format provided-see Exhibit H Attachments 1 and 2 at 'www.state.tn.us/thda/Programs/lihtc/concyr.htm') that states that the nonprofit is an organization recognized by the Internal Revenue Service as a 501(c)(3) or 501(c)(4) organization and is validly existing and in good standing under the laws of the State of Tennessee. Also include in that opinion letter that the nonprofit is not affiliated with or controlled by any for-profit entity and that one of the exempt purposes of the nonprofit includes the fostering of low-income housing. In addition, the attorney must attest to the official capacity of the nonprofit in the operation of the project during 2011 by identifying the number of hours and type of services the nonprofit performed for the project that meets the criteria defined as material participation in IRC Section 469(h). This information must be submitted with this completed form and returned to the following address no later than February 15, 2012.

**Division of Program Compliance
Tennessee Housing Development Agency
404 James Robertson Parkway, Suite 1200
Nashville, Tennessee 37243-0900**

PROJECT INFORMATION

Project Identification No.: TN

Project Name: _____

Project Street Address: _____

City: _____ Zip Code: _____

Owner: _____

IDENTIFICATION OF QUALIFIED NONPROFIT:

Nonprofit: _____ Taxpayer I.D. No.: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Daytime Telephone Number: _____

IDENTIFICATION OF ATTORNEY OR FIRM RENDERING OPINION:

Attorney or Firm: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Daytime Telephone Number: _____

