

**ATTACHMENT 28B: FORM OF OPINION LETTER REGARDING NON-PROFIT
QUALIFICATION**

**(Required if tax credits received from non-profit set aside and nonprofit formed a corporation to be
the sole general partner or sole managing member of the ownership entity)**

Submit on Tax Counsel's Letterhead

Date: _____

Attn: Multifamily Development
Tennessee Housing Development Agency
404 James Robertson Parkway Suite 1200
Nashville, TN 37243-0900

Development Name: _____ (the "Development")

Development Address: _____

Ownership Entity: _____ (the "Development Owner")

Ladies and Gentlemen:

We are acting as tax counsel to the Development Owner, the Nonprofit defined below or the Corporation defined below in connection with the referenced Development. We are providing this opinion with respect to the status of _____ (the "Nonprofit") as a qualified nonprofit organization, as defined in Section 42(h)(5) of the Internal Revenue Code of 1986, as amended (the "Code") and in the Tennessee Housing Development Agency Low Income Housing Tax Credit Qualified Allocation Plan for **[specify year in which allocation was given]** (the "QAP") and the status of _____ (the "Corporation") as a qualified corporation, as defined in Section 42(h)(5)(D) of the Code, in connection with a Final Application of even date herewith (the "Final Application") submitted to the Tennessee Housing Development Agency ("THDA") in connection with placing the Development in service. We understand that THDA requires and will rely solely on this opinion to determine whether the Development, as described in the Final Application, is eligible for a final allocation of Low Income Housing Tax Credits ("Tax Credits"), from the Non-Profit Set-Aside described in the QAP (the "Non-Profit Set-Aside").

In rendering all of the opinions in this letter, we made all investigations of law and fact we deemed necessary including, without limitation, the QAP and Section 42 of the Code, together with all related Treasury Regulations, Revenue Rulings, Revenue Procedures, IRS Notices, IRS Announcements and Letter Rulings. In addition, we examined documents as we deemed necessary, all of which were original documents or copies certified or otherwise identified to our satisfaction as true copies of such documents.

In addition, in rendering the following opinions in connection with Nonprofit, we specifically examined the following:

1. **[select one: a Certificate of Existence from the Tennessee Secretary of State dated _____ with respect to Nonprofit; or a Certificate of Existence from the State in which Nonprofit was organized dated _____ and a Certificate of Authority from the Tennessee Secretary of State dated _____ with respect to Nonprofit;]**
2. the Articles of Incorporation, Charter, Bylaws and minutes or other corporate records of Nonprofit;

3. the Letter of Determination dated _____ from the Internal Revenue Service, with respect to Nonprofit;
4. all records, documents or other matters related to Nonprofit as we deemed necessary to enable us to give the following opinions;
5. all records, documents or other matters related to other potential participants in the Development as we deemed necessary to enable us to give the following opinions;
6. the Final Application; and
7. the Initial Application, as submitted to THDA by or on behalf of the Development Owner, proposing the Development (the "Initial Application").

Based on our review of the foregoing, it is our opinion that:

1. Nonprofit is an organization recognized by the Internal Revenue Service as a 501(c)(3) or 501(c)(4) organization.
2. Nonprofit was duly organized under the laws of the State of _____ on or before two years prior to the date of the Initial Application.
3. **[select one: Nonprofit is validly existing and in good standing under the laws of the State of Tennessee or Nonprofit is validly existing and in good standing under the laws of the State of _____ and is validly authorized to transact business in the State of Tennessee.]**
4. Nonprofit was not formed by one or more individuals or for-profit entities for the principal purpose of being included in the Non-Profit Set-Aside, Nonprofit is not controlled by any for-profit entity, and Nonprofit is not affiliated with any for-profit entity, except Corporation and Development Owner.
5. No staff members, officers or members of the board of directors of Nonprofit has materially participated or will materially participate, directly or indirectly, in the Development as or through a for-profit entity, except through Corporation and Development Owner.
6. One of the exempt purposes of Nonprofit is the fostering of low-income housing.
7. Nonprofit is authorized to own and currently owns 100% of the stock of Corporation for the purpose of materially participating through Corporation (within the meaning of Section 469(h) of the Code) in the development and operation of the Development throughout the compliance period.
8. Nonprofit, as described in the Initial Application is the same as Nonprofit as described in the Final Application.

In rendering the following opinions in connection with Corporation, we made all investigations of law and fact we deemed necessary and we examined all documents we deemed necessary, all of which were original documents or copies certified or otherwise identified to our satisfaction as true copies of such documents including, without limitation, the following:

1. a Certificate of Existence for Corporation from the Tennessee Secretary of State dated _____.

2. the Articles of Incorporation, Charter, Bylaws and minutes or other corporate records of Corporation; and
3. all records, documents or other matters related to Corporation as we deemed necessary to enable us to give the following opinions.

Based on our review of the foregoing, it is our opinion that:

1. The Corporation was duly organized, is validly existing, and is in good standing under the laws of the State of Tennessee.
2. One hundred percent (100%) of the stock of Corporation is owned by Nonprofit.
3. No documents examined or of which we are aware authorize, permit or cause transfers of any stock in Corporation to any individual or entity other than a qualified nonprofit as defined in Section 42(h)(5) of the Code and in the QAP.
4. The Corporation is authorized to materially participate (within the meaning of Section 469(h) of the Code) in the development and operation of the Development throughout the compliance period and has materially participated (within the meaning of Section 469(h) of the Code) in the development and operation of the Development to date.

In rendering the following opinions, we made all investigations of law and fact we deemed necessary and examined the following documents as we deemed necessary, all of which were original documents or copies certified or otherwise identified to our satisfaction as true copies of such documents including, without limitation, the following:

1. the fully executed partnership agreement of the Development Owner and fully executed modifications or amendments thereto, if any;
2. the fully executed operating agreement for the Development and fully executed modifications or amendments thereto, if any; and
3. the following fully executed contracts or agreements which indicate the role of Corporation in developing and operating the Development (list documents examined):

Based on our review of the foregoing, it is our opinion that:

1. Corporation is the sole **[select one: general partner or managing member]** of Development Owner.
2. The partnership agreement of the Development Owner and/or the operating agreement for the Development do not provide for additional **[select one: general partners or managing members]**, and provide that Corporation may only be replaced by another corporation that is a qualified corporation as defined in Section 42 (h)(5)(D) of the Code or a qualified nonprofit, as defined in Section 42(h)(5) of the Code and the QAP.
3. The partnership agreement of the Development Owner and/or the operating agreement for the Development provide(s) for the material participation of Corporation (within the meaning of Section 469(h) of the Code) in the development and operation of the Development throughout the compliance period.
4. No documents examined or of which we are aware limit Corporation's ability to materially participate in the development and operation of the Development throughout the compliance period.

Based on all of the foregoing, it is our opinion that Nonprofit is a qualified nonprofit organization as defined in Section 42(h)(5) of the Code and in the QAP and Corporation is a qualified corporation as defined in Section 42(h)(5)(D)(ii) of the Code and in the QAP. It is our intention that this opinion be relied upon solely by THDA in connection with THDA's evaluation of the Final Application and its determination as to the eligibility of the Development, as proposed in the Final Application, and Development Owner, as proposed in the Final Application, to receive a final allocation of Tax Credits from the Non-Profit Set-Aside and for no other purpose.

(Name and Signature of Attorney or Firm rendering opinion)