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Re: Exceptions to the 2007 Qualified Allocation Plan, 2008 Qualified Allocation Plan, and 2009 Qualified Allocation Plan

The Missouri Housing Development Commission ("MHDC") approved the 2007 Qualified Allocation Plan ("2007 QAP") on August 18, 2006, the 2008 Qualified Allocation Plan ("2008 QAP") on August 17, 2007, and the 2009 Qualified Allocation Plan ("2009 QAP") on May 23, 2008, (together, the "QAPs") in order to establish rules regarding MHDC's administration of the federal low-income housing tax credit program governed by Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), and the state low-income housing tax credit program governed by Section 135.350 et seq. of Chapter 135 of the Missouri Revised Statutes.

On July 30, 2008, President Bush signed HR 3221--The Housing and Economic Recovery Act of 2008 (the "Act"). The Act includes provisions modifying Section 42 of the Code, including revisions that drop or ease existing guidelines in the administration of the tax credit program. Two revisions in the Act affect administrative matters addressed in the QAPs. Section XII.E of the QAPs allow MHDC "to modify or waive, on a case-by-case basis, any provision of this plan that is not required by the Code. All such resolutions or any such modifications or waivers are subject to written approval by the Executive Director and are available for review, as requested, by the general public."

Therefore, MHDC in its efforts to respect and implement the revisions to the Code as legislated in the Act, hereby allows two exceptions to the QAPs:

(1) To reflect the modification of §42(h)(1)(E), taxpayers receiving the 9% credit shall be allowed up to *one year* after carryover allocation to achieve the required basis of more than 10 percent of the taxpayer's reasonably expected basis in the building(s) (ref. 2008 QAP section III.A.2 and 2009 QAP section IV.A.2).

(2) To reflect the deletion of the provisions regarding below-market federal loans and HOME assistance (formerly §42(i)(D) and §42(i)(E), buildings financed with 9% tax credits and below-market HOME loans and placed in service after July 30, 2008, shall not be required to restrict at least 40

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percent of all the residential units in said buildings to occupancy by individuals whose incomes are 50 percent or less of area median gross income, nor shall the buildings be prohibited from being eligible for the increase in eligible basis permitted for developments located in qualified census tracts and difficult development areas (ref. 2008 QAP section VIII and 2009 QAP section II.C.9).

The deletion of §42(i)(D) and §42(i)(E) means the Code no longer classifies low-interest HOME loans as federal subsidies, thereby changing the treatment of such loans with respect to eligible basis. MHDC shall honor this change in the 2009 QAP.

Thomas P. Ramsel
Executive Director