

Open Communities Alliance

Embracing diversity to strengthen Connecticut



June 6, 2014

Eric Chatman
President & Executive Director
Connecticut Housing Finance Authority
999 West Street
Rocky Hill, CT 06067

Dear Mr. Chatman:

I am writing to offer Open Communities Alliance's recommendations for changes to the 2014 draft Qualified Allocation Plan of the Low-Income Housing Tax Credit (LIHTC) program. As you know, the LIHTC program is the largest government-supported engine fueling the creation of affordable housing in the country. The Qualified Allocation Plan, or QAP, is the tool through which states can determine how this valuable resource is used.

For more than a decade in various capacities, including while at the ACLU of Connecticut, the CT Fair Housing Center and now Open Communities Alliance, I have advocated that the Connecticut Housing Finance Authority ensure that the LIHTC program provide housing choice to low income families, which are disproportionately families of color, in areas with thriving schools, safe streets, and access to social networks that lead to jobs. These are areas identified as "higher opportunity" areas in the Kirwan Institute's 2009/2010 study, *People, Place, and Opportunity: Mapping Communities of Opportunity in Connecticut*.¹ Cutting low income families off from these resources creates and exacerbates a range of disparities in areas such as health, education, and employment. The Kirwan report found that in Connecticut 81% of African-Americans and 79% of Latinos live in lower opportunity areas, compared to 25% of Whites and 44% of Asians. This research tells us that, first, Connecticut is highly segregated and, second, this segregation is having a profound impact on the ability of Blacks and Latinos to connect to the building blocks for success in life.

¹ The report is available at <http://kirwaninstitute.osu.edu/connecticut-op-mapping-temporary/>.

² Professor Ellen's presentation is available here: http://www.achievehartford.org/upload/files/Ellen--CT_taskforce_jan8_SM.pdf.

This map displays the spatial pattern of distribution of opportunity by census tract based on Education, Economic & Mobility, and Housing & Neighborhood indicators, overlaid with non-White population.

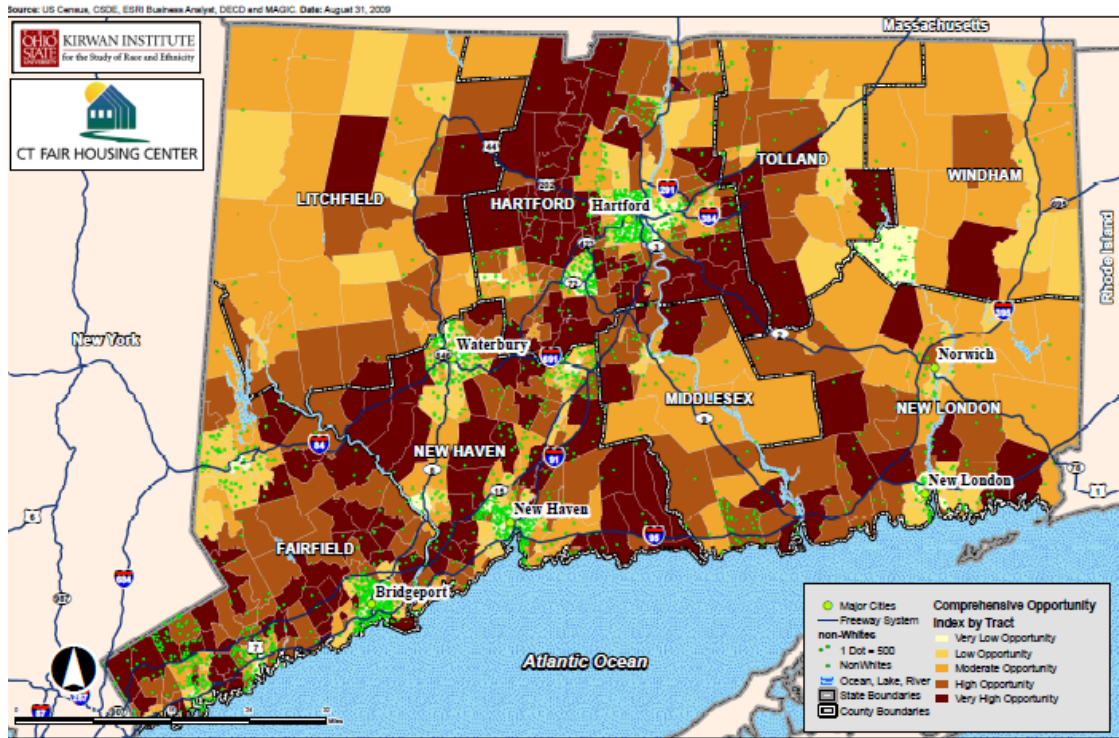


Figure 1: Opportunity in Connecticut. The darker the shading, the higher the opportunity (e.g. access to thriving schools, safe streets, etc.)

Current Locations of LIHTC

Figure 2 below illustrates the stark disequilibrium in the Connecticut LIHTC program found in a preliminary analysis of LIHTC locations done for Connecticut’s Analysis of Impediments to Fair Housing Choice report (forthcoming), a report that is submitted to the U.S. Department of Housing and Urban Development on a regular basis. *75% of LIHTC units in Connecticut are located in the 6% of the land area of the state that is disproportionately minority and high poverty.*

Figure 2: LIHTC by Race, Poverty and RCAP (by tract)

Demographic Served	Total Units	% Units in Disproportionately Minority Areas (30% minority or greater)	% Units in High Poverty Areas (Greater than 9.2% poverty)	% Units in Racial Concentrated Areas of Poverty (50% or greater minority pop. & 3 times regional poverty)
<i>% of geographical area of the state</i>		5.8%	10.5%	<1%
All	20,018	73%	73%	40%
Family	13,560	76%	76%	37%
Elderly	4,740	58%	55%	36%
Supportive	734	96%	96%	63%

Impact

According to a recent presentation to the Impediments to Fair Housing Task Force by Professor Ingrid Gould Ellen of NYU's Furman Center, this placement trend has meant that many CT LIHTC developments are located in high poverty school districts that are under-resourced and not able to fully serve their students.² Unfortunately, over the last five years it has become even more likely that Connecticut LIHTC developments are in such school districts. In short, families living in LIHTC developments are not gaining access to the excellent education available to most children in Connecticut.

Were we to compare LIHTC development locations to the designations on the opportunity map above, we would similarly find that LIHTC developments are in areas of lower opportunity, meaning that the current placement locations of most LIHTC developments are cut off from opportunity. Thus, based on the current placement patterns, it is clear that the LIHTC program in Connecticut is contributing to poverty concentration and housing segregation.

This impact is felt not only by individual low-income families of color, but also by the communities of color where such housing is disproportionately placed. A growing body of research demonstrates that poverty alone is not at the heart of a range of social challenges, but rather concentrated poverty. Each town in Connecticut can absorb a certain level of poverty without seeing affects on school quality, crime, or property values.³ As a state, however, we need to forward housing policy that creates housing choices allowing *voluntary* poverty de-concentration without generating poverty concentration in new locations. At the same time, we need to marshal other, primarily non-housing, resources to bring opportunity to the areas that need it the most.

Recommendations

The Alliance knows that CHFA is aware of the opportunity-isolating LIHTC placement trend and the affect of concentrated poverty. We are grateful to CHFA staff members who are working to find strategies to counter it and we appreciate the opportunity to offer a set of suggestions.

Introduction

It would require just under 20 years of placing all LIHTC developments entirely outside of minority and poverty-concentrated areas to reverse the unbalanced practices of the last 26 years, and even then there would still be more developments in such areas than are theoretically warranted given the small percentage of the land area of the state they constitute. Despite this reality, Open Communities Alliance does not propose a wholesale ban on using the LIHTC program in areas that are struggling. Under the right circumstances, such investments can be beneficial. Instead, the Alliance proposes a reorientation of the LIHTC program to prioritize higher opportunity developments that create housing choice *and* lower opportunity developments that contribute to neighborhood revitalization or provide other benefits.

² Professor Ellen's presentation is available here: http://www.achievehartford.org/upload/files/Ellen--CT_taskforce_jan8_SM.pdf.

³ See, e.g. Douglas Massey, *Climbing Mount Laurel* (2013: Princeton University Press).

In the past, proposals to bring balance to Connecticut’s LIHTC program have included increased points for areas with thriving schools as well as different point priorities within different geographies (for example rewarding deeper targeting in thriving neighborhoods than in poverty concentrated areas). An alternative to these proposals is a point structure that sets aside a certain percentage of the overall units for different kinds of “opportunity” areas. We use the language of “higher,” “moderate,” and “lower” opportunity areas as defined by the opportunity report referenced above, but other measures that similarly reflect neighborhood resources and conditions could also be applied. Opportunity mapping is already in use as a basis for LIHTC program scoring priorities in Texas.⁴ New Jersey also applies a priority structure for its LIHTC program similar to that proposed here.

Vision for a LIHTC program that creates access to opportunity

We propose that 75% of LIHTCs be prioritized for projects in higher opportunity areas and 25% be prioritized for areas of moderate and lower opportunity. If an insufficient number of applications obtaining threshold points for either priority area are submitted, the remaining credits would become available largely without regard to opportunity area location. We call this proposal the *opportunity allocation approach* and it is represented in the flow chart in Figure 3.

Higher Opportunity Area Applications

Of the higher opportunity allocations, 80% would be designated for housing that is open to all tenants (families and seniors) and 20% would be set aside as elderly-only. Applications for each kind of housing would then have to obtain threshold points for readiness. If a project in a higher opportunity area does not meet this readiness threshold due to a delay by the municipality, it will still be fully scored and, if it is still one of the highest ranking proposals, it will either have its credits “put on hold” for a reasonable period or be given priority consideration in the next LIHTC round, if such a delay is feasible.

After higher opportunity proposals are over the readiness threshold, points will be awarded for meeting other priorities like access to transit, supportive housing, and preservation, and for targeting, per unit cost, and bedroom size (for units available to all tenants). Lower/moderate opportunity developments will be given priority points as well, but these should differ somewhat depending on opportunity area. This is discussed in more detail below.

Lower/Moderate Opportunity Area Applications

Lower/moderate opportunity area developments must likewise overcome the readiness threshold. Such developments would also then be subject to a second threshold assessment – a determination of whether the development would be part of an effort to catalyze neighborhood change or create some additional benefit for the community. The criteria for this threshold could include:

- (1) Whether it would bring additional poverty concentration to the relevant local school or district (negative points).
- (2) Whether it would enhance the ratio of above-market to below market units in the area, generating more of an income mix (positive points).

⁴ See Judgment of August 7, 2012 in ICP v. TDHCA available at <http://www.danielbesharalawfirm.com/Documents/judgment.pdf>.

- (3) Whether the project includes an economic development component that is likely to generate jobs or bring other benefits to the neighborhood (e.g. a mixed-use development or a community health center).

Once lower/moderate opportunity area developments are over the readiness and neighborhood catalyst thresholds, a regular priority point scoring would be applied that provides additional points for proximity to transit, supportive housing, preservation, etc. This is discussed in more detail below.

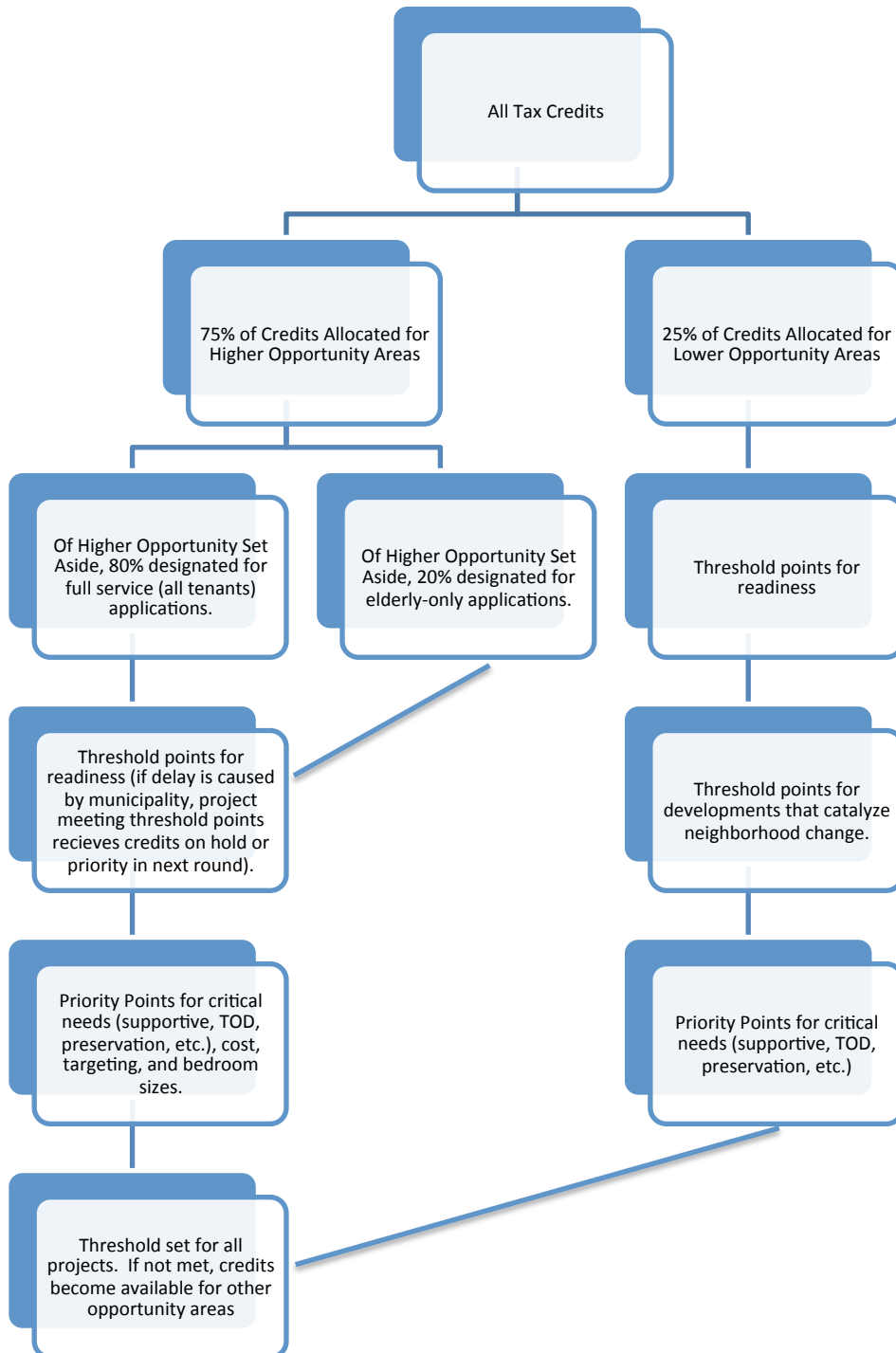


Figure 3: Opportunity Allocation Approach Flow Chart

Insufficient successful applications

If, at the end of the threshold assessment and priority scoring, there are an insufficient number of successful applications for either opportunity designation, the remaining applications will be scored according to the regular priority scoring system, with a slight opportunity-based adjustment discussed below. This ensures that no tax credits go unused. We would anticipate that the first few years this new system is in place there would be fewer higher opportunity applications because the development deals have not been initiated. If this system is maintained over a multi-year period, however, higher opportunity proposals will increase and start to approach the 75% credits allocation available to them. This has been the experience of the program in New Jersey.

Priority Rankings

The recommendations offered here address the priority scoring for targeting, which the Alliance proposes vary by opportunity area, and other suggested changes to the scoring which we propose be adjusted depending on whether the opportunity area allocation proposal above is adopted.

Targeting Scoring

If opportunity allocations are used, maximum points for affordability targeting should be awarded differently depending on opportunity designation. Higher opportunity area developments should get maximum points for 15% of units at below 25% of area median income (AMI) and 15% of units at 25%-50% AMI. Lower/moderate opportunity area developments should get maximum points for 10% of units at below 25% of AMI and 10% at 25%-50% AMI. Lower/moderate opportunity area developments should also get maximum points if at least 50% of the units are planned as above-market.

These are just suggestions. The final numbers may look different, but the basic concept is that higher opportunity areas can absorb a greater number of targeted units than lower and moderate opportunity areas. These target percentages could also change depending on the size of the development, for example it would be a positive step to put a 100% targeted four-unit development in a higher opportunity area.

If opportunity allocations are not used as proposed above, the Alliance still urges CHFA to rank targeting differently depending on the characteristics of the neighborhood where the development will be sited. We would recommend that the percentages above be used for higher opportunity areas, but that for developments in lower opportunity areas, which under the current system not be subject to the neighborhood catalyst threshold requirement, the maximum points be awarded for only 5% of units at each of the under 25% AMI and 25%-50% AMI levels. Maximum points should also be awarded for 50% of units at above-market rents.

Overall, the maximum scoring for “mixed income” should reward developments that stay below 30% and 20% targets units for higher and lower/moderate opportunity areas respectively.

Other Scoring

Veterans and Supportive Housing: Housing for veterans and people in need of supportive services is critical, but tends to not be family housing. The Alliance asks CHFA to consider allocating maximum points in these categories for developments that offer a combination of veterans or supportive housing with separate family units or ensure that units are available to veterans and people in need of supportive housing with families.

Preserving At-Risk Affordable Housing: It is likewise important not to decrease Connecticut's total number of affordable units. However, since these units are located overwhelmingly in minority and poverty concentrated areas, it is likely that this scoring category only avoids furthering poverty concentration and limiting housing choice if the opportunity allocation approach above is applied. If the proposed new scheme for the program is not used, it is imperative that points prioritizing higher opportunity areas be restored, as discussed below.

Length of ELIHC: If the opportunity allocation scheme is adopted these points are fine. If not, consider adjusting the points based on neighborhood characteristics. If a development is slated for a poverty-concentrated area and is deeply targeted, long-term affordability will not benefit the neighborhood.

Production and Preservation of Units: Again, if the opportunity allocation approach is used, additional points for new construction are less likely to further concentrate poverty. However, in the event that this criterion is applied in the absence of the new approach or to proposals vying for credits that go unused under the proposed new regime, there is a strong likelihood that it will promote income and racial/ethnic segregation. In these cases, the Alliance recommends that these points be available only for higher opportunity proposals or for lower/moderate opportunity proposals that bring income mix to a neighborhood with a low percentage of targeted units and high percentage of market or above-market rate units.

Affordability Profile: The Alliance agrees that as a general matter we do not want to lose affordable housing units and, in fact, we want to create more in Connecticut. However, by only providing maximum points for no loss of units in a moderate or lower opportunity location, the QAP essentially entrenches current segregated patterns. While a program may need to be formally developed, CHFA should consider offering points in this category when a developer is involved in a sister project in a higher opportunity area that will produce affordable units designated for lower/moderate opportunity residents living in a revitalizing project who choose to move. This way, housing choice is available and total affordable units are retained. We understand that such programs are not currently in place, but such allowances would be helpful in the QAP.

Municipalities Having Less Identified Affordable Housing: In the 2013 QAP 6 points were awarded for developments in areas with comparatively less rental housing. These points have been removed. The 2013 QAP also included 5 points for developments in towns that have a percentage of identified affordable housing at less than the 10% set out in CGS Sec. 8-30g. The 2014 Draft QAP increases these points to 7. Because both these categories benefited higher opportunity developments, there is now an overall reduction of 4 points for higher opportunity proposals in the draft 2014 QAP compared to last year. The Alliance recommends that proposals in towns with less than 10% affordable housing be given the full points from the 2013 "comparatively less rental housing" category for a total of 11 points for areas with less affordable housing.

Priority Locations: These priorities are excellent to have if an opportunity allocation approach is used. If not, they will tend to benefit lower opportunity developments. This is particularly true if the additional points for

areas with less affordable housing are not added, as discussed above. Within the current draft, priority location points (5) almost eclipse the points for areas with lower levels of affordable housing (7). The Alliance also encourages CHFA to consider in the point allocations whether alternative sewer treatment options might be considered, especially for smaller developments, and if sewer lines might be easily extended.

Historic or Adaptive Reuse/Brownfield: The Alliance encourages CHFA to review brownfield sites to determine if they are predominately located in minority and poverty concentrated areas. If so, we encourage the agency to rethink these points.

Located in a QCT and Municipal Support: Both of these criteria will benefit lower opportunity developments in most situations.

Fair Housing Requirements

There is a wide range of policy reasons justifying a reorientation of the LIHTC program in Connecticut. Among these are the social injustice of housing segregation, inequality of opportunity as demonstrated by the mapping above, myriad well document health, education, employment, and incarcerations outcomes, the increased cost to the state of measures needed to counter poverty concentration, and the critical need to ensure that the segment of the CT population that is growing, our population of color, has access to the resources needed to successfully participate in the future workforce of Connecticut. In addition, the fair housing laws of the state and federal government require both that CHFA actions affirmatively further fair housing and not produce a disparate impact on people of color. As we are sure you are aware, in Texas, the Fifth Circuit just affirmed a lower court's finding that the allocation of LIHTC benefits very similar to Connecticut's violated federal fair housing law.⁵ The remedy in that case is an allocation process that considers opportunity levels.

For all of these reasons, we ask CHFA and its board to consider the broad generational implications of its determination about allocating the scarce resources of the Low-Income Housing Tax Credit program. We would welcome the opportunity to discuss this matter in greater depth if that would be helpful to the process.

Sincerely,

/s/
Erin Boggs, Esq.
Executive Director

⁵ See *Inclusive Communities Project v. Texas Department of Housing and Community Affairs*, Fifth Circuit, Case 12-11211, March 24, 2014, available at http://www.nahb.org/fileUpload_details.aspx?contentTypeID=3&contentID=217230&subContentID=584626.