



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: August 10, 2022

TO: Property Owners and Management Agents of Low-Income Housing Tax Credit (LIHTC) Properties

FROM: California Tax Credit Allocation Committee – Compliance Section

RE: Compliance Fines - Updated

This Memorandum (Memo) serves as updated guidance from the California Tax Credit Allocation Committee (CTCAC) to owners and property management agents of LIHTC properties in California regarding Compliance Fines for uncorrected violations of CTCAC policy or procedures.

In 2016, California Assembly Bill 1920 (AB 1920) authorized CTCAC to levy fines for non-compliance violations of the tax credit program. The intent of AB 1920 was to provide an administrative tool for CTCAC to ensure compliance for the duration of the 55-year extended-use period of requirements at LIHTC projects in cases where requirements were either not regulated by the Internal Revenue Service (IRS) or no longer being regulated by the IRS.

Currently, CTCAC reports noncompliance with federal program requirements to the IRS with a Form 8823 during the 15-year federal compliance period. For those violations reported to the IRS on Form 8823, CTCAC will not issue fines. The IRS does not enforce certain requirements of the State such as deeper targeting and service amenities, or federal requirements following the 15-year federal compliance period.

The Committee adopted changes in the CTCAC regulations on December 14, 2016 establishing Section 10337(f) providing CTCAC the authority to issue compliance fines. The original fine schedule was published to the CTCAC website and adopted by the Committee on March 15, 2017.

CTCAC retains the authority to issue negative points for program violations, though will not levy fines in cases negative points are issued. CTCAC uses its discretion to determine the most appropriate sanction based on the circumstances when choosing to levy fines or issue negative points. For less egregious violations, the schedule provides a correction period - generally 30 days. For most violations, CTCAC will not impose a fine if the non-compliance is corrected during the correction period given by CTCAC. For more serious violations, an immediate fine is assessed in addition to the requirement of correction. If the non-compliance remains uncorrected after the initial correction period, additional fines will be levied monthly and will be based on the date the noncompliance occurred.

Pursuant to Section 10337(f)(3), all fines are subject to appeal. Fine payments are due within 30 days of assessment or completion of the appeal process. If a fine assessed against a property owner is not paid within six months from the date when the fine was initially assessed and after reasonable notice has been provided to the property owner, CTCAC may record a lien against the property. If a violation for which a fine is assessed is not corrected within 90 days of the assessed fine, CTCAC may record a lien against the property.

On June 16, 2021, the Committee approved an updated fine schedule including the language and fine amounts for several of the violations. Please see the attachment to the Memo for the current CTCAC Compliance Fine Schedule. CTCAC will begin assessing fines based on this updated fine schedule for instances of non-compliance for inspections that commenced on October 1, 2021. Properties that have been determined to have non-compliance resulting in a fine will be notified starting in January 2022.

On July 20, 2022, the Committee approved regulations that amended Section 10337(f) by adding subsection (6) establishing fines of \$500 per instance of repeated or reoccurring noncompliance violations. This requirement has been added to the attached CTCAC Compliance Fine Schedule.

Changes to stated policies or procedures on the Memo may be changed or revised in response to subject matter changes, regulation changes, or updates to the program. If you have any questions regarding the policies or information noted above, please contact Compliance Section Senior Program Managers Elizabeth Gutierrez-Ramos at elizabeth.gutierrez@treasurer.ca.gov or Shannon Nardinelli at shannon.nardinelli@treasurer.ca.gov.

ATTACHMENT A

Proposed Compliance Fine Schedule

All payments due within 30 days of assessment or completion of appeal

Compliance Period		Compliance Violation	Corrective Time Period	Initial Fine	Re-occurring Fine
Federal 15-Year	Extended-Use				
X		Failure to Provide Service Amenities	Immediate if not in place 6 months after the last building has been placed in service	Twice the financial gain, based on the service costs presented in the application or, if none, an assumed cost of \$20,000 per year	After 30 days, an additional twice the monthly financial gain.
X	X	Failure to submit Annual Operating Expense (AOE) Package	30-Day Corrective Period	\$250	\$50 per month until corrected
X	X	Failure to submit Tenant Demographic Data	30-Day Corrective Period	\$250	\$50 per month until corrected
X	X	Sale of Property or Change of Ownership Entity without TCAC Approval	Immediate	\$500	After 30 days, an additional \$500 per month until CTCAC approval
X	X	Other Transfer Event completed without CTCAC Approval - (Refinance, Supplemental Loan,	Immediate	\$500	After 30 days, an additional \$500 per month until CTCAC approval
X	X	Change of Property Management Company without CTCAC Approval	Immediate	\$500	\$500 per month until corrected
X	X	Change in Unit Mix without CTCAC Approval	Immediate	\$500	\$500 per month until corrected
X	X	Failure to use TCAC required Forms (TIC, TICQ, THIF, Under \$5K Asset, Child/Spousal Support Affidavit, etc.)	30-Day Corrective Period	\$250	\$100 per month until corrected
X	X	Failure to maximize utilization of accessible units, give priority for accessible units to persons residing in the complex or on waiting list who need the accessibility features	30-Day Corrective Period	\$250	\$100 per month until corrected
	X	Failure to submit Annual Owner Certification (AOC) Documents	30-Day Corrective Period	\$250	\$50 per month until corrected
	X	Uncorrected UPCS - Level 1	30-Day Corrective Period	\$100 per instance	\$50 per instance per month until corrected
	X	Uncorrected UPCS - Level 2	30-Day Corrective Period	\$250 per instance	\$50 per instance per month until corrected
	X	Uncorrected UPCS - Level 3	30-Day Corrective Period	\$300 per instance	\$50 per instance per month until corrected
	X	Uncorrected UPCS - Health and Safety Violations	Immediate	\$400 per instance	\$100 per instance per month until corrected
	X	Eligibility - Household not Income Eligible	30-Day Corrective Period	\$250 per instance	\$100 per instance per month until corrected
	X	Eligibility - Incorrect/Overcharged Rent of less than \$15	30-Day Corrective Period	\$100 per instance + overage rebated to tenants	\$100 per instance per month until corrected

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Compliance Period		Compliance Violation	Corrective Time Period	Initial Fine	Re-occurring Fine
Federal 15-Year	Extended-Use				
	X	Eligibility - Incorrect/Overcharged Rent of \$15 or more	Immediate	\$250 per instance + overage rebated to tenants	\$100 per instance per month until corrected
	X	Use of Ratio Utility Billing System (RUBS)	Immediate	\$250 + \$100 for every month the RUBS was in place. If over CTCAC maximum rent, must also rebate tenants for overage	\$100 per month until corrected
	X	Failure to submit Annual Owner Certification (AOC) Package	30-Day Corrective Period	\$250	\$50 per month until corrected
	X	Unit Vacant/Offline for more than 60 days	Immediate	\$250 if unit is vacant for more than 60 days, not turn-key ready, not being advertised, or being held for another entity	\$250 per instance per month until corrected
	X	Failure to Respond to Agency Request for Monitoring	Immediate if no response is received within 7 calendar days of rescheduled monitoring inspection notification letter	\$500	\$500 per month until corrected
	X	Violation of Student Rule Requirements	Immediate	\$250 per instance	\$100 per instance per month until corrected
X	X	Reoccurring or Repeated Noncompliance pursuant to CTCAC Regulation Section 10337(f)(6)	Immediate	\$500 per instance	