5703-25-20 **Procedure for valuation of federally subsidized residential rental property.**

(A) Definitions related to the valuation methodology of federally subsidized residential rental property:

(1) "Adjusted capitalization rate" means the capitalization rate plus the tax additur to account for the millage rate for the specific subject parcel, less a 1% investment risk factor.

(a) The tax additur is calculated by dividing the most recent annual property taxes as of the thirty-first day of December in the year prior to the March 1st deadline found in Revised Code section 5713.031(C) by the most recent value as of the thirty-first day of December in the year prior to the March 1st deadline found in Revised Code section 5713.031(C).

(2) "Audited" means examined to check the accuracy of records or financial accounts.

(3) "Capitalization rate" means the rate set by the Tax Commissioner and based on the most recent published rate applicable to the latest capitalization rate for multifamily apartments published by a reputable commercial source available as of the first business day of January of the year of assessment.

(4) "Construction-only phase" means the phase of property development in which no components of the property are operational.

(5) "Core expenses" means the expenses associated with operating the property, but does not include utility expenses, replacement reserve fund or account contributions, real estate taxes, depreciation, and amortization expenses and replacement of short-term capitalized assets.

(6) "Federally subsidized residential rental property" means property to which one or more of the of the following apply:

(a) It is part of a qualified low-income housing project, through its compliance and extended use period, as those terms are defined in section 42 of the Internal Revenue Code, or any other period during which it is similarly restricted under section 42 of the Internal Revenue Code.

(b) It receives assistance pursuant to section 202 of the "Housing Act of 1959," 12 U.S.C. 1701q, and remains restricted pursuant to that section.

(c) Property that receives assistance pursuant to Section 811 of the "Cranston-Gonzalez National Affordable Housing Act," 42 U.S.C. 8013, and remains restricted pursuant to that section;

(d) Property that receives project-based assistance pursuant to section 8 of the "United States Housing Act of 1937," 42 U.S.C. 1437f, and remains restricted pursuant to that section;

(e) Property that receives assistance pursuant to section 515 of the "Housing Act of 1949," 42 U.S.C. 1485, and remains restricted pursuant to that section;

(f) Property that receives assistance pursuant to section 538 of the "Housing Act of 1949," 42 U.S.C. 1490p-2, and remains restricted pursuant to that section;

(g) Property that receives assistance pursuant to section 521 of the "Housing Act of 1949," 42 U.S.C. 1490a, and remains restricted pursuant to that section.

(7) "Gross potential rent" means the full rent potential for the property for the full fiscal year and is calculated by adding the monthly rent for each unit and multiplying the resulting sum by twelve to determine the maximum rental income that the property would generate if one hundred percent of the building were fully leased for the entire year.

(8) "Net operating income" means operating income less operating expenses.

(9) "Operating expenses" means cost to operate the building, including the presumptive allowance for expenses plus all utility expenses plus the allowance for replacement reserves. In calculating operating expenses, it is presumed that operating expenses equals forty-eight percent of the operating income plus utility expenses, plus five percent allowance for replacement reserves. Non-operating expenses such as depreciation and amortization expenses and replacement of short-term capitalized assets are not included in operating expenses. The presumptive calculation of operating expenses may be exceeded by evidence demonstrating the actual expenses of the property.

(10) "Operating income" means gross potential rent plus other income, less the allowance for vacancy loss and unpaid rent.

(a) Calculated as the gross potential rent, less a four percent (of gross potential rent) allowance for vacancy loss and a three percent (of gross potential rent) allowance for unpaid rent losses.

(b) The presumptive amounts may be exceeded by evidence demonstrating the actual income of the property.

(11) "Other income" and "Income derived from other sources" means income other than rental income from residential units, including only rent from commercial tenants, interest income from operating, insurance escrow, real estate tax escrow, tenant security deposit escrow accounts, laundry and vending income, tenant charges, non-sufficient fees, late fees, and application fees so long as the income is attributable to the operations of the property.

(12) "Owner" means the duly authorized representative of the partnership, LLC, or entity that owns the federally subsidized residential rental affordable housing property.

(13) "Replacement reserve" means the required deposits that must be made into a restricted reserve account, intended to address future capital needs of the property.

(a) Replacement reserves may be required by the lender, the regulatory agency, or the investor as a condition of the original investment in the property.

(b) Replacement reserve is presumed to be five percent of the gross rent potential.

(c) The presumptive amount may be exceeded by evidence demonstrating the actual expenses of the property.

(14) "Stabilized" means the property is no longer under development.

(15) "Total value" means the value of the property as calculated pursuant to the formula in section 5715.01(A)(4) of the Revised Code.

(16) "Unimproved land value" means the land value for each parcel as reflected on the most recent tax list.

(17) "Unpaid rent" means monies that were charged for rent but that were deemed uncollectible, resulting in a bad-debt write-off.

(a) It is presumed that unpaid rent is three percent of the gross rent potential.

(b) The presumptive amount may be exceeded by evidence demonstrating the actual income of the property.

(18) "Utilities" or "Utility expenses" means the sum of expenses paid by the owner that are attributable to electric, gas, water, and sewer charges, and may also include propane service or alternate energy sources should traditional utility services not be available at the property.

(19) "Vacancy loss" means the allowance of lost revenue attributable to periodic unoccupied or off-line units.

(a) It is presumed that vacancy loss is four percent of the gross rent potential.

(b) The presumptive amount may be exceeded by evidence demonstrating the actual income of the property.

(B) Procedure for filing information pursuant to Revised Code section 5713.031 by the owner of a federally subsidized residential rental property.

(1) Method of filing

(a) An owner of federally subsidized residential rental property may file with the county auditor the information listed in Revised Code section 5713.031(B) via mail, email, courier, hand delivery, or any other method agreed to by the county auditor of the county in which the property is located.

(b) The information that is to be filed pursuant to Revised Code section 5713.031 will be timely filed:

(i) In the instance it is filed via mail or courier, if it is postmarked or otherwise time-stamped on or before 11:59 pm eastern standard time on the first day of March;

(ii) In the instance it is filed via email, if the date and time the emailed evidence is received by the county auditor is no later than 11:59 pm on the first day of March;

(iii) In the instance it is filed via hand delivery, if it is delivered in person to the county auditor by the end of the business day on or before the first day of March; the county auditor will provide the owner or owner's representative with confirmation of having received the information; or

(iv) In the instance it is filed via any other method agreed to by the county auditor of the county in which the property is located, if it is delivered on or before the first day of March in the method and pursuant to the terms agreed to by that county auditor.

(2) Applicability of requirement to file.

(a) In accordance with division (B) of section 5713.031 of the Revised Code, the requirement to file before a property is placed in service begins:

(i) For property described in division (A)(5)(a) of this rule, upon the closing of the partnership;

(ii) For property subject to a regulatory agreement and rental contract or schedule, within thirty days of issuance of the regulatory agreement and rental contract or schedule;

(iii) For all other property, within thirty days of the issuance of the certificate of occupancy.

(b) An owner of federally subsidized residential rental property will submit the information by the first day of March in each year to which section 5715.24 of the Revised Code applies in the county.

(3) Forms. In filing the information, an owner of federally subsidized residential rental property will include:

(a) A transmittal page adopted by the Ohio Department of Taxation that includes:

(i) the parcel numbers;

(ii) the county in which the property is located;

(iii) the owner's name, mailing address, phone number, and email address;

(iv) the property's address and number of units;

(v) the categories of federally subsidized rental property the property meets; and

(vi) an option for the owner to:

(a) indicate that the owner desires to challenge the presumptive amounts under 5715.01(A)(4)(a) or (b), should the owner be ready to do at the time of submission; and

(b) provide the owner's proposed valuation for the property, should the owner be prepared to do so at the time of submission.

(4) Supplemental information. If an owner of federally subsidized residential rental property desires to challenge the presumptive amounts under 5715.01(A)(4)(a) or (b), the owner may include any additional information relevant to the valuation of the subject property.

(5) Audited Information

(a) Information submitted to the county auditor will be audited in accordance with Revised Code section 5713.031 in either of the following ways:

(i) if such information is included in an audit of the property's finances that is certified by an independent public accountant or auditor or a certified public accountant; or

(ii) if such information is not included in an audit of the property's finances but is certified to have been audited by an independent public accountant or auditor or a certified public accountant.

(b) In the instance where the information filed under division (B) of Revised Code section 5713.031 is audited under subdivision (4)(a)(i) of this section, if the income statement in the audited information does not separate out utility charges, the owner may provide additional information, including workpapers, to demonstrate the actual amount of utility charges paid by the property.

(c) In the instance where a property has not yet generated financial statements, the owner will provide the original property proforma and the initial budget.

(6) Valuation by county auditor.

(a) Upon receipt of the forms under division (B)(3) of this section, the county auditor will consider the challenge of the property owner to the presumptive amounts as indicated on the transmittal page pursuant to Revised Code 5715.01(A)(4)(a) or (b), and will calculate the value under this rule consistent with the requirements of Revised Code section 5715.01. The auditor will also take into account any additional information supplied by the property owner by May 15th in support of their challenge of the presumptive amounts.

(b) The county auditor will notify the owner of the property's value as calculated under this rule and Revised Code section 5715.01 to the owner based on the contact information supplied on the transmittal page.

(c) If the owner disagrees with the valuation as calculated by the auditor under these rules and Revised Code section 5715.01, the owner must notify the county auditor of such disagreement within twenty-one days of the county auditor's notification under division (B)(6)(c) of this rule. The county auditor must provide an opportunity for the owner to meet with the county auditor to review the nature of the calculation within thirty days of receiving notice of the owner's disagreement or September 1, whichever is later.

(7) Overcoming statutory presumptions.

(a) The owner may formally challenge the presumptive amounts under Revised Code sections 5715.01(A)(4)(a) or (b) by indicating the desire to do so on the transmittal page.

(b) When the owner formally challenges the presumptive amounts under Revised Code sections 5715.01(A)(4)(a) or (b), the owner will provide by the fifteenth day of May:

(i) evidence demonstrating the actual income or expenses of the property, as appropriate, and

(ii) the valuation that is supported by the evidence as supplied.

(c) The county auditor will consider additional information, program requirements, and financial considerations that are presented by the owner.

(d) Nothing in this rule shall be construed as prohibiting a county auditor from filing a tentative abstract pursuant to Ohio Administrative Code 5703-25-16.

(8) If the county auditor determines that the evidence provided by the owner is insufficient to support a challenge to the presumptive amounts, the county auditor will provide the owner with a reasonable opportunity to meet before the fifteenth day of June.

(9) Pursuant to section 5713.031(E) of the Revised Code, any records filed under this section are not public records under section 149.43 of the Revised Code.

(C) Method for determining the value of federally subsidized residential rental property. The value of federally subsidized residential rental property will be determined using the following formula:

(1) The total value will be the greater of the following:

(a) the appraised value;

(b) five thousand dollars ($5,000) multiplied by the number of units comprising the property; or

(c) one hundred fifty percent of the property's unimproved land value.

(2) The appraised value will be:

(a) In the instance where a federally subsidized residential rental property is in the construction-only phase, zero;

(b) In the instance where a federally subsidized residential rental property has begun generating income but is not yet stabilized, operating income minus the operating expenses as evidenced by interim financial statements, the result of which is divided by the adjusted capitalization rate;

(c) In the instance where a federally subsidized residential rental property is stabilized, operating income minus the operating expenses as evidenced by the audited information provided in accordance with section (B)(5) of this act, the result of which is divided by the adjusted capitalization rate.

(3) Pursuant to section 5715.031(C)(3) of the Revised Code, if a property owner fails to timely submit the information required under division (B) of section 5715.031 of the Revised Code, the county auditor may, at the auditor's discretion, value the property in accordance with these rules and division (A)(4) of section 5715.01 of the Revised Code for any tax year to which that division would have applied. If an auditor chooses not to do so, the auditor shall otherwise proceed under section 5713.01 of the Revised Code to value the property in compliance with Ohio Constitution, Article XII, Section 2 for that tax year.

Effective:

Five Year Review (FYR) Dates:

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Certification

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Date

Promulgated Under:	119
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