



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Angela Hawkins, Ohio Housing Finance Agency

FROM: Caleb White, Business Advocate

DATE: January 4, 2024

RE: **CSI Review – Single-Family Tax Credit Rule for Monitoring, Reporting, and Recapture (OAC 175-12-01 and 175-12-06)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of two new rules proposed by the Ohio Housing Finance Agency (OHFA). This rule package was submitted to the CSI Office on October 23, 2023, and the public comment period was held open through November 2, 2023. After the initial public comment period, OHFA elected to open up a second public comment period beginning on November 30, 2023, and ending on December 11, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on October 23, 2023.

The rules contained in this package consist of two new rules that establish part of the Ohio Single-Family Tax Credit program created in Ohio House Bill 33 of the 135th General Assembly. Ohio Administrative Code (OAC) 175-12-01 establishes the definitions related to the program. OAC 175-12-06 establishes the monitoring and reporting requirements for an approved project and authorizes the director of OHFA to disallow or recapture tax credits if a project does not qualify for the credit or ceases to qualify for the credit.

During early stakeholder outreach, OHFA conducted stakeholder engagement meetings in August of 2023, conducted a Single-Family Tax Credit Public Forum on September 27, 2023, and sent notice

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of the event to all members of their Multifamily Office, newsletter, and Family Tax Credit distribution lists. The stakeholders involved in the August meetings included the Ohio Association of Realtors, the Ohio Home Builders Association, local government associations such as the Ohio Municipal League and Ohio Township Association, organizations such as the Ohio Bankers Association and Ohio Mortgage Bankers, and housing developers and investors such as Huntington Bank and Nationwide. During this period, OHFA received seven written comments and several verbal comments. These topics varied from affordability limits, the definition of development team and qualified project, as well as combined applications for rehabilitation and new construction. In response to these comments OHFA incorporated stakeholder feedback related to combining the applications for rehabilitation and new construction projects.

During the CSI public comment periods, OHFA received twenty comments addressing topics such as the number of minimum project units required for eligibility, the eligibility thresholds contained in the definitions for eligible home buyers, removal of a redundant definition for vacant homes, and the need to expand the definition for blighted homes. In response, OHFA made changes to the rules, including adjusting the size requirements of a project to allow a minimum project size of five units, expanding the threshold for eligible home buyers by eliminating the minimum threshold for area median income from the rule, eliminating a requirement for rehabilitation projects to take place in a designated target area census tract, eliminating the vacant home definition, and expanding the definition of blighted to include structures acquired by a land bank. OHFA also received comments which proposed raising the maximum threshold for area median income in the definition of qualified buyer. OHFA chose not to implement this recommendation as the program is designed to promote housing options for individuals within certain income bands. In addition to comments for the two rules under CSI review, OHFA also received various comments related to the Qualified Allocation Plan and several other rules which were not submitted to CSI for analysis.

The business community impacted by the rules includes a development team that works on a project that is seeking or has received a tax credit under this program. A development team can be comprised of housing developers, building contractors, third-party appraisers, housing counseling agencies, construction lenders, project architects and businesses that have received tax credits under the program. The adverse impacts created by the rules include the requirement for development team to submit quarterly construction monitoring reports which detail the project construction progress, the potential disallowance and recapture of a tax credit if a project does not or ceases to qualify for the tax credit, and the costs associated with definitions in this rule such as “development costs,” which will impact the calculation and claiming of tax credits under this program. OHFA states that the adverse impacts to business are justified to fulfil OHFA’s statutory requirement to implement rules to implement the Ohio Single-Family Tax Credit program and to ensure the agency is able to properly monitor project construction, properly calculate tax credits under this program, and establish a process to recapture or disallow the tax credits of projects that do not comply with the statutory public

purpose of the program.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that OHFA should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.