



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Abigail Wiet, Ohio Department of Taxation

FROM: Michael Bender, Business Advocate

DATE: December 9, 2024

RE: **CSI Review – Procedure for Valuation of Federally Subsidized Residential Rental Property (OAC 5703-25-20)**

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 Department as provided for in ORC 107.54.

Analysis

This rule package consists of one new rule proposed by the Ohio Department of Taxation (Department). This rule package was submitted to the CSI Office on June 4, 2024, and the public comment period was held open through June 21, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on June 4, 2024.

Ohio Administrative Code (OAC) 5703-25-20 describes the procedure for the owner of a federally subsidized residential rental property to file information regarding the property's valuation with the respective county auditor pursuant to ORC 5713.031. The rule also establishes the method for determining the value of federally subsidized residential rental property.

During early stakeholder outreach, the Department met several times with stakeholders between September 2023 and February 2024 to discuss the drafting of the rule. This group of stakeholders included representatives from the County Auditors Association of Ohio, county auditors, and representatives of the Ohio Housing Council (OHC). The Department also posted the rule on its

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website for public comment to provide other stakeholders the opportunity to provide input. The Department incorporated the feedback it received from this outreach into the rule to the extent that it could. During the CSI public comment period, the Department received comments from the OHC that were supported by the Ohio Capital Corporation for Housing (OCCH), National Church Residences (NCR), and Pivotal Housing Partners (PHP).

The OHC, OCCH, NCR, and PHP all agreed that proper administration of the newly-enacted statute would provide a simpler, more equitable, and more transparent valuation process and drastically reduce the volume of appeals. However, the commenters were concerned that the complexity of the formula required by ORC 5715.01 would lead property owners and county auditors to apply it inconsistently and incorrectly. To that end, the commenters urged the Department to host an online affordable housing valuation calculator that would be optional for property owners and county auditors to use. According to the Department, the Tax Commissioner lacks the authority to host such a calculator. The Department further explained that while the Tax Commissioner has authority to prescribe rules regarding the valuation of federally subsidized residential rental properties and the factors thus considered, this authority did not extend to individual properties, as that is the jurisdiction of county auditors. Despite not adopting an affordable housing calculator, the Department worked with the OHC to implement changes addressing concerns shared by OCCH, NCR, and PHP. The Department revised the rule to provide flexibility for setting the capitalization rate, more narrowly define “other income” and “income derived from other sources,” streamline filing requirements, ensure that county auditors account for the accurate financial state of a property, and improve the process by which a property owner and county auditor may discuss concerns regarding a proposed valuation.

The business community impacted by the rule includes owners of several types of federally subsidized residential rental properties that wish to be valued under the provisions of ORC 5715.01 using information provided to county auditors under ORC 5713.031. The adverse impacts created by the rule include the costs associated with filing financial information regarding the income and expenses of a property. The Department points out that owners of federally subsidized rental properties eligible to be valued under the rule may choose not to file information pursuant to ORC 5713.031 and instead have the properties valued under the more general methodology employed by the county auditors for similar, non-federally subsidized properties. The Department states that the adverse impacts to business are justified to implement statutory requirements and create a more predictable valuation process that takes into account the restrictions placed on owners of federally subsidized residential rental properties.

Recommendations

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

Conclusion

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