



9% Housing Credit Program Eventual Tenant Ownership Guide for Property Owners and Residents

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Preface

The information contained in this Guide is based on the Commission's interpretation of current IRS regulations concerning this federal commitment. This Guide may also be suspended or amended based on additional IRS clarification, guidance or changes to regulations pertaining to Eventual Tenant Ownership. This Guide is not intended to provide, and should not be relied on for, any tax, legal or accounting advice. Owners should consult their own tax, legal, accounting and other advisors prior to electing Eventual Tenant Ownership for their project.

This Guide may be updated periodically by the Commission based on staff experience and/or Commissioner guidance.

Introduction & General ETO Requirements:

This Guide has been developed to provide information and guidance to owners interested in electing the Eventual Tenant Ownership (ETO) option under the 9% Low Income Housing Tax Credit Program (LIHTC) administered by the Commission. This guide also has information and guidance to residents residing in ETO properties.

The LIHTC program is a critical resource to create affordable rental housing units. Eventual Tenant Ownership is an option in the LIHTC program under Section 42(i)(7) of the Internal Revenue Code that allows the owner to elect to make the rental units in the project available for purchase by residents after the IRS required initial 15-year compliance period (also referred to as Year 15). This option is one of several criteria that is required to be included in the Qualified Allocation Plans (QAPs) for consideration at the time of application for a LIHTC allocation and discretion is delegated to states to decide how to weight the selection criteria.

After the initial 15-year compliance period, the owner can extend their Right of First Refusal (ROFR) to the resident to effectively sell the units to the residents which is also recognized as fulfilling the spirit of the extended use agreement under the IRS Code Section 42(h)(6). Residents are not required to purchase their unit but are provided the option to do so, if they are interested and financially able to move from renting to homeownership.

General Requirements:

Two points will be awarded to Projects that include units that are intended for eventual tenant ownership after the initial 15-year compliance period. The Commission allows the election of points for ETO ONLY on properties where the projects are developed as Single Family, Townhomes or Duplexes with clear lot delineations to convert to homeownership. Each unit will be required to have its own Building Identification Number, commonly referred to as the BIN.

Project Owners interested in electing the ETO option must set up a pre-application meeting with the Commission staff in advance of applying for a LIHTC allocation to discuss the proposed project and alignment with the intent of ETO.

Rental units may only be made available for purchase after the initial 15-year federal compliance period.

Residents are provided the opportunity to purchase their unit but are not required or obligated to purchase. If a resident (for any reason) does not purchase their unit, the owner is required to allow them to continue renting and maintain any unsold units as rental units through the term of the Additional Low-Income Use Period and consistent with the LIHTC Regulatory Agreement. The resident cannot be forced to relocate or be evicted or have their tenancy terminated except in the case of Good Cause.

After Year 15, units may only be sold to LIHTC income-eligible residents who were income qualified for the specified set-aside upon initial occupancy. The income qualification level should not exceed 60% of the Area Median Income (AMI), however, exceptions may be made for projects that have opted for the Average Income Test, enabling units to be occupied by households earning up to 80% of the AMI.

Developer/Property Owner Guidance Section

This section outlines the requirements for developer/property owners from the initial application phase through the conversion phase.

What's Required to Apply?

Applicants seeking an allocation of LIHTCs and interested in ETO after the initial 15-year Compliance Period must submit the required Conversion Plan Application Form and provide all the relevant documentation at the time of application. This form will allow the Commission to review how the owner intends to convert applicable units from rental units bound by the project's Regulatory Agreement to a unit available to be purchased by an eligible resident. The conversion of units shall be in accordance with Section 42(i)(7) of the Code and the owner's Conversion Plan submitted in the application form that was accepted by the Commission. Requirements for Conversion Plans are outlined in the next section.

Conversion Plan Requirements

Both the Conversion Plan Application Form and related documents provided at the time of application are considered collectively to be the Conversion Plan. The Conversion Plan should include not only the required elements outlined in this section but any other requirements or resources the property owner intends as part of its commitment to offering rental units developed under the LIHTC program as homeownership options after the Year 15 compliance period.

Required Elements:

1. **Resident Eligibility:** Confirm understanding of resident eligibility requirements noted below and provide tenant selection plan.
 - All residents residing in the building (regardless of intent to purchase a unit) must comply with income set asides defined in the Regulatory Agreement for the duration of the Additional Low-Income Use Period.
 - After year 15, units may only be sold to LIHTC income-eligible residents who were income qualified upon initial occupancy for the set-aside specified in the Regulatory Agreement.
 - If a resident (for any reason) does not purchase their unit, the owner is required to allow them to continue renting. The resident cannot be forced to relocate or be evicted or have their tenancy terminated except in the case of Good Cause.
 - If a renting resident vacates their unit, the owner must make the unit available for any eligible renter regardless of their desire to convert to homeownership after Year 15. The owner must adhere to the tenant selection plan during and after the 15-year

compliance period to fill the unit with a LIHTC income qualified household regardless of whether the unit will be sold or maintained as a rental.

2. **Purchase Price:** Confirm understanding of the minimum and maximum allowable purchase price as noted below and describe the purchase price methodology to ensure the price is affordable to residents, including but not limited to method for providing discounts as well as any intended resale restrictions.
 - The purchase price must meet the minimum purchase price allowed under Section 42(i)(7) (equal to principal of outstanding secured debt plus any federal, state and/or local taxes attributable to such sale) and does not exceed the maximum purchase price allowed by the Commission.
 - The maximum purchase price shall result in a monthly mortgage payment of no more than 20% above the maximum allowable monthly LIHTC rent for a resident earning 60% of the area median income; provided, that the owner may provide an alternative maximum purchase price to the Commission for approval.
 - Discounts: The owner must disclose any intent to discount the purchase price based on rental tenancy through transparent calculations.
 - Resale Restrictions: The Commission does not require resale restrictions; owners must disclose if they intend to impose such restrictions for the Commission's review.

3. **Homebuyer Education Courses:** Provide a description of what educational resources will be made available to residents interested in homeownership, and how those resources will be provided in advance of Year 15.
 - The owner will ensure residents are provided access to free qualifying homebuyer education courses. If the counseling course offered by the owner requires any fees, the owner will provide sufficient funding. Homebuyer education courses may include but are not limited to:
 - Commission Sponsored Homebuyer Education Seminars (free)- <https://www.wshfc.org/buyers/education.htm>
 - eHomeAmerica Homebuyer Education Course – a self-guided course with a fee of \$50 per person where each person needs to register separately to that the course individually. www.ehomeamerica.org/wshfc
 - Additional Homebuyer Education course resources the owner may provide to the resident include but are not limited to:
 - Washington State's Homeownership Information Program - <https://www.wshfc.org/sf/GettoKnowMeMortgageAdvice.pdf>
 - Washington Homeownership Resource Center - [Washington Homeownership Resource Center \(homeownership-wa.org\)](http://WashingtonHomeownershipResourceCenter(homeownership-wa.org))
 - Washington State Department of Financial Institutions Free Guide to Home Loans Workbook -

https://dfi.wa.gov/sites/default/files/publications/guide-home-loans_0.pdf

- Washington Homeownership Hotline: [877.894.HOME](tel:877.894.HOME).
- Pathways Home: A Native Homeownership Guide - [Pathways Home - National American Indian Housing Council \(naihc.net\)](https://www.naihc.net)
- The owner shall provide the Commission with a list of courses it intends to provide residents.

4. **Budget and Financial Counseling:** Provide a description of what budgeting and financial counseling resources will be made available prior to Year 15 to prepare residents for ownership.

- In addition to homebuyer education, the owner is required to provide access to budget and financial counseling sessions for residents to periodically attend.
 - The Commission's list of housing counseling agencies is here:
<https://www.wshfc.org/buyers/counseling.htm>
- These sessions will help prepare residents for determining their home price-range, maintaining and/or improving their credit score, saving, and other common budgeting and financial techniques to help prepare them to go from renting to purchasing and owning.
- The owner will also provide connections to downpayment assistance programs for the resident. Such programs include but are not limited to:
 - House Key Opportunity Program
 - Home Advantage Program
 - Down Payment Assistance
 - More information on these programs can be found here:
<https://www.wshfc.org/buyers/index.htm>
- The Commission does not require owners to provide direct financial assistance or hold escrow accounts on behalf of prospective residents interested in purchasing their unit. However, owners must disclose if they intend to hold escrow accounts on behalf of residents to provide downpayment assistance.

5. **Maintenance and Inspections:** Confirm understanding of owner's responsibility during the compliance period as noted below and describe efforts to assist residents in learning about maintenance and repairs to prepare for the responsibilities of homeownership.

- The owner must inspect all units prior to conveyance in year 14 and all necessary repairs and deficiencies will be completed by Year 15 before the unit is sold to the residents.
- All unsold units are required to be maintained as rental units for the duration of the Additional Low-Income Use Period and shall be in compliance with standard inspection requirements.

- The owner will conduct all repairs as will be periodically needed to maintain the units in good physical condition in compliance with the Commission’s Asset Management and Compliance (AMC) manual.
- Owners should determine whether a Home Owners Association (HOA) will be created and if so, should develop a HOA policy in advance that transparently details the purpose, roles/responsibilities of the HOA particularly for maintenance of common areas and expected dues, if applicable.

6. **Investor Exit Strategy & Encumbrances:** Confirmation that the owner understands that after the initial 15-year compliance period, upon the Commission’s approval, the tax credit investor exits the Partnership and the project will be controlled by the Partnership (without the investor) or transferred to the general partner for the purposes of effectuating the conversion of the rental units to homeownership units. See the [AMC Manual Chapter 9](#) for information about investor exits from the partnership.
- a. The owner should at least identify upfront how all encumbrances from all loans, liens, etc. will be handled at the time of investor exit to release units prior to conversion.

Pre-Conversion Requirements Years 1- 15:

In addition to standard LIHTC compliance and reporting requirements (see [Tax Credit Compliance Manual](#)) ETO specific items are noted below.

Required Resident Forms:

There are two forms specific for Eventual Tenant Ownership that must be provided to residents upon lease signing. The Low Income Housing Tax Credit (LIHTC) Lease Rider and an ETO Lease Addendum (provided by the owner). All household members 18 years or older must sign the Low Income Housing Tax Credit (LIHTC) Lease Rider upon initial occupancy, and upon the execution of any lease renewal.

1. Low Income Housing Tax Credit (LIHTC) Lease Rider – This form is available on the Commission’s [website here \(link forthcoming\)](#).
2. Lease Addendum – The owner must provide a lease addendum that includes all the specific provisions related to ETO for the property. The Commission does not provide a lease addendum as the specific provisions of ETO vary by property and are an agreement between the owner and the Resident. Therefore, the owner or its counsel should craft this document, which the Commission shall review for the required ETO elements as stated in the Conversion Plan.

The addendum shall include but is not limited to:

- a. resident eligibility and purchase requirements
- b. either the expected purchase price or how the purchase price will be determined
- c. any discounts on the purchase price based on rental tenancy

- d. resale restrictions imposed by the owner (note - the Commission does not require resale restrictions).
- e. Any escrow accounts on behalf of residents to provide downpayment assistance, held by the owner (note- the Commission does not require escrow accounts for residents).
- f. Any other requirements or expectations of the resident in order to purchase their unit.

Reporting:

The owner will be required to provide the Commission annually, on each January 31, as part of the Owner’s Annual Certification commencing on the first anniversary of the Regulatory Agreement, a confirmation of compliance with the Conversion Plan. Commencing on the 13th anniversary, the owner must provide a detailed report including, but not limited to, the number of residents intending to purchase their units after the initial year 15 compliance period, any materials in relation to ETO delivered from the owner to the residents, and applicable information about the homeownership education and counseling sessions (budget, financial, and maintenance/repair sessions) offered to the residents.

The Commission expects to timely receive all information and documentation requested by the Commission, its representatives or designees throughout the Project Compliance Period. This includes, but is not limited to, all Certifications or other documentation as to the compliance of each Building in the Project with the terms of this policy, the Conversion Plan, the Low-Income Housing Tax Credit Compliance Manual, applicable Tax Credit Laws, and other requirements of the Commission, IRS, state, federal or local authorities.

Conversion Requirements:

The owner shall notify the Commission when a Right of First Refusal is delivered and if the receiving resident elected to exercise the right to purchase or declined. The owner must notify the Commission when a unit is sold and request approval for that unit to be released from the Regulatory Agreement. The following information must be included in the notice along with copies of the transfer documentation as applicable.

- PRE-15
 - YR 13 – letter from Commission - readiness for conveyance correspondence - checklist
 - per preapproved Conversion Plan;
 - Conversion Tracking sheet (including rent roll, conversion timeline and purchase price)
 - Reminder to start the process for BIA approval for the ground lease or property transfer for each unit if on Tribal land
 - YR 14 – Inspection– by owner
- YR 15- Investor exit

- Post –15
 - Conveyance packets for each unit submitted to Commission per conveyance timeline
 - Conveyance packet should include
 - BIA approval of ground lease transfer or property transfer, if required and applicable
 - Proof that the sale price is in compliance with the Conversion Plan
 - Proof of Resident LIHTC income eligibility
 - Proof of resident completion of financial and homeowner education
 - Purchase and sale agreement between owner and resident
 - Commission will provide the form of release of the unit from the LIHTC Regulatory Agreement after review of the conveyance materials
 - Inspection/Maintenance: The owner will have completed any deficiencies noted in the inspection completed in year 14. The owner will self-certify that they will make necessary repairs to units before conveying units even after the inspection is completed in case other items are noted per an appraisal or ownership inspection.

Owner(s) will be responsible for any fees associated with the conveyance, such as recording and legal fees.

Post Conversion Requirements:

Once the property has moved into its 16th year of the compliance period and started converting units from rental to homeownership, there may be delays in selling and converting units and/or there may be some units that do not sell/convert to homeownership. From year 16 through the end date of the Additional Low-Income Use Period, the following shall apply.

Ongoing Monitoring: At a minimum, properties will be expected to comply with the Commission’s compliance procedures for as long as units remain as rentals.

Ongoing Tenancy: Residents are not required to purchase their unit and can choose to stay in their current unit as a renter for the rest of the Additional Low-Income Use Period. In the event that less than 100% of units convert, the owner commits to operating unconverted units as rental units through the end of the Additional Low-Income Use Period in compliance with the LIHTC Regulatory Agreement. The owner needs to provide a plan for continued operations and compliance for any unsold units. A resident may be willing to relocate to a similar unit, but they are not required to relocate. If owners intend to offer relocation to residents not interested in purchasing their units, then a relocation plan must be submitted for review by the Commission.

Inspections/Maintenance: For ALL units not conveyed, each unit will be inspected every 3 years per current LIHTC inspection standards.

Additional monitoring fees may apply as determined by the Commission.

Other Recommended Practices:

This section highlights some recommended practices for property owners to implement Eventual Tenant Ownership.

Owner/Resident Communication:

The owner must provide clear, consistent and frequent communication that is transparent and confirms the expectations of both the property owner and the resident to move from renting to homeownership. Communication materials that are easy to understand, culturally appropriate, and in-language that clearly state important information about the purchase price, available homeownership education and counseling resources, and residents' right to remain a renter if they choose. Both communicating upfront initially to prospective residents and reminding existing residents that the property has elected ETO will help keep this future option on the table for consideration.

Investor Exit Strategy:

As part of the investor selection process, Owners must communicate their intent to convert units to ownership after Year 15. When negotiating the limited partnership agreement, the owner and investor should consider how debt and accounts will be handled at the investor exit so as not to create any additional barriers to conversion.

Resident/Potential Homeowner Guide:

The LIHTC program is a critical resource to create affordable rental housing units. Eventual Tenant Ownership is an option in the LIHTC program under Section 42(i)(7) of the Internal

Revenue Service (IRS) Code that allows the owner to elect to make the rental units in the project available to purchase by residents after the IRS-required initial 15-year compliance period. Year 15 is a turning point in the property's lifecycle where the original investor in the ownership structure, referred to as the "Partnership," exits and the property is solely owned by or transferred to the remaining owner of partnership. At this point the owner can extend a Right of First Refusal to its residents.

How do I know if my unit is eligible for Eventual Tenant Ownership and what I need to do to be eligible to purchase my unit?

Owners who have elected ETO are required to provide residents with a Low Income Housing Tax Credit (LIHTC) Lease Rider and Lease Addendum. All household members 18 years or older must sign this ETO lease rider upon initial occupancy, upon the execution of any renewal, or at their annual recertification date, whichever comes first.

- Low Income Housing Tax Credit (LIHTC) Lease Rider: This document alerts residents that the property was financed under the LIHTC program. The document includes general information about ETO and instructs residents to contact the management agent to learn more about their rights and responsibilities under ETO. A copy of the lease rider is available [here \(link forthcoming\)](#).
- Lease Addendum: This document is created by the owner and details any specific requirements related to the tenancy at the property and includes expectations and requirements for a resident to purchase their unit after the 15th year of the initial compliance period. The Lease Addendum is required to include the following information:
 - tenancy and purchase requirements for eligibility
 - either the expected purchase price or how the purchase price will be determined
 - any discounts on the purchase price based on rental tenancy
 - any resale restrictions imposed by the owner (note the Commission does not require resale restrictions).
 - Any escrow accounts on behalf of residents to provide downpayment assistance, imposed by the owner (note- the Commission does not require escrow accounts for residents).
 - Any other requirements or expectations of the resident to purchase their unit.

It is expected that property owners will assist residents in preparing to purchase their unit and transition to homeownership by providing access to homebuyer education, budgeting and financial counseling as well as any opportunities to learn about repairs and maintenance. In addition to any resources the property owner may provide, residents may want to explore the resources provided in the next section.

Homebuyer/Homeowner Resources:

It is recommended that households interested in becoming homeowners take a homeowner education course and seek financial and budgeting counseling. In addition to any resources or information the property owner may provide, the Commission's Homeownership Division offers several resources and connections, including homebuyer education, downpayment assistance as well as connections for home loans and other resources.

Visit our website here: [WSHFC | Home Buyer Programs](#)

- For Commission-sponsored homebuyer education both free and for fee training visit [WSHFC | Homebuyer Education](#).
- For Home loans check out [WSHFC | Home Advantage Program](#) and for Downpayment Assistance check out [WSHFC | Downpayment Assistance Loan Programs](#).

Additional Homebuyer Education resources include but are not limited to:

- Washington State's Homeownership Information Program - <https://www.wshfc.org/sf/GettoKnowMeMortgageAdvice.pdf>
- Washington Homeownership Resource Center - [Washington Homeownership Resource Center \(homeownership-wa.org\)](http://WashingtonHomeownershipResourceCenter(homeownership-wa.org))
- Washington State Department of Financial Institutions Free Guide to Home Loans Workbook - https://dfi.wa.gov/sites/default/files/publications/guide-home-loans_0.pdf

Budgeting and Financial counseling is also a key part of preparing for homeownership. Counseling sessions help prepare residents for determining their home price-range, maintaining and/or improving their credit score, saving, and other common budgeting and financial techniques to help prepare them to go from renting to purchasing and owning.

- In addition to homebuyer education, the owner is required to provide access to budget and financial counseling sessions for residents to periodically attend.
 - The Commission maintains a list of housing counseling agencies here: <https://www.wshfc.org/buyers/counseling.htm>

It is recommended that households interested in homeownership begin by reaching out to Washington Homeownership Hotline: 877.894.HOME, where you'll be connected with resources appropriate for your current interest and situation.

If you are American Indian or Alaska Native and residing in an ETO property on Tribal land contact your tribe about accessing the Pathways Home: A Native Homeownership Guide - [Pathways Home - National American Indian Housing Council \(naihc.net\)](#)

Once you are a homeowner, if you need resources, visit [WSHFC | Homeownership Guide and Seasonal Newsletter](#). Additionally, if you find you are struggling and may be facing foreclosure check out this resource: <https://www.wshfc.org/sf/FacingForeclosure2016.pdf>