

# AFTER THE CLOSING: SEIZING OPPORTUNITIES AND AVOIDING PITFALLS DURING THE COMPLIANCE PERIOD

CohnReznick LLP



CohnReznick is an independent  
member of Nexia International

# OVERVIEW

- The Rent Up Process
- Practical Tips
- Non-Compliance: Form 8823
- Recapture Events



# THE RENT UP PROCESS

- Hire experienced property manager if you are not.
- Identify potential tenants prior to construction completion.
- Get preliminary Tenant Income Certification (TIC)/Application.
- Income verification - Documentation for income and assets.
- Is the tenant a full time student?
- Determine tenant meets income requirements & qualifies.
- Move in - Final TIC & lease signed.
- Check initial files for completeness - Retain for 21 years.
- Annual income recertification required?
- Acquisition/Rehab - Could be more complicated.



# PRACTICAL TIPS

## Things to Know:

- Minimum set aside elected - 40/60, 20/50 or new 40/average 60.
- Current Area Median Income, rent limits & utility allowances.
- Other compliance requirements - HUD, HOME, TE Bond...
- What was agreed to in LIHTC application - Target populations.
- Fill buildings up by year end - avoid 2/3 credit.
- One tenant can only qualify one unit.
- How much 1st year credit is promised to the investor?
- State agency reporting and monitoring requirements.



# NON-COMPLIANCE: FORM 8823

- State tax credit agencies do regular compliance monitoring.
- Common problems:
  - Over income tenant at move-in.
  - Inadequate documentation of tenant income.
  - Incorrect rents or utility allowances.
  - Violation of physical inspection standards.
- Do not ignore notifications from the state - time to correct problems.
- Failure to correct - IRS audits or recapture of credits.



# RECAPTURE EVENTS

- Decrease in qualified basis.
- Causes:
  - Failure to correct non-compliance
  - Eminent domain
  - Casualty not repaired in reasonable time
  - Physical defects not repaired
- IRS audit

## CONTACT US



### Beth Mullen, CPA

Partner  
Affordable Housing Industry Leader  
Sacramento, CA

 916-930-5750  [beth.mullen@cohnreznick.com](mailto:beth.mullen@cohnreznick.com)

Beth Mullen is CohnReznick's Affordable Housing Industry Leader. She is also a member of the Firm's Tax Practice Executive Committee. She has more than 30 years of experience providing consulting, tax, and accounting services to real estate owners and developers and the community redevelopment industry.