

**A Utah Community Action Partnership Association Report**

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# **The Loss of Low-Income Housing Tax Credit Units In Utah**

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## **Overview**

The Low-Income Housing Tax Credit (LIHTC) program utilizes tax credits to create low-income housing. This report focuses on the loss of low-income housing following the end of LIHTC projects' compliance periods. This loss of low-income units is a problem that can be anticipated and needs to be addressed.

## **Tax Credit Background**

The LIHTC program began in 1987 and is considered the “single largest subsidy for low-income rental housing”<sup>i</sup> as well as the “longest running multi-family housing program ever implemented at the federal level.”<sup>ii</sup> The Internal Revenue Service (IRS) provides that state agencies administer the tax credits<sup>iii</sup>. The State of Utah establishes that the Utah Housing Corporation (UHC), among other duties, allocate these tax credits<sup>iv</sup>. Tax credits are allocated through the Housing Credit Program for acquisition with rehabilitation, new construction, or simply rehabilitation of low-income housing.

## **Compliance Period**

LIHTC units are both rent restricted and occupied by tenants who meet the applicable Section 8 income limitations. Beginning in 1987, Utah's term of compliance was 15 years. The Omnibus Reconciliation Act of 1989 provided for “extensions” of up to 15 years to bring the compliance period to 30 years; UHC began to employ extensions to projects developed since 1990. In the mid 1990's UHC began issuing tax credits with a 99-year of compliance requirement on most projects (99 years is the maximum time allowed by Utah contract law).

Any non-compliance with the rent restriction or tenant specification can trigger a full recapture or disallowance of tax credits with interest and penalties. UHC reports that the number of non-complaint project units is “very low.”<sup>v</sup>

## **Units Having Completed their LIHTC Compliance**

The compliance period in the early years of the LIHTC program was extended because of the potentially brief period of time that new projects would remain low-income. As of July 2007, 1072 units have completed their compliance period. These units can be broken, roughly, into four different categories:

- units which have lost their low-income status;
- units in imminent danger of losing their low-income status;
- units developed with Section 8 Mod Rehab subsidy; and
- units developed with USDA Rural Development subsidy.

### Low-Income Housing Units

Many LIHTC projects were developed without any additional federal subsidy. As such, at the end of the compliance period, owners may increase monthly rental rates, sell the projects, or convert the projects to condominiums. The following projects have lost their low-income status/availability or are likely to lose their low-income status/availability following their sale:

Units Lost/Losing Low-Income Affordability				
Name	Address	City	Units	Reason for loss
Saint Andrews Park	4250 W 4700 S	Kearns	5	All units sold as a condos
Twin Trees Apartments	275 S Fort Lane	Layton	43	Apartment complex sold, new management raising rents
Mulberry Park	5287 S 3600 W	Taylorsville	80	Apartment complex sold, new management raising rents
Granite Park Condo	3537 S 500 E	Salt Lake	9	One unit sold as a condo, others remain on market for sale; raised rents for new tenants to \$750/mo
Pebblebrook (formerly Hartland) Apartments	1600 W 1700 S	Salt Lake	150	Apartment complex sold, new management raising rents
Wandamere Place	2870 S 700 E	Salt Lake	10	5 units sold as condos, others remain on market for sale
Total			297	

The sale of the Pebblebrook/Hartland Apartments, with its size and resident composition, has created a particular burden upon the community. The apartment complex contains 300 units, 150 of which were developed utilizing tax credits, which have housed a substantial refugee population as well as non-refugee/non-native English speaking population. University Neighborhood Partners, which opened the Hartland Partnership Center in 2004 (an educational and community center operating for the mutual benefit of Pebblebrook/Hartland's residents and the community), sees this affordable housing loss as catastrophic. Not only are the residents being displaced, but the services provided to them by the Center and its partners are no longer as easily accessible. According to University Neighborhood Partners 75% of the refugees living at the complex will have been displaced by the end of September 2007.<sup>vi</sup>

The end of compliance and sale of the complex can also affect non-tax credit units. At the Pebblebrook/Hartland, for families who are given the option to renew their lease, the maximum renewal time is now ten months. The ten-month lease affects Section 8 low-income housing voucher families as the Section 8 program requires 12-month leases. As such, the 80 families with Section 8 vouchers will likely need to move when their leases come due. Additionally, renewing tenants will be required to pay initial rent increases of between \$65 and \$187 per month and will need to start paying water, sewer, and rental insurance, which were previously included in the monthly rental charge.

The following table contains a list of apartments that will likely lose their affordability following their sale, going the way of the Pebblebrook/Hartland, Mulberry, and Twin Trees Apartments.

Apartment Complexes for Sale				
Name	Address	City	Units	Reason for loss
Hidden Oaks	3477-3491 S 200 E	Salt Lake	16	These apartment complexes are currently for sale; in the meantime, management has raised rents for existing tenants up \$25/mo, new tenants up \$50/mo
Hidden Oaks II	3445-3469 S 200 E	Salt Lake	24	
Hidden Oaks III	1511-1631 W 3395 S	West Valley	16	
Hidden Oaks IV	594 N Redwood Road	Salt Lake	36	
Total			92	

### Units Under Contract with Section 8 Mod Rehab

Section 8 Moderate Rehabilitation (Mod Rehab) is a form of rental assistance for low-income and very low-income residents. The assistance is provided through housing authorities whereby residents in units with Mod Rehab pay no more than 30% of their income toward housing and rental assistance pays the remainder. Rents are the lowest of a market survey, Operating Cost Adjustment Factors (or OCAF), or the fair market rents. The following properties have completed their LIHTC contracts. However, they remain affordable under the Mod Rehab program.<sup>vii</sup>

Mod Rehab Units			
Name	Address	City	Units
Lake View Heights Apartments	1755 South 200 East	Clearfield	83
Peery Apartments	2461 Adams Avenue	Ogden	14
Revelle Apartments	2485 Monroe Blvd	Ogden	12
Evergreen Apartments	3455 Iowa Avenue	Ogden	30
Mountain View Apartments	563 West 24th Street	Ogden	30
Fontenelle Apartments	2465 Monroe Avenue	Ogden	10
Statesman Apartments	155 South 400 East	Salt Lake	19
Meredith Apartments	160 East 1st Ave	Salt Lake	22
New Grand Hotel	7 East 400 South	Salt Lake	80
Total			300

The initial contract period for Mod Rehab project is a minimum of 15 years not to exceed 17 years. At the end of the term, the property owners may renew on a yearly basis. The Mod Rehab units will lose affordability if the U.S. Department of Housing and Urban Development discontinues financing the program or if the property owner decides to rent on the open market. The following Mod Rehab units are being lost to condo conversion.

Loss of Mod Rehab Units			
Name	Address	City	Total Units
Ivanhoe Apartments	417 East 300 South	Salt Lake	19

### Rural Development

The U.S. Department of Agriculture’s Rural Development arm provides loans to developers to produce affordable, rural, multi-family housing. These units are low-income affordable with rental assistance much like Mod Rehab, whereby residents in Section 515 units pay 30% of their income toward housing and the Rural Development program pays the remainder

Rural Development Section 515 units remain low-income affordable through the term of their 30-year mortgage, if not beyond. A potential problem that could lead to the loss of Section 515 units is that some owners attempt to prepay their mortgages in an effort to remove themselves from the program. However, the program strongly discourages prepayment and encourages projects to remain in the program. Very few of Utah’s projects are threatened with the loss of affordability.<sup>viii</sup>

The following LIHTC units were developed utilizing Rural Development Section 515 monies. In these units, very low-income applicants are given priority for admittance. If there are no very low-income applicants, then low-income applicants are admitted. Nearly all of the following units (except some managerial/staff units) are rental assisted. Nearly 95% of Section 515 tenants are very low income and more than 50% are elderly or are persons with disabilities.<sup>ix</sup>

Rural Development Units			
Name	Address	City	Total Units
Apple Tree Apartments	691 South 600 East	Brigham City	24
Ironwood Apartments	340 East D.L. Sargent Dr.	Cedar City	28
Willow Creek Apartments I	236 West Plum Street	Grantsville	24
Willow Creek Apartments II	236 West Plum Street	Grantsville	16
Willow Creek Apartments III	236 West Plum Street	Grantsville	22
Brooklane Apartments	131 South 500 East	Heber	16
Hurricane Apartments	165 North 200 West	Hurricane	24
Mesa Manor Apartments	28 South 900 East	St. George	20
Total			195

## Future Losses of LIHTC

Utah could lose up to 1377 additional LIHTC low-income compliant units to the market rate by the end of 2027. A timeline for such losses is as follows:

Units Completing LIHTC Compliance				
Year	Name	Address	City	Units
2011	Lexington Park Apts	2293 W. Lexington Park Ave.	West Valley City	80
2014	Elk Meadows Apts	2627 West Kilby Road	Park City	96
2016	Hidden Oaks IIIA	1584 West 3395 South	Salt Lake City	4
2017	Marion Hotel	184 25th Street	Ogden	86
2017	Riverside Cove	558-560 North Redwood Rd.	Salt Lake City	28
2017	Saint Andrews Park II	4236 West Old Miller Court	Kearns	9
2018	Mount Eyrie Apts	1225 North 454 East	North Ogden	38

Units Completing LIHTC Compliance	
Year	Units
2021	94
2022	140
2023	427
2026	358
2027	17

Other than the Marion Hotel, above, none of the named units completing LIHTC compliance have any other federal funding to keep them low-income.

### Summary

The loss of LIHTC compliant units is an issue that needs to be addressed. Of the 1,072 units in 29 projects that have completed LIHTC compliance in Utah, a minimum of 408 have been lost or are being lost to the low-income population. Of these:

- 150 units are from one apartment complex;
- 19 units were also Section 8 Mod Rehab funded; and
- 43 units have been or will be “condoized.”

The non-profit housing community and policy makers need to anticipate these types of housing losses and prioritize which projects can be saved to remain low-income affordable. While the largest wave of LIHTC projects moving to market rate has passed, the housing community needs to pool their resources with those of the Olene Walker Housing Loan Fund and local funds in an effort to save the further loss of units to market rate. The community must act, not react, to preserve Utah’s existing stock of low-income housing.

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- <sup>i</sup> Alex Schwartz. Housing Policy in the United States. Routledge 2006.
- <sup>ii</sup> “Low-Income Housing Tax Credit Program” <http://b2b.utahhousingcorp.org/PDF/LIHTC.pdf>.
- <sup>iii</sup> *Internal Revenue Service Code, Title 26, Subtitle A, Chapter 1, Subchapter A, Part IV, Subpart D, Sec. 42.*
- <sup>iv</sup> *Utah Code, Title 9, Chapter 4, Sections 901-926.*
- <sup>v</sup> Robin Kemker, Utah Housing Corporation. July 9, 2007.
- <sup>vi</sup> Hartland Community Apartments factsheet and Sarah Munro from University Neighborhood Partners.
- <sup>vii</sup> Jeff Stowel, HUD Utah. August 1, 2007.
- <sup>viii</sup> Shelly Prothero, USDA Utah. August 20, 2007.
- <sup>ix</sup> National Low Income Housing Coalition, 2007 Advocates’ Guide to Housing & Community Development Policy.