Ralph M. Perrey, Executive Director

Tennessee Housing Development Agency

TO: Recipients of Low-Income Housing Credits

FROM: Gwen Coffey, Director of Program Compliance

SUBJECT: Owner's Annual Certification of Compliance 2015

Please follow the link to THDA's website (http://thda.org/business-partners/housing-credit-compliance) to the Annual Compliance Certification for all owners that have received an allocation of low income housing credits from Tennessee Housing Development Agency (THDA) and are in their compliance period. These reports are mandated by federal statute 26 CFR 1.42-5 Section (c) (1) that states:

> *the owner of a low income housing project is required to certify annually to the Agency that, for the preceding 12 month period, the property met the provisions of the housing credit program*.

Enclosed is a description of the reports that must be submitted to THDA for compliance year 2015. If your property was placed in service on or before December 31, 2015, you are required to submit **this** Owner's Annual Certification of Compliance. The deadline for this submission is **February 15, 2016**. All properties not submitting Certifications by the deadline or submitting incomplete Certifications will be reported to the Internal Revenue Service (IRS) for noncompliance.

Compliance with IRS Section 42 is required for the full compliance period of a housing credit property. The compliance period covers at least 15 years (for all properties), and up to 50 years for recipients subject to an extended use clause of the Land Use Restrictive Covenant. Extended use clauses cover ALL properties allocated tax credits in 1990 and subsequent years.

Even though your property is prepared for online compliance reporting via Housing Credit Management System (HCMS), THDA's internet compliance software, you are still responsible for the **manual** submission of three forms: Exhibit A, Addendum A and Exhibit F. Please complete those forms and return them to THDA by the February 15 deadline.

If you have questions concerning any of the attached reports, please contact Gwen Coffey at (615) 815-2219 from 8:00 a.m. through 4:30 p.m. Central Standard Time or send an email to TNCompliance@thda.org. Thank you in advance for your cooperation.

INSTRUCTIONS FOR COMPLETING OWNERS ANNUAL CERTIFICATION

(Please insure that your reports are complete, since incomplete Owner's Certifications will be returned and a Report of Noncompliance will be filed by our office with the IRS.)

Exhibit A: Owner's Annual Certification of Compliance 2015

Must be submitted annually for each year in the compliance period for every low income housing credit property. (Only one form per property.) Page 5 is Addendum A: Identification of Ownership/Management.

If you answer "NO" on question 20, **you must submit a copy of the COMPLETED utility allowance(s) used during the 2015 calendar year.**

Exhibit C: Applicable Fraction Worksheet

This report must be submitted for **each building** in which designated low-income units were not occupied by qualified low-income residents on December 31, 2015.

HCMS: Tenant Data:

All tenant data must be submitted using the Housing Credit Management System (HCMS). If your property hasn't obtained access to this system, please contact Robert Lucas at rlucas@thda.org or (615) 815-2244. Annual reporting of tenant data via HCMS is mandated by THDA.

Exhibit F: Notification/Request of Nonrevenue Unit(s)

Must be completed for any nonrevenue units within the property. THDA allows one unit without permission as long as that person is solely responsible for that property. Any other units MUST be approved by THDA annually.

Exhibit H: Participation of Nonprofit in On Going Operations

Must be submitted for **each property** that received an allocation of credits from the nonprofit set-aside. An attorney's opinion letter must accompany this report to verify continuing participation. Please visit our website at (**http://thda.org/business-partners/housing-credit-compliance**) for the opinion letter formats.

Other Reports as Necessary:

If you are planning to sell an ownership interest in a low income housing credit property you must report that sale to THDA 30 days prior to the date of the sale. Please contact our Agency with details of the transaction and for a copy of **Exhibit B: Transfer of Ownership.**

If you have experienced a casualty loss at a low-income housing credit property, you must report that loss within 30 days to THDA. Please contact our Agency with a status of the situation and for a copy of **Exhibit I: Building Casualty Loss Notification.**

Mail Reports to: **Division of Program Compliance**
Tennessee Housing Development Agency
502 Deaderick Street, 3rd Floor
Nashville, Tennessee 37243

OWNER'S ANNUAL CERTIFICATION OF COMPLIANCE

(Exhibit A)
To: Tennessee Housing Development Agency
Attention: Division of Program Compliance
502 Deaderick Street, 3rd Floor
Nashville, TN 37243

Certification Dates: From: January 1, 2015 – To: December 31, 2015

Project Name: _____ **Project No: TN** _____

Project Address: _____

Project City: _____ TN Project Zip Code: _____

Tax Identification Number of the Ownership Entity: _____

The undersigned _____ on behalf of _____ (the "Owner"), hereby certifies that

1. The development meets the minimum requirements of the appropriately selected test (check one):

☐ 20 – 50 test under Section 42(g)(1)(A) of the Code

☐ 40 – 60 test under Section 42(g)(1)(B) of the Code

2. There was **no change in the applicable fraction** (as defined in Section 42(c)(1)(B) of the Code) of any building in the development or that there was a change and a description, satisfactory to THDA, of that change.

☐ **NO CHANGE** ☐ **CHANGE**

If **"Change"**, list the applicable fraction to be reported to the IRS for <u>each building</u> in the development for the certification year on Exhibit C: Applicable Fraction Worksheet.

3. The owner has received an annual Household Income Certification from each low-income tenant during 2015 and has documentation to support that certification:

☐ **YES** ☐ **NO**

4. Each low-income unit in the development is rent-restricted under Section 42(g)(2) of the Code:

☐ **YES** ☐ **NO**

5. All low-income units in the development are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under Section 42(i)(3)(B)(iii) of the Code); or single room occupants units rented on a month-by-month basis under Section 42(i)(3)(B)(iv).

☐ **YES** ☐ **NO** ☐ **HOMELESS**

6. No finding of discrimination under the Fair Housing Act 42 U.S.C 3601-3619, has occurred for this development. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. 3616a(a)(1), or an adverse judgment from a federal court:

☐ **NO FINDING** ☐ **FINDING**

7. Each building in the development is suitable for occupancy, taking into account UPCS standard and local health, safety and building codes (or other habitability standards), and the state or local government unit responsible for making local health, safety, or building code inspections did not issue a report of a violation for any building or low-income unit in the development:

☐ **YES** ☐ **NO**

If **"No"**, state nature of violation on page 3 and attach a copy of the violation report as required by 26 CFR 1.42-5 and any documentation of correction.

8. There has been **no change in the eligible basis** (as defined in Section 42(d) of the Code) of any building in the development or, if there was a change, the nature of the change.

☐ **NO CHANGE** ☐ **CHANGE**

If **"Change"**, state nature of change (e.g., a common area has become commercial space, a fee is now charged for a resident facility formerly provided without charge, or the development owner has received federal subsidies with respect to the development which had not been disclosed to the allocating authority in writing) on page 3.

9. All tenant facilities, included in the eligible basis under Section 42(d) of the Code of any building in the development, such as swimming pools, other recreational facilities, and parking areas were provided on a comparable basis without charge to all tenants in the buildings:

☐ **YES** ☐ **NO**

10. If a low-income unit became vacant during the year, reasonable attempts were made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the development were rented to tenants not having a qualifying income and while the unit was vacant, no units of comparable or smaller size were rented to tenants not having a qualifying income.

☐ **YES** ☐ **NO**

11. If the income of tenants of a low-income unit in the development increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size in that building was rented to residents having a qualifying income:

☐ **YES** ☐ **NO**

12. An extended low-income housing commitment as described in Section 42(h)(6) was in effect, including the requirement under Section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the development to an applicant because the applicant holds a voucher under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s. The owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the development otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment:

☐ **YES** ☐ **NO**

13. If the owner received Tax Credits from the non-profit set-aside, "a qualified non-profit organizations" has materially participated (regular, continuous, and substantial on-site involvement) in the on-going operation of the development.

☐ **YES** ☐ **NO** ☐ **NA**

If **"YES"**, complete Exhibit H and contact THDA for format of "Opinion Letter" for nonprofit participant.

14. The owner has complied with Section 42(h)(6)(E)(ii)(I) and has not evicted or terminated the tenancy of an existing tenant of any low-income unit other than for good cause.

☐ **YES** ☐ **NO**

15. The owner has complied with Section 42(h)(6)(E)(ii)(II) and not increased the gross rent above the maximum allowed under Section 42 with respect to any low-income unit.

☐ **YES** ☐ **NO**

16. There has been **no change of management for** the development:

☐ **NO CHANGE** ☐ **CHANGE**

List ownership and management company identification information on Addendum A.

17. There has been **no change of ownership for** the development (for example, a sale of all or a portion of the development):

☐ **NO CHANGE** ☐ **CHANGE**

Complete Exhibit B if the development or any part of it has been sold.

18. There has been **no change within the ownership entity for the development** (for example, a change in general partner of the ownership entity):

☐ **NO CHANGE** ☐ **CHANGE**

Fill in SUMMARY OF CHANGE WITHIN OWNERSHIP ENTITY on page 4.

19. What was the occupancy percentage at this development as of December 31, 2015?

_____ **%**

20. Are **ALL** utilities paid by the Owner?

☐ **YES** ☐ **NO**

If NO, attach all utility allowance(s) schedule(s) used to determine rent for 2015.

EXPLAIN ANY ITEMS THAT WERE ANSWERED "NO", "CHANGE", OR "FINDING" ON QUESTIONS 1-18.

Question No.	Explanation

SUMMARY OF CHANGE WITHIN OWNERSHIP ENTITY (to be completed ONLY if "CHANGE" marked for Question 18) Also complete form Exhibit B – Transfer of Ownership Interest.

SUMMARY OF CHANGE WITHIN OWNERSHIP ENTITY

Date of Change/Transfer: _____

Taxpayer ID Number: _____

Legal Owner Name: _____

Type of ownership interest changed (G.P., Managing Member, etc.): _____

Name of new entity within the owner: _____

Note: Failure to complete and submit this form in its entirety to THDA by the specified deadline will result in noncompliance with program requirements and the issuance of an IRS Form 8823.

This development is otherwise in compliance with the Internal Revenue Code Section 42, applicable Treasury Regulations, the applicable State Qualified Allocation Plan, and all other applicable laws rules and regulations. This Certification and any attachments are made UNDER PENALTY OF PERJURY. False statements are punishable as a Class E felony under Tennessee Code Annotated (TCA) Section 13-23-133.

_____

(Ownership Entity Name)

By: _____

Title: _____

Date: _____

_____

(Management Company Name)

By: _____

Title: _____

Date: _____

ADDENDUM A
IDENTIFICATION OF OWNERSHIP/MANAGEMENT

EFFECTIVE DATE:_____

PROJECT NAME: _____ Project Identification No.: TN _____

Name of Current Owner | Taxpayer I.D. No.

Name of General Partner | Taxpayer I.D. No.

Owner's Address

City | State | Zip Code

Name of Owner Contact | Title

Owner's Daytime Telephone Number | Owner's E-Mail Address

MANAGING AGENT:

Name of Managing Company | Taxpayer I.D. No.

Name of Management Contact Person | Title

Management Company Address

City | State | Zip Code

Management Contact Daytime Telephone Number | Management Contact E-Mail Address

Management Contact to Schedule Reviews (if applicable) | Contact to Schedule Reviews E-Mail Address

Contact to Schedule Reviews Telephone Number | On-Site Property Telephone Number

EXHIBIT C
APPLICABLE FRACTION WORKSHEET

Project No.: TN **Building No.:** _____

26 Code of the Federal Register (CFR) Section 42 (c)(1)(B)(ii) states that the owner of a low income housing project must certify at least annually to the Agency that, for the preceding 12 month period, there was no change in the applicable fraction [as identified in IRC Section 42 (c) (1)(B)] of any building in the project, or if there was a change, a description of that change. To comply with this requirement, complete the worksheet for EACH building that was not 100% occupied by qualified low-income residents on December 31, 2015. Check NO, and provide an explanation for question number 2 on Exhibit A: Owner's Annual Certification of Compliance. Projects allocated tax credits on a non 100% basis should identify the percentage applicable to their project.

PREVIOUS LOW INCOME PROTION OF THE BUILDING:			
1.	Enter the low-income portion that was reported to the IRS as identified on Form 8609: Schedule A for this building on your 2014 tax return.	1.	
THE UNIT PERCENTAGE OF THE BUILDING:			
2.	Enter the number of low-income units in this building that were occupied by qualified low-income residents on December 31, 2015. Include units that were vacant on December 31, 2015, but were last occupied by a qualified low-income resident.	2.	
3.	Enter the total number of rental units in this building, including both low-income and market rate units. Do not count a manager's unit or courtesy / security unit as a rental unit.	3.	
4.	Divide line 2 by line 3 and express as a fraction carried out to 4 decimal points (for example 50% = .5000).	4.	
THE FLOOR SPACE PERCENTAGE OF THE BUILDING:			
5.	Enter the total floor space of all low-income units identified on line 2.	5.	
6.	Enter the total floor space of all rental units identified on line 3.	6.	
7.	Divide line 5 by line 6 and express as a fraction carried out to 4 decimal points (for example 50% = .5000).	7.	
APPLICABLE FRACTION OF BUILDING:			
8.	Enter the lessor of line 4 or line 7. This is the applicable fraction, or the low-income portion for this building. **If line 8 is different from line 1, then the applicable fraction for this building has changed from the previous year (2014). Answer "No" to Question 2 of Exhibit A; Owner's Annual Certification of Compliance and explain on Exhibit A, the reason for the change.**	8.	

EXHIBIT F
NOTIFICATION/REQUEST OF NONREVENUE UNIT(S)

NOTIFICATION REMOVAL OF UNIT(S) IN ACCORDANCE WITH
REVENUE RULING 92-61 and REVENUE RULING 2004-82
(TREATMENT OF RESIDENT RENTAL PROPERTY)
(RESIDENT MANAGER, MAINTENANCE OR SECURITY OFFICER UNIT)

Property Name: _____

Project Identification: TN_____

Unit(s) shall be designated as an employee unit or for use as common space as defined in section 42 of the Internal Revenue Code: "Section 1.103-8(b)(4) of the Income Tax Regulations, facilities that are functionally related and subordinate to residential rental units are considered residential rental property. Section 1.103-8(b)(4)(iii) provides that facilities that are functionally related and subordinate to residential rental units include facilities for use by the tenants, such as swimming pools and similar recreational facilities, parking areas, and other facilities reasonably required for the project. The examples given by section 1.103-8(b)(4)(iii) of facilities reasonably required for a project specifically includes units for resident managers, maintenance personnel or model units. Accordingly, the unit occupied by a resident manager is residential property for purposes of Section 42 of the Code."

THDA allows one unit per property that does not require approval. Please provide the following for each unit occupied by a Resident Manager, Maintenance, Security or Service Coordinator Personnel. The first one noted should be the unit that THDA **DOES NOT** need to approve annually. The unit(s) after should note **ANY ADDITIONAL** nonrevenue unit(s) needed. Supporting documentation must be attached to support the property's need for the **additional** removal of the unit(s) from the applicable fraction in accordance with Section 1.103-8(b)(4).

BIN#_____Unit # _____ Name _____ Move-in Date _____
Position _____

BIN#_____Unit # _____ Name _____ Move-in Date _____
Position _____

BIN#_____Unit # _____ Name _____ Move-in Date _____
Position _____

If the Owner is charging rent for a Manager, Maintenance, Security or Service Coordinator Personnel unit(s), according to the Internal Revenue Service (IRS) Guide for Completing Form 8823, the Service may determine that the unit is not reasonably required by the project because the owner is not requiring them to occupy the unit as a condition of employment.

* Charging rent for employee units may reduce or jeopardize the tax credits that may be claimed. Please consult your attorney or accountant for guidance.

Owner/Management must continue to submit the above information concerning the Manager/Maintenance/Security/Service Coordinator, or other common use space, to THDA annually on the Owner Annual Certification of Continuing Compliance. This form does not absolve Management of this responsibility. Additionally, in the event of a change in status concerning a manager/maintenance unit or use of other common space THDA is requiring resubmission of this form to:

The undersigned certifies to Tennessee Housing Development Agency that the Owner/Limited Partnership of _____ (property name) will file or has filed a return that is consistent with Revenue Ruling 92-61 concerning treatment of Resident Manager's unit.

_____ _____
Owner/General Partner Date

EXHIBIT H
PARTICIPATION OF NONPROFIT IN ON GOING OPERATIONS

IRC Section 42(h)(5) requires the State Allocating Agency to set aside not more than 90 percent of the annual housing credit ceiling to projects other than those involving qualified nonprofit organizations. Projects involving qualified nonprofit organizations are defined under Section 42(h)(5)(b) as '*if the qualified nonprofit organization is to own an interest in the project (directly or though a partnership) and materially participate (within the meaning of section 469(h)) in the development and operation of the project throughout the compliance period*'.

Please submit for our review an attorney's opinion letter (in the format provided-see Exhibit H Attachments 1 and 2 at 'www.state.tn.us/thda/Programs/lihtc/concvr.htm') that states that the nonprofit is an organization recognized by the Internal Revenue Service as a 501(c)(3) or 501(c)(4) organization and is validly existing and in good standing under the laws of the State of Tennessee. Also include in that opinion letter that the nonprofit is not affiliated with or controlled by any for-profit entity and that one of the exempt purposes of the nonprofit includes the fostering of low-income housing. In addition, the attorney must attest to the official capacity of the nonprofit in the operation of the project during 2015 by identifying the number of hours and type of services the nonprofit performed for the project that meets the criteria defined as material participation in IRC Section 469(h). This information must be submitted with this completed form and returned to the following address no later than February 15, 2016.

Division of Program Compliance
Tennessee Housing Development Agency
502 Deaderick Street, 3rd Floor
Nashville, Tennessee 37243

PROJECT INFORMATION Project Identification No.: TN _____

Project Name: _____

Project Street Address: _____

City: _____ State: _____ Zip Code: _____

Owner: _____

IDENTIFICATION OF QUALIFIED NONPROFIT:

Nonprofit: _____ Taxpayer I.D. No.: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Daytime Telephone Number:

Email Address _____

IDENTIFICATION OF ATTORNEY OR FIRM RENDERING OPINION:

Attorney or Firm: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Daytime Telephone Number:

Email Address _____

TENNESSEE HOUSING DEVELOPMENT AGENCY
CERTIFICATION OF STUDENT STATUS

BIN Number	Head of Household Name	Unit Number

Students include individuals attending public or private elementary schools, middle or junior high schools, senior high schools, colleges, universities, technical, trade or mechanical schools. Students do not include individuals participating in on-the-job training or correspondence courses

Please choose one option below that best describes your household

☐	The household contains no occupants who are students (full time or part time).
☐	The household contains at least one occupant who is not a student and has not been and will not be a student for five months or more out of the current calendar year and/or upcoming calendar year. (months need not be consecutive).
	List non-student here: _____
☐	The household contains all students, but is qualified because at least one occupant is a part time student. Verification of part time student status is required.
	List part time student here: _____
☐	The household contains all full time students for five months or more out of the current and/or upcoming calendar year (months need not be consecutive). If yes, you must answer all five questions below.

	yes	no
Are the students married and entitled to file a joint tax return? (attach an affidavit or tax return)	☐	☐
Is at least one student a single parent with child(ren), *and* this parent is not a dependent of someone else, *and* the child(ren) is/are not dependent(s) of someone other than the parent(s)?	☐	☐
Is at least one student receiving Temporary Assistance to Needy Families (TANF)?	☐	☐
Does at least one student participate in a program receiving assistance under the Job Training Partnership Act, Workforce Investment Act, or under other similar federal, state, or local laws? (attach verification of participation)	☐	☐
Does the household consist of at least one student who was previously under foster care? (provide verification of participation)	☐	☐

Signatures

Under penalties of perjury, I/we certify that the information presented in this certification is true and accurate to the best of my/our knowledge and belief. I/we agree to notify management immediately of any changes in this household's student status. I/we understand that providing false representations constitutes an act of fraud. False, misleading, or incomplete information may result in the termination of the lease agreement.

This form must be signed by each household member age 18 and older.

_____ **Date**

Resident Signature

_____ **Date**

Resident Signature

_____ **Date**

Resident Signature

_____ **Date**

Resident Signature