CITY OF NORMAN, OK
CITY COUNCIL STUDY SESSION

Municipal Building, Executive Conference Room, 201 West Gray, Norman, OK 73069

Tuesday, December 06, 2022 at 5:30 PM

AGENDA

It is the policy of the City of Norman that no person or groups of persons shall on the grounds of race, color, religion, ancestry, national origin, age, place of birth, sex, sexual orientation, gender identity or expression, familial status, marital status, including marriage to a person of the same sex, disability, retaliation, or genetic information, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in employment activities or in all programs, services, or activities administered by the City, its recipients, sub-recipients, and contractors. In the event of any comments, complaints, modifications, accommodations, alternative formats, and auxiliary aids and services regarding accessibility or inclusion, please contact the ADA Technician at 405-366-5424, Relay Service: 711. To better serve you, five (5) business days' advance notice is preferred.

CALL TO ORDER

AGENDA ITEMS

1. DISCUSSION REGARDING AFFORDABLE HOUSING INCLUDING TAX CREDIT PROGRAMS.

2. DISCUSSION REGARDING A CONTRACT WITH BLUE PEAK TO PROVIDE VIDEO SERVICES TO CITIZENS OF NORMAN USING THE CITY OF NORMAN'S RIGHTS-OF-WAY.

ADJOURNMENT

Affordable Housing Tax Credits

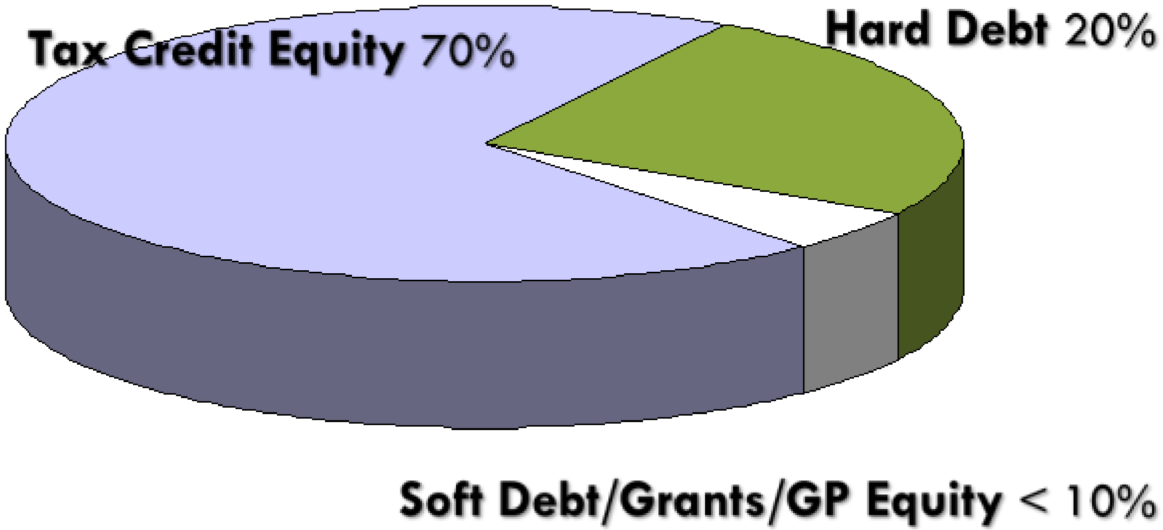
Presented by: Darrell Beavers, Housing Development Director
Oklahoma Housing Finance Agency

What are Affordable Housing Tax Credits?

- Congress created Affordable Housing Tax Credits in 1986 to offset the high cost of rental housing construction and rehabilitation, and to provide affordable rent rates for low-income families, those at or below 60% of area median income.
- Oklahoma created State Tax Credits in 2014.
- Tax Credits provide a 10-year reduction in tax liability for developers who construct or rehabilitate affordable rental housing that is income and rent restricted.
- Developers sell Tax Credits to Fortune 500 companies and other investors. The money obtained from the sale is used to lower financing costs. The end result is lower rent for families.
- Oklahoma: 40,272 housing units have been produced or preserved from 1986-2022
- Without tax credits, the rental income generated by an affordable housing complex would be insufficient to cover the costs of developing and maintaining the property.

How Do They Benefit Developments?

- Provide between 65% and 90% of the total development costs for a project.
- Large equity means lower permanent debt which translates to lower rents for residents.
- Require all residents to earn at or below 60% of the Area Median Income (AMI) for the county the project is located in.



What can you do with LIHTC?

- Types of Projects
  - New Construction
  - Adaptive reuse
  - Acquisition Rehab
  - Acquisition Rehab on Historic Buildings
  - Single or Multi Family
- Types of Buildings
  - Apartments
  - Duplexes
  - Single Family Homes
  - Assisted Living

Multi-Family Bonds & 4% Tax Credits

- To access 4% Tax Credits, at least 50% of a development must be financed with tax exempt multifamily bonds.
- 4% Tax Credits differ from 9% Tax Credits in that they are noncompetitive with no maximum.

Sample 9% Tax Credit Calculation

$10,000,000	Total Project Cost
- 1,000,000	Ineligible Project Costs for Credits
$9,000,000	Eligible Basis for Credits
x 9%	Tax Credit Percentage
$810,000	Credits Received/Year
x 10	Number of Years Credits Received
$8,100,000	Credits Received
x .90	Price Paid for Credits
$7,290,000	Equity Into Project

Sample 4% Tax Credit Calculation

$10,000,000	Total Project Cost
- 1,000,000	Ineligible Project Costs for Credits
$9,000,000	Eligible Basis for Credits
x 4%	Tax Credit Percentage
$280,800	Credits Received/Year
x 10	Number of Years Credits Received
$2,808,000	Credits Received
x .90	Price Paid for Credits
$2,527,200	Equity Into Project

State Low Income Housing Tax Credits

- The Oklahoma Affordable Housing Act of 2014 granted OHFA the authority to allocate Oklahoma State Low Income Housing Tax Credits to Qualified Projects.
- Total State LIHTCs allocated in any given year cannot exceed $4,000,000.
- This credit is exactly like the Federal LIHTC – a 10 year credit period.
- Requirements for compliance also mirror the Federal LIHTC.
- No separate application is required.

State Low Income Housing Tax Credits

State Tax Credits will be available for both new construction and acquisition/rehabilitation activities.

- For Funding Period One, $4 million of the State Tax Credits will be available to those Applicants applying for 4% Credits and Bond Financing only.
- Any State Tax Credits Remaining after Funding Period One will be available to 4% and 9% Applications in Funding Period Two, with priority going to 4% Applications.
- The maximum amount of State Tax Credits that will be awarded to any developer is $2 million annually.

Affordable Housing

All rents include utilities

MSA/COUNTY	MEDIAN INCOME		INCOME LIMITS FOR A GIVEN NUMBER OF PERSONS IN THE FAMILY 1	2	3	4	5	6	7	8	MAXIMUM RENTS FOR GIVEN # BEDROOMS EFF	1	2	3	4
OKC, OK HMFA	85,300	60%	34,440	39,360	44,280	49,140	53,100	57,060	60,960	64,920	861	922	1,107	1,278	1,426

Obtaining Tax Credits

- OHFA issues approximately $10 million in Tax Credits each year resulting in nearly $158 million of construction activity statewide.
- Award maximum = $900,000 per development.
- There are two 9% application cycle deadlines and awards:

  Cycle 1: January deadline, awards typically made in May.

  Cycle 2: June deadline, awards typically made in November.
- 4% Tax Credit Applications must be received at least 60 days before OHFA board meeting (meetings are held on the odd months).
- 4% Tax Credit Application applying in conjunction with the State Tax Credit will follow the 9% application cycle deadlines and awards.
- For-profit developers, non-profit organizations, public agencies, units of local government, and tribal governments are eligible to apply for Tax Credits.

Allocation Process

- OHFA awards tax credits based on local need, and population and economic growth trends.
- To obtain Tax Credits in Oklahoma, a development must pass threshold, achieve a higher score than competing developments, and must meet state housing needs.
- OHFA must limit allocations of tax credits to the amount necessary to make each development financially feasible and viable as affordable housing for the required long-term affordability period.
- OHFA
  - Analyzes the application
    - Does it meet IRS and OHFA Rules?
    - Does it meet application requirement?
  - Underwrites
  - Compliance
- OHFA performs three separate rigorous financial evaluations which analyze sources and uses of funds, other government subsidies, reasonableness of costs, and developer and builder profits.

Obtaining Tax Credits - Threshold and Selection Criteria

<u>Threshold</u>

- Market Study
- Capacity and Prior Performance (experience)
- Financial feasibility and viability (underwriting)
- Readiness to Proceed
    - Zoning
    - Site control
    - Preliminary site plans and floor plans

<u>Selection</u>

- Targeting lower incomes
- Development location
- Energy Efficiency
- Amenities
- Development cost efficiency

Compliance

- Administered by the Oklahoma Housing Finance Agency, the Affordable Housing Tax Credit Program is one of the most closely regulated provisions in the tax code. Tax credit apartments or houses must be rented to persons earning no more than 60 percent of the area median income. Restricted rents are enforced for a minimum of 30 years.

- OHFA monitors tax credit developments regularly during the 30-year affordability period for compliance with stringent income, rent and physical condition requirements. OHFA must report noncompliance to the Internal Revenue Service, who can recapture tax credits from noncompliant owners. All developments are monitored a minimum of once every three years by OHFA's compliance staff.

- The private sector discipline imposed on tax credits developments – from initial site selection through years of upkeep and compliance under threat of severe tax penalty – is an unprecedented departure from all previous federal housing programs. This is a key element in the success of the Affordable Housing Tax Credit Program.

Questions? Comments?

Contact Information

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We are happy to help you!

Study Session
December 6, 2022

BluePeak/Clarity Video Services Agreement

BluePeak’s Request

- BluePeak requests a franchise agreement similar to those implemented in other cities.
- Norman’s other cable television agreements have “favored nation” clauses.
- Cox, AT&T (assigned to Direct TV) and OEC want a level playing field.

Franchise v. Agreement

- State statute requires Franchise agreements for utilities be voted on by residents

  – - usually for longer terms than licensing/right of way agreements

  - non-exclusive except for utilities granted regional coverage by statute

Video/broadband agreements

- no public election required

- Allows license for access to rights of way for purpose of providing cable services for video programming and internet

- Also non-exclusive

Video Services

- video programming, including cable services, provided through wireline facilities located at least in part in the public rights-of-way without regard to the delivery technology, including Internet protocol technology.
- Title 11 Okla. Stat. Sec. 22-107.1

Video Services

- Does not include video programming provided by mobile service provider.

- Does not include access to content, information, electronic mail, messaging or other services offered over internet.

Regulatory Landscape
of
Cable Television Law

- Overlap of federal, state and local law.
  - Federal Communications Commission (FCC)
  - Oklahoma law (Constitution and Statutes)
  - Local law (Ordinances)

Federal Communications Commission (FCC)

- Communications Act of 1934, as amended. (Most recently amended by the Telecommunications Act of 1996)

Historically provided broad guidelines and regulations for cable television service, with an emphasis on local regulatory control.

State regulation

- Oklahoma Constitution
  - Article XVIII, § 5(a)

  Prevents a municipality from granting a franchise without the approval of a majority of the qualified electors residing within the municipality.

City Operations

City will provide a license to provide streaming services and other programming

Provide permits for installation of cable/fiber and other infrastructure

Provide similar terms for all such providers in City

Oklahoma law encourages competition

- 11 O.S. § 22-107.1
  - (B). No municipality shall grant any overlapping certificate, license, permit or franchise for cable television service within its jurisdiction on terms or conditions *more favorable or less burdensome* than those in any existing certificate, license, permit or franchise within such municipality.

Increased cable television competition

- Satellite television providers
  - Direct TV
  - Dish Network
  - EchoStar
- AT&T (Direct TV)
- Cox
- OEC

Shifting regulatory landscape

- Recent FCC Orders and Opinions indicate trend toward increased competition, and decreased local regulation:
  - 10/31/2007 Order banned exclusivity clauses in apartment complexes.
  - 12/20/2006 Order prevents municipalities from unreasonably refusing to award competitive franchises.

2002 Oklahoma Attorney General Opinion encourages competition

- 2002 AG 21
  - Federal law (the Communications Act of 1934) prohibits a municipality from unreasonably refusing to grant a competitive franchise.
  - The Oklahoma Constitution (Art. XVIII, § 5(a)) requires a municipality to deny a franchise if the voters disapprove the franchise for any reason.

- Art. XVIII, § 5(a) is <u>preempted</u> by the federal law.

2002 U.S. District Court for Northern District of Oklahoma opinion

- Oklahoma Constitution is preempted by federal law to the extent it conditions the renewal of a cable franchise upon a vote of the electors of a municipality.

2006 Oklahoma Attorney General Opinion

- Oklahoma Constitution, Art. IX, § 2 grants telephone companies statewide authority to construct and operate lines to provide their services.

- Telephone companies are <u>not</u> required to obtain municipal franchise agreements prior to using telephone lines to provide television service.

Effect of regulatory changes

- Local regulatory control de-emphasized.
- Federal law controls.
- Competition encouraged.

AT&T Agreement

– 5-year contract / 5% fee.

– “Capacity” for 6 PEG channels.

– No production of City meetings.

– No public access channel.

– No reporting requirements.

Cox Contract

- 5-year contract / 5% fee.
- Provide 4 PEG channels.
- No Cox production of City meetings, events.
- City responsible for infrastructure to provide programming for public channel.

BluePeak

Offers to provide access channels comparable to other agreements (OU, NPS and City all have both channels and one subscription to BluePeak programming)

Same percentage (5%) of profits as other agreements with same definition of gross profits

Agrees to not limit access to services within its service area and to charge the same rates to all subscribers

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