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NEW IRS UTILITY ALLOWANCE REGULATIONS HELP PRESERVE VIABILITY OF AFFORDABLE HOUSING  
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WASHINGTON, DC - The Internal Revenue Service has published long-awaited regulations changing the way rents are adjusted on Low-Income Housing Tax Credit

(LIHTC) properties where residents pay for their own utilities. The National Multi Housing Council/National Apartment Association (NMHC/NAA) Joint Legislative Program led an industry coalition that has sought these important changes since 2004.

"These new regulations should solve a critical problem that was threatening to make a large inventory of the nation's affordable housing financial unstable," said David Cardwell, NMHC/NAA Vice President of Capital Markets.

"Properties built under the LIHTC program have limits on the rents they can charge in order to keep them affordable," explained Cardwell. "Those rents are further reduced when the resident pays their own utility costs, but the rent reductions are not based on the renter's actual utility costs. Instead, they were based on a flawed estimating process that looked at utility costs for older public housing properties. These estimates tended to overestimate the utility costs in newer, more efficient tax credit properties, which, in turn, unfairly reduced the rent received by owners."

"These lower rent levels were making it difficult--and sometimes impossible--for property owners to maintain and operate their properties and cover their mortgages," said Cardwell.

The new regulations, which largely mirror a proposal submitted to the IRS by the NMHC/NAA-led coalition, increase the sources of data that owners can use to calculate resident-paid utilities to make them more accurate.

The new rules also allow owners to use utility estimates provided by state LIHTC allocating agencies (typically state housing finance agencies) and estimates produced by a new HUD utility modeling program. Thanks to NMHC/NAA comments and testimony, the final version also allows owners to seek certified engineering studies to estimate utilities and it allows such models to include water and sewer costs; these provisions were not included in an earlier proposed version of the rules.

In addition to the procedures to set utility adjustments, NMHC/NAA secured a provision to allow properties to obtain a stabilized occupancy before rents are adjusted at newly developed properties. The provision sought by NMHC/NAA would require rents to remain unadjusted for a period of one year, or until the property has achieved 90 percent occupancy for 90 consecutive days, whichever comes first. The final regulations are posted at [www.nmhc.org/goto/4821](http://www.nmhc.org/goto/4821).

"These regulations are a win-win for affordable housing providers and renters in

need of affordable housing," said Cardwell. "By helping to ensure the financial viability of these properties, the rules preserve a critical source of affordable housing."

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About NMHC/NAA

NMHC and NAA operate a Joint Legislative Program and represent the nation's leading firms participating in the multifamily rental housing industry. NMHC/NAA's combined memberships are engaged in all aspects of the development and operation of apartment communities, including ownership, construction, finance and management. Together, the organizations operate a federal legislative program and provide a unified voice for the private apartment industry. Nearly one-third of Americans rent their housing, and more than 14 percent of all U.S. households live in an apartment home. For more information, contact NMHC at 202/974-2300, e-mail the Council at [info@nmhc.org](mailto:info@nmhc.org), or visit NMHC's web site at [www.nmhc.org](http://www.nmhc.org).