

Commissioner Chandler Henry moved adoption
of the following resolution:

**EAGLE COUNTY HOUSING AND DEVELOPMENT AUTHORITY
COUNTY OF EAGLE, STATE OF COLORADO**

RESOLUTION NO. 2021- 043

**RESOLUTION ESTABLISHING A POLICY FOR PARTICIPATION BY THE EAGLE
COUNTY HOUSING AND DEVELOPMENT AUTHORITY IN A PARTNERSHIP TO
EFFECTUATE A TAX EXEMPTION PURSUANT TO STATE LAW**

WHEREAS, Eagle County desires to assist in increasing the supply of affordable housing and rental housing that is affordable to persons of low income who live and work in Eagle County; and

WHEREAS, an Eagle County Housing Needs Assessment Update was completed in 2018, which indicated that 7,970 affordable housing units will be needed to keep up with the demand for affordable housing units in Eagle County by the year 2030; and

WHEREAS, over 48% of renters in Eagle County are cost burdened and pay more than 30% of their income towards housing, making it difficult for those households to pay for other necessities, like food, utilities, transportation, and health care; and

WHEREAS, Eagle County's real estate market is outpacing income gains, since 2007, median household income has increased by 6% while rental rates have increased by 48%; and

WHEREAS, Eagle County recognizes that rental housing affordable to persons of low income is a valuable community resource often requiring partnership or a subsidy to create true affordability; and

WHEREAS, Colorado Revised Statutes ("C.R.S.") Section 29-4-227 provides for a tax exemption from both property tax and, during construction, sales and use tax, for any project that is owned by, leased to or under construction by an entity that is wholly owned by a housing authority, an entity in which a housing authority has an ownership interest, or an entity in which an entity wholly owned by an authority or of which an authority is the sole member has an ownership interest, in proportion to the percentage of the project that is for occupancy by persons of low income; and

WHEREAS, the Eagle County Housing and Development Authority ("ECHDA") receives requests from time to time from developers who desire for the ECHDA to partner with them in the development of a rental housing project in order to effectuate a tax exemption pursuant to C.R.S. Section 29-4-227; and

WHEREAS, the phrase "persons of low income" is not specifically defined in state

statute; however, C.R.S. Section 29-4-210(a) refers to persons of low income as persons receiving income less than the incomes, which, according to the determination of the housing authority, persons must receive to enable them to pay the rent necessary to secure safe and sanitary dwelling unit accommodations within the boundaries of the housing authority; and

WHEREAS, the ECHDA desires to establish a definition of the phrase “persons of low income” for use in evaluating the nature of the housing proposed for a tax exemption under C.R.S. Section 9-4-227 and to adopt a policy establishing the criteria to be considered by the ECHDA in determining whether to participate in a partnership for the development of rental housing in order to effectuate a tax exemption for the percentage of the project that is for occupancy by persons of low income (the “Policy”).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE EAGLE COUNTY HOUSING AND DEVELOPMENT AUTHORITY, COUNTY OF EAGLE, STATE OF COLORADO:

THAT, the ECHDA hereby establishes a definition of the phrase “persons of low income” for use in evaluating the nature of the housing proposed for a tax exemption under C.R.S. 29-4-227. For purposes of this Policy, “persons of low income” shall mean households in Eagle County with incomes at or below one hundred percent (100%) of Area Median Income based on data provided by the Department of Housing and Urban Development, or equivalent, updated on an annual basis.

THAT, the ECHDA hereby establishes the following criteria, as may be amended from time to time by the ECHDA in its sole discretion, for evaluation of requests for approval of a public private partnerships with the ECHDA for the purpose of effectuating a tax exemption pursuant to C.R.S. 29-4-227 for the percentage of the project that is for occupancy by persons of low income.

A proposed project must meet the following criteria in order to be considered by the ECHDA for a partnership (“Partnership”):

1. The project shall consist of rental apartment units.
2. A portion of the units in the project shall be subject to a permanent deed restriction or land use restriction agreement restricting rental rates at or below 100% Area Median Income. The percentage of units eligible for the tax exemption must be determined at the time the Partnership is formalized.
3. The project shall be located within the jurisdictional boundaries of the ECHDA; or be located in a jurisdiction that does not have a housing authority; or be located in a jurisdiction that has a housing authority that is interested in joining or cooperating with the ECHDA in support of the project.
4. The project exceeds the recommended mitigation rate set forth in the Eagle County Affordable Housing Guidelines by at least 50%.
5. The project is not financially feasible without the participation of the ECHDA. ECHDA will not participate in a project merely to increase the developer’s profit margin. The

developer must demonstrate to the satisfaction of the ECHDA that it has a funding gap that can be filled by the requested tax exemption.

6. The project includes a limited term partnership with a tax exemption not to exceed 15 years except as may be approved by the ECHDA Board in its sole discretion;
7. The project includes a water efficiency plan.
8. Other factors deemed relevant by the ECHDA in its sole discretion.

Procedure for Partnership Selection:

1. A developer must submit a complete application to the ECHDA Executive Director, together with a non refundable application fee to reimburse ECHDA for review and analysis of the application. The application shall include:
 - a. a narrative of the project, including number of units, property address, number of phases, AMI levels; units mixes, income restrictions and rental rate projections;
 - b. first-year operating expenses and revenues;
 - c. detailed 15-year pro forma;
 - d. developer compensation structure;
 - e. development funding sources and uses budget;
 - f. developer audited financial statements for at a minimum of the past two years;
 - g. statement regarding whether the developer and related entities are involved in or would have reason to believe they will be involved in litigation. Comparable information may be accepted by the ECHDA in its sole discretion;
 - h. conceptual site plan;
 - i. list of references for similar projects;
 - j. list of intended partners, including, but not limited to, contractor, architect, legal, property management and financing.
2. ECHDA staff will perform an initial review and evaluation of the participation application. Based on a review of the above criteria, staff will forward the proposal to the ECHDA Board with recommendations regarding approval or denial of the application or continuing analysis. It is recommended that developers contact the ECHDA Executive Director prior to submitting a participation application to assess merits and alignment with the Eagle County Affordable Housing Guidelines and mission.
3. The approval of a request for a tax exemption and the ECHDA's participation in a partnership for purposes of effectuating a tax exemption pursuant to C.R.S. 29-4-227 shall be made by the ECHDA in a public meeting. Upon approval of participation, the ECHDA reserves the right to require financial compensation for administrative costs, including reimbursements of attorneys fees for review and preparation of partnership and other related services, management fees, compliance and reporting.

THAT, the ECHDA, through its Executive Director, may provide a letter of support for an application for rental projects through the Low Income Housing Tax Credit (LIHTC) program because the qualifications for this program align with the tax exemption criteria set forth above as AMI is generally capped at 60%; and

THAT, the Board hereby finds, determines and declares that this Resolution is necessary for the health, safety and welfare of the citizens of Eagle County.

MOVED, READ AND ADOPTED by the Board of the Eagle County Housing and Development Authority, County of Eagle, State of Colorado, at its regular meeting held this 13 day of July, 2021.



EAGLE COUNTY HOUSING AND DEVELOPMENT AUTHORITY

ATTEST:

BY:

DocuSigned by:
Regina O'Brien
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Clerk to the Board of
County Commissioners

BY:

DocuSigned by:
Matt Scherr
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Matt Scherr
Chair

BY:

DocuSigned by:
Jeanne McQueeney
Jeanne McQueeney
Commissioner

BY:

DocuSigned by:
Kathy Chandler-Henry
Kathy Chandler-Henry
Commissioner

Commissioner McQueeney seconded adoption of the foregoing resolution. The roll having been called, the vote was as follows:

- Commissioner Scherr
- Commissioner McQueeney
- Commissioner Chandler-Henry

This Resolution passed by 3/0 vote of the Eagle County Housing and Development Authority.