

## **RULES AND REGULATIONS - PROPERTY TAX CREDITS**

### **HIGH-PERFORMANCE MARKET-RATE RENTAL HOUSING – TARGETED AREAS**

ADOPTED UNDER THE AUTHORITY OF ARTICLE 28, SECTION 10-17  
of the Baltimore City Code

#### **1.0. Background**

The City's High-Performance Market-Rate Rental Housing Property Tax Credit is found in Section 10-17 of Article 28 of the Baltimore City Code and was enacted in response to the passage of State legislation which created Subsection 9-242 of the State Tax-Property Article. Subsection 9-242 states that:

“The Mayor and City Council of Baltimore City may grant, by law, a tax credit against the property tax imposed on a high performance building.”

The City Council Bill providing for Section 10-17 was proposed and passed for the purpose of providing real property tax credits for certain newly constructed or converted high-performance market-rate rental housing projects in certain areas of the City.

#### **2.0. The Credit**

The High-Performance Market-Rate Rental Housing – Targeted Areas Property Tax Credit provides a credit against the tax imposed on the increased value of real property, within specific geographic boundaries, due to improvements that were made to the property immediately before the final occupancy permit was issued. This credit begins at 100% of the tax imposed on that value in the first year of eligibility and decreases per the schedule below for a total of fifteen years. The property no longer qualifies for a High-Performance Market-Rate Rental Housing Property Tax Credit in the fifteenth taxable year after the first year of eligibility, and every year thereafter, or sooner if continuing eligibility requirements are not met.

#### **3.0. Eligibility**

##### **Who is Eligible?**

Property owners qualify for the tax credit by constructing a multi-family dwelling with fifty (50) or more new, high-performance, market-rate rental housing units; in specific geographic areas; in compliance with the code and laws applied to dwellings; and receiving high performance certification from the Baltimore City Department of Housing and Community Development.

**What Properties are Eligible?**

In order to be eligible, properties must:

- (1) be a newly constructed or converted building;
- (2) be located within the boundaries/areas specified in Article 28, Section 10-17, Subsection (e) of the Baltimore City Code;
- (3) contain 50 or more residential rental units;
- (4) contain no units subject to governmental restrictions on the amount of rent charged or on the tenant's income level except those specifically required of that property by the Baltimore City Inclusionary Housing Program;
- (5) have construction or conversion costs exceeding \$60,000 per rental unit;
- (6) receive a first occupancy permit following the construction or conversion that is issued after January 1, 2013; and,
- (7) achieve a minimum of LEED Silver certification, the Baltimore City Green Building Code Standard Two Green Star rating, or any comparable alternative standard approved by the State of Maryland.

**Permits and Certifications Required**

All final applications for the High-Performance Market-Rate Rental Housing Property Tax Credit must be accompanied by a copy of the final occupancy permit issued for the property after construction/conversion was completed, copies of any building permits issued during the construction/conversion of the property, and the appropriate high performance certification from the Baltimore City Department of Housing.

**When are Properties Eligible?**

A property that meets the eligibility criteria becomes eligible for the credit with the first tax bill issued after the issuance of a final occupancy permit for the completed project. The occupancy permit must be issued after January 1, 2013.

The credit shall not be awarded until all of the eligibility criteria have been met, including the issuance of a final occupancy permit for the completed project. While the award of any tax credit issued under City Code Article 28, Section 10-17 is dependent upon the subject property obtaining a high performance certification, once such a certification is obtained credits will be applied to the first real property tax bill issued following the issuance of a final occupancy permit for the completed project and any subsequent real property tax bills issued within the eligibility period. Prior to the issuance of a credit, the property owner is liable for all taxes due and all tax bills should be paid in a timely manner in order to avoid interest, penalties, and the potential entrance of the property into tax sale.

Properties remain eligible for the credit, in amounts specified by the terms below and when in accordance with the continuing eligibility criteria outlined below, for a period of fifteen (15) consecutive tax years, beginning with the first tax year in which the property receives a tax bill after an occupancy permit is issued for the completed project, regardless of whether that tax bill is for a full year or a partial year. If the first tax bill that a property receives after the issuance of an occupancy permit for the completed

project is a partial year bill, the property is entitled to the full amount of the credit calculated applied to all tax bills received in that tax year, up to, but not to exceed, the amount of property tax imposed on the property in that year.

Initial applications will not be accepted after the final application acceptance date specified for this credit in the Baltimore City Code. Initial applications will not be accepted unless a permit associated with the project has been issued by the City of Baltimore for the property for which the credit is sought.

All projects, regardless of application date, must begin construction no later than January 31, 2018 and must be completed, and have received a final occupancy permit for all residential units, by December 31, 2019.

Any project that will fail to complete all residential units and receive a final occupancy permit by December 31, 2019, for any reason whatsoever, may request a one-time extension of the deadline for completion if the following criteria are met:

- 1) At least 25 residential units have been completed and received use permits;
- 2) The project has an inclusionary housing plan or waiver approved by the Department of Housing and Community Development; and
- 3) The project submits a written request for an extension to the Department of Finance, prior to December 31, 2019, which includes the reason the project is not complete as well as evidence of items 1 and 2 above.

Any project submitting a timely request for extension, accompanied by the information required above, shall be granted an extension to December 31, 2020 in order to complete the project and obtain final occupancy permits for all residential units. Such an extension shall only be granted once and shall not, under any circumstances, extend the deadline for completion beyond December 31, 2020.

**How much Credit is a Property Eligible for?**

The High-Performance Market-Rate Rental Housing Property Tax Credit applies to Baltimore City Real Property Taxes only.

The amount of the High-Performance Market-Rate Rental Housing Property Tax Credit is based on the increase in the full cash value of real property due to improvements that were made to the property immediately before the final occupancy permit was issued, and cannot exceed this amount. The calculation of this increase in value is as follows:

- 1) If the property is still in the assessment cycle of the first assessment of the completed project following the issuance of an occupancy permit, the difference between the property tax liability that, but for the tax credit, is owed in the current year of the assessment cycle, and the total property tax liability on the assessed value of the property prior to the commencement of the project; or

- 2) If the property is no longer in the assessment cycle of the first assessment of the completed project following the issuance of an occupancy permit, the difference between the property tax liability that, but for the tax credit, was owed in the final year of that assessment cycle, and the total property tax liability on the assessed value of the property prior to the commencement of the project.

. The actual credit applied to the real property tax bill for the property is equal to:

- 100% of this value in years 1 and 2;
- 80% of this value in years 3, 4, and 5;
- 70% of this value in year 6;
- 60% of this value in year 7;
- 50% of this value in years 8, 9, and 10;
- 40% of this value in year 11;
- 30% of this value in year 12; and
- 20% of this value in years 13, 14, and 15.

At no time will this credit, alone or in combination with the Enterprise Zone Tax Credit, exceed the amount of the property tax imposed on the property.

#### **4.0. Applications**

The application process is a three step process that begins prior to the start of construction and does not end until the property is reassessed and a final occupancy permit is issued following the completion of the project. Applications at all stages of the process should be submitted in a timely manner as noted on the application, must be in the format provided by the Department of Finance, and must be complete. No credit will be granted until all stages of the application have been completed, submitted to, and reviewed by the Department of Finance.

##### **- Initial Application**

Prior to the initiation of construction, the initial application should be completed, submitted to, and received by, the Department of Finance. The initial application must be completed, submitted to, and received by, the Department of Finance no later than 30 days after the issuance of the first construction permit associated with the project. Failure to notify the Department of Housing and Community Development of a project's planned "high performance" status prior to the initiation of construction may significantly delay final certification and receipt of this tax credit.

This Initial Application shall contain:

- 1) The estimated date on which construction of the project will begin;
- 2) The estimated completion date for the project;
- 3) Copies of plans for the project that have been submitted to the Department of Housing and Community Development;

- 4) A fiscal impact statement for the project, which shall include, at the minimum, the number of new dwellings being created, the number of construction and permanent jobs that the project will support, and an estimate of the impact the project will have on the City's tax base;
- 5) Photographs of the property, both exterior and interior when appropriate, prior to the initiation of the project construction; and
- 6) An initial estimate of the monthly lease costs for the dwelling units being constructed, by square footage with the number of bedrooms and bathrooms provided.

This initial application will be supplemented by a notification of the initiation of construction that specifies the date when actual work on the property began. This supplemental notification should be sent to the Department of Finance no later than 30 days following the actual initiation of construction.

**Initial applications will not be accepted after the final application acceptance date specified for this credit in the Baltimore City Code.**

**- Application upon Completion**

Following the issuance of a final permit for use and occupancy, the property owner should submit the second stage of the application, accompanied by a copy of the final use and occupancy permit. This portion of the application process will also require the property owner to submit the following:

- 1) Details regarding, and supporting documentation for, the actual cost of the improvements to the property so that it can be determined if the cost of construction equaled at least \$60,000 per unit as required by law;
- 2) Photographs of the interior and exterior of the finished project as well as any final plans that do not match the original plans submitted; and
- 3) A listing of the actual monthly lease costs for the units constructed, listed by square footage with the number of bedrooms and bathrooms provided.

Once the required documents have been provided, the Application upon Completion should be submitted. The Application upon Completion must be submitted no later than 90 days after the issuance of the final use and occupancy permit for the property.

**- Final Application**

As the property will not be eligible for the credit until all of the criteria for eligibility have been met and the property has been reassessed, the property owner must submit to the Department of Finance with the final application the following:

- 1) A copy of the reassessment notice for the first reassessment occurring after the project is completed;
- 2) A signed statement that all taxes, fees, and charges due to the City on accounts associated with the property for which the credit is being sought are current upon the date of submission of the Final Application;

- 3) A copy of the high-performance certification for the property, to include both the scorecard prepared by the property owner's consultant and the approval letter from the Department of Housing and Community Development;
- 4) A letter from the Department of Housing and Community Development stating that the property:
  - a) Has met the requirements of the Inclusionary Housing program;
  - b) Has received a waiver from the requirements of the Inclusionary Housing program; or
  - c) Does not fall under the scope of the Inclusionary Housing program; and
- 5) A copy of an email to the Office of Sustainability that includes all of the attachments to all of the phases of the application for this tax credit.

Once all of the required documents have been provided and the Final Application has been submitted, the entire application will be considered closed and no future changes will be accepted. Accordingly, any changes to previously submitted information must be made prior to submission of the Final Application.

**- Transfer Application**

The credit is transferable to subsequent owners throughout the life of the credit. However, the transferee must file a transfer application detailing the sale of the property and providing certain information on the current condition of the property, including the current vacancy rate. Additionally, the transferee is responsible for paying any transfer or other fee approved by the Board of Estimates.

**Where to Apply**

All applications shall be submitted electronically via the Baltimore City Department of Finance's Automated Tax Credit Application System (hereinafter "the System"). This system can be accessed via the internet at the following url:

<https://propertytaxcredits.baltimorecity.gov>

All applicants will need to register with the system and create an account that will be used to grant access to the application system and may be used to apply for this and other tax credits for the property.

No applications or required documents shall be accepted in paper form. The City of Baltimore shall not be responsible for any connectivity issues experienced by the applicant, nor for any issues beyond the control of the City of Baltimore's Department of Finance.

**Application Fees**

Applicable application fees must be paid to the Department of Finance prior to application and proof of payment must be attached to the application. The application fees for both initial applications and transfer applications are those approved by the Board of Estimates. All application fees should be sent to the following address:

Baltimore City Department of Finance  
Bureau of Budget and Management Research  
Attn: Director of Revenue and Tax Analysis  
100 N. Holliday Street  
Baltimore, MD 21202

**5.0. Transferability**

The High-Performance Market-Rate Rental Housing Property Tax Credit is granted to the owner of the property starting with the first reassessment following completion of the project. The credit is transferable to subsequent owners throughout the life of the credit. However, the transferee must file a transfer application detailing the sale of the property and providing certain information on the current condition of the property, including the current vacancy rate. Additionally, the transferee is responsible for paying any transfer or other fee approved by the Board of Estimates.

**6.0 Continuing Eligibility**

The property owner shall insure that, during the credit period for the High-Performance Market-Rate Rental Housing Property Tax Credit, the property for which the credit was granted meets the following criteria:

- is in full compliance with the building, fire, and related codes of Baltimore City;
- maintains its high-performance rating, and;
- continues to be used for market-rate rental housing.

**Three Year Report**

Three years from the date a final application is accepted, the owner must submit statements of actual economic impact and public benefits for the project. Public benefit measures include neighborhood revitalization impact, job creation, tax generation, and minority and women-owned business development.

**Findings of Ineligibility**

If a property receiving the credit is found to no longer meet the continuing eligibility requirements of the credit, the credit will be removed from the property's account and may not be reinstated until the eligibility issue has been remedied and the property has been eligible for the credit for one full tax year following the finding of ineligibility. Findings of ineligibility, and the resulting year or years in which the credit is not received

shall have no effect on the eligibility term of the credit. This term shall remain the same 15 consecutive tax years, beginning with the tax year in which the property is issued the first tax bill following receipt of a final occupancy permit for the completed project, regardless of any ineligibility found during that period.

**7.0. Effect of Other Property Tax Credits**

The High-Performance Market-Rate Rental Housing Property Tax Credit may not be used on a property for which any other tax subsidy from the City, whether in the form of a tax credit, payment in lieu of taxes (PILOT), tax incremental financing (TIF), or otherwise is being received or has been applied for. Notwithstanding this limitation, the property may receive Maryland State Enterprise Zone Tax Credits on non-residential portions of the multi-family dwelling structure, provided that these portions of the property are removed from the calculation of the High-Performance Market-Rate Rental Housing Property Tax Credit.

**8.0 False Statements**

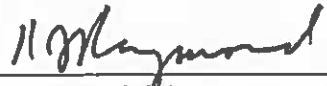
Applicants found to have mistakenly included false statements on applications for the High-Performance Market-Rate Rental Housing Property Tax Credit will be subject to the correction of any erroneously awarded credit amount in the event that the credit granted exceeded the amount the applicant was actually entitled to.

Applicants found to have intentionally included false statements on applications for the High-Performance Market-Rate Rental Housing Property Tax Credit will be subject to the permanent removal of the credit and will be liable for any credit amounts previously awarded, as well as all back taxes due with penalties and interest.

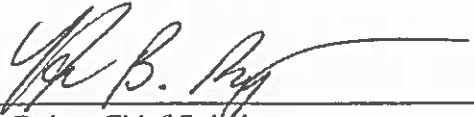


These rules and regulations are effective this day of 3/31/17 and have been filed with the City of Baltimore Department of Legislative Reference.

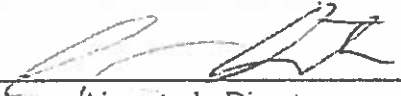
Issued and Approved:

  
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Henry Raymond, Director  
Department of Finance

3/31/17  
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Date

  
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Hilary Ruley, Chief Solicitor  
Law Department

3/28/17  
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Date

  
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Avery Aisenstark, Director  
Legislative Reference

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