

TACDC Policy Priorities

Issue: *Protecting the Non-Profit Affordable Housing Property Tax Exemption*

Recommendations

- 1. Provide Technical Assistance To CDCs And Taxing Jurisdictions To Ensure Appropriate Use Of Exemption.*
- 2. Investigate Possibilities For Creating Locally Approved Full Property Tax Exemption For CDCs While Maintaining Current Tax Exemption As A Base Level Exemption.*
- 3. Protect Current Levels Of Tax Exemption For Affordable Housing.*
- 4. Increase Exemption For Single Family Developments To 100 Percent when politically feasible.**

Background of the Exemption

Since the 75th Texas Legislature, the State of Texas has provided an exemption from ad valorem property taxes for affordable housing property developed by community housing development organizations (CHDOs), and land acquired by CHDOs for development of affordable housing.

In response to the large number of CHDOs that began to use the exemption without substantially improving the housing capacity of their community, the 77th Texas Legislature refined the qualifications for participating CHDOs. HB 3383, authored by Rep. Yvonne Davis (D-Dallas), required CHDOs to devote specified percentages of the tax exemption to activities other than debt service in order to be eligible for the exemption in the subsequent year. For multi-family properties with more than 36 dwellings, 40% of the tax exemption must be used for services, capital improvements, or rent reduction. For properties financed with tax-exempt bonds or low income housing tax credits, 90% of cash flow from the property had to be used for services, rent reduction, or capital improvements. HB 3383 required CHDOs to reinvest a significant portion of the tax exemption in the community. This change addressed some of the need to prevent resources from leaving the community via the tax exemption.

To further combat perceived abuses to the tax exemption law, the Texas Legislature further amended the tax exemption in 2003. The new tax exemption law only allows a 50% tax exemption for individually qualifying properties and removes the CHDO designation for the qualifying non-profit organization. Currently, the entity only has to be a non-profit organization that has existed for three years or more, meet minimal board requirements, and file an annual audit to comply with the new exemption. The audit is to

ensure that 50% of the units are affordable to people earning 60% of local AMFI. For rehabilitation projects, the property needs to be at least 10 years old and have been owned by the seller for at least 5 years. For both new and older properties earning the new exemption, an annual reserve account must be held to ensure upkeep of the property. For properties in counties with over 1.4 million in population, the non-profit must seek an exemption from each taxing jurisdiction. Accordingly, each taxing jurisdiction may opt-out of granting the exemption or provide an exemption up to 50 percent.

The Need for the Exemption

The tax exemption for affordable housing is an extremely efficient tool for local governments because of the degree to which the spending is leveraged. A 2004 TACDC survey of 267 multifamily properties using the property tax exemption during 2003 reports for each dollar of tax revenue exempted, the nonprofits provide more than \$4.60 in affordable housing and services. The nonprofits that responded operate over 7,000 units of affordable housing. Almost half of this housing is affordable to households with less than 50% of the area median income. A multitude of services are provided for low-income tenants, including computer labs, IDA accounts, childcare, and financial literacy classes.

Properties that qualify for the exemption will return more to the community than the amount by which tax revenues decrease. Typically the affordable housing developers provide services that many communities are unable to offer. In addition to units of affordable housing, organizations receiving the exemption provide social services that are of value to low-income residents. The presence of a successful affordable housing property in a less privileged community can act as a stabilizer for surrounding properties, so that the tax exemption can actually add to the strength of the tax base.

Recommendations

- 1. Provide Technical Assistance To CDCs And Taxing Jurisdictions To Ensure Appropriate Use Of Exemption.*

A brief and informal survey of appraisal districts has revealed misunderstandings about the new law governing the affordable property tax exemption. It is in the best interest of CDCs, appraisal districts, and taxing jurisdictions to fully understand the new law and comply with the tax exemption law. Where needed, TACDC will facilitate a better understanding of the new rules of the exemption for all interested parties and will encourage our CDC members to utilize the exemption where applicable.

- 2. Investigate Possibilities For Creating Locally Approved Full Property Tax Exemption For CDCs While Maintaining Current Tax Exemption As A Base Level Exemption.*

A few appraisal districts have been interested to know if they could provide the full 100% property tax exemption to CDCs in light of the new tax exemption. TACDC

recommends investigating the possibility of creating a local option for providing 100% tax exemption for CDCs or other locally approved housing providers while maintaining the current 50% tax exemption for areas that do not wish to offer a greater exemption.

3. Protect Current Levels Of Tax Exemption For Affordable Housing.

During the 78th Legislature, TACDC worked with all interested parties to craft language to minimize the levy loss on taxing jurisdictions while still ensuring that non-profit organizations had access to a partial tax exemption. TACDC calls on the Texas Legislature to allow time for the new law to take effect and for appraisal districts, taxing jurisdictions, and nonprofits to become familiar with utilizing the current law and its requirements. TACDC successfully defended the tax exemption in the 79th Legislature and will work with elected officials to address their concerns and to protect the interests of CDCs.

4. Increase Exemption For Single Family Developments To 100 Percent when politically feasible.*

During the 78th Legislature, the tax exemption for all non-profit affordable housing, including single family, was reduced to 50 percent. In researching uses and abuses of the tax exemption, the overwhelming majority of abuse occurred in multifamily affordable housing units and not in single-family production. Single family affordable housing developers have felt the effects of the reduction in tax exemption as they must now pay half of the taxes on the property that is being developed and pass that tax burden on to the homebuyer at the time of closing. TACDC will seek to raise the tax exemption for single-family homeownership properties back to 100% when it is politically feasible to do so without harming the non-profit tax exemption as a whole.

