

**Approved at March 5, 2015 Policy Committee**

**County-Wide IDA Eligibility Policy – Market Rate Senior Housing**

**Policy Options Regarding For-Profit Market Rate Senior Housing**

**Purpose:** To establish and clarify the ECIDA policy regarding the provision of incentives for market rate for-profit senior housing projects.

**Current Policy:** Current ECIDA Policy regarding market rate for-profit senior housing is to consider these projects under the general commercial project interpretation that defines residential rentals as a commercial activity. By way of background, New York General Municipal Law (GML) Section 854 defines "project" to include "commercial" facilities. The term "commercial" is not defined, but has been interpreted to be limited to for-profit projects. In 1985, the Office of the New York State Comptroller ("OSC") was asked whether the construction of an apartment complex where apartment units would be rented and not sold as a condominium or co-op, constituted a "commercial" project within the meaning of the GML and thereby a proper project for IDA assistance (OSC Opinion 85-51). This opinion provides that, in order to qualify as a commercial activity, and therefore a permissible project, a project should be one that promotes employment opportunities and prevents economic deterioration in the area served by the IDA. The opinion further provides that the determination of whether the construction of an apartment complex qualifies as "commercial" in the context of the GML must be made by local officials (IDA board members) based upon all the relevant facts.

**State Law issues / requirements:** NYS state law formerly had a provision regarding Senior Housing that was specific to not-for-profit senior housing facilities and was contained in the Civic Facilities section of the state law, which has since expired. It permitted IDA support for senior not-for-profit housing projects but provided very little guidance as to the nature of the facilities, wealth of residents, or rental costs but only required that the residents be 60 years of age or older, and allowed for the tax exempt bond financing of projects. This legislation referenced negative fiscal effects of losing seniors to other states as a result of a lack of senior specific housing.

**Background:** It has long been accepted as good public policy, for social, community and economic reasons, that senior citizens remain in their home communities rather than relocate in their retirement years to other locales. As a result, state and local policy in different ways over the years has attempted to incentivize retention of senior citizens.

For this reason the IDAs in Erie County have in the past considered and in some instances approved inducements for senior market rate rental housing as a commercial project under two distinct circumstances- Adaptive Reuse projects and Senior Housing Projects as defined under the old Civic Facility definition. Due to the sunset of Civic Facilities provisions, the policy and practice is in need of reconsideration.

As a result, in late 2011 the ECIDA and Amherst IDA commissioned the UB Regional Institute to study the market factors in Erie County relating to senior housing, in order to inform the agency's policy consideration. The study was completed in 2012<sup>1</sup>.

#### Study Findings:

- Market-rate rentals represent a small share of housing for seniors, about 1/3 of all senior apartments and about 3 percent of all senior households;
- 2/3 of market-rate senior units are located in Erie County's inner-ring suburbs;
- Subsidized senior housing units have significant waiting lists, while there are handful of market rate complexes reporting sizable waiting lists;
- Overall demand for senior housing is not anticipated to increase above current levels until after 2030;
- Only a small amount of seniors migrate out of Erie County annually, about 1 %, and an even smaller fraction indicate housing availability as a reason;
- Overall economic impact of retaining more seniors through the provision of more housing will likely be slight until after 2030, after which demand for this housing is anticipated to grow.

**Policy Discussion:** A major conclusion of the study was that the availability of market rate rental senior citizen housing in Erie County is not a major factor in the location or relocation decisions of seniors to leave the area. Thus, public subsidies to incentivize more market rate senior citizen rental housing would not have a significant positive impact on regional wealth or the economy.

Absent the regional economic justification for providing support for the retention of seniors in the area, members from all IDA's in Erie County are reconsidering the justification for incentives for market rate rental senior facilities. A number of important factors emerged as key policy considerations. These considerations include:

- The social and economic value to communities and to seniors if seniors are able to remain in or near their home community when they relocate to senior housing;
- The social policy of providing high quality living opportunities to seniors who are above the poverty level but have relatively modest income and wealth;
- The projected growth of the Erie County senior population will strain the existing supply of senior citizen housing particularly since many seniors plan to remain in Erie County,
- The role of rental senior housing in reviving abandoned or underutilized buildings in city, town and village centers through the adaptive reuse process where walkable communities can be created or strengthened through the introduction of senior housing;
- The difficulty in locating senior citizen facilities in many of Erie County's smaller communities due to their small population base and the absence of economies of scale in such senior citizen projects.

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<sup>1</sup> Market Demand for Senior Rental Housing in Erie County, by the University of Buffalo Regional Institute and the Urban Design Project, School of Architecture and Planning, The State University of New York, September 2012.

**ECIDA Policy Considerations:**

ECIDA support can be provided for market-rate rental senior housing projects because there is public benefit to providing incentives for these projects that is not focused solely or primarily on long-term permanent employment opportunities. However, it is not appropriate or the intention of an ECIDA to subsidize activities that the private market can bear, such as affluent senior housing, or projects where the likely return on investment will be sufficient to obtain the capital needed to construct and operate the project without an ECIDA inducement.

Consideration will be given to desirable projects that would not proceed without an inducement with special emphasis placed upon projects that:

- face development obstacles,
- have documented unique costs, or
- advance or address a larger community need.

**Adaptive Reuse, Life Care Communities and Low Income Senior Citizen Housing**

ECIDA support for projects that demonstrate Smart Growth principles continues to be an important policy consideration for the redevelopment of our city, town, village and neighborhood centers. The redevelopment of abandoned, blighted sites and structures through the current Uniform Tax Exemption Policy’s Adaptive Reuse provisions should remain a priority and continue to allow for the eligibility of market rate senior rental housing projects. These projects, even if such project contain senior citizen rental components would continue to be eligible through the Adaptive Reuse eligibility provisions as a commercial activity under current agency practices. Adaptive Reuse projects will not be subject to the additional senior citizen rental project criteria as defined below.

Life Care Communities and Low Income Senior Citizen projects are not covered by this policy. Both of these types of projects are authorized by other sections of state law.

**ECIDA Market Rate Rental Senior Citizen Housing Policy**

For purposes of eligibility, “Senior Rental Housing” is defined as a multi-family housing structure where at least 90% of the units are rented to and occupied by a person who is 60 years of age or older. No benefits will be provided for units that are not available for rent as a Senior Rental Housing.

Market rate senior housing projects approved by ECIDA are eligible for a PILOT the equivalent of the 485(b) property tax incentive that includes all taxing jurisdictions, a sales tax exemption on equipment and construction materials, and a mortgage recording tax exemption. An enhanced or custom PILOT may be considered for certain small scale projects where a particular need is being filled in a small village or town that does not contain alternative senior citizen housing and where the local taxing jurisdiction has requested the enhanced or custom PILOT and there is a

showing of unmet demand for senior housing within the taxing jurisdictions and no prospect of this demand being satisfied through normal market forces.

Projects will be evaluated under the following criteria:

1. If the project has received written support from the city, town or village government in which it is located;
2. The location of the project with particular emphasis on if the project is located within the town, village or city center or within a recognized hamlet.
3. If the project is consistent with the applicable municipal master plan
4. If the project advances efforts to create walkable neighborhoods and communities for seniors in proximity to important local amenities and services.
5. If an independent market study shows a significant unmet need in the local community or specific neighborhood where seniors are unable to find appropriate housing opportunities.
6. If the project is located in areas of the Community where there are significant local resident populations that are at or below the median income level as defined by a 1- 5 mile radius of the project site.
7. If the project provides amenities that are attractive to seniors and differentiates the project from standard market rate housing apartments including but not limited to:
  - Community rooms, including social/recreational activities
  - In facility senior specific services and amenities
  - Senior oriented fixtures and safety amenities (hand-rails, ramps, elevators, safety devices etc.)
  - Security, call systems
  - On site medical services.
8. Impediments to the ability to conventionally finance the project and the project's rate of return.
9. The project is targeted at and will be at least 50% occupied by senior citizens whose income is at or below 60 to 80% of the median income for Erie County.