

RULES AND REGULATIONS - PROPERTY TAX CREDITS

HIGH-PERFORMANCE MARKET-RATE RENTAL HOUSING – CITYWIDE

ADOPTED UNDER THE AUTHORITY OF ARTICLE 28, SECTION 10-18
of the Baltimore City Code

1.0. Background

The Citywide version of the High-Performance Market-Rate Rental Housing Property Tax Credit is found in Section 10-18 of Article 28 of the Baltimore City Code and was enacted in response to increased demand for apartment units in Baltimore City and the need for an apartment tax credit that was broader than the High-Performance Market-Rate Rental Housing – Targeted Areas tax credit found in Section 10-17 of Article 28.

The City Council Bill providing for Section 10-18 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 throughout the City.

In 2017, a City Council Bill was proposed and passed for the purpose of extending the date for termination of this tax credit program.

In 2019, a City Council Bill was proposed and passed for the purpose of lowering the minimum number of rental units required to be constructed from 20 to 10.

2.0 Definitions

Previously Defined Terms

All terms defined in City Code section 10-18 or State Tax-Property Article section 9-242 retain their provided definitions and nothing contained herein shall be construed to alter any definition provided in those sections.

3.0. The Credit

The High-Performance Market-Rate Rental Housing Property Tax Credit provides a credit against the tax imposed on the increased value of real property due to improvements that were made to the property immediately before the final occupancy permit was issued. This credit begins at 80% of the tax imposed on that value in the first five years of eligibility and decreases per the schedule below for a total of ten years. The property no longer qualifies for a High-Performance Market-Rate Rental Housing Property Tax Credit in the tenth taxable year after the first year of eligibility, and every year thereafter, or sooner if continuing eligibility requirements are not met.

4.0. Eligibility

Who is Eligible?

Property owners qualify for the tax credit by constructing a multi-family dwelling with ten (10) or more new, high-performance, market-rate rental housing units; 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, converted, or wholly renovated building;
- (2) contain 10 or more residential rental units;
- (3) 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;
- (4) have construction or conversion costs exceeding \$60,000 per rental unit;
- (5) receive a first occupancy permit following the construction or conversion that is issued after January 1, 2014, and on or before June 30, 2024; and,
- (6) 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 complete 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 and Community Development. Notwithstanding this requirement, an applicant should notify the Department of Finance at Tax.Credits@baltimorecity.gov if the temporary unavailability of any required document is going to delay the application submission beyond the recommended submission date.

When are Properties Eligible?

Prior to the submission of any application, applicants should complete any property modifications involving subdivision of one lot into multiple lots or the consolidation of multiple lots into one lot. Any lot changes made during the application process will render any previously submitted application null and void. Any lot changes made during the term of the credit will result in the immediate revocation of the credit.

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, 2014, and on or before June 30, 2024.

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 10-18 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 ten (10) 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 December 31, 2022.

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 cannot exceed:

- 80% of this value in years 1 through 5;

- 70% of this value in year 6;
- 60% of this value in year 7;
- 50% of this value in year 8;
- 40% of this value in year 9;
- 30% of this value in year 10;
- 0% of this value in years 11 and after.

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.

5.0. 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 and in accordance with the submission recommendations provided in these Rules and Regulations, 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. At the latest, the initial application should 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;
- 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; and

- 7) Certification from the Commission on Historical and Architectural Preservation that the property for which this credit is being sought does not qualify for a credit under Article 28, Section 10-8 of the City Code, or fall under any of the restrictions specifically mentioned in Article 28, Section 10-18(e) of the City Code.

This initial application shall 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.

- Application upon Completion

As soon as is practical 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 should be submitted no later than 90 days after the issuance of the final use and occupancy permit for the property. Additionally, the Application upon Completion should be submitted no later than the last day of the 18th month after submission of the Initial Application.

If a property owner has made substantial progress with a project since the date of the Initial Application, but has been unable to complete the project in the 18 months allotted, the property owner should request an extension of the Initial Application for an additional 18 months. The request must provide why the owner believes that the progress so far is substantial and the reason for the delay. The request must detail what steps the owner intends to take to ensure project completion in the subsequent 18 months. No reasonable request will be denied. However, such a request should be made to the Department of Finance at Tax.Credits@baltimorecity.gov and prior to the initial 18 months allotted. Notwithstanding any extension granted under this paragraph, all Initial Applications for projects which have not received a first occupancy permit following completion of the project on or before June 30, 2024 shall be deemed expired.

- 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. Additionally, any delay in obtaining any of the required documentation that may result in the Final Application being submitted more than 30 days after the submission of the Application Upon Completion should be brought to the attention of the Finance Department as soon as possible via email to: Tax.Credits@baltimorecity.gov

- 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 Online 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 when the initial application is submitted. 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
Office of Fiscal Integrity
Attn: Director of Fiscal Integrity
100 N. Holliday Street
Baltimore, MD 21202

6.0. Transferability

The High-Performance Market-Rate Rental Housing Property Tax Credit is granted to the owner of the property starting with the first reassessment after completion of the project. The credit is transferable to subsequent owners for the remaining life of the credit. A new owner must file a transfer application and submit any transfer application fee or other fee to continue the credit.

7.0 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 shall be removed from the property's account and shall not be reinstated until the first tax year beginning after the eligibility issue has been remedied. 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 10 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.

8.0. 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.

9.0 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 January 14, 2021 and have been filed with the City of Baltimore Department of Legislative Reference. These rules and regulations replace the previous rules and regulations for this tax credit program which became effective on 9/2/2020.

Issued and Approved:



Henry Raymond, Director
Department of Finance


1/13/21

Date

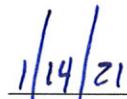
Hilary Ruley, Chief Solicitor
Law Department

1/13/2021

Date


Avery Aisenstark /TJ

Avery Aisenstark, Director
Legislative Reference


1/14/21

Date

