COMPLIANCE YEAR 2013
OWNER CERTIFICATION OF COMPLIANCE
for HOME and/or LOW-INCOME HOUSING TAX CREDIT (LIHTC) PROJECTS

PART B

The undersigned, under penalty of perjury, hereby certifies to the NYC Department of Housing Preservation and Development that all the information set forth in Parts A and B of this Owner Certification for HOME and/or LIHTC is true. (If the owner cannot certify to any of the following statements, details must be provided in the space following the question or in the HOME or LIHTC "Explanations" sections. Additional sheets may be attached if necessary.)

You must complete the following HOME Funded Projects section and the certification on page 4 if your project contains any HOME assisted units (was funded with any HOME monies).

HOME Funded Projects

1. ☐ I have received an initial certification of income and household composition, current as of the move-in date, for each new tenant that has been leased a HOME unit during the calendar year 2013. I have also obtained supporting documentation of income for each HOME tenant at move-in and have determined that the income of each household was at or below the income eligibility limits for the HOME Program at move-in. I shall make these and all other records available to HPD or its designee upon request.

2. ☐ I have received an annual income re-certification form for 2013 from each and every existing tenant in a HOME assisted unit.

3. ☐ I understand that the HOME affordability period for this project is 10 years or more. Accordingly, I have or will secure supporting documentation of income every sixth year of the affordability period and shall make this and all other records available to HPD or its designee upon request.

4. ☐ Each HOME assisted unit in the project is rent restricted in accordance with the HOME Written Agreement. The rents charged to tenants occupying HOME assisted units do not exceed the affordability limits established by HUD and are in accordance with HPD's regulatory agreement.

5. ☐ All HOME assisted units in the project are for use by the general public in accordance with HUD housing policy governing non-discrimination, with HPD's affirmative marketing plan, and with the HOME Written Agreement for the project.

6. ☐ Each HOME unit in the project is habitable and suitable for occupancy, in accordance with all applicable federal, state and local laws, rules and regulations, including but not limited to health, safety and building codes.

7. ☐ Any HOME assisted unit in the project that became vacant during the past calendar year was re-rented to a new tenant having a qualifying HOME income. If not, please explain.

   _____

   _____

   _____

8. ☐ The project is in compliance with all of the terms and conditions of the HOME Written Agreement for the project.

PLEASE NOTE: If all the above certifications cannot be made, the owner must provide a detailed building-by-building description of the reason(s) such certification could not be made. In the explanation section below; the owner must specify which building(s) and units do not conform to items 1-8 of the owner certification and in what respect(s) each building and unit does not conform.

EXPLANATIONS: (attach additional sheets if necessary)

_____

_____

_____

_____

You must complete the following LIHTC Funded Projects section and the certification on page 4 if your project contains any LIHTC assisted units (was funded with any LIHTC monies).

LOW INCOME TAX CREDITS (LIHTC) Projects

1. The project has been and is owned and operated in compliance with Section 42 of the United States Internal Revenue Code ("IRC") and all regulations promulgated thereunder. ☐ Yes ☐ No

2. The project has met the requirements for the minimum set-aside test specified below.

(Must check one of the boxes below)

☐ The 20-50 test under IRC Section 42(g)(1)(A), (i.e. at least 20% of the project rental units are rent restricted and occupied by individuals whose income is 50% or less of area median gross income)

☐ The 25-60 test under IRC Sections 42(g)(4) and 142(d)(6) for New York City, (i.e. at least 25% of the project rental units are rent restricted and occupied by individuals whose income is 60% or less of area median gross income)

3. The owner elected "deep rent skewed" for this project and has met the requirements specified below:

(Must check one of the boxes below)

☐ The 15-40 test under IRC Sections 42(g)(4) and 142(d)(4)(B) for "deep rent skewed" projects (i.e. at least 15% of the LIHTC units are rent restricted and occupied by individuals whose income is 40% or less of area median gross income)

☐ Not applicable to this project.

4. Every tenant in a LIHTC unit in the project complied with the applicable income limit upon their initial occupancy in the project. If no, list the units that did not qualify:

☐ Yes ☐ No

_____

_____

_____

5. The project has met the requirements for annual income certification specified below:

(Must check one of the boxes below)

☐ I have received an annual income certification from each and every tenant and all household members in a LIHTC unit in the project and the documentation to support such certification, and shall make them and any and all other records available to HPD or its designee upon request.

☐ I have received an annual income certification and supporting documentation from all tenants and household members except those listed below for calendar year 2013. (Specify building address, and apartment number.) Any and all records shall be made available to HPD or its designee upon request.

_____

_____

_____

_____

☐ The project is a 100% tax credit project?

6. Each LIHTC qualified low-income unit in the project is rent-restricted under IRC Section 42(g)(2)

☐ Yes ☐ No. If no, list the units that did not qualify.

_____

_____

7. All LIHTC qualified low-income units in the project were for use by the general public, and there has been no finding of discrimination under the Fair Housing Act (including an adverse final decision by the Secretary of the Department of Housing and Urban Development (HUD), an adverse final decision by a state or local fair housing agency, or an adverse judgment from a federal court). If there have been any findings, specify below.

☐ Finding(s) ☐ No finding

8. All LIHTC qualified units in the project are used on a non-transient basis (except for transitional housing for the homeless provided under Section 42(I)(3)(B)(iii) or single-room-occupancy units rented on a month-by-month basis under Section 42(I)(3)(B)(iv). If owner is claiming eligibility for this exception specify below.

☐ All units used on non-transient basis ☐ Exception claimed (provide details)

9. Each building in the project is suitable for occupancy, taking into account local health, safety, and building codes, and no State or local government unit responsible for making local health, safety, or building code inspections issued a violation report for any building or unit in the project. (If a violation report or notice was issued during the calendar year, a summary of such violation(s) must be included below, with indication of whether or not the violation has been cleared from the records. If cleared, specify date.)

☐ Suitable for occupancy ☐ Violation issued (provide details)

10. Check the appropriate box below regarding changes in the eligible basis.

☐ There has been no change in the eligible basis (as defined in IRC Section 42(d)) of any building in the project.

☐ There has been a change in the eligible basis (as defined in IRC Section 42(d)) of a building(s) in the project. The nature of the change(s) is as follows: (Identify changes by building address. If there has been a reduction in the eligible basis, attach copies of completed IRS forms 8609 and 8586 filed with the most recent tax return. Also attach additional sheets if necessary.)

11. Check the appropriate box below regarding applicable fraction.

☐ There was no change in the applicable fraction (as defined in IRC Section 42(c)(1)(B)) of any building in the project.

☐ There has been a change in the applicable fraction (as defined in IRC Section 42(c)(1)(B)) of a building(s) in the project. The nature of the change(s) is listed below. If there has been a reduction in the applicable fraction, attach a copy of completed IRS forms 8609 and 8586 filed with the most recent tax return. (If necessary, also attach additional sheets.)

12. All tenant facilities included in the eligible basis under IRC Section 42(d) of any building in the project, such as recreational facilities, parking areas and swimming pools are provided on a comparable basis without charge to all tenants in the building.

☐ Yes ☐ No

13. When and if a LIHTC unit in the project became vacant, reasonable attempts were, are being, or will be made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income.

☐ Yes ☐ No

14. If the income of tenants of a LIHTC unit in the project increases above the limit allowed in IRC Section 42(g)(2)(D)(ii), (140% of area median gross income, unless the project is a deep rent skewed project and in that case 170% of area gross median income) the next available unit of comparable or smaller size in the project was rented to tenants having a qualifying income.

☐ Yes ☐ No

15. An extended low-income housing commitment (regulatory agreement) as described in IRC Section 42(h)(6) was in effect (for buildings subject to Section 7108(c)(1) of the Revenue Reconciliation Act of 1989), including the requirement under section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certification of eligibility under section 8 of the US Housing Act of 1937.

☐ Yes ☐ No

16. For the preceding 12-month period, a) no tenants in LIHTC units were evicted or had their tenancies terminated other than for good cause, and b) no tenants had an increase in the gross rent with respect to a LIHTC unit not otherwise permitted under IRC Section 42.

☐ Yes ☐ No

17. The project has been operated in compliance with the HPD regulatory agreement (if applicable).

☐ Yes ☐ No

All owners must complete the following certification for ALL projects.

The undersigned, under penalty of perjury, hereby certifies to the NYC Department of Housing Preservation and Development that all the information set forth in Parts A and B of this Owner Certification for HOME and/or LIHTC is true.

_____

AUTHORIZED SIGNATURE

(Must be an owner or an officer of General Partnership)

(Print) Name: _____

Title: _____

Date: _____

On this ____day of _____, 20_____ before me personally came _____

(Name of Individual)

who being by me duly sworn, did depose and say that (s)he is the_____

(Officer's Title in General Partnership)

of _____, general partner of the above-referenced project; and that

(General Partnership Entity Name)

(s)he is authorized to execute this document on behalf of owner; and that the above statements are true.

_____

Notary Public

EXPLANATIONS: (attach additional sheets if necessary)

_____

_____

_____

INSTRUCTIONS

COMPLIANCE YEAR 2013
OWNER CERTIFICATION OF COMPLIANCE
for HOME and/or LOW INCOME HOUSING TAX CREDIT (LIHTC) PROJECTS

This certification must be completed annually throughout the HOME and/or LIHTC the compliance period(s). The period(s) start upon the issuance of either a HUD HOME Completion report or an IRS Form 8609 Low Income Housing Credit Allocation and Certification. The certification covers the prior twelve-month calendar year.

SUBMISSION DEADLINE: Certifications must be submitted to HPD no later than March 3, 2014. **(No extensions beyond this deadline will be granted.)** Submit to:

NYC Department of Housing Preservation and Development
100 Gold Street, Room 7-X2, New York, NY 10038
ATTN: John Cullinan

If you have any questions, please contact Nayana Saraiya at (212) 863-7359.

USE THE FOLLOWING CHECKLIST TO AVOID COMMON ERRORS IN COMPLETING THE CERTIFICATION.

You must complete the following HOME Funded Projects section and the certification on page 4 if your project contains any HOME assisted units (was funded with any HOME monies).

You must complete the following LIHTC Funded Projects section and the certification on page 4 if your project contains any LIHTC assisted units (was funded with any LIHTC monies).

All owners must complete a separate Annual Certification of Compliance for each of their projects.

- ☐ **LIHTC Compliance Monitoring Fee –** Submit a check payable to "NYC Department of Finance." The name of project MUST be shown on face of check and each check should be attached to a monitoring fee form which will ensure accurate processing. The fee is twenty-five dollars ($25) for each LIHTC unit in the project.
- ☐ **Current Form –** You must use the Compliance Year 2013 Certification form. It is not acceptable to resubmit forms from prior years.

PART A

- ☐ Provide **Owner name** (usually a limited partnership)
- ☐ State **Sponsor / Developer** (i.e. the parent organization)
- ☐ **Person preparing the form** (who can be consulted should questions arise) must be listed along with their contact information.
- ☐ **List each building** on a separate line that has a separate LIHTC Building ID Number ("BIN"). The BIN can be found on the IRS 8609 Form issued by HPD.
- ☐ Consult Form IRS-8609 and/or your Tax Preparer to determine the **first year that credits were claimed**. The year may not be the same for every building in a project.
- ☐ **Non-rental superintendent apartment**s are not tax credit eligible, but are treated as part of the common area of the building. List them in Column C only.
- ☐ **Tax ID Number** for the owner MUST be included. (Section II)

PART B

- ☐ Be sure to check the correct **Minimum Set-Aside test** (question 2, page 2 in the LIHTC Project section) that was elected by the owner on the first tax return for the project. If in doubt, consult your Tax Preparer, or Part II of your 8609
- ☐ If any required statement in the Certification cannot be answered in the affirmative, the **owner must explain**. Use appropriate lines provided (or space on Page 4) to specify the buildings and apartments that do not conform, and in what respects each does not conform.
- ☐ The certification must be **signed by an owner or officer of the general partnership and must be notarized.** IRS regulations permit the certification to be made by the managing agent, only if the managing agent has power of attorney for the purpose of making such certification.