

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**DIVISION OF FINANCIAL ASSISTANCE**

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**DIVISION OF FINANCIAL ASSISTANCE (DFA)****ADMINISTRATIVE NOTICE**

Notice Number: 18-02

DATE: August 15, 2018**TO:** Interest Parties**FROM:** Lisa Bates, Deputy Director
Division of Financial Assistance**SUBJECT:** Uniform Multifamily Regulations (UMR) Developer Fee Limits
for Four Percent Tax Credit Projects*Lisa Bates*

Administrative Note: This Administrative Notice establishes a formal written notification of administrative guidelines that affect the operation of Department programs. This format is used to identify, clarify and record administrative guidelines and interpretations of public interest.

This advisory clarifies the limits on developer fees applicable to Department of Housing and Community Development (Department) projects closing under the revised Uniform Multifamily Regulations (UMRs), as adopted on November 15, 2017.

There was a typographical error in Subsection 8312(c) of the final version of the UMR amendments, regarding the limit on developer fees for four percent tax credit projects. In this version, the parenthetical sentence at the end of Subsection (c) refers to all of Subsection (c), when it should have referred to only Subsection (c) (1), as was the case in previous versions.

The reference to Subsection (c) could not be complied with as written, as it negates the reference to "deferred Developer Fee (payable exclusively from operating income)" in Subsection (c)(2). Moreover, there is no explanation of the change from (1) to (c) in the rulemaking file, which also indicates an error.

The adopted developer fee calculation is intended to allow greater flexibility in how fees can be realized, and to provide more consistency with the California Tax Credit Allocation Committee cost containment approach. The result of this 2017 UMR change allows the potential for increased developer fees paid from development sources from a maximum of \$1.2 million to the TCAC limit of \$2 million or \$2.2 million, and the total developer fee, inclusive of deferred developer fee, to increase from \$1.2 million up to \$3.5 million, for Department funded projects utilizing four percent tax credits.

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The Department apologizes for any confusion created by this typographical error. It will apply Subsection 8312(c) as if it read as follows:

- (c) For Projects utilizing four percent tax credits, Developer Fee payments shall not exceed the lesser of \$3,500,000 or the sum of:
 - (1) the amount that could be included in project costs pursuant to Title 4, California Code of Regulations, Section 10327 if the project was receiving nine percent competitive credits; plus
 - (2) any remaining deferred Developer Fee (payable exclusively from operating income) that is allowed in eligible basis under Title 4, California Code of Regulations, Section 10327 of the TCAC regulations.

(Subsection (1) limits Developer Fee paid from development funding sources.)

Exceptions may be considered on a case-by-case basis for projects that, in the Department's determination, reasonably relied on an alternate interpretation of the foregoing and the law requires the Department to apply that interpretation.

The new 2017 UMR Developer Fee Calculation worksheet has been posted on the Department's Uniform Multifamily Regulations website at: <http://www.hcd.ca.gov/grants-funding/already-have-funding/uniform-multifamily-regulations.shtml>