Low Income Housing Tax Credit Annotated Bibliography
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Recent Social Science and Policy Reviews


This report focuses on a sample of 39 LIHTC properties placed into service between 1992 and 1994 in five cities (Boston, Kansas City, Miami, Milwaukeee, and Oakland). On average, 94% of the units in the buildings in the study were rented to qualified tenants. In addition, approximately 40% of the households living in LIHTC units have income below 30% of the area median and 34% have income between 31% – 50% of the median. Over one third of these residents received Section 8. Roughly half of the properties in the five study MSAs were located in Qualified Census Tracts. LIHTC properties are typically located in city neighborhoods with a majority of rental units and residents who have lived there a short time. LIHTC neighborhoods are evenly divided between very low-income neighborhoods (median income less than 50% AMI) and more moderate-income neighborhoods. Roughly 50% of the neighborhoods where LIHTC properties were sited had a high minority concentration of at least 80%. Finally, over 25% of the LIHTC properties built by for-profit developers were in a predominately white neighborhood, but none of the nonprofit-built properties are in such neighborhoods.


The authors analyze the first ten years of the LIHTC program, including the cost of the individual development, location, financial viability, population served, financing, and amount of subsidies received. The average census tract with a LIHTC project (including both family and elderly projects) is 59% white, 25% black, and 13% Hispanic, but most projects are located in racially homogenous neighborhoods. More than 30% of sample projects were located in predominantly white neighborhoods and nearly 18% of the LIHTC developments reviewed were located in neighborhoods with a population that is at least 90% non-white. Such racial concentration increases in central-city locations, as 51% of those neighborhoods are 80% non-white. In terms of income, nearly all of the LIHTC developments in their sample were built in low- and moderate-income
neighborhoods. The authors use Los Angeles to illustrate the assertion that at the program is used more often to provide better housing in poor neighborhoods rather than to provide affordable housing in higher-income areas. Despite the goal of the LIHTC program to create affordable housing, the authors find that the tax credit does not make rental of the assisted units affordable to the lowest-income families.


The author looks at LIHTC and housing voucher programs in place in Atlanta, Boston, Cleveland, Miami, New York, and San Jose in order to attempt to determine which program is more cost effective. He finds that, in general, vouchers are less expensive than LIHTC units, although the gap closes in looser housing markets with lower prices and when vouchers cover a higher cost.


The author studies the integrative effects of housing vouchers and LIHTC units in Atlanta, Boston, Cleveland, Miami, New York and San Jose. He finds that LIHTC units are more likely than vouchers to be concentrated in a smaller number of census tracts. Indeed, census tracts with LIHTC units are frequently low-income or extremely low-income. Both LIHTC units and voucher units are often located in the center city rather than the suburbs, with Boston as the sole exception in the study. In Boston, LIHTC units are located in the central city at a much higher rate than voucher units. When the author attempts to determine whether the voucher program promotes integration, he finds that in all cities but Atlanta, a greater proportion of voucher residents live in census tracts with a Black population below the metropolitan average. Because so many LIHTC units are located in low-income or extremely low-income census tracts, where there is a lack of high-performing schools, the educational opportunities in these areas are limited. The author notes, however, that educational opportunities in areas where voucher units are located are similarly unpromising, a fact which may possibly be attributed to landlords’ charging higher rents in better school districts. Ultimately, because the data collected on LIHTC tenants is insufficient, it is hard to completely evaluate the differences between the results of the LIHTC and housing voucher programs.


The authors assess the “neighborhood spillover effects of LIHTC developments” in hopes of contributing to our understanding of the tax credit program and its impacts. To do this, their report focuses on New York City and the LIHTC units built between 1987 and 2003. They find that, on average, the construction of tax-assisted units created benefits for the surrounding communities, including continuous increases in the values of
neighboring properties. This positive effect of LIHTC development is seen even when the authors control for the risk that the pre-construction neighborhood was already exhibiting rising property values. Additionally, the authors found that positive effects decrease with increased project density, and that both lower-income and higher-income neighborhoods may benefit from the development. Finally, although they also found positive impacts in both lower density and higher density areas, impacts were slightly larger in lower density areas.


The author’s report for The Brookings Institution analyzes location and neighborhood characteristics of housing developments receiving funding through the LIHTC program during the 1990s. He finds that although a higher percentage of LIHTC units are located in the suburbs compared to other federally-funded developments, the majority of LIHTC units are found in central cities. In addition, Blacks represent a disproportionate share of the residents of those LIHTC neighborhoods. These neighborhoods have higher poverty rates, lower median incomes, and lower median home values than typical metropolitan neighborhoods. Finally, he also finds that suburban neighborhoods with LIHTC developments tend to be predominantly white, with higher median incomes, lower levels of poverty, and higher property values and homeownership rates than the corresponding neighborhoods in central cities. In order to reach LIHTC’s potential to further improve housing choice beyond central-city neighborhoods, the author suggests that (1) the program’s statutory targeting incentives be reviewed to ensure that they are promoting integration and that (2) increased data collection, especially relating to race/ethnicity and age, would aid in understanding of the program’s performance.


The author finds that only a small percentage of housing units funded by 2005 LIHTC allocations were intended to benefit extremely low income households (households earning less than 30% of the area median income). Reviewing data from a survey conducted by the National Council of State Housing Agencies, the author determines that only 7% of allocations were targeted for the poor. He notes, however, that the percentage of all tax credit units that are actually in use by the poor may be greater on less than the targeted amount due to some households paying more than 30% of their income for rent, the use of housing vouchers or other rental assistance, and owners who may not be meeting their targeted commitments.
The authors evaluate whether the LIHTC program has successfully placed housing for families in low-poverty neighborhoods. They focus their analysis on LIHTC units that are located in large metropolitan areas, have two or more bedrooms, and were placed into service between 1995 and 2003. They find that 22% of all LIHTC units built in this period were placed in census tracts with poverty rates under 10%. However, siting trends vary widely by state; some states had high percentages of their LIHTC units located in low-poverty areas, while other states had only a very small percentage of their LIHTC units located in such areas (tables are provided by state and by metro area). Very few states put the majority of their LIHTC units in census tracts with below-average minority population rates, and many states put only a small percentage of units in these areas. Because there is no data collection on residents in LIHTC units, it is hard to evaluate what kinds of residents occupy the LIHTC units.


In this May 2003 statement, prepared for the New Jersey Institute for Social Justice, the author advocates for a policy that would place LIHTC units in low-poverty tracts. He suggests that the projects should demonstrate some kind of “meaningful integrative effect” on the neighborhood in which they are being located in order to be worthy of preference. This can be achieved through the creation of mixed-income developments, where not all units qualify for the LIHTC, or through the use of specific location that would have an important effect on integration. The LIHTC units that are built in areas with higher-concentrations of poverty should be part of a larger plan to revitalize the high-poverty neighborhood. In addition, there should be flexibility in the application of the LIHTC mandates, so that the worthiness of projects can be determined on a case by case basis.


Because builders are using the Low Income Housing Tax Credits to finance entire projects, instead of only applying the credits to some of the units, the LIHTC is not necessarily encouraging the creation of mixed-income housing. In addition, these housing units, while they are often located in low-income neighborhoods with high minority populations, are often serving the highest-income renters in the poor areas rather than the lowest-income households. The author advocates for a mechanism that would allow planners of LIHTC projects to adjust the credit amounts based on the worthiness of the project, so that the tax credit could cover a larger share of the cost of development. In doing so, greater incentives would exist for developers to address specific housing needs.

The author notes that during the 1990s, production of central-city and non-metropolitan LIHTC units was reasonably steady, with slight increases, but growth in the development of suburban units has been quite large, with the number of suburban units developed reaching levels close to or equaling the number of central-city units previously developed. The author finds that LIHTC units have started to provide more affordable housing in low-poverty census tracts, and there is no indication than the presence of LIHTC units in low-poverty neighborhoods puts the low-poverty status of that neighborhood in jeopardy.


The authors evaluate different forms of assisted housing in order to determine which programs are the most successful in locating residents in low-poverty areas. They find that public housing is by far the worst at achieving this end. LIHTC units are much better, but do not appear to alter existing residential patterns. They find that LIHTC developments do not move families into low-poverty areas as successfully as vouchers do.


The author examines LIHTC units in Atlanta, Chicago, Los Angeles, and New York City to compare the siting patterns of LIHTC units and other traditional public housing units. She finds that as compared with the public housing projects, the LIHTC projects are more frequently sited in urban and suburban developments that are not as highly disadvantaged. Despite this, LIHTC projects are frequently located relatively close to one another.


The author’s case study demonstrates how planners may use GIS technology to analyze the racial characteristics of LIHTC-funded properties. She examines the data maintained by the North Carolina Housing Finance Agency and finds that race-neutral siting policies based on solely socioeconomic status do not guarantee the siting of developments in racially mixed or non-minority neighborhoods. State housing finance agencies should
use currently available techniques to collect data on tenant and neighborhood racial characteristics and ensure compliance with the Fair Housing Act.


The author discusses the history of racial segregation in New Jersey and describes how the Low Income Housing Tax Credit has been used in the context of that highly segregated state. He introduces the In re Adoption of the 2003 Low Income Housing Tax Credit Qualified Allocation Plan (2004) litigation and discusses the larger political and policy issues implicated by the case. He suggests that the LIHTC may be used to effect racial and economic integration, but that we must re-evaluate the traditional urban/suburban dichotomy in order to take the steps necessary to make meaningful changes. Rather than focusing on whether LIHTC resources should be allocated to urban or suburban areas, advocates should frame the debate in terms of access to opportunity. In addition, attention needs to be given to a discussion of what is meant by integration. Advocates of integrated housing must identify the specific mechanisms by which broader policy goals can be achieved, such as through publicizing examples of successful outcomes and providing detailed recommendations about how a QAP might be redrafted to promote fair housing. Finally, the author reminds that integration advocacy must be broad-based and incorporate not only legal strategies but also strategies that build public and political support.

**Recent Law Review Articles and related law/policy publications**


The author describes the history of the affordable housing crisis and discusses the creation of the LIHTC. He criticizes the program for its failure to meet the needs of low-income households. Current data provides no insight into the number of units developed that would not otherwise have been and does not help to address possible declines in market rents due to the increase in supply side housing. Existing data does suggest that the LIHTC has done little to stimulate production and that it has not been cost-effective. The author is critical of the program for failing to place requirements on the number of bedrooms subsidized units must contain and for not guaranteeing the units will be in locations, or of the quality, appropriate for low-income families. Further, the author notes that the structure of the rental requirements for owners of LIHTC properties, which requires only that owners rent a certain percentage of units to households with 50-60% area median income (AMI), does not incentivize renting to low-income families. The author suggests that these flaws be remedied through the following recommendations: (1) developers and owners should be required to calculate qualified income levels using the national median income rather than AMI; (2) additional subsidies should be provided for the higher development costs incurred in high-income neighborhoods; and (3)
developments that rent to low-income families should receive increased credit amounts. Finally, the author also recommends Congress consider giving refundable tax credits directly to families, rather than to developers because doing so would increase renters’ ability to pay for housing and would reduce the displacement of unsubsidized affordable housing units.


The author argues that national affordable housing goals of reducing segregation and increasing access to opportunity may be achieved through the creation of civil rights-related underwriting requirements for government housing programs. Although the courts generally defer to the standards set by agencies such as the Department of the Treasury (IRS) and HUD, the courts have also recognized agencies’ affirmative duty to further fair housing. The IRS, which administers the LIHTC, relies on HUD standards for the housing aspects of its tax credit program. Because HUD nondiscrimination rules vary by program and civil rights concepts are not explicitly included in the LIHTC statute, IRS’ reliance on HUD standards does not lend clarity to the question of which standards apply to tax credit properties. It is clear, however, that current methods of allocating the LIHTC perpetuate segregation and poverty. To remedy this, federal policy-makers must take affirmative steps to create regulations that work to eliminate segregated living patterns and increase access to opportunity. Despite the difficulties of implementation, by treating civil rights factors with the same concern used to assess other financial risk factors typically underwritten in affordable housing real estate transactions, we can ensure that fair housing goals are better met by the federal government and housing providers.


The author discusses the history of affordable housing and of the development of the Low Income Housing Tax Credit as a replacement for direct funding of affordable housing projects. Between 1995 and 2002, LIHTC-funded units have been built in both high poverty and minority-concentrated areas at higher rates than those for rental units nationwide. Despite this, recent research suggests that these units are affordable only for moderate-income families and individuals. The author criticizes the program for not enforcing its own objectives: targeting the lowest-income households. Because the program allows owners of qualified rental properties to rent to individuals within an income range, owners are incentivized to rent to those with higher incomes without reserving units for very-low income tenants. The author describes additional LIHTC program practices which may have discriminatory impacts and promote segregation, including project siting in impoverished Qualified Census Tracts and the failure to collect
race and ethnicity data on placements. To remedy this, he recommends that (1) the amount of credit be increased to LIHTC property owners who rent to lower-income families; and (2) the methods for the determination of income limitations be modified to use the national median income rather than the area median income, where the area median income exceeds the national median. In addition, the author advocates for (1) greater monitoring of the LIHTC program on the federal level in order to ensure compliance with the program’s goals—regardless of the differences in states’ administration; (2) incentives to promote mixed-income developments; and (3) the development of a centralized body to oversee states’ efforts.


The author describes the LIHTC program’s implementing statute, which includes a preference for allotting credits to very poor areas, and gives an overview of the applicability of the Fair Housing Act to the program while also placing the Act in its legal and historical context. He analyzes the national doctrinal issues relating to the program, and uses the New Jersey case In re Adoption of the 2003 Low Income Housing Tax Credit Qualified Allocation Plan as a case study of the tension between the Fair Housing Act and the siting preference of the LIHTC statute. The author also discusses the placement of LIHTC units in poor, re-segregating neighborhoods and the housing discrimination that results from the creation or perpetuation of such neighborhoods. Finally, he argues that the history and purpose of civil rights law requires that the Fair Housing Act, rather than the directive of allotting credits to high-poverty areas, serve as the controlling principle in selecting developments to participate in the LIHTC program.

John Powell, Opportunity-Based Housing, 12 J. AFFORDABLE HOUS. & COMMUNITY DEV. L. 188 (2003).

The author proposes a new model for fair housing based on access to opportunity. As part of a strategy for linking housing to employment opportunities, he suggests that states enact policies to use the LIHTC as an incentive for builders willing to locate housing near both jobs and public transportation.

Sagit Leviner, Affordable Housing and the Role of the Low Income Housing Tax Credit Program: A Contemporary Assessment, 57 TAX LAW. 869 (2004).

The author reviews the current state of the LIHTC program and discusses its failure to serve the low- and lowest-income households despite its potential to do so. He notes both that the program’s administrators do not have detailed information regarding income-levels and racial/ethnic segregation and that LIHTC properties may be located in high poverty, segregated areas. He examines tax subsidies’ role in neighborhood revitalization. The author suggests revising the current tax credit program and limiting
the mortgage deduction allowed under the tax code in order to increase efficiency and allocate more funds to low-income households.


The author discusses the history of the Low Income Housing Tax Credit program and the failure of the Department of the Treasury to “affirmatively further fair housing,” as it is statutorily required to do. By not creating bars to discrimination, the Treasury Department has allowed the tax credit program to operate without regard for civil rights laws. The author reviews the case law and HUD regulations that better explain what is required under the Fair Housing Act and determines that, given the history of interpretation of the Fair Housing Act, the Treasury Department’s duty to actively assist in desegregation is sufficiently clear. Specifically, she suggests the following amendments to the LIHTC program’s regulations: (1) Treasury regulations should acknowledge the authority of the Fair Housing Act and the HUD regulations relating to the Act; (2) Treasury regulations should specify what housing credit agencies must do to satisfy civil rights obligations; and (3) Treasury regulations should specify what tax credit developers must do to satisfy civil rights obligations.


The author considers why, despite the passage of the Civil Rights Act and other legal standards to protect against discrimination, discrimination and segregation in federally assisted housing programs still exists (including in the LIHTC program). She first discusses the legal history of the prohibition of racial discrimination in the provision of housing and then shows how such laws lack impact. To remedy ongoing racial discrimination and segregation, the author suggests increased attention be paid to segregation, its effects, and the federal government’s complicity. In addition, she suggests that attention be paid to housing and civil rights issues at the state and local levels, including the encouragement of the enactment (1) of inclusionary zoning laws; (2) of legislation that preserves current units in gentrifying neighborhoods; (3) of stronger and expanded state and local fair housing laws. Advocates must work hard to secure units in LIHTC properties in high growth neighborhoods for families of color who have Section 8 vouchers. Fair housing groups should identify LIHTC properties in their areas, locate those near good schools, and do testing to ensure that voucher holders will have access to these developments. Advocates must also work to convince state agencies to draft their Qualified Allocation Plans to (1) better collect data on LIHTC units and (2) incentivize the construction of more and larger multi-bedroom units in “high-opportunity” areas. Finally, states themselves should create supplemental state LIHTC programs with requirements that promote fair housing.
The author describes the LIHTC program, the role of Qualified Allocation Plans (QAPs) within the program, and the effect of the Fair Housing Act on QAPs. Despite the mandate that state housing agencies affirmatively further fair housing through their administration of the LIHTC, little progress has been made. Addressing the issue of race-based classifications within QAPs, Shah focuses on the proper construction of race-based classification and possible challenges to such classifications. In doing this, she recognizes that state agencies may hesitate to use race-based classifications. Because there is a correlation between the quality of schools and racial segregation in neighborhoods, Shah suggests that state agencies use the quality of schools as a factor when creating QAPs so that the LIHTC may be used to better promote integration.

The author discusses the potential of the Low Income Housing Tax Credit and Section 8 housing vouchers to contribute to real housing opportunities for lower income families and people of color. He attributes two major failures to the current LIHTC program: the program’s continuation of public housing’s patterns of historic racial and economic segregation and the questionable management policies of those units built in lower poverty neighborhoods. Reviewing recent studies on the tax credit program, the author concludes that the Treasury Department and the Internal Revenue Service must assume their full responsibilities under the Fair Housing Act and Executive Order 12892 in their administration of the LIHTC program. Specifically, they must adopt basic requirements for state housing finance authorities, including: (1) the collection of racial and economic data on residents of tax credit units, (2) affirmative marketing and access for low-income families of color to units in high opportunity areas, (3) siting standards that avoid the perpetuation of segregation, (4) prohibition of the exclusionary techniques used by state housing finance authorities to limit development in high opportunity areas, (5) amendment of the LIHTC statute to eliminate emphasis on Qualified Census Tracts, and (6) stronger efforts to use Section 8 housing vouchers in conjunction with LIHTC.

The author aims to determine which of the existing federal programs does the best job of promoting economic security for the population it was designed to benefit. She presents a framework for the discussion of affordable housing policy issues and outlines the
environment of affordable housing development and the many interests that need to be involved in the development of affordable housing policy. She then discusses the history of public housing policy and of the major rental housing programs (including LIHTC). Williams also discusses opportunities for homeownership. Finally, she recommends that a comprehensive national affordable housing policy be developed, which would take into account the long term well-being of low-income individuals and households.