Council for **A**ffordable and **R**ural **H**ousing
Serving the Affordable Housing Needs of Rural America

April 16, 2020

Ms. Nicole Cimino
Branch Chief
Office of Chief Counsel
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Mr. Michael Novey
Associate Tax Legislative Counsel
Office of Tax Policy
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: COVID-19 Relief for Housing Credit Developments

Dear Ms. Cimino and Mr. Novey:

The Council for Affordable and Rural Housing ("CARH") respectfully submits this letter to request guidance from the Internal Revenue Service (the "IRS") and the Department of Treasury ("Treasury") to address present and on-going disruption to the development and operation of low-income housing tax credit ("Housing Credit") properties caused by the COVID-19 pandemic and to express support for the letter signed by certain members of the Tax Credit and Equity Financing Committee of the American Bar Association's Forum on Affordable Housing and Community Development Law dated April 2, 2020 (the "Relief Letter"). Specifically, CARH requests that the IRS and Treasury provide urgent relief from certain technical requirements applicable to Housing Credit properties due to the realities owners, developers, and tenants of these properties face because of the COVID-19 pandemic.

CARH represents for-profit and non-profit companies providing affordable rural rental housing throughout America. For 40 years, CARH has served as the nation's premier association for participants in the affordable rural housing profession, including builders, owners, developers, managers, non-profits, housing authorities, syndicators, accountants, architects, attorneys, bankers, and companies that supply goods and services to the industry. CARH is the only association that solely represents the needs of the entire rural rental affordable housing industry.

The affordable housing industry is facing significant uncertainty on a variety of levels due to the impacts of COVID-19. As State and Federal governmental entities implement procedures necessary to curb the spread of COVID-19, many CARH members report delays in the processing of permits and other local approvals, difficulties completing necessary site visits and third party reports, complications in the recordation of deeds and mortgages, and barriers to the daily operations of properties due to imitated ability to interact with residents and enter units to complete repairs and maintenance.

Additionally, rural Housing Credit properties face unique barriers due to the relatively remote nature and smaller size of their communities, including higher per unit costs compared to larger properties located in metropolitan areas. Historically, CARH members report that Housing Credit equity pricing is lower in rural communities than metropolitan communities because these rural communities tend to be outside of areas assisted by the Community Reinvestment Act. Shortages of construction materials and labor caused by COVID-19 is exacerbated in rural areas because the labor force and availability of recourses was already thinner within rural communities before the pandemic began. Consequently, rural communities are uniquely sensitive to adverse changes to both Housing Credit equity pricing and availability of other resources necessary to develop and maintain affordable housing. Rural communities will be deeply impacted if support from Housing Credit equity investors waivers in light of the growing uncertainty surrounding both the feasibility of compliance with technical requirements and the availability of resources needed to develop and maintain these properties.

To address these challenges and uncertainties, CARH supports the requests for relief listed in the Relief Letter and the theories of authority to provide this relief as described in the Relief Letter. Section 7508A authorizes the Secretary of the Treasury to specify a period of up to one year following a federally declared disaster that may be disregarded for purposes of determining whether its requirements were timely met, and Section 42(n) authorizes the Secretary of the Treasury to issue regulations as necessary to carry out the purposes of the Housing Credit program. We note that section 7508A refers to a "federally declared disaster (as defined by section 165(i)(5)(A)." It is the position of CARH that the President's finding of a national emergency due to COVID-19 constitutes such a "federally declared disaster," thus triggering the authority to disregard a period of up to one year for purposes of determining whether requirements were timely met. Similar relief from deadlines and technical requirements has also been provided for in the past under Section 42(n). For example, following Hurricane Katrina, the IRS issued Notice 2005-69, which provided that owners in all states could rent to displaced individuals without regard to income limitations for thirteen months. Moreover, in Rev. Proc. 2018-58, the IRS has already designated most of the relief requested here and in the Relief Letter to be "time-sensitive acts" that should be eligible for extension at this time.

We emphasize that many owners and developers of Housing Credit properties are facing urgent deadlines within the next few weeks and fast action is needed to assist these properties. Given the severe impact of COVID-19 on individuals experiencing homelessness, health care professionals who must now self-quarantine away from their families, owners of Housing Credit properties who cannot – for the safety of their staff and residents – enter into units to complete repairs and maintenance, and governmental entities that cannot complete site visits necessary to certify compliance or issue permits or other approvals, CARH requests that the IRS and Treasury use its authority to provide common-sense guidance and relief from the technical requirements related to Housing Credit properties. This includes the 10% Test deadline, tenant income recertification requirements, physical inspection requirements, and placement-in-service requirements. This relief would help to ensure not only that existing Housing Credit properties can continue to serve vulnerable populations but also that developers can complete the construction and placement-in-service of new Housing Credit properties to provide much needed affordable housing during this pandemic. Equally as important, this guidance would reduce the uncertainty investors may have regarding investing in Housing Credit properties facing technical requirement deadlines within the next few weeks.

We are grateful for the opportunity to discuss these issues and we appreciate your consideration. Should you require any additional information, please contact me, Colleen Fisher, at (703) 837-9001.

Sincerely,

Colleen M. Fisher

Colleen M. Fisher
Executive Director