

Negative Impact of S.B. 36

- The provisions in S.B. 36 would have a devastating impact on Ohio's affordable housing industry by reducing affordable housing units for Ohio's low income tenants and trigger potential defaults to several current investment portfolios backed by financial institutions with a significant presence in Ohio.
- Conservatively, 35% of current Low Income Housing Tax Credit (LIHTC) projects would be under extreme financial duress.
- S.B. 36 would jeopardize thousands of jobs in the Ohio affordable housing industry and adversely impact an industry that produces a positive \$305 million worth of economic activity.
- S.B. 36 would warp the Ohio property tax valuation system in an inequitable manner, and apply that inequitable method against only one type of property – properties that are designed to house our poorest citizens.

Ohio's Affordable Housing Shortage

- Ohio currently has only 42 affordable units for every 100 extremely low-income household. Of the Buckeye State's 1.6 million renter households, 28% are extremely low-income.
- After nearly two decades of stagnant wages and rising rents, 734,000 Ohio households – nearly half of all tenant households – now spend over 30% of income on rent, and nearly 400,000 spend over 50% of their household income on rent.
- In the midst of the current lack of housing that Ohio families can afford, S.B. 36 will harm efforts to address the massive housing needs and will also threaten the survival of our current, very limited affordable housing stock.

Background on LIHTC

- The Low Income Housing Tax Credit (LIHTC) is a Federal income tax credit that serves as a resource for the creation of affordable housing designed by President Ronald Reagan and HUD Secretary Jack Kemp, to attract private capital to affordable housing.
- The premise of the LIHTC is that a project owner receives a 10 year tax credit in exchange for agreeing to rent units at a reduced rental rate for a minimum of 30 years. This agreement is memorialized in an enforceable restrictive covenant filed against each LIHTC property.
- The restrictive covenant provides that the LIHTC units must be leased for an amount that is 60% or less of rent that could otherwise be charged.
- The LIHTC program promotes and encourages public-private partnerships, thereby delivering private-sector discipline in the production and long-term management of affordable housing.

Brief Legal Analysis

- Current Ohio law regarding the valuation of affordable housing for property tax purposes reflects Ohio constitutional principles and accurately determines the true value of such properties. S.B. 36, on the contrary,

would require false assumptions be used to value such properties, invariably resulting in excessive valuation amounts.

- The Ohio Constitution, and current statutory and case law from the Ohio Supreme Court, require all real property in the state to be valued at its “true value,” with means its fair market value. Fair market value is the price that an educated willing buyer would pay an educated willing seller for the property at issue, when neither party is compelled to enter into the transaction.
- The result of the *Woda Ivy Glen* decision, and subsequent decisions of the Ohio Supreme Court, is that LIHTC properties pay property taxes in an amount that is proportionate and commensurate with the rent levels that they are permitted to charge.
- Because low-income housing tax credit properties and other affordable housing properties (i) can only be rented to a small subset of the overall population, and (ii) can only generate government-limited rental income amounts, the fair market (or true) value of such properties is inherently less than market rate properties. Case law from the Ohio Supreme Court is based on those “actual facts” and it reflects that economic reality.
- S.B. 36 would deviate from reality and require that inaccurate facts be assumed in order to artificially value such properties at amounts well in excess of their actual fair market values. No buyer would ever determine the purchase price of an affordable housing property based on market rent amounts – those rents are a **legal impossibility** and can never be achieved.

Current Example – Fairwood Commons in Columbus

- Fairwood Commons is the redevelopment of a blighted parcel into 54 affordable senior apartments. Using the current approach to valuing LIHTC developments based on the rents they are permitted to charge, it is estimated that Fairwood Commons will pay real estate taxes equal to approximately \$31,000 per year.
- The maximum rent Fairwood Commons is permitted to charge as a LIHTC property is \$1,005 for a two-bedroom unit versus a quick survey of market rate properties in this area that indicates the market rent would be \$1,600 or more.
- Prior to redevelopment, this blighted parcel produced virtually no real estate taxes. Using this \$31,000 estimate for real estate taxes, Fairwood Commons would generate positive cash flow of approximately \$20,000, or less than \$500 per unit. This cash flow is needed to maintain the property and insure that it operates as a valuable community asset into the future.
- If S.B. 36 becomes law, Fairwood Commons’ real estate taxes would likely double or more. If the taxes only double, they would be roughly \$62,000 per year, or, in other words, \$42,000 more per year than the total cash flow that the property produces.

Opposition to S.B. 36

- Ohio Housing Council (OHC)
- Ohio Apartment Association (OAA)
- Coalition on Homelessness and Housing in Ohio (COHHIO)
- Council for Rural Housing & Development of Ohio (CRHDO)
- Columbus Apartment Association (CAA)

- Midwest Affordable Housing Management Association (MAHMA)
- Bellwether Enterprise Real Estate Capital, LLC
- Famicos Foundation
- The Community Builders
- Tidwell Group
- Vogt Strategic Insights
- Clark Schaefer Hackett
- Community Investment Management Services/LW Associates
- Randall B. Shorr, Attorney at Law
- NRP Group
- Fairfield Homes
- CHN Housing Partners
- National Church Residences
- Ohio Capital Corporation for Housing
- National Affordable Housing Trust
- The Provident Companies
- Ohio CDC Association
- Woda Cooper Companies, Inc.