



# Homes and Community Renewal

KATHY HOCHUL  
Governor

RUTHANNE VISNAUSKAS  
Commissioner/CEO

## MEMORANDUM

**To:** Multi-Family Office of Finance and Development, NYSHCR

**From:** Fair and Equitable Housing Office, NYSHCR

**Re:** NYSHCR Artist Preference Policy

**Date:** January 25, 2022

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### Background

In general, housing developments which receive federal Low-Income Housing Tax Credits (LIHTC) must comply with the General Public Use (GPU) requirement. The GPU rule mandates that LIHTC housing must be available to all income-eligible individuals and cannot be targeted at a particular population. However, federal law creates an explicit exception to the GPU rule for housing with an occupancy preference for individuals “who are involved in artistic or literary activities.”<sup>1</sup>

In New York State, some cities and local governments have embraced the arts as a central component of efforts to redevelop and revitalize communities which have faced economic hardships (such as through the NYS Downtown Revitalization Initiative). Affordable artist housing, created through the LIHTC artist preference, are a component of these revitalization/redevelopment plans. However, demographic imbalances in artist housing can potentially favor a non-diverse population and may hasten the process of gentrification that can displace lower-income families from their communities.

### Artist Preference Policy

In light of these policy concerns, the Fair and Equitable Housing Office (FEHO) of New York State Homes and Community Renewal favors an approach which will promote diversity in affordable housing, while still recognizing that artist preferences can be beneficial for local governments and are allowed under federal law. Therefore, artist preferences may be allowed in NYSHCR-financed LIHTC housing so long as the following conditions are satisfied:

1. The artist preference should not apply to more than 20% of a project’s non-supportive units, and up to 50% of non-supportive units in projects that have funds from the Downtown Revitalization Initiative, are in designated community redevelopment areas, or are otherwise a component of a community development or revitalization plan in the area where the project is located, and
2. An analysis of market demand for artist housing in the community must be included as a supplement to the required market study. This can include, but is not limited to, a survey of existing artist housing in the market area to determine the waitlist, a list of existing artist housing in the market and surrounding areas, feedback from local community-based arts organizations on housing needs of artists, and other information.

3. Whatever preference is requested/proposed should be approved by FEHO;
4. Artist preference units should be spread equally across all of a project's income bands. All AMI bands must include some eligibility for the general public, not just artists;
5. Marketing of artist preference units should be directed at as diverse a population as possible. Among other efforts, this means that outreach to community contacts for Least Likely to Apply (LLA) populations must include information on the artist preference and, if possible, the project should work directly with organizations of minority artists who would otherwise be underrepresented. As discussed below, FEHO would be more likely to support a project in which a non-profit with experience in creating equity in artistic initiative is involved in the marketing and tenant selection;
6. The artist preference must comply with any additional affordability requirements that apply to the project, such as mandatory inclusionary housing, and all units must be made available to other income eligible individuals if artists are not available or decline the units.
7. Beyond the restrictions listed above, projects could be allowed to implement a preference for artists on up to 75% of units if an arts-based non-profit is involved in the development team or an agreement exists between developer/owner and an arts-based non-profit, in either instance in which the non-profit provides long-term funding for arts programming usable for the public as well as residents. Such projects should also include space available for the artists' use. In addition, NYSHCR will scrutinize these developments to ensure that the project includes a mix of bedroom sizes that will accommodate families.