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イリノイ州におけるAffordable Housing Program

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The State of Illinois recently passed into law legislation which provides certain real estate tax relief for affordable housing projects. Under the legislation, the respective county assessors are to implement the legislative program through policies and procedures. In Cook County, the Cook County Assessor's Office has implemented procedures to explain the details of the program and the application process for the program. The following is a general summary of the program, as well as some of the filing requirements.

I. BASIC PROGRAM REQUIREMENTS

The "Affordable Housing Program" is fairly similar to the existing Class 9 program and offers an incentive for affordable housing (as defined) for either new construction or qualifying rehabilitation that has been completed with respect to residential real property. Similar to the existing Class 9 program, the residential real property needs to meet local building codes and, if there are no local building codes, the property needs to meet housing quality standards as determined by the United States Department of Housing and Urban Development ("HUD"). Furthermore, certain requirements related to affordable rents and qualifying income-based thresholds are part of the program.

Under the policy implemented by the Cook County Assessor's Office, existing Class 9 properties can convert to the new Affordable Housing Program but would then be opted out of the Class 9 status. Every indication from the Cook County Assessor's Office is that similarly situated affordable housing properties will continue to be assessed consistent with market values of similarly situated affordable housing properties (presumably, then, there is no loss in the benefit of a Class 9 from a uniform assessment perspective).

The length of the program is an initial ten-year period, with annual certifications required for program compliance (again similar to Class 9). If those annual certification requirements are met, the program can be extended for up to two additional ten-year periods (total of thirty years). However, if you are currently a Class 9 project, the Class 9 years that have expired will be counted against the thirty-year period.

Under the program, "affordable units" are defined as units that have rents that do not exceed the maximum rents as defined under the program requirements. Furthermore, "household income" is defined in a manner similar to the Class 9 requirements. Both the foregoing standards are tied to the Illinois Housing and Development Authority benchmarks for maximum rents and household income.

If one is applying under the "substantial rehabilitation" program criteria (as opposed to new construction), certain components of the real property and/or systems serving the property need to be updated, replaced

and/or rehabilitated, as those facilities are defined in the statute, as well as spending a certain dollar amount per square foot of the building.

II. PROGRAM CRITERIA

The legislation and implementation thereof by the Assessor's Office basically provide three categories for the program as follows:

Assessed Value Reduction

1. If the owner of residential real property commits at least 15%, but fewer than 35%, of multi-family units for rents at or below the "maximum rents" and are occupied by households with incomes at or below "maximum household income" limits (both as defined in the program) for a period of at least ten years, the assessed value of the property used to calculate the tax bill should be reduced by 25% of the assessed value, as determined by the Cook County Assessor for the current taxable year;
2. If the owner of the residential real property commits at least 35% of multi-family units for rents at or below the "maximum rents" and are occupied by households with incomes at or below "maximum household income" limits (both as defined in the program) for a period of at least ten years, the assessed value of the property used to calculate the tax bill should be reduced by 35% of the assessed value, as determined by the Cook County Assessor for the current taxable year.

"Low Affordability Community" Projects

3. Prior to the newly constructed residential real property or improvements to existing residential real property located in a "low affordability community" being put in service, the owner commits that for a period of 30 years after the newly constructed residential real property or improvements to existing residential real property are put in service, at least 20% of the multifamily building's units will have rents that are at or below maximum rents and are occupied by households with household incomes at or below maximum income limits. "Low Affordability Community" means any (1) municipality "with less than 1 million inhabitants" where less than 40% of the housing stock is affordable, (2) Downtown ("D") Zone in Chicago, or (3) any "jurisdiction" in a municipality with 1+ million inhabitants designated as a low affordability community by ordinance. The reduction in assessed value is a sliding scale based upon program specifics as further noted below.

The program provides a sliding scale reduction in the percentage offset, whereby for the first three years of the program, the foregoing reduction is applied at 100%; in years four through six the reduction is applied at 80%; in years seven through nine the reduction is applied at 60%; in years ten through twelve the reduction is applied at 40% and years thirteen and after the reduction is applied at 20%. The program application procedures are similar to the current Class 9, wherein the owner or its agent certifies certain information as to tenant income and rents. The program requirements provide that all rent and income criteria and thresholds are adopted from the Illinois Housing and Development Authority. Although the Cook County Assessor's Office provided for an application deadline of March 31, 2022, the program is an on-going program, so applications are likely to be accepted as projects come online.

The above is a general summary of the program and is not intended to be all inclusive of the programs which are being encouraged by the Assessor's Office as a viable alternative to the Class 9 and is of significance especially in light of the affordable housing market. If you have any questions, please contact Tim Hammersmith, Chair of the Real Estate Practice, at Masuda Funai.