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Avoiding Housing Credit Non-Compliance: Properties Matter, Too!

By: Mandi Lewis and Jeffrey Promnitz

In the world of housing credits, an 8823 is what nobody wants to see. But, often overlooked is *property* non-compliance, not just household eligibility, because these can warrant an 8823, too. Do you ever think about whether your staff are identifying every issue on a timely basis? Property defects, both large and small, can arise daily, requiring a seemingly endless attention to detail. We hear frequently about the anxiety this causes property managers because they have to trust that all of their staff are keenly observing, reporting and fixing every defect. On top of this, we are in the midst of some of the most notable overhauls on property compliance in decades (think: HOTMA and NSPIRE), adding significant complexity to the staff who are unprepared. In this article, we are going to discuss a few best practices that you can employ in order to mitigate non-compliance exposure and keep the community living in great housing.

First, you must approach compliance from the big picture by getting grounded with its intention in the first place. This will keep everything in perspective, which is important, because then the details naturally fall into place. Without this levelheadedness, we see that even obvious defects get overlooked, which is especially bad, because these are the ones you're expected to never miss. Let's start from the top.

The property compliance requirements that you are required to meet are not for the purpose of making property management difficult. Instead, they are to ensure the safety of housing for the families that live there. Until recently, this was the Uniform Physical Condition Standards (UPCS) that the Real Estate Assessment Center (REAC), a division of the Department of Housing and Urban Development (HUD), created as the common protocol. On tax credit properties, the Treasury Department, and specifically its own division of the Internal Revenue Service (IRS), largely adopted the same UPCS requirements. There are some nuances, of course, but since each state's Housing Finance Agency (HFA) ultimately reports your property compliance to the IRS, it means that you must follow the same requirements that REAC has set forth.

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This year, you've likely become aware of the National Standards for the Physical Inspection of Real Estate (NSPIRE), which is the most significant overhaul to property compliance in several decades. It matters to your tax credit property because there is good reason to believe the IRS will utilize the same (or similar) NSPIRE standards because the Internal Revenue Code specifically cites REAC's protocol as the one it adopts.

For this article (and the purpose of the big picture), suffice it to say that UPCS and NSPIRE are protocols designed to examine the same defects. The key difference is that NSPIRE introduces a new scoring model that places significant weight on defects that are considered health and safety (H&S) matters for people. This is a big departure from UPCS because the consequences of H&S defects can "fail" a property much more quickly. On the other hand, low-risk defects are much more tolerable when it comes to passing.

Now that we have set the big picture, let's move to a few best practices. Do not miss the obvious defects, which goes without saying, but it is more common than you may think. This usually happens when staff are bogged down with the details, and it is the reason why starting from the big picture is best.

Firstly, make it a policy to walk the property on a daily basis, or as close to it as possible. This doesn't mean to enter units and burden families, but rather to simply walk and observe. Are fences still standing erect? Are lights turning on and off when intended? Have any of the cracks in the sidewalk decided to buckle and create a trip hazard? This isn't a full inspection; it's a basic observation of items (a) that are often taken for granted, and (b) could result in preventative fixes that would otherwise become H&S issues. The observer simply records their notes and submits them to the manager. Sometimes we hear about performing mock inspections, but if you conduct these basic daily walkthroughs, it eliminates the need to do mock inspections.

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The next level of inspection is the inside of units. These don't need to be performed as regularly as a daily outside walkthrough unless a resident reports an issue or you have reason to do so. This is the second inspection policy: Include in all new move-in and renewal packets that physical inspections are a regular practice and they should be expected at least yearly. Why? Because it is a priority for you to ensure the family is living in decent, safe and sanitary conditions. We also believe that by offering the household the opportunity to understand that this is a priority for you, it will help to ensure good tenant relations.

The final best practice policy is to require all staff, not just maintenance or facility services, to undertake annual inspection training. By establishing that everyone working on a property has a duty to report defects, you will have more opportunity to identify issues that any one person may miss on their own. Plus, everyone should be scheduled to take NSPIRE training already.

So far, we have looked at best practices for keeping constant vigilance on property compliance without it adding any significant amount of time. To ensure that all requirements are met, you must conduct full inspections. What is key for you at this point is to remember that you're not inspecting simply to perform to the UPCS or NSPIRE test, but to ensure quality housing for families. At least annually, conduct a full, detailed inspection that meets the complete UPCS or NSPIRE requirements, and ideally, utilize a qualified partner like Zeffert & Associates. This will help you to correct any defects in reasonable timeframes and it will also simulate what your score would be when a HUD inspector arrives.

The Bottom Line:

- ✓ Conduct regularly scheduled walkthroughs. Simply observe. Reduce the chance for missing common items and resolve major issues that could surface.
- ✓ Set a policy for all property staff to undertake at least annual inspection training. Everyone should have a duty to observe and report defects.
- ✓ Include in the move-in and renewal packets a notice of annual unit inspections. It also helps tenant relations by showing you care.

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- ✓ Conduct complete annual inspections with a qualified partner. This will ensure quality housing and improve the opportunity for a favorable inspection of record report.

In closing, it is possible to minimize the risk of receiving an 8823 and reduce time consumptive inspections at the same time. Start from the top and establish the policies for your property that include all staff as part of best practices. Conduct your full inspection annually, which will help you maintain a solid property and a happy community.

For more information, contact Zeffert & Associates at info@zeffert.com



Jeffrey Promnitz, CEO

Jeffrey is a regular panelist, motivational speaker, and trainer on national and local circuits covering fair and accessible housing. He is the chief executive officer of Zeffert & Associates, Inc. and adjunct faculty with the University of Missouri - St. Louis. Additionally, he volunteers on various leadership advisory committees and boards for causes he believes in. Jeffrey stands firmly for the growth of multifamily investors because they power the affordable housing of more than just families, but entire communities. He believes in the advocacy efforts that affordable housing trade groups make, which are critical to expanding the accessibility of homes for everyone. He holds professional designations in affordable housing, a master's degree in international business administration, and a bachelor's degree in medical microbiology.

As CEO, he works to establish impactful partnerships with industry stakeholders and leads the strategic advancement of Zeffert & Associates.

As an academic, he teaches at the University of Missouri – St. Louis in the College of Business Administration as adjunct faculty. He is active in the university's strategic planning, including serving on the Marketing Advisory Board.



Mandi Lewis, Director of Training

Mandi has served as a property manager of LIHTC properties with up to 2,000 units, and since joining Zeffert & Associates, has earned several promotions, currently serving as the director of training for Zeffert University. Her primary responsibilities include the assessment of clients' needs for affordable housing training, directing the development of a continually robust, dynamic course catalog, and matching the clients' staff with the compliance education they require. This includes eLearning and the delivery of live training.

"My job is to conduct an institution of higher learning for multifamily owners, agents, and investors," says Mandi. She holds the HCCP and FHS designations.