

How School Districts Can Create Attainable Housing Opportunities

Legal and Financial Pathways to Attract and Retain Employees



June 2021 School districts around the country have been searching for opportunities so teachers and support staff are able to live close to the schools they work at. This report highlights creative attainable housing solutions in Arizona and other markets.

Introduction

Nationally, the housing affordability crisis is becoming increasingly dire. The COVID-19 pandemic exacerbated the housing crisis and Arizona is facing one of the toughest housing markets in the country. Rental and home prices have seen double-digit increases in the past year, and working families are facing intense struggles to locate attainable housing. Skyrocketing rental costs are affecting school districts hoping to attract and retain talented teachers and school personnel.

School districts around the country have been searching for ways to create attainable housing opportunities on their campuses so teachers and support staff are able to live close to the schools where they work. School districts can use their resources to support educators, school staff, and their communities by using school-owned property to develop attainable housing. This brief will explore what attainable housing is, how schools can navigate legal compliance considerations, and how Arizona school districts can make this work.

What is Attainable Housing?

Attainable housing is comparable to workforce housing, which is defined as dwellings for “households earning between 60 and 120 percent of area median income.”¹ In 2020 dollars, that is \$46,680 to \$93,360, respectively. These kinds of housing programs are targeted at households that earn too much money to qualify for traditional affordable housing subsidies,² and it can include many educators and support staff.³ As housing prices rise and employee earning power declines, employees are struggling to find attainable housing, live in close proximity to their school communities, or remain in the teaching profession.⁴ Nonprofit organizations focused on community well-being advocate for assisting school staff to reach their homeownership goals as a strategy to improve educator retention.⁵

AS OF 2021, THE AVERAGE SALARY FOR PUBLIC SCHOOL TEACHERS IS \$58,489.⁸

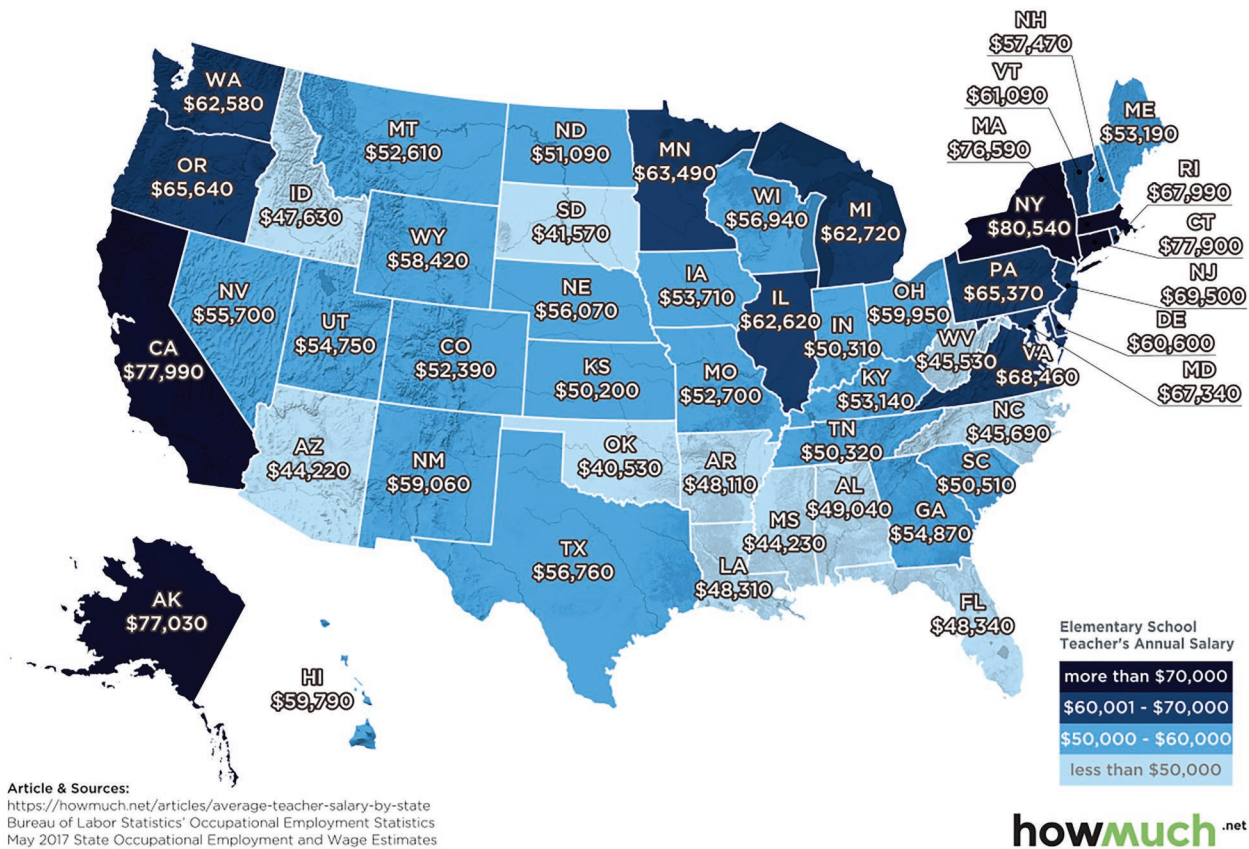


The Need for Attainable Housing

Educators across the country face pay gaps, but data reveals that Arizona educators face significant wage penalties, close to 36%.⁶ The teacher wage penalty is how much less money public school teachers make as compared to other college-educated workers.⁷ As of 2021, the average salary for public school teachers is \$58,489.⁸ Figure 1 shows average teacher salaries across the country as of 2017. There have been salary increases in the past couple of years for teachers, but the state’s ranking has not improved appreciably.

Teacher housing stability is crucial to bolstering the education system. In fact, teachers’ unions frequently advocate for attainable housing because it not only

FIGURE 1 How Much Teachers Make in Every State ELEMENTARY SCHOOL TEACHER'S ANNUAL SALARY



Source: HowMuch.net, a financial literacy website, <https://digg.com/2018/teacher-salary-mapped>

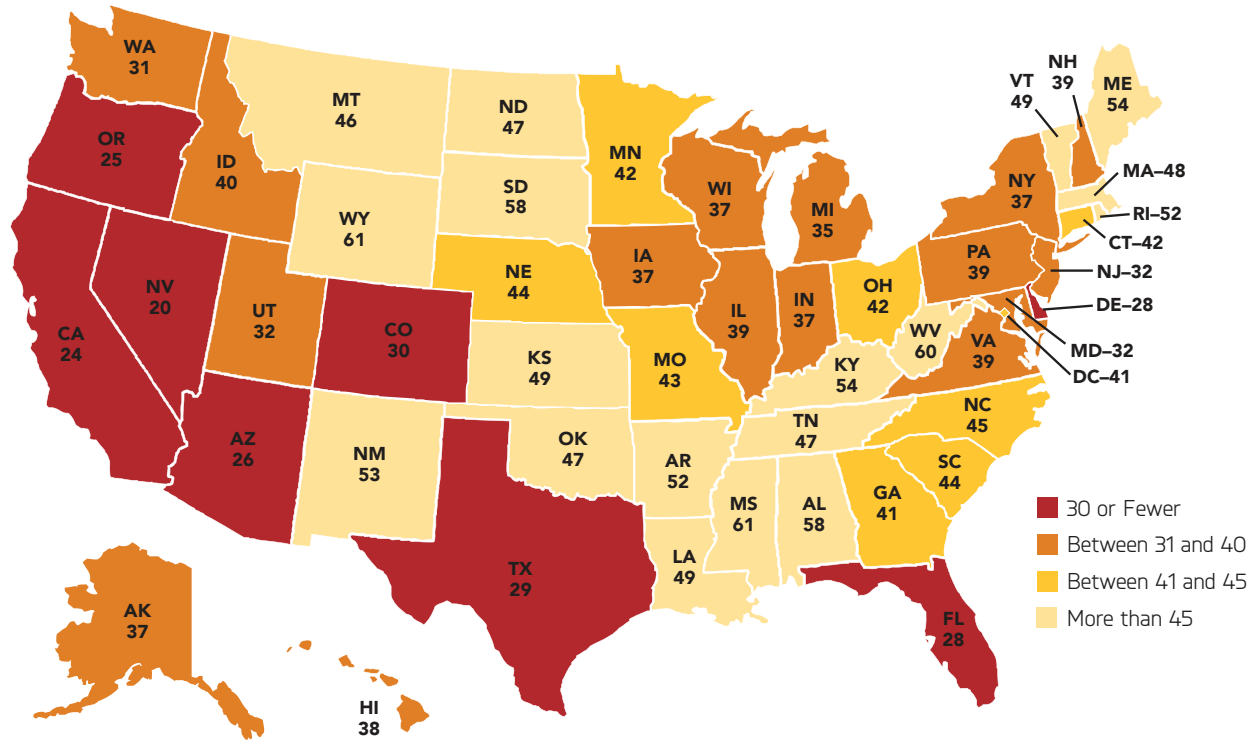
benefits teachers, but it benefits students. When teachers live in the communities in which they work, they are better able to understand the context of their students’ lives. Developing this understanding fosters meaningful relationships, relevant expectations, and guides instructional decisions. Furthermore, if employees live in the communities they serve, they can enroll their children in the same school system, increasing both convenience and personal investment.

Unfortunately, as home prices and rents continue to skyrocket, teachers are increasingly forced out of the communities they serve and are burdened with long commutes that add to job-related stress. According to a Learning Policy Institute analysis, nearly 25 percent of former teachers said

housing incentives might entice them to return to the field.⁹ In fact, 11 percent of teachers that left cited moving or geography reasons as the reason for their departure.¹⁰ Teachers that are forced to take on additional employment to stay afloat financially are overworked, which may compromise the quality of their teaching and their capacity to be most effective for their students.



FIGURE 2 Rental Homes Affordability and Availability PER 100 EXTREMELY LOW INCOME RENTER HOUSEHOLDS BY STATE



Note: Extremely low income (ELI) renter households have incomes at or below the poverty level or 30% of the area median income. Source: ©2021 National Low Income Housing Coalition, <https://nlhc.org/news/nlhc-released-today-gap-shortage-affordable-homes>. Data Source: NLIHC tabulations of 2019 ACS PUMS Data.

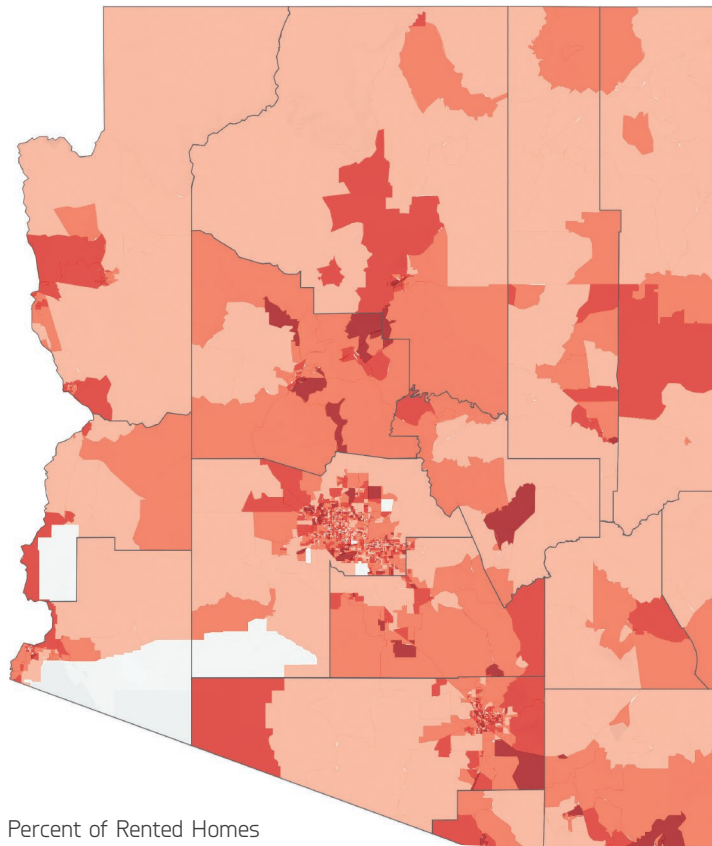
Why is it Worth Doing?

ENSURING THAT TEACHERS AND SCHOOL PERSONNEL HAVE ACCESS TO ATTAINABLE HOUSING IMPROVES SCHOOL DISTRICTS' ABILITY TO ATTRACT AND RETAIN DEDICATED STAFF.

Helping teachers find attainable housing reduces the cost and stress of living on a “relatively fixed salary as a teacher” and improves teachers’ impact on their students.¹¹ Often, teachers are forced to abandon schools in urban areas because suburban schools offer higher salaries and more attainable housing options, undermining consistency and relationship development between teachers, students, and communities.¹² Ensuring that teachers and school personnel have access to attainable housing improves school districts’ ability to attract and retain dedicated staff. Furthermore, housing stability is critical to children’s health and well-being; in fact, many health outcomes are impacted by housing insecurity. “Housing creates better educational opportunities for children” which contributes to healthier communities and strengthens economic foundations.¹³ Inadequate housing, which impedes “accessibility to high-quality schools, attendance, and academic achievement” impacts school outcomes.¹⁴ In fact, affordability barriers “can lead to difficult choices in household budgets – for example, choosing between paying the rent or paying for food and other necessities like adequate health care” and increases the chance of experiencing unstable housing situations like evictions.¹⁵

FIGURE 3 Rental Homes Affordability

This Arizona state map, broken down by county, shows the percentage of rental homes requiring greater than 30% of personal income to afford the rent. To further explore housing affordability across the state using interactive maps by zip code, please visit the Vitalyst Health Data Dashboard: <https://bit.ly/3consDh>.



Regional Success Stories

Some school districts in California have been successful in galvanizing voters to pass measures that approve general obligation bonds to build attainable housing by way of below-market-rate apartments to purchase or rent. For example, San Jose’s East Side Union High School District passed Measure J, costing homeowners about \$2.70 per \$100,000 of assessed value of their property annually, to build a 100-unit apartment complex for teachers and staff.¹⁶ Another example from California is Soledad Unified School District (SUSD). SUSD passed Measure N, authorizing SUSD to issue up to \$13.75 million in bonds with bond revenue going to fund improvements to technology and construction of staff/teacher rental housing and requiring an estimated property tax levy of \$25.52 per \$100,000 in assessed value.¹⁷ The Chula Vista Elementary School District passed Measure M, which raises taxes by \$30 per \$100,000 of assessed property valuation each year until 2044, to build 100 units of below-market-rate apartments for teachers and staff employed by the district.¹⁸

In Santa Clara, school districts collaborated to “target teacher housing as a way of curbing turnover.” The project, Casa Del Maestro, led to the construction of a complex on district-owned land designed to help teachers remain in Silicon Valley. “The district sold nearly \$7 million in bonds to finance the effort, and those are being paid back with the tenants’ rent, which costs about \$1,200 to \$1,900 per month.”¹⁹ Eagle County Schools developed an Employee Housing Master Plan in April of 2020 in response to a school district survey. The teacher survey indicated diversity and sustainability were high priorities but emphasized the need for attainable housing. In the first phase of the plan, Habitat for Humanity and the school district struck a first-in-the-nation deal to develop 12 townhomes on land owned by the school district.²⁰



What is Arizona Doing?



Arizona's explosive population growth has exacerbated housing disparities, but there have been some successful efforts around the state to address the attainable housing crisis.²¹ For example, Vail Unified School District built 24 tiny houses on a 14-acre lot to offer attainable housing to educators.²² Yavapai County's Board of Supervisors approved the Home of My Own program, which created a set of pre-approved plans for attainable homes of various sizes, given out to builders and prospective homeowners free of charge. Some school districts in the county have expressed interest in participating once the plans are available. In Tuba City Unified School District, part of the employment benefits offered to teachers includes teacher housing.²³ The Navajo Nation partnered with the Native Housing Partnership to develop Karigan Estates to attract local teachers, among other professionals, to work in Window Rock.²⁴ Karigan Estates is a 13-acre site consisting of single-family homes, apartment complexes, townhomes, retail/commercial, and governmental offices.

Feedback from educators, like Superintendent Kristine Morris of Union Elementary School District, reveals that schools are very interested in this kind of work. Superintendent Morris shared that her district is mostly landlocked, without many housing options nearby. She expressed that "our goal is to help our teachers purchase homes." Even if school districts themselves do not have the parcels of land to develop attainable housing, they can support surrounding districts by building community support.

How To Get Started

School-Owned Land for Housing

Considering how land costs are often a barrier to building attainable housing, one strategy is to repurpose public property for housing.²⁵ School districts are exempt from local zoning laws, creating broad opportunities.²⁶ In many states, "Public land policies make government-owned land available at reduced or no cost for attainable or mixed-income housing."²⁷ This strategy is helpful because education is a recognized governmental use, enabling a seamless pairing with housing efforts.²⁸ In some communities, school districts are the largest public landholders, maximizing the potential impact.²⁹ Schools have underutilized land assets and while housing cannot be offered exclusively to teachers and parents, schools can offer educators priority access. Schools may have the opportunity to exchange this priority access for contractual terms. Schools may collaborate with for-profit or

non-profit builders/developers to lease and manage parcels of school-owned land for such attainable housing. In fact, when schools retain land ownership or management responsibilities, the land remains exempt from zoning rules. The U.S. Department of Housing and Urban Development (HUD) favors public-private partnerships for housing finance and rental assistance programs, among other projects.³⁰ These partnerships allow greater leeway to spend allocated dollars. For example, school districts can collaborate with private partners for long-term lease options. While school districts do not necessarily need school board approval, practically, superintendents are unlikely to move forward without school board approval. Superintendents can collaborate with Chief Financial Officers (CFOs), business managers, and community members to galvanize support for these projects.

Arizona Constitutional Provisions and Compliance

While addressing attainable housing in this manner is feasible, the Arizona Constitution presents a complicating factor through the gift clause prohibitions. Arizona Constitution, Art. IX, Sec. 7: “Neither the state, nor the county, city, town, municipality, or other subdivision of the state shall ever give or loan its credit in the aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association, or corporation, or become a subscriber to, or a shareholder in, any company or corporation, or become a joint owner with any person, company, or corporation, except as to such ownerships as may accrue to the state by operation or provision of law or as authorized by law solely for investment of the monies in various funds of the state.”³¹ As a result, gifts are prohibited unless such gifts meet certain criteria.

Some public entities have been challenged in court about using public land for alternative purposes. However, there is Arizona Supreme Court precedent to determine Gift Clause compliance.³² According to *Turken v. Gordon*, a private party complies with the Gift Clause only if the payment both: (1) has a public purpose; and (2) is not grossly disproportionate to what is received in return.³³ In other words, the Gift Clause is violated when public expenditures do not further a public purpose and/or there is inadequate consideration.³⁴ According to *Shires v. Carlat*, courts will no longer give deference to the findings of the public body as to the benefit. In *The Goldwater Institute v. City of Phoenix*, the Court ruled that selling land with a 92% discount for the purpose of redevelopment for low- to moderate-income homeownership was a public benefit.³⁵

How Might Shared Use Agreements Work?

To simplify legal compliance, organizations have developed shared-use agreements for this kind of attainable housing work. “Shared use, joint use, open use, or community use agreements allow public access to existing facilities by defining terms and conditions for sharing the costs and risks associated with expanding a property’s use. Public, private, or nonprofit organizations such as schools, colleges, community and senior centers, government entities in charge of unused or underused public land, faith-based organizations, hospitals, the military, or mixed-use development projects

can create shared use agreements to allow community access to their property before or after hours. Shared use agreements can be formal (i.e., based on a written, legal document) or informal (i.e., based on historical practice), and can be tailored to meet community needs.”³⁶

Shared use agreements have many benefits, including improved health, greater equity, increased community cohesion, better educational outcomes, and economic growth opportunities.³⁷ These partnerships can be used for summer or after-school programs. For example, in the Roosevelt School District, these kinds of partnerships provide the opportunity for community kitchens, technical assistance for buildings and businesses, establishing teach/think tanks, and enhancing effective land use.³⁸ These programs can also include childcare, which may be especially attractive to young teachers who would benefit from utilizing such services. To look at sample shared use agreements, please follow this link: <https://bit.ly/3cnpngMw>.

Some of the services the school already may be offering can be built into the attainable housing project such as dental clinics, health clinics, extracurricular opportunities, and community programs. Examples of this can be found in shared use agreements within the City of Phoenix’s 21 elementary school districts. Another example is the Boys and Girls Club of the Valley, where the key to success has been communication between partners to set expectations.³⁹ Boys and Girls Club of the Valley has operated successful partnerships in several schools by offering educational, afterschool, and summer programming through either a shared use agreement or a Memorandum of Understanding (M.O.U.). They have been able to build free-standing Clubs on school properties with clear communication about who pays for maintenance, utilities, and other costs, all of which are a direct benefit to the school. Each agreement is unique to the particular location and supported through membership and private fundraising. The most direct approach is drafting a comprehensive agreement with a property management company.

While private and charter schools are beyond the scope of this paper, it is worth acknowledging that both entities can address attainable housing and may be able to do so by entering into these kinds of agreements. Master lease options are a viable way to address attainable housing without running into legal obstacles with the Federal Housing Administration. Master leases offer broad leeway to build housing options, ranging between one-to-three-bedroom plans, depending on the land size.

“Teacherages”

Another avenue to address attainable housing is building “teacherages,” which is attainable housing specifically for teachers.⁴¹ School districts may establish teacherage funds and utilize such funds for: “(1) Maintenance and operation of teacherages; (2) Debt service related to teacherages; (3) The purchase of houses, including mobile or modular housing, to be used exclusively as teacherages for school districts located on tribal and federal lands; and (4) Reduction of the local tax levy if accumulation in such a fund warrants such a use.”⁴²

TEACHERAGES ARE “DWELLING UNIT[S]... USED TO PROVIDE LIVING ACCOMMODATION FOR TEACHERS.”⁴⁰ TEACHERAGES ARE NOT SUBJECT TO ZONING RULES, LOCAL ORDINANCES, OR THE USUAL LANDLORD-TENANT LAWS.

According to *Berry v. Foster*, school districts are a legislative creation having only such powers as given to them by the Legislature, in either express or implied terms. A.R.S. 15-432 clarifies, “The governing board may...Construct or provide in **rural** districts housing facilities for teachers and other school employees that the board determines are necessary for the operation of the school.”⁴³ Because of the statutory language, if school districts want to build teacherages directly in urban areas, the statute would have to be amended to either remove the word “rural” or add the words “urban” and “suburban.” Without such a statutory change, urban school districts lack the statutory authority to build attainable teacher housing in this manner.

A.R.S. 15-432 section 7 explains that “The governing board may...(s)ell or lease to the state, a county, a city, another school district or a tribal government agency any school property required for a public purpose, provided the sale or lease of the property will not affect the normal operations of a school within the school district.” A.R.S. 15-432 section 9 indicates that “The governing board may...(e)nter into leases or lease-purchase agreements for school buildings or grounds, or both, as lessor or as lessee, for periods of less than twenty years subject to voter approval for construction of school buildings as prescribed in 15-341, subsection A, paragraph 7.” The relevant subsection indicates that “The governing board shall...(c)onstruct school buildings on approval by a vote of the district electors.” This means that leasing school property for a term of less than 20 years would not require voter approval if the buildings were not district-owned.

Some other legal issues that must be considered in teacherages are how a lease to a nonprofit would work and whether the school districts’ authority would follow. In the case that a district leases property to a nonprofit and teachers pay rent to the nonprofit, rather than the school, they would likely be able to address gift clause issues. Next, there could be contractual issues with incorporating housing incentives as part of employment compensation packages. However, if housing is part of the benefit package, schools may be better able to avoid gift clause constraints.



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Other Options

Aside from multi-housing units for teachers, other solutions to expand attainable housing include:

- **Rental Deposit Assistance** – helping teachers with first/last month’s rent and security deposit
- **Homebuyers Education** – creating partnerships with agencies providing homeownership education
- **Preferred Lender Relationships** – establishing alliances with banks to offer affordable loans and alternative financing
- **Monthly Rental Subsidies** – financial support to help offset monthly rent

Financing Options

There are several different funding options to build attainable housing and often funding is layered to reduce costs, leverage capital, and fill gaps. These are the most common methods of financing projects in Arizona.

How the 9% Tax Credit Program Works

The 9% Low Income Housing Tax Credit (LIHTC) plays a vital role in the production and rehabilitation of affordable rental housing and is considered to be extremely successful and efficient. Many states have used the 9% LIHTC as their primary tool to facilitate the development of affordable rental housing. Each year the federal government allocates a set amount of 9 % LIHTCs to each state’s allocating agency on a per-capita basis. The Arizona Department of Housing (Arizona’s allocating Agency) received \$20,471,392 in credits for the 2021 competitive round. To date, it has been the most successful rental housing production program in Arizona, creating thousands of residences with very affordable rents. Rather than a direct subsidy, LIHTC encourages investment of private capital in the development of rental housing by providing a credit to offset an investor’s federal income tax liability. A low-income housing tax credit is a dollar-for-dollar credit against the federal income tax liability of the owner (developer or investor) of a low-income housing development. Tax credits that are allocated to a development are claimed in equal amounts for a 10-year period. The rental property generating the credit must remain in compliance with the program guidelines and rent restriction requirements for a period of not less than 30 years from the first taxable year of the credit period.

The 9% tax credit also works well in communities with limited rental housing and high value for-sale homes. Households with incomes below 60% of the Area Median Income (AMI) in these communities often have limited housing options, so new LIHTC apartments provide affordable housing for the workforce, a critical component of a healthy and growing, economy.



FUNDING OPTIONS TO BUILD ATTAINABLE HOUSING ARE OFTEN LAYERED TO REDUCE COSTS, LEVERAGE CAPITAL, AND FILL GAPS.



How the 4% Tax Credit Program Works

The 4% low-income housing tax credit program is a critical but underutilized source of federal financing for affordable homes. A rental development automatically qualifies for the 4% LIHTC if it receives at least 50% of its financing through tax-exempt private-activity bonds and meets either of the following income criteria:

- 40% of the units are rented at an affordable rate to families making 60% or less of area median income, or
- 20% of the units are rented at an affordable rate to families making 50% or less of area median income.

While some additional subsidy is usually necessary to make a project work, the equity generated through 4% tax credits is a significant asset that contributes substantially to the cost of providing affordable rental homes. Policymakers interested in maximizing the availability of federal funding for affordable housing in their community may wish to consider strategies for expanding their use of this valuable tool when feasible under stable market conditions. A major advantage of the 4% tax credit is that 4% credits are not subject to the same caps and competitive processes that apply to the 9% credits. Because the federal government limits the supply of 9% tax credits each state can allocate each year, not all qualifying projects receive assistance during strong housing markets when demand for tax credits is often high.



Local Government Funding

Local governments provide financing for a range of housing programs utilizing funds from different sources including Federal HOME and Community Development Block Grants (CDBG) funds, federally authorized tax-exempt private activity bonds, and locally issued Taxable General Obligation Bonds. Each funding source is subject to specific regulatory restrictions and requirements. City funding for affordable housing development is derived from various sources which have different funding cycles. Most federal funding is subject to the annual federal budget appropriations process and is allocated to local governments through one or more block grants from the U.S. Department of Housing and Urban Development (HUD). Local governments approve federal grant funding to specific projects. In addition, local funds may be available for affordable housing development from the proceeds of General Obligation (GO) Bonds approved by the voters in bond elections and from other city sources allocated for that purpose by the local city council.

American Rescue Plan Act

The Arizona Department of Housing has an additional \$500 million from the American Rescue Plan Act. It is also possible that the Arizona Legislature may pass an Arizona State tax credit in 2021. The combination of these additional resources will be pivotal in providing additional units of affordable housing in Arizona, where housing costs have risen by approximately 12% and continue to rise faster than anywhere else in the country.

General Obligation Funds

General Obligations bonds are a prime way for schools to build attainable housing. According to the Corporate Finance Institute, “a general obligation (GO) bond is a type of municipal bond in which the bond repayments (interest and principal) are guaranteed by the total revenue generated by the relevant government entity or agency...GO bonds are primarily used to subsidize the development of public projects.”⁴⁴ These kinds of bonds “are only issued in school districts or community college districts where voters have approved a bond ballot measure.”⁴⁵ General obligation bonds are primarily beneficial in housing because “the projects they fund are not expected to generate the revenue necessary to repay the debt. Therefore, general obligation bonds can be used as equity to support a project that cannot be financed adequately with available funds or pay for itself.”⁴⁶

ATTAINABLE HOUSING IS A CHALLENGE ACROSS THE COUNTRY BUT PARTICULARLY DIFFICULT IN ARIZONA – BUT NOW IS THE TIME TO PUSH FOR ATTAINABLE HOUSING IN RURAL AND URBAN AREAS.



Other Possible Funds

There are pre-development loans through Local Initiatives Support Corporation (LISC), a community development organization that offers loans to support upfront costs in affordable housing development up to \$1.5 million. In addition to pre-development funding, LISC also manages the Home Matters Fund that hopes to provide \$100 million in below market debt and grants for projects that add critical affordable housing units, drawn from health care plans through public-private partnerships. The Arizona Housing fund is a public-private-philanthropic solution to address the affordable housing shortage.

Providing Housing Navigation Assistance to School Staff

Many schools have adopted a “Community Schools” approach to assist families as they navigate challenges with housing, access to healthy foods and gaining health insurance coverage. A survey of best practices is summarized in the Vitalyst Spark Report “Arizona’s Community Schools: Beyond Education,” <http://vitalysthealth.org/arizonas-community-schools-beyond-education-may-2018/>. These same services that are useful to families can be offered to school staff.

Conclusion

Attainable housing is a challenge across the country but particularly difficult in Arizona. The combination of low teacher salaries, unaffordable rents, the difficulty school districts have in attracting and retaining school personnel, and the importance of education, show that now is the time to push for attainable housing in rural and urban areas. One solution is incorporating attainable housing into the benefit package offered to prospective teachers. Another option is repurposing school-owned land for attainable housing. In order to ensure school districts can build teacherages, the state legislature could revise the statutory language to expand teacherages from just rural areas to urban and suburban areas as well.

A reflection of the national attention towards this housing crisis was the U.S. Department of Education’s May 2021 decision to distribute \$800 million to support students experiencing homelessness. Arizona, ranking near the bottom in teacher salary and in public education, needs to implement creative solutions to address affordable housing in order to attract and retain educators and school personnel.

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