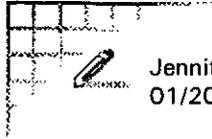


**NLWJC - Kagan**

**DPC - Box 025 - Folder 010**

**Family - Child Care Policy: Low  
Income Housing Credit**

Family-child care policy -  
low income housing credit



Jennifer L. Klein  
01/20/98 12:19:39 PM

Record Type: Record

To: Paul J. Weinstein Jr./OPD/EOP  
cc: Elena Kagan/OPD/EOP  
Subject: Re: Child Care and the LIHTC

That is also what I've heard. Orzag seems optimistic that this will get done.

Fam-child care policy - low income  
housing credit



● Paul J. Weinstein Jr.

01/20/98 11:33:45 AM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Jonathan Orszag/OPD/EOP, Jennifer L. Klein/OPD/EOP

Subject: Child Care and the LIHTC

John and I have talked to Treasury about expanding the LIHTC to permit the tax credit to subsidize common areas within a housing credit property even if that area is made to individuals who do not reside within the property. Michael Barr, head of Treasury's Community Development Office likes the idea. Unfortunately, but not suprisingly, Tax Policy hates the proposal, at least at the career staff level.

Barr is trying to move this proposal at Treasury. John O. and I believe we can push this through later this Spring, after we get the legislation to increase the Credit moving on the Hill. We think that an event this Spring to combine child care and housing and use the event to force Treasury's hand on this issue.

Fam-child care policy -  
low-income housing credit

Bruce, Tom, Nicole, Neena -  
Looks like an  
interesting idea.  
Elean

December 13, 1997

MEMORANDUM FOR GENE SPERLING

FROM: JON ORSZAG

SUBJECT: Low-Income Housing Tax Credit and Child Care

Exc/Jen -  
Let's do this  
if we can -  
It might be  
a nice mini-announcement  
for Feb. or March.  
BR

I have attached a letter from Bobby Rozen explaining a technical change in the Low-Income Housing Tax Credit (LIHTC) that would make child care facilities more available in low-income neighborhoods. This proposal, according to Rozen, has no cost. I have forwarded his letter to Karl Scholz to get Treasury's opinion, and they are supposed to respond by Monday.

Under current law, common space in LIHTC property is considered in the overall project cost (and thus, subsidized), if the area is available only to tenants of the property. This provides a disincentive to contractors to build common areas available for child care, Head Start, and other programs which can serve people from surrounding neighborhoods.

Rozen's proposal is as follows: amend the LIHTC to permit the tax credit to subsidize common areas open to nonresidents. As Rozen notes, it is important that any proposal along these lines have some limitations to make sure that the integrity of the LIHTC is not undercut. He proposes: (1) this option be available for property developed in low-income neighborhoods defined as those within census tracts where at least 50 percent of the population has an income of less than 60 percent of the area median income; (2) the common area not exceed 20 percent of the entire space of the property; and (3) the space be designed to serve individuals who at least meet the income tests for living in the property, even if they are not tenants.



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December 12, 1997

Ms. Jennifer Klein  
Special Assistant for Domestic Policy  
Domestic Policy Council  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear Jennifer:

I understand that you are working on policy initiatives to be included in the President's Fiscal Year 1999 budget that would increase the availability of child care options for American families. I am writing to share with you a modest, no-cost proposal that would expand the availability of child care facilities in low-income neighborhoods.

As you are probably aware, one of the factors that limits the child care options of lower income families in economically distressed areas is the lack of facilities which can serve as space for child care programs. See for example: "Early Childhood Programs, Local Perspectives on Barriers to Providing Head Start Services", General Accounting Office, GAO/HEHS-95-8; "Creating a 21<sup>st</sup> Century Head Start, Final Report of the Advisory Committee on Head Start Quality and Expansion", U.S. Department of Health and Human Services; "Early Childhood Centers, Services to Prepare Children for School Often Limited", General Accounting Office, GAO/HEHS-95-21. These studies all indicate a shortage of suitable facilities for preschool-aged children in areas that Head Start serves, that is, lower income areas. This can be a particularly acute problem that either eliminates child care options, or makes those options considerably more expensive or difficult to access. A very simple measure to help address this problem would be to permit affordable housing projects, developed with the use of the Low-Income Housing Tax Credit, to include common areas which can be made available to individuals who are not tenants of the building. Background on this issue follows:

The Low-Income Housing Tax Credit is a very successful federal tax subsidy program designed to develop affordable housing across the nation. Under this program, which has been in effect since 1987, state housing finance agencies allocate tax credits to developers of affordable housing who receive the tax subsidy in return for renting their property at limited rents to families with incomes under 60% of area median income. The Housing Credit is a capped program and the amount of credits which states may allocate each year is tied to the state's population.



Under current law, common space in a Housing Credit property which is made available only to the tenants of the property is considered part of the overall project cost and is, therefore,

subsidized with the federal tax credits. However, common areas of such buildings which are made available to individuals who are not tenants of the building may not be subsidized by the housing tax credit. This has the effect of preventing the building owner from making space available for such purposes as child care, Head Start, and other programs which can serve people from the surrounding neighborhood. As a result, because of current restrictions in the Low-Income Housing Tax Credit, affordable housing that is being developed in low-income neighborhoods where there is a shortage of child care and other community facilities is not being made available to people who live in the neighborhood. This is true even in the case where local, nonprofit community groups develop and manage the property.

The solution would be to amend the law to permit the tax credit to subsidize common areas within a housing credit property even if that area is made available to individuals who do not reside within the property. There are various ways that this provision could be limited to make sure that the basic purpose of the Housing Credit program is not undermined. I have attached draft legislative language for such a provision which would be limited in various ways. Firstly, this option would only be available for property developed in low-income neighborhoods defined as those within census tracts where at least 50% of the population has an income of less than 60% of area median income. Secondly, the common area could not exceed 20% of the entire space of the property. Thirdly, the space would have to be designed to serve individuals who at least meet the income tests for living in the property, even if they are not tenants.

The policy objective -- increasing the availability of space that can be used for child care purposes -- can, of course, be achieved without these limitations. Alternatively, you may wish to consider other modifications. For example, the attached draft is prospective in nature; it would apply to future property developments. It could be modified to clarify that existing Housing Credit property will not be out of compliance with the law if space in common areas is made available to non-tenants. The essential element is that the Low-Income Housing Credit rules be liberalized to permit non-tenants to use common areas.

Since the Housing Credit is a capped program that is being fully utilized today, there should be no revenue cost to the federal government in this proposal. If you have any questions, please give me a call at (202) 293-7474.

Sincerely,

  
Robert Rozen

Enclosure

cc: Bruce Reed  
Paul Weinstein  
Michael Barr  
John Orszag

**Increasing the Availability of Child Care Facilities  
In Low-Income Neighborhoods**

**Amendments to the Low-Income Housing Tax Credit  
27 U.S.C. §42**

Amend paragraph (4) of Section 42(d) by adding a new subparagraph:

(C) ***BASIS OF PROPERTY IN COMMUNITY SERVICE AREAS INCLUDED.*** -  
*The adjusted basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in functionally related and subordinate community activity facilities if -*

- (i) *such facilities are designed to serve individuals meeting the low-income requirements of subsection (g)(1)(B) and employees of the qualified low-income housing project of which the building is a part, and*
- (ii) *not more than 20% of the aggregate eligible basis of all building in such project is attributable to the aggregate basis of such facilities.*

*Such facilities the aggregate basis of which is more than 20% of such aggregate eligible basis shall not be disqualified under clause (ii), if not more than 20% of such aggregate eligible basis claimed by the taxpayer is attributable to such facilities.*