

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

IRC Section 42(m)(1)(B)(ii)(II) requires that state agencies, in their QAP, "give preference in allocating housing credit dollar amounts among selected projects to ... projects obligated to serve qualified tenants for the longest periods" and Section 42(m)(1)(B)(iii) requires the QAP to "provide a procedure that the agency ... will follow in monitoring for noncompliance with the provisions of this section." The IRC also allows state agencies to add additional requirements above and beyond the Code in keeping with their mission. MFA has documented their requirements for transfers in their LURA, which includes that "the Project Owner is in compliance with the requirements of [the LURA] and of Section 42(j)(6) of the Code;" and that "the proposed transferee of the Project evidences, to the reasonable satisfaction of MFA, by its performance with respect to other Tax Credits or government-assisted housing projects and otherwise, its willingness and ability to comply with the terms of [the LURA]." MFA's Ownership Change policy, of which this application process is a product, is an expansion of these requirements.

In accordance with MFA's new Ownership Change policy, Applicants must undertake the following steps in order to gain approval for an ownership change:

1. Identify the applicable applicant checklist according to ownership type:
  - a. General Partner change without Risk Share loan, checklist p. 2-8
  - b. Limited Partner change without Risk Share loan, checklist p. 9-13
  - c. General Partner change with Risk Share loan, checklist p. 14-20
  - d. Limited Partner change with Risk Share loan, checklist p. 21-25
  - e. Limited Partner exit only, checklist p. 26-28
  - f. Property with MFA loan(s) only, checklist p. 29-33
2. If uncertain regarding which checklist to use, please send a cover letter describing the prospective transfer as well as pre- and post-transfer organizational charts to MFA's Preservation Program Manager.
3. Using the appropriate checklist, arrange the requested/required items, as well as a completed checklist with items checked off and completed signature at the bottom, into a single Application Packet.
4. Use the appropriate section of the Scoring Worksheet (Appendix G) to self-score your application.
5. Submit the full Application Packet electronically at <https://mfa.internal.housingnm.org/FileTransferHD/> and notify MFA's Preservation Program Manager.

With questions or for technical assistance, please contact Preservation Program Manager Hannah Kunzle at [hfaulwell@housingnm.org](mailto:hfaulwell@housingnm.org).

# MFA Ownership Change Application: Instructions and Applicant Checklists

## Checklist for Applicant Use: Properties with No Risk Share Loan Undergoing a General Partner Change

(Note that in cases of controlling entity - i.e., general partner, managing member, etc. - transfer of ownership interest of at least 25% or more, the Ownership Change policy and scoring criteria will apply and be considered a "General Partner Change")

Project Name: \_\_\_\_\_ Date: \_\_\_\_\_

<b><u>Section One: Threshold Items (Required for Evaluation)</u></b>			
Item	Submit request electronically at <a href="https://mfa.internal.housingnm.org/FileTransferHD/">https://mfa.internal.housingnm.org/FileTransferHD/</a> to Preservation Program Manager. Please attach this completed checklist to application packet.	Check if Present	MFA Use
1	<p><b><u>1. Application Fee (\$500)</u></b></p> <p>Non-refundable application fee of \$500 is due to MFA upon receipt of application. Make checks payable to the NM Mortgage Finance Authority or contact HD@housingnm.org for wiring instructions.</p> <p><i>*Applicant will also reimburse MFA for any legal expenses incurred by MFA in relation to the ownership change. In cases where there are fees required by the RS Regulatory Agreement, MFA will charge only the higher of the two.</i></p> <p><i>**If the application is not complete or further information is required, an additional change fee of \$500/change may be imposed.</i></p> <p><i>***In cases of resyndication, the \$500 Ownership Change Application Fee is waived. Note that other fees per the QAP still apply.</i></p>		
2	<p><b><u>2. Processing Fee (\$1,500)</u></b></p> <p>Processing fee of \$1,500 is required at or prior to closing the approval for change in ownership; a conditional consent letter will be issued ahead of receipt of a recorded 'Assignment and Assumption Agreement.'</p>		
3	<p><b><u>3. Contact Information (for MFA Housing Development)</u></b></p> <p>Provide name, title, company, address, telephone number and email for:</p> <ul style="list-style-type: none"> <li>• Primary application contact person(s) for seller party</li> <li>• Primary application contact person(s) for purchasing party</li> <li>• Legal counsel contact for seller party</li> <li>• Legal counsel contact for purchasing party</li> <li>• Point person for seller party to which MFA's Conditional Consent to Change Ownership letter should be addressed in the event that consent is granted</li> <li>• Point person for purchasing party to which MFA's Conditional Consent to Change Ownership letter should be addressed in the event that consent is granted</li> </ul> <p>Also provide names and emails of any secondary application contact person(s) that should be copied on application correspondence.</p>		

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4	<p><b><u>4. Cover Letter</u></b></p> <p>Cover letter explaining the proposed ownership change. Include the following: the property address; all sources of funds in existing project (loans, grants, bonds); certification of the first year tax credits were taken on the final building placed-in-service and what year the 15-year LIHTC Compliance Period ends (if LIHTC). If there are any MFA loans or MFA-issued bonds, advise whether loans will be paid off or bonds redeemed at closing or assigned to buyer (also clarify, if pursued, the paying/redeeming party).*</p> <p><i>*Note that it is not MFA's practice to release/terminate LURAs or Regulatory Agreements of loans/bonds that have been paid off/redeemed. Restrictions will continue as per LURA/Regulatory Agreement after payoff.</i></p>		
5	<p><b><u>5. Organizational Charts</u></b></p> <p>Pre-Ownership Change Organizational Chart and Post-Ownership Change Organizational Chart with complete ownership information for all entities listed, including for Partnerships, limited partners with a 25% or greater interest, and all general partners; or, if a corporation/LLC, stockholders/members with a 10% or greater interest. Organizational Chart should be comprehensive and include all levels of ownership.</p>		
6	<p><b><u>6. Copy of LIHTC, Loan, Grant, and Bond Documents (where applicable)</u></b></p> <p>Copy of any relevant recorded or non-recorded documents pertaining to subject property's sources of funds such as LURAs, mortgages, regulatory agreements, any amendments, and subordination agreements to which MFA is a party.</p>		
7	<p><b><u>7. Copy(ies) of IRS Form No. 8609</u></b></p> <p>Copy(ies) of fully executed Form 8609's (original and amended) with Part II completed.</p> <p><i>*If copy(ies) of fully executed Form 8609s with Part II completed are not available, and the property holds the right to a Qualified Contract per the standing LURA, the property may satisfy this threshold item and move forward with the Change of Ownership Request by waiving their Qualified Contract right.</i></p>		
8	<p><b><u>8. Seller's Statement</u></b></p> <p>A letter from the current owner stating that they are working with the proposed buyer and have entered into an agreement to purchase the property.</p>		
9	<p><b><u>9. Title Commitment/Report</u></b></p> <p>Title report and/or commitment with complete copies of all documents listed on Schedule B, Part II.</p>		

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10	<p><b><u>10. Plan of Action to Resolve Outstanding Compliance Issues (if applicable)</u></b></p> <p>Property cannot have any outstanding compliance issues. Upon receipt of a full application and fee payment, MFA staff will check with the MFA Asset Management Department to ensure that there are no outstanding compliance issues (including but not limited to: late payments within the 18 month period prior to the Change of Ownership Request, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on this Project], failure to meet documentation requirements, etc.) on the part of any property management agent, Project Owner or Principal or any affiliate thereof. If there are any outstanding compliance issues, a plan of action will need to be approved by MFA prior to any transfer approvals. Please find MFA’s LIHTC Compliance Plan and Appendices at <a href="https://housingnm.org/property-owners-agents-and-managers/lihtc-compliance-plan-and-appendices">https://housingnm.org/property-owners-agents-and-managers/lihtc-compliance-plan-and-appendices</a> .</p> <p><i>*Any property out of compliance with MFA due to any prior, unapproved ownership changes will be subject to a fee of \$10,000.</i></p>		
11	<p><b><u>11. Project Financial Statements</u></b></p> <p>Project’s latest FYE financial statements for the last three years. Statements will be used to evaluate the accuracy of the Operational Budget, which will be provided under Section Two: Materials Required for Scoring.</p> <p><i>*Audited financial statements are required for properties with Risk Share loans and are preferred for all projects for the last three years.</i></p>		
12	<p><b><u>12. Contact Person Name and Information (for MFA Loan Servicing)</u></b></p> <p>Name, title, company, address, telephone number and email for contact person for loan servicing questions (in the event that the property has an active loan or regulatory agreement). Staff will advise MFA Servicing Department of the new ownership information.</p>		
13	<p><b><u>13. Agreement to Execute Assignment and Assumption Agreement</u></b></p> <p>Please draft and sign a letter serving as an Agreement to Execute Assignment and Assumption Agreement, providing detailed signature blocks for all entities that will sign the Assignment and Assumption Agreement. By signing the Agreement to Execute Assignment and Assumption Agreement, you are agreeing to the terms in the Assignment and Assumption Agreement. MFA will review proposed modifications and amendments to the Assignment and Assumption Agreement in good faith. Any requested changes will be approved in the sole and absolute discretion of MFA.</p> <p><i>*Draft Assignment and Assumption Agreement will be provided for redlining upon receipt of Ownership Change request.</i></p> <p><i>**Executed Assignment and Assumption Agreement must be signed prior to full Ownership Change approval. The Agreement restates key requirements of the Land Use Restriction Agreement.</i></p>		
14	<p><b><u>14. Authorizing Resolution</u></b></p> <p>Proposed new owner shall provide an authorizing resolution in the form attached hereto (Appendix A) for all entities in Proposed owner’s organizational chart.</p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

15	<p><b><u>15. Corporate Documentation</u></b></p> <p>As relevant, copies of the following documentation for the proposed owner:</p> <ol style="list-style-type: none"> <li>1. Articles of Incorporation/Articles of Organization/Statement of Qualification,</li> <li>2. Certificate of Incorporation/Certificate of Organization/Certificate of Limited Partnership,</li> <li>3. By Laws/Operating Agreement/Partnership Agreement*</li> <li>4. Certificate of Good Standing/Certificate of Existence,</li> <li>5. and, if a non-profit, proof that the organization is in compliance with N.M. Charitable Solicitations reporting requirements.</li> </ol> <p><i>* This document shall contain MFA's required Compliance Addendum upon submission</i></p> <p>MFA reserves the discretion to request the above legal documentation for any entity in the organizational chart.</p>		
16	<p><b><u>16. Operating Agreement/Partnership Agreement</u></b></p> <p>Operating Agreement(s), Partnership Agreement(s) and/or other agreement(s) (and all amendments thereto) governing the relationship between the parties listed on the Pre-Ownership Change and Post-Ownership Change organizational charts.</p>		
17	<p><b><u>17. CHDO Application, Documentation of Federal Non-Profit Status (for HOME-CHDO loan holders/Non-Profit Owners, if applicable)</u></b></p> <p>If there is a HOME-CHDO loan attached to the property, applicant must include a CHDO application for the new owner, as the new owner must also be a CHDO.</p> <p>If the Change of Ownership is set to occur prior to the end of the initial Compliance Period, and the original owner was a Qualified Non-Profit, the new ownership entity must include a Qualified Non-Profit with the same level of ownership. In this case, documentation of Federal Non-Profit status must be provided.</p>		
18	<p><b><u>18. HUD/Good Standing</u></b></p> <p>MFA staff will check to ensure that no members of the proposed new owner structure have been debarred or suspended by HUD or other governmental entities.</p>		
19	<p><b><u>19. IRS Form No. 8823 (if applicable)</u></b></p> <p>If the ownership change occurs before the end of the 15-year LIHTC Compliance Period, MFA will advise the IRS of the new ownership structure via form 8823.</p>		
20	<p><b><u>20. Closing Calls</u></b></p> <p>For increased communication, MFA Preservation Program Manager should be invited to routine closing calls regarding this transaction. MFA Preservation Program Manager may forward this invitation to supporting parties, including MFA leadership, MFA general counsel, and/or MFA bond counsel.</p>		

## MFA Ownership Change Application: Instructions and Applicant Checklists

<b><u>Section Two: Materials Required for Scoring</u></b>			
Item		Check if Present	MFA Use
S1	<p><b><u>S1. Applicant Experience Certificate</u></b></p> <p>Executed Applicant’s Experience Certificate for proposed new owner. See Appendix B, included here for completion.</p> <p><i>*If Applicant Experience Certificate reflects cumulative experience of less than five years, note that additional training may be required.</i></p>		
S2	<p><b><u>S2. Management Experience Certificate</u></b></p> <p>Executed Management’s Experience Certificate for proposed management (signed by proposed management agent). See Appendix C, included here for completion.</p> <p><i>*If Management Experience Certificate reflects cumulative experience of less than five years, note that additional training may be required.</i></p>		
S3	<p><b><u>S3. Compliance Affidavit</u></b></p> <p>Compliance Affidavit for each Principal of the proposed new owner. See Appendix D, included here for completion.</p>		
S4	<p><b><u>S4. Proposed Owner Financial Statements</u></b></p> <p>-For ownership entity that will own the property going forward (which may be newly formed or a pass-through), evidence of contributions in an amount to cover 6 months of operations must be demonstrated. If not yet funded, an executed Contribution Agreement will instead be accepted.</p> <p>-If a Contribution Agreement is required, recent year-to-date accountant reviewed or audited financial statements for the proposed owner (i.e., the ultimate owner with the financial capacity to own and manage affordable housing but not newly formed or pass-through entities) will be required.</p> <p>-If owner(s) is/are an individual, submit the latest Personal Financial Statement(s) on HUD form 92417 (include all contingent liabilities), signed &amp; dated within 90 days of application date.</p> <p><i>*Score is based on coverage of operations.</i></p> <p><i>**MFA may require additional information to evaluate this scoring item.</i></p>		

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S5	<p><b><u>S5. Proposed Owner's Operational Budget and Proforma and Capital Needs Assessment for Property</u></b></p> <p>Application must include a completed operational budget and proforma, as well as a Capital Needs Assessment for the property. The completed Operational Budget and Proforma must include sufficient replacement reserves to meet the needs identified in the Capital Needs Assessment within five years. Use Appendix E to complete this item.</p>		
S6	<p><b><u>S6. New Owner Certification</u></b></p> <p>Proposed Owner must submit a new Owner Certification to MFA's Asset Management department.</p>		
S7	<p><b><u>S7. Responsibility of Transferee</u></b></p> <p>Principals having demonstrated a history of conduct detrimental to long-term compliance with Extended Use terms, whether in or outside of New Mexico, and the provision of affordable tax credit units may be debarred from MFA Programs</p> <p>Principals are required to submit a written acknowledgement, provided by MFA and attached here as Appendix F, that in the past 10 years, they have not sought to achieve early termination of a LIHTC extended use agreement through the Qualified Contract process, nor have they sought to undermine the exercise of a right of first refusal or a non-profit's option to purchase in prior transactions as described in more detail in the Non-Profit Participation and Right of First Refusal section.</p>		
S8	<p><b><u>S8. Waiver of Qualified Contract (Agreement Letter)</u></b></p> <p>If a Qualified Contract option is still available, a waiver of this right by the new owner would satisfy the score for factor 4. A letter, signed by the proposed owner, stating an agreement to waive the right to a Qualified Contract in the forthcoming Assignment, Assumption and Modification Agreement is sufficient. Waiver to be memorialized in Assignment, Assumption and Modification Agreement.</p> <p><i>*Note, as stated above, that a waiver of the Qualified Contract right may be required if any threshold documents are missing.</i></p>		
S9	<p><b><u>S9. Agreement to Comply with LURA</u></b></p> <p>Signed letter certifying that proposed new owner agrees to comply with terms of LIHTC LURA and any Amendments without any requests for modification and/or amendment.</p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

The information provided, under penalty of perjury, is true and correct to the best of Applicant's information, knowledge, and belief. Further, as witnessed by the signature(s) below, Applicant certifies that the signor(s) have authority and are competent to legally bind the Applicant to the certifications and assurances made herein. Applicant further understands that the terms "Applicant" in this Certification includes all individuals, joint ventures, partnerships, corporations, trusts, nonprofit organizations and any other public or private entity, that will participate in the ownership transfer proposed in the Application as an owner, but excludes investors (i.e. limited partners or investor members) under the LIHTC program.

On behalf of \_\_\_\_\_ ("Applicant"), the person(s) below so certify:

By:	By:
Name:	Name:
Title:	Title:
Date:	Date:



# MFA Ownership Change Application: Instructions and Applicant Checklists

## Checklist for Applicant Use: Properties with No Risk Share Loan Undergoing a Limited Partner Change

Project Name: \_\_\_\_\_ Date: \_\_\_\_\_

<b><u>Section One: Threshold Items (Required for Evaluation)</u></b>			
Item	Submit request electronically at <a href="https://mfa.internal.housingnm.org/FileTransferHD/">https://mfa.internal.housingnm.org/FileTransferHD/</a> to Preservation Program Manager. Please attach this completed checklist to application packet.	Check if Present	MFA Use
1	<p><b><u>1. Application Fee (\$500)</u></b></p> <p>Non-refundable application fee of \$500 is due to MFA upon receipt of application. Make checks payable to the NM Mortgage Finance Authority or contact HD@housingnm.org for wiring instructions.</p> <p><i>*Applicant will also reimburse MFA for any legal expenses incurred by MFA in relation to the ownership change. In cases where there are fees required by the RS Regulatory Agreement, MFA will charge only the higher of the two.</i></p> <p><i>**If the application is not complete or further information is required, an additional change fee of \$500/change may be imposed.</i></p> <p><i>***In cases of resyndication, the \$500 Ownership Change Application Fee is waived. Note that other fees per the QAP still apply.</i></p>		
2	<p><b><u>2. Contact Information (for MFA Housing Development)</u></b></p> <p>Provide name, title, company, address, telephone number and email for:</p> <ul style="list-style-type: none"> <li>• Primary application contact person(s) for exiting party</li> <li>• Primary application contact person(s) for incoming party</li> <li>• Legal counsel contact for exiting party</li> <li>• Legal counsel contact for incoming party</li> <li>• Point person for exiting party to which MFA’s Conditional Consent to Change Ownership letter should be addressed in the event that consent is granted</li> <li>• Point person for incoming party to which MFA’s Conditional Consent to Change Ownership letter should be addressed in the event that consent is granted</li> </ul> <p>Also provide names and emails of any secondary application contact person(s) that should be copied on application correspondence.</p>		
3	<p><b><u>3. Cover Letter</u></b></p> <p>Cover letter explaining the proposed ownership change. Include the following: the property address; all sources of funds in existing project (loans, grants, bonds); certification of the first year tax credits were taken on the final building placed-in-service and what year the 15-year LIHTC Compliance Period ends (if LIHTC). If there are any MFA loans or MFA-issued bonds, advise whether loans will be paid off or bonds redeemed at closing or assigned to buyer (also clarify, if pursued, the paying/redeeming party).*</p> <p><i>*Note that it is not MFA’s practice to release/terminate LURAs or Regulatory Agreements of loans/bonds that have been paid off/redeemed. Restrictions will continue as per LURA/Regulatory Agreement after payoff.</i></p>		

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4	<p><b><u>4. Organizational Charts</u></b></p> <p>Pre-Ownership Change Organizational Chart and Post-Ownership Change Organizational Chart with complete ownership information for all entities listed, including for Partnerships, limited partners with a 25% or greater interest, and all general partners; or, if a corporation/LLC, stockholders/members with a 10% or greater interest. Organizational Chart should be comprehensive and include all levels of ownership.</p>		
5	<p><b><u>5. Copy of LIHTC, Loan, Grant, and Bond Documents (where applicable)</u></b></p> <p>Copy of any relevant recorded or non-recorded documents pertaining to subject property’s sources of funds such as LURAs, mortgages, regulatory agreements, any amendments, and subordination agreements to which MFA is a party.</p>		
6	<p><b><u>6. Copy(ies) of IRS Form No. 8609</u></b></p> <p>Copy(ies) of fully executed Form 8609’s (original and amended) with Part II completed.</p> <p><i>*If copy(ies) of fully executed Form 8609s with Part II completed are not available, and the property holds the right to a Qualified Contract per the standing LURA, the property may satisfy this threshold item and move forward with the Change of Ownership Request by waiving their Qualified Contract right.</i></p>		
7	<p><b><u>7. Seller’s Statement</u></b></p> <p>A letter from the current owner stating that they are working with the proposed buyer and have entered into an agreement to purchase the property.</p>		
8	<p><b><u>8. Title Commitment/Report</u></b></p> <p>Title report and/or commitment with complete copies of all documents listed on Schedule B, Part II.</p>		
9	<p><b><u>9. Plan of Action to Resolve Outstanding Compliance Issues (if applicable)</u></b></p> <p>Property cannot have any outstanding compliance issues. Upon receipt of a full application and fee payment, MFA staff will check with the MFA Asset Management Department to ensure that there are no outstanding compliance issues (including but not limited to: late payments within the 18 month period prior to the Change of Ownership Request, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on this Project], failure to meet documentation requirements, etc.) on the part of any property management agent, Project Owner or Principal or any affiliate thereof. If there are any outstanding compliance issues, a plan of action will need to be approved by MFA prior to any transfer approvals. Please find MFA’s LIHTC Compliance Plan and Appendices at <a href="https://housingnm.org/property-owners-agents-and-managers/lihtc-compliance-plan-and-appendices">https://housingnm.org/property-owners-agents-and-managers/lihtc-compliance-plan-and-appendices</a> .</p> <p><i>*Any property out of compliance with MFA due to any prior, unapproved ownership changes will be subject to a fee of \$10,000.</i></p>		
10	<p><b><u>10. Authorizing Resolution</u></b></p> <p>Proposed new owner shall provide an authorizing resolution in the form attached hereto (Appendix A) for all entities in Proposed owner’s organizational chart.</p>		

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11	<p><b><u>11. Corporate Documentation</u></b></p> <p>As relevant, copies of the following documentation for the proposed owner:</p> <ol style="list-style-type: none"> <li>1. Articles of Incorporation/Articles of Organization/Statement of Qualification,</li> <li>2. Certificate of Incorporation/Certificate of Organization/Certificate of Limited Partnership,</li> <li>3. By Laws/Operating Agreement/Partnership Agreement*</li> <li>4. Certificate of Good Standing/Certificate of Existence,</li> <li>5. Draft Assignment of Partnership Interests or equivalent document governing transfer,</li> <li>6. and, if a non-profit, proof that the organization is in compliance with N.M. Charitable Solicitations reporting requirements.</li> </ol> <p><i>* This document shall contain MFA's required Compliance Addendum upon submission</i></p> <p>MFA reserves the discretion to request the above legal documentation for any entity in the organizational chart.</p>		
12	<p><b><u>12. Operating Agreement/Partnership Agreement</u></b></p> <p>Operating Agreement(s), Partnership Agreement(s) and/or other agreement(s) (and all amendments thereto) governing the relationship between the parties listed on the Pre-Ownership Change and Post-Ownership Change organizational charts.</p>		
13	<p><b><u>13. HUD/Good Standing</u></b></p> <p>MFA staff will check to ensure that no members of the proposed new owner structure have been debarred or suspended by HUD or other governmental entities.</p>		
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S3	<p><b><u>S3. Agreement to Comply with LURA</u></b></p> <p>Signed letter certifying that proposed new owner agrees to comply with terms of LIHTC LURA and any Amendments without any requests for modification and/or amendment.</p>		

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On behalf of \_\_\_\_\_ ("Applicant"), the person(s) below so certify:

By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

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Item	Submit request electronically at <a href="https://mfa.internal.housingnm.org/FileTransferHD/">https://mfa.internal.housingnm.org/FileTransferHD/</a> to Preservation Program Manager. Please attach this completed checklist to application packet.	Check if Present	MFA Use
1	<p><b><u>1. Application Fee (\$500)</u></b></p> <p>Non-refundable application fee of \$500 is due to MFA upon receipt of application. Make checks payable to the NM Mortgage Finance Authority or contact HD@housingnm.org for wiring instructions.</p> <p><i>*Applicant will also reimburse MFA for any legal expenses incurred by MFA in relation to the ownership change. In cases where there are fees required by the RS Regulatory Agreement, MFA will charge only the higher of the two.</i></p> <p><i>**If the application is not complete or further information is required, an additional change fee of \$500/change may be imposed.</i></p> <p><i>***In cases of resyndication, the \$500 Ownership Change Application Fee is waived. Note that other fees per the QAP still apply.</i></p>		
2	<p><b><u>2. Processing Fee (\$1,500)</u></b></p> <p>Processing fee of \$1,500 is required at or prior to closing the approval for change in ownership; a conditional consent letter will be issued ahead of receipt of a recorded 'Assignment and Assumption Agreement.'</p>		
3	<p><b><u>3. Contact Information (for MFA Housing Development)</u></b></p> <p>Provide name, title, company, address, telephone number and email for:</p> <ul style="list-style-type: none"> <li>• Primary application contact person(s) for seller party</li> <li>• Primary application contact person(s) for purchasing party</li> <li>• Legal counsel contact for seller party</li> <li>• Legal counsel contact for purchasing party</li> <li>• Point person for seller party to which MFA's Conditional Consent to Change Ownership letter should be addressed in the event that consent is granted</li> <li>• Point person for purchasing party to which MFA's Conditional Consent to Change Ownership letter should be addressed in the event that consent is granted</li> </ul> <p>Also provide names and emails of any secondary application contact person(s) that should be copied on application correspondence.</p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

4	<p><b><u>4. Cover Letter</u></b></p> <p>Cover letter explaining the proposed ownership change. Include the following: the property address; all sources of funds in existing project (loans, grants, bonds); certification of the first year tax credits were taken on the final building placed-in-service and what year the 15-year LIHTC Compliance Period ends (if LIHTC). If there are any MFA loans or MFA-issued bonds, advise whether loans will be paid off or bonds redeemed at closing or assigned to buyer (also clarify, if pursued, the paying/redeeming party).*</p> <p><i>*Note that it is not MFA's practice to release/terminate LURAs or Regulatory Agreements of loans/bonds that have been paid off/redeemed. Restrictions will continue as per LURA/Regulatory Agreement after payoff.</i></p>		
5	<p><b><u>5. Organizational Charts</u></b></p> <p>Pre-Ownership Change Organizational Chart and Post-Ownership Change Organizational Chart with complete ownership information for all entities listed, including for Partnerships, limited partners with a 25% or greater interest, and all general partners; or, if a corporation/LLC, stockholders/members with a 10% or greater interest. Organizational Chart should be comprehensive and include all levels of ownership.</p>		
6	<p><b><u>6. Copy of LIHTC, Loan, Grant, and Bond Documents (where applicable)</u></b></p> <p>Copy of any relevant recorded or non-recorded documents pertaining to subject property's sources of funds such as LURAs, mortgages, regulatory agreements, any amendments, and subordination agreements to which MFA is a party.</p>		
7	<p><b><u>7. Copy(ies) of IRS Form No. 8609</u></b></p> <p>Copy(ies) of fully executed Form 8609's (original and amended) with Part II completed.</p> <p><i>*If copy(ies) of fully executed Form 8609s with Part II completed are not available, and the property holds the right to a Qualified Contract per the standing LURA, the property may satisfy this threshold item and move forward with the Change of Ownership Request by waiving their Qualified Contract right.</i></p>		
8	<p><b><u>8. Seller's Statement</u></b></p> <p>A letter from the current owner stating that they are working with the proposed buyer and have entered into an agreement to purchase the property.</p>		
9	<p><b><u>9. Title Commitment/Report</u></b></p> <p>Title report and/or commitment with complete copies of all documents listed on Schedule B, Part II.</p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

10	<p><b><u>10. Plan of Action to Resolve Outstanding Compliance Issues (if applicable)</u></b></p> <p>Property cannot have any outstanding compliance issues. Upon receipt of a full application and fee payment, MFA staff will check with the MFA Asset Management Department to ensure that there are no outstanding compliance issues (including but not limited to: late payments within the 18 month period prior to the Change of Ownership Request, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on this Project], failure to meet documentation requirements, etc.) on the part of any property management agent, Project Owner or Principal or any affiliate thereof. If there are any outstanding compliance issues, a plan of action will need to be approved by MFA prior to any transfer approvals. Please find MFA’s LIHTC Compliance Plan and Appendices at <a href="https://housingnm.org/property-owners-agents-and-managers/lihtc-compliance-plan-and-appendices">https://housingnm.org/property-owners-agents-and-managers/lihtc-compliance-plan-and-appendices</a> .</p> <p><i>*Any property out of compliance with MFA due to any prior, unapproved ownership changes will be subject to a fee of \$10,000.</i></p>		
11	<p><b><u>11. Project Financial Statements</u></b></p> <p>Project’s latest FYE financial statements for the last three years. Statements will be used to evaluate the accuracy of the Operational Budget, which will be provided under Section Two: Materials Required for Scoring.</p> <p><i>*Audited financial statements are required for properties with Risk Share loans and are preferred for all projects for the last three years.</i></p>		
12	<p><b><u>12. Contact Person Name and Information (for MFA Loan Servicing)</u></b></p> <p>Name, title, company, address, telephone number and email for contact person for loan servicing questions (in the event that the property has an active loan or regulatory agreement). Staff will advise MFA Servicing Department of the new ownership information.</p>		
13	<p><b><u>13. Agreement to Execute Assignment and Assumption Agreement</u></b></p> <p>Please draft and sign a letter serving as an Agreement to Execute Assignment and Assumption Agreement, providing detailed signature blocks for all entities that will sign the Assignment and Assumption Agreement. By signing the Agreement to Execute Assignment and Assumption Agreement, you are agreeing to the terms in the Assignment and Assumption Agreement. MFA will review proposed modifications and amendments to the Assignment and Assumption Agreement in good faith. Any requested changes will be approved in the sole and absolute discretion of MFA.</p> <p><i>*Draft Assignment and Assumption Agreement will be provided for redlining upon receipt of Ownership Change request.</i></p> <p><i>**Executed Assignment and Assumption Agreement must be signed prior to full Ownership Change approval. The Agreement restates key requirements of the Land Use Restriction Agreement.</i></p>		
14	<p><b><u>14. Authorizing Resolution</u></b></p> <p>Proposed new owner shall provide an authorizing resolution in the form attached hereto (Appendix A) for all entities in Proposed owner’s organizational chart.</p>		



## **MFA Ownership Change Application: Instructions and Applicant Checklists**

15	<p><b><u>15. Corporate Documentation</u></b></p> <p>As relevant, copies of the following documentation for the proposed owner:</p> <ol style="list-style-type: none"> <li>1. Articles of Incorporation/Articles of Organization/Statement of Qualification,</li> <li>2. Certificate of Incorporation/Certificate of Organization/Certificate of Limited Partnership,</li> <li>3. By Laws/Operating Agreement/Partnership Agreement*</li> <li>4. Certificate of Good Standing/Certificate of Existence,</li> <li>5. and, if a non-profit, proof that the organization is in compliance with N.M. Charitable Solicitations reporting requirements.</li> </ol> <p><i>* This document shall contain MFA's required Compliance Addendum upon submission</i></p> <p>MFA reserves the discretion to request the above legal documentation for any entity in the organizational chart.</p>		
16	<p><b><u>16. Operating Agreement/Partnership Agreement</u></b></p> <p>Operating Agreement(s), Partnership Agreement(s) and/or other agreement(s) (and all amendments thereto) governing the relationship between the parties listed on the Pre-Ownership Change and Post-Ownership Change organizational charts.</p>		
17	<p><b><u>17. CHDO Application, Documentation of Federal Non-Profit Status (for HOME-CHDO loan holders/Non-Profit Owners, if applicable)</u></b></p> <p>If there is a HOME-CHDO loan attached to the property, applicant must include a CHDO application for the new owner, as the new owner must also be a CHDO.</p> <p>If the Change of Ownership is set to occur prior to the end of the initial Compliance Period, and the original owner was a Qualified Non-Profit, the new ownership entity must include a Qualified Non-Profit with the same level of ownership. In this case, documentation of Federal Non-Profit status must be provided.</p>		
18	<p><b><u>18. HUD/Good Standing</u></b></p> <p>MFA staff will check to ensure that no members of the proposed new owner structure have been debarred or suspended by HUD or other governmental entities.</p>		
19	<p><b><u>19. IRS Form No. 8823 (if applicable)</u></b></p> <p>If the ownership change occurs before the end of the 15-year LIHTC Compliance Period, MFA will advise the IRS of the new ownership structure via form 8823.</p>		
20	<p><b><u>20. HUD Form No. 2530/APPS (if applicable)</u></b></p> <p>If the entity replacing the limited or general partner will have any authority to exercise day-to-day control of the partnership, complete HUD Form 2530.</p> <p><i>*See <a href="https://www.hud.gov/sites/documents/2530.PDF">https://www.hud.gov/sites/documents/2530.PDF</a>, and consult with MFA RS Program Manager regarding entities/individuals required to be listed on the form, OR submit the entity change(s) on HUD's Active Partners Performance System (APPS) at <a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/apps/apsmfhm">http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/apps/apsmfhm</a>)</i></p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

21	<p><b><u>21. Closing Calls</u></b></p> <p>For increased communication, MFA Preservation Program Manager should be invited to routine closing calls regarding this transaction. MFA Preservation Program Manager may forward this invitation to supporting parties, including MFA leadership, MFA general counsel, and/or MFA bond counsel.</p>		
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<b><u>Section Two: Materials Required for Scoring</u></b>			
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Item		Check if Present	MFA Use
S1	<p><b><u>S1. Applicant Experience Certificate</u></b></p> <p>Executed Applicant’s Experience Certificate for proposed new owner. See Appendix B, included here for completion.</p> <p><i>*If Applicant Experience Certificate reflects cumulative experience of less than five years, note that additional training may be required.</i></p>		
S2	<p><b><u>S2. Management Experience Certificate</u></b></p> <p>Executed Management’s Experience Certificate for proposed management (signed by proposed management agent). See Appendix C, included here for completion.</p> <p><i>*If Management Experience Certificate reflects cumulative experience of less than five years, note that additional training may be required.</i></p>		
S3	<p><b><u>S3. Compliance Affidavit</u></b></p> <p>Compliance Affidavit for each Principal of the proposed new owner. See Appendix D, included here for completion.</p>		
S4	<p><b><u>S4. Proposed Owner Financial Statements</u></b></p> <p>-For ownership entity that will own the property going forward (which may be newly formed or a pass-through), evidence of contributions in an amount to cover 6 months of operations must be demonstrated. If not yet funded, an executed Contribution Agreement will instead be accepted.</p> <p>-If a Contribution Agreement is required, recent year-to-date accountant reviewed or audited financial statements for the proposed owner (i.e., the ultimate owner with the financial capacity to own and manage affordable housing but not newly formed or pass-through entities) will be required.</p> <p>-If owner(s) is/are an individual, submit the latest Personal Financial Statement(s) on HUD form 92417 (include all contingent liabilities), signed &amp; dated within 90 days of application date.</p> <p><i>*Score is based on coverage of operations.</i></p> <p><i>**MFA may require additional information to evaluate this scoring item.</i></p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

S5	<p><b><u>S5. Proposed Owner's Operational Budget and Proforma and Capital Needs Assessment for Property</u></b></p> <p>Application must include a completed operational budget and proforma, as well as a Capital Needs Assessment for the property. The completed Operational Budget and Proforma must include sufficient replacement reserves to meet the needs identified in the Capital Needs Assessment within five years. Use Appendix E to complete this item.</p>		
S6	<p><b><u>S6. New Owner Certification</u></b></p> <p>Proposed Owner must submit a new Owner Certification to MFA's Asset Management department.</p>		
S7	<p><b><u>S7. Responsibility of Transferee</u></b></p> <p>Principals having demonstrated a history of conduct detrimental to long-term compliance with Extended Use terms, whether in or outside of New Mexico, and the provision of affordable tax credit units may be debarred from MFA Programs</p> <p>Principals are required to submit a written acknowledgement, provided by MFA and attached here as Appendix F, that in the past 10 years, they have not sought to achieve early termination of a LIHTC extended use agreement through the Qualified Contract process, nor have they sought to undermine the exercise of a right of first refusal or a non-profit's option to purchase in prior transactions as described in more detail in the Non-Profit Participation and Right of First Refusal section.</p>		
S8	<p><b><u>S8. Waiver of Qualified Contract (Agreement Letter)</u></b></p> <p>If a Qualified Contract option is still available, a waiver of this right by the new owner would satisfy the score for factor 4. A letter, signed by the proposed owner, stating an agreement to waive the right to a Qualified Contract in the forthcoming Assignment, Assumption and Modification Agreement is sufficient. Waiver to be memorialized in Assignment, Assumption and Modification Agreement.</p> <p><i>*Note, as stated above, that a waiver of the Qualified Contract right may be required if any threshold documents are missing.</i></p>		
S9	<p><b><u>S9. Agreement to Comply with LURA</u></b></p> <p>Signed letter certifying that proposed new owner agrees to comply with terms of LIHTC LURA and any Amendments without any requests for modification and/or amendment.</p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

The information provided, under penalty of perjury, is true and correct to the best of Applicant's information, knowledge, and belief. Further, as witnessed by the signature(s) below, Applicant certifies that the signor(s) have authority and are competent to legally bind the Applicant to the certifications and assurances made herein. Applicant further understands that the terms "Applicant" in this Certification includes all individuals, joint ventures, partnerships, corporations, trusts, nonprofit organizations and any other public or private entity, that will participate in the ownership transfer proposed in the Application as an owner, but excludes investors (i.e. limited partners or investor members) under the LIHTC program.

On behalf of \_\_\_\_\_ ("Applicant"), the person(s) below so certify:

By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

# MFA Ownership Change Application: Instructions and Applicant Checklists

## Checklist for Applicant Use: Properties with a Risk Share Loan Undergoing a Limited Partner Change

Project Name: \_\_\_\_\_ Date: \_\_\_\_\_

<b><u>Section One: Threshold Items (Required for Evaluation)</u></b>			
Item	Submit request electronically at <a href="https://mfa.internal.housingnm.org/FileTransferHD/">https://mfa.internal.housingnm.org/FileTransferHD/</a> to Preservation Program Manager. Please attach this completed checklist to application packet.	Check if Present	MFA Use
1	<p><b><u>1. Application Fee (\$500)</u></b></p> <p>Non-refundable application fee of \$500 is due to MFA upon receipt of application. Make checks payable to the NM Mortgage Finance Authority or contact HD@housingnm.org for wiring instructions.</p> <p><i>*Applicant will also reimburse MFA for any legal expenses incurred by MFA in relation to the ownership change. In cases where there are fees required by the RS Regulatory Agreement, MFA will charge only the higher of the two.</i></p> <p><i>**If the application is not complete or further information is required, an additional change fee of \$500/change may be imposed.</i></p> <p><i>***In cases of resyndication, the \$500 Ownership Change Application Fee is waived. Note that other fees per the QAP still apply.</i></p>		
2	<p><b><u>2. Cover Letter</u></b></p> <p>Cover letter explaining the proposed ownership change. Include the following: the property address; all sources of funds in existing project (loans, grants, bonds); certification of the first year tax credits were taken on the final building placed-in-service and what year the 15-year LIHTC Compliance Period ends (if LIHTC). If there are any MFA loans or MFA-issued bonds, advise whether loans will be paid off or bonds redeemed at closing or assigned to buyer (also clarify, if pursued, the paying/redeeming party).*</p> <p><i>*Note that it is not MFA's practice to release/terminate LURAs or Regulatory Agreements of loans/bonds that have been paid off/redeemed. Restrictions will continue as per LURA/Regulatory Agreement after payoff.</i></p>		
3	<p><b><u>3. Contact Information (for MFA Housing Development)</u></b></p> <p>Provide name, title, company, address, telephone number and email for:</p> <ul style="list-style-type: none"> <li>• Primary application contact person(s) for exiting party</li> <li>• Primary application contact person(s) for incoming party</li> <li>• Legal counsel contact for exiting party</li> <li>• Legal counsel contact for incoming party</li> <li>• Point person for exiting party to which MFA's Conditional Consent to Change Ownership letter should be addressed in the event that consent is granted</li> <li>• Point person for incoming party to which MFA's Conditional Consent to Change Ownership letter should be addressed in the event that consent is granted</li> </ul> <p>Also provide names and emails of any secondary application contact person(s) that should be copied on application correspondence.</p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

4	<p><b><u>4. Seller’s Statement</u></b></p> <p>A letter from the current owner stating that they are working with the proposed buyer and have entered into an agreement to purchase the property.</p>		
5	<p><b><u>5. Title Commitment/Report</u></b></p> <p>Title report and/or commitment with complete copies of all documents listed on Schedule B, Part II.</p>		
6	<p><b><u>6. Plan of Action to Resolve Outstanding Compliance Issues (if applicable)</u></b></p> <p>Property cannot have any outstanding compliance issues. Upon receipt of a full application and fee payment, MFA staff will check with the MFA Asset Management Department to ensure that there are no outstanding compliance issues (including but not limited to: late payments within the 18 month period prior to the Change of Ownership Request, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on this Project], failure to meet documentation requirements, etc.) on the part of any property management agent, Project Owner or Principal or any affiliate thereof. If there are any outstanding compliance issues, a plan of action will need to be approved by MFA prior to any transfer approvals. Please find MFA’s LIHTC Compliance Plan and Appendices at <a href="https://housingnm.org/property-owners-agents-and-managers/lihtc-compliance-plan-and-appendices">https://housingnm.org/property-owners-agents-and-managers/lihtc-compliance-plan-and-appendices</a> .</p> <p><i>*Any property out of compliance with MFA due to any prior, unapproved ownership changes will be subject to a fee of \$10,000.</i></p>		
7	<p><b><u>7. Copy of LIHTC, Loan, Grant, and Bond Documents (where applicable)</u></b></p> <p>Copy of any relevant recorded or non-recorded documents pertaining to subject property’s sources of funds such as LURAs, mortgages, regulatory agreements, any amendments, and subordination agreements to which MFA is a party.</p>		
8	<p><b><u>8. Copy(ies) of IRS Form No. 8609</u></b></p> <p>Copy(ies) of fully executed Form 8609’s (original and amended) with Part II completed.</p> <p><i>*If copy(ies) of fully executed Form 8609s with Part II completed are not available, and the property holds the right to a Qualified Contract per the standing LURA, the property may satisfy this threshold item and move forward with the Change of Ownership Request by waiving their Qualified Contract right.</i></p>		
9	<p><b><u>9. Authorizing Resolution</u></b></p> <p>Proposed new owner shall provide an authorizing resolution in the form attached hereto (Appendix A) for all entities in Proposed owner’s organizational chart.</p>		
10	<p><b><u>10. Organizational Charts</u></b></p> <p>Pre-Ownership Change Organizational Chart and Post-Ownership Change Organizational Chart with complete ownership information for all entities listed, including for Partnerships, limited partners with a 25% or greater interest, and all general partners; or, if a corporation/LLC, stockholders/members with a 10% or greater interest. Organizational Chart should be comprehensive and include all levels of ownership.</p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

11	<p><b><u>11. Operating Agreement/Partnership Agreement</u></b></p> <p>Operating Agreement(s), Partnership Agreement(s) and/or other agreement(s) (and all amendments thereto) governing the relationship between the parties listed on the Pre-Ownership Change and Post-Ownership Change organizational charts.</p>		
12	<p><b><u>12. Corporate Documentation</u></b></p> <p>As relevant, copies of the following documentation for the proposed owner:</p> <ol style="list-style-type: none"> <li>1. Articles of Incorporation/Articles of Organization/Statement of Qualification,</li> <li>2. Certificate of Incorporation/Certificate of Organization/Certificate of Limited Partnership,</li> <li>3. By Laws/Operating Agreement/Partnership Agreement*</li> <li>4. Certificate of Good Standing/Certificate of Existence,</li> <li>5. Draft Assignment of Partnership Interests or equivalent document governing transfer,</li> <li>6. and, if a non-profit, proof that the organization is in compliance with N.M. Charitable Solicitations reporting requirements.</li> </ol> <p><i>* This document shall contain MFA's required Compliance Addendum upon submission</i></p> <p>MFA reserves the discretion to request the above legal documentation for any entity in the organizational chart.</p>		
13	<p><b><u>13. HUD/Good Standing</u></b></p> <p>MFA staff will check to ensure that no members of the proposed new owner structure have been debarred or suspended by HUD or other governmental entities.</p>		
14	<p><b><u>14. IRS Form No. 8823 (if applicable)</u></b></p> <p>If the ownership change occurs before the end of the 15-year LIHTC Compliance Period, MFA will advise the IRS of the new ownership structure via form 8823.</p>		
15	<p><b><u>15. HUD Form No. 2530/APPS (if applicable)</u></b></p> <p>If the entity replacing the limited or general partner will have any authority to exercise day-to-day control of the partnership, complete HUD Form 2530.</p> <p><i>*See <a href="https://www.hud.gov/sites/documents/2530.PDF">https://www.hud.gov/sites/documents/2530.PDF</a>, and consult with MFA RS Program Manager regarding entities/individuals required to be listed on the form, OR submit the entity change(s) on HUD's Active Partners Performance System (APPS) at <a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/apps/appsmfhm">http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/apps/appsmfhm</a>)</i></p>		
16	<p><b><u>16. Closing Calls</u></b></p> <p>For increased communication, MFA Preservation Program Manager should be invited to routine closing calls regarding this transaction. MFA Preservation Program Manager may forward this invitation to supporting parties, including MFA leadership, MFA general counsel, and/or MFA bond counsel.</p>		

## MFA Ownership Change Application: Instructions and Applicant Checklists

<b><u>Section Two: Materials Required for Scoring</u></b>			
Item		Check if Present	MFA Use
S1	<p><b><u>S1. Responsibility of Transferee</u></b></p> <p>Principals having demonstrated a history of conduct detrimental to long-term compliance with Extended Use terms, whether in or outside of New Mexico, and the provision of affordable tax credit units may be debarred from MFA Programs</p> <p>Principals are required to submit a written acknowledgement, provided by MFA and attached here as Appendix F, that in the past 10 years, they have not sought to achieve early termination of a LIHTC extended use agreement through the Qualified Contract process, nor have they sought to undermine the exercise of a right of first refusal or a non-profit's option to purchase in prior transactions as described in more detail in the Non-Profit Participation and Right of First Refusal section.</p>		
S2	<p><b><u>S2. Waiver of Qualified Contract (Agreement Letter)</u></b></p> <p>If a Qualified Contract option is still available, a waiver of this right by the new owner would satisfy the score for factor 4. A letter, signed by the proposed owner, stating an agreement to waive the right to a Qualified Contract in the forthcoming Assignment, Assumption and Modification Agreement is sufficient. Waiver to be memorialized in Assignment, Assumption and Modification Agreement.</p> <p><i>*Note, as stated above, that a waiver of the Qualified Contract right may be required if any threshold documents are missing.</i></p>		
S3	<p><b><u>S3. Agreement to Comply with LURA</u></b></p> <p>Signed letter certifying that proposed new owner agrees to comply with terms of LIHTC LURA and any Amendments without any requests for modification and/or amendment.</p>		



## MFA Ownership Change Application: Instructions and Applicant Checklists

The information provided, under penalty of perjury, is true and correct to the best of Applicant’s information, knowledge, and belief. Further, as witnessed by the signature(s) below, Applicant certifies that the signor(s) have authority and are competent to legally bind the Applicant to the certifications and assurances made herein. Applicant further understands that the terms “Applicant” in this Certification includes all individuals, joint ventures, partnerships, corporations, trusts, nonprofit organizations and any other public or private entity, that will participate in the ownership transfer proposed in the Application as an owner, but excludes investors (i.e. limited partners or investor members) under the LIHTC program.

On behalf of \_\_\_\_\_ (“Applicant”), the person(s) below so certify:

By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

# MFA Ownership Change Application: Instructions and Applicant Checklists

## Checklist for Applicant Use: Properties Undergoing a Limited Partner Exit

Project Name: \_\_\_\_\_ Date: \_\_\_\_\_

<b><u>Section One: Threshold Items (Required for Evaluation)</u></b>			
Item		Check if Present	MFA Use
1	<p>Submit request electronically at <a href="https://mfa.internal.housingnm.org/FileTransferHD/">https://mfa.internal.housingnm.org/FileTransferHD/</a> to Preservation Program Manager. Please attach this completed checklist to application packet.</p> <p><b><u>1. Application Fee (\$500)</u></b></p> <p>Non-refundable application fee of \$500 is due to MFA upon receipt of application. Make checks payable to the NM Mortgage Finance Authority or contact HD@housingnm.org for wiring instructions.</p> <p><i>*Applicant will also reimburse MFA for any legal expenses incurred by MFA in relation to the ownership change. In cases where there are fees required by the RS Regulatory Agreement, MFA will charge only the higher of the two.</i></p> <p><i>**If the application is not complete or further information is required, an additional change fee of \$500/change may be imposed.</i></p> <p><i>***In cases of resyndication, the \$500 Ownership Change Application Fee is waived. Note that other fees per the QAP still apply.</i></p>		
2	<p><b><u>2. Contact Information (for MFA Housing Development)</u></b></p> <p>Provide name, title, company, address, telephone number and email for:</p> <ul style="list-style-type: none"> <li>• Primary application contact person(s) for exiting LP</li> <li>• Primary application contact person(s) for GP</li> <li>• Legal counsel contact for exiting LP</li> <li>• Legal counsel contact for GP</li> <li>• Point person for exiting GP to which MFA’s Conditional Consent to Change Ownership letter should be addressed in the event that consent is granted</li> <li>• Point person for GP to which MFA’s Conditional Consent to Change Ownership letter should be addressed in the event that consent is granted</li> </ul> <p>Also provide names and emails of any secondary application contact person(s) that should be copied on application correspondence.</p>		
3	<p><b><u>3. Cover Letter</u></b></p> <p>Cover letter explaining the proposed ownership change. Include the following: the property address; all sources of funds in existing project (loans, grants, bonds); certification of the first year tax credits were taken on the final building placed-in-service and what year the 15-year LIHTC Compliance Period ends (if LIHTC). If there are any MFA loans or MFA-issued bonds, advise whether loans will be paid off or bonds redeemed at closing or assigned to buyer (also clarify, if pursued, the paying/redeeming party).*</p> <p><i>*Note that it is not MFA’s practice to release/terminate LURAs or Regulatory Agreements of loans/bonds that have been paid off/redeemed. Restrictions will continue as per LURA/Regulatory Agreement after payoff.</i></p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

4	<p><b><u>4. Plan of Action to Resolve Outstanding Compliance Issues (if applicable)</u></b></p> <p>Property cannot have any outstanding compliance issues. Upon receipt of a full application and fee payment, MFA staff will check with the MFA Asset Management Department to ensure that there are no outstanding compliance issues (including but not limited to: late payments within the 18 month period prior to the Change of Ownership Request, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on this Project], failure to meet documentation requirements, etc.) on the part of any property management agent, Project Owner or Principal or any affiliate thereof. If there are any outstanding compliance issues, a plan of action will need to be approved by MFA prior to any transfer approvals. Please find MFA’s LIHTC Compliance Plan and Appendices at <a href="https://housingnm.org/property-owners-agents-and-managers/lihtc-compliance-plan-and-appendices">https://housingnm.org/property-owners-agents-and-managers/lihtc-compliance-plan-and-appendices</a> .</p> <p><i>*Any property out of compliance with MFA due to any prior, unapproved ownership changes will be subject to a fee of \$10,000.</i></p>		
5	<p><b><u>5. Copy of LIHTC, Loan, Grant, and Bond Documents (where applicable)</u></b></p> <p>Copy of any relevant recorded or non-recorded documents pertaining to subject property’s sources of funds such as LURAs, mortgages, regulatory agreements, any amendments, and subordination agreements to which MFA is a party.</p>		
6	<p><b><u>6. Copy(ies) of IRS Form No. 8609</u></b></p> <p>Copy(ies) of fully executed Form 8609’s (original and amended) with Part II completed.</p> <p><i>*If copy(ies) of fully executed Form 8609s with Part II completed are not available, and the property holds the right to a Qualified Contract per the standing LURA, the property may satisfy this threshold item and move forward with the Change of Ownership Request by waiving their Qualified Contract right.</i></p>		
7	<p><b><u>7. Authorizing Resolution</u></b></p> <p>Proposed new owner shall provide an authorizing resolution in the form attached hereto (Appendix A) for all entities in Proposed owner’s organizational chart.</p>		
8	<p><b><u>8. Organizational Charts</u></b></p> <p>Pre-Ownership Change Organizational Chart and Post-Ownership Change Organizational Chart with complete ownership information for all entities listed, including for Partnerships, limited partners with a 25% or greater interest, and all general partners; or, if a corporation/LLC, stockholders/members with a 10% or greater interest. Organizational Chart should be comprehensive and include all levels of ownership.</p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

9	<p><b><u>9. Corporate Documentation</u></b></p> <p>As relevant, copies of the following documentation for the proposed owner:</p> <ol style="list-style-type: none"> <li>1. Articles of Incorporation/Articles of Organization/Statement of Qualification,</li> <li>2. Certificate of Incorporation/Certificate of Organization/Certificate of Limited Partnership,</li> <li>3. By Laws/Operating Agreement/Partnership Agreement*</li> <li>4. Certificate of Good Standing/Certificate of Existence,</li> <li>5. Draft Assignment of Partnership Interests or equivalent document governing transfer,</li> <li>6. and, if a non-profit, proof that the organization is in compliance with N.M. Charitable Solicitations reporting requirements.</li> </ol> <p><i>* This document shall contain MFA's required Compliance Addendum upon submission</i></p> <p>MFA reserves the discretion to request the above legal documentation for any entity in the organizational chart.</p>		
10	<p><b><u>10. IRS Form No. 8823 (if applicable)</u></b></p> <p>If the ownership change occurs before the end of the 15-year LIHTC Compliance Period, MFA will advise the IRS of the new ownership structure via form 8823.</p>		
11	<p><b><u>11. Closing Calls</u></b></p> <p>For increased communication, MFA Preservation Program Manager should be invited to routine closing calls regarding this transaction. MFA Preservation Program Manager may forward this invitation to supporting parties, including MFA leadership, MFA general counsel, and/or MFA bond counsel.</p>		

The information provided, under penalty of perjury, is true and correct to the best of Applicant's information, knowledge, and belief. Further, as witnessed by the signature(s) below, Applicant certifies that the signor(s) have authority and are competent to legally bind the Applicant to the certifications and assurances made herein. Applicant further understands that the terms "Applicant" in this Certification includes all individuals, joint ventures, partnerships, corporations, trusts, nonprofit organizations and any other public or private entity, that will participate in the ownership transfer proposed in the Application as an owner, but excludes investors (i.e. limited partners or investor members) under the LIHTC program.

On behalf of \_\_\_\_\_ ("Applicant"), the person(s) below so certify:

By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

# MFA Ownership Change Application: Instructions and Applicant Checklists

## Checklist for Applicant Use: Properties with MFA Loan(s) Only

Project Name: \_\_\_\_\_ Date: \_\_\_\_\_

<b><u>Section One: Threshold Items (Required for Evaluation)</u></b>			
Item		Check if Present	MFA Use
1	<p>Submit request electronically at <a href="https://mfa.internal.housingnm.org/FileTransferHD/">https://mfa.internal.housingnm.org/FileTransferHD/</a> to Preservation Program Manager. Please attach this completed checklist to application packet.</p> <p><b><u>1. Application Fee (\$500)</u></b></p> <p>Non-refundable application fee of \$500 is due to MFA upon receipt of application. Make checks payable to the NM Mortgage Finance Authority or contact HD@housingnm.org for wiring instructions.</p> <p><i>*Applicant will also reimburse MFA for any legal expenses incurred by MFA in relation to the ownership change. In cases where there are fees required by the RS Regulatory Agreement, MFA will charge only the higher of the two.</i></p> <p><i>**If the application is not complete or further information is required, an additional change fee of \$500/change may be imposed.</i></p> <p><i>***In cases of resyndication, the \$500 Ownership Change Application Fee is waived. Note that other fees per the QAP still apply.</i></p>		
2	<p><b><u>2. Processing Fee (\$1,500)</u></b></p> <p>Processing fee of \$1,500 is required at or prior to closing the approval for change in ownership; a conditional consent letter will be issued ahead of receipt of a recorded 'Assignment and Assumption Agreement.'</p>		
3	<p><b><u>3. Contact Information (for MFA Housing Development)</u></b></p> <p>Provide name, title, company, address, telephone number and email for:</p> <ul style="list-style-type: none"> <li>• Primary application contact person(s) for seller party</li> <li>• Primary application contact person(s) for purchasing party</li> <li>• Legal counsel contact for seller party</li> <li>• Legal counsel contact for purchasing party</li> <li>• Point person for seller party to which MFA's Conditional Consent to Change Ownership letter should be addressed in the event that consent is granted</li> <li>• Point person for purchasing party to which MFA's Conditional Consent to Change Ownership letter should be addressed in the event that consent is granted</li> </ul> <p>Also provide names and emails of any secondary application contact person(s) that should be copied on application correspondence.</p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

4	<p><b><u>4. Cover Letter</u></b></p> <p>Cover letter explaining the proposed ownership change. Include the following: the property address; all sources of funds in existing project (loans, grants, bonds); what year the loan affordability periods end. For all MFA loans, advise whether loans will be paid off at closing or assigned to buyer (also clarify, if pursued, the paying/redeeming party).*</p> <p><i>*Note that it is not MFA’s practice to release/terminate LURAs or Regulatory Agreements of loans that have been paid off. Restrictions will continue as per LURA/Regulatory Agreement after payoff.</i></p>		
5	<p><b><u>5. Seller’s Statement</u></b></p> <p>A letter from the current owner stating that they are working with the proposed buyer and have entered into an agreement to purchase the property.</p>		
6	<p><b><u>6. Title Commitment/Report</u></b></p> <p>Title report and/or commitment with complete copies of all documents listed on Schedule B, Part II.</p>		
7	<p><b><u>7. Plan of Action to Resolve Outstanding Compliance Issues (if applicable)</u></b></p> <p>Property cannot have any outstanding compliance issues. Upon receipt of a full application and fee payment, MFA staff will check with the MFA Asset Management Department to ensure that there are no outstanding compliance issues (including but not limited to: late payments within the 18 month period prior to the Change of Ownership Request, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on this Project], failure to meet documentation requirements, etc.) on the part of any property management agent, Project Owner or Principal or any affiliate thereof. If there are any outstanding compliance issues, a plan of action will need to be approved by MFA prior to any transfer approvals. Please find MFA’s LIHTC Compliance Plan and Appendices at <a href="https://housingnm.org/property-owners-agents-and-managers/lihtc-compliance-plan-and-appendices">https://housingnm.org/property-owners-agents-and-managers/lihtc-compliance-plan-and-appendices</a> .</p> <p><i>*Any property out of compliance with MFA due to any prior, unapproved ownership changes will be subject to a fee of \$10,000.</i></p>		
8	<p><b><u>8. Copy of LIHTC, Loan, Grant, and Bond Documents (where applicable)</u></b></p> <p>Copy of any relevant recorded or non-recorded documents pertaining to subject property’s sources of funds such as LURAs, mortgages, regulatory agreements, any amendments, and subordination agreements to which MFA is a party.</p>		
9	<p><b><u>9. Project Financial Statements</u></b></p> <p>Project’s latest FYE financial statements for the last three years. Statements will be used to evaluate the accuracy of the Operational Budget, which will be provided under Section Two: Materials Required for Scoring.</p> <p><i>*Audited financial statements are required for properties with Risk Share loans and are preferred for all projects for the last three years.</i></p>		
10	<p><b><u>10. Contact Person Name and Information (for MFA Loan Servicing)</u></b></p> <p>Name, title, company, address, telephone number and email for contact person for loan servicing questions (in the event that the property has an active loan or regulatory agreement). Staff will advise MFA Servicing Department of the new ownership information.</p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

11	<p><b><u>11. Agreement to Execute Assignment and Assumption Agreement</u></b></p> <p>Please draft and sign a letter serving as an Agreement to Execute Assignment and Assumption Agreement, providing detailed signature blocks for all entities that will sign the Assignment and Assumption Agreement. By signing the Agreement to Execute Assignment and Assumption Agreement, you are agreeing to the terms in the Assignment and Assumption Agreement. MFA will review proposed modifications and amendments to the Assignment and Assumption Agreement in good faith. Any requested changes will be approved in the sole and absolute discretion of MFA.</p> <p><i>*Draft Assignment and Assumption Agreement will be provided for redlining upon receipt of Ownership Change request.</i></p> <p><i>**Executed Assignment and Assumption Agreement must be signed prior to full Ownership Change approval. The Agreement restates key requirements of the Land Use Restriction Agreement.</i></p>		
12	<p><b><u>12. Authorizing Resolution</u></b></p> <p>Proposed new owner shall provide an authorizing resolution in the form attached hereto (Appendix A) for all entities in Proposed owner’s organizational chart.</p>		
13	<p><b><u>13. Organizational Charts</u></b></p> <p>Pre-Ownership Change Organizational Chart and Post-Ownership Change Organizational Chart with complete ownership information for all entities listed, including for Partnerships, limited partners with a 25% or greater interest, and all general partners; or, if a corporation/LLC, stockholders/members with a 10% or greater interest. Organizational Chart should be comprehensive and include all levels of ownership.</p>		
14	<p><b><u>14. Operating Agreement/Partnership Agreement</u></b></p> <p>Operating Agreement(s), Partnership Agreement(s) and/or other agreement(s) (and all amendments thereto) governing the relationship between the parties listed on the Pre-Ownership Change and Post-Ownership Change organizational charts.</p>		
15	<p><b><u>15. Corporate Documentation</u></b></p> <p>As relevant, copies of the following documentation for the proposed owner:</p> <ol style="list-style-type: none"> <li>1. Articles of Incorporation/Articles of Organization/Statement of Qualification,</li> <li>2. Certificate of Incorporation/Certificate of Organization/Certificate of Limited Partnership,</li> <li>3. By Laws/Operating Agreement/Partnership Agreement*</li> <li>4. Certificate of Good Standing/Certificate of Existence,</li> <li>5. and, if a non-profit, proof that the organization is in compliance with N.M. Charitable Solicitations reporting requirements.</li> </ol> <p><i>* This document shall contain MFA’s required Compliance Addendum upon submission</i></p> <p>MFA reserves the discretion to request the above legal documentation for any entity in the organizational chart.</p>		

## **MFA Ownership Change Application: Instructions and Applicant Checklists**

16	<p><b><u>16. CHDO Application, Documentation of Federal Non-Profit Status (for HOME-CHDO loan holders/Non-Profit Owners, if applicable)</u></b></p> <p>If there is a HOME-CHDO loan attached to the property, applicant must include a CHDO application for the new owner, as the new owner must also be a CHDO.</p> <p>If the Change of Ownership is set to occur prior to the end of the initial Compliance Period, and the original owner was a Qualified Non-Profit, the new ownership entity must include a Qualified Non-Profit with the same level of ownership. In this case, documentation of Federal Non-Profit status must be provided.</p>		
17	<p><b><u>17. HUD/Good Standing</u></b></p> <p>MFA staff will check to ensure that no members of the proposed new owner structure have been debarred or suspended by HUD or other governmental entities.</p>		
18	<p><b><u>18. Closing Calls</u></b></p> <p>For increased communication, MFA Preservation Program Manager should be invited to routine closing calls regarding this transaction. MFA Preservation Program Manager may forward this invitation to supporting parties, including MFA leadership, MFA general counsel, and/or MFA bond counsel.</p>		

### **Section Two: Materials Required for Scoring**

Item		Check if Present	MFA Use
S1	<p><b><u>S1. Applicant Experience Certificate</u></b></p> <p>Executed Applicant's Experience Certificate for proposed new owner. See Appendix B, included here for completion.</p> <p><i>*If Applicant Experience Certificate reflects cumulative experience of less than five years, note that additional training may be required.</i></p>		
S2	<p><b><u>S2. Management Experience Certificate</u></b></p> <p>Executed Management's Experience Certificate for proposed management (signed by proposed management agent). See Appendix C, included here for completion.</p> <p><i>*If Management Experience Certificate reflects cumulative experience of less than five years, note that additional training may be required.</i></p>		



## MFA Ownership Change Application: Instructions and Applicant Checklists

S3	<p><b><u>S3. Proposed Owner Financial Statements</u></b></p> <p>-For ownership entity that will own the property going forward (which may be newly formed or a pass-through), evidence of contributions in an amount to cover 6 months of operations must be demonstrated. If not yet funded, an executed Contribution Agreement will instead be accepted.</p> <p>-If a Contribution Agreement is required, recent year-to-date accountant reviewed or audited financial statements for the proposed owner (i.e., the ultimate owner with the financial capacity to own and manage affordable housing but not newly formed or pass-through entities) will be required.</p> <p>-If owner(s) is/are an individual, submit the latest Personal Financial Statement(s) on HUD form 92417 (include all contingent liabilities), signed &amp; dated within 90 days of application date.</p> <p><i>*Score is based on coverage of operations.</i></p> <p><i>**MFA may require additional information to evaluate this scoring item.</i></p>		
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The information provided, under penalty of perjury, is true and correct to the best of Applicant's information, knowledge, and belief. Further, as witnessed by the signature(s) below, Applicant certifies that the signor(s) have authority and are competent to legally bind the Applicant to the certifications and assurances made herein. Applicant further understands that the terms "Applicant" in this Certification includes all individuals, joint ventures, partnerships, corporations, trusts, nonprofit organizations and any other public or private entity, that will participate in the ownership transfer proposed in the Application as an owner, but excludes investors (i.e. limited partners or investor members) under the LIHTC program.

On behalf of \_\_\_\_\_ ("Applicant"), the person(s) below so certify:

By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

# **MFA Ownership Change Application: Instructions and Applicant Checklists**

## **APPENDIX A**

Authorizing Resolution

Find Appendix A – Authorizing Resolution on MFA’s Website at  
<https://housingnm.org/developers/developer-resources/request-for-change-of-ownership>

## **APPENDIX B**

Applicant Experience Certificate

Find Appendix B – Applicant Experience Certificate on MFA’s Website at  
<https://housingnm.org/developers/developer-resources/request-for-change-of-ownership>

## **APPENDIX C**

Management Experience Certificate

Find Appendix C – Management Experience Certificate on MFA’s Website at  
<https://housingnm.org/developers/developer-resources/request-for-change-of-ownership>

## **APPENDIX D**

Compliance Affidavit

Find Appendix E – Compliance Affidavit on MFA’s Website at  
<https://housingnm.org/developers/developer-resources/request-for-change-of-ownership>

## **APPENDIX E**

Operating Budget, Proforma, Capital Needs Assessment

Find Appendix E – Operating Budget, Proforma, Capital Needs Assessment on MFA’s Website at  
<https://housingnm.org/developers/developer-resources/request-for-change-of-ownership>

## **APPENDIX F**

Responsibility of Transferee

Find Appendix F – Responsibility of Transferee on MFA’s Website at  
<https://housingnm.org/developers/developer-resources/request-for-change-of-ownership>

## **APPENDIX G**

Find Appendix G – Scoring Worksheet on MFA’s Website at  
<https://housingnm.org/developers/developer-resources/request-for-change-of-ownership>