A GUIDE FOR DEVELOPING
CHILD CARE FACILITIES
WITH AFFORDABLE HOUSING

Another Child Care Option—
Family Child Care Rental Units

BRIDGE Housing

BUILDING SUSTAINING LEADING

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Summary

Family child care is care that takes place within the home of the caregiver, and historically has been the most commonly used form of child care available in lower-income communities. Family child care is by its nature a less formal arrangement than center-based care, and has different standards for licensing. Since family child care is a well-used service in lower-income communities, and is also a source of income for the families served by affordable housing, developers of affordable housing have become more interested in incorporating or facilitating family child care in their developments of late. It is estimated that approximately one-third of children in licensed child care are in a family child care setting.

Family child care is more informal and typically more flexible than center-based care. Although licensing is required for caregivers who serve more than 6 children in their home, many caregivers are not licensed (see the Licensing section of this chapter for more detail). Additionally, family child care is typically provided in the home of the provider and his/her family and is frequently not designed with child care in mind. Family child care providers often provide child care without a formal educational component. Therefore, many families utilize family child care for infants and toddlers, then move children to a preschool/child care center at age three or four. However, depending on the locality, many resource and referral agencies offer educational classes to family child care providers that count for Early Childhood Education Credits (ECE). Providers commonly obtain six to eight credits in topics such as first aid for young children, how to run a family child care business, children's development by age, etc.

Family child care in a multifamily setting can offer many benefits to all parties, including the caregiver, the families in a housing development, and the community at large. However the developer must keep in mind certain issues when considering the appropriateness of family child care in a housing development. The sections below will focus primarily on the considerations and challenges of incorporating family child care into affordable housing and offer some recommendations. At the time of this writing, there is little development experience with incorporating family child care into affordable housing.

The Benefits of Family Child Care

There are several benefits to family child care in low-income communities:

- Good Outcomes for Children
  Family child care can provide a safe, culturally appropriate, home-like setting with a great deal of personal attention that supports early childhood development. Many parents favor family child care environments over larger centers because of the smaller scale, higher degree of personal interaction, and home-like setting.
- Support for Working Families
  Access to child care is the largest barrier to workforce participation in lower-income communities. The additional flexibility of family child care relative to center-based programs can be important in allowing a parent to work.

- Economic Development
  Family child care can also be an important economic development tool for the caregiver. As indicated below, family child care is not a high-wage profession, but it can provide an important source of income for a family. In addition, formalizing a child care arrangement can have benefits in providing access to mainstream institutions and experience in operating a business that can be very important for the personal development of the provider.
- Community Building
  Family child care can facilitate community building within a development, and between a development and the neighborhood surrounding the development by fostering relationships among resident families. Some communities prefer family child care to the more classroom-like environment of a child care center. Awareness of and responsiveness to this preference is important to maintaining a positive relationship with the neighborhood. The presence of an active day business in the neighborhood can also have the additional benefit of discouraging criminal activities in some neighborhoods.

Economics and Resources

A LOW-WAGE ENDEAVOR

Family child care is generally a low-wage endeavor. For most providers, it does not produce a large income for the provider. Typically revenues of family-based providers in lower income neighborhoods range from $15,000 to $45,000 per year, and after taxes and expenses are considered, most providers alone would be considered low-income if family child care is their primary means of support.

RENTAL

For providers who have another significant source of family income, the provider's family income may exceed income restrictions for the affordable housing units over time as the child care business becomes more established. Income qualification issues include how to qualify a family provider for tenancy in a development and how to manage compliance with affordability restrictions for provider families that become over income over time. It may be difficult for family providers to demonstrate that they have adequate income to qualify for housing. A provider who is relocating to the development from their home may lose a large portion of their existing client base, as family child care is extremely sensitive to location. Even a move of a short distance can result in the loss of most clients.

The owner of a housing development must assess whether a proposed family-based provider will be able to maintain adequate income to pay the rent, and should think ahead about how they will manage the situation should the child care function generate income inadequate to pay the rent. The owner may want to request that the provider provide statements from their clients stating their intention to continue as clients after the provider moves into the development. The owner may also want to assess if the family provider has adequate funds to allow for a start-up and "marketing" period of six months to a year. Community-based organizations that offer incubator or small-business assistance can assist the provider in developing a business plan for the transition.

OWNERSHIP

Since child care is typically a low-wage endeavor, the provider's family income may not be high enough and/or stable enough to enable them to purchase a home. In many localities, Housing Authorities have allowed Section 8 Voucher holders to utilize their vouchers for mortgage payments rather than rental payments.

PROVIDES ECONOMIC AND PERSONAL DEVELOPMENT

Family child care can be an economic and personal development vehicle for the provider's family. It is certainly a venture that has a very low barrier to entry and provides a critical community need. The additional support provided by living in subsidized housing can assist the family in developing a more informal function into a business that can grow the family's income and opportunities. Developing a family child care business can develop business skills and provide the family with new access to financial institutions as well as educational and other supporting opportunities. For some families, however, trying to formalize a previously informal arrangement can lead to difficulties. For instance, often provider families depend on barter or unreported income, and the provider may be resistant to changing this arrangement.

NO DIRECT SUBSIDY

Unlike center-based care, family child care providers cannot receive direct subsidy on a contract basis for caring for children of low-income families. Family providers may accept vouchers from an income-qualified family. These vouchers are primarily distributed to families served through CalWorks. CalWorks families are eligible for vouchers after leaving the cash aid program if their income is below 75% of state median income. (Refer to Chapters I and IV for more detail on CalWorks eligibility and how the vouchers work.) However, as of this writing vouchers for families who have left the program were in danger of being cut in the state budget negotiations.

SUPPORT FOR PROVIDERS

In many localities, Resource and Referral networks provide education, training, support and referrals to family child care providers. This can be a crucial ingredient in ensuring that family child care not only provides a service to the client families but also an opportunity for advancement to provider families. The scope of services offered by and the staffing level of the resource and referral networks tend to be stronger and to have greater capacity in the more urban areas of the state and less so in rural areas.

Licensing

In California, a family provider is allowed to care for up to 6 children without a requirement to be licensed. Further, a family in an existing development who starts a family child care operation in their apartment cannot be compelled to obtain a license by the owner or manager of a development. There are two licensing categories. The license for a "Small Family Child Care Home" allows up to eight children, including children under ten years of age who reside in the home. A "Large Family Child Care Home" allow up to 14 children, again including children under ten years of age who reside in the home. A Large Family Child Care Home must include an adult assistant.

Licensing for a family child care home involves an application, background check, and inspection. For licensing materials and details, refer to the Community Care Licensing website for up-to-date information, http://ccld.ca.gov/.

For new developments where family child care is part of the program from the beginning, it is strongly recommended that licensure be a priority in selection of residents. As long as it is a clear eligibility criterion, requiring licensing is allowable and advised in planning for family child care.

Use, Occupancy, and Fair Housing Issues

In California family child care is defined as a residential use, and therefore no land use permits are required as would be for a business establishment. Family child care is also considered a residential use in Section 42 of the Internal Revenue Code, which governs low-income housing tax credits as well as in the HOME and CDBG program regulations.

The question often arises whether it is allowable to reserve units for family child care providers and how this can be accomplished without running afoul of Fair Housing Law. The short answer is that it is possible to reserve units for this purpose as long as there is no violation of fair housing concepts within that class of applicant. The owner/manager should establish a separate application and interest list process for any units designated for family child care. We recommend consulting with an attorney familiar with fair housing law when creating a marketing plan for a development with family child care.

One note of caution: an owner cannot change the income or family-size criteria to accommodate family child care. For instance it is not allowable to rent a three-bedroom unit to a one- or two-person household because the tenant will be providing family child care. Other design modifications are acceptable: see the Design Considerations section, below. Therefore, some thought should be given to the likely household size of family child care providers in the area so that the size of the unit made available does not preclude occupancy by qualified providers.

In tax credit–financed projects, it is also unacceptable for a family child care provider to have exclusive use over any common area such as a play area or community room, <u>unless these areas are removed from tax credit basis</u>. The child care provider and children may use these areas but may not reserve them exclusively for family child care use.

For projects financed with other sources, the tax basis issues are not relevant. However we advise that you work with an attorney to ensure that your selection process is consistent with fair housing law. Also be sure that both the selection procedure and intended use of the property for family child care is consistent with the requirements of all other funders.

Design Considerations

The strict physical design standards associated with center-based care do not apply to family child care settings. If a family child care use is planned for specific units in a new development, the units may be designed and sited to facilitate their use as child care and to minimize disturbance for other residents.

UNITS

As mentioned above, in a tax credit–financed development a family must qualify for a unit in terms of income and family size, independent of their child care business. For example, a two-person household cannot be leased a three-bedroom unit. However, it is permissible to create different access, larger or more flexible floor plans, or more durable finishes in a unit so it can better accommodate family based care.

Following are some specific design recommendations:

- A large living/dining area should be designed to allow flexibility for various activities and adequate space for the number of children that will be served. Design the living/dining area to be larger than the typical unit which accommodates only the resident family. A flexible living/dining area of between 300 and 400 square feet is recommended rather than the typical family unit design of 200 to 250 square feet.
- There should be good sight lines throughout the living area, including from the kitchen and from the bathroom and/or diaper changing station.
- Although there is no outdoor play area requirement, access to a usable outdoor area is desirable. The door should be easily monitored from the living area.
- Additional storage is crucial. Remember that storage outside the unit dedicated for use by the family provider could be construed as a commercial use and possibly ineligible for housing funding, including tax credits.
- It is recommended that the area of the apartment used for child care be fully handicapped accessible, including a ground-floor bathroom.
- A ground-floor bathroom with a bathtub is preferred since children may need to be bathed.
- More durable and easy-to-clean finishes should be considered.
- Provide enough space to place a changing table in the bathroom.
- Maximize natural light to the child care area.
- If there will be more than one family child care unit, locate them adjacent to one another to simplify access and isolate noise. Greater acoustical treatments may be warranted between units as well, e.g., limitation of party walls, increased insulation.

COMMON AREAS

Outside the unit, common issues such as noise, access, and safety should be addressed in the design. Since typically a family child care situation will not lend itself to complete separation of uses as commonly seen in center-based care, more thought needs to go into the blending of uses. A design that minimizes the access and use of common areas by clients of the family child care provider is recommended in order to minimize conflict with the needs of the residents and clarify liability issues should they arise, e.g., if a provider's client is hurt in a property common area.

ACCESS

The developer will need to consider how clients from outside the development will get to the provider family's apartment. Developers should involve property management staff in deciding how access should work. Property management should consider how clients from outside the development will access the child care location, whether the access will be difficult for people to navigate, and if access will compromise the security of the building, or be a nuisance to other residents. Also, special consideration should be given to a pick-up/drop-off area if clients from outside the development are expected.

Many developers like to have a single controlled access point for the entire development for security reasons, but this might prove difficult for the clients of family child care who have car seats, diaper bags, and other equipment to transport daily. Ideal family child care units are located on the ground floor, either with their own entries or close to major entries, parking or areas that may be used for drop-off. Parking/drop-off space is another concern if vehicular traffic is anticipated. Frequently, affordable housing developments do not plan for drop-off areas for family child care units, and in developments guest parking is minimal or nonexistent due to the high construction cost of parking structures as well as security and liability issues. Traffic concerns can become a neighborhood issue as well, even if they are more perceived than "real." Designating a drop-off area close to the family child care units but separate from resident parking is recommended. This issue is a lesser concern for an ownership project. With ownership housing, whether or not extra parking spaces are necessary will depend on the availability of street parking.

Management Issues

RESIDENT/PROVIDER SELECTION

PROCEDURES FOR SELECTING FAMILY CHILD CARE PROVIDERS

As mentioned previously, fair housing laws allow for a separate applicant pool for family child care units as long as there is no discrimination within that pool. For new developments anticipating a family child care use, developing a separate set of criteria for family child care providers is highly recommended. The criteria should include any licensure requirements, and that the owner/property manager fully investigate the provider, including a visit to their current home and speaking to references. Having held a license for two years at minimum is recommended, because compliance issues usually do not arise until at least the second year. At the time of this writing, family child care homes are inspected only once a year.

Verification of a provider's income can be problematic; owners and managers should be aware of this. Also be aware that income from family child care can be quite variable, and a family changing location to move into your development may lose many of their clients: even a short move can create difficulty for client families. As a result a provider's income could fall precipitously upon relocating. In general, and as might be expected, well-established, stable operations have a higher probability of success following relocation. Therefore, it makes sense to carefully assess the stability of the operation and the likelihood for success after moving. Also, it is a good idea to require a relocating provider to have a transition plan, including some financial reserves to ensure they will be able to stay solvent when relocating. Six months to a year of reserves is recommended unless a provider is able to show that their existing clientele will continue to place their children with them at the new location.

SECURITY DEPOSITS

The property owner may collect a larger security deposit for a family child care provider than for a comparable unit based on the additional expected wear and tear from the more intensive use. The owner should consider what impact a higher deposit would have on the finances of the operator but also be sure to have an adequate security deposit to allow for repairs when the unit turns over. The owner may also wish to increase the replacement reserve for the whole development where family child care is part of the program. Typical repairs include more frequent painting, cabinet replacement in bathrooms and kitchens, carpet and other flooring replacement, and toilet/sanitary sewer service due to children's toys and other items falling into the toilet.

INSURANCE

Under current California law, a landlord cannot require a family child care provider to have liability insurance. However, in the process of selecting a family child care operator for a new development it is recommended that possession of a liability insurance policy be a clear priority for renting a unit with the intent of providing family child care.

CONTINUING EDUCATION

The property owner may want to encourage the provider to seek continuing education. Resource and Referral agencies frequently offer continuing education classes which count for Early Childhood Education credits for providers.

CONTINUING OPERATION

The owner must consider the remedy if a selected child care operator does not comply with property house rules, and especially if the operator does not provide the child care service that was anticipated. We recommend executing a use agreement that delineates the conditions for occupying a unit designated for family child care. Following are several areas of concern:

PROVISION OF CHILD CARE SERVICES

If the provider family no longer provides care for the minimum number of children (if specified in a use agreement) or does not maintain their state license as a child care provider, the owner may wish to have the option of terminating occupancy of the unit. The next available unit in the development for which the family qualifies (if they continue to meet minimum standards for tenancy in any unit) may be offered to the family. The more the child care units are made physically different from others in the development, the more important it will be to be able to move a family that is not providing the child care service that was expected. A use agreement can also delineate other rules and standards that must be maintained by the provider in addition to those that apply to all tenants generally. Please note that you cannot require that child care spaces be reserved for residents of the development.

NOISE

The use of an apartment for family child care can create noise issues for other residents. If specific units are designed for child care use, acoustic impacts should be considered in the design phase. For instance, making sure that there are as few adjacent units as possible and minimizing party walls at the living area of the child care unit would be wise. It would also be wise to inform other residents of the child care use and as much as possible locate more compatible families adjacent to the child care unit (for instance a family where members are at work or school during the day rather than a senior who might be home during the day). If there is more than one family child care unit in the development, it makes sense to place them adjacent to one another.

ACCESS

Reassessment of the access plan and comparison to the actual practice of clients and the provider should be periodically reviewed by management staff. If the access route is inconvenient, the clients will likely abandon it. If the access route causes an unanticipated nuisance to other tenants, the property manager will need to work out another route with the operator or some other solution.

WEAR AND TEAR

A family child care unit will be used much more intensively than a regular apartment. You may want to consider adjusting the replacement reserves for the entire project to account for more frequent replacement of carpets, repainting, etc. Frequent unit inspections are also suggested.

DON'T BE AN 'OPERATOR'

The building owner and manager must avoid giving special treatment that could be interpreted as co-operation with the child care. Examples might include dedicated use of common areas or forgiveness of rent. This could open the door to some liability on the owner's part for the activities of the child care. So long as a family child care operation is independent of the ownership and management of the development, there should be no additional owner or manager liability associated with the activity. It is permissible to provide technical or other assistance so long as there is a clear agreement in place that states the limits of the assistance and reiterates that the landlord has no management authority.