



## Ohio Administrative Code Rule 5122:3-1-13 Real property.

Effective: January 3, 2023

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The department may participate in the cost or value of real property to be used for mental health or addiction service facilities. Such property may include land only or land with existing buildings thereon which is to be purchased by an applicant or the approved tax credit owner for which it is the approved tax credit manager.

### (A) Site evaluation

An applicant will provide to the chief an evaluation of the proposed project site in accordance with the factors set forth in the community capital assistance projects process guidelines (updated April 2019), available at

[https://mha.ohio.gov/static/Portals/0/assets/SchoolsAndCommunities/CommunityAndHousing/Community-Planning/2019/CAPITAL.GUIDELINES\\_rev\\_April2019.pdf?ver=2019-08-09-132425-143](https://mha.ohio.gov/static/Portals/0/assets/SchoolsAndCommunities/CommunityAndHousing/Community-Planning/2019/CAPITAL.GUIDELINES_rev_April2019.pdf?ver=2019-08-09-132425-143), including, but not limited to, cost adaptability for renovation; programmatic suitability; economic stability; environmental suitability; and ability or potential to meet applicable zoning, building, and fire codes, as well as licensure and departmental or other governmental requirements. The chief will evaluate and approve or disapprove all project sites proposed.

### (B) Property value determination

Property value determination will be in accordance with the community capital assistance project process guidelines.

(1) The value of real property proposed for a project is to be based on a recent appraisal or appraisals made by a qualified appraiser according to guidelines. The appraised value is based on the fair market value of the property as determined by the appraisal and approved by the chief. The appraisal fee will be considered as an element of project cost eligible for state participation.

(2) Demolition costs may be included in determining the cost of property for a project.



(3) Department participation in real property will be based on the purchase price or approved appraised value.

(C) Existing buildings

In addition to all other provisions of this rule, the chief will evaluate participation in the cost of projects involving the renovation of existing buildings as follows:

- (1) Estimate the cost of renovation and additions necessary to meet approved program requirements;
- (2) Estimate the life expectancy of the existing buildings after proposed renovation;
- (3) Compare the cost of renovation of and additions to the existing buildings with the cost of new construction to fulfill the same program requirements; and
- (4) Evaluate program suitability of the existing buildings in comparison with that of construction designed specifically for the programs stated in the application.

(D) Mortgaged property

The department may participate in a project involving property owned by an applicant or the approved tax credit owner for which it is the approved tax credit manager, which is subject to one or more prior mortgages held by a private financial institution or other lender approved by the chief, only if all of the following are the case:

- (1) Except when a waiver or variance has been obtained pursuant to rule 5122:3-1-17 of the Administrative Code, the applicant or approved tax credit owner for which it is the approved tax credit manager arranges for the department to have a security interest, lien, or mortgage in the project property that is superior to all approved prior mortgages;
- (2) The applicant or the approved tax credit owner for which it is the approved tax credit manager obtains the department's approval prior to the selling the project property.



(3) The terms of the mortgages or contracts between the applicant or the approved tax credit owner for which it is the approved tax credit manager and lender provide that in the event of default on the part of the mortgagor (applicant or approved tax credit owner) and prior to foreclosure by the mortgagee:

(a) The department has an opportunity to absolutely cure any default on behalf of the applicant or the approved tax credit owner for which it is the approved tax credit manager; and

(b) The department may, if the applicant has not repaid, or caused to be repaid, the sum set forth in paragraph (D) of rule 5122:3-1-05 of the Administrative Code, assume the applicant's obligation or the obligation of the approved tax credit owner for which it is the approved tax credit manager under the mortgage and the operation of the facility or transfer or assign the mortgage interest and the operation of the program in the facility upon approval by the mortgagee, which approval is not to be unreasonably withheld, to an eligible applicant to provide a similar service program in the facility in accordance with all applicable federal and state restrictions for the remainder of the mortgage term.

(4) Paragraphs(D)(1) and (D)(2) of this rule will be in effect for the period of the contract between the applicant and the department. Paragraph (D)(3) of this rule will be in effect until the prior mortgages have been cancelled.