

Roles of Counsel to Faith-Based Organizations in the Development of Affordable Housing

“Charity is a virtue which, when our affections are perfectly ordered, unites us to God, for by it we love him.”

- St. Augustine

Initial Questions For Faith-Based Organizations

Motivations

- Assisting current congregants to attain safe, sanitary and affordable housing
 - 35% of adults who attend church at least once a week have a household income of less than \$30,000 per year; 21% of weekly attendees have a household income of between \$30,000 and \$49,999
 - 33% of adults who attend church once or twice per month have a household income of less than \$30,000 per year
- Potential for positive community outreach and conversion
- Christian Charity
- Long-term planning for growth and development of the community that the faith-based organization serves
- Financial incentives

Who will the project serve?

- Elderly
- Special Needs
- Homeless
- Extremely Low Income
- Low Income
- Moderate Income
- Veterans

Project Location

- Presently owned property
- Property that may be obtained at below market-rates from congregants or others of the same faith
- Importance, or lack thereof, of proximity to the faith-based organization's other properties
- Is the property zoned for multi-family housing or single-family housing? If the project would be a non-conforming use, is rezoning or obtaining a variance possible?

From Concept to Completion

Identifying Development Partners

- What is the desired relationship between the developer and the church?
- Does the developer want to be involved after initial development, or do they want to exit the project once construction is complete?
- This relationship will be defined in a memorandum of understanding and/or Development Agreement and will often allocate the developer's fees among the developer and the faith-based organization or said organization's special purpose entity.
- Does the project have the support from the faith based-organizations governing body and is said organization willing to provide financial guarantees?

Entity Formation

- Creation of the faith-based organization's special purpose entities
 - For Profit vs. Non-Profit
 - Form of Business Organization
 - Corporation, partnership, limited liability company
 - Faith-based organization as sole member/shareholder or multi-member/shareholder
- Tax Considerations

Financing

- Reviewing Applications and associated contracts related to the proposed project
- Ensure comprehension of the nature and broad requirements that various funding sources will require if awarded
- Ensure the funding structures being proposed by for-profit developers allow for the accomplishment of long-term goals

Post Award

- Review and negotiate all transaction documents
- Ensure understanding of funding and operating obligations and the requisite timelines for each obligation
- Prepare closing documents (resolutions, incumbency certificates, opinion letters)
- Prepare and/or negotiate title insurance related documents
- Coordinate closing logistics

Construction Phase

- Monitor title matters with each construction update
- Assist with construction related issues as they arise
- Monitor deadlines and assist with obtaining extensions when necessary

Lease Up and Post Occupancy

- Aid in drafting residential leases for tenants.
- Assist in creating project rules and regulations that are valid and enforceable.
- Aid with tenant issues.
- Assist with evictions.
- Help maintain programming and reporting compliance.

Questions?