Developing Multifamily Properties
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Agenda

• Keys to Multifamily Development

• NSP Multifamily Rental Housing Rules and Regulations

• Case Study: BC Apartments Multifamily Housing Project
5 Key Steps for Successful
Multifamily Rental Development
Multifamily Housing Development

• Housing development is challenging, maddening and rewarding work. If we could impart one lesson: experience and expertise matter.

• If you’re just starting out – hire the expertise you need.

• If you’re a nonprofit with limited resources, there are number of groups that can help with this TA, provided by HUD for help with your NSP TA contract
5 Multifamily Development Steps

1) Program Planning
2) Capital/Financing
3) Acquisition
4) Team Selection
5) Rehabilitation/Construction
Step 1: Program Planning

• Who are you trying to serve?
• What is the population’s income levels?
• What is the market for the product you want to deliver? Are there comparable projects?
• What is the market? Understand market for the purchase of land and occupied buildings which is often constrained by existing and surrounding real estate market.
• What is the political context? Identify key elected and public sector officials that may have authority over resources, etc.,
Step 1: Program Planning

Identify development program. They may include:

- Zoning
- Environmental / Sustainable Practices
- Existing Cash flow, if acquiring existing and tenanted property
- Regulatory Restrictions (i.e., rent, zoning, etc.)
Step 2: Capital/Financing

• Identify sources of capital to finance project.
• Capital stack may include:

  ▪ Equity i.e., your own cash assets or sale of existing assets
  ▪ CDFI’s
  ▪ Traditional Bank loans
Step 2: Capital/Financing

Also May Include:

- Private and Philanthropic Sources (understand that there may be restrictions in how different types of financing can or cannot be blended with others.)
- Public Subsidies (e.g., CDBG, HOME, NSP, HFA)
- Low Income Housing Tax Credits (State/Federal)
- New Market Tax Credits (NMTC)
Step 3: Acquisition

• Conduct a feasibility study (Good time to hire a development consultant).

• Order an appraisal. Impossible to buy property without this. Check NSP rules as there are specifications about what acquisition prices.

• Secure financing. Work with lenders to get commitment letters, submit applications, etc.

• Site Control. Another possibility for acquiring site control, is using Option Agreements. These are agreements where, for a fee, a developer purchases an "option to buy" the land.
Step 3: Acquisition

Here is possible list of everything needed to close on an acquisition:

*Financing commitments, authorizing resolutions, construction documents (plans, specs, schedules, budgets, contracts), pro-formas, insurance and bonding policies, evidence of compliance with local laws, partnership agreements, corporate and financial documents, environmental studies and feasibility and marketing studies.*
Step 4: Team Selection

- Getting the right team is essential. (Design, Legal, Accounting, Zoning, Environmental, Services, etc.,)

- Key Personnel:
  a) Identify your staff/representative/consultant – who’s managing the production?
  b) Important to have someone with Rehab expertise (e.g., Rehab specialist)
  c) Skilled Contractor (e.g., minimum 5 years, similar projects)
Step 4: Team Selection

e) Retain legal counsel. One can hire this expertise, utilize board counsel (pro bono counsel) or seek referrals from peers.

- Structuring and negotiating acquisition agreements, contract, etc. isn’t for the faint of heart. What is most important to your project? Timeliness? Are there external deadlines that your funding, contracts, etc., hinge upon?

f) Insurance, Retainage Fees, Performance Guaranty's
Step 5: Rehabilitation/Construction

• Figure out which model you’re employing

• Models for Success:

  1) **Construction Manager Model (CMM)** refers both to a profession (or type of company), and to a method of contracting for construction services

    ▪ Represents the owner in acquiring subcontractors to build a desired project.

    ▪ In CMM, the owner contracts directly with the subcontractors and the CM directs and controls the subs on the owners behalf
Step 5: Rehabilitation/Construction

• CMM Continued:
  ▪ In affordable housing environment, the term "Owner’s Rep." describes the role associated with this position.
  ▪ Utilized as an in-house staff person as opposed to an owner’s representative as an outside consultant.

2) Turnkey Developer – Via a JV or joint venture you partner with a developer or contractor who manages the entire development process, provides necessary negotiated equity requirements and guaranty's and then turns the keys over your organization for long-term ownership and operation.
Parting Thoughts on Successful Multi-Family Development
NSP Multifamily Rental Properties
NSP Multifamily Rental Properties

Why Rental?

- Affordable rentals are important options for revitalizing neighborhoods for those without the means to own, have lost their home through foreclosure or eviction or prefer to rent

- Renovating rentals reconnect vacant or occupied dilapidated buildings with the community while improving the local economy
NSP Multifamily Rental Properties

Why Rental?

- Homeownership will not be a realistic option for many NSP eligible families and individuals

- Will allow grantees to meet the low-income set-aside requirement to expend 25% of their NSP funds for beneficiaries with household income ≤ 50% of Area Median Income ("LH25")
NSP Rental: Comply with LH25

• Good Way to Meet LH25 Set Aside Requirement

• To Comply With LH25:

Effective July 21, 2010, the Dodd-Frank Act, NSP3 Notice, FR–5447–N–01, struck language in HERA that specified that funds meeting the LH25 percent requirement must be used specifically for the purchase and redevelopment of abandoned and foreclosed homes or residential properties.
NSP Rental: Comply with LH25

• Dodd-Frank Act (continued)

Any NSP eligible activity used to house individuals or families at or below 50 percent area medium income may be used to satisfy the LH25 requirement. Includes eligible NSP housing activities on vacant and commercial properties.

However, NSP1 and NSP2 funds already obligated or expended prior to July 21, 2010, do not retroactively satisfy this requirement.

NSP3 Notice, [FR–5447–N–01]
NSP Rental: Comply with LH25

• For activities that do not meet the Dodd-Frank criteria, LH25 may only be satisfied with NSP purchase and redevelopment of abandoned and foreclosed homes or residential properties.

• For all LH25 rental projects, units must be restricted for occupancy by households with incomes at ≤ 50% of AMI and have rents affordable at 50% of AMI.
NSP Rentals: Who Can Participate?

Rental housing may be preserved/developed and operated by:

- NSP Grantee
- Not for profit developers
- For-profit developers
- Supportive housing providers
- Public housing authorities
- Joint ventures
NSP Rental: Eligible Uses

Three of five eligible NSP uses can be used for rentals [FR-5255-N-01, FR-5447-N-01]:

1) Finance for Acquisition/Redevelopment:
   Eligible Use A  (financing mechanisms)
   - e.g. NSP Grantee – makes soft loan to purchaser of an existing foreclosed multifamily rental
   - Must be existing foreclosed property, with or without rehab (satisfy NSP foreclosed def.)
   - Must be a loan, can’t be a grant
   - Timing of site acquisition is critical (must be after environmental review)
NSP Rental: Eligible Uses

2) Rehabilitation: **Eligible Use B** (Purchase & Rehab)

- e.g. NSP Grantee makes soft loan to purchaser of an existing, foreclosed multifamily rental project with rehab.
- Restricted to “foreclosed” or “abandoned” properties.

**Note:** May be impractical (and difficult) approach to purchase existing properties from owners.
NSP Rental: Eligible Uses

3) Acquisition/Redevelopment: Eligible Use E (Redevelopment)

- Only on “demolished” or “vacant” properties previously developed and now vacant
- e.g. NSP grantee makes soft loan to purchaser of several scattered sites on which residential structures have already been demolished for new construction of a 28 unit rental project
NSP Rental: Eligible Uses

Eligible Use E continued:

- to acquire vacant land/property for eligible residential rentals; can be several scattered sites
- to acquire & construct, rehabilitate or convert from non-residential to residential
- undeveloped sites and raw land are ineligible for NSP funding; infill lots could be if can demonstrate “previously developed”
NSP Rental: Green Building and Rehab

- HUD encourages NSP grantees to use NSP funds to strategically incorporate modern, green building and energy-efficiency improvements
  - Lower energy costs helps reduce operating expenses that furthers longer term affordability
  - Improves health and safety of residents
  - Increases sustainability and attractiveness of housing and neighborhoods
  - NSP3 also mandatory green rehabilitation and new construction standard [FR-5447-N-01]
NSP2/3 Green Requirements

• Examples of NSP2/3 Requirements:
  ▪ Must meet Energy Star standards
  ▪ Water efficient toilets, showers, and faucets, such as those with the WaterSense label, must be installed.
    http://www.epa.gov/watersense/products/index.html
NSP2/3 Green Requirements

• Minimum Standards (Grantee Substantial Amendment to HUD may obligate higher standard):

  “All gut rehabilitation of mid–or high-rise multifamily housing must be designed to meet American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1-2004, Appendix G plus 20 percent.”
NSP Rental Requirements

• Construction/Rehab Standards:
  ▪ Compliance with grantee’s standards & local codes/requirements for habitability, health & safety

• Affordability:
  ▪ Rents must be affordable as defined in Action Plan which includes requirements for affordable rents at targeted AMI levels
  ▪ HOME compliance is safe harbor
  ▪ Units must remain in compliance for affordability period
NSP Rental Requirements: National Objectives

- All NSP rental projects must document meeting a national objective (LMMH for rental) [FR-5255-N-01, FR-5447-N-01]
  - NSP allows incomes up to 120% of area median income:
    - Low Income up to 50% AMI (LM25 set-aside limit)
    - Moderate Income 50%-80% AMI (HOME, CDBG limit)
    - Middle Income 80-120% AMI (NSP limit)
    - All rentals must meet LMMH and always document this [24 CFR 570.506]
  - Be sure to document units counted toward LH25: Only units restricted and affordable to households at or below < 50% of AMI may be counted towards the LM25 set aside
NSP Rental Requirements: Income Targeting

• With the NSP3 Notice, [FR–5447–N–01], the CDBG low-mod benefit was revised to allow for a unit basis approach.
  – Mixed income developments (projects that include market rate units) allowable, provided that NSP assistance is proportional to NSP income-eligible units in the project.
NSP Rental Requirements:
Affordability

• **Rents** must remain affordable during compliance period
• **Income Flexibility** (Unit Mix)
  - Units originally leased to Households $\leq 120\%$ of AMI must be re-rented to those income eligible
  - Units originally designated for low income set aside $\leq 50\%$ of AMI must be re-occupied by income eligible households
  - Units can float as long as maintain proportion
• **Sale Transfer** (comply with affordability)
NSP Rental Requirements: Underwriting

• Things to Keep in Mind:
  ▪ Affordability Period to be maintained
  ▪ Rent affordability: compliance with NSP requirements while ensuring rental income is sufficient to cover debt service, operate property, and maintain units
  ▪ Property management maintains compliance with proper mix of tenant incomes
  ▪ Grantee and owner have method to ensure on-going compliance & upon subsequent property sale/transfer
    • Deed restrictions and/or land covenants
NSP Rental Requirements: Fund Structuring

• Grantees are to avoid undue enrichment of entities that are not subrecipients
• Grantees are encouraged to structure assistance to developers as loans rather than grants
• Can provide NSP Funds to rental project in form of “soft loan” requiring repayment from any sales or refinancing proceeds (at any point during affordability period)
NSP Rental: Fund Structuring

• Structure loan to share in any excess cash flow, especially if a project appears likely to have significant cash flow; could choose to provide some funding in form of “hard loan” (fixed monthly payments) and balance as “soft loan”

• No NSP requirements concerning interest rate for a loan, but consideration should be given to underwriting standards and undue enrichment
NSP Multifamily Rental Resources

• Creating NSP Eligible Rental Projects:
  http://hudnshelp.info/media/resources/CreatingNSPEligibleRentalProject.pdf

• Guide to Property Acquisitions:
  http://hudnshelp.info/media/resources/GuideToPropertyAcquisitions.pdf

• Enterprise Green Communities Criteria
  http://www.greencommunitiesonline.org/tools/criteria/

• Model Multifamily Green Specifications
Case Study: BC Apartments
Multifamily Rental Property

Washington, DC
NSP and BC Apartments

• NSP2 award of $10.6 million for Marshall Heights neighborhood in Washington, DC

Purpose:

- Acquisition and rehabilitation of foreclosed or abandoned properties
- Establish a financing mechanism for foreclosed upon homes

• $6.6 million used to fund BC Apartments acquisition/rehabilitation in neighborhood
BC Apartments History

• For years, a “slum” landlord controlled the BC Apartments and did not maintain facilities

• Tenants attempted to buy the property from the landlord, but in the end, it was determined that there were challenges to securing clean title.
  - Encumbrance in City Government prevented immediate acquisition: All debt on property was city debt: loan amount was low (400k), but fees and penalty accounted for almost $6 mil. in debt
  - DC City worked to help facilitate transfer of property from landlord to the Tenants.
BC Apartments Conditions

• Appraisal in 2008 stated, “The subject condition is generally poor; with little evidence of maintenance or care given to the building in the last decade or longer.”

• Inspection in 2009: “Occupants of BC apartment complex are living under unhealthy and unsafe conditions”*
BC Apartments Conditions

Trash in Stairwell

Drug Use in Hallways (Used Bags)
BC Apartments Conditions

Open Gas Lines

Raw Sewage
BC Apartments Acquisition

• Faced with unsafe and unsuitable health and living conditions, Tenants decided to purchase and rehab BC Apartments

• Protracted negotiations ensued between DC City and Landlord to recoup debt and facilitate transfer of property to the Tenants

• Solution: DHCD threatened foreclosure on the property, prompting the owner to sign a Deed in Lieu of Foreclosure (DIL) in April, 2010

• Deal brokered by Telesis
BC Apartments Acquisition

• Once DIL signed, this allowed for acquisition of BC by DHCD for $800K from landlord (appraised value at ~$5 mil.)
  ▪ DHCD then sold to BC LLC (affiliate of Telesis) for $4.8 mil

• Important for NSP: Discounted Price from Appraisal

• Key to open up NSP funds: BC Apartments satisfied NSP definition of foreclosed property with Deed in Lieu of Foreclosure
NSP Funds and BC Acquisition

• Telesis NSP (affiliate of Telesis) signed a loan agreement with National Housing Trust CDFI to obtain $6.6 mil. loan from NHT’s NSP2 funds
  ▪ $3.2 mil. for acquisition and pre-development costs
  ▪ $3.4 mil. of the loan will roll over into Rehabilitation/Construction costs

• Neighborhood Associates (partner in BC LLC) now heading pre-development work

• BC Tenant Association active in BC Limited Partnership, with Telesis, with an ownership stake in the property
## BC Financing

<table>
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<tr>
<th>SOURCES</th>
<th>AMOUNT</th>
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<tr>
<td>Permanent Debt</td>
<td>$3.7 million</td>
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<tr>
<td>LIHTC Equity</td>
<td>$5.5 million</td>
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<tr>
<td>NSP2 funded from NHT CDFI</td>
<td>$6.6 million</td>
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<tr>
<td>DHCD Supplemental Loan (est)</td>
<td>$4.8 million</td>
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<tr>
<td>Deferred Developer’s Fee, 1.1 million in gap needed</td>
<td>$600 thousand</td>
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<tr>
<td>TBD</td>
<td>$1.1 million</td>
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<tr>
<td>TOTAL SOURCES</td>
<td>$22.3 million*</td>
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Next Steps

• Telesis and Neighborhood Associates continuing pre-development work

• Scope of Work created for rehab and construction. Work includes:
  – Storm water management
  – Repair to water service
  – Renovations for all units
  – Repair masonry
  – Sustainable/Green Renovations
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  http://www.surveymonkey.com/s/MV6S3ZK

  Your opinion is valuable!!!

THANK YOU