

# **DEVELOPING AFFORDABLE HOUSING**

## **Legal & Technical Support Activities Typically Needed**

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based on a speech given by

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### **Starting with a Dream (or a Nightmare)**

- Meet with RHLS, describe goals.
- Seek technical assistance on funding ideas to turn vision into reality.

### **Legal and Organizational Activities**

- Establish the non-profit organization including application for tax exemption, if appropriate.
- Assist in establishing organizational leadership, i.e. Board of Directors, and Choice of Entity.
- Draft board policies such as conflicts of interest, procurement policy, etc.
- Attend Board Meetings, advise Board of appropriate and necessary legal actions.
- Establish related entities, including Articles of Incorporation and By-Laws.
- Negotiate Joint Venture with For-Profit or Limited Partnership Agreement with investor.

### **Acquisition and Site Control**

- Provide technical assistance with public acquisition processes, including condemnation.
- Negotiate with seller about price, terms and conditions of acquisition.
- Develop long/short term leases.
- Develop options to purchase and agreements of sale with appropriate contingencies for zoning, environmental review, financing, etc.
- Conduct due diligence to assure that all acquisition activities are in compliance with requirements of funding sources and good real estate practices.

- Attend settlement and review and comment on all documents before execution.

### **Zoning**

- Negotiate with neighborhood or community groups in preparation for zoning hearings.
- Represent the organization at all zoning hearings.
- File appeals from zoning hearings if necessary.

### **Financing**

- Assist in identifying all eligible funding streams including but not limited to Federal Home Loan Bank Affordable Housing Program, Federal HOME Program, PennHomes Program, U.S. HUD McKinney Act Programs, Pennsylvania Department of Community and Economic Development, CDBG funding, CHDO funding, Tax Credit financing, and /or homeownership funding.
- Provide expertise in developing a package of varied funding sources. Work to assure that funding can be packaged in such a way that all eligibility and basic requirements are met. And verify that operations funds will not conflict with development funds.
- Help in developing operations financing including but not limited to Section 8 rental subsidy, HUD McKinney Act funding, Social Service “Sinking Funds,” Shelter Plus Care, private rental income, and homebuyer financing.
- Draft and negotiate loan documents for each funding source to protect non-profit developer and ensure consistency where coordination among funders is required.
- Review and negotiate all financing documents before settlement such as construction mortgages, self-amortizing loans, all liens, grants, equity investments and tax credit investments.
- Secure all appropriate tax abatements.

### **Partnership or Joint Venture Assistance**

- Represent the organization in the development of any joint venture or partnership arrangement which is established as a single purpose entity for as Owner/Developer of a development.
- Draft any joint venture or partnership documents, including Certificate of Limited Partnership and Partnership Agreement.
- Assure that non-profit’s best interest is served in the development process, as well as in the long-term operation of the housing or economic development project.
- Protect the charitable purpose of the non-profit specifically with regard to long term

financing, property management, equity investment.

- Represent the non-profit at the variety of governmental meeting and public hearings including but not limited to the Redevelopment Authority Board, City Planning Commission, etc.
- Represent the organization in day-to-day details, negotiations and activities especially with the Redevelopment Authority and other government funding sources.

### **Design and Construction Assistance**

- Draft and negotiate all contracts for services including but not limited to contract for architect for design and construction management, environmental review activities, owner's representative, and general contractor.
- Assure that Section 3 standards (neighborhood hiring) and MBE/WBE/DBE standards are incorporated in all appropriate contracts.
- Review findings from environmental review studies.
- Review and assist with the development of the Request For Proposals for all services including environmental, architectural, construction, etc.
- Assist in selection of architect and contractor.
- Assure that all bidding processes and selection is made within legal and financing restrictions.
- Assure that Section 3 and other employment requirements are included in both RFP's and contracts.
- Assist in negotiating during design and construction phase between the non-profit and the architect, any other pre-development entities, and the contractor.
- After construction, assist in working with contractor to assure all final work is completed (via punch list) and assurance that the contractor meets all warranties throughout the warranty period.
- After development, work with insurance defense counsel on any/all insurance claims and/or suits brought by construction workers, neighbors, and/or other parties rising from building problems, injuries or accidents during construction.

### **On-Going Operations and Property Management as a Landlord**

- Draft sample leases and incorporate requirements of development funding sources as well as any requirements of rental subsidy sources.

- Draft resident policies, including pet policies, admissions policies, etc.
- Advise uniform enforcement of policies to avoid discrimination and Fair Housing violations, e.g. “Women and children only.”
- Comply with funders requirements, i.e. lead-based paint hazard assessment and abatement.
- Draft “license agreements” with laundry equipment facilities or other property users.
- Handle miscellaneous legal questions, from contracts for postal meters to residents’ claims for damage to tenant-owned property.
- Seek funding for rehabilitation of an aging facility.

### **Homeownership Developments**

- Assist in navigating new storm water management requirements, new postal service rules, and “green building” methods requiring easements and/or condominium or planning community associations for maintenance, repair and replacement of common elements.
- Draft sample Agreements of Sale with Riders explaining the “soft” subsidy loans, together with disclosures regarding lead-based paint and mold, for sale of homes to home buyers.
- Draft Affordable Housing Program and Seller “soft” loan documents.
- Work with the local Housing Authority to escrow releases of “reversionary” interests upon completion of a homeownership development.
- Prepare assignment of warranty package and sample warranty claim forms for buyers.

### **Catching the Development Bug**

- Explore the development of--
  - More affordable housing, including special needs, rental and homeownership
    - The feasibility of creating new community-based facilities (e.g., day care centers and job training facilities).
    - Organizing a commercial corridor to seek site improvements to eliminate blight and create jobs for minorities and low-income residents, but being careful to avoid private benefit to businesses.
- Oops! Development work can overwhelm the original mission. RHLS works with its clients to build capacity and minimize risk in a growing organization. It helps its clients to know when to say, “not now” to a development opportunity.

## REGIONAL HOUSING LEGAL SERVICES

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**MISSION:** Regional Housing Legal Services (“RHLS”) is a statewide legal services organization which provides quality legal and technical assistance to non-profit organizations, community-based groups, and resident groups, which are developing housing and economic development opportunities for lower income persons and revitalizing their communities.

RHLS also provides statewide support to other legal services programs through its **Housing Law Project** and provides a home for the **PA Utility Law Project** and the **HEMAP** emergency mortgage assistance website in the RHLS Harrisburg office.

**INTAKE PROCESS:** A group seeking RHLS representation must send a letter on the organization’s letterhead describing its mission and the nature of the services it needs.

**NOTE:** RHLS does **not** handle individual client cases, such as landlord/tenant or mortgage foreclosures.

**CLIENT ELIGIBILITY:** RHLS represents organizations having at least 2 or 3 low income board members.

**COLLABORATIVE PROGRAMS:** RHLS collaborates on numerous housing issues with other affordable housing and legal services organizations which serve or represent low income clients.

**PRO BONO AND VOLUNTEER OPPORTUNITIES:** RHLS also provides a wide variety of pro bono opportunities through local legal services and public interest programs.

## **AREAS OF EXPERTISE**

### **Affordable Housing**

Single Family Homeownership  
(New Construction and Rehabilitation)  
Multi-Family Rental  
SRO Housing  
Emergency Housing  
Section 202 Housing  
Shared Housing  
Limited Equity Cooperative Conversions  
Transitional Housing  
Land Trusts  
Mobile Home Sparks  
Tenant Management of Public Housing  
LIHPRHA  
Special Needs Housing  
Low Income Tax Credit Projects  
Public Housing Restructuring

### **Economic Development**

Representation of "Affordable Lenders"  
Start-Up Businesses  
Section 3 Employment  
Business Opportunities for Lower Income Persons  
Mixed Use Developments  
Commercial Developments  
Childcare Developments

### **Non-Profit Expertise**

Entity Selection  
Non-profit Mergers and Acquisitions  
IRS Tax Matters for Non-Profit Organizations  
Partnerships and Joint Ventures

### **Project Development Assistance**

Helping non-profits to envision, structure, finance and operate a project;  
Serving as in-house counsel throughout a project's duration; and  
Helping to maximize resident participation in the project.

### **Policy Analysis**

Identifying critical community development policy issues;  
Crafting policy recommendations to maximize the preservation and production of affordable housing  
and facilitate more comprehensive community development; and  
Disseminating relevant policy information throughout the state.