

Introduction & History of Public Housing – Future Opportunities

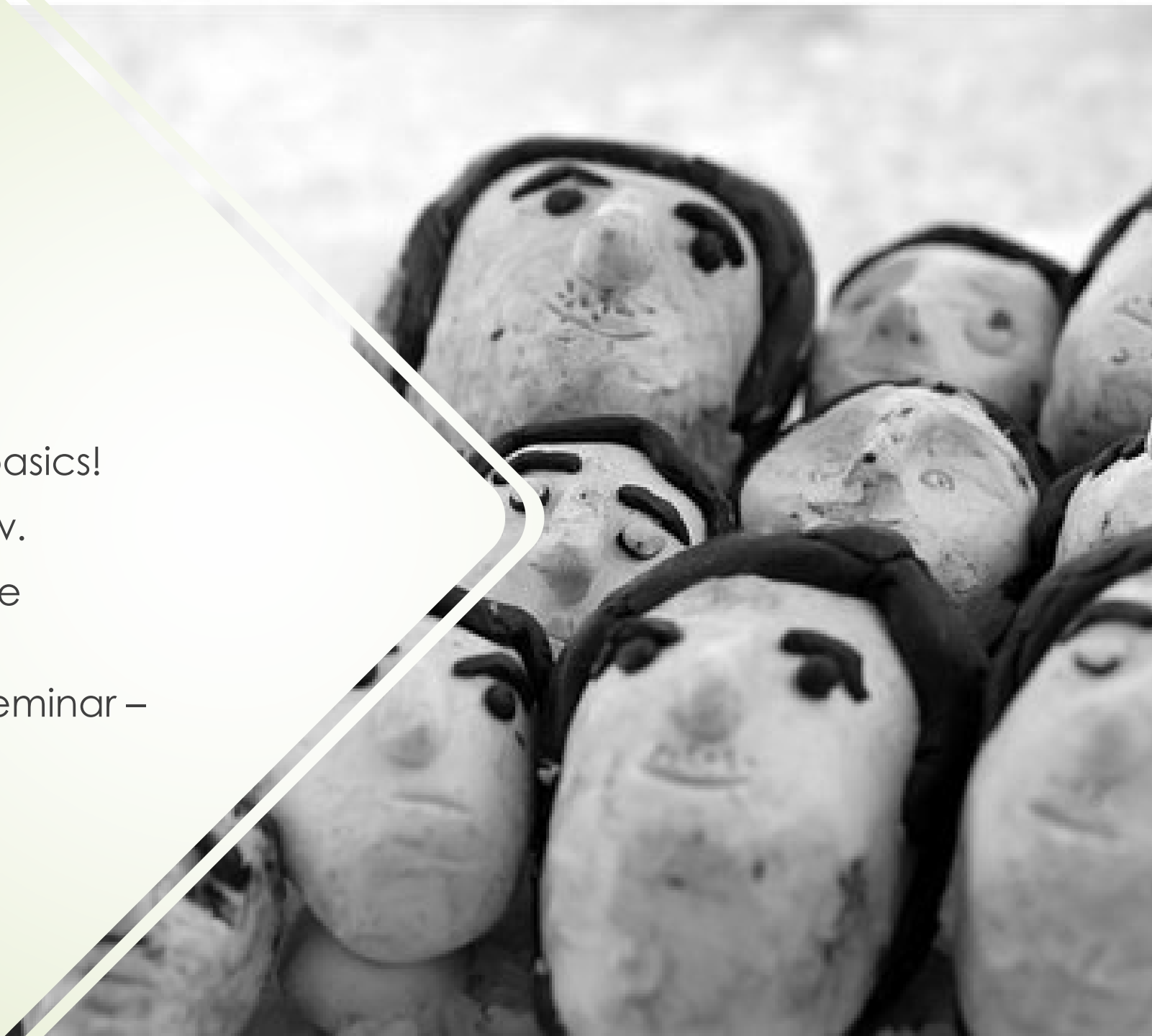
Hilton Head, South Carolina

November 6, 2023



Why am I here?

- Bad job performance?
- Lack of anything better.
- I new and need to know the basics!
- I don't know what I don't know.
- I'm really just here to make sure someone else listens.
- "I've been to the other guys seminar – but I heard you are the best!"
- "Just tell me the rules"





HUD Acronyms

- ABA
- ACC
- AMP
- BLI
- CFDA
- CFP
- CFR
- COCC
- COSO
- Annual Budget Authority
- Annual Contributions Contract
- Asset Management Project
- Budget Line Item
- Catalog of Federal Domestic Assistance
- Capital Fund Program
- Code of Federal Regulation
- Central Office Cost Center
- Committee of Sponsoring Organizations



HUD Acronyms

- DCF
- eLOCCS
- FASB
- FASS -
PHA
- FAS –
SUB
- FDS
- FSS
- Data Collection Form
- Electronic Line of Credit Control
System
- Financial Accounting Standards
Board
- Financial Assessment Subsystem –
Public Housing Administration
- Financial Assessment Subsystem –
Submission
- Financial Data Schedule
- Family Self Sufficiency



HUD Acronyms

- GAAP
- GAO
- GASB
- HAP
- HCV
- HUD
- Generally Accepted Accounting
- General Accounting Office
- Governmental Accounting Standards Board
- Housing Assistance Payment
- Housing Choice Voucher
- Department of Housing and Urban Development



HUD Acronyms

- HUD OIG
- LIHTC
- MASS
- MF
- NASS
- OMB
- OPEB
- PEL
- HUD Office of Inspector General
- Low-income Housing Tax Credit
- Management Assessment Subsystem
- Mixed Finance
- Integrated Assessment Subsystem
- Office of Management and Budget
- Other Post Employment Benefits
- Project Expense Level



HUD Acronyms

- | | |
|---------|---|
| ➤ PHA | ➤ Public Housing Authority |
| ➤ PHAS | ➤ Public Housing Assessment System |
| ➤ PIC | ➤ PIH Information Center |
| ➤ PIH | ➤ (Office of) Public and Indian Housing |
| ➤ QHWRA | ➤ Quality Housing & Work Responsibility Act |
| ➤ RAD | ➤ Rental Assistance Demonstration Program |
| ➤ REAC | ➤ Real Estate Assessment Center |
| ➤ SEFA | ➤ Schedule Expenditures of Federal Awards |
| ➤ UEL | ➤ Utility Expense Level |



11/2/2023

U.S. Housing Act of 1937

- Another New Deal initiative designed to relieve conditions in the nation's housing stock
- This was the beginning of Public Housing on the federal level
- Public Housing got off to a slow start, as the program was new and somewhat cumbersome to administer
- During World War II the program's emphasis shifted to building homes for defense industry workers
- By 1950, about 150,000 public housing units had been built nationally



Growth of HUD Public Housing 1941-1980

<u>Year</u>	<u>Number of Assisted Rental Housing Units</u>
1941	24,000
1950	147,000
1960	426,000
1970	891,000
1980	1,200,000

Public housing is housing that is owned by the federal government and is operated by local Public Housing Authorities (PHAs). Persons living in public housing generally pay 30% of their monthly income toward rent, with the remaining costs being covered by the federal government. There are over 3,200 Public Housing Authorities nationwide managing 1.2 million units of public housing.

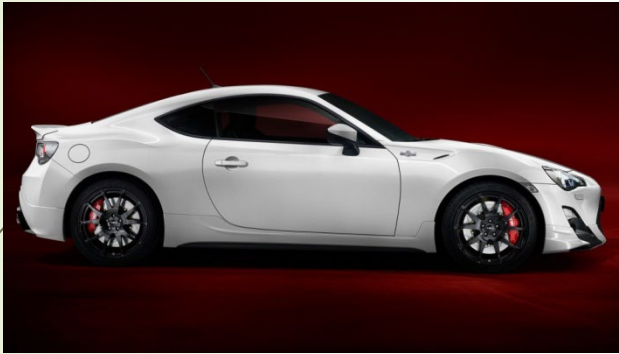


Housing and Community Development Act of 1974

Three major components:

1. Halted activity under the array of private rental housing assistance programs and turned emphasis to new Section 8 "project based" rental assistance
2. Introduced a fundamentally new approach to rental housing assistance-namely the "tenant-based" Section 8 program (Certificate program)
3. Rolled seven Health of the Cities programs into the CDBG program which distributes funds annually, largely by formula, to local governments

1975 – Performance Funding System for Operating Subsidy (Utility)



- This was a new way to fund the ever growing amount of operating subsidy needed.
- The computation is based upon the age of the units, the bedroom sizes, and the historical cost to operate.
- The subsidy was first termed as a “utility subsidy” and had nothing to do with “performance””

Brief History

- U.S. Housing Act – 1937
- Housing and Community Development Act of 1974
- Tax Reform Act of 1986
- Uniform Guidance – 1998
- Asset Management Rules – passed in 2005, rules published April 2007
- RAD – Public Law 112-35 November 2011



WHAT IS RAD?

- ▶ The Rental Assistance Demonstration Program was created in order to give public housing authorities a tool to improve public housing properties to address a backlog of billions in deferred maintenance.
- ▶ The ability to leverage debt and equity in order to reinvest in public housing.
- ▶ Allow for a more stable funding through long-term Section 8 contracts which must be renewed.
- ▶ Continued Public Housing Stewardship.
- ▶ Maintain the same 30% of income towards rent, and residents maintain same basic rights.
- ▶ The program was sold to be revenue neutral.



Summary of HUD Assisted Rental Housing – Budget 2018

Program	Units	Percent	Budget	Percent	Per Unit
Public Housing	1,100,000	24.4%	6.342 Billion	16.94%	\$5,765
Project Based Assistance	1,200,000	26.7%	10.816 Billion	28.88%	\$9,013
Tenant Based Assistance	2,200,000	48.9%	20.292 Billion	54.18%	\$9,224
TOTAL	4,500,000		37.450 Billion		

Source: HUD website

Summary of HUD Assisted Rental Housing – Budget 2019

Program	Units	Percent	Budget	Percent	Per Unit
Public Housing	1,000,000	22.7%	7.300 Billion	17.88%	\$7,300
Project Based Assistance	1,200,000	27.3%	11.515 Billion	28.68%	\$9,596
Tenant Based Assistance	2,200,000	50.0%	22.015 Billion	53.92%	\$10,007
TOTAL	4,400,000		40.830 Billion		

Source: HUD website

Summary of HUD Assisted Rental Housing – Budget 2020

Program	Units	Percent	Budget	Percent	Per Unit
Public Housing	1,000,000	22.2%	7.419 Billion	17.12%	\$7,419
Project Based Assistance	1,200,000	26.7%	12.570 Billion	29.02%	\$10,475
Tenant Based Assistance	2,300,000	51.1%	23.325 Billion	53.86%	\$10,141
TOTAL	4,500,000		43.314 Billion		

Source: HUD website

Summary of HUD Assisted Rental Housing – Budget 2021

Program	Units	Percent	Budget	Percent	Per Unit
Public Housing	915,000	20.7%	7.806 Billion	16.8%	\$8,531
Project Based Assistance	1,200,000	27.1%	13.465 Billion	29.04%	\$11,221
Tenant Based Assistance	2,300,000	52.2%	25.082 Billion	54.16%	\$10,905
TOTAL	4,415,000		46.353 Billion		

Source: PHADA/House T-HUD Funding Bill

Summary of HUD Assisted Rental Housing – Budget 2022

Program	Units	Percent	Budget	Percent	Per Unit
Public Housing	896,700	20.1%	8.452 Billion	16.9%	\$9,426
Project Based Assistance	1,200,000	26.8%	13.940 Billion	28.0%	\$11,616
Tenant Based Assistance	2,376,400	53.1%	27.370 Billion	55.1%	\$11,517
TOTAL	4,473,100		49.762 Billion		

Source: HUD Website

Summary of HUD Assisted Rental Housing – Budget 2023

Program	Units	Percent	Budget	Percent	Per Unit
Public Housing	860,000	18.9%	8.514 Billion	15.9%	\$9,900
Project Based Assistance	1,200,000	26.3%	14.907 Billion	27.8%	\$12,423
Tenant Based Assistance	2,500,000	54.8%	30.253 Billion	56.3%	\$12,101
TOTAL	4,560,000		53.674 Billion		

Source: HUD Website

Comparative Charts

– Funding of Different Programs

All funding		
2018	37.450	
2019	40.830	9.03%
2020	43.314	6.08%
2021	46.353	7.02%
2022	49.762	7.35%
2023	53.674	7.86%
Cumulative		37.34%

Public Housing		
2018	\$ 5,765	
2019	\$ 7,300	26.63%
2020	\$ 7,419	1.63%
2021	\$ 8,531	14.99%
2022	\$ 9,426	10.49%
2023	\$ 9,900	5.03%
Cumulative		58.76%

RAD is like Cookies



Summary RAD Batches of Cookies

Year	RAD Units	Funding Percent
2017	230,000	93.10%
2016	40,000 (2014) ¹	90.21%
2015		85.36%
2014	125,000	88.79%
2013		81.86%
2012	60,000	94.97%



¹ The PIH Notice conflicts with the August 23, 2017 Federal Register – allows for 2016 funding.

RAD is like Cookies

- ▶ Momma (HUD) is making cookies in the kitchen – sometimes she is using our help – but she is in charge. However there has been two batches of cookies – 60,000 and 125,000 out of the 1,100,000 units nationwide.
- ▶ The 2017 Appropriations Act – increased the number of cookies in the second batch to 165,000 which turned into the third batch of cookies. All new approved RAD deals received the funding from the 2014 Appropriations Act.





RAD is like Cookies

- The 2018 Omnibus Appropriations Act – increased the number of cookies and somewhat introduced a fourth batch of cookies with an additional 230,000 units.
- The rationale for the increased units was the number of Housing Authorities with units on the waiting list, which as of January 2018 was 85,000 over the 225,000 allocated.
- This brings the unit authorization up to 455,000 units.
- At some point this will not be “demonstration.”
- Will there be a fifth batch? (59% without cookies)

The 5th
Batch?





The RAD gifts!!!

- Removal of Declaration of Trusts
- Surplus Cash flexibility
- Organizational diversity

Pitfall #1 – Recapiture of Surplus Cash

- Understand the risk of doing too good and there is no guarantee of future funding.
- HUD Notice June 19, 2015 – Section 202/811 Project Rental Assistance Contracts



"HUD defines 'Residual Receipts' as Multifamily Housing project funds in excess of amounts needed for project operations, required reserves, and permitted distributions."

Pitfall #2 – Can we move Surplus Cash?

- The Section 880.205 “Limitation on distributions” is stricken through – with virtually no explanation
- Surplus Cash must first be used to liquidate debt – 811.108
- 888.315 gives the restrictions on surplus cash distributions for retroactive payments and physical condition of the property



Pitfall #2 – Can we move Surplus Cash?

- The RAD Conversion Commitment document contains the following wording “The Owner shall not be entitled to earn or receive any cash flow distributions from the Project until after completion of the Repairs, and written HUD acceptance of the completed Repairs.”
- Under the [PIH Notice 2012-32](#) it states under paragraph E – Distributions ([PBRA](#)). “Converted projects will not be subject to any limitation on distributions, contingent on the availability of surplus cash as determined by year-end audited or certified financial statements.”

Pitfall #2 – Can we move Surplus Cash?

The RAD HAP Contract states –

1. “Project funds must be used for the benefit of the project, to make mortgage payments, to pay operating expenses, to make required deposits to the replacement reserve... and to provide distributions to the Owners.”

2. “For the life of the Contract, surplus cash may be distributed to the Owner only at the end of each fiscal year of project operation following the effective date of the Contract after all project expenses have been paid, or funds have been set aside for payment, and all reserve requirements have been met.”

Pitfall #3 – Can we really leverage our assets?



- According to the RAD website “RAD allows public housing agencies to leverage public and private debt and equity in order to reinvest in the public housing stock.”

<http://portal.hud.gov/hudportal/HUD?src=/RAD>

- What ever happened to Public Law 105-276?

Pitfall #4 – Mobility



Pitfall #5 – Revenue Neutral

- The basis premise of RAD is that the program is designed to alleviate the nearly \$26 billion in public housing capital improvements.
- Any debt added to the existing balance sheet will reduce operating margins and probably not result in increased occupancy percentages.
- The only debt which makes any sense is with a 9% tax credit partner who will help fund the redevelopment.



Pitfall #6 Lack of clarity on regulations





Pitfall #6 Lack of clarity on regulations

Under the Rental Assistance Demonstration Conversion Commitment it clearly or unclearly states:

“With regard to any Project covered by this Commitment, Applicable HUD Regulations and Requirements means (1) all applicable statutes and any regulations issued by HUD pursuant thereto that apply to the Project..., and (2) all current requirements in HUD handbooks and guides, notices, and Mortgagee letters that apply to the Project, and all future updates....”

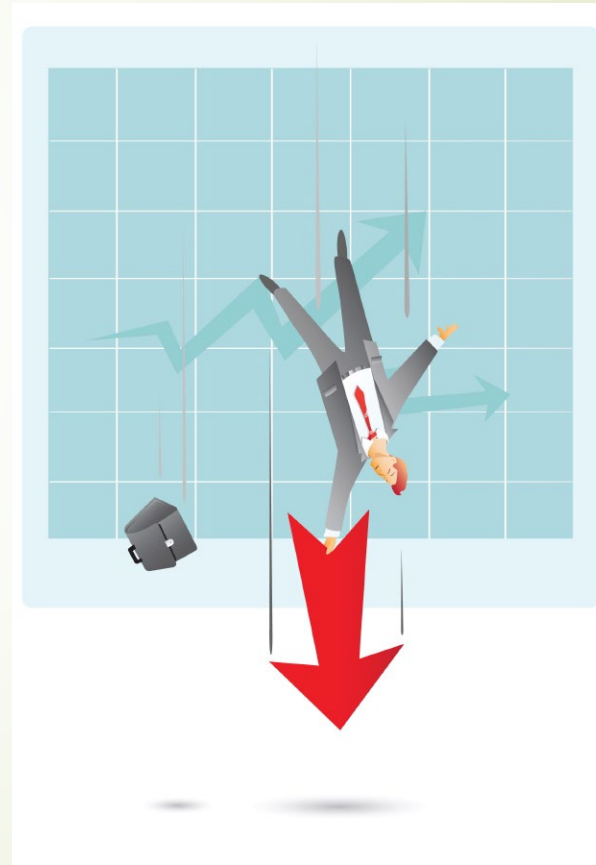
Pitfall #6 Lack of clarity on regulations

- Clearly understand the rules as it pertains to RAD properties under 24 CFR 880
- Read all the documents and ask HUD for explanations
- Get a clear understanding on Surplus Cash
- Don't throw procurement procedures out the window



Pitfall #7 Negative Cash Flow in the future

- ▶ How much does the financing cost over the next 20 years, and is this cost cheaper than the annual increased rental revenue?
- ▶ Are we paying for a consultant, developer fee and syndication fee? And how do these costs increase the monthly rental income?
- ▶ Will we have increased maintenance costs?
- ▶ Have we properly computed our utility allowances and will a negative variance impact our decision?





The risk of RAD!!!

- What about the ACC? Who guarantees the units to be modernized?
- Increased debt – decreases margin
- New regulations limiting the use of Surplus Cash
- Decreased funding
- Mobility

The Flexibility of Surplus Cash

➤ “HUD defines ‘Residual Receipts’ as Multifamily Housing project funds in excess of amounts needed for project operations, required reserves, and permitted distributions.”

Highest Growth in Affordable Housing?

Low Income Housing Tax Credits

- Developed 2.78 million units in 43,092 projects placed into service from 1987 to 2014.
- Created by the 1986 Tax Reform Act allocating nearly \$8 billion in annual budget authority.



Where are the tax credit properties?

➤ <https://lihtc.huduser.gov/>





What Are Low Income Housing Tax Credits?

- **Tax Credits Are Used To Reduce Federal Income Tax**
 - **Individuals**
 - **Corporations**
- **Federal Government Allocates Credits To Each State Annually**
 - **\$1.95 Multiplied By State Population (2007)**
 - **State Credit Ceiling**

How Are LIHC Projects Funded?

■ Equity Sources

- Public Funds
- Private Funds
- Corporations
- 30-65% Of Project Funded From Equity



How Are LIHTC Projects Funded?

- **Balance Of Cost Funded From Debt**
 - **For-Profit Lenders**
 - **Federal, State And Local Programs**
 - **HOME Funds**
 - **Community Development Block Grants**
 - **Affordable housing Program**
 - **Other State And Local Programs**



What Are The Compliance Requirements?

- Tax Credits Available For “Low-Income Units” Only
- Restrictions On Low-Income Units
 - Income Restrictions
 - Rent Restrictions
- Income Limitations
 - Percentage of Area Median Gross Income - HUD Limits
 - Income Limits Adjusted For Family Size-Actual Number of People Living In The Unit
 - Deeper Restrictions Often Imposed By States

What Does The Developer Give To The Investor?

- **Generally 99 to 99.99% Of The Partnership**
 - Tax Credits
 - Losses
- **Generally 50 to 99.99% Of The Partnership**
 - Available Cash
 - Residual Value Of Property
 - Capital Account Maintenance Rules Apply



What Does The Developer Give To The Investor?

➤ Tax Credit Guarantees

- Construction Completion & Deficit
- Lease-up
- Permanent Loan Funding
- Tax Credits (Adjusters)
- Tax Losses
- Yield Maintenance
- Compliance Monitoring



What Does The Developer or Housing Agency Retain?

- Developer Fees
- Contractor Overhead And Profit
- Property Management Fees
- Incentive Management Fees
- Operating Cash Flow
- Sale Or Refinancing Proceeds
- Land
- First Right of Refusal



Typical Tax Credit Waterfall

- Reserves not funded
- Accrued interest
- Repayment of capital loans
- Unpaid Asset Management Fees
- Accrued Management Fees
- Development Fees
- Repayment of operating loans
- Supervisory Management Fees
- Incentive Management Fees
- Distributions to Partners





Why Supervisory & Incentive Fees

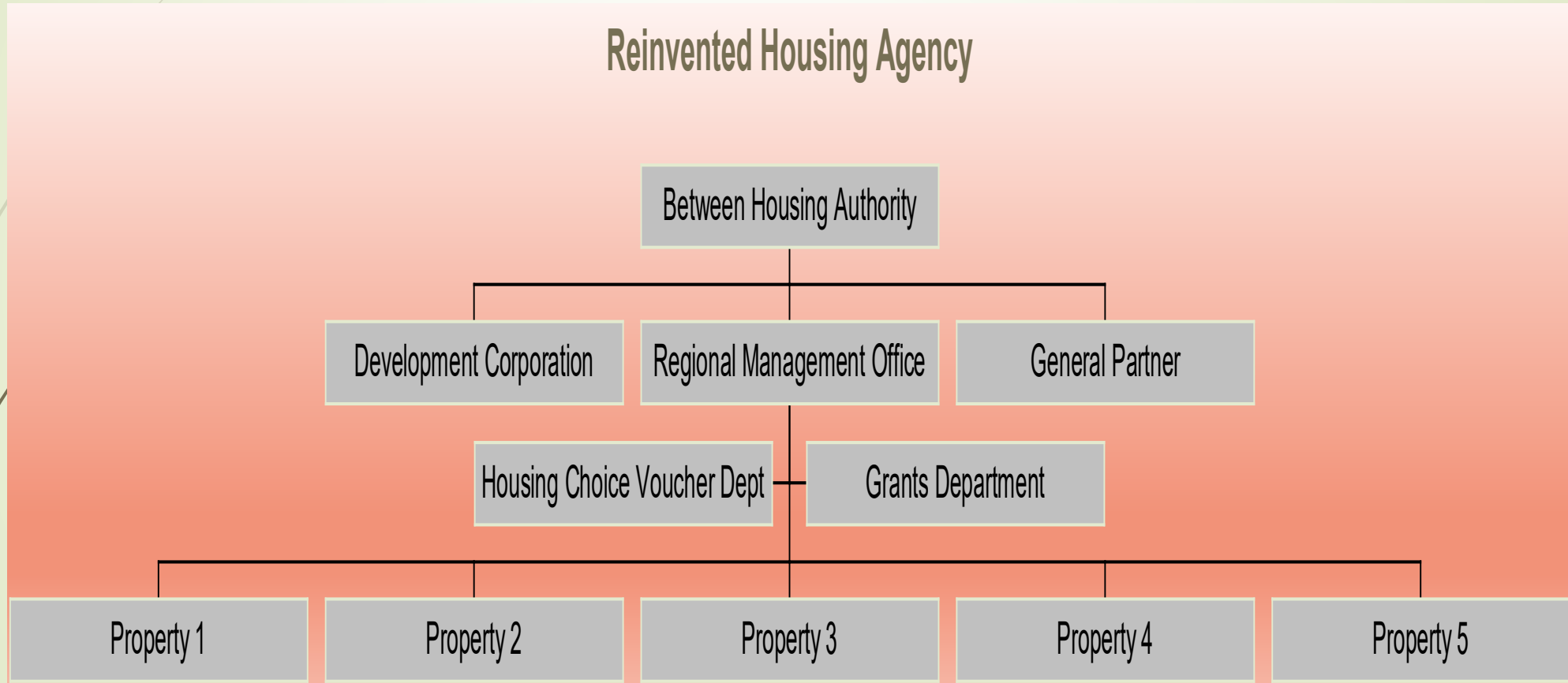
- Rewards the entity that initiated the project – oversees the development, and responsible for the developments success verses the tax credit investor who shows up with lawyers and a checkbook.
- Supervisory Fees – oversees the operational success of the partnership operations, provides office space, monitors day-to-day management, maintains books and records.
- Incentive Fees – oversees the financial success.

For a RAD deal without Tax Credit Partners – what could you earn?

- Property Management Fees
- Incentive & Supervisory Fees
- Fully available and fungible Surplus Cash – to the limit of debt obligations



Organizational Structure



Types of Entities & Organization

- Is the Entity – Is it for profit or non-profit?
- A Public Housing Authority is a Quasi-governmental agency with a unique IRS Code Section.
- Joint Venture with Mixed Financing
- Types of Corporations:
 - Regular C Corporation
 - Limited Liability Company or Partnership (LLC or LLP)
 - Not for profit - Tax Exempt



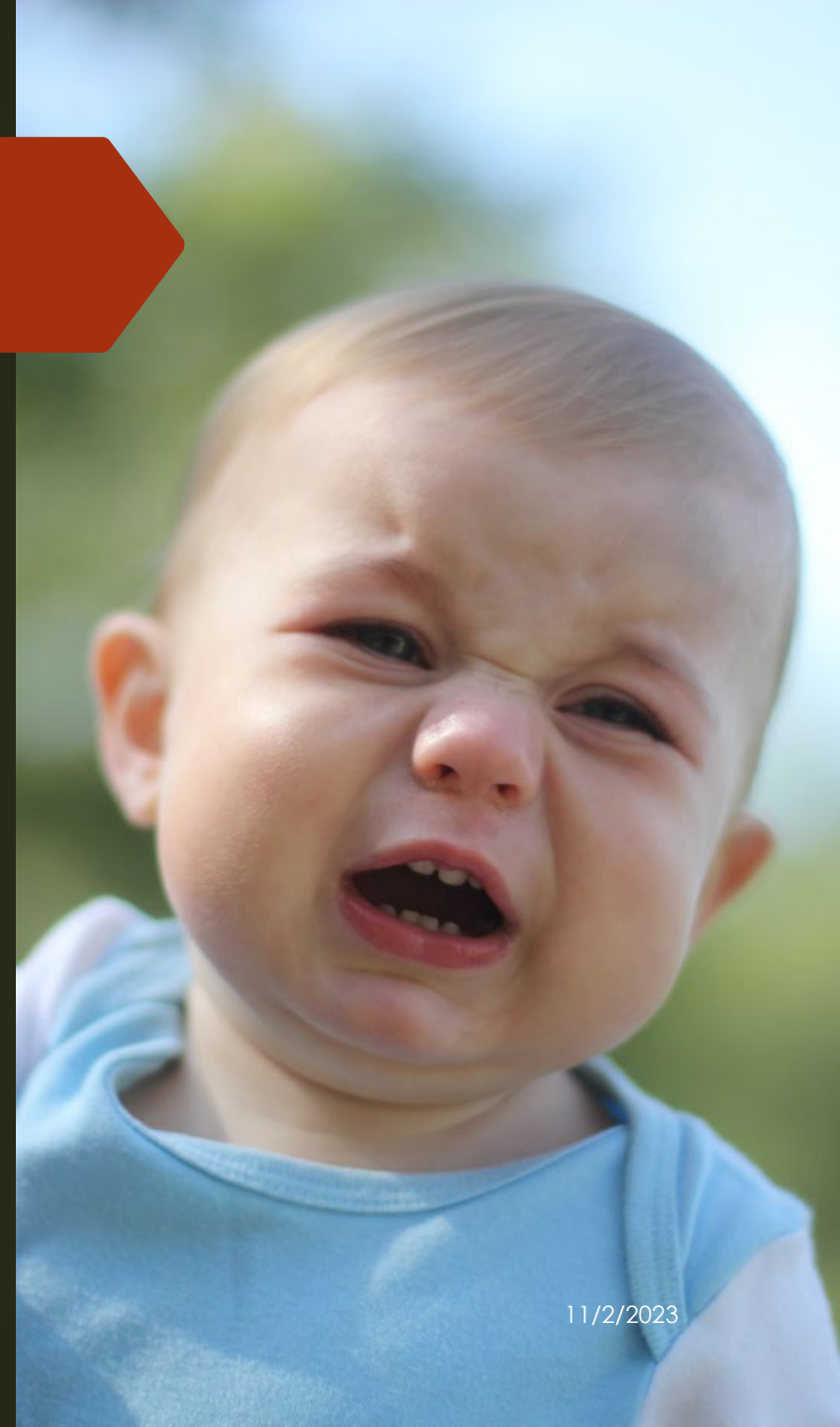
What Qualifies for a Discrete Presentation

- Different governance?
- Different fiscal year end?
- Different ownership structure such as a Limited Partnership in which a small portion is owned by the agency?
- Information is important to include in order to not mislead the reader?

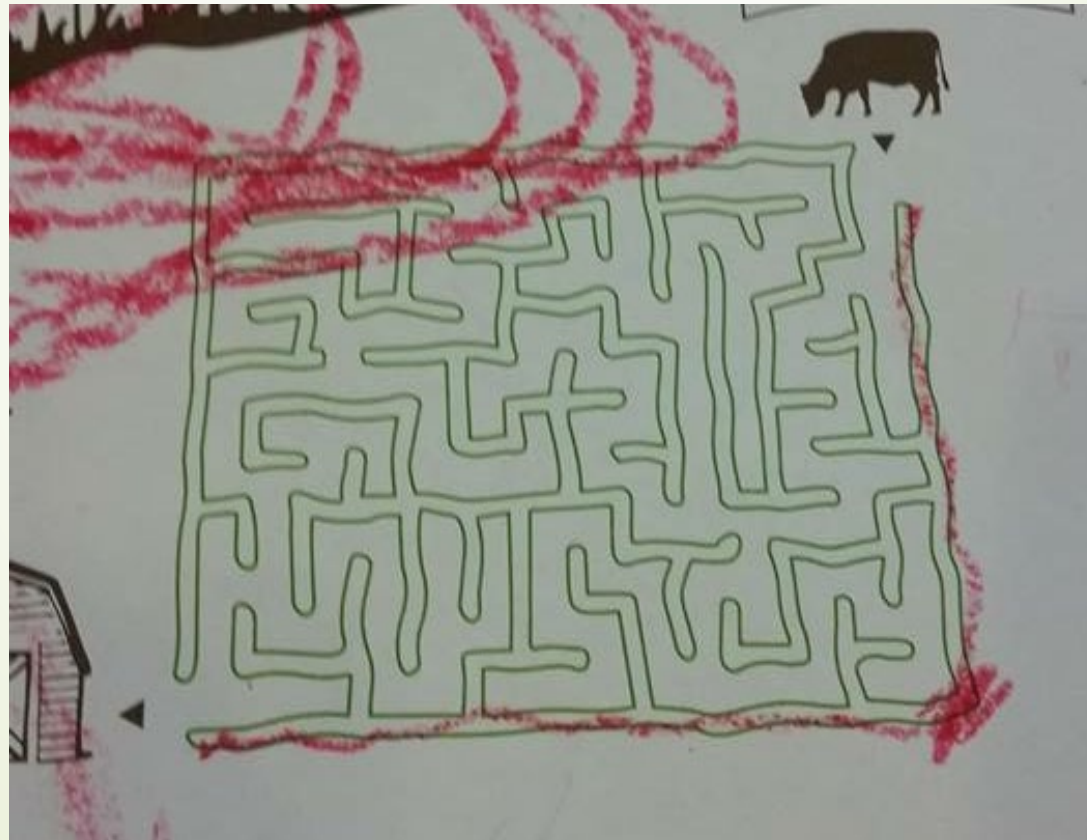


What Advantage does a PHA have in developing affordable housing?

- Guarantee of the Annual Contributions Contract
- Flexibility with QHWRA
- Automatic tax exemption under the IRS Code
- Receive priority for tax credits
- Receive priority for certain state and federal grants
- Existing relationship with local municipality
- Designated oversight and governance



Strategic Planning for the future



Strategic Planning for the future

- Understand all the tools in the tool shed
- Diversify portfolio – get involved in management of tax credits and other affordable housing
- Pursue tax credits – even without RAD
- Have positive cash flow in ALL properties
- Consolidate and unify with other PHA's in the development of affordable housing nationwide
- Lobby Congress

