

# IPED Tax Credit Dispositions

## July 28, 2022

Assess Your Rights and Duties at Year 15

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# THE PLAYERS

- Developer – Applies and receives award of credits to build affordable project
- Syndicator – Finds investors to purchase those credits and Asset manages from inception through end of compliance
- Investor – Purchases credits for a return, in turn providing financing for the project

# YEAR 15 GOALS

Player	Goal
Developer	Monetize position in asset (sell), Buy out LP (hold)
Syndicator	Unwind investments. Facilitate transaction. <ul style="list-style-type: none"><li>- Help investor unwind investment / maximize value (fiduciary)</li><li>- Help developer meet their goals with asset</li></ul>
Investor	Maximize value / Unwind investments

# MAXIMIZING VALUE

- Considerations:
  - Partnership Documents – forced sale rights / ROFRs
  - Affordability Restrictions – when do they peel off
  - Market Conditions – financing/cap rates/resyndications
  - Capital Account Balances – Cap gains/losses at sale as well as 704b

# MAXIMIZING VALUE

- Restraints
  - ROFR – non profit
  - Agency rules and regulations – limited distributions
  - Local/municipality rules and regulations – HA has rofr to block sale

# EARLY EXITS

- Reasons:
  - GP / Investor Motivation
  - Workout strategy
- Considerations:
  - Recapture – bond or guaranty to cover risk
  - Future cash flow/ valuation – FL Y15 there is RE Tax abatement
  - Tax impacts – Negative capital account or positive capital account (gain v loss)
  - DDF – Phantom income

# CASE STUDY – LP INTEREST SALE

## Fake News Creek Apartments

- 40 Units
- EOC = 2021
- LP Residual = 15%
- Strong Disposition Language
  - Forced Sale
  - GP ROFR option to purchase after FMV determined
  - Silent on determination of FMV
  - Proceeds under option distributed as if third party sale at determined FMV

# CASE STUDY – LP INTEREST SALE

<b>Fair Market Value (BOV)</b>	\$	<b>3,600,000</b>
Plus:		
Cash/Reserves	\$	40,000
<b>Cash Proceeds</b>	\$	<b>3,640,000</b>
Less:		
Est. Closing Costs	\$	(108,000)
Broker Commission	\$	(150,000)
Mortgage Balance	\$	(1,600,000)
GP Priority - ODG	\$	(250,000)
Prepayment Penalty	\$	(250,000)
<b>Distributable Proceeds</b>	\$	<b>1,432,000</b>
<b>15% to LP</b>	\$	<b>214,800</b>
<b>LP Interest Purchase Price</b>	\$	<b>214,800</b>



# CASE STUDY – NONPROFIT ROFR

## The Landings at Free Ninety-Nine Townhomes

140 Units

EOC = 2018

LP Residual = 20%

YE LP Capital Account = + \$2,200,000

Strong Disposition Language (identical to previous example)

Non-profit ROFR pursuant to Section 42(i)7


- Must be qualified nonprofit within meaning of 42(h)(5)(c)

After EOC purchase for Debt + Taxes + Expenses

# CASE STUDY – NONPROFIT ROFR

<b>Fair Market Value (BOV)</b>	\$	<b>14,000,000</b>
Plus:		
Cash/Reserves	\$	200,000
<b>Cash Proceeds</b>	\$	<b>14,200,000</b>
Less:		
Est. Closing Costs	\$	(200,000)
Broker Commission	\$	(300,000)
Mortgage Balance	\$	(4,500,000)
GP Priority - ODG	\$	-
Prepayment Penalty	\$	-
<b>Distributable Proceeds</b>	\$	<b>9,200,000</b>
<b>20% to LP</b>	\$	<b>1,840,000</b>
<b>LP Interest Purchase Price</b>	\$	<b>45,000</b>

Partnership Reserves  
distributed +  
expenses of sale



# CASE STUDY – EARLY EXIT

Lazy Name Apartments

200 Units

EOC = 2025

LP Residual – 20%

GP DDF = \$650,000

- LP has right to require GP to recognize DDF in Y12

2021 Loan Prepayment Penalty = \$1,300,000

2024 Loan Prepayment Penalty = \$0

Recapture Exposure - \$4,300,000

# CASE STUDY – EARLY EXIT

<b>Fair Market Value (BOV)</b>	\$	<b>30,000,000</b>
Plus:		
Cash/Reserves	\$	500,000
<b>Cash Proceeds</b>	\$	<b>30,500,000</b>
Less:		
Est. Closing Costs	\$	(200,000)
Broker Commission	\$	(300,000)
Mortgage Balance	\$	(15,000,000)
Deferred Development Fee	\$	-
Prepayment Penalty	\$	-
<b>Distributable Proceeds</b>	\$	<b>15,000,000</b>
<b>20% to LP</b>	\$	<b>3,000,000</b>
<b>LP Interest Purchase Price</b>	\$	<b>3,000,000</b>

DDF would be absent from waterfall at Y15 so removed

No Prepayment Penalty after Y15 so removed