# AFFORDABLE HOUSING OPPORTUNITIES AT THE FEDERAL LEVEL

NIXON PEABODY

HAND 25TH YEAR ANNIVERSARY

SEPTEMBER 8, 2016

AFFORDABLE HOUSING OPPORTUNITIES AT THE FEDERAL LEVEL

# WASHINGTON LEGISLATIVE & REGULATORY UPDATE

SPEAKERS:
STEVE WALLACE, PARTNER, NIXON PEABODY
MONICA SUSSMAN, PARTNER, NIXON PEABODY
DENISE MUHA, EXECUTIVE DIRECTOR, NATIONAL LEASED HOUSING ASSOCIATION

NIXON PEABODY

HAND 25TH YEAR ANNIVERSARY

# HUD APPROPRIATIONS: A QUICK OVERVIEW

| Program ($ in millions) | 2013 Sequestration | 2014 Omnibus | 2015 Cromnibus | 2016 Omnibus $38.3 B | 2017 Obama Budget $48.9 B | 2017 House Committee Passed | 2017 Senate Passed |
|---|---|---|---|---|---|---|---|
| Section 8 Project Based* | $8,851 | $9.9 B | $9.7 B | $10.2 B | $10.3 B | $10.9 B | $10.9 B |
| Section 8 Tenant Based Renewals* | $17,964 | $17.36 B | $17.5 B | $17.7 B | $18.4 B | $18.3B | $18.3 B |
| CDBG | $3,135 | $3.0 B | $3 B | $3 B | $2.8 B | $3 B | $3 B |
| Housing for Persons with Disabilities (811) | $262 | $126 M | $135 M | $150.6 M | $154 M | $154 M | $154 M |
| Public Housing Capital Fund | $1,777 | $1.875 B | $1.875 B | $1.9 B | $1.865 B | $1.9 B | $1.9 B |
| Public Housing Operating Fund | $4,054 | $4.4 B | $4.44 B | $4.5 B | $4.569 B | $4.5 B | $4.675 B |
| Veterans Vouchers | $75 | $75 M | $75 M | $60 M | $0 | $0 | $50 M |
| Elderly 202 | $355 | $383.5 M | $420M | $432.7 M | $505 M | $505 M | $505 M |
| HOME | $948 | $1 B | $900 M | $950 M | $950 M | $950 M | $950 M |
| CHOICE Neighborhoods | $114 | $90 M | $80 M | $125 M | $200 M | $100 M | $80 M |
| RAD - PRAC | $0 | $0 | $0 | $0 | $50 M | 0 | $4 M |
| Housing Trust Fund** | $0 | $0 | $0 | $170 M | $136 M | n/a | n/a |

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* Includes advanced appropriation of $400 M for project based and $4 B for tenant based.

** Not appropriated funds; assessments on Fannie/Freddie.

AFFORDABLE HOUSING OPPORTUNITIES AT THE FEDERAL LEVEL

# THE HEARTLAND OF DISPARATE IMPACT: ARTIFICIAL BARRIERS TO INTEGRATION

SPEAKERS:
HARRY KELLY, PARTNER, NIXON PEABODY

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# HEARTLAND OF DISPARATE IMPACT

Disparate Impact Liability:

— What is “Disparate Impact Liability?

- Liability for unintentional, facially-neutral acts/policies that have a harsher impact on protected classes of Fair Housing Act (FHAct)

— How does it differ from “Disparate Treatment”?

- Intentional vs. unintentional impacts
- Proof

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# HEARTLAND OF DISPARATE IMPACT

*Inclusive Communities* Litigation

— Federal courts recognized disparate impact liability, but SCOTUS had not squarely addressed

— Background: Nonprofit contends state agency's tax credit allocation policies concentrated affordable housing in low income/high-minority neighborhoods, reducing housing choices of minorities

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# HEARTLAND OF DISPARATE IMPACT

*Inclusive Communities* Litigation

— SCOTUS Opinion (5/4 decision from June 2015)

- Confirms FHAct recognizes disparate impact liability, but
- Acknowledges possible “abusive” DI cases
- Identifies “safeguards”
  - “Robust causality requirement”
  - Housing provider may show “valid interest” in rule
  - DI is intended to eliminate “artificial, arbitrary and unnecessary barriers” to housing opportunities
  - Endorses “burden-shifting” analysis of DI claims:
    - Prima facie case/ valid interest/ less discriminatory option

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# HEARTLAND OF DISPARATE IMPACT – POST ICP

| Dismissed | Fair Housing Claim | Pending |
|---|---|---|
| ICP v. TDHCA | LIHTC Allocations | |
| Burbank Ten. Assn. v. Kargman | Section 8 Renewal | |
| • City of LA v. Wells Fargo<br>• Merritt v. Countrywide Fin. Corp.<br>• City of Miami v. Bank of America | Predatory Lending | |
| Ellis v. City of Minneapolis | Code Enforcement | |
| | Zoning Practices | Mhany Mgmt. v. Nassau County |
| | Zoning Practices | Avenue 6E Invest. LLC v. City of Yuma |
| | Zoning Practices | Long Island Housing Serv. v. Nassau Cnty. Indus. Devel. |
| | Residency Preference | Winfield v. NYC |

# HEARTLAND OF DISPARATE IMPACT

Disparate Impact Applied

— HUD OGC's Crime Screening Guidance (April 2016)

- Expand housing opportunities for persons with criminal history:
  - Prima facie case: Screening rental applicants for criminal history tends to have a disparate impact on minorities
  - Valid interest: Conviction records (not arrests!) may show grounds to disqualify applicant; threat to safety of persons/property
  - Less discriminatory alternative: "individualized assessment" of criminal background, consider mitigating factors
- Is crime screening an "artificial, arbitrary or unnecessary barrier" or a legitimate criteria to assess tenant eligibility?

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# HEARTLAND OF DISPARATE IMPACT

## Affirmatively Furthering Fair Housing

- FHAct directive to HUD grantees to affirmatively furthering fair housing
- Prior experience: struggles with NIMBYism and fair housing policy; need for clearer policy guidance
- New AFFH Policy
  - HUD grantees must identify and develop strategies to overcome barriers to fair housing in planning process
  - More statistical and demographic data; new mapping tools
  - More public participation
  - Assessment Tool: template to identify obstacles and assist in affirmative fair housing planning
- New opportunities for affordable housing in nontraditional areas?

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# HEARTLAND OF DISPARATE IMPACT

Rental Assistance Demonstration (RAD)

- HUD program to allow conversion of public housing to long-term, project-based Section 8 rental assistance
- “Site and Neighborhood” Issues:
  - Much existing affordable housing is located in neighborhoods with concentrations of minority populations
  - “Balanced Approach”
    - Does preservation of existing affordable housing constitute justified response to legitimate housing needs of lower income tenants….
    - …Or does it constitute perpetuation of existing patterns of segregation?

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AFFORDABLE HOUSING OPPORTUNITIES AT THE FEDERAL LEVEL

# FHA MULTIFAMILY UPDATE: ISSUES AND OPPORTUNITIES


SPEAKERS:
SUSANNA MITCHELL, ASSOCIATE, NIXON PEABODY
PATRICE HARRIS, PARTNER, NIXON PEABODY
HOLLY BRAY, SENIOR DIRECTOR, LOVE FUNDING
BOB IBER, ACTING DIRECTOR, OFFICE OF ASSET MANAGEMENT AND PORTFOLIO OVERSIGHT, HUD


NIXON PEABODY

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

# HUD Updates

## Tom Bernaciak
## HUD/FHA Multifamily

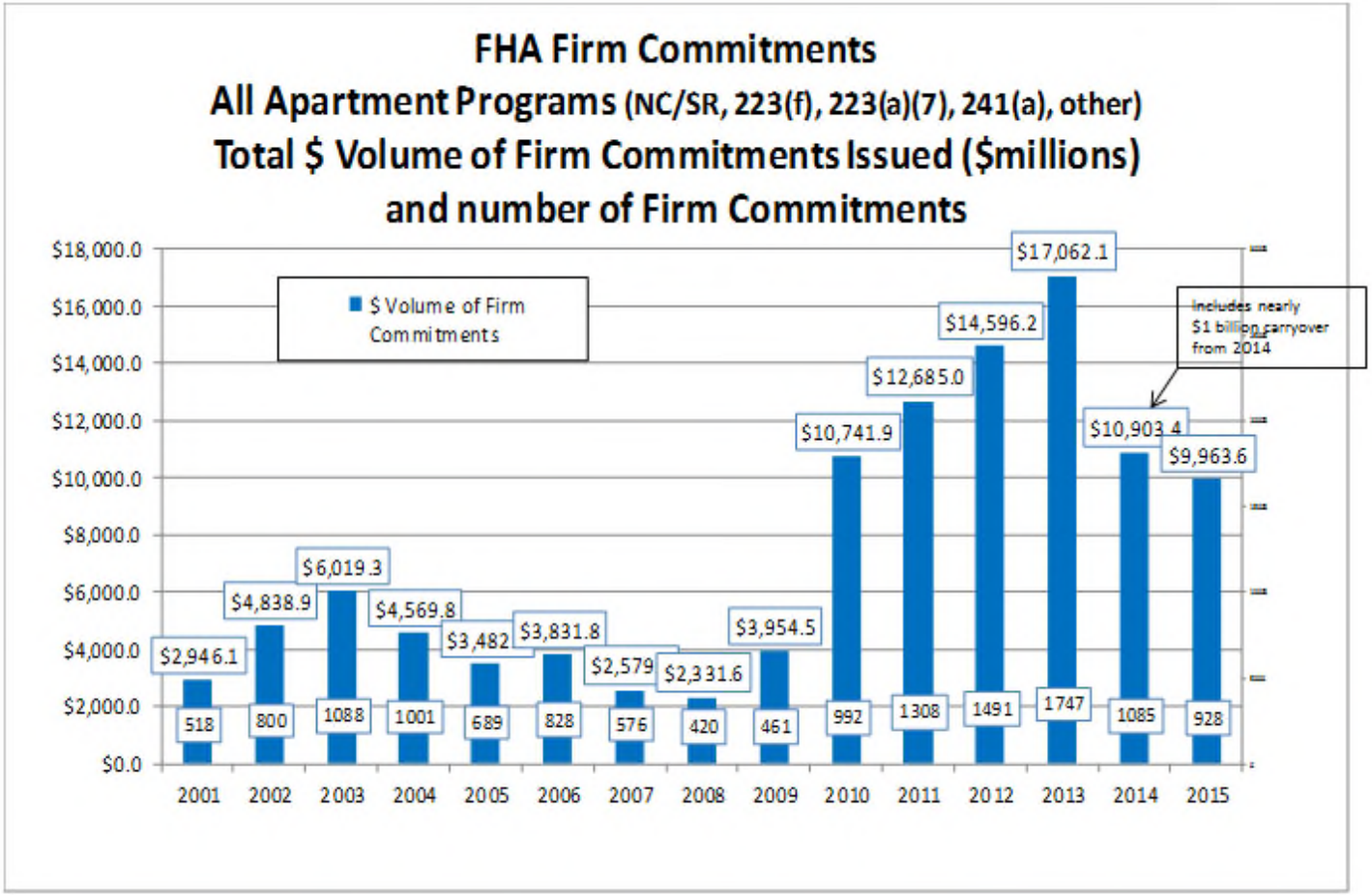
Housing Association of Non Profit Developers

September 8, 2016

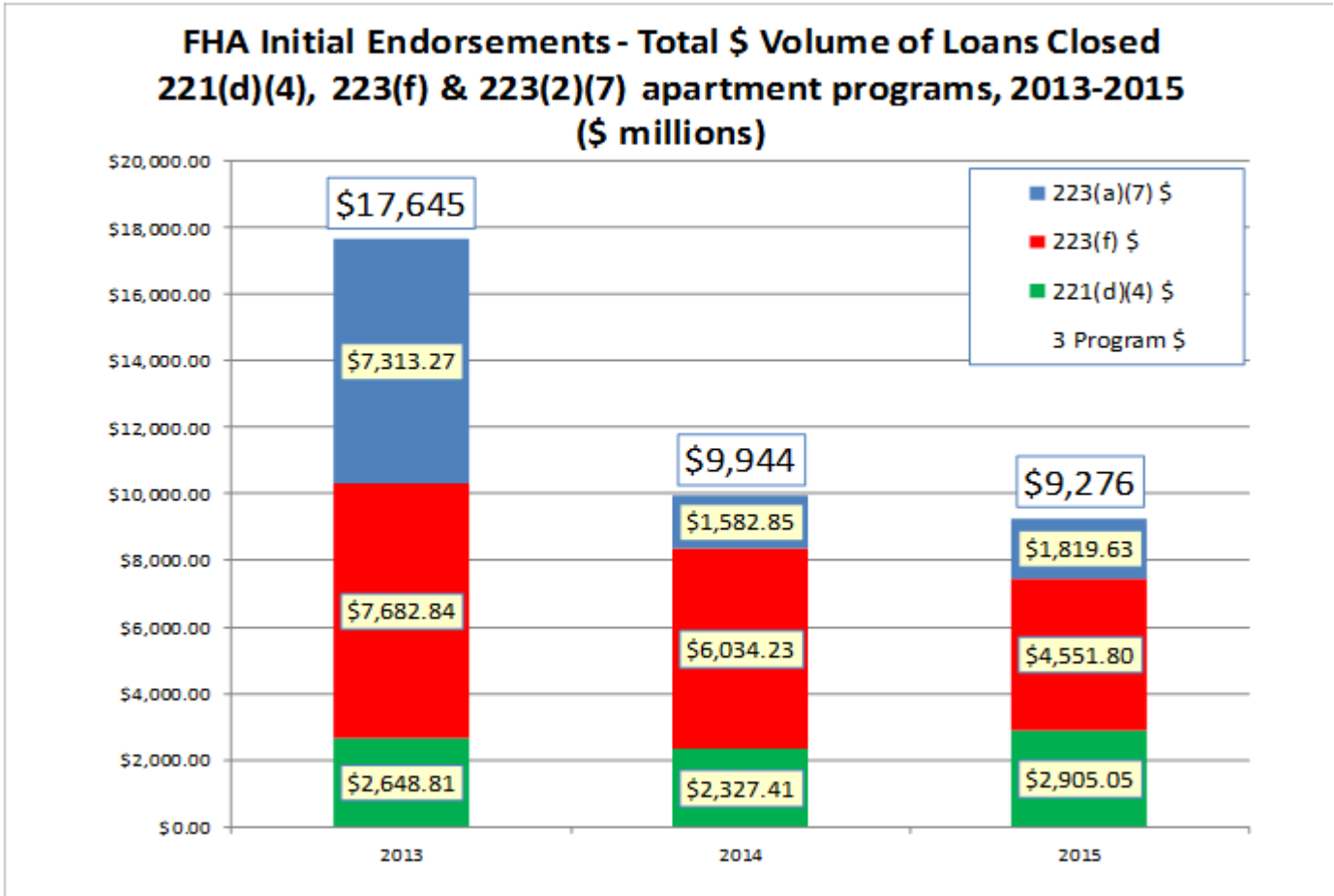
# FHA Insured Programs

- New construction – Section 221(d)(4)
- Acquisition/Refinance – Section 223(f)
- Refinance Existing Insured Loans – Section 223(a)(7)
- Section 231 – Elderly Housing

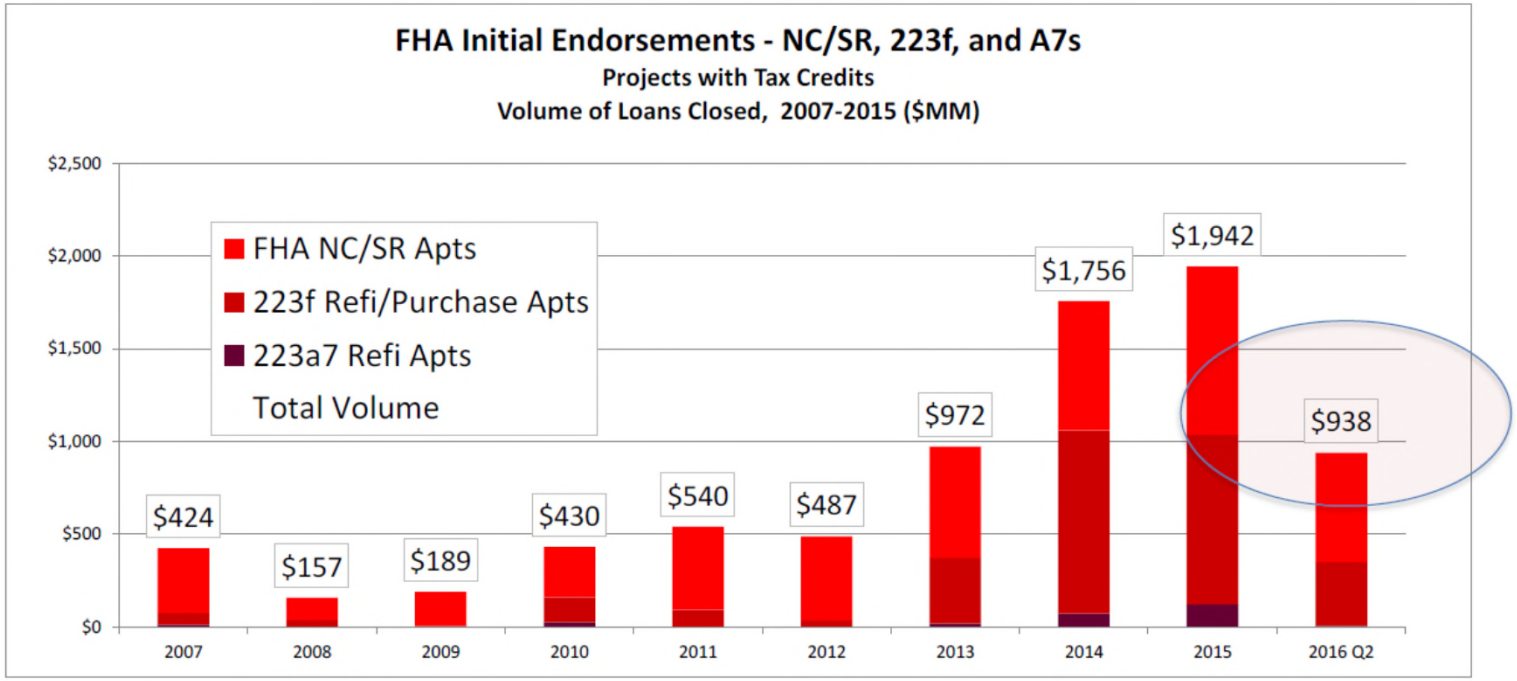
# FHA Multifamily FY 2015



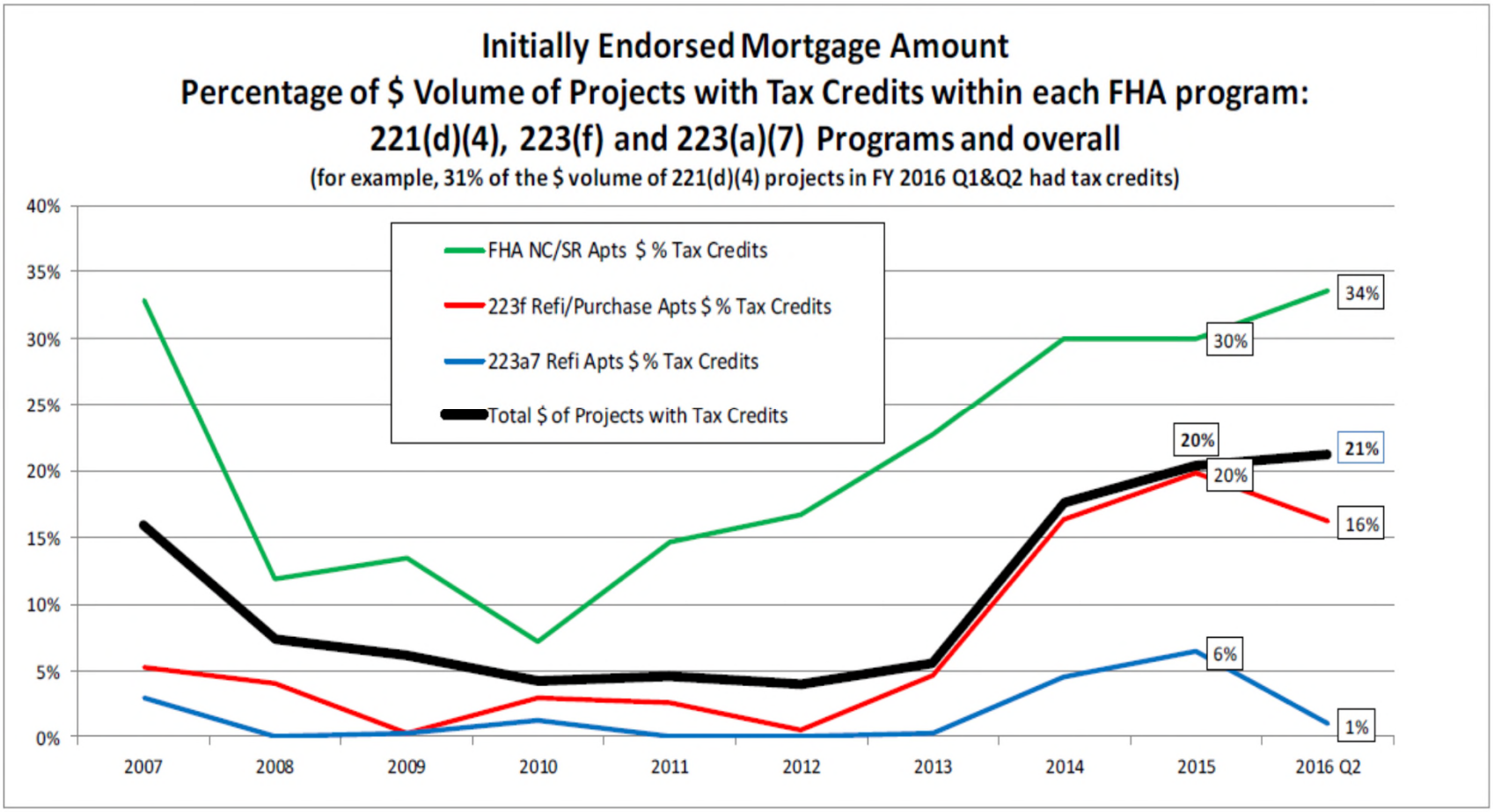
# FHA Multifamily Review



# LIHTC transaction #s



# LIHTC transaction #s



# FHA Multifamily Loans FY 2015

# Recent Developments at HUD

## HUD Multifamily Transformation

- Consistency – Standardization of programs

## MAP Guide Changes

- HUD/FHA's handbook for FHA's mortgage insurance program

- Published January 29, 2016 – Effective May 28, 2016

# Recent Developments (cont)

- Chapter 5 - Arch and Cost
  - ❑ Increased threshold for substantial rehab for refinances
  - ❑ Created 3 Repair classifications to better define levels of work
  - ❑ Development of the CNA eTool to better define R for R requirements
  - ❑ Revised Reserve for Replacement calculation for existing projects
  - ❑ Permits streamlined processing for new construction

# Recent Developments (cont)

- Chapter 8 - Mortgage Credit
  - Relaxed secondary financing restrictions
    - Recording priority with HOME funds
    - Compounding debt
  - Redefined the term "Principal" for underwriting purposes
  - Recognizes Defeasance Cost associated with derivative instruments up to 10% of loan amount
  - Increased Large loan threshold to $75M
  - Commercial space increased to 25% of total rentable area for all programs

# Recent Developments at HUD

## Mortgage Insurance Premium (MIP) Reductions

- New rates effective April 1, 2016
- Four rate categories:
  - Market rate (unchanged, except can go green, below)
  - Broadly Affordable (90% affordable) - 25 bps
  - Affordable/Mixed income (10%-90% affordable, Inclusionary Zoning) – 35 bps
  - Green/Energy Efficient – 25 bps
- Generally 15 year affordability term/rents at 30% of income
- New originations only, not retroactive to closed deals

# Recent Developments at HUD

## Green/Energy Efficient MIP Reductions

- New rate category for MIP
  - Reflects the financial security of efficient properties
  - Promotes Department's sustainability mission
- Significantly reduces rates to 25 bps
- Can generate approx 3% - 5% additional loan proceeds
- Owner must certify that the project has or will achieve a recognized Green Standard; for example:
  - Enterprise Green Communities, LEED-H, LEED-H Midrise, or LEED-NC, ENERGY STAR Certification
- AND, must achieve and maintain 75+ on Portfolio Manager

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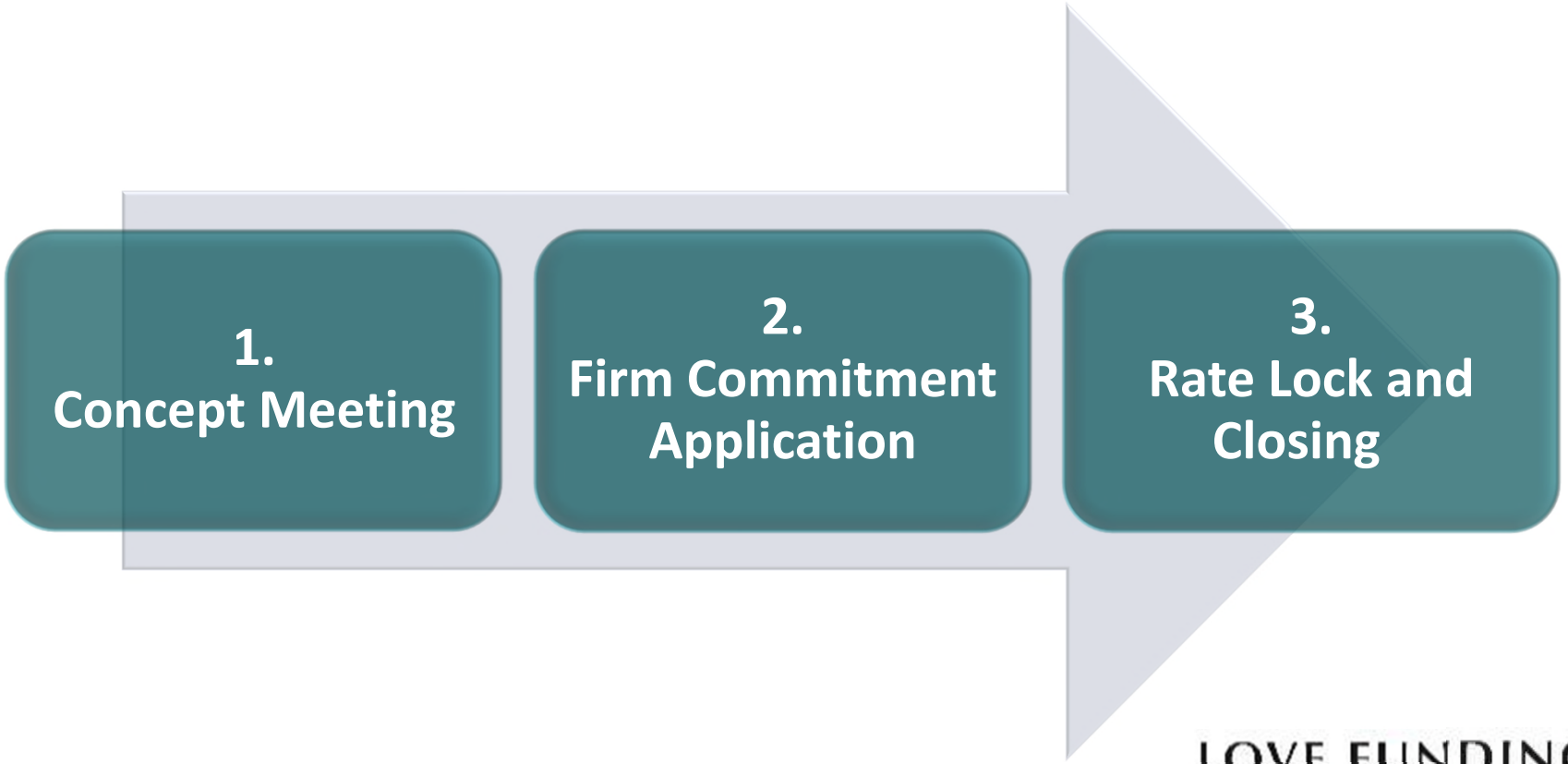
# Processing FHA Multifamily Loans

- **223(f) Acquisition/Refinance Loans**
- **221(d)(4) New Construction/Substantial Rehabilitation Loans**
- **Underwriting Considerations**

**Holly Bray**
Senior Director
Love Funding

# Processing Stages for a 223(f)

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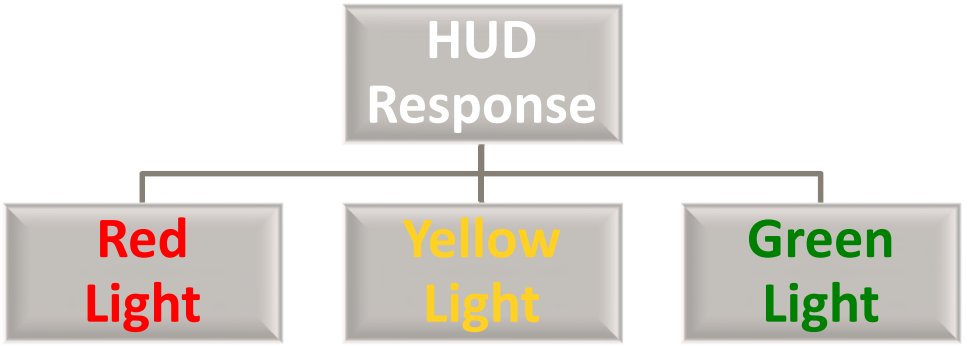
# Processing Stages for a 223(f)

**1. <u>Concept Meeting</u>:**
Turnaround time approximately 30 days

- ❑ **Detailed Deal Summary**
- ❑ **Team Resumes**
- ❑ **Site Maps**
- ❑ **Photos**

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# Processing Stages for a 223(f)

**2. <u>Firm Commitment:</u>**

Processing Time to HUD 45 to 60 days

- **Third Party Reports – Appraisal, Phase I, CNA, Title, Survey**
- **Cost – Thirds: $15K - $25K HUD Application Fee – 30 bps.**
- **Mortgage Credit**
- **Organizational Documents**
- **Underwriter's Narrative and Analysis**

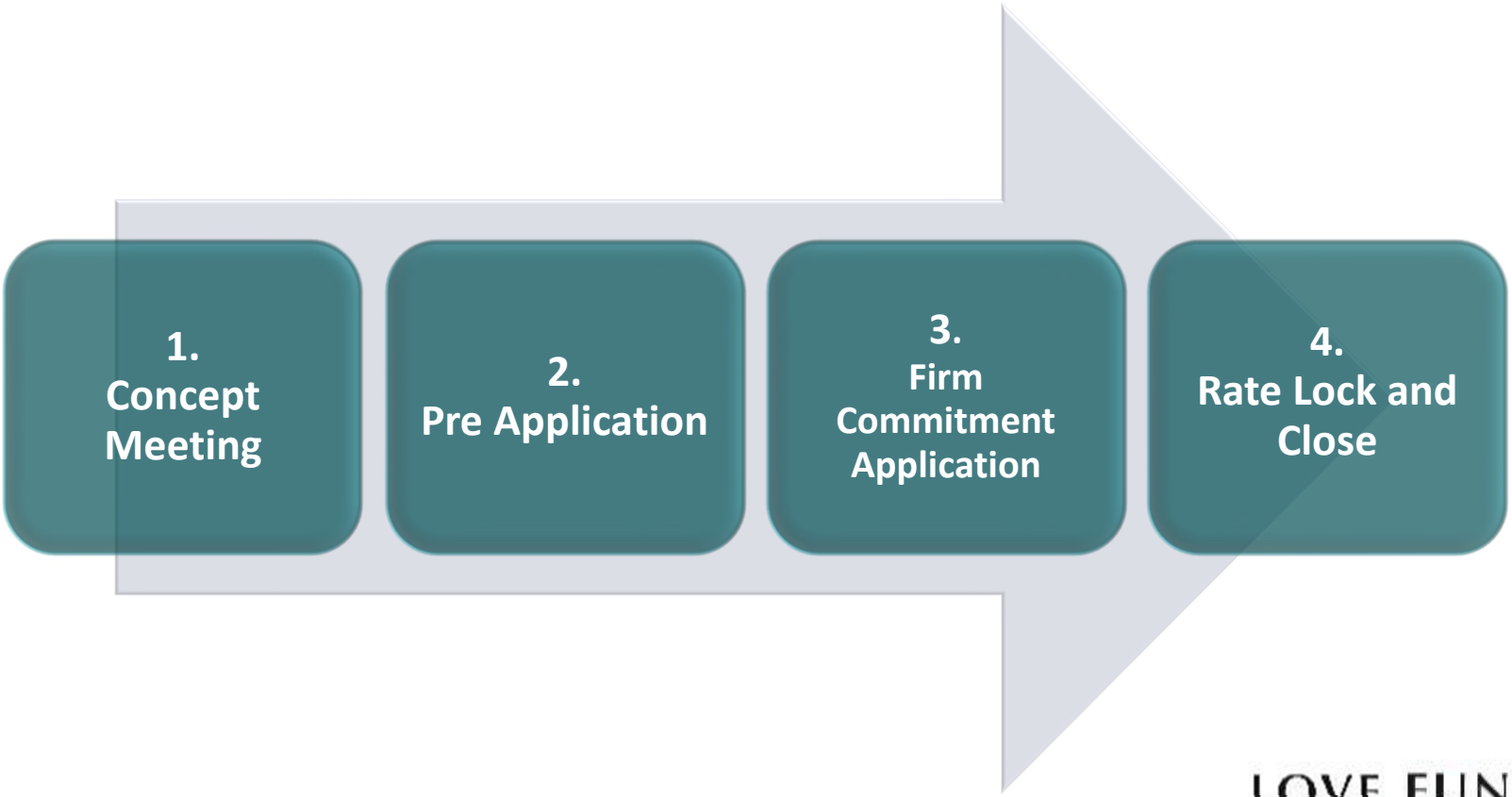
# Processing Stages for a 223(f)

**3. <u>Rate Lock</u>: Cost typically .50% Good Faith Deposit**

Timeframe Rate Lock to Close 45 to 60 days

- ❑ **Submit Legal Documents for HUD Review**
- ❑ **Submit Closing Sources and Uses with Backup for Review**
- ❑ **Close the Loan**

# Processing Stages for a 221(d)(4)

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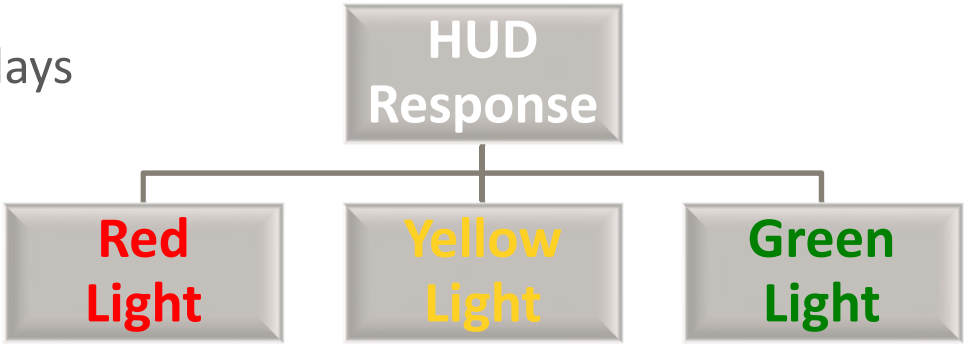
# Processing Stages for a 221(d)(4)

1. **Concept Meeting**

Turnaround time approximately 30 days

- ❑ **Detailed Deal Summary**
- ❑ **Team Resumes**
- ❑ **Site Maps and Photos**
- ❑ **Architectural Renderings with Site Plan and Elevations**
- ❑ **Market Demand Information**

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# Processing Stages for a 221(d)(4)

2. **<u>PreApplication Package:</u>**

Time to HUD approximately 60 days

- **Third Party Reports – Appraisal, Market Study, Phase I, A&E**
- **Architectural Renderings, Site Plan, Elevations, Wall Sectional**
- **Cost – Thirds $20K - $30K Plus HUD App Fee of 15 bps.**
- **HUD Response – Red, Green (Invitation Letter), or Yellow Light**
- **HUD turnaround target 60 days**

# Processing Stages for a 221(d)(4)

**What does the Invitation Letter from HUD do for you?**

1. **Confirms there is market demand**
2. **Verifies the income approach to value**
3. **Gives you 120 days plus one extension to submit the Firm Commitment Application**

# Processing Stages for a 221(d)(4)

3. **<u>Firm Commitment Application</u>**

HUD Review Target 60 days

- **Cost – HUD Application Fee of 15 bps.**
- **Complete Mortgage Credit Review –**
- **Borrower, GC, Management Company**
- **Full Set of Drawings and Book Specs**
- **A&E Cost Review**
- **Final Appraisal that includes "as is" land value**

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# Processing Stages for a 221(d)(4)

4. **HUD Firm Commitment: WHOO HOOO!**

- ❑ **Review, Sign, and Return**
- ❑ **Rate Lock – cost .50% Good Faith Deposit**
- ❑ **Submit Amendment Request to HUD with Locked Rate**
- ❑ **Submit Closing Documents for Review**
- ❑ **Close the Loan**
- ❑ **Start Construction within 10 days.**

# Questions?

**Holly Bray**
Senior Director | Love Funding
202.887.1849
hbray@lovefunding.com

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# STREAMLINED PROCESSING FOR TAX CREDIT AND DEVELOPMENT TEAMS WITH HUD EXPERIENCE

HUD will allow deferred submission of plans, specs and cost estimates on LIHTC projects and if the borrower, architect, GC, and any due diligence providers each have successful HUD project experience comparable in scope and scale

**Less than 100% complete plans and specs can be submitted with the HUD application**

**Final plans and specs must be submitted within 30 calendar days before closing and any HUD comments addressed not less than 10 calendar days before closing**

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# TAX CREDIT TRANSACTIONS—SUBSIDY LAYERING REVIEW

**Subsidy Layering Review**

- Not required for purely FHA-issued mortgage/LIHTC transactions
- May be required as a result of using other public funds
- Conducted by HUD, state agency, or provider of other public source

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# TAX CREDIT TRANSACTIONS—SECTION 8 CONTRACTS

## Must be form of:

- 20–Year Contract for Project Based Rental Assistance Section 8 Housing Assistance Payment (HAP) Contracts
- 15–Year Contract for Project Based Voucher Contract
- Exception: If 20–Year contract was renewed within 12 months

## Rent comparability study (RCS)

- Must be submitted 60 days prior to application
- Must be  within 180 days of firm commitment issuance

## Market-Based Rent Increases

- Section 221(d)(4) post-rehab rents may be permitted at initial closing provided Section 8 escrow is funded
- Section 223(f) prohibition against post-rehab rents during construction may be waived

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# TAX CREDIT TRANSACTIONS— PREVIOUS PARTICIPATION (2530) REQUIREMENTS

**Nonprofit board members are excluded from requirement unless they also serve as an officer**

**Passive Investors**

- Passive Investor Certification
  - Replaces LLCI form
  - Not applicable to SLP that is approved to step in for a GP
- Provision of Notice and preapproval of SLP to step in and act as GP is achieved through “Rider to the Security Agreement for LIHTC Properties”

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# TAX CREDIT TRANSACTIONS— SUBSTANTIAL REHAB CONTINGENCY

HUD allowable contingency funds not needed for repairs, R4R, deposits, or other improvement may be used to pay developer fee

Released at final endorsement or six months following sustained occupancy

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# TAX CREDIT TRANSACTIONS—
# DEVELOPER FEE AND GENERAL CONTRACTOR PROFITS

**Developer fee may now be treated as mortgageable cost**

**Where there is an IOI HUD will defer to state allocating agency policies**

- HUD will still evaluate and reduce if determined excessive

**Deferred developer fee may be treated as secondary debt or equity**

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# TAX CREDIT TRANSACTIONS—SECONDARY DEBT STRUCTURES

## No loan to value limit

## Private debt requirements

- Payments can’t exceed 75% surplus cash
- Total private secondary debt can’t exceed 100% total project costs
- Maturity date conterminous or longer
- Can be paid off with 75% of surplus cash
- May be secured by project

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# CONTINUED FROM PREVIOUS PAGE —

## Public debt

- Excluded from 100% project cost calculation

## Bridge Loan

- Allow Equity Bridge Loans (EBLs) to be obligations of FHA Mortgagor Entity (with limits on recourse against project)

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# TAX CREDIT TRANSACTIONS – EQUITY PAY-IN SCHEDULE

| Benchmarks for Equity Installments | Minimum Equity Installment [78] |
|---|---|
| On Or Before Closing (223(f)) or Initial Endorsement (221(d)(4)) | 20% of Total Equity |
| At 65% Completion of Repairs (223(f)) or Construction Completion (221(d)(4) | 37.5% of Net Equity |
| At 100% Completion of Repairs (223(f)) or Final Endorsement (221(d)(4) | 62.5% of Net Equity |

## No waiver of first 20% pay-in requirement

- Can't be met with bridge loans or other funding sources
- Subsequent Pay-Ins may be funded by an EBL and are based on Net Equity (Relaxed "Pari Passu" funding requirements)

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# SIGNIFICANT UNDERWRITING CONSIDERATIONS FOR TAX CREDIT AND AFFORDABLE TRANSACTIONS —

**HUD has made significant changes in programs and process to help you do what you do best – provide decent, safe, affordable housing!**

**Lower MIP - 25 bps**

**Higher Debt Service Coverage – 1.15x for affordable, 1.11x for projects with 90% or greater rental assistance**

**Higher Loan to Cost – 87% of development cost plus as-is value for affordable, 90% of replacement cost for projects with 90% or greater rental assistance**

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# SIGNIFICANT UNDERWRITING CONSIDERATIONS FOR TAX CREDIT AND AFFORDABLE TRANSACTIONS —

**Lower <u>Vacancy Factors</u>**

- **3% for Properties with Section 8 HAP Contract on 90% or more of the units or in-place rehabs with 90% LIHTC restricted rents that are 10% below market rents**
- **5% for Properties meeting minimum LIHTC set-aside requirements (20% at 50% AMI or 40% at 60% AMI) and attainable rents 10% below market rents**
- **7% for Properties where 100% of units are LIHTC restricted without a 10% discount to market. LIHTC properties with more than 20% at market**

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# SIGNIFICANT UNDERWRITING CONSIDERATIONS FOR TAX CREDIT AND AFFORDABLE TRANSACTIONS —

**<u>Tax Abatements</u> – We can now underwrite using the tax abatement even if it runs with the mortgagor and not the land**

**<u>Allows</u> renovations up to $40,000 per unit in the 223(f) program.**

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AFFORDABLE HOUSING OPPORTUNITIES AT THE FEDERAL LEVEL

# THE EMERGING PRESERVATION LANDSCAPE: THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM


SPEAKERS:
MEGHAN ALTIDOR, PARTNER, NIXON PEABODY
TATIANA GUTIERREZ, PARTNER, NIXON PEABODY
TOM DAVIS, DIRECTOR, HUD'S OFFICE OF RECAPITALIZATION
KAYRINE BROWN, CHIEF INVESTMENT AND REAL ESTATE OFFICER, HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY


NIXON PEABODY

HAND 25TH YEAR ANNIVERSARY

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

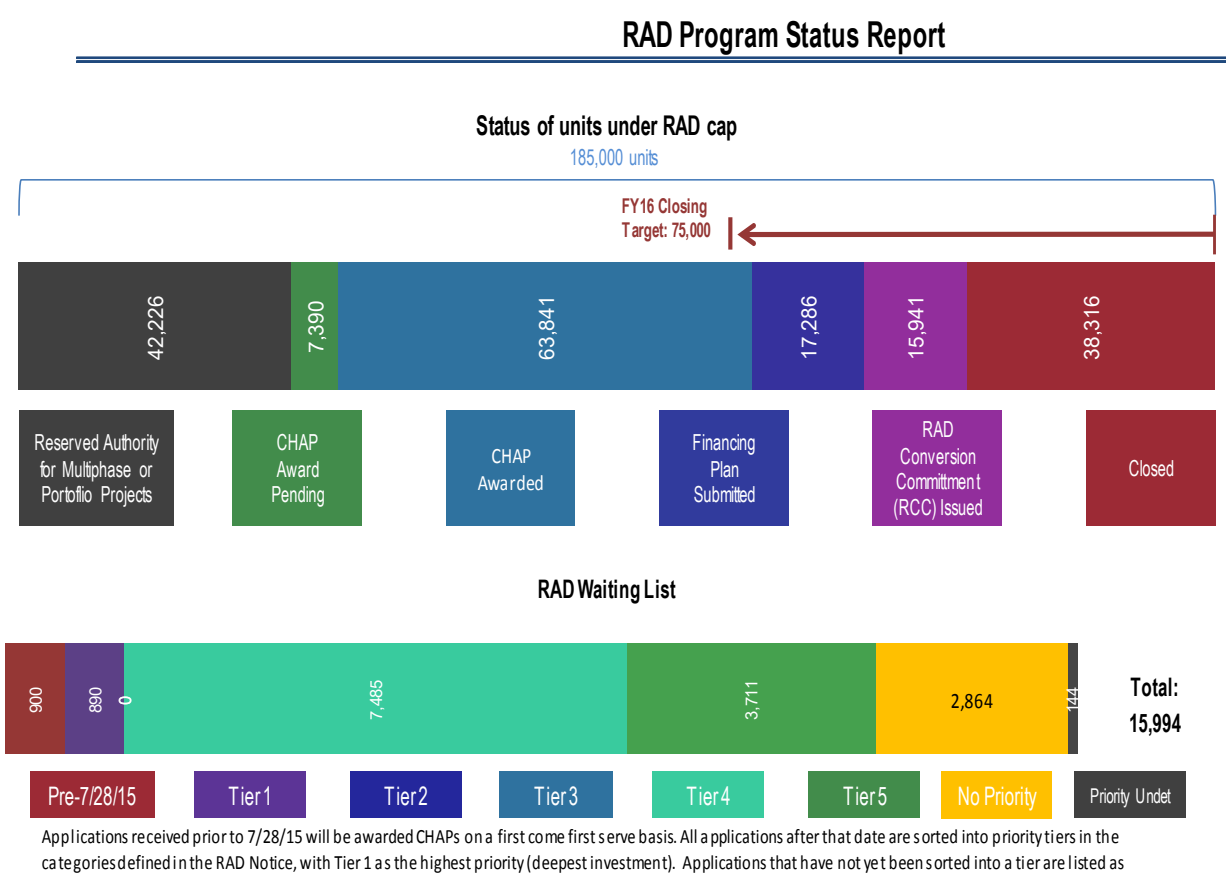
# RENTAL ASSISTANCE DEMONSTRATION (RAD)

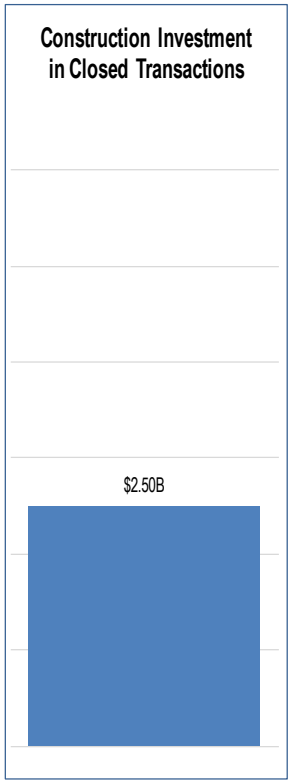
*Presented by*

Tom Davis, Director

Office of Recapitalization, HUD

# Public Housing Conversions – Status



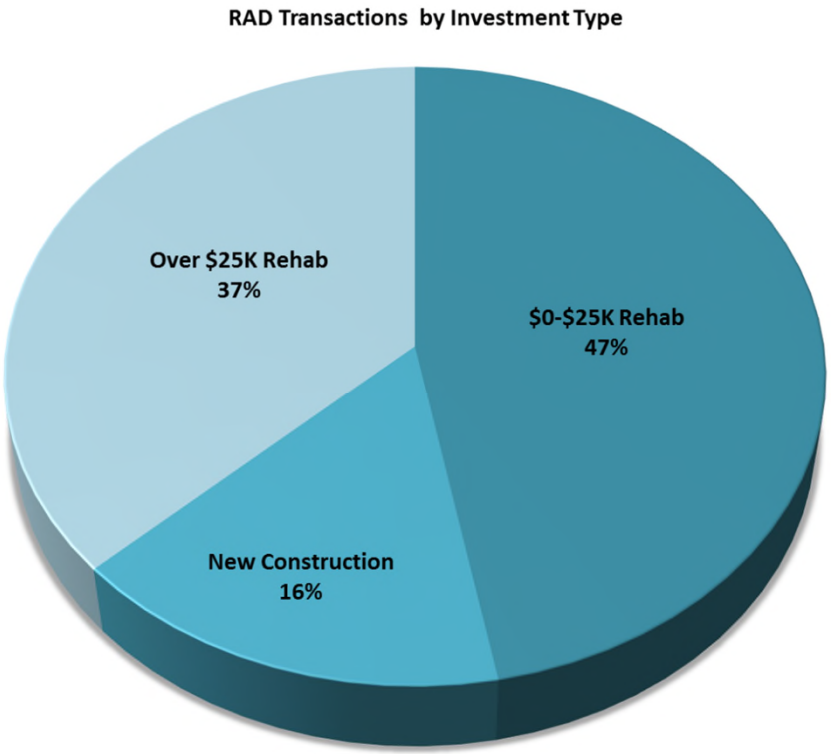

**$2.50 Billion**
in construction investment in RAD properties. This doesn't include acquisition, soft costs, reserves, developer fee, etc.

**38,316 units**
converted.

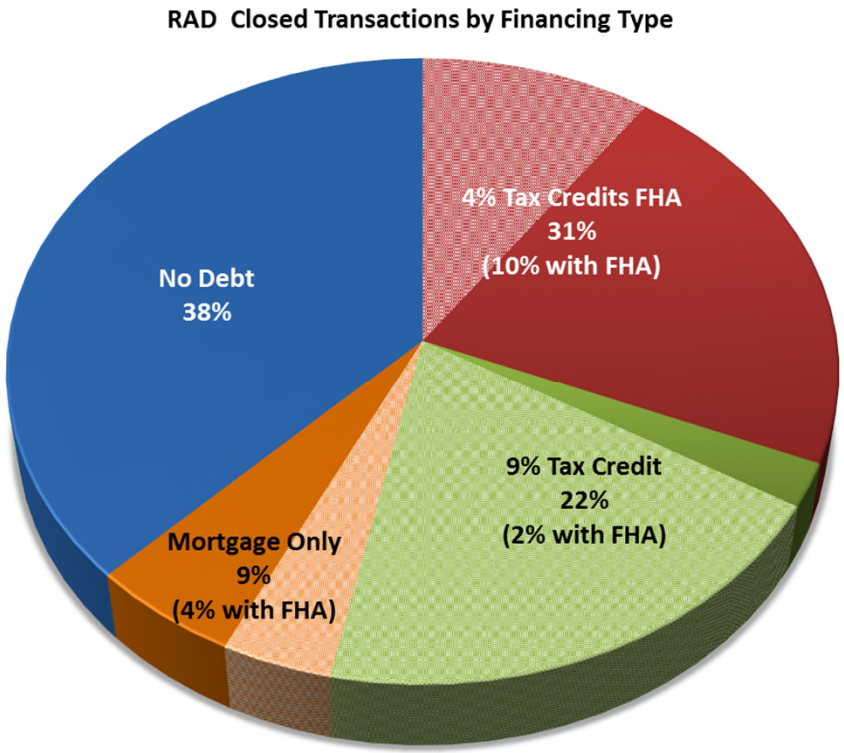
**15,994 units**
on the waiting list.

# PH Conversions – Investment & Financing

**Closed Transactions by Level of Investment**

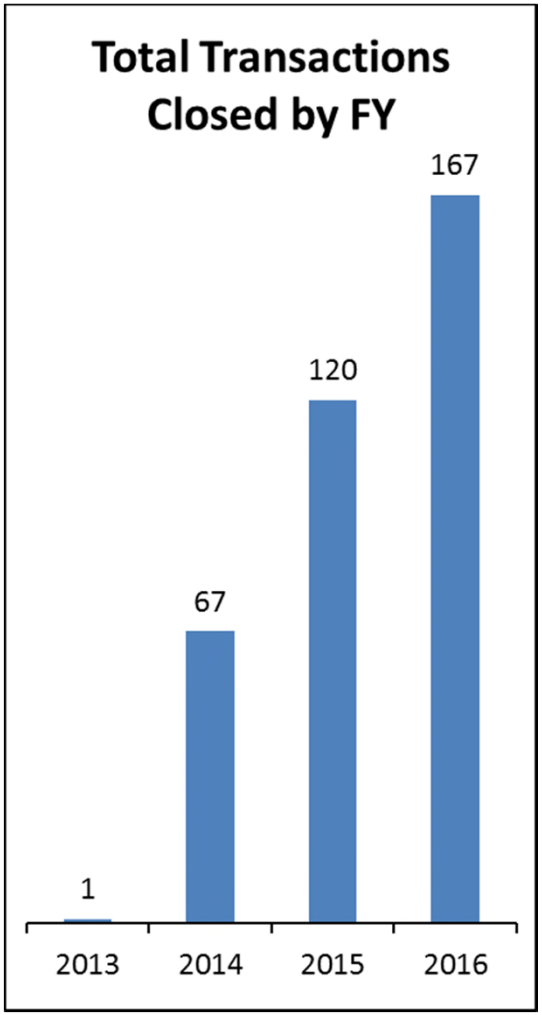


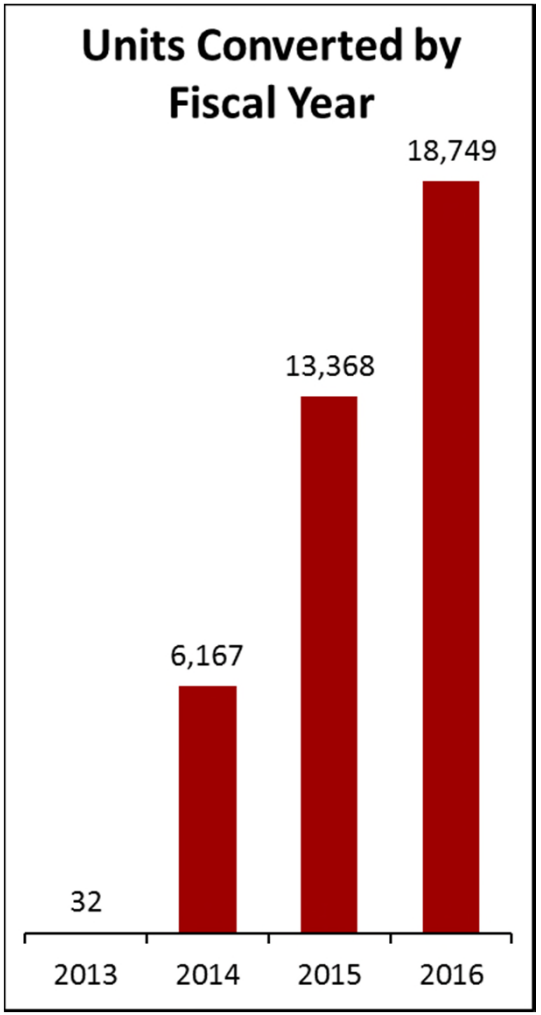

**Closed Transactions by Financing Type**

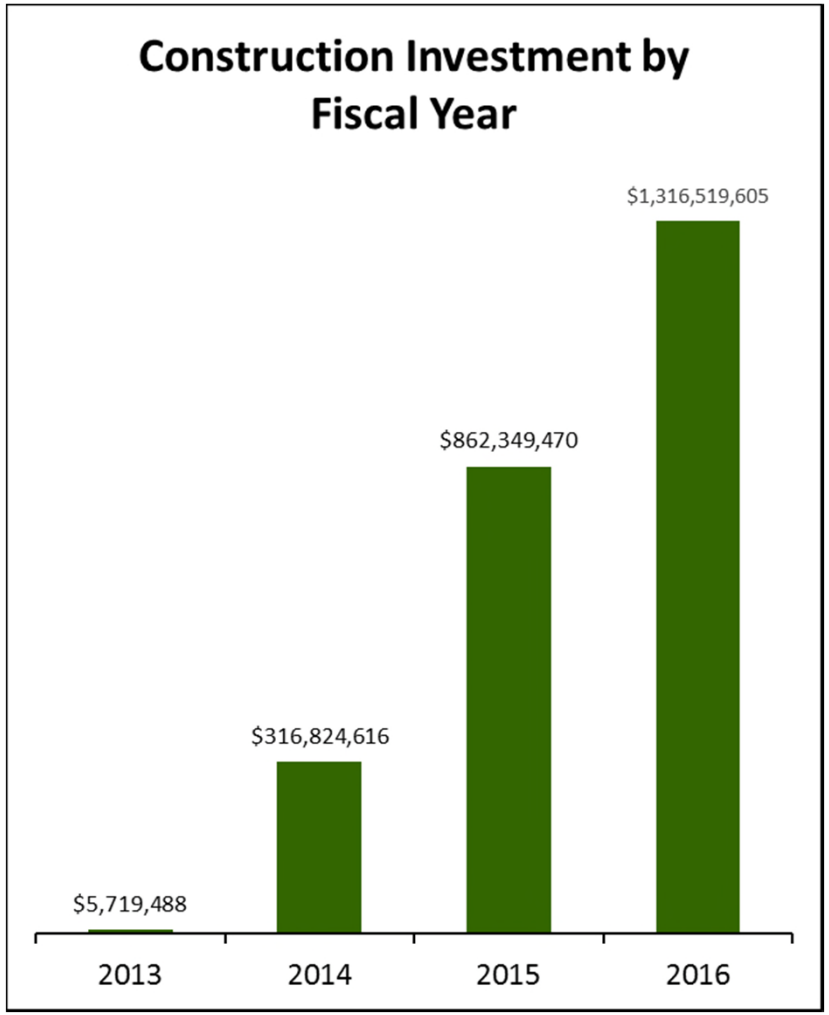



*NOTE: Percentages derived from RAD 1 closed transactions only through September 7, 2016.*

# PH Conversions – Year by Year

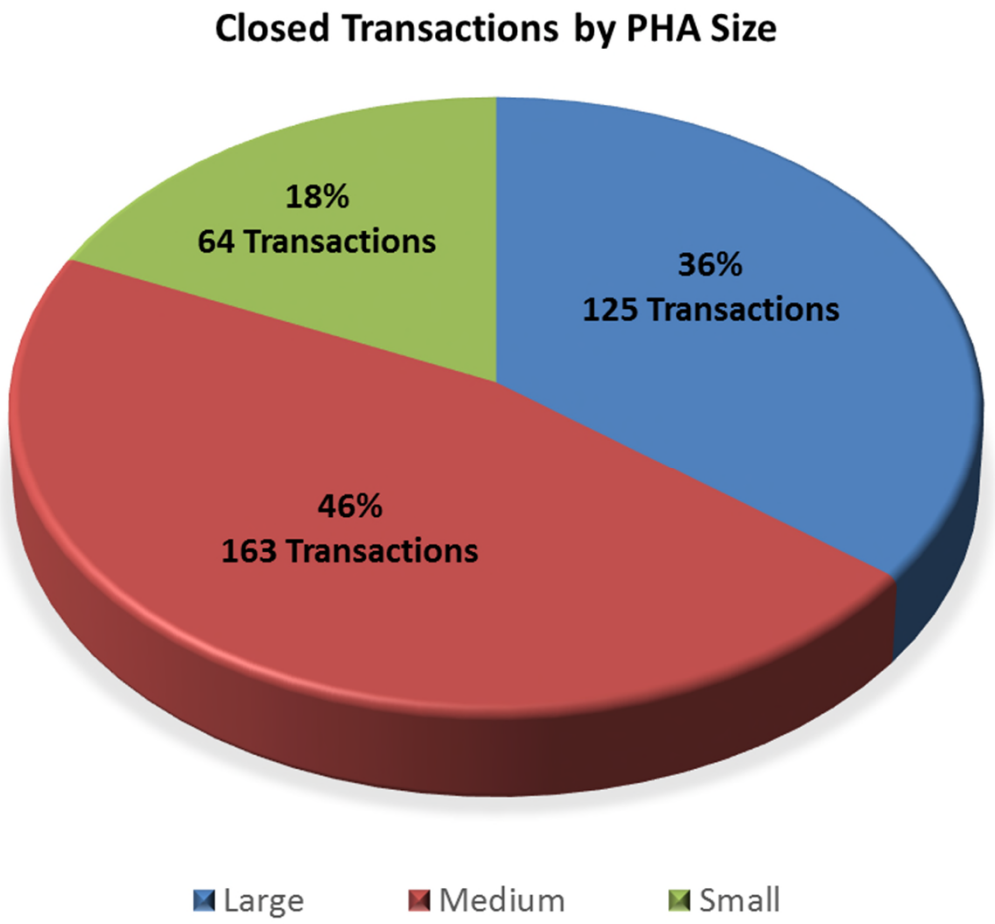


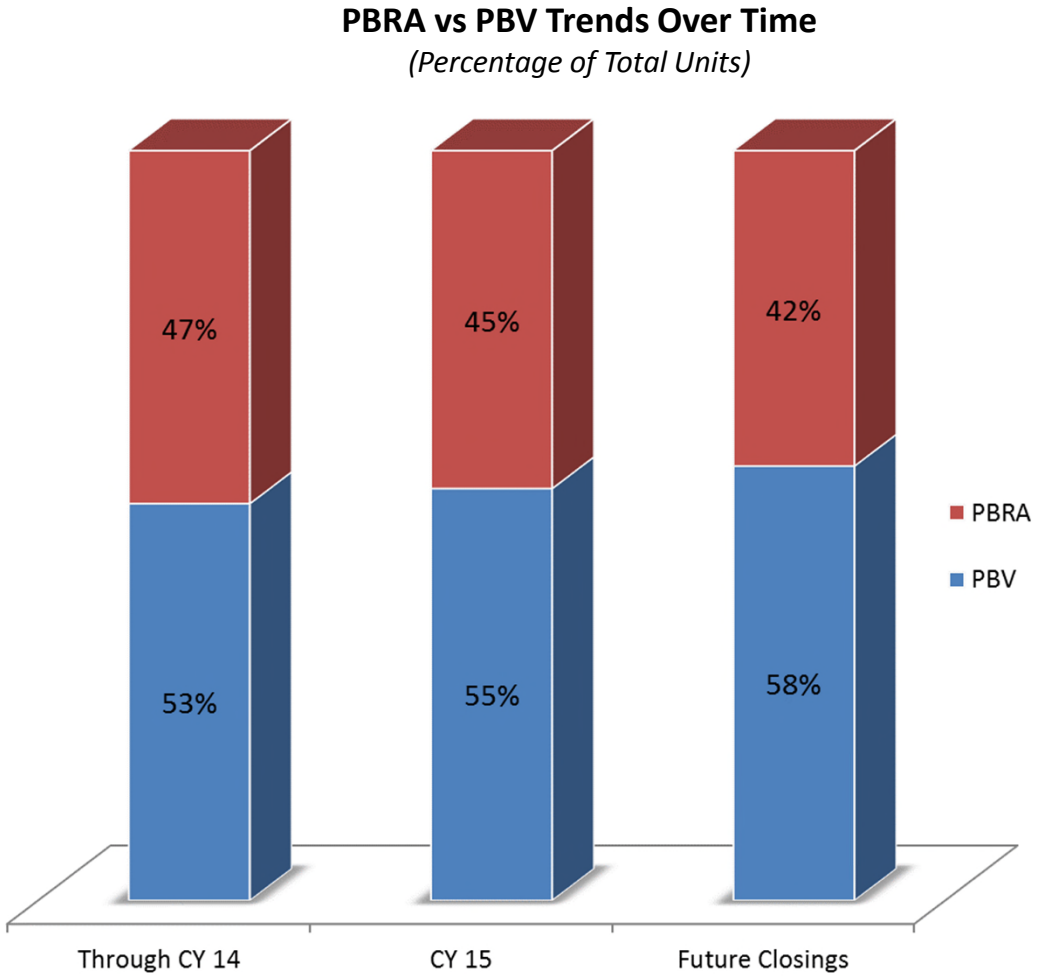

*NOTE: Data through September 7, 2016*

# PH Conversions – PHA Size



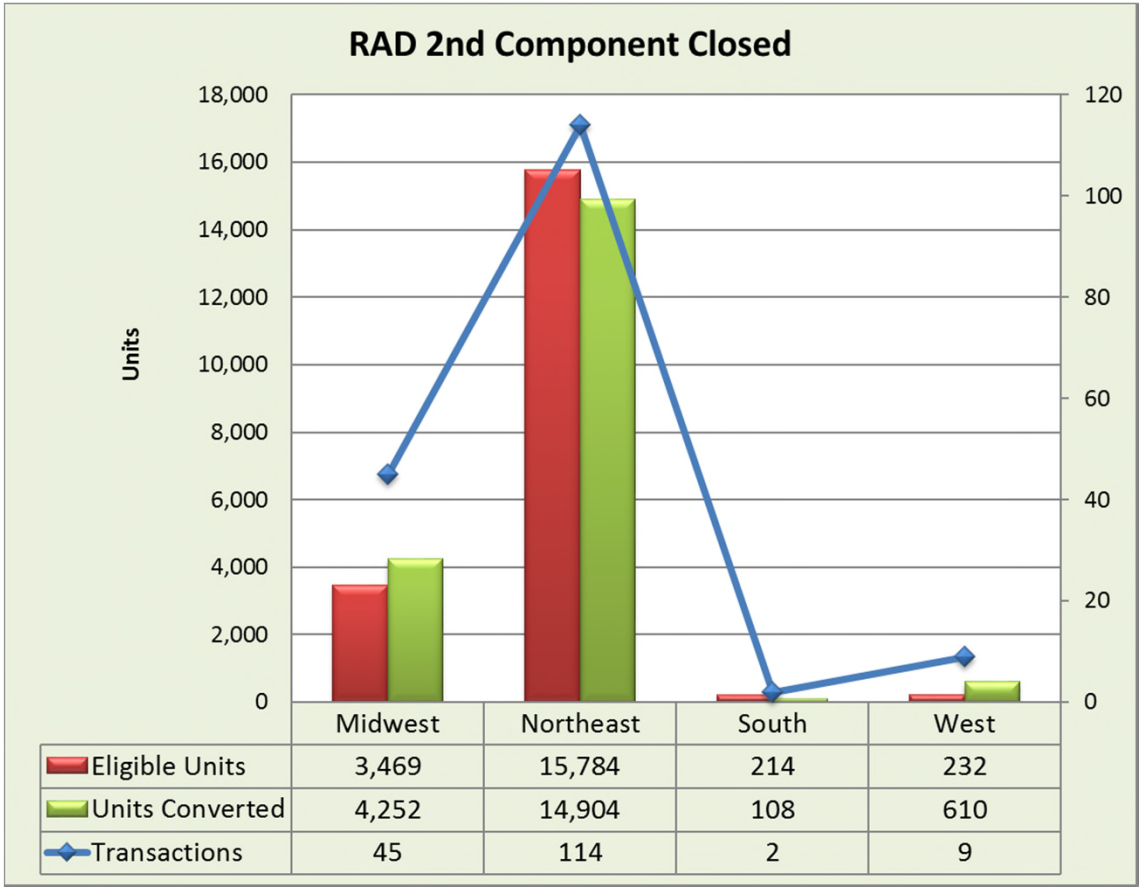

*NOTE: Data through September 7, 2016.*

# PH Conversions – Subsidy Types




*NOTE: Percentages derived from the entire RAD portfolio through September 7, 2016 (closed and "active" transactions to close in the future).*

# Legacy Conversions – RS/RAP Status




**19,699 Units Converted**

170 Transactions

<u>Future Rent Supp/RAP Pipeline</u>:

- 34 active transactions
- 66 properties in portfolio
- 38 in NY, NJ and MA
- The rest in IL, MD, MI, PA & VA
- 39 properties (59%) expire in 2016
- 15 properties (23%) expire in 2017
- 12 properties (18%) expire after that

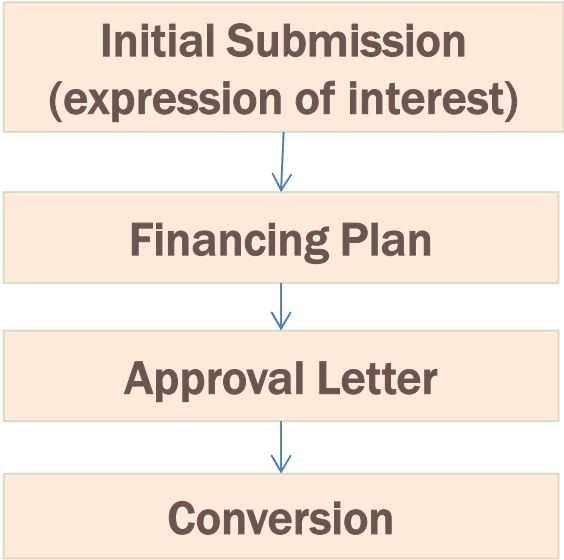
*NOTE: Data derived from RAD 1 closed transactions only through September 7, 2016.*

# Legacy Conversions – Mod Rehab

**Key Features**

- No cap on participating units
- Long-term PBV or PBRA contract
- Possibility for rent increases
- Accommodates unit re-configuration (e.g. SROs → efficiencies)
- Preserve homeless preference (for SROs)

**Process**



# RAD FY 17 Budget Requests

- Eliminate the 185,000 unit cap on public housing conversions
- Include Section 202 Project Rental Assistance Contracts (PRACs) under 2nd Component
- $50 million for incremental subsidy for public housing and Section 202 PRAC conversions;
- Require protection of a tenant's right to continued occupancy in legacy conversions; and
- Explicitly permit non-profit control of tax credit partnership and non-profit ownership in the event of foreclosure, bankruptcy, or default.

RAD PORTFOLIO CONVERSION

# PUBLIC HOUSING RE-IMAGINED FOR THE SUBURBS

## HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY

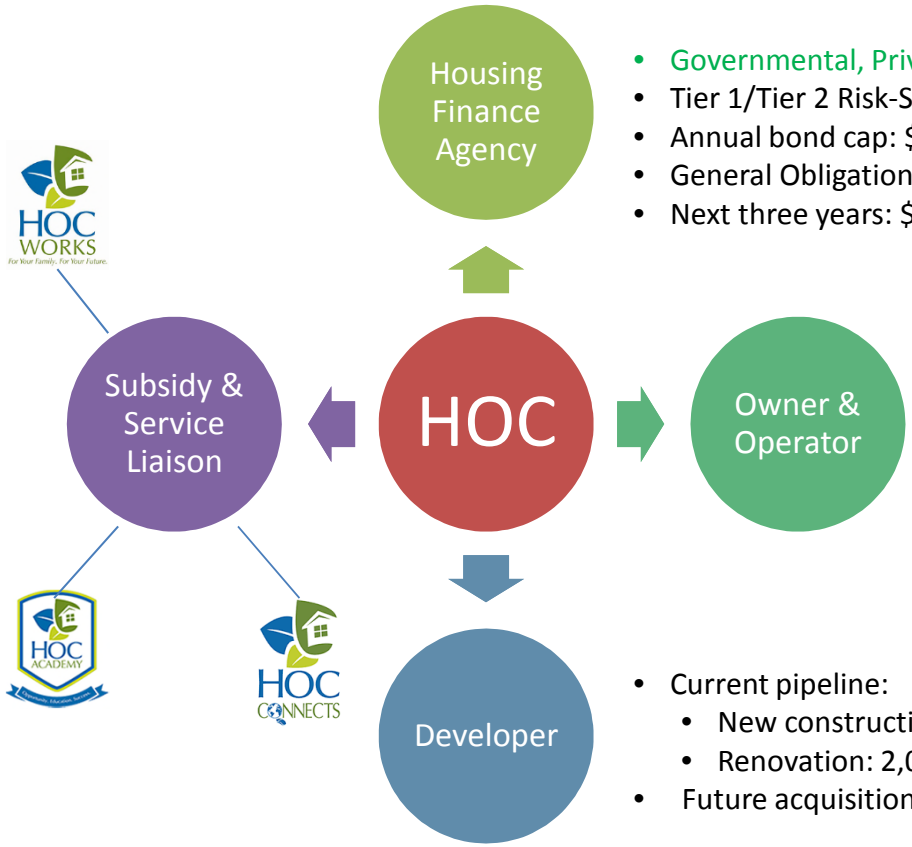

**Stacy L. Spann, Executive Director**

**Kayrine Brown**
**Zachary Marks**

**September 8, 2016**

# Full Service Agency

## A comprehensive set of tools.




- Governmental, Private Activity, 501(c)3
- Tier 1/Tier 2 Risk-Share U/W
- Annual bond cap: $35MM
- General Obligation rating: A2
- Next three years: $150MM in MF issuance

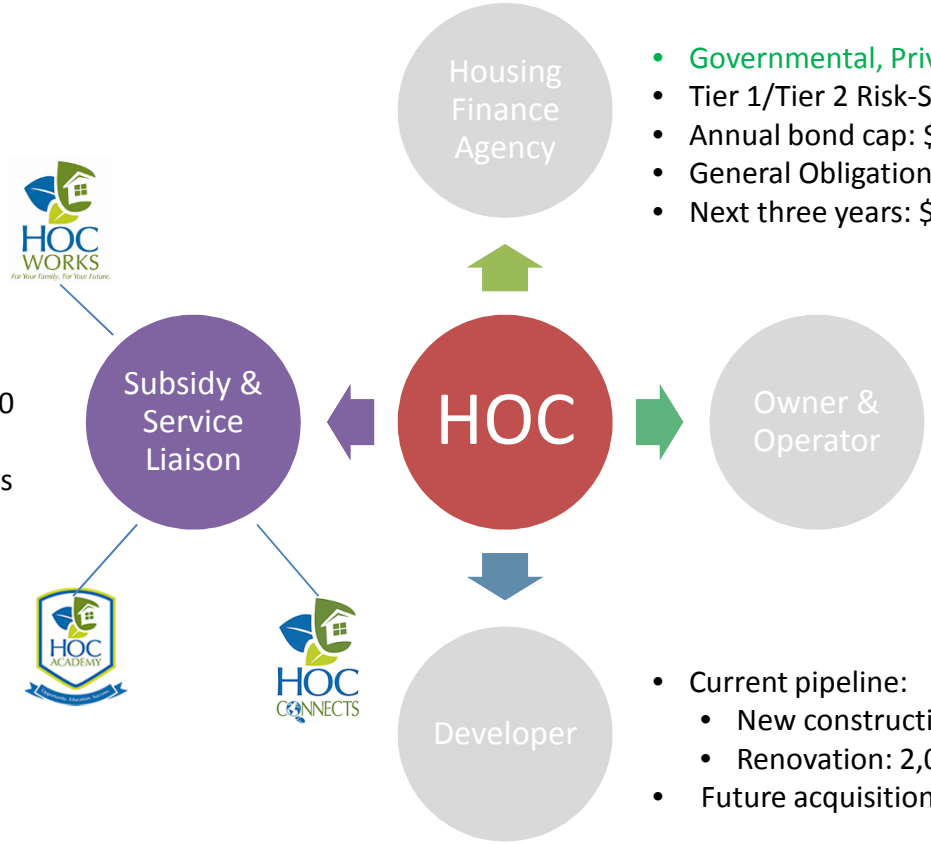
- HCVs managed: 6,690
- Online waitlist of 30,000
- Network of counselors
- Acad. & empl. resources

- Units held: 7,000
- Programs:
  - PH
  - PBS8
  - LIHTC
  - Market Rate

- Current pipeline:
  - New construction: 1,500+ units
  - Renovation: 2,000+ units
- Future acquisitions platform

# Full Service Agency

## Public Housing cannot access most tools.

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- Current pipeline:
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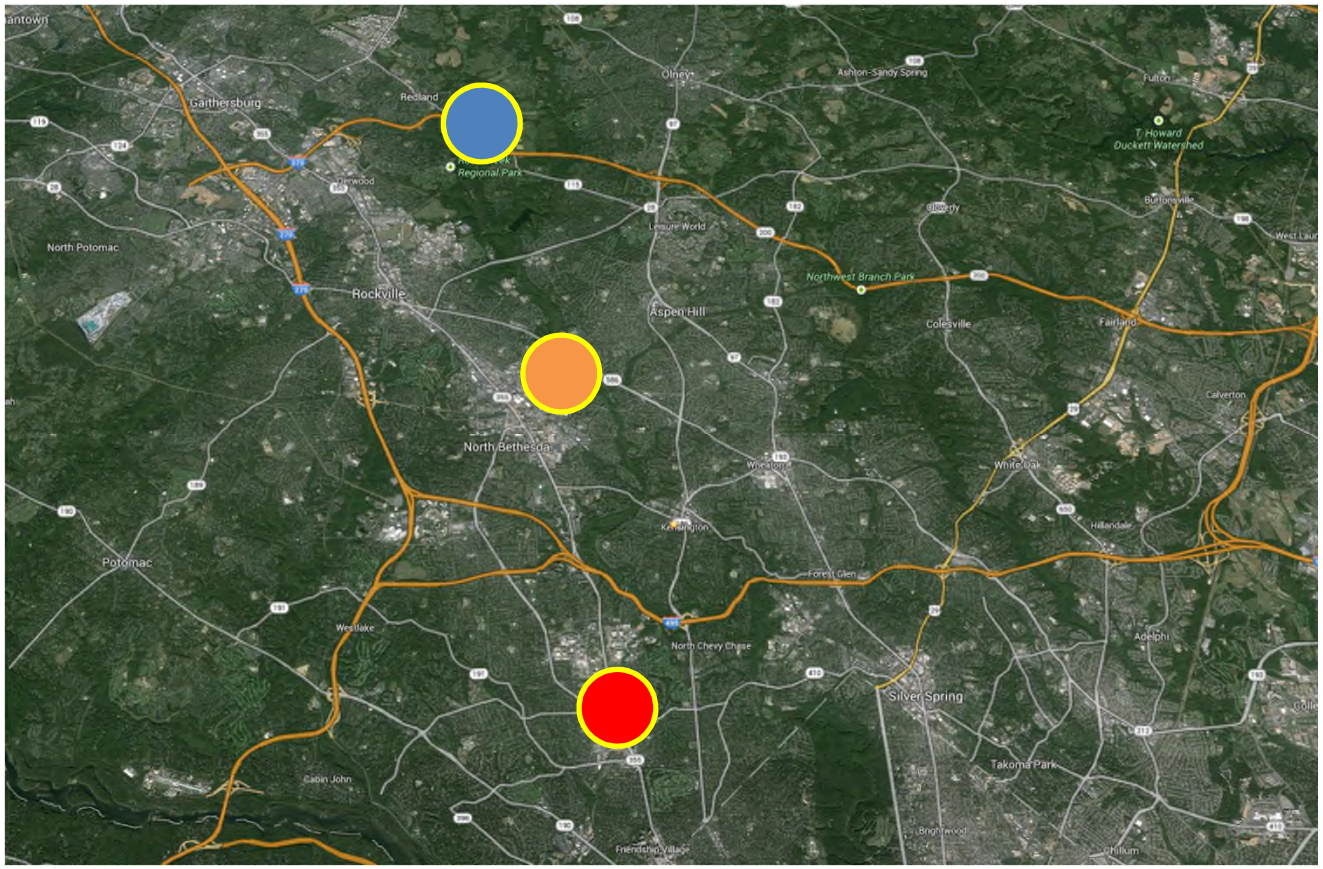
  - Renovation: 2,000+ units
- Future acquisitions platform

# Public Housing in Montgomery County


## Core Issues

| | |
|---|---|
| Concentration | • Entirety of properties are deeply subsidized. |
| Isolation | • Properties are often physically and socially isolated from surrounding neighborhoods. |
| Devaluation | • Poor appearance and concentration of poverty can drag down surrounding neighborhoods. |
| Obsolescence | • Properties lack modern amenities and energy efficiency, a stealth tax on residents. |
| Underdevelopment | • Underlying value of property could act as subsidy but is trapped within regulatory strictures. |

# Market in Montgomery County, MD




## Upcounty

North of Rockville
- Rent: $2.25+/SF
- Land: $30+/SF

## Midcounty

North of Interstate 495
- Rent: $2.50+/SF
- Land: $90+/SF

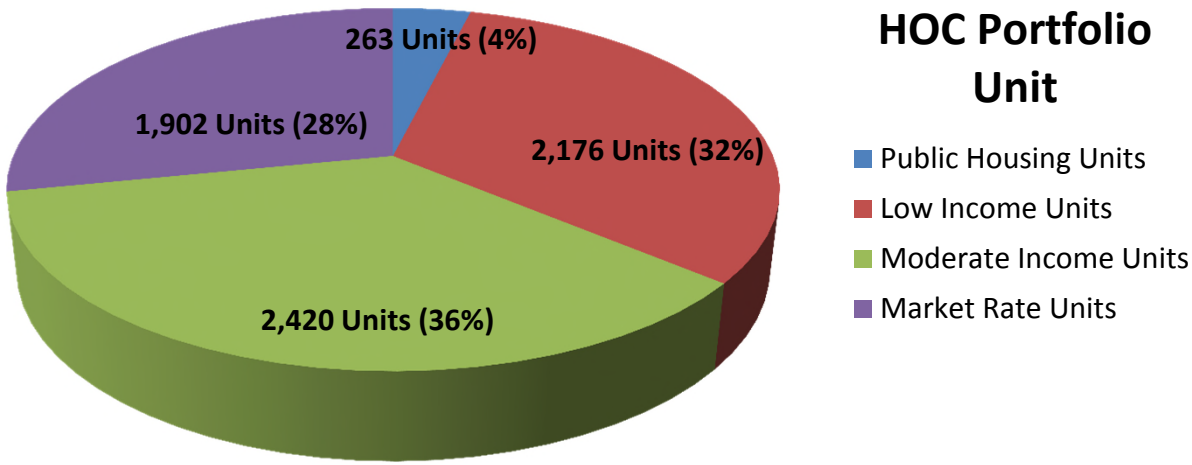
## Downcounty

Inside the Beltway
- Rent: $2.75+/SF
- Land: $120+/SF

- RAD rents are 40-60% lower than market rate; cost of new construction is high.
- Offsetting RAD rents with market rate units a must.
- Opportunities are normally few to add new affordable housing in highly desirable locations.

# HOC's Housing Philosophy

## Portfolio has a broad mix of incomes.




- Incomes range from 0% AMI to 150% AMI.
- Commission seeks a mix of incomes within every property.
- Conversion of Public Housing through RAD an opportunity to introduce income diversity.

# Public Housing Conversion Context

## Section 18 Disposition

HUD has actively pursued a policy of demolition/disposition activity in the last 10 years, due to the realization that many developments are experiencing deterioration of physical structure & surrounding communities.

The disposition of HOC's former scattered site Public Housing portfolio (669 units) was completed in 2015 and are now under renovation.

## HUD's RAD Program

The Public Housing program has been severely underfunded and the Federal Government appears headed toward the elimination of the program in its entirety.

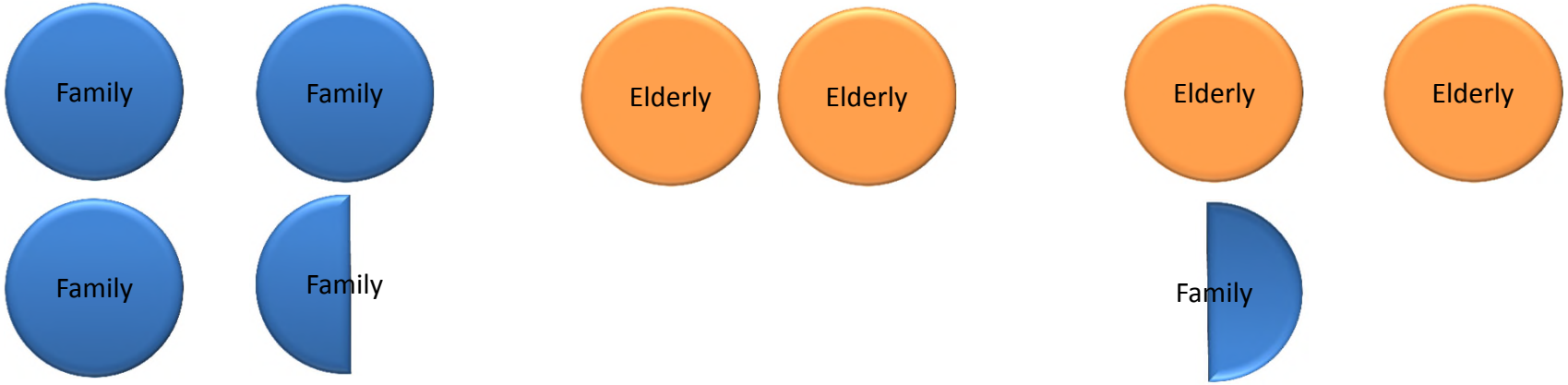
It is cheaper for HUD to support vouchers, hence the reason we are moving to eliminate our Public Housing portfolio. HUD's RAD Program is aiding the agency in its mission to accomplish this goal.

# A Portfolio Exit in Three Modes

At the start, HOC's remaining Public Housing portfolio consisted of 8 multifamily assets (11 properties):

- Four Elderly AMPs
- Four Family AMPs

| Stabilization | Major Renovation | Permanent Relocation |
|---|---|---|
| • Fewer than 100 units<br>• Recent renovations<br>• Little add'l density or underlying value | • More than 100 units<br>• Significant capital needs<br>• Little add'l density or underlying value | • More than 100 units<br>• Severe capital needs<br>• High redevelopment potential; add'l density |




All family AMPs have converted. Two Major Renovation elderly AMPs have converted.

# A Portfolio Exit in Three Modes

HOC has two extant circumstances favorable to an assertive repositioning of its assets:

- Prior Section 18 approval of all its scattered site Public Housing assets
- Ability to issue bonds and finance projects as lender

## Stabilization

- Low-density zoning
- Good neighborhoods
- Inefficient operations

- Transferred assistance for 10%-75% units per AMP
- Financed with debt only
- Restructured operations

## Major Renovation

- No additional density
- Residents largely happy
- Attractive location

- Financed with LIHTCs and HOC-issued debt
- Use of DDTF
- Restructured operations

## Permanent Relocation

- Elderly residents geographically attached
- Family residents are not happy, minimally geographically attached
- Both sites have significant underlying value, additional density

- Use capitalization of underlying land as additional subsidy
- Deliver mixed-income, amenity rich, energy efficient, new rental housing

# Stabilization Properties – Before & After

Before RAD

100% PHA Assistance


Units: 322

| | *Towne Centre Place* | *Sandy Spring Meadow* | *Ken Gar* | *Parkway Woods* | *Seneca Ridge* | *Washington Square* | *Emory Grove* |
|---|---|---|---|---|---|---|---|
| *Total X-fer Units* | 2 | 7 | 2 | 2 | 16 | 30 | 54 |
| *Occupied X-fer Units* | 0 | 0 | 0 | 0 | 0 | 30 | 40 |

Total Transfer Units: 113

After RAD

65% PBRA Assistance

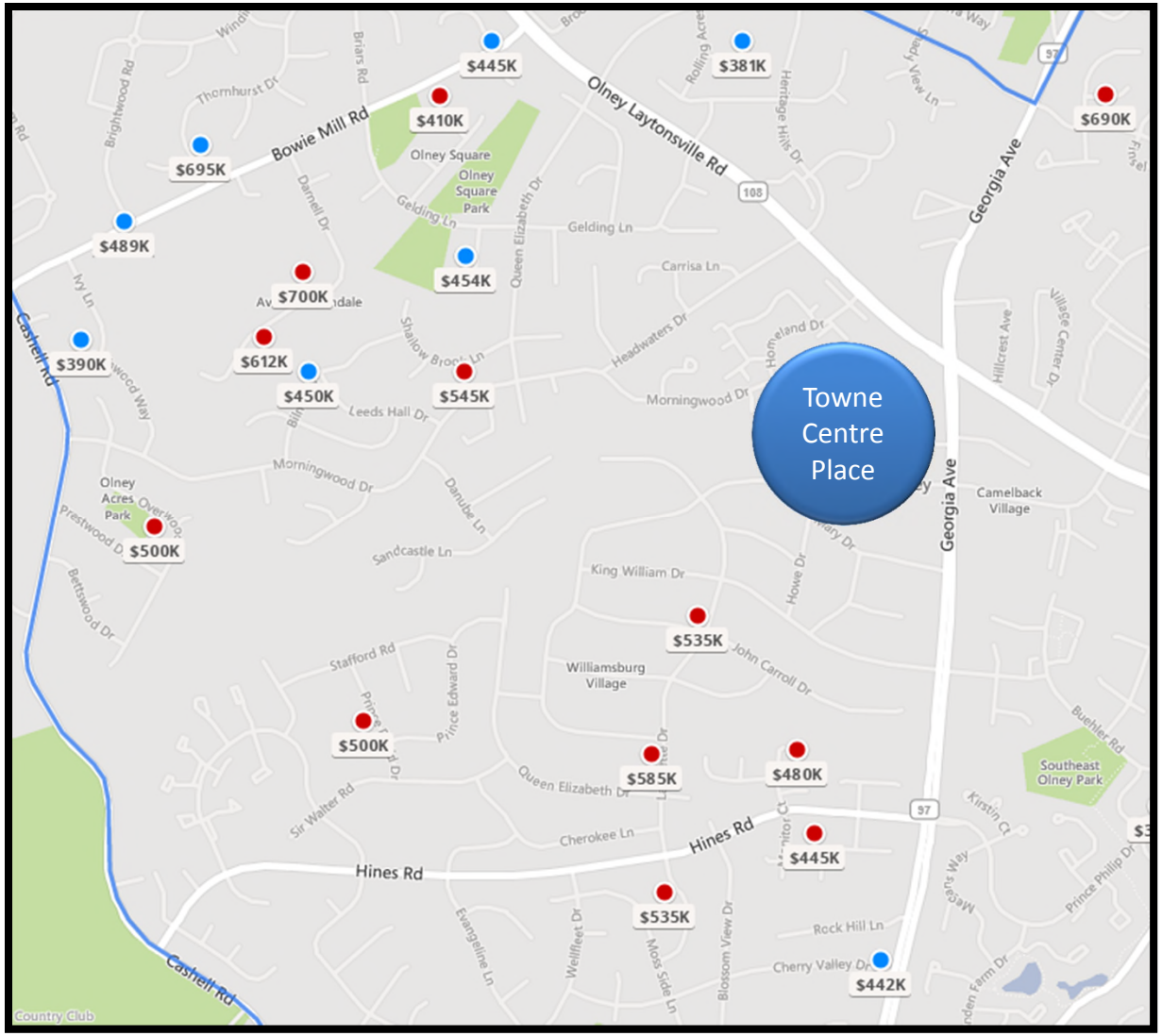

Units: 209

| | *Towne Centre Place* | *Sandy Spring Meadow* | *Ken Gar* | *Parkway Woods* | *Seneca Ridge* | *Washington Square* | *Emory Grove* |
|---|---|---|---|---|---|---|---|
| *Total Assisted Units* | 47 | 48 | 17 | 22 | 55 | 20 | 0 |

Now empty, Emory Grove will demolished for future redevelopment by HOC.

All other properties are renovated as HOC-owned (via SPE), mixed-income properties.

# Towne Centre Place




General Occupancy

49 Units

- Proximity to major bus routes
- Strong school district
- Walking distance to retail and services

# Sandy Spring Meadow


ORIGIN STORY

- Property originally a relocation of historically black neighborhood displaced by sewer line installation.
- Community vehemently opposed.
- County championed the project.
- Ultimately, community succeeded in making the property invisible from the main thoroughfare.

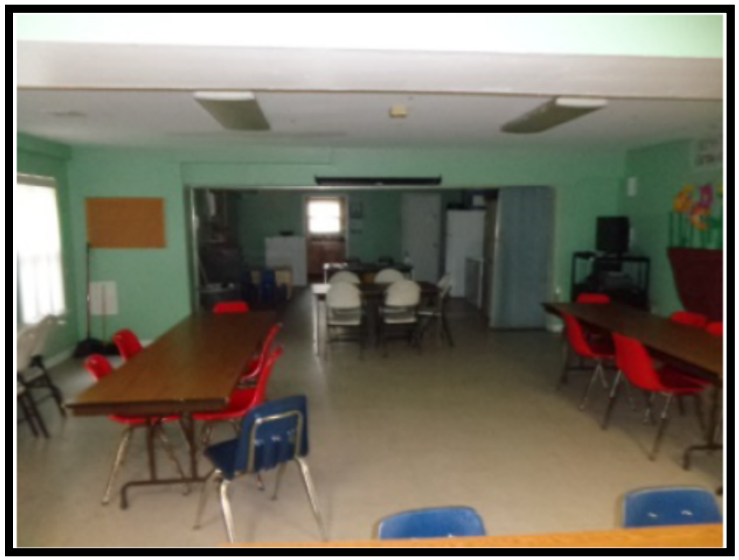
HOC purchases SFH to create more frontage and add five new homes.

Opportunity to realign road and create town square.

# Washington Square & Emory Grove

Washington Square, Emory Grove, and Camp Hill Square (an HOC-owner, former-Section 236 property) place 155 deeply affordable units all within an eighth of a mile.


- Camp Hill Square
  - More than half of occupied units receive subsidy.
- Emory Grove
  - 100% Public Housing; 75% below 30% of AMI.
- Washington Square
  - 100% Public Housing; 75% below 30% of AMI.

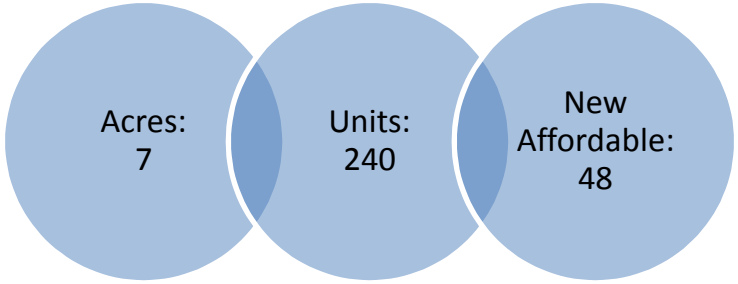


Washington Square Community Room (Pre-renovation)

# Washington Square & Emory Grove

- All residents of Emory Grove permanently relocated with their post-RAD conversion subsidy to newly renovated, HOC owned scattered site units.
- Approximately 30 households from Washington Square voluntarily did the same.
- Camp Hill Square remains in operation but will be decommissioned as redevelopment approaches.

Emory Grove/Camp Hill Redevelopment



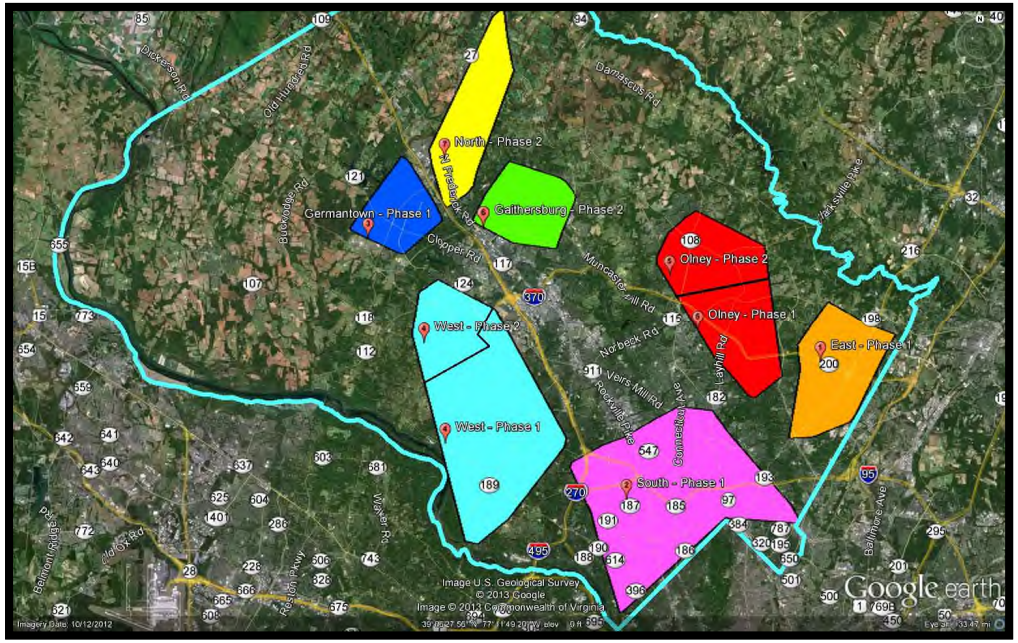

| | |
|---|---|
| Camp Hill Square | • To be redeveloped with Emory Grove. |
| Emory Grove | • To be redeveloped with Camp Hill Square. |
| Washington Square | • Market rate: 60%; PBRA: 40%. |

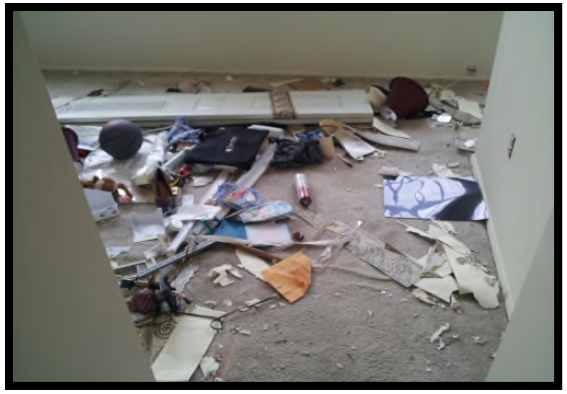
Washington Square Community Room (Post-renovation)

# WS/EG Relocation Units: Before

- Relocation units are the former scattered site Public Housing units owned by HOC.
- Disposition from the Public Housing program allowed HOC to reinvest in these properties.
- County championed the project.
- Ultimately, community succeeded in making the property invisible from the main thoroughfare.

Amount Reinvested
$42MM



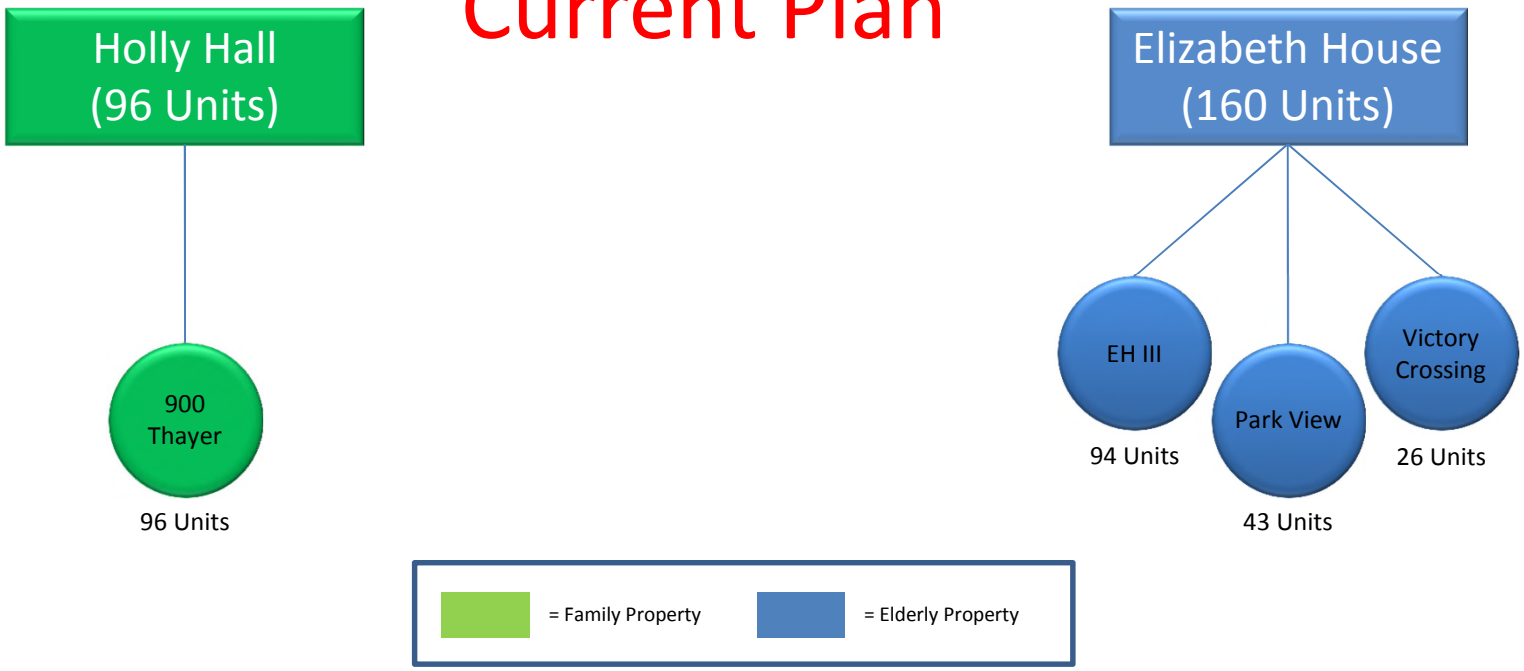
# WS/EG Relocation Units: After

## COMPREHENSIVE SCOPE COMPONENTS

- Exterior: roof, gutters, siding
- Accessibility: numerous site and unit improvements
- Windows: new dual-pane, Low-E
- Systems: new high-efficiency HVAC
- Kitchens: new cabinetry, new fixtures
- Bathrooms: new toilet, new sink/tub, new fixtures
- Finishes: new floors, fresh paint
- Lighting: modern fixtures, LED bulbs, overhead light
- Appliances: all new, Energy Star

# Final RAD Conversions

## Current Plan




| HOLLY HALL | | | | | |
|---|---|---|---|---|---|
| **Relo. Property** | ***1BR*** | ***2BR*** | ***Total*** | ***Cost ($)*** | ***Cost ($/Unit)*** |
| *900 Thayer* | **54** | **42** | 96 | **$7,435,764** | $77,456 |
| | **54** | **42** | **96** | **$7,435,764** | **$77,456** |

COSTS: $17,235,764

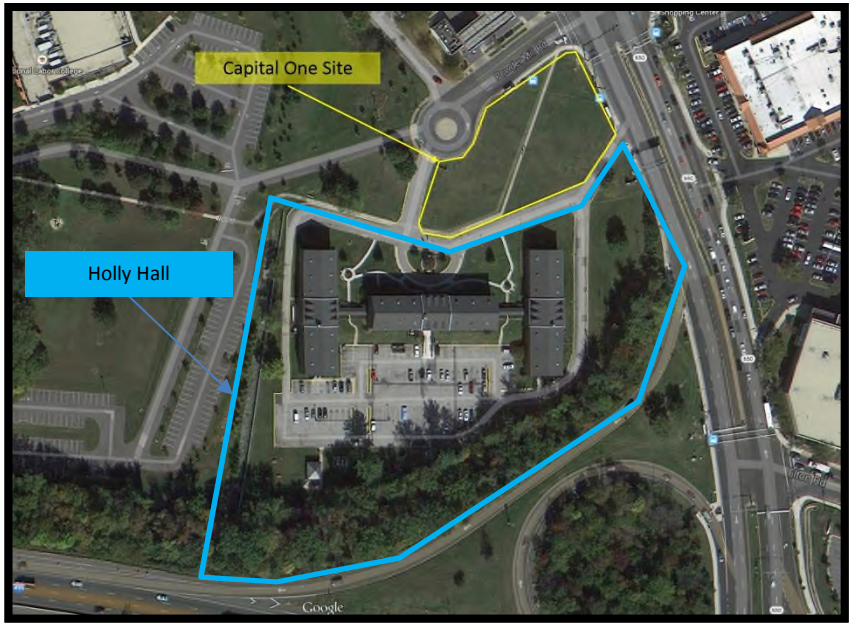
| ELIZABETH HOUSE | | | | | |
|---|---|---|---|---|---|
| **Relo. Property** | ***1BR*** | ***2BR*** | ***Total*** | ***Cost ($)*** | ***Cost ($/Unit)*** |
| *EH III* | **94** | **0** | 94 | **$7,000,000** | $74,468 |
| *Park View* | **29** | **11** | 40 | **$1,000,000** | $25,641 |
| *Victory Crossing* | **17** | **9** | 26 | **$1,800,000** | $69,231 |
| | **140** | **20** | **160** | **$9,800,000** | **$61,250** |

# Holly Hall Relocation: 900 Thayer

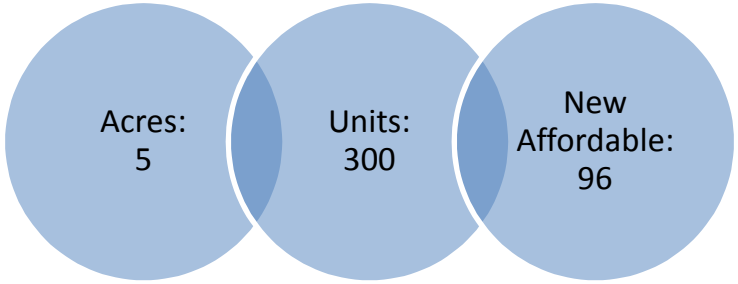
General Occupancy


96 Units

- All residents of Holly Hall will be permanently relocated with their post-RAD conversion subsidy to a newly constructed building in downtown Silver Spring.
- As part of the rezoning, HOC has committed to putting back 96 new affordable units as part of the redevelopment.



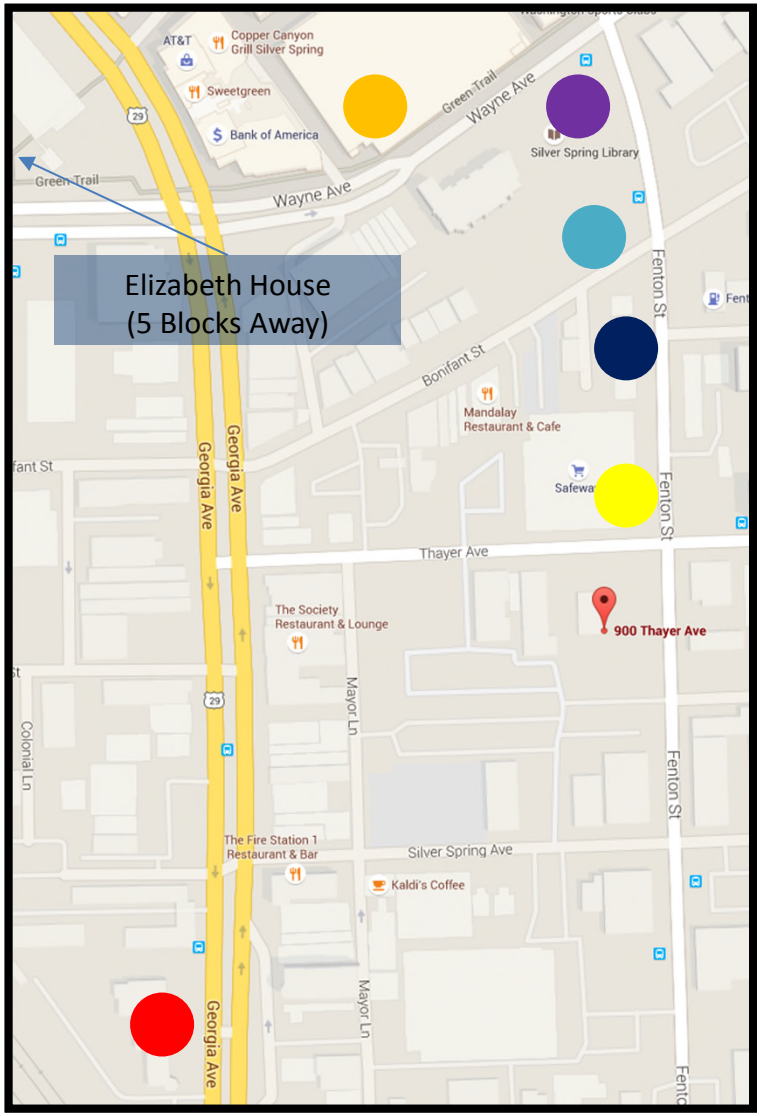

Holly Hall Redevelopment



# Holly Hall Relocation: 900 Thayer

New construction: 124 Units (96 PBRA; 28 market rate)

- Future Purple Line Station
- New Silver Spring Library/The Bonifant
- Loft 24 Condominiums
- Downtown Commercial Core
- Safeway Grocery Store
- Silver Spring Fire Station



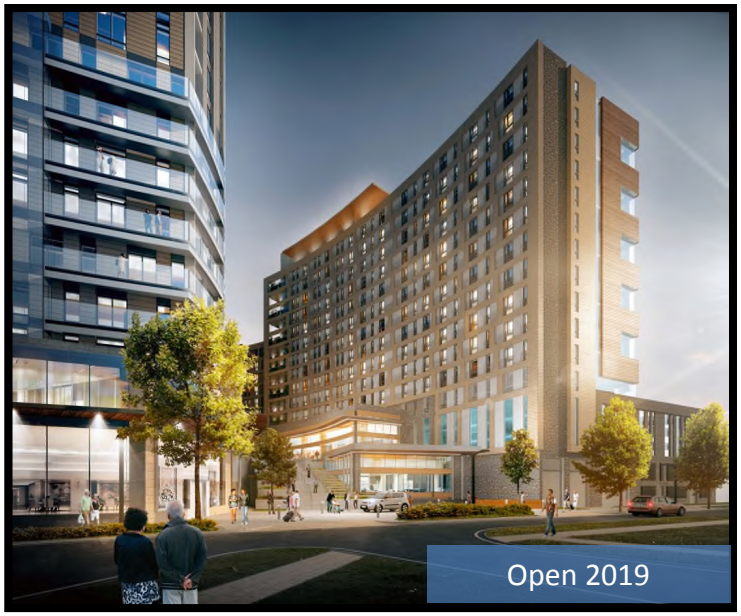
# Elizabeth House Relocation: Next Door

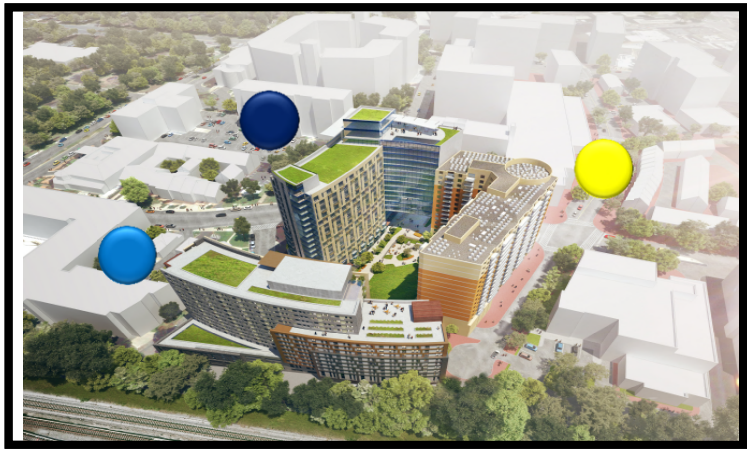
ELIZABETH HOUSE

Downtown Silver Spring

Majority of residents will move next door into the new building, once complete

Elizabeth House III



- Alexander House (Existing): 311 family units
- 100% HOC owned, 69 affordable units (to be increased to 124).

- Elizabeth House III (to-be-built): 255 senior units
- 100% HOC controlled, 94 affordable units.

- Elizabeth House IV (to-be-redeveloped Elizabeth House I): 274 units
- 100% HOC owned, 55 affordable units.

# Elizabeth House Relocation: Other Choices

Victory Crossing

| Square-footage Comparison | | | |
|---|---|---|---|
| Type | HH SF | VC SF | Incr. (%) |
| 0/1 | 380 | N/A | N/A |
| 1/1 | 490 | 681 | 39% |
| 2/2 | 670 | 903 | 35% |

Park View at Aspen Hill

| Square-footage Comparison | | | |
|---|---|---|---|
| Type | HH SF | AH SF | Incr. (%) |
| 0/1 | 380 | N/A | N/A |
| 1/1 | 490 | 659 | 34% |
| 2/2 | 670 | 899 | 34% |

Sourcing relocation housing from the County's existing pipeline of senior housing holds advantages for both HOC and the current residents of Holly Hall:

**Choice & Diversity**

- Residents at Holly Hall will have at least two choices of location using this approach.
- Dispersion of what are now Public Housing units will place residents in communities with a greater mix of incomes.

**Bandwidth**

- Efficiently leveraging third-party resources, this approach adds minimally to staff responsibilities.
- Under the Exchange Scenario (see Page 13), each of these experienced private developers can aid HOC on other portfolio rehabilitation projects.

**Financing**

- Both projects have secured soft loans from the County likely leaving little need for further HOC cash contribution.
- HOC will not be required to make any typical guarantees of the debt or equity.

# RAD Conversion Outcomes

Net gain in new units:

812

Existing residents served:

2,000+

Reduction in average property age:

17 years

Affordable Concentration:

100%

BEFORE

Combined new and re-investment in Montgomery County housing:

$230MM

HARD COSTS ONLY

Affordable Concentration:

56%

AFTER

Percentage gain in affordable units:

22%

New residents able to be served:

500

New construction jobs:

Hundreds

# OVERVIEW

—Background on Mod Rehab Contracts

—RAD Conversion Opportunities

—PBV v PBRA in Mod Rehab

—Benefits/Obligations of PHA

—Federal Requirements

NP

# MOD REHAB CONTRACTS

— **History**

- Originally approximately 25,000 units
- Est. in 1978 in Section 8 statute
- Different from other project-based contracts

— **How they work**

- Administered by PHA's
- Renewed under MAHRA
- One year terms, rents set to effectively 100% of FMRs

NP

# RAD CONVERSION OPPORTUNITY

— Mod Rehab conversions to PBRA or PBV facilitates LIHTC preservation transactions

— **Status of RAD conversions**

- Not many done
- Now only Component 2 (non competitive / TPV)

— Prospective versus Retroactive (after 2006)

NP

# PBV VERSUS PBRA

— Term: 15 versus 20 years

— Administration: PHA versus HUD

— Initial rent setting: PBV rules versus same MR rents

— Rent increases: FMR increase/decrease versus OCAF & MAHRA renewal

— Choice Mobility

NP

# BENEFITS TO PHA OF RAD CONVERSION

— Ease of administration: combination of contracts

— Residents benefits:

- Long term subsidy versus annual renewals
- Sub rehab and social services and housing choice

— Project benefits from financial and regulatory oversight of additional and private parties

— PHA receives new HCV's and conversion does not count against PHA limitations on project-basing

— PHA receives one-time special management fee ($250 per unit) for the new vouchers

NP

# PHA OBLIGATIONS

— Pre-selection inspection: units substantially meet HQS

— Initial rent setting

— Income eligibility determination

— HQS inspections: units fully meet HQS prior to HAP execution

NP

# PROCESS & TIMELINE (4-6 MONTHS)

— Initial submission of interest

— Resident consultation

- Written notice, 2 resident briefings, 51% of residents support, summary of process to HUD, written notice of approval

— Within 30 days of ISI HUD selects PHA

— Within 30 days of HUD selection PHA accepts or declines

— Financing plan submission & approval (60 day review)

— Closing of financing and HAP execution

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# FEDERAL REQUIREMENTS

- Davis-Bacon
- PCNA
- Environmental Review
- Accessibility & Relocation
- Green building
- Site selection and neighborhood standards (PBV)

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on the dynamic affordable
housing industry, visit our blog:
housingblog.nixonpeabody.com


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# QUESTIONS?

NIXON PEABODY

HAND 25TH YEAR ANNIVERSARY