

## **Commercial Financing of Apartment Projects**

### **HUD 221 (d) (4) Program – The Only Game in Town**

Over the past few months I have received several calls from existing and potential clients about legal representation for HUD apartment new construction financed transactions. The HUD apartment program is described in Section 221 (d) (4) of HUD's Federal Housing Administration (FHA) multifamily mortgage insurance program. For several years (especially in the first few years of this decade), I had one of these types of construction projects going on all the time. Clients had found the process cumbersome, but it allowed for a longer amortization, and more favorable terms than conventional loans. Many developers were open to wading through the added time and expense to realize longer term benefits. In more recent years, however, this type of representation had basically dried up for me, with conventional mortgage loans readily available for all types of new construction. Though the amortization period in the HUD loan has always been favorable, other less desirable characteristics (such as unbelievably long processing times, and cumbersome underwriting issues) steered clients away from this financing mechanism because of the relative ease of finding alternative quick conventional sources.

Because of the way the process works, if you move forward on this type financing, you will be dealing with a special HUD approved lender from the outset. Though these special lenders charge high fees for the services they provide, your need to have direct contact with the HUD office, and the need to know the minutiae of the government program will be reduced. Your legal counsel will handle most of the extensive legal paperwork needed.

I have read in recent months that developer inquiries are way up for this HUD program, one claim being that it is sevenfold. In two recent articles I have read, due to the difficulty in obtaining new construction financing of any sort, this program has been represented as "the only game in town" for multifamily housing acquisition and refinancing. If you are a developer who has considered and developed condominium in the past years but now find that lending options are limited, you might consider this HUD program for financing a slightly different type of ownership and occupancy.

The process is represented generally as taking 10 months, but in fact a developer considering this process should understand that it might take up to 12 months. In any event, without the option of conventional sources, unless a developer has a pool of rich accredited friends (see my other blogs on private placements), this truly may be the only game in town.

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