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Assess Your Rights and Duties at Year 15

IPED's Tax Credit Property Dispositions Conference

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

The players and the goals

Developer

**Monetize position in asset
(sell), Buy out LP (hold)**

Syndicator

**Unwind investments. Facilitate
transaction.**

- / Help investor unwind
investment / maximize value
(fiduciary)**
- / Help developer meet their
goals with asset**

Investor

**Maximize value / Unwind
investments**



Residual Value

Property Value

Net Operating Income (NOI) divided by a cap rate equals property value.

NOI: \$1,350,609

Cap Rate: 5.25%

Property Value: \$25,725,886

Less:

Sales Costs: \$1,157,665

Debt: \$4,552,902

Potential Net Sales Proceeds: \$20,015,319

Property Value Analysis

Determine a Proforma NOI/Expense Analysis

Analyze current rents relative to market and max tax credit.

AMI Growth rates for region – what type of rent growth can we justify?

Existing Debt/New Debt or Assumption

What are immediate capital needs at the property?

Balance Sheet (deferred developer fee, cash and large reserves)

Third Party Opinions of Value

Residual Value

In syndicated deals, properties are held in partnerships. Partners include a developer/general partner (GP) and an investor limited partner (ILP).

Each party is entitled to residual economics for its interest- usually triggered by a capital transactions event, as defined in the Partnership Documents (LPA, Purchase Option, ROFR Agreement).

The value of the ILP and GP interest is arrived at through quantitative and qualitative analysis.

Partnership Document Analysis

Partnership Agreement/Amendments

GP Buyout Options

Right of First Refusals (non-profit, statutory, and tenant)

Debt Documents

LURA /Regulatory Agreements

Developer Agreement

Year 15 Disposition Analysis

Financial Analysis/Third Party Valuations

Partnership Document Analysis- Determine the value driver

ILP & GP Leverage/Limitations

Investor/Fund Considerations

ILP Rights

Forced sale right (strength and timing)

LP Put Option

LP right to sell its interest without GP consent

Upcoming Debt Maturity

Refinancing consent right

Large Deferred Developer Fees

Valuing the ILP/GP Interest

Waterfall vs. Capital Accounts

Buyout Option Price

ROFR Price

Qualified Contract Price



Case Studies

An Overview of the Disposition Process



Sample – Partnership Language

Section 15.3 Distribution of Assets

- a) Upon dissolution and termination, after payment of, or adequate provision for, the debts and obligations of the Partnership pursuant to Section 11.2(a) through and including 11.2(c), the remaining assets of the Partnership shall be distributed to the Partners in accordance with the positive balances in their Capital Accounts, after taking into account all allocations under Article X hereof.

- b) In the event that a General Partner has a deficit balance in its Capital Account following the liquidation of the Partnership or its Interest, as determined after taking into account all Capital Account adjustments for the Partnership taxable year in which such liquidation occurs, such General Partner shall pay to the Partnership the amount necessary to restore such deficit balance to zero in compliance with Treasury Regulation Section I. 704-1 (b)(2)(ii)(b)(3).

Sample – Partnership Language (con't)

Section 11.2 Distribution of Sale or Refinancing Proceeds

Sale or Refinancing Proceeds shall be distributed in the following order:

- a) to the payment of the Mortgage and other matured debts and liabilities of the Partnership, other than accrued payments, debts or other liabilities owing to Partners or former Partners;
- b) to any accrued payments, debts or other liabilities owing to the Partners or former Partners, including, but not limited to, accrued Reporting Fees and Operating Loans, to be paid prorata if necessary;
- c) to the establishment of any reserves which the General Partner, with the Consent of the Special Limited Partner, shall deem reasonably necessary for contingent, unmatured or unforeseen liabilities or obligations of the Partnership;
- d) thereafter, 30% to the Limited Partner and 70% to the General Partner.

Sample Waterfall Calculation

DISTRIBUTION OF SALE PROCEEDS					
	Gross Sales Price				\$ 3,100,000
	Less: Selling Costs				\$ 155,000
	Less: Other				\$ -
	Net Sales Price				\$ 2,945,000
Section 11.2 (a)	Less: All debts and obligations of the Partnership (other than Partner or former Partner liabilities)				\$ 2,256,132
Section 11.2 (b)	Less: Partner or former Partner liabilities				\$ 359,496
Section 11.2 (c)	Less: Reasonable reserves				\$ -
	Net Proceeds				\$ 329,372
Allocable Split between Partners in accordance with positive Capital Accounts					
Section 11.2 (e)	Allocation to General Partner				\$ 230,560
Section 11.2 (e)	Allocation to Co-General Partner				\$ -
Section 11.2 (e)	Allocation to Limited Partner				\$ 98,812
Section 11.2 (e)	Allocation to Special Limited Partner				\$ -
					\$ 329,372
PROJECTED GAIN CALCULATION					
	Net Sales Price				\$ 2,945,000
	Adjusted Basis of Property				\$ 1,663,690
	Gain (Loss) on Sale of Property				\$ 1,281,310
	Disposition Fee				\$ -
	Net Gain (Loss) Allocated to Partners				\$ 1,281,310
Allocation of Gain (Loss)	GP	Co-GP	LP	SLP	TOTAL
Beginning Capital Account (12/31/2015)	\$ (572,036)	\$ -	\$ (223,756)	\$ (44)	\$ (795,836)
CY Distributions	\$ -	\$ -	\$ -	\$ -	\$ -
CY Projected Tax Income (Loss)	\$ (16)	\$ -	\$ (156,071)	\$ (16)	\$ (156,102)
Projected Ending Capital Accounts	\$ (572,052)	\$ -	\$ (379,827)	\$ (60)	\$ (951,938)
Gain on Sale	\$ 802,612	\$ -	\$ 478,638	\$ 60	\$ 1,281,310
Capital Account Balances after Sale	\$ 230,560	\$ -	\$ 98,812	\$ -	\$ 329,372

Sample – Partnership Language (con't)

Section 10.2 Allocations From Sale or Refinancing.

All Income and Losses arising from a Sale or Refinancing shall be allocated between the Partners as follows:

- a) As to Income:
 1. first, an amount of Income equal to the aggregate negative balances (if any) in the Capital Accounts of all Partners having negative Capital Accounts (prior to taking into account the Sale or Refinancing and the Distribution of the related Sale or Refinancing Proceeds, but after giving effect to Distributions of Net Operating Income and allocations of other Income and Losses pursuant to this Article X up to the date of the Sale or Refinancing) shall be allocated to such Partners in proportion to their negative Capital Account balances until all such Capital Accounts shall have zero balances; and
 2. the balance, if any, of such Income shall be allocated to the Partners in the proportion necessary so that the Partners will receive the amount to which they are entitled pursuant to Section 11.2 hereof.
- b) Losses shall be allocated 99.98% to the Limited Partner, 0.01% to the Special Limited Partner and 0.01% to the General Partner.

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 — Early Exits

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 Exits

Fair Market Value (BOV)	\$	30,000,000	
Plus:			
Cash/Reserves	\$	500,000	
Cash Proceeds	\$	30,500,000	
Less:			
Est. Closing Costs	\$	(200,000)	
Broker Commission	\$	(300,000)	
Mortgage Balance	\$	(15,000,000)	
Deferred Development Fee	\$	-	← DDF would be absent from waterfall at Y15 so removed
Prepayment Penalty	\$	-	← No Prepayment Penalty after Y15 so removed
Distributable Proceeds	\$	15,000,000	
20% to LP	\$	3,000,000	
LP Interest Purchase Price	\$	3,000,000	

Thank you!



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