The Housing Outlook

Affordable Housing | Finance
News | Developments

Winter 2020

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Downs Pham & Kuei LLP

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Greetings From the Editor

Downs Pham & Kuei LLP (DPK) welcomes you to our most recent issue of *The Housing Outlook*, the newsletter devoted to understanding and navigating the affordable housing industry. Throughout our country's history, and especially during the last century, federal, state, and local governments have included housing affordability at or near the top of their priority lists. Since President Roosevelt signed the first U.S. Housing Act in 1937, the federal government has endeavored to provide both capital and creative financial support in an effort to ensure that every American can afford to live in relative comfort and safety.

In the 1930's, government agencies focused on the single-family housing market, helping to create construction jobs and regulating lenders so that more people could afford to purchase a house. In 1949, Congress adopted Section 23 (later Section 8), which acknowledged the trend away from homeownership by providing assistance to low-income renters. In 1968, when the government could no longer ignore the accelerating need for affordable rental housing, Congress adopted the first iteration of Section 236, which provided HUD-subsidized bank loans to private developers of affordable housing projects.

Since the sixties, in a not-always-successful effort to keep pace with an ever-growing need for affordable housing, the industry has morphed into a complex web of subsidies, municipal bonds, and tax credits. In this edition of our newsletter, we cover a broad range of topics related to affordable housing that we hope you find interesting and relevant to your current business experiences and needs. You will find a bird's-eye review of the current state of the industry, as well as more in-depth discussions of current financing and development tools, including innovative construction techniques, creative attempts to assuage the homelessness problem, and the evolution of the private activity bonds and tax credits as the go-to financial tools for stimulating development of affordable housing.

We hope you enjoy this edition. Please feel free to contact DPK for additional information or clarification.

Cheers,

—Geoffrey M. Geddes, Editor-in-Chief

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Affordable Housing in the New Decade

Tuan "Tune" Pham

As we reflect on the past decade, it is difficult to ignore the fact that it has only been ten years since our economy was in the nascent stages of recovery from a crisis caused by the housing market. As we enter a new decade, we find ourselves in the midst of a new housing crisis – a crisis of affordability. While the signs of the pending crisis (albeit a different type of crisis) may be less overt than those leading up to the Great Recession, they exist and spread with each passing day.

The Affordable Housing Crisis is Here

The affordable housing crisis is pervasive. It is generally considered unsustainable for a household to pay more than 30 percent of its monthly income toward housing costs. Yet, nationwide estimates put almost half of families who rent and a quarter of homeowners over that benchmark, declaring them "cost burdened." Moreover, the affordable housing crisis has migrated across income levels. Available data estimates that 77 percent of families earning between $15,000 and $29,999, 53 percent of families earning between $30,000 and $44,999, and 25 percent of families earning between $45,000 and $74,999 are cost burdened. These alarming numbers not only continue to grow but are accelerating due to an increasing lack of affordable housing supply.

According to the most recent report from Harvard's Joint Center for Housing Studies, the number of low-cost rental units (defined as those renting for under $800 per month) have decreased by a staggering 17 percent since 2011. Only 9 percent of new apartments in 2018 rented for under $1,050, and less than 4 percent rented for less than $850. During the past decade, less than 3 percent of all new apartment units were affordable to a median income renter. Adding unnecessary fuel to this fire, it is estimated that the affordability restrictions on nearly 1.2 million units are set to expire by 2030. This ill-fated confluence of a growing population of cost burdened families, a paltry existing affordable housing stock, and a pending loss of affordable units through expiring restrictions highlights the urgent need to increase the supply of housing affordable to working-class and low-income families across the nation.

Impediments to Housing Supply

Increasing the supply of affordable housing is no small task. Construction costs continue to soar across the entire industry. Construction costs encompass, among other things, labor, land, and regulatory costs, each of which has surged during the past decade. Labor costs have increased dramatically not only in the construction trades, but also in other trades that connect to housing, such as transportation, distribution, and manufacturing. The costs of construction materials such as steel and aluminum have risen dramatically. Land prices and permitting fees have both followed a similar upward trajectory, steadily increasing during the last 10 years and skyrocketing in most urban markets. For instance, a 2018 report by Freddie Mac revealed that in certain markets in California, the cost of land could be more than 70 percent of the cost of building a home. Additionally, regulatory costs have increased by almost 30 percent in just the first half of the last decade. Many developers and builders facing this reality have understandably focused on higher rent housing as a business economic necessity.

> "Nationwide estimates put almost half of families who rent and a quarter of homeowners over [the affordability] benchmark, declaring them "cost burdened."

The Pending Challenge

The affordable housing gap will be one of the country's greatest challenges in the coming decade. How can we effectively meet this challenge? What sort of incentives or policies might move the needle? As with any issue of this magnitude, the answer is necessarily multifaceted and must address the entire affordable housing ecosystem.

An obvious starting point would be to expand existing successful affordable housing programs such as the LIHTC program. Expansion of the housing tax credit would result in additional institutional equity available for development of affordable housing. This solution was proffered by Congress in a bipartisan bill introduced last year (see article in this newsletter entitled "The Affordable Housing Credit Improvement Act of 2019"), but ultimately did not make it into the final tax package signed by the President. However, the fact that some revisions to the LIHTC program made it to final negotiations between Congressional leadership and the White House may be cause for optimism. At a more local level, some states, like California, have expanded state incentives such as state tax credits and bond allocations for affordable housing developers focusing on new construction (see article in this newsletter entitled "CDLAC Competitive Rounds: What You Need to Know"). Another oft-discussed proposal would be to ease qualifying income restrictions to allow more developments to be eligible for federal assistance -- in other words, we should consider whether 60 percent AMI is too restrictive a ceiling for LIHTC and bond deals. Lastly, at the local level, communities could seek to ease unduly restrictive zoning and lower permitting fees to help incentivize developers to build affordable housing.

We could also seek to increase the funding available for housing vouchers, since currently three out of four families eligible for such vouchers are not receiving them. Another remedy might be to address the vouchers that do exist by increasing the allowable fair market rents to assist families in higher rent and higher opportunity communities. Moreover, additional funding does not have to be restricted to just federal and state funding. On the West Coast, many major technology companies such as Apple, Google, and Microsoft have collectively pledged billions to the affordable housing cause. Such corporate leadership should be commended and encouraged.

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Off-site Construction

Is it Finally Ready for Prime Time?

Gary P. Downs

The housing construction industry seems uniquely impervious to the technical and procedural innovations that have revolutionized so many other industries during the past century. Participants in the tough, complicated, risk-laden business of constructing affordable housing have discussed the theoretical advantages of off-site construction for decades. The few ground-up developers who have tried the technique usually regale their compatriots with stories riddled with complaints about delayed delivery and issues with prevailing wage, insurance, and development cash flow timing, among others. Perhaps, however, the turning point has finally arrived. Familiar names in the affordable housing industry are creating factories dedicated to off-site construction: one is located in Idaho and another in Northern California. Today, more projects than ever are using these construction techniques. In this article we describe some of the most current and popular topics being discussed by development teams when considering off-site construction.

Ikea vs. Lego

We generally refer to the off-site process as “modular construction,” but really it breaks down into two different types of construction. The first technique involves using cross-laminated timber to produce certain components of a project. These components are shipped from the manufacturing facility and then assembled on-site. This approach is akin to buying a furniture kit at Ikea and assembling it at home. The second technique generally uses steel and provides boxes that stack on site. This approach is similar to playing with Legos. One manufacturer utilizing the second technique boasts that it can produce an apartment unit at an all-in cost of $125,000 per door, including on-site assembly. By contrast, in Seattle, all-in unit costs typically exceed $300,000 per door.

Time Savings

Historically, affordable housing developers have been advised to look for savings not in material and labor costs but in shortening the construction timeline. A quicker development timeline means quicker lease up, which in turn reduces the cost of construction financing and any other gap financing.

Well, sure, shortening the construction timeline provides an obvious advantage, assuming manufacturers can keep up with demand. Unfortunately, DPK has been involved in a number of modular projects in which construction was not completed sooner than it would have been if conventional methods had been used, due primarily to manufacturer timing and transportation complications.

Recent reports from various developers indicate that certain manufacturers have resolved these timing issues. These manufacturers, however, often require forward payments, to which lenders are not accustomed. Under the standard draw process, a percentage of the construction is complete, inspected, and on-site before the lender permits a draw. Lenders are, however, becoming comfortable with the new payment process as they develop trust and a history of underwritten credit with these manufacturers. Additionally, many of the current startups in the business of off-site production have name credibility with lenders and investors.

"Affordable housing developers have been advised to look for savings not in material and labor costs but in shortening the construction timeline."

Construction Savings

Certain off-site manufacturers are boasting more than 50 percent savings in labor, materials, and consultants. They achieve these savings by completing much of the design and engineering off-site and including it in the product price. The advantages are obvious - labor needn't be housed in expensive cities, and the design, engineering, building, and assembly can be streamlined. With much of the labor performed off-site, it is also likely that prevailing wage will not apply to the manufacturing process. Additionally, due to the mass assembly processes, materials can be bought in bulk, making them significantly cheaper.

Gotchas

The big gotchas are local permitting approvals and manufacturer performance. According to an article recently published by Sightline Institute, an independent research and communications think tank:

> "Officials with the Seattle Department of Construction and Inspections, Seattle City Light, and the state Department of Labor and Industries—which got involved because OneBuild wanted to use prefabricated modular units from China—say Sperling's plans simply violated their rules. Overseas (and even out-of-state) modular construction can lead to permitting problems when units do not conform with local regulatory requirements, such as minimum water heater sizes, fire and safety standards, and environmental requirements."

As another example, a recent project in Hayward, California has been waiting for modular components and, due to that wait, will have spent close to a year and a half in construction.

Although proponents of off-site construction have argued that the cheaper building costs should decrease market rate rent, this really hasn't been the case. High rent markets suffer from constrained land supply and lengthy and expensive land use approval processes. Off-site construction does nothing to address those issues.

Nevertheless, off-site construction has become a viable option for affordable housing construction. As manufacturers continue to perfect their processes and shorten their delivery times and as lenders become more comfortable with the new payment structures, developers who can successfully incorporate off-site construction into their plans will continue to realize increased returns. DPK looks forward to helping our clients incorporate this revolutionary approach into more of their projects in the future.

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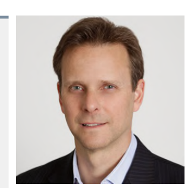

Building Equitable Infrastructure

Addressing California's Homelessness Crisis

Daniel A. Felix

With the recent growth in California's homeless population, state and local government efforts have focused on incentivizing and subsidizing the development of supportive housing and service facilities. Given the latest estimates of the number of people experiencing homelessness in California, however, governmental strategies have proven to be challenging. According to a recent report issued by the U.S. Department of Housing and Urban Development (HUD), California has more than half of all unsheltered homeless people in the country (approximately 108,432 people). According to HUD, a staggering 151,278 people (both sheltered and unsheltered) in California are experiencing homelessness.

State Measures

"The State of California is treating homelessness as a real emergency – because it is one." ~Governor Gavin Newsom

At the state level and in addition to the bills signed into law in 2019 to fuel new housing development, last month California Governor Gavin Newsom issued Executive Order N-23-20 (Executive Order), which created the new California Access to Housing and Services Fund (CAHS Fund) that will provide more than $1 billion to combat homelessness in the upcoming state budget. The office of the Governor has characterized the Executive Order as a "comprehensive crisis response strategy." In discussing the state's efforts embodied by the Executive Order, Governor Newsom stated that the "State of California is treating homelessness as a real emergency – because it is one. Californians are demanding that all levels of government – federal, state, and local – do more to get people off the streets and into services – whether that's housing, mental health services, substance abuse treatment, or all of the above."

As it relates to the state's housing efforts, the Executive Order requires that:

- Certain state agencies develop, by February 28, 2020, accountability metrics for state agencies and local partners to assess the use of the state resources in the Executive Order and their impact on reducing street homelessness and increasing housing options.
- The CAHS Fund be established to receive future appropriations for affordable housing units, provide rental and operating subsidies, and stabilize board and care homes.
- Housing options for homeless populations be increased.
- The Department of Transportation develop and share a model lease template to allow counties and cities to use Caltrans property adjacent to highways or state roads on a short-term emergency basis to provide shelter to homeless populations.

Local Measures—Proposition HHH

At the local level, cities and counties are also striving to combat the homelessness issue. In 2016, for example, voters in the City of Los Angeles passed Proposition HHH (HHH), which authorized the City to issue $1.2 billion in general obligation bonds to partially subsidize the development of up to 10,000 supportive housing units for individuals and families experiencing homelessness.

HHH funds can also be used for the development of affordable units; however, HHH regulations require that no more than 20 percent of the bond proceeds be used for affordable housing. It should also be noted that the Los Angeles Housing + Community Investment Department (HCID) must be the issuer of the bonds on HHH projects. Proposed developments under HHH must serve extremely and very low income, chronically homeless special needs individuals and veterans, homeless families, homeless transition-aged youth, homeless seniors, homeless disabled, and homeless frequent users of Los Angeles County services. Under HHH regulations, funds can generally be used for acquisition and predevelopment reimbursement and construction-related costs. HHH regulations do not permit the funding of acquisition or rehabilitation projects. Loan terms are generally set at three percent simple interest at 55 years. All projects receiving HHH funds will also be encumbered by a 55-year affordability covenant, regardless of when the loan is repaid. HCID may lower the interest rate for certain projects utilizing 4 percent low-income housing tax credits.

As Governor Newsom has stated, local government is critical to implementing homelessness solutions. To this end, approximately 110 homeless housing developments in the City of Los Angeles have been brought into the HHH development pipeline. These developments will account for more than 7,400 housing units. For some, however, the length of time needed to build these units is too long. It is estimated that a general timeline for completing a project utilizing HHH funds runs approximately three to six years. According to the City of Los Angeles Controller (Controller), HHH funds represent approximately 30 percent of total development costs for City-approved projects.

Despite the City's goal of developing more homeless infrastructure, today there is a shortage of necessary housing units for people experiencing homelessness. During its audit of the HHH program, the Controller found that high construction costs and burdensome approval processes prevent the HHH program from delivering on its promise of solving the homelessness crisis. The Controller's audit reports that to date only 19 projects (892 supportive housings units and 368 affordable units) are in construction, and as of October 2019 no HHH funded projects have been developed.

This article focuses on selected provisions of the Executive Order and Proposition HHH and is not intended as a comprehensive study of the Executive Order and Proposition HHH. Please contact DPK to navigate through these rules and programmatic requirements.

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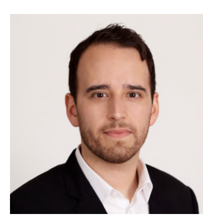

CDLAC Competitive Rounds

What You Need to Know

Irene C. Kuei

The volume cap for private activity bonds allocated to each state is calculated based on the state's population size. California's population as recently reported by the U.S. Census Bureau is 39,512,223, resulting in a state ceiling of $4,148,783,415 for 2020 (Total Volume Cap). At the January 15, 2020 California Debt Limit Allocation Committee (CDLAC) meeting, CDLAC allocated 79.34 percent of the Total Volume Cap to Qualified Residential Rental Projects (QRRP), 15.66 percent to the Non-Housing Pool, and reserved five percent of the Total Volume Cap for use at the discretion of CDLAC. The allocation is subject to reallocation at future CDLAC meetings if circumstances warrant such reallocation.

A further breakdown of the 79.34 percent of the Total Volume Cap allocated to QRRP is as follows: $2,334,425,456 allocated to the General Pool (i.e. projects with more than 50 percent of its total units designated as Restricted Rental Units), $749,780,135 allocated to the Mixed Income Pool (i.e. projects with 50 percent or fewer of its total units designated as Restricted Rental Units or as part of the California Housing Finance Agency Mixed Income Program), and $207,439,171 allocated to the Rural Project Pool (i.e., QRRP located in rural areas). The General Pool is further sub-allocated as follows: $1,424,692,225 allocated to the New Construction sub-pool, $522,317,512 allocated to the Preservation sub-pool, and $384,415,719 allocated to the "Other Affordable sub-pool" that is neither new construction nor preservation.

At the December 23, 2019 CDLAC meeting, the committee discussed the type of projects that would fall into the Preservation sub-pool versus the "Other Affordable sub-pool." The committee floated the idea that in order to fall into the Preservation sub-pool, a project will need to be truly at-risk of losing its affordability. As an example, a re-syndication project would not fall into the Preservation sub-pool in the view of the Committee and should probably fall into the "Other Affordable sub-pool." As of the date this article is written, CDLAC has not published any proposed regulation changes defining these varying sub-pools within the General Pool.

Tax exempt bond financing has been instrumental over the years in developing affordable housing for the State of California. The allocation of tax-exempt bonds to finance the development of affordable housing projects has been non-competitive for many years. At the end of 2019, however, California hit its private activity volume cap for the first time in decades, forcing CDLAC to turn the allocation of tax-exempt bonds into a competitive process starting in March 2020. The competitive allocation process jeopardizes the feasibility of many preservation and re-syndication projects. While preservation and re-syndication projects do not create new affordable housing units, these projects do require renovation due to aging, and incentives must be provided to developers to keep these projects affordable. However, less than 40 percent of the funds available in the General Pool is available for Preservation and Re-Syndication projects. The uncertainty has generated a lot of anxiety and has led to some developers choosing to not move forward with transactions where purchase and sale agreements have already been signed.

While more than 60 percent of the funds in the General Pool has been allocated to the New Construction sub-pool, new construction projects still face some challenges. Due to the limited availability of the Total Volume Cap, CDLAC limited the total allocation per project to $50,000,000. This allocation limit applies to both Preservation and Other Affordable Projects, making many new construction projects more risky.

Other rules relating to the competitive application process have been either proposed or adopted by CDLAC to ensure that only the most competitive projects move forward with the potential for a bond allocation. These rules include the following:

- No attachments or replaced attachments will be accepted after the application deadline.
- If a deficiency is identified in the application by CDLAC, the developer will have just one business day to respond and correct such deficiency.
- The term of the regulatory agreement will go from 55 years to 30 years from the moment the project reaches 50 percent occupancy.
- More points will be awarded to projects foregoing a portion of the developer fees.
- In the event of a tie score, the project with the lowest allocation per restricted unit is selected.
- Projects will be ranked from the highest to lowest score, and assigned to an analyst until the allocation for the round runs out.
- Staff will not defer applications to a later round.
- Difficult Development Areas (DDAs), both expiring and current, will be subject to competitive rules.
- CDLAC will not recommend any extensions to bond issuance deadlines.

"At the end of 2019 … California hit its private activity volume cap for the first time in decades, forcing CDLAC to turn the allocation of tax-exempt bonds into a competitive process starting in March 2020."

CDLAC is aware of the problems faced by the developers due to the scarcity of the Total Volume Cap and has been exploring mechanisms that may help alleviate these problems. For example, in the new proposed regulations, CDLAC indicated that it would post information gathered from the QRRP Self-Scoring Worksheet in ranked order on the Committee's website so that a developer that has submitted an application will have an early indication as to whether their project will be competitive, and plan accordingly.

CDLAC is also exploring the possibility of "bond recycling," which was made possible by the 2008 Housing and Economic Recovery Act. Bond recycling allows a volume cap previously used by a multifamily project where the loan has been prepaid to be used again for future multifamily financing, with the recycled capacity not counting against the State's volume cap. The bond recycling program has been used by a handful of the States, and most successfully in New York.

DPK will continue to monitor these developments at CDLAC and provide updates as they become available.

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The Affordable Housing Credit Improvement Act of 2019

Congress Tries to Make a Good Thing Better

Samantha S. Lee

The LIHTC arguably has become the most important federal financial resource for affordable housing in the country. Currently, nearly 90 percent of all new affordable housing projects include an LIHTC component.

In 2019, Senator Maria Cantwell (D-WA) and Representative Suzan DelBene (WA-1st District) introduced identical bills in their respective chambers of the United States Congress (S. 1703 and H.R. 3077) that comprise the Affordable Housing Credit Improvement Act of 2019 (the Bill). The Bill was drafted to expand and strengthen the current LIHTC program and consequently produce more units of affordable housing in the United States. According to recent government statistics, from 2000 to 2017, the total number of Americans facing extreme housing unaffordability ballooned from seven million to 10.7 million. If passed into law, the legislation in the Bill is expected to result in the construction of over a half million additional affordable housing units across the U.S. over the next decade – over 30 percent more units than are expected to be built if the Bill is not passed into law.

Over 30 years ago, President Ronald Reagan signed into law the Tax Reform Act of 1986, a comprehensive tax reform bill that, among other things, created a new tax credit designed to stimulate the development of affordable housing. The Low Income Housing Tax Credit, or LIHTC, provides an indirect federal subsidy for low-income affordable rental housing via a dollar-for-dollar reduction in federal tax liability to investors. The tax credit added just enough to a project's bottom line to incentivize private developers and investors to increase the production of desperately needed low-income housing. Since the program started, over three million affordable rental-housing units across the United States have been financed using LIHTCs, positively impacting over 7.4 million people, including families, seniors, veterans, and people with disabilities.

> "The Low Income Housing Tax Credit … provides an indirect federal subsidy for low-income affordable rental housing via a dollar-for-dollar reduction in federal tax liability to investors."

Among other changes, the Bill seeks to increase the amount of tax credits allocated to each state by 50 percent, stabilize the value of the 4 percent tax credit, and expand and reform the "recycling" of multifamily housing bonds.

The 50 percent increase of tax credits allocated to each state would result in the production of more than 384,000 additional affordable housing units in the next 10 years than would otherwise be created. At the LIHTC's inception in 1986, states received tax credit allocations equal to $1.25 per resident. This amount increased to $1.50 per resident in 2001 and increased again to $1.75 per resident in 2002. Additionally, the LIHTC program has been adjusted for inflation since 2003. The Bill proposes to phase in an increased dollar amount-to-resident ratio over the next five years. It also proposes to raise the minimum ceiling amount each year, which is the minimum amount that each state will receive in tax credits for the year. After the initial five years of gradual increases, the Bill proposes to institute a permanent increase after December 31, 2024.

Expanding and reforming the recycling of multifamily housing bonds will allow states to maximize the available resources of private activity bonds, hopefully resulting in an estimated 100,000 additional affordable housing units. Recycling tax-exempt bonds was first permitted under the Housing and Economic Recovery Act of 2008 (HERA). HERA permitted the reuse of tax-exempt bonds that are only needed for a few years. Certain bonds were being issued solely to complete construction of a project. After the project was placed into service, HERA permitted the developer to sell the tax credits and use the proceeds and other debt to retire the bond debt. HERA limited the use of these recycled bonds to "residential rental projects," thereby excluding their use for economic development and single-family programs and imposed restrictions, stating that the recycled bonds had to be issued within six months of the repayment of the original loan and could not be used with housing credits. The Bill proposes to eliminate this limitation, thereby permitting states to maximize the use of such recycled bonds.

"In December 2019, a bipartisan group of 45 Mayors across America called for action on the Bill."

In addition to producing more affordable housing units, the Bill includes legislation that would create veteran-specific housing options and more effectively target extremely low-income populations by increasing the amount of tax credits available to developments serving these populations. The Bill also includes provisions designed to better protect victims of domestic violence and stalking and to open affordable housing properties to low-income students. The LIHTC has had bipartisan support in the United States Congress for many years. As of the date of this newsletter, the Bill is still in the first stage of the legislative process – it has been read and referred to the Committee on Ways and Means and the Committee on Finance in the House and Senate, respectively. In December 2019, a bipartisan group of 45 Mayors across America called for action on the Bill, urging congressional leaders to include the legislation in any tax package considered by Congress by the end of the year. Unfortunately, the spending package that was signed on December 20, 2019 by President Trump did not include any provisions from the Bill. However, Democratic Presidential candidates Michael Bloomberg, Senator Amy Klobuchar (D-MN), and Tom Steyer have released housing plans that include the expansion of the LIHTC, so there is hope that at least part of the legislation proposed in the Bill will eventually be enacted.

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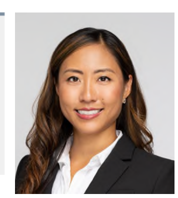

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Geoffrey Geddes has worked as a real estate and municipal finance professional for over 30 years and serves as the Senior Project Manager for the firm. Mr. Geddes provides front line support to our attorneys and clients, which includes title and survey review, land use and corporate due diligence, document review and preparation, interfacing with governmental officials, and closing coordination. Mr. Geddes has participated in a wide range of transactions, including residential, commercial, industrial, and mixed-use developments, tax-exempt bond issuances, special district financings, public-private partnerships, large-scale acquisitions and sales, affordable housing and nonprofit projects, and industrial and commercial leasing.

Our Practices

Purchase And Sale

We have extensive experience with the purchase and sale of real estate assets, and the acquisition and disposition of partnership interests, relating to tax-advantaged capital such as tax credits or bonds. In addition to negotiating purchase and sale agreements, we provide a full range of services such as due diligence, title, tax structuring, construction and architectural agreements, and debt and equity financing. Our experience encompasses purchases and sales at all stages of development, including acquisition and sale of land encumbered by public financing, to the purchase and sale of existing affordable housing acquired for rehabilitation and renovation.

Low-Income Housing Tax Credits

DPK attorneys assist both for profit and nonprofit developers in financing the acquisition, construction/rehabilitation and development of affordable, mixed-income and mixed-use multifamily housing projects using both federal and state low-income housing tax credits. Our attorneys are experienced in representing our developer clients on structuring and negotiating equity investments from tax credit investors in exchange for low-income housing tax credits.

Bond Transactions

DPK lawyers have represented developers and public agencies in numerous transactions involving private activity, 501(c)(3), and tax-exempt bonds. We have extensive experience implementing complex bond financing structures to acquire and develop public infrastructure in master planned communities, and affordable, mixed-income and mixed-use residential developments. Concurrently with bond financing, we routinely incorporate a wide variety of debt and equity sources into the capital stack, including private equity, federal and state low-income housing tax credits, historic tax credits, new market tax credits, federal grants, and FHA loans.

Historic And New Market Tax Credit Developments

We regularly counsel developer clients on the use of historic and new market tax credits for the financing and transformation of buildings into affordable, mixed-income, and mixed-use developments. We have extensive experience on marrying a diverse range of debt and equity sources with historic and new market tax credits financing, such as mixed-use buildings containing both multifamily housing and retail space.

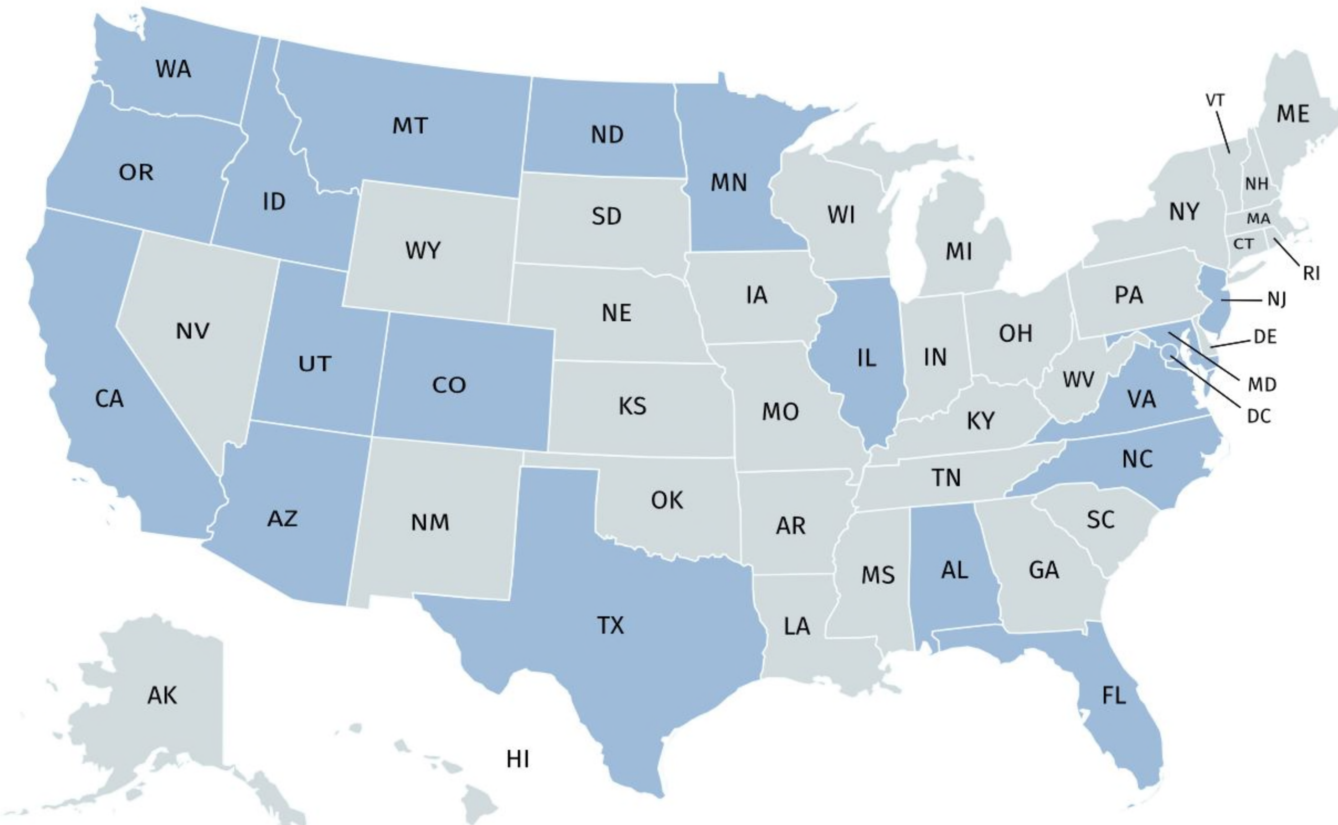
Solar, Wind And Renewable Energy

DPK attorneys are experienced in assisting both for profit and nonprofit developers in developing renewable energy projects that utilize investment tax credits and production tax credits. Our attorneys are experienced in structuring and negotiating Lease Agreements and Power Purchase Agreements on behalf of our developer clients.

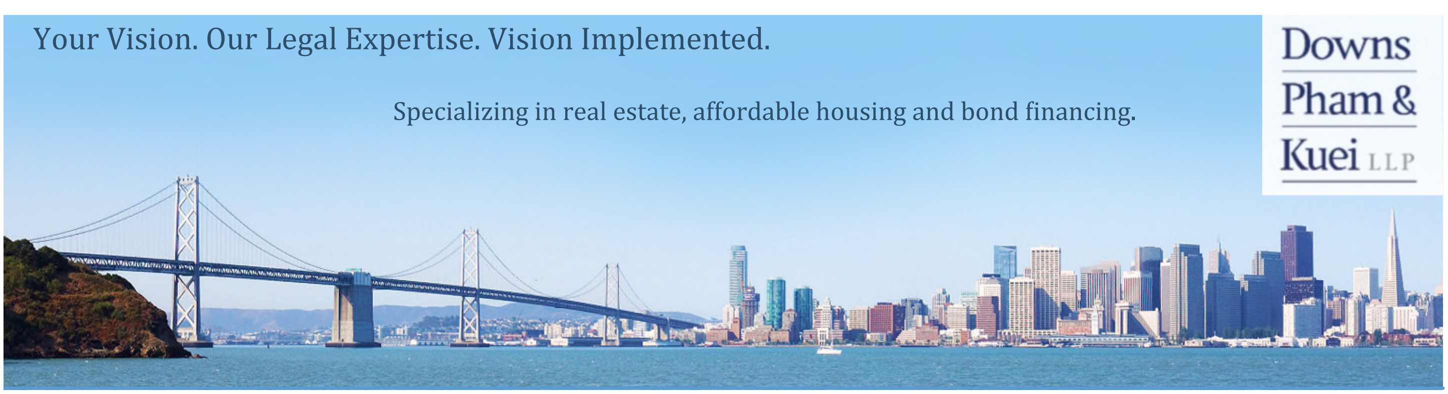
Tax Exempt Organizations

DPK attorneys are experienced in working with nonprofit organizations on the formation and obtaining and maintaining 501(c)(3) status, as well as organizational clearance certificates with the California Board of Equalization. We routinely advise nonprofit developers on issues relating to welfare exemption requirements, establishing for profit subsidiaries for liability shielding purposes and structuring to avoid issues relating to private inurement.

Over $1.5 Billion in Transactions | 19 States | The DPK Difference



DPK represents clients across the U.S. and has closed
real estate and tax-advantaged transactions worth in excess of $1.5 billion in financing.



ABOUT DOWNS PHAM & KUEI LLP

Downs Pham & Kuei LLP (DPK), with over 50 years combined experience at international law firms, has worked on some of the most historic and complex real estate and bond financed developments in the Nation. DPK is committed to delivering top-notch legal services while keeping overhead low and fees flexible. No deal structure is too complex for us–we've seen every deal structure in the industry, and were instrumental in creating many of them.

Downs Pham & Kuei LLP