

# **A RURAL LAND ACQUISITION AND PRE-DEVELOPMENT GUIDE**



***A RURAL LAND ACQUISITION  
AND PRE-DEVELOPMENT GUIDE***

Housing Assistance Council

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HAC, founded in 1971, is a nonprofit corporation which supports the development of rural low-income housing nationwide. HAC provides technical housing services, seed money loans from a revolving loan fund, housing program and policy assistance, research and demonstration projects, and training and information services.

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## **INTRODUCTION**

In recent years, there have been large, steady increases in the costs of development. The increased cost of land, materials and regulatory delays (among other things) have made real estate development for housing and commercial purposes a very risky proposition.

However, land purchase and development, new housing construction or the rehabilitation of existing buildings has always been a very complex business. For this reason, the private for-profit sector normally engages the services of highly skilled land planners, market analysts, real estate agents, architects, engineers, appraisers and other real estate development professionals to assist in the selection of suitable sites and buildings. Nonprofit housing development projects should also leave the process in the hands of professionals whenever possible.

Nonetheless, the financial resources available to public and private nonprofits are very limited, often so much so that a self-managed land development, construction or rehabilitation venture is the only avenue available. Challenges to the nonprofit developer to successfully produce affordable housing units include:

- △ understanding the dynamics of the local real estate market;
- △ understanding the economics, demographics, natural environmental factors, and the local regulatory environment that affect real estate development in the market area;
- △ knowing what constitutes a suitable site and how to find one;
- △ the ability to negotiate to keep the acquisition costs down for raw land or existing buildings;
- △ acquiring skills to control the development process;
- △ hiring knowledgeable, competent professionals; and
- △ competing successfully for scarce public funds, low interest loans and tenant and project subsidies.

It is with these nonprofits in mind that this manual is prepared: to guide less experienced personnel through the site evaluation and acquisition process so that they may more effectively achieve their organization's housing goals. Five important pieces of advice are offered here which, if followed, will help to minimize future difficulties.

- △ Choose and utilize the services of quality professionals, whenever possible.
- △ Avoid the temptation to accept what appears to be bargains at first sight, i.e., old public buildings, large land tracts at somewhat lower prices or free land.



- ⬢ Carefully scrutinize the parcel or building under consideration for development and run financial projections early.
- ⬢ Formulate and revise the development budget frequently throughout the development process.
- ⬢ Approach the development process systematically. Develop a plan, a development time line and checklists to aid in coordinating work and assessing progress. Refer to these organizational tools frequently and update or revise them, as necessary.
- ⬢ Make the option to purchase conditional on environmental findings and regulatory approvals.

## ***THE PRELIMINARIES***

### ***Step 1: Understand the Housing Development Process***

Contrary to popular opinion, the first step in the housing development process is not the purchase of land or buildings. Numerous important activities must take place before the time arrives to acquire a piece of real estate. The new developer must thoroughly understand the information-gathering, financial projection and evaluative processes that take place prior to the day when land or a building is actually acquired for new construction or rehabilitation.

Below is a list of tasks that typically occur during housing development (Figure 1). The list is prepared somewhat chronologically; however, housing development hardly ever takes place in strict, chronological order. Tasks listed are sometimes undertaken out of order or simultaneously, depending on individual situations, and will often overlap. Nonetheless, it is important that the process be organized, thorough and well-documented.

Note that site acquisition is much farther down the list than site option, which is used first as the preferred method of site control. An option is a legal right – which must be set forth in a written, signed agreement – to purchase the property within a specified time period. It is always wise to delay site purchase and obtain a site option for the longest period of time possible. During that time, the developer can evaluate the essential elements that control the development potential of a site: its physical characteristics, any legal and regulatory constraints, federal and state environmental laws and land use policy, socioeconomic and political factors that might translate into community opposition and financial feasibility.

**Figure 1.** Checklist for the Overall Development Process

**THE PRELIMINARIES**

Assessment of Community Needs .....	<input type="checkbox"/>	Review of Local Zoning and Building Codes,	
Review of Strategic Plan/Staff Capacity .....	<input type="checkbox"/>	Subdivision Ordinances and Land .....	<input type="checkbox"/>
Project Conceptualization .....	<input type="checkbox"/>	Federal and State Environmental Laws and	
Market Study .....	<input type="checkbox"/>	Land Use Policies .....	<input type="checkbox"/>
Goal Setting/Time Line Development .....	<input type="checkbox"/>	Identification of Financing/Subsidy Sources .	<input type="checkbox"/>
		Site Requirements of Permanent Lenders ...	<input type="checkbox"/>

**THE LAND SEARCH**

Set up Land Inventory Record System .....	<input type="checkbox"/>	Set up Site Comparison Chart .....	<input type="checkbox"/>
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**Initial Site Screening**

Zoning, Density and Use .....	<input type="checkbox"/>	Boundary Survey .....	<input type="checkbox"/>
Preliminary Title Work .....	<input type="checkbox"/>	Topographical Maps .....	<input type="checkbox"/>
Public Utility/On-Site Utility Feasibility .....	<input type="checkbox"/>	Soil Survey .....	<input type="checkbox"/>

**SITE FEASIBILITY ANALYSIS**

**Physical/Environmental Feasibility Determinations**

Appraisal of Value .....	<input type="checkbox"/>	Septic/Well Feasibility .....	<input type="checkbox"/>
Wetlands/Flood Plain Determinations .....	<input type="checkbox"/>	Environmental Assessment For Toxics .....	<input type="checkbox"/>
Toxic Clearance .....	<input type="checkbox"/>	Environmental Protection Compliance .....	<input type="checkbox"/>
Environmental Protection Compliance .....	<input type="checkbox"/>	Soil/Water Tests .....	<input type="checkbox"/>
Natural Environment .....	<input type="checkbox"/>	Architectural & Engineering Drawings/	
Historic/Archeological .....	<input type="checkbox"/>	Specifications .....	<input type="checkbox"/>

**Legal/Socio-Political Feasibility Determinations**

Subdivision Review/Approval Process .....	<input type="checkbox"/>	Building Permit Process .....	<input type="checkbox"/>
Impact Fees .....	<input type="checkbox"/>		

**Financial/Cost Feasibility Determinations**

Preliminary Cost Estimates .....	<input type="checkbox"/>	Interim (Construction) Loan-Application	
Numbers Run/Pro Forma .....	<input type="checkbox"/>	Submission/Approval .....	<input type="checkbox"/>
Pre-Development Loan-Application/Approval ....	<input type="checkbox"/>	Permanent Mortgage Loan-Application	
Negotiation and Site Option .....	<input type="checkbox"/>	Submission/Approval .....	<input type="checkbox"/>

**SITE OPTION AND SITE PURCHASE**

Site Acquisition .....	<input type="checkbox"/>
------------------------	--------------------------

**Construction/Asset Management**

Construction Loan Closing .....	<input type="checkbox"/>	Permanent Loan Closing .....	<input type="checkbox"/>
Site Development .....	<input type="checkbox"/>	Certificate of Occupancy .....	<input type="checkbox"/>
Unit Construction .....	<input type="checkbox"/>	Rent-Up/Sale .....	<input type="checkbox"/>
"As-Built" Survey .....	<input type="checkbox"/>	Occupancy .....	<input type="checkbox"/>
Final Inspection .....	<input type="checkbox"/>		

## ***Step 2: Understand the Community's Housing Needs: The Needs Assessment***

Many local jurisdictions or communities that hope to participate in the HOME Investment Partnerships Program (HOME), the Community Development Block Grant Program (CDBG) or Housing Opportunities for Persons with AIDS (HOPWA) have already conducted community needs assessments as part of developing their Consolidated Plan as required by HUD. Usually, a team of individuals called a Housing Task Force set out to collect local market information on demographics and housing, called the community housing profile. This profile is used to determine where the gaps are in demand versus supply of housing and to describe and measure the extent of the discrepancies between the two.

In most rural places, the relevant Consolidated Plan is prepared by the state. Unfortunately, state Consolidated Plans vary greatly in their attention to rural housing needs. If this information is present, a nonprofit housing development corporation can bypass the need to survey the community again, and instead build on the substantial data collection of others. However, the nonprofit may either have to do its own needs assessment or supplement the data in the state Consolidated Plan with its own statistics. For more information, see the HAC Technical Manual, *Assessing Local Housing Needs: A Guide for Rural Communities* (1992). The nonprofit can then focus on filling the identified housing gaps in particular neighborhoods or focus on possible target populations highlighted in the data.

## ***Step 3: Review Strategic Plan, Organizational Goals and Staff Capacity***

Once the board of directors and staff has reviewed its community housing needs assessment and the state or community Consolidated Plan, it will need to hold planning meetings about its mission as a nonprofit housing development corporation and to set some general goals and objectives for its overall development effort. It is very important to assess the organization's capability to undertake development work before it commits to projects that may be too large or complex for it to complete successfully. One fundamental task for the organization is to identify the development program personnel, who may include the following individuals or groups.

### *Organizational Staff*

- ⊠ *A land officer*, who may be the executive director of a small housing development corporation; a housing specialist familiar with land acquisition and development; or (in the case of a larger organization) a development specialist. The land officer is often authorized to expend small amounts for options but may rarely, without board authorization, commit sums which are more than nominal or which cannot be recovered. Few nonprofit housing organizations or small development firms are large enough to have a staff person whose sole function is to deal with land development issues, but the function should nevertheless be assigned to a specific person or persons.
- ⊠ *A bookkeeper*, who carefully maintains an auditable account of all financial transactions for land.

- ⬡ *A board of directors and its land committee*, which perform the functions assigned to them by the organizational charter, by-laws and policy resolutions passed by the board. Normally, the corporate officers acting upon specific corporate resolutions authorize the sale, purchase and development of real estate.
- ⬡ *Advisory groups*, which provide an element of objectivity. In the heat of deadlines and the desire to achieve, advisors can save an organization from overcommitting itself, or can help the organization plan to feasibly meet its goals.

### *Outside Professionals*

- ⬡ *Consultants*, who provide their expertise and experience for a price, which may or may not be worth the expenditure of limited land project funds.
- ⬡ *Attorneys*, who should offer more than the ability to perform the standard legal work of preparing and reviewing documents on a project's legal obligations. A good attorney has an understanding of how things are done in the target community; has had previous, positive contact with principal local officials; has the patience to interpret and overcome hurdles in the "normal" legal land development process and is sympathetic to the goals of the organization – but objective and businesslike in dealing with the public.
- ⬡ *Architects*, who design structures, but may also specialize in landscaping or coordinating housing development and program planning.
- ⬡ *Engineers*, who design the layout of the development, including the design of water and sewer systems, road, drainage and other site improvements. An engineer is key to the development program.
- ⬡ *Packagers*, who may assemble the necessary consultant team and/or may assist in the development of a funding application.
- ⬡ *Land planners*, who may be professionals with a technical background in surveying or engineering, or have extensive experience in general real estate and housing development. A land planner should be able to assess what kinds of lot arrangements a land parcel can yield.
- ⬡ *Financiers*, who provide mortgage lending for construction and permanent housing financing. Initially, they can also provide financing for the land development.
- ⬡ *Builders/Developers*, who 1) may take the entire responsibility for the development program from the nonprofit; 2) may provide construction consulting to the nonprofit or 3) may perform the physical development work under contract to the nonprofit.
- ⬡ *Management*, who can give valuable input to property management issues that can be addressed through the development design (such as better lighting to prevent crime), and who will manage the property once it is constructed and either sold or rented.

In order to know which professional or combination of professionals is needed for any particular project, it is necessary to understand the services they provide. The best way to do this is to talk to developers who have overseen the land and housing development process from start to finish. Most small builders and nonprofits will find that many of the necessary tasks for land development are beyond their capabilities. However, this is not an unusual circumstance, as all but the largest commercial firms rarely have a staff knowledgeable in all phases of the land/housing development process. In fact, what most groups need more than anything is “people who can manage these professional [development] activities, not perform them” (Urban Land Institute 1975, 8).

#### ***Step 4: Conceptualize the Project***

The organization has now developed an initial project concept for the housing effort that complies with the goals and objectives that grew out of its mission statement. The board has probably identified an income level or levels or a clientele that it hopes to assist to obtain better, more affordable housing, and also identified a preliminary market area or neighborhood for the development efforts. Now the organization is ready to move on to the next step in the development process: determining whether any of its assumptions about need and demand are correct.

#### ***Step 5: The Market Study: Define the Housing Market and Project Demand***

A market study is not about the need for housing in a particular area, it is about the demand for the type of housing the developer is proposing to build. The study specifically asks who wants the housing to be built or rehabilitated, and are these households **able and willing** to pay the required costs under the conditions it can be made available? A similar query can be made with respect to land, for instance: “What price are buyers prepared to pay for a developed lot in a given location and physical condition?”

Professional market analysts set out to answer these questions through the comprehensive accumulation of data confined to the households that comprise a carefully defined market area. The market study is the primary instrument the land developer will use to document demand (as opposed to need) and to determine whether affordable, desirable housing alternatives can be created to meet that demand.

Many banks and the USDA Rural Housing Services (RHS) require professional market studies to be included in preliminary applications for interim (construction) or permanent financing for large development projects. Loans to pay for professional market studies can be obtained by nonprofit developers through some predevelopment lenders, such as the Housing Assistance Council. Exhibit A-8 of RHS (FmHA) Instruction 1944-E, “Outline of a Professional Market Study,” is attached as Appendix A.

## ***Step 6: Establish a Development Time Line***

The points in time when key land activities take place are of vital concern to the housing developer. The significance of time in the land program is apparent, if one looks at the high cost of housing and the low incomes of most of the intended clients or beneficiaries of nonprofit housing development programs. Avoidable delays can unnecessarily raise costs and even kill a particular development project from an affordability standpoint. Of course, there are events that cannot be predicted or controlled. It is the presence of these unknown factors that places a premium on careful planning of the factors that one can control.

Once the organization has information about the market area from the data collected in the market study and prepares to undertake a search for suitable property to implement a particular housing program objective, an outline of development activities or tasks should be devised and target dates for completing those activities projected to create a development time line. The time line will keep track of the progress of the work. In the beginning, the time line will be very broad and subject to change. It can be compared to the first outline of a research paper or to the preliminary plans for a housing project. The form is skeletal, since not much activity has yet taken place. As new facts are learned, more information collected and more decisions made on tasks in the development process that must be tracked, the information on the form will take on a more defined and intricate shape, quite specific to the project on the drawing boards.

Using a time line, the developer documents and controls the element of time in the development process. There is no one device or computer program that can meet the needs of every housing organization, but a time line is a good, simple device on which to project the key elements and milestones of the site acquisition and development program and to monitor progress.

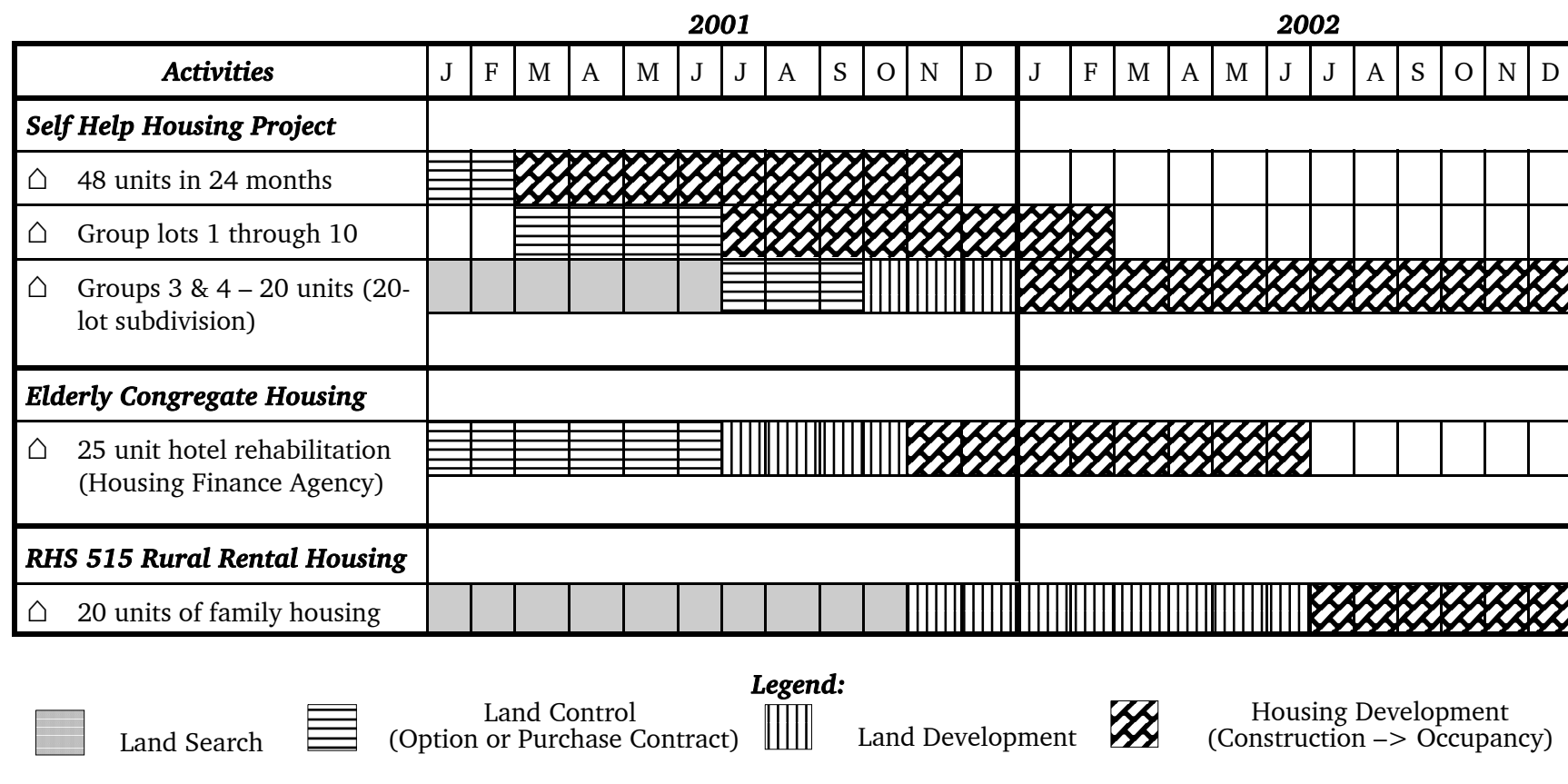
The following activities require careful planning to meet time deadlines:

- △ negotiations and entering into options for control or contracts for purchase of a site;
- △ meeting the time requirements spelled out in option or purchase contract contingency clauses;
- △ meeting deadlines for preparing required documents and completing submissions for subdivision plat approval;
- △ meeting deadlines for applications for highly competitive pre-development, interim and permanent financing programs; and
- △ meeting deadlines for grant program applications, such as Community Development Block Grants or tax credit allocations.

In a typical planning activity, one might plot the development tasks down the page and the months of a two-year development cycle across the top of the page. On the line for each target, the tasks which will occupy each of the time periods are entered.

Some of these activities should and will overlap. As mentioned previously, land development is not a linear chronological process. However, it should be an orderly process. The value of the time line is that it keeps the development team in touch with its progress and provides a constant reminder of the next phases or tasks to be encountered and completed.

**Figure 2.** Sample Time Line: Two-Year Time Projections, Land and Development



### ***Step 7: Identify Possible Sources of Financing and Subsidies***

A proposed housing development project must provide decent shelter at an affordable cost to low- or very low-income households in order to meet the goals of most nonprofit housing development organizations. By and large, housing developed for very low- and low-income households requires special interest rates and public subsidies of some sort. Since the demand for heavily subsidized funds is intense and the dollars available are dwindling, knowledge about the various sources of low-interest financing and grant funds, what they can be used for, and how deep the direct or indirect subsidies can be, is vital to determining feasibility (i.e., whether or not a proposed new construction or rehabilitation project can be made to work).

Information about federal financing programs and other funding resources such as state housing finance agencies, mortgage revenue bonds, the Federal Home Loan Bank System's Affordable Housing Program, trust funds, and Community Reinvestment Act requirements can be found in several other sources, such as the *HAC Guide to Federal Housing and Community Development Programs for Small Towns and Rural Areas* (1996).

### ***Step 8: Understand the Particular Site Requirements of Permanent Lenders***

Some lenders, like RHS, impose not only extensive site requirements regarding location, amenities, utilities and costs (which must be met for approval of a housing development financing application) but also impose stringent site development standards. Other federal lenders, state agencies and banks depend on the site development criteria of local governments to determine site development standards. Familiarity with the permanent lender's site requirements, if any, will only make the development task easier.

### ***Step 9: Understand Local Zoning and Building Codes, Subdivision Ordinances and Land Development Regulations***

These local legal and regulatory requirements have great economic implications, in that they control the density and uses of all real estate in a community and the quality of the construction materials, the plumbing and electrical specifications, and health and safety requirements that will be imposed on new construction or rehabilitation projects. They also dictate the legal process that must be undertaken in order to:

- △ change existing zoning classifications, density, and uses,
- △ engineer and install street, sidewalk, curb, and gutter improvements,
- △ do grading, sediment control and storm water management,
- △ comply with bonding requirements and
- △ go through the process for subdivision plat approval and inspections.

### ***Step 10: Understand the Implications of Federal and State Environmental Laws and Land Use Policies***

During the 1990s, housing development became much more constrained by nationally and state-enacted environmental protection laws and land use policies, as well as requirements by banks



and other lending institutions (including the federal financing agencies) for evaluation of a site to determine the absence of contamination from toxic substances. Practically every parcel of raw land or existing buildings will have to be examined under one or both of these environmental topics: 1) environmental health and safety or 2) protection of the natural or historical/archeological environment.

## ***THE LAND SEARCH***

Professional developers and real estate investors analyze and record the real estate of cities and small towns block by block and parcel by parcel. They trace ownership, contact agents and heirs, looking for a bargain or ways to combine several holdings into a profitable development. These entrepreneurs spend endless hours in the courthouse tax and record rooms, and scour real estate advertisements in local newspapers and real estate publications. In their spare time, they cultivate working relationships with real estate brokers and agents, title company staff and local attorneys.

Their goal is similar to that of the nonprofit or small developer in many ways: to develop a range of possible land choices narrow enough to focus attention on the most feasible option, but wide enough to allow for alternatives. For-profit developers rarely make the mistake of assuming that one particular piece of real estate is the last real estate development opportunity on earth. This section will explain how to set up a land inventory record, site comparison chart, and investigate housing site sources.

### ***Step 1: Set Up and Maintain a Land Inventory Record***

A written or computerized inventory of sites is the heart of a housing development organization's land plan. Some sort of permanent record about sites that hold serious development potential and are available in the market area should be set up on index cards or in a computer database. The information should be filed in such a way that it can be retrieved by target community or market area.

Use of a pre-printed index card system may provide a flexible and concise method for organizing a land inventory file (Figure 3, below). However, today, when many nonprofit developers have personal computers in the office, it is relatively easy to set up a computerized land inventory by using existing software to create a quick and easy reference system. A computer entry or site record card should contain the following items:

- ⊞ name of the owner,
- ⊞ evidence of value (ideally a current appraisal),
- ⊞ the local government's real property tax assessment,
- ⊞ current zoning density and use,
- ⊞ parcel size,
- ⊞ topography,
- ⊞ access,
- ⊞ description of improvements (if any), including the type, capacity and location of utilities,
- ⊞ lot and square number or tax assessor's number,
- ⊞ legal description,
- ⊞ physical description,
- ⊞ location by street or route coordinates,
- ⊞ uses of adjacent properties,
- ⊞ sale price and
- ⊞ a copy of the real estate listing (if applicable).

INDEX CARD (Side 1)	
Address of parcel:	_____
Name of owner(s):	_____
Address of owners:	_____
Phone:	_____
Name & address of manager or leasee:	_____
Owner information:	
a. Legal status:	_____
b. Occupation/business:	_____
c. Affiliations:	_____
d. Describe other property owned:	_____
_____	
e. Comments:	_____

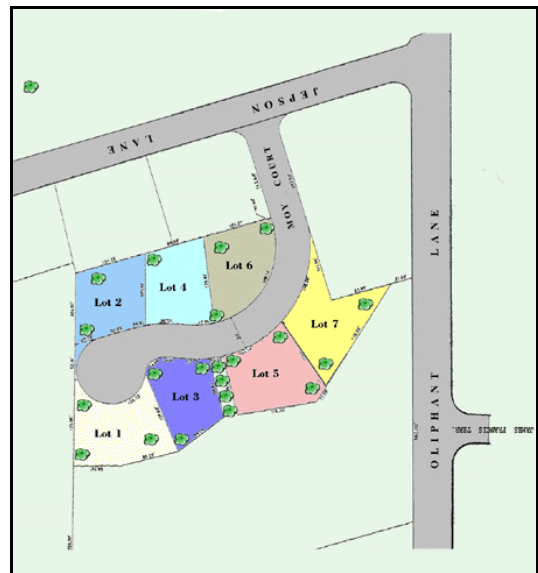
INDEX CARD (Side 2)	
Lot size/acreage:	_____
Tax Map No.:	_____ Assessment (Yr. _____): _____ Taxes: _____
Principal use & acreage:	_____
Secondary use & acreage:	_____
Physical description (land & bldgs.):	_____
_____	
No. of rental units:	_____ No. of unoccupied rental units: _____
Principal use of neighboring properties:	_____
_____	
Zoning:	_____ Other land-use constraints: _____
_____	
Rights sold or leased:	_____
_____	
Comments:	_____

**Figure 3.** Pre-Printed Land Index Card (Source: ICE 1982, 150)

Plats or other drawings of the configuration of sites, containing enough detail to highlight both their advantages and disadvantages, should also be acquired and filed. Eye level or aerial photographs are also helpful to have on hand. Maps, photographs and drawings are available from a number of different sources, including the U.S. Geological Survey, the U.S. Army Corps of Engineers, state highway and natural resource departments, and local or county planners. Types of maps that may be used include the following:

- ⊞ General area maps created by local governments and Chambers of Commerce. These maps are particularly useful for broad-scale planning, including discussion with public officials. The developer can use them to delineate the area to be served, the community where potential buyers currently live, where they wish to live and general patterns of ownership, development and physical problems.
- ⊞ Plats and surveys that give scale renditions of specific property (Figure 4). Some plats and surveys are public records and can be found at the courthouse or the city hall. Developers can either make tracings of them or purchase copies of them. Other plats and surveys are the property of surveyors, engineers or landowners.
- ⊞ Special features maps that detail existing improvements, depicting buildings, power lines, streets, alleys and drainage assessments. These maps are also called “**as built surveys.**” **Public utilities maps** may be available from a town’s water and sewer maintenance person or the utility clerk. These people are also useful sources of information on how the system was actually built (as opposed to how it was drawn on the map). Private utilities also have maps and surveys that they will usually share. Utility lines and easements are very important, both for determining access by future residents and demonstrating the usefulness of the site.

**Floodway, floodplain and wetlands maps** will indicate areas where construction is impossible or infeasible. Also in this category are **topographic maps**, which have contour lines illustrating the relative elevation of different parts of the land. Steep sections are depicted by lines that are close together, and flatter areas have lines that are further apart. **Vegetative, land use and surface hydrology maps** are self-explanatory. Both these maps and topographic maps and surveys can be obtained from the U.S. Geological Survey.<sup>1</sup>



**Figure 4.** Plat Map, Nottingham Acres, Middletown, Rhode Island (Source: [newportrelocation.com/plotmap.html](http://newportrelocation.com/plotmap.html))

<sup>1</sup> U.S. Geological Survey offices have lists of private distributors in individual states who handle map sales, available by telephone (1-888-MAP-DEAL) and on the Internet ([http://mapping.usgs.gov/esic/map\\_dealers/index.html](http://mapping.usgs.gov/esic/map_dealers/index.html))



**Figure 5.** Zoning Map, Indianapolis, Indiana  
(Source: [www.indygov.org/dmd/zoning/basemaps](http://www.indygov.org/dmd/zoning/basemaps))

⏏ Zoning maps are the most useful data available to a developer. They are public records that describe the regulatory context of the land inventory (Figure 5).

The developer should also (if possible) obtain pertinent sales information about recent sales of at least three properties similar to the one being examined for purchase. Much of this information must be obtained by contacting owners or real estate agents in person or by writing or calling absentee owners. It is a good idea to retain all copies of correspondence for future reference.

Researching land ownership demands energy, persistence, and careful attention to detail. Land records are complicated by absentee, corporate, public and nonprofit ownership schemes, a variety of record keeping methods in different localities and rights held separately from the land, among other things. The researcher must assume nothing and double check everything, because overlooking even a small legal technicality can mean the difference

between the creation or collapse of a feasible development project.

The importance of a land inventory record cannot be overemphasized. Because staff members come and go, names, addresses and telephone numbers of key contacts are lost. Owners' and brokers' suggestions are forgotten. Consequently, prudent nonprofit developers carefully document the important facts about land parcels as they investigate them and maintain them in an orderly system for later reference.

## **Step 2: Set Up a Land Value Comparison Chart**

Once the information on a potential property has been entered into a computer database or onto an index card, it should be compiled with information about other potential sites into some type of land value comparison chart or computer spread sheet, where all significant variable attributes of the sites, including cost, can be compared with one another.

Putting the variables on one sheet can facilitate critical analysis of the positive and negative aspects that affect overall development costs and the various degrees and attendant costs of the administrative efforts (commonly called overhead) that will be required to develop each parcel of real estate. Presenting information in this manner highlights the strengths and weaknesses of

each parcel, allows easy updating and will aid in final decision making. (See Figure 6, Land Value Comparison Chart.)

**Figure 6. Land Value Comparison Chart**

	<i>Property A</i>	<i>Property B</i>	<i>Property C</i>	<i>Property D</i>
<b>Location</b>				
<b>Zoning Classification</b>				
Max. Units/Acre				
Min. Sq. Ft./Unit				
Min. Frontage/Unit				
Min. Depth/Unit				
Min. Right-of-Way				
Other				
<b>Description</b>				
Dimensions				
Number of Acres				
# of Buildable Units				
<b>Land Costs</b>				
<b>Off Site Improvements</b>				
Sewer				
Water				
Access				
Drainage				
<b>On Site Improvements</b>				
Sewer				
Water				
Electricity				
Access				
Life Station				
Drainage				
<b>Treatment</b>				
Sewer				
Water				
	<i>Property A</i>	<i>Property B</i>	<i>Property C</i>	<i>Property D</i>

<i>Connection Fees</i>				
<i>Rates (Capitalized)</i>				
<b>Topography/Physical</b>				
Cut and Fill				
Additional Foundations				
Ingress/Egress				
<b>Property Tax (Capitalized)</b>				
<b>Other</b>				
<b>Total</b>				
per Buildable Unit				
per Developable Unit				

### ***Step 3: Investigate Various Sources of Suitable Sites for Housing***

Develop a systematic approach for involving the various interested parties in the target community, including friendly local officials, housing authority staff, other housing sponsors, church groups, civic organizations, labor unions, employers, bankers, architects, engineers, real estate attorneys, civil rights groups – anyone who may have an interest in or sympathy for your housing effort. Identify their interests and the parts of the housing problem they are able to grasp. Look for ways to tell them what you are doing and point out ways they may be able to become involved with your program.

It is important to enlist the aid of as many local people as you can to assist in this vital effort to find suitable land for development. People are your greatest asset in the land search. Listed below are other important sources of information about available real estate for sale.

#### ***a. Real Estate Agents***

Real estate professionals have access to the most information about property listings currently for sale in the market place and often know of properties that are about to be listed or can be listed for sale. Modern real estate offices often have access to computerized listing services (called the Multiple Listing Service in many places) that cover large geographic areas and include the listings of all real estate agencies whose brokers are members.

#### ***b. Advertisements***

Direct advertising in local and regional media, including newspapers, magazines and special real estate "shoppers" (often available outside local supermarkets) may be informative.

#### ***c. Physical Inspection***

A drive-by physical inspection or "windshield survey" may reveal "For Sale By Owner" signs posted by property owners, or properties that appear suitable on inspection. In the latter situation, the buyer can research ownership in the public records and contact the owner with a "cold call" to inquire about the possibility for sale and/or about desired terms of sale and the legal and physical characteristics of the property.

**d.      *Distress Sales***

These types of transactions include foreclosure, tax, estate and bankruptcy sales (public auctions) and are advertised under the Public Notices heading in the classified advertising section of local newspapers. Information is also often available in the local tax assessor's office, the sheriff's office and from banks' troubled loan or servicing departments.

**e.      *Delinquent Tax Notices***

Delinquent tax notices are also published under Public Notices, and may lead to land or building owners who are in difficulty and who may want or need to sell their property before it goes to public sale.

**f.      *Sale of Federal Government Property***

Also under the Public Notices heading, federal government agencies often inform the general public about the availability of government property for sale. Agencies such as the Department of Housing and Urban Development, the USDA Rural Housing Service, the Government Services Administration, the Department of Veterans Affairs and the Department of Defense are sources of multifamily and single-family residential and commercial real estate. These agencies can also be contacted directly.

**g.      *Local Government Agency Donations***

Nonprofits can often negotiate the following agreements with local governments:

- ⊞      low- or no-cost, long term leases,
- ⊞      outright gifts of government-owned land,
- ⊞      parcel swaps or
- ⊞      tax abatements.

In exchange for these things, the nonprofit can point out that it can:

- ⊞      provide badly needed affordable housing,
- ⊞      assist the locality to meet the fair housing elements of its comprehensive land use plan (if there is one),
- ⊞      act as a catalyst for improvement in a depressed area or
- ⊞      provide a needed service (such as a community center to be shared with the general public) on the site of a new housing facility.

**h.      *Charitable and Corporate Participation***



Churches and other large nonprofit institutions may own and be willing to donate land in their inventory for the public good. Large corporate land holders and wealthy individuals can sometime be enticed to donate acreage they own to nonprofits in exchange for tax write-offs.

## ***SITE FEASIBILITY ANALYSIS***

The successful creation of affordable housing results from a methodical, professional approach to land development. First, the developer must find a properly zoned, environmentally healthy and reasonably priced piece of real estate. The developer must then match the real estate to his or her construction/rehabilitation plans in a timely fashion that will insure affordability to targeted lower income households. The developer must also consider whether subsidies are necessary to make the proposed development feasible under the proposed conditions.

This section examines the following essential activities that determine the ultimate development potential of a parcel of land or a building. These elements comprise the development feasibility analysis, and can be roughly divided into:

- A. physical/environmental considerations,
- B. legal/socio-political considerations and
- C. financial/cost considerations.

Each of these elements must be incorporated into the feasibility determination and evaluated in light of the possible effects that these characteristics will have on the likelihood of successful development. The ultimate goal of this feasibility process will be the drafting of the *pro forma* – the set of preliminary total development cost calculations for the project. While the *pro forma* is covered much later in this chapter, it is good to remember that the information being gathered must eventually be compiled for this purpose and revised as cost assumptions change.

### ***PART A: PHYSICAL/ENVIRONMENTAL CONSIDERATIONS***

#### ***Step 1: Evaluate the Site Location***

An old saying in the real estate business is that the three most important things in housing development are “location, location, location.” The more favorable the location is, the more valuable and in demand a site is likely to be. Criteria to be considered in location are:

- △ proximity to employment centers, transportation, and shopping;
- △ availability of public utilities (including electric, water and sewer, gas, and trash collection);
- △ proximity to amenities like parks, playgrounds and recreation facilities;
- △ access to public services such as quality schools, police protection, fire stations, and hospitals; and
- △ distance from heavy industrial polluters, economically depressed areas and declining commercial strips.

#### ***Step 2: Determine the Presence of Utilities***

The availability of public water and sewer services to a particular location is especially important to new residential development, since private water and septic systems are troublesome to install, manage and maintain – particularly for inexperienced housing developers. Finding sites with accessible aquifers and potable (unpolluted) water that will percolate (perc) properly to

allow installation of septic systems is a difficult, though not impossible, undertaking. The proximity of municipal water and sewer lines to a site is another factor that will affect financial feasibility. The longer the water and sewer lines must be extended to connect the site to the existing system, the more expensive the ultimate development will be.

Finally, although water and sewer lines may be adjacent to a particular site, the municipal system may not have adequate capacity to allow additional hook-ups. In addition, some local governments may have been forced to implement water moratoria due to drought conditions or sewer moratoria due to EPA compliance problems. If this is the case, no new building permits or subdivision approvals will be granted, and development will be halted until the system's capacity is increased or compliance problems are resolved.

### ***Step 3: Assess the Size and Shape of the Site***

The size of the site must be sufficient to accommodate the required and allowable number of units that will make the development of the site feasible at the cost of acquisition. However, the size assessment must take into account all of the required set-backs, allowances for roadways and utilities, density requirements, environmental protection and open-space requirements. The shape of the site has to be regular enough so that it can be efficiently engineered to create an agreeable, sensible and economic site plan.

### ***Step 4: Consider Frontage and Access to the Site***

Sites with long road frontage are more desirable and valuable than sites that are called "pipestem" or flag lots. Substantial road frontage allows for more flexible site design options and for two methods of ingress and egress, should that be necessary. On the other hand, flag lots – which require long driveways – are expensive to install and maintain, as well as more costly to connect to utility lines. Proper access means unimpeded entry to a parcel of real estate – preferably from a paved, public roadway. A site without legal access is not ready to develop for housing purposes.

### ***Step 5: Determine the Topography and its Potential Effect on Development***

The topography of a site will dictate the flow or collection of surface water, the engineering required to construct certain structures, the logical location of buildings and roadways, and many other development features. A description of the surface features of a site can be obtained from topographic surveys or maps, which display the changes in elevation (slope) and other geographic features such as the existence of rivers, streams, lakes, and ponds. The National Association of Home Builders cautions that “depending upon building design, a site can accommodate structures on grades of zero to 15 percent. Slopes of more than 15 percent are prohibitive for most uses. Optimum gradients for general development are 2 to 8 percent” (NAHB 1981, 75).

### ***Step 6: Assess Natural Drainage Features***

The natural drainage features of a site are extremely important to any developer, since sites with flood potential or that contain significant wetlands are nearly impossible to finance with federal funds. It is important to rule out the existence of wetlands or sites located within a 100-year floodplain early on in the site evaluation process (Figure 7, below). It is also important to determine how easily storm water run-off can be effectively and appropriately handled, in that federal and state agencies are also charged with protecting overall water quality from degradation due to housing construction or other development projects.

### ***Step 7: Determine Soil Characteristics***

It is also important to examine whether the soils on a site are an acceptable type, whether they contain qualities that can support the kind of development proposed, and whether they indicate the presence of protected wetlands or prime agricultural land. Information to evaluate the soil's characteristics and to determine load-bearing capacity can be found from soil maps and other information obtainable from the county offices of the USDA Soil Conservation Service. The site should also be examined for the presence of rock or other features that could require costly mitigation.

### ***Step 8: Assess the Impact of the Climate***

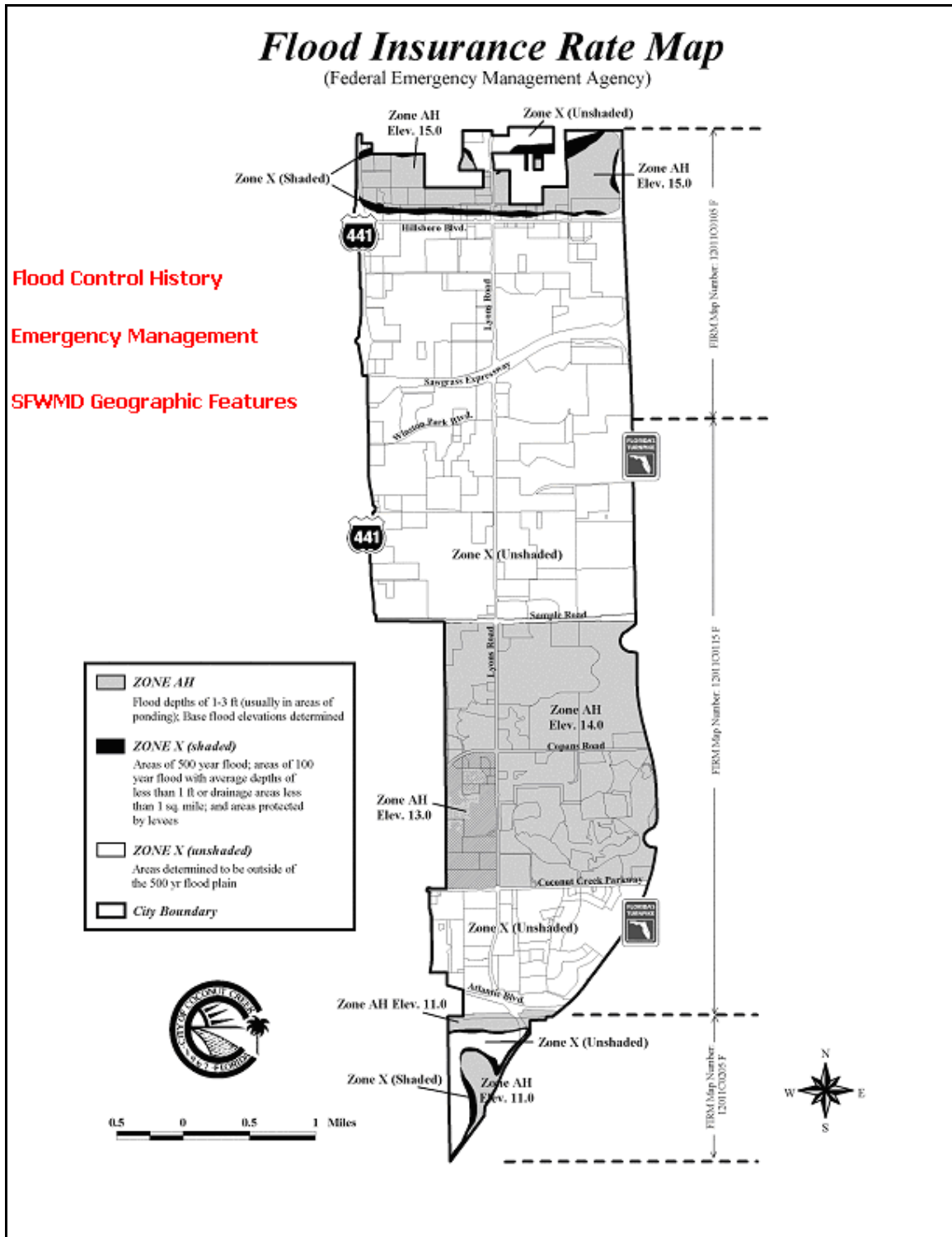
Climate affects life and activity. For instance, it might dictate the economic use of a site, since average annual rainfall and temperature, in combination with the soils and other site characteristics, sometimes make a site better suited for agriculture than for other uses such as housing, which would then dictate that the site be preserved for agricultural use.

### ***Step 9: Determine the Impact on the Natural Environment and Future Residents***

The existence or condition of certain kinds of vegetation or animal life on a particular site can indicate a variety of development challenges: the existence of wetlands, the presence of endangered species, a protected habitat, protected farmland, rangeland, or forest land, or the presence of toxic substances. Therefore, the developer must look at this aspect of the natural environment to determine that the development will not have a negative environmental impact and that the condition of the environment will not affect the health and safety of prospective residents.

A prudent developer has three objectives when considering or selecting a potential site for rural housing development. He or she should determine whether developing the site will:

- ⬢ cause the least possible negative effect on the natural environment,
- ⬢ negate as much as possible the effects of man-made and natural contamination and thereby protect the long term health and safety of prospective tenants or home purchasers and



**Figure 7.** Flood Map, Coconut Creek, Florida (Source: [www.ci.coconut-creek.fl.us](http://www.ci.coconut-creek.fl.us))

- △ avoid unwarranted expense and liability to the development organization for clean-up of toxic wastes or hazardous substances caused or abandoned by others, and avoid being classified as a potentially responsible party (PRP) (i.e., potentially liable) for the cost of cleaning up the site.

These three objectives can be met only by 1) understanding state and federal land use and environmental protection policies that may affect the local community; 2) thorough investigation of the natural environment at the site; and 3) analysis of the land or building from an environmental health and safety point of view, prior to obligating the development organization in any way to a real estate transaction.

**a.      *What Should the Developer Look For?***

Below is a list of the most common substances or conditions that the developer must look for when evaluating a site to rule out the presence of harmful or toxic substances.

Asbestos	Underground Storage Tanks (USTs)
Petroleum Hydrocarbons	Radon
Formaldehyde	Heavy Metals: Lead, Arsenic, Mercury
Pesticides	Polychlorinated Biphenyls (PCBs)
Hazardous Waste	Electromagnetic Fields

From the standpoint of protecting the natural environment, the site itself (or the development of it) must be evaluated for the potential to negatively affect any of a large number of nationally or state protected natural features, listed below.

Wetlands	Historic or Archeological Sites
Wild and Scenic Rivers	Prime Rangelands
Flood Plains	Important Farmlands
Endangered Species	Prime Forestlands
Critical Habitats	Sole Source Aquifer Recharge Areas
Landmarks	Air Quality Control Regions
	Coastal Barrier Resources System

State Inventories:  
Wildlife Refuges  
Important Habitats  
Agricultural Districts  
Areas of High Water Quality  
Coastal Zone Management Areas  
Areas of Scenic or Recreational Value

**b.      *Where Can Information be Readily Collected about the Physical and Environmental Characteristics of a Site?***

The best resource available to nonprofit developers gathering information about the physical and environmental properties of a particular site is the research and information collected by public agencies. This information is available to the general public, often at nominal or no charge from the following agencies.

<u>Federal:</u>	<u>Web Site:</u>	<u>Phone Number:</u>
National Soil Information System	<a href="http://nasis.nrcs.usda.gov">nasis.nrcs.usda.gov</a>	402-437-5378
U.S. Geological Survey	<a href="http://www.usgs.gov">www.usgs.gov</a>	703-648-7119
U.S. Army Corps of Engineers	<a href="http://www.usace.army.mil">www.usace.army.mil</a>	202-761-0660
U.S. Fish and Wildlife Service	<a href="http://www.fws.gov">www.fws.gov</a>	202-208-4131
USDA Rural Housing Service (RHS)	<a href="http://www.rurdev.usda.gov/rhs">www.rurdev.usda.gov/rhs</a>	202-720-4323
Federal Emergency Management Agency (FEMA)	<a href="http://www.fema.gov">www.fema.gov</a>	202-646-4600

State and Local:

State Historic Preservation Office  
State Environmental Protection Agency  
State Department of Natural Resources  
State Highway Department  
Town, County or Regional Planning Agencies

One of the most comprehensive collections of information in one place is maintained by the state offices of the USDA Rural Housing Service (RHS). In an effort to assist its borrower-clients through the environmental regulatory review, the RHS produces a state-specific *State Natural Resource Management Guide*. This guide is published to provide the rural developer with a ready reference to the names, addresses and telephone numbers of those federal and state agencies responsible for environmental functions in each state – agencies that have the information necessary to provide answers to the questions contained in the Form (FmHA) RHS 1940-20, “Request For Environmental Information.” (A copy of this form is in Appendix B.)

Another federal agency, the U.S. Geological Survey, is an unsurpassed source of maps and aerial photographs. In addition, the National Soil Information System maintains information on the soil types and soil properties of every tract of land in the United States. The Fish and Wildlife Service maintains information on the location of wetlands and endangered plant and animal species. The Federal Emergency Management Agency maintains Flood Insurance Rate Maps which delineate 100-year flood plains by locality. Local, county and regional planners have had a hand in all work done for publicly financed water, sewer, drainage and irrigation projects.

Certain public records, including deed books, can provide clues to the former land use of the parcel. Knowledge of prior use is helpful in determining the possibility of the presence of hazardous materials. Since mitigation of toxic materials can be expensive, developers should gain as complete a history as possible prior to investing time and money in the development of the site. The long-term residents of a community are an excellent supplemental source of historical land-use information. Be sure to interview them in the course of the site assessment.

Certain land uses, such as service stations and chemical storage, call for continued investigation, if not a search for alternative sites.

## ***PART B. LEGAL/SOCIO-POLITICAL CONSIDERATIONS***

Among the most potentially time-consuming hurdles that developers face are local regulatory constraints. Examples of regulatory constraints are zoning density and use restrictions, subdivision ordinances, land development regulations, and building codes. The impacts of these constraints are described below.

### ***Step 1: Assess Social and Political Factors***

Community political support is crucial to the success of an affordable housing development effort, or the development staff will spend a great deal of time in acrimonious public hearings. Unfortunately, barriers often appear to the creation of affordable, subsidized housing opportunities, despite civil rights, fair housing laws and the best efforts of local nonprofits to reassure the power structure.

Church congregations, staff members of local charitable organizations and social service employees are often sympathetic to the efforts of a housing development organization. Their efforts should be enlisted in the education of the community as a whole to the need for the resolution of what ought to be commonly perceived problems. Practicing the politics of inclusion to reduce political opposition due to race, income, or ethnic and cultural differences is paramount.

### ***Step 2: Become Familiar with Local Zoning Restrictions and Their Potential Impact***

Zoning controls the character and use of land and buildings. It also controls the size of lots, the types of structures allowed, building heights, setback requirements, open space requirements and density. Many, but not all, rural towns and counties have adopted zoning ordinances.<sup>2</sup> Some of those under heavy development pressure are revising or adopting master development plans. These plans are intended to guide future changes in zoning and other laws that affect development; in an increasing number of states, zoning laws are required to comply with master plans, so a copy may provide invaluable information about future changes in relevant laws.

Familiarity with zoning density and use restrictions is imperative for any developer, no matter what the proposed project, since what can be done with a site or building is constrained by the zoning classification it carries. In addition, the high cost of land often entails placing as many units on a site as possible in order to spread the cost among more purchasers or to reduce per unit development costs. Achieving higher density often requires zoning changes or variances.

The developer must know how many units are allowed under current zoning when evaluating each site's development potential and the reasonableness of its asking price, and when

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<sup>2</sup> For an example of a zoning ordinance, see the Zoning By-Law of the Town of Andover, Massachusetts, available on the Web at [http://www.town.andover.ma.us/publish/zbl9\\_29.pdf](http://www.town.andover.ma.us/publish/zbl9_29.pdf).



determining what specific actions and additional costs might be entailed in readying that site for development. Those costs must be incorporated into the project development *pro forma*.

Zoning use dictates whether property will be used for residential, commercial, agricultural or industrial uses or for special purposes. Rural real estate developers and individual land owners spend a large part of their time wrestling with local regulatory laws to have a site's zoning use classification changed, for example, from agricultural to housing, commercial or industrial use or to cluster/multiple-use zoning (discussed below).

### ***Step 3: Ascertain How Density Zoning Will Impact the Development***

Local zoning codes or ordinances also control the density of site development – the number of permitted units – in various ways. First, they may restrict the average number of houses per acre by establishing a minimum lot area. For instance, if the zoning ordinance requires a minimum lot area of 10,800 square feet, then four houses can be built on an acre of land. Second, they may restrict the average maximum number of houses or units that can be built per acre. In this case, if the ordinance limits the number of houses to five per acre, it means that a developer can group or cluster the five houses on the site, without the restraint of the minimum lot area, in such a way to leave more green space available for parks and recreation. Clustering of units reduces street area and allows for dramatic increases in the possible density of a site to accommodate town houses or patio homes.

### ***Step 4: Consider Using Planned Unit Developments (PUDs)***

PUDs are an increasingly popular concept in land use planning that combines housing, commercial and recreation uses in one self-contained development. PUDs are created under special cluster zoning classifications that allow the computation of road and park areas as a percent of the square feet of land required for houses or apartment units. This allows for more efficient site layout, and that translates into lower infrastructure costs for streets, sewer and water lines, curbs, gutters, sidewalks, street lighting, more green space, and highly increased density, which can lower the cost of housing units.

### ***Step 5: Apply for Zoning Variances Where Necessary***

An exception to current zoning law is called a variance. Variances are requested by the developer and typically require the applicant to undergo a public hearing process. Similarly, a zoning change also requires any number of public hearings. The public hearing process is often the most arduous and trying part of affordable housing development. These proposals often result in acrimonious public hearings and, sometimes, lawsuits by the opposition to stop the proposed development.

### ***Step 6: Follow the Steps for Compliance with the Local Subdivision Ordinance***

Local governments retain oversight, control and regulation of the actual land development, even when a parcel is properly zoned for the type of construction and density planned at a particular location. This is accomplished through subdivision ordinances and land development regulations, which spell out:

- △ the required documentation for subdivision submission requests;
- △ the plat approval process;
- △ the specifications for the engineering and construction work; and
- △ the requirements for grading, sediment control and storm water run-off.

Subdivision approval is a time-consuming process that usually begins in the planning phase of development. Typically, the owner of land initiates and controls the subdivision submission and approval process. If possible, a potential purchaser should make the seller responsible for obtaining the appropriate approvals as a condition of sale.

While purchasing “raw land” (sites without a subdivision plat in place or ready-to-build sites) may seem to be a bargain, there are many hidden costs to be considered. A developer will want to factor in the heavy administrative, overhead, engineering and site improvement costs, impact fees and financing costs (if he or she is borrowing funds to pay for land acquisition and predevelopment expenses). When these considerations are calculated, the cost of purchasing an already platted and approved subdivision or a site with street and utility improvements in place may be the better bargain. For an example of what a subdivision ordinance covers, see Appendix C: Chapter 173: the Subdivision and Land Development Law of the Town of La Plata, Maryland (Table of Contents).

### ***Step 7: Comply with Building Codes***

Familiarity with the requirements of local building codes is also imperative for most types of new construction or rehabilitation of existing units (one exception being the RHS Section 504 Very Low-Income Loans and Grants Program). Building codes set forth the construction standards that must be met when repairing or constructing buildings, such as standards for the kind, strength and quality of materials; plumbing equipment and installation requirements; electrical wiring specifications; fire and safety standards and other regulations.

### ***Step 8: Obtain Necessary Building Permits***

Local governments use the requirement for a building permit allowing new construction (or the alteration or repair of existing buildings) as a mechanism to enforce building code requirements. Plans and specifications must be submitted to the local building department for review and approval prior to the issuance of a building permit.

### **Step 9: Research Any Legal Restrictions on Individual Parcels**

Legal restrictions imposed on a site can effectively hinder development, require waivers or special agreements, or tie up closing in lengthy dispute resolution. Examples of significant legal restrictions follow.

- ⬢ **Encumbrances** are rights or interests held by a party who is not the fee owner of a property. Disclosed by way of title examination and spot survey of the property, encumbrances include:
  - ▶ **Liens.** A lien is a charge against property that provides security for a debt or obligation of the property owner. Examples of liens are mortgages and deeds of trust, real estate tax liens, and judgements.
  - ▶ **Easements.** An easement is the right acquired by one party to use the land of another party for a special purpose. It is an interest in real estate but not an "estate" (the legal term for an ownership interest) in land. There are two primary kinds of easements: **easements appurtenant** and **easements in gross** (personal or commercial).
    - An **easement appurtenant** can only exist where there are adjacent parcels owned by different parties. In legal terms this kind of easement "runs with the land," that is, passes with the title to the land benefitted by the easement. Usually such an easement is acquired by a landowner to obtain access to a location through another's property.
    - An **easement in gross** is only a personal interest in or right to use the land of another person. There is no ownership estate (interest) in the land, adjacent or otherwise. Examples of commercial easements in gross are rights of way for railroads, pipelines or high tension wires. For business or commercial purposes, these easements in gross run with the land. However, a personal easement in gross terminates with the death of the easement owner.
- ⬢ **Licenses** are temporary permits to enter another's property for a specific purpose, such as a hunting or fishing license or a license to park in an neighbor's driveway.
- ⬢ **Deed restrictions or covenants** are private agreements placed in the public record, usually by the developers of a subdivision in the original development plans. They are imposed by the seller of real estate upon sale of property and are recorded in the seller's deed to the buyer. Their usual purpose is to maintain specific standards in a subdivision.
- ⬢ **Encroachments** are unauthorized uses of someone else's real estate. These occur when some portion of a building, fence or driveway illegally extends onto land owned by another party.

## **PART C. FINANCIAL/COST CONSIDERATIONS**

To determine if and at what cost any of the parcels or buildings under consideration can be economically acquired and developed, utilize the following tools in a comparative analysis.

### ***Step 1: Examine the Land Value Comparison Chart***

This chart (as discussed in the Land Search chapter, pp. 15-16) is a simple tool to compile the various positive and negative attributes of each site under consideration and their attendant costs or savings. The chart can then be used in a comparative analysis of the potential sites, as well as to provide cost information that will be included in the financial *pro forma* (discussed in Step 6, below).

### ***Step 2: Have an Appraisal Done by a Licensed Appraiser***

A real estate appraisal is an estimate or an opinion of the value of improved or unimproved property. It is also the report that spells out the process and supporting documentation that was used to arrive at the estimated value of the property. A "market analysis" by a real estate agent or broker is not an appraisal. It is a statement of opinion in letter form made by real estate professionals – not licensed appraisers – and is seldom backed up by documented, recent comparable sales. Banks, mortgage companies, government lending agencies and others rely on appraisals to justify the value of loans that are backed up by mortgage instruments.

It is important to obtain an appraisal in order to determine what the estimated market value of real property might be, prior to making an offer to purchase a property because the appraised value of the property might not justify its acquisition price. If an offer is made without an appraisal, it should contain a contingency clause that allows for withdrawal from the option or contract with full refund of earnest money if the estimate of value fails to support the option or contract price. If an interim or permanent financing agency contracts for a professional appraisal after a property has somehow been acquired at an inflated price, the permanent mortgage loan might not be approved.

Both the process of creating appraisals and the certification of the appraisers who conduct them have been strengthened since the late 1980s. Banks began to require that appraisals be current – that is, less than six months old. Banks and federal lenders also became required by federal banking regulators to direct appraisers to compile their reports to conform to stricter Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) standards. The result of these reforms was that it became more difficult to justify loans if the land or buildings are highly speculatively priced.

### Step 3: Estimate Project Development Costs

Instead of reaching beyond the bounds of staff skills, utilize local professionals when formulating initial cost estimates. The following people are good sources of information:

- ☐ friendly suppliers,
- ☐ architects and engineers,
- ☐ building contractors,
- ☐ bank loan officers,
- ☐ appraisers,
- ☐ real estate agents,
- ☐ housing authority development and maintenance personnel,
- ☐ for-profit developers,
- ☐ county or state road engineers,
- ☐ other nonprofit staff members or
- ☐ anyone either altruistically interested in helping the project along or eventually hoping to get a piece of the development action.

The developer with several sites to choose from frequently seeks answers to the following questions and calculates any additional costs that have to be added into cost estimates and the development *pro forma*. Answers to the questions will guide the housing developer to make decisions regarding the best or most reasonable site to select for the organization's intended purpose.

<u>Zoning</u>	<u>Yes</u>	<u>No</u>
Are any or all of the parcels/buildings appropriately zoned for the project needs? .....	<input type="checkbox"/>	<input type="checkbox"/>
Will there be delays in obtaining zoning changes or variances due to community opposition? .....	<input type="checkbox"/>	<input type="checkbox"/>
Will there be delays due to significant changes in the preliminary plans to meet codes? .....	<input type="checkbox"/>	<input type="checkbox"/>
How long might the delays last? .....	_____	
How much might they cost? .....	\$ _____	

#### Site Comparisons

How do the various parcels or buildings compare to one another with regard to:

- ☐ cost,
- ☐ location,
- ☐ available utilities,
- ☐ amenities,
- ☐ zoning use and density,
- ☐ topography,
- ☐ soil attributes,
- ☐ drainage,

- ☐ paved access,
- ☐ size,
- ☐ shape,
- ☐ existing easements/encroachments/covenants,
- ☐ potential environmental preservation issues or
- ☐ health and safety problems?

#### Unanticipated Delays and Expenses

If there is potential for extra expense for removal or mitigation of toxic substances, to preserve wetlands areas or other natural features on any site, how great might that expense be? ..... \$ \_\_\_\_\_

If a wetlands area is judged to be substantial in size, does that leave enough acreage on the site in an acceptable location to pursue development for the size of project required to make development economically feasible at the acquisition price? .....	<u>Yes</u>	<u>No</u>
.....	<input type="checkbox"/>	<input type="checkbox"/>
Could the cost of removing all the lead-based paint on a property or treating it to mitigate the effects be prohibitively expensive? .....	<input type="checkbox"/>	<input type="checkbox"/>

#### Appraisal

Has valid information on recent comparable sales of like properties been acquired from real estate professionals or local banks? .....	<u>Yes</u>	<u>No</u>
.....	<input type="checkbox"/>	<input type="checkbox"/>
Does this information suggest that the appraised value of any of the properties might fall near the asking price? .....	<input type="checkbox"/>	<input type="checkbox"/>
Do any of the lenders require professional appraisals by licensed or certified appraisers or appraisals prepared to FIRREA standards as a condition of loan approval? .....	<input type="checkbox"/>	<input type="checkbox"/>

#### Raw Land vs. Adjacent Utilities

If one site costs more, but water and sewer is adjacent to the site, and another site costs significantly less, but utilities must be extended some distance, does the added cost of extending the water and sewer lines, including the administrative time it takes to get that particular aspect of site development accomplished, exceed the difference in price between the two parcels? .....	<u>Yes</u>	<u>No</u>
.....	<input type="checkbox"/>	<input type="checkbox"/>

#### Cost of Adaptation

Do any of the parcels or buildings stand out with regard to physical adaptability for housing development or rehabilitation? .....	<u>Yes</u>	<u>No</u>
.....	<input type="checkbox"/>	<input type="checkbox"/>
How costly would the adaptation of the property for housing development be? .....	\$ _____	
Would that cost push total development costs out of reach for the targeted market? .....	<input type="checkbox"/>	<input type="checkbox"/>

Legal Delays and Costs

Are there any complex legal problems to resolve  
on any of the properties related to:

	<u>Yes</u>	<u>No</u>
<input type="checkbox"/> ownership, .....	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> access, .....	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> easements or .....	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> encroachments? .....	<input type="checkbox"/>	<input type="checkbox"/>

How costly are these likely to be? ..... \$ \_\_\_\_\_

Regulatory Delays and Costs

	<u>Yes</u>	<u>No</u>
Will any of the sites require zoning changes or variances in order to be utilized for the type of housing envisioned by the developing organization? .....	<input type="checkbox"/>	<input type="checkbox"/>
Is the public hearing process likely to generate community opposition? .....	<input type="checkbox"/>	<input type="checkbox"/>

NIMBY Yes

	<u>No</u>
Is there potential community opposition regarding any of the sites based on environmental issues or "not in my back yard" (NIMBY) prejudice? .....	<input type="checkbox"/>

Preliminary Budget

<i>Item</i>	<i>Cost</i>
<b>Raw Land or Existing Building Acquisition</b>	\$
<b>Engineering</b>	\$
<i>Surveying</i>	\$
<i>Topographical Maps</i>	\$
<i>Soil/water Tests</i>	\$
<i>Site Design</i>	\$
<i>Site Plans</i>	\$
<i>Specifications and Inspection</i>	\$
<b>ENGINEERING TOTAL</b>	\$
<b>Legal</b>	\$
<i>Title Search</i>	\$
<i>Transfer Taxes</i>	\$
<i>Title Insurance</i>	\$

<i>Drawing up Contracts</i>	\$
<i>Legal Advice</i>	\$
<b>LEGAL TOTAL</b>	\$
<i>Administrative</i>	\$
<i>Overhead</i>	\$
<i>Salaries</i>	\$
<i>Consulting Fees</i>	\$
<b>ADMINISTRATIVE TOTAL</b>	\$
<i>Financing</i>	\$
<i>Financing Fees</i>	\$
<i>Interim Financing Interest Charges</i>	\$
<i>Real Estate Taxes</i>	\$
<b>FINANCING TOTAL</b>	\$
<i>Expert Fees</i>	\$
<i>Appraisal</i>	\$
<i>Market Study</i>	\$
<i>Environmental Assessment</i>	\$
<i>Archeological Study</i>	\$
<i>Geological Study</i>	\$
<i>Biological Study</i>	\$
<i>Botanical Study</i>	\$
<i>Wetlands Delineation</i>	\$
<i>Structural Inspection Reports</i>	\$
<b>EXPERT FEE TOTAL</b>	\$
<i>Regulatory Costs</i>	\$
<i>Building Permits</i>	\$
<i>Impact Fees</i>	\$
<i>Payment and Performance Bonds</i>	\$
<i>Insurance</i>	\$
<b>REGULATORY COST TOTAL</b>	\$
<i>Site Development Costs</i>	\$



<b>Clearing</b>	\$
<b>Grading</b>	\$
<b>Roadway</b>	\$
<b>Curbs</b>	\$
<b>Gutters</b>	\$
<b>Drains</b>	\$
<b>Soil Stabilization</b>	\$
<b>Retaining Walls</b>	\$
<b>Water Retention Ponds</b>	\$
<b>Utilities Installation</b>	\$
<b>SITE DEVELOPMENT TOTAL</b>	\$
<b>PROJECT TOTAL</b>	\$

These preliminary development cost calculations or estimates should be entered into the computerized inventory or record file of each site under consideration, to be fine tuned at a later date if the site is ultimately selected for development.

#### **Step 4: Research Local Government Affordable Housing and Tax Policies**

Housing and tax policies in the local jurisdiction can have a significant impact on the feasibility of the site for successful development. Three examples of local government policies that can have positive or negative impact on affordability and therefore affect feasibility follow.

- ⬢ **Property Tax Policies.** Concessionary or favorable real estate tax policies enacted by local governments to encourage the development of affordable housing can assist the nonprofit developer to create a feasible project. Some jurisdictions will grant full or partial property tax waivers to developers of affordable housing. This type of tax policy and the granting of density bonuses (see below) will often help the local government meet fair housing laws or comply with housing elements in their master plan, while helping the nonprofit keep the costs of development or operating costs down.
- ⬢ **Density Bonuses.** Other communities will grant density bonuses for the construction of affordable housing. A density bonus will allow more economic utilization of land, since it increases the density allowed by law, if an activity occurs that enhances the public purpose.
- ⬢ **Impact Fees.** Many municipalities and county governments now assess very heavy impact fees on development as a way to increase revenue and defray the increased costs of local services that accrue from housing and economic development. School, road, water and sewer hook-up or tap fees, and fire service fees are some of the most common impact fees. Check with the local jurisdiction to determine what fees might apply to the

proposed development, especially if it involves new construction. It never hurts to ask for a waiver of the fees for an affordable housing project, because the high fees assessed by some local governments will make it very difficult to keep total development costs down low enough to serve very low- and low-income households.

### ***Step 5: Estimate the Impact of Financing Rates/Terms and Project/Tenant Subsidies***

Other factors that heavily affect financial feasibility are favorable interest rates and terms, as well as individual tenant vouchers or first-time homebuyer subsidies and project-based subsidies, like government grants for infrastructure write-downs or rental assistance. Measure and factor into the feasibility equation the probability of acquiring necessary amounts of financing at certain times and at specific interest rates and also the subsidies to make the project work for the prospective clients, tenants or homeowners at each site.

### ***Step 6: Draft the Financial Pro Forma***

A set of preliminary total development cost calculations, a *pro forma* in the world of real estate finance, should be run up front during each site's feasibility analysis phase. The *pro forma* incorporates costs all the way out to actual rent up or sale of lots or homes in a proposed project. Some of the information concerning financing rates, terms and subsidies will have to be assumed at this stage, unless actual commitments are in hand.

The *pro forma* is an extremely important tool for housing developers, in that it collects all of the estimated cost information in one place such as the hard and soft costs of:

- acquiring, adapting, engineering and developing land and buildings,
- constructing subdivision improvements or buildings,
- marketing units, and
- the costs of loan fees and carrying charges over the projected predevelopment, development and construction phases.

It clearly projects the total cost over time to develop each site, including the cost of borrowed money (carrying charges) from project beginning to rent up or sale.

These financial projections, reflecting each site's development scenario, should be run once raw costs are assembled for the various components of the development cost estimate. Adjustments are made for the particular circumstances dictated by site-specific characteristics or local requirements.

If the initial cost projections exceed those which the project can absorb, the developer must then work backwards, fine-tuning the development proposal to determine what the organization can afford to pay for raw land, what zoning density is absolutely necessary, what minimum acreage or building type could adequately accomplish the development purpose, where the group might have to cut back on size of units or amenities or find other cost savings.

It is especially important to be armed with as much of this information as possible before settling on a purchase or option price and entering into option or purchase agreements for a specific piece of property. (See Appendix D for an example of a subdivision development *pro forma*.)

In certain markets, it is not always possible to complete initial or extensive feasibility studies prior to exercising some form of control over the site. This may occur for a number of reasons, including competition for a small number of properly zoned sites or community opposition to the site's intended use. When these situations exist, it is important to have some control over the land before the intention to develop becomes known. In such a market, the nonprofit developer needs to try to achieve the best terms with the minimum possible at-risk cash input for an option or purchase contract.

## ***SITE OPTION AND SITE PURCHASE***

After feasibility studies have been conducted and a decision has been made about which site or sites have the most reasonable potential for development for the proposed project, it is time to negotiate for control of a site. There are essentially two ways to effectively gain control of a site: 1) through a site option to purchase or 2) through a contingent purchase contract. Each of these legal contracts has particular characteristics that are suited to different needs of the buyer or seller.

### ***A. Option to Purchase***

An option is a written contract between a purchaser and a seller who holds open an offer to sell property for a certain price for a stated period of time. Most nonprofit and for-profit developers use an option to prevent the sale of a property to another party while extensive feasibility studies about the physical, environmental, legal and regulatory, socioeconomic/political and financial aspects of the site and its development potential are undertaken. It typically gives the optionor a longer time to collect important information at less cost than a contract to purchase and the flexibility to purchase or not to purchase at the stated option price, if costly problems are discovered or if the project ultimately is not feasible for any reason. No reasons are required to be given, if a decision not to exercise an option is reached.

In an ideal situation, a nonprofit obtains control of a good housing site for one month to one year for a nominal amount, called the option price. This is often not possible in areas which are actively undergoing development pressure and where demand for property is high. In that case a large option deposit will probably be required to keep the property off the market for an extended period of time.

Refundability of a deposit is usually a negotiated point between a buyer and a seller. In a typical option agreement, the option price or deposit is usually lost if the purchaser does not exercise his/her right to purchase. Whether a sizeable nonrefundable deposit is acceptable to a nonprofit purchaser depends upon the amount of working capital the organization is prepared to lose in the event it decides not to exercise the option and purchase the property for any reason.

An option to purchase can be recorded, that is, placed in the public record, to notify other potential purchasers that the property is tied up for a particular length of time. This insures that title to the property will not transfer during the option period. (See Appendix E: Form (USDA) RD 440-34, "Option to Purchase Real Property.")

### ***B. Contingent Purchase Contract***

A contingent purchase contract is a written agreement between a buyer and seller in which the buyer agrees to purchase property within a specific period of time, for a specified price. It is a binding contract from which the buyer can be released only if certain contingencies specified in the contract cannot be met. In the case of a purchase contract, the seller usually requires a substantial "earnest money" deposit to enter into the contract. The earnest money is a good faith deposit that holds the buyer to completing the sale. Refund of the earnest money deposit is tied solely to the inability of the buyer or seller to comply with the specified contingencies in the

contract. (See Appendix F: Glossary of Real Estate Terms.)

Typical contingencies included in purchase contracts are:

1. **Financing.** The terms of financing in a purchase contract should specify the lender, the interest rate, the term of the loan, the points or fees to be paid, and by whom they will be paid. If the buyer cannot obtain financing under these terms, or is denied financing for any reason, the buyer is not obligated to go forward.
2. **Physical Inspection.** This can include an environmental assessment of the land or building(s), a structural inspection of a building, or other types of assessment. If the buyer is not satisfied with the condition of the property, the buyer is not obligated to go forward. There is usually a limit on the amount of time the buyer has to conduct the physical inspection and make a decision to waive the contingency or exercise it.
3. **Public Approvals.** If certain public approvals are essential to the economic development of the property for housing, such as building permits, zoning changes, subdivision plat approval, water/sewer hookups and well/septic permits, they should be included as contingencies, specifying whether it is the buyer or the seller who will provide these approvals and by what date. Never underestimate the time it can take to obtain these approvals.
4. **Condition of Title.** There are two conditions under which the buyer does not have to go forward with the purchase. The first condition is if the seller is unable to convey clear title, meaning other people have interests in the real estate that must be cleared before it can be sold. The other condition is if other exceptions, such as an encroachment, appear on the preliminary title report and the seller cannot resolve the problems to the satisfaction of the buyer.

It is always wise to seek the advice of an attorney prior to signing any agreement, so that the organization's interests can be protected. In real estate matters it is essential that this advice be obtained from an attorney who practices real estate law. A nonprofit would benefit from the presence of a real estate attorney on its board of directors, as well as any other real estate or banking professionals in the community who are willing to participate.

**APPENDIX A:**  
**(FmHA) RHS INSTRUCTION 1944-E, EXHIBIT A-8**  
**“OUTLINE OF A PROFESSIONAL MARKETING STUDY”**

## OUTLINE OF PROFESSIONAL MARKET STUDY

This outline is to be used by analysts as the basis for preparing market studies for the 515 housing program. It generally contains the type and depth of information which FmHA requires for evaluating the feasibility of prospective housing developments. In addition to these specifications, the analyst will be responsible for including data pertinent to the elderly population if the proposed design is for elderly housing. The guidelines provide for the demonstration of historical trends and allows the analyst to project into the two years beyond the last actual year of record. Additional guidance is offered in individual segments of the outline.

If you have not previously participated in this program, you will have to obtain approval from FmHA before your study is accepted. To do this, a sample of a prior market analysis which you have prepared will need to be submitted to the local FmHA office for review. If this is to be your first market study, you will need to provide a statement of your experience and why you think you are qualified to prepare such a study.

### I Market area - General

The market area will be the community where the project will be located and only those outlying rural areas which will be impacted by the project (excluding all other established communities). Any deviation from this definition must be coordinated with the district office. The market area must be realistic. The criteria for selection should be described by the analyst. A map showing the market area will be required. The following is an example of a market area description:

- A Based on an analysis of population and housing development patterns, major employers and commuting patterns, the effective market area for the subject proposal is defined to include all of (Name), 35 percent of (Name) and 25 percent of (Name) census divisions. This area is shown on Map 2 following Table 4 (page 11) in Section II of this report. In 1970, this geographic market area contained an estimated 6,350 persons (6.1 percent of the county total of 103,829 persons). During the 1970's decade, the overall market area experienced growth of 1,253 persons (representing 13.5 percent of total gains in the county). In 1980, the (Name) market area population of

7,603 represented 6.7 percent of the county population of 113,086. (See Table 4 and Map 2 in Section II for details.)

- B The effective market area for the subject proposal includes the town of (Name) and a portion of the unincorporated areas to the east and south. The (Name) River forms a natural barrier restricting development to the west. Housing development and population growth have occurred along major transportation corridors, particularly Interstate 81 and U.S. 11 between (Name) and (Name). Secondary growth has occurred along State Roads 63 and 68 to the northwest and southeast of (Name). The Interstate Industrial Park, with 16 employers providing 999 jobs, is centrally located within the market area.

## II Site

This section will contain a full description of the site, its position in the community and location with respect to residential support services.

- A The proposed site is located in the eastern section of (Town) on (Major Thoroughfare). The area surrounding the site is predominantly comprised of modest single family dwellings.
- B The site is approximately .3 mile east of the heart of town which contains a grocery store, drugstore, restaurants, banking facilities, the post office and town hall. Other shopping is available .2 mile south at (Town) Plaza.
- C The medical clinic, which provides services of an osteopath, X-ray technician, a physician's assistant and a nurse, is approximately .8 mile north of this site. This clinic is open daily and also provides 24-hour emergency service. The nearest hospitals are (Large City) and (City).
- D All public services are available at the site.

## III Demographic characteristics

- A Economic profile



1 Labor force and employment trends presents trends between 1970 and 1980, provides current year estimates and projected changes at the county level.

CIVILIAN LABOR FORCE AND EMPLOYMENT TRENDS AND  
FORECASTS, \_\_\_\_\_ COUNTY, 1970-1987\_

1970      1980      198 1/    19

Civilian Labor Force 2/

Unemployment  
Rate of Unemployment  
Employment

Change in Total Employment

	<u>Number</u>		<u>Percent</u>	
	<u>Total</u>	<u>Annual</u>	<u>Total</u>	<u>Annual</u>
1970-1980				
1980-198				
198 -19      (2-year projection)				

- 1/ Preliminary--based on monthly data through \_\_\_\_\_  
2/ Data based on place of residence

Source:

2 Employment data In order to determine how employment affects the market area, it will be necessary to show the number of employed persons between 1980 and the current year, the increase and/or decrease and the percentage of unemployed at the county level. The employment figures can be obtained from the State Employment Commission.

Example:

<u>County</u>			
<u>Year</u>	<u>Number</u>	<u>Change</u>	<u>Unemployment %</u>
1980			
1981			
1982			
1983			
1984			
1985			
1986			
1987 (or through current year)			

Source:

3 Major employers This section will contain information pertinent to an analysis of the economic stability of the town. The major employers within the town and market area, the product or service offered by each employer, number of employees at each employer, salary range of each employer, location of employer, and year each employer was established are types of data FmHA will need to evaluate. It is also helpful to know if the larger employers intend to increase or decrease number of employees in the immediate future or if there have been any significant recent changes in number of employees.

4 It should not be difficult to obtain some of the above data from the employers themselves. However, some employers may be reluctant to divulge certain information regarding their businesses, such as the salary range of their employees. In those cases, the analyst will have to obtain averages, by job type, from the State Employment Commission using job

classifications from the Standard Industrial Classification Manual. The data should be shown as follows:

**Example:**

<u>Employer</u>	<u>Product/ Service</u>	<u>Employees</u>	<u>Salary</u>		<u>Location</u>	<u>Year Established</u>
			<u>Weekly</u>	<u>Yearly</u>		
Washington Crop Aircraft Dusting		5	\$200	\$10,000	Town	1957

**Source:**

**B Demographic Profile**

1 **Population** The analyst will need to show population changes between 1970 and 1980, the current year estimate and projected change. The annual changes will need to be shown also. We also want percentages along with the figures, as follows:

	<u>Year*</u>	<u>Number</u>	<u>Total</u>		<u>Annual</u>	
			<u>Change</u>	<u>Percent</u>	<u>Change</u>	<u>Percent</u>
TOWN:	1970					
	1980					
	198 (current estimate)					
PROJECTED:	19	(2 years)				
COUNTY:	1970					
	1980					
	198 (current estimate)					
PROJECTED:	19	(2 years)				

\* - April 1 of each year

2 Age Characteristics

Age	<u>TOWN *</u>			<u>COUNTY</u>		
	<u>1970-1980</u>			<u>1970-1980</u>		
	<u>1970</u>	<u>1980</u>	<u>Change</u>	<u>1970</u>	<u>1980</u>	<u>Change</u>
Under 18						
18 - 29						
30 - 61	* - Available for places of 2,500 or more only					
62+						

3 Households A breakdown by town and county for last 2 census years, a current year estimate and a projection to the year the housing would be built (24 months) will have to be illustrated so that household formations can be tracked. This data will tell us what portion of a housing demand is being created by an increase in numbers of new households.

	<u>Year*</u>	<u>Population</u>	<u>In Group Quarters</u>	<u>Households</u>	<u>Persons Per Household</u>
TOWN:	1970				
	1980				
	198				
PROJECTED:	19	(2 years)			

	<u>Year*</u>	<u>Population</u>	<u>In Group Quarters</u>	<u>Households</u>	<u>Persons Per Household</u>
COUNTY:	1970				
	1980				
	198				

PROJECTED: 19 (2 years)

\* April 1 of each year

4 Households by Tenure This section is one of the more important aspects of the market analysis. This information will enable us to more closely pinpoint the number of households which would comprise the target group of our evaluation.

	<u>Year</u>	<u>Total Households</u>	<u>Owner</u>	<u>Percent</u>	<u>Renter</u>	<u>Percent</u>
TOWN:	1970					
	1980					
ESTIMATE:	198					
PROJECTED:	19 (2 years)					

	<u>Year</u>	<u>Total Households</u>	<u>Owner</u>	<u>Percent</u>	<u>Renter</u>	<u>Percent</u>
COUNTY:	1970					
	1980					
ESTIMATE:	198					
PROJECTED:	19 (2 years)					

5 Households by Income Group This section is also vital to the evaluation of the market because of the low income ranges which exist in the rural areas and the lack of deep subsidy. For this reason, close attention must be paid to the number of persons whose incomes will allow them to pay the rent plus utilities and still remain within the 30 percent criterion. In some cases, persons with incomes in the upper range of the eligible income group have displayed a lack of interest since they would be required to pay the full market rent. Also, persons with lower incomes will move into projects even though they will pay more than

30 percent of their incomes. Irrespective of these considerations, the study will need to show the entire scale of incomes from lowest to highest. The number of renters who fall within the feasibility range can then be estimated. Income data should be shown for total and renter households, updated to the current year.

a Rent for a 1-bedroom apartment is \$250 with a \$30 utility allowance (which can include electric or gas heat, air conditioning, lighting, cooking, water heating and trash collection, water, sewer). The amount of income needed to pay the total bill and stay within 30 percent of income would be:

Example: \$280 divided by .30 x 12 = \$11,088 income.

Household Income Profile, \_\_\_\_\_ County, 1984 \*

Household Income Groups	All Households		Renter Households	
	Number	Percent	Number	Percent
Less than \$10,000				
\$10,000 - \$14,999				
\$15,000 - \$19,999				
\$20,000 - \$24,999				
\$25,000 -				
Total				
Median				

Source:

b HUD has furnished its information on owner/renter by income group by number of persons in the household. This type of information will further enhance evaluation of the affordability issue by allowing the examination of the number of renters in the affordability range. For the

**APPENDIX B:**  
**FORM (FmHA) RHS 1940-20**  
**“REQUEST FOR ENVIRONMENTAL INFORMATION”**

REQUEST FOR ENVIRONMENTAL INFORMATION

Name of Project

Location

Item 1a. Has a Federal, State, or Local Environmental Impact Statement or Analysis been prepared for this project?

☐ Yes ☐ No ☐ Copy attached as EXHIBIT I-A.

1b. If "No," provide the information requested in Instructions as EXHIBIT I.

Item 2. The State Historic Preservation Officer (SHOP) has been provided a detailed project description and has been requested to submit comments to the appropriate Rural Development Office. ☐ Yes ☐ No Date description submitted to SHPO

Item 3. Are any of the following land uses or environmental resources either to be affected by the proposal or located within or adjacent to the project site(s)? (Check appropriate box for every item of the following checklist).

	Yes	No	Unknown		Yes	No	Unknown
1. Industrial .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	19. Dunes .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Commercial .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	20. Estuary .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Residential .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	21. Wetlands .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Agricultural .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	22. Floodplain .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Grazing .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	23. Wilderness .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Mining, Quarrying .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(designated or proposed under the Wilderness Act)			
7. Forests .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	24. Wild or Scenic River .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Recreational .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(proposed or designated under the Wild and Scenic Rivers Act)			
9. Transportation .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	25. Historical, Archeological Sites .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Parks .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(Listed on the National Register of Historic Places or which may be eligible for listing)			
11. Hospital .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	26. Critical Habitats .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Schools .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(endangered /threatened species)			
13. Open spaces .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	27. Wildlife .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Aquifer Recharge Area .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	28. Air Quality .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Steep Slopes .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	29. Solid Waste Management .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Wildlife Refuge .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	30. Energy Supplies .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Shoreline .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	31. Natural Landmark .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Beaches .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(Listed on National Registry of Natural Landmarks)			
				32. Coastal Barrier Resources System .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Item 4. Are any facilities under your ownership, lease, or supervision to be utilized in the accomplishment of this project, either listed or under consideration for listing on the Environmental Protection Agency's List of Violating Facilities? ☐ Yes ☐ No

(Date)

Signed:

(Applicant)

(Title)



## INSTRUCTIONS FOR PREPARING FORM RD 1940-20

Federal agencies are required by law to independently assess the expected environmental impacts associated with proposed Federal actions. It is extremely important that the information provided be in sufficient detail to permit Rural Department to perform its evaluation. Failure to provide sufficient data will delay agency review and a decision on the processing of your application.

This information request is designed to obtain an understanding of the area's present environmental condition and the project's elements that will affect the environment. Should you believe that an item does not need to be addressed for your project, consult with the RD office from which you received this Form before responding. In all cases when it is believed that an item is not applicable, explain the reasons for this belief.

It is important to understand the comprehensive nature of the information requested. Information must be provided for a) the site(s) where the project facilities will be constructed and the surrounding areas to be directly and indirectly affected by its operation and b) the areas affected by any primary beneficiaries of the project. The amount of detail should be commensurate with the complexity and size of the project, and the magnitude of the expected impact. Some examples:

A small community center project may not require detailed information on air emissions, meteorological conditions and solid waste management.

A water resource, industrial development, or housing development project will require detailed information.

Item 1a - Compare the Environmental Impact Statement or Analysis that was previously prepared with the information requested in the instructions for Item 1b below to be sure that every point in the information request is covered in the Environmental Impact Statement or Analysis. If any of the requested information is not covered, attach to the Environmental Impact Statement or Analysis a supplemental document that corrects any deficiencies or omissions.

Item 1b - Provide responses to the following items in the order listed and attach as EXHIBIT I. In order to understand the full scope of the land uses and environmental factors that need to be considered in responding to these items, it may be helpful to complete Item 3 of the Form before completing these narrative responses. If your application is for a project that Rural Development has classified as a Class I action, complete only parts (1), (2), (13), (15), (16), and (17) of this Item. The Rural Development office from which you received this Form can tell you if your application falls within the Class I category.

### (1) Primary Beneficiaries

Identify any existing businesses or major developments that will benefit from the proposal, and those which will expand or locate in the area because of the project. These businesses or major developments hereafter will be referred to as primary beneficiaries.

(2) Area Description

- (a) Describe the size, terrain, and present land uses as well as the adjacent land uses of the areas to be affected. These areas include the site(s) of construction or project activities, adjacent areas, and areas affected by the primary beneficiaries.
- (b) For each box checked "Yes" in item 3, describe the nature of the effect on the resource. If one or more of boxes 17 through 22 is checked "Yes" or "Unknown," contact Rural Development for instructions relating to the requirements imposed by the Floodplain Management and Wetland Protection Executive Orders.
- (c) Attach as Exhibit II the following: 1) a U.S. Geological Survey "15 minute" ("7 1/2 minute" if available) topographic map which clearly delineates the area and the location of the project elements; 2) the Federal Emergency Management Administration's floodplain map(s) for the project area; 3) site photos; 4) if completed, a standard soil survey for the project area; and 5) if available, an aerial photograph of the site. If a floodplain map is not available, contact Rural Development for additional instructions relating to the requirements imposed by the Floodplain Management Executive Order.

(3) Air Quality

- (a) Provide available air quality data from the monitoring station(s) either within the project area or, if none exist nearest the project area.
- (b) Indicate the types and quantities of air emissions to be produced by the project facilities and its primary beneficiaries. If odors will occur, indicate who will be affected.
- (c) Indicate if topographical or meteorological conditions hinder the dispersal of air emissions.
- (d) Indicate the measures to be taken to control air emissions.

(4) Water Quality

- (a) Provide available data on the water quality of surface or underground water in or near the project area.
- (b) Indicate the source, quality, and available supply of raw water and the amount of water which the project is designed to utilize.
- (c) Describe all of the effluents or discharges associated with the project facilities and its primary beneficiaries. Indicate the expected composition and quantities of these discharges prior to any treatment processes that they undergo and also prior to their release into the environment.

- (d) Describe any treatment systems which will be used for these effluents and indicate their capacities and their adequacy in terms of the degree and type of treatment provided. Indicate all discharges which will not be treated. Describe the receiving waters and their uses (e.g., recreational) for any sources of treated and untreated discharge.
- (e) If the treatment systems are or will be inadequate or overloaded, describe the steps being taken for necessary improvements and their completion dates.
- (f) Describe how surface runoff will be handled if not discussed in (d) above.

(5) Solid Waste Management

- (a) Indicate the types and quantities of solid wastes to be produced by the project facilities and its primary beneficiaries.
- (b) Describe the methods for disposing of these solid wastes plus the useful life of such methods.
- (c) Indicate if recycling or resource recovery programs are or will be used.

(6) Transportation

- (a) Briefly describe the available transportation facilities serving the project area.
- (b) Describe any new transportation patterns which will arise because of the project.
- (c) Indicate if any land uses, such as residential, hospitals, schools or recreational, will be affected by these new patterns.
- (d) Indicate if any existing capacities of these transportation facilities will be exceeded. If so, indicate the increased loads which the project will place upon these facilities, particularly in terms of car and truck traffic.

(7) Noise

- (a) Indicate the major sources of noise associated with the project facilities and its primary beneficiaries.
- (b) Indicate the land uses to be affected by this noise.

(8) Historic/Archeological Properties

- (a) Identify any known historic/archeological resources within the project area that are either listed on the National Register of Historic Places or considered to be of local and state significance and perhaps eligible for listing in the National Register.
- (b) Attach as EXHIBIT III any historical/archeological survey that has been conducted for the project area.

(9) Wildlife and Endangered Species

- (a) Identify any known wildlife resources located in the project area or its immediate vicinity.
- (b) Indicate whether to your knowledge any endangered or threatened species or critical habitat have been identified in the project area or its immediate vicinity.

(10) Energy

- (a) Describe the energy supplies available to the project facilities and the primary beneficiaries.
- (b) Indicate what portion of the remaining capacities of these supplies will be utilized.

(11) Construction

Describe the methods which will be employed to reduce adverse impacts from construction, such as noise, soil erosion and siltation.

(12) Toxic Substances

- (a) Describe any toxic, hazardous, or radioactive substances which will be utilized or produced by the project facilities and its primary beneficiaries.
- (b) Describe the manner in which these substances will be stored, used, and disposed.

(13) Public Reaction

- (a) Describe any objections which have been made to the project.
- (b) If a public hearing has been held, attach a copy of the transcript as EXHIBIT IV. If not, certify that a hearing was not held.
- (c) Indicate any other evidence of the community's awareness of the project such as through newspaper articles or public notification.

(14) Alternatives to the Proposed Project

Provide a description of any of the following types of alternatives which were considered:

- (a) Alternative locations.
- (b) Alternative designs.
- (c) Alternative projects having similar benefits.

(15) Mitigation Measures

Describe any measures which will be taken to avoid or mitigate any adverse environmental impacts associated with the project.

(16) Permits

- (a) Identify any permits of an environmental nature which are needed for the project.
- (b) Indicate the status of obtaining each such permit and attach as EXHIBIT V any that have been received.

(17) Other Federal Actions

Identify other federal programs or actions which are either related to this project or located in the same geographical area and for which you are filing an application, have recently received approval, or have in the planning stages.

Item 2 - All applicants are required to provide the State Historic Preservation Officer (SHPO) with (a) a narrative description of the project's elements and its location, (b) a map of the area surrounding the project which identifies the project site, adjacent streets and other identifiable objects, (c) line drawings or sketches of the project and (d) photographs of the affected properties if building demolition or renovation is involved. This material must be submitted to the SHPO no later than submission of this Form to Rural Development . Additionally, the SHPO must be requested to submit comments on the proposed project to the Rural Development office processing your application.

Item 3 - Self-explanatory.

Item 4 - Self-explanatory.

**APPENDIX C:**  
**CHAPTER 173: SUBDIVISION AND LAND DEVELOPMENT,**  
**TOWN OF LA PLATA, MARYLAND**  
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## **Chapter 173**

### **SUBDIVISION AND LAND DEVELOPMENT**

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[HISTORY: Derived from Ch. 12 of the Charter and Code of Ordinances of the Town of La Plata, as reprinted 7-1-79. Sections 173-28 and 173-66 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

#### GENERAL REFERENCES

General penalty — See Ch. 1, Art. III.  
 Beautification Commission — See Ch. 8.  
 Planning Commission — See Ch. 40.  
 Building construction — See Ch. 75.  
 Building numbering and street naming — See Ch. 78.  
 Fees — See Ch. 101.  
 Floodplain management — See Ch. 108.  
 Licenses and permits — See Ch. 128.  
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 Streets and sidewalks — See Ch. 170.  
 Water and sewers — See Ch. 186.  
 Zoning — See Ch. 191.

***APPENDIX D:  
SAMPLE PRO FORMA,  
HOUSING ASSISTANCE COUNCIL,  
COMMUNITY DEVELOPMENT DIVISION***

Sources and Uses of Funds

Project:

Number Units

SOURCES

Loans:

Rate Term

Grants / Equity:

Other:

TOTAL SOURCES  
per unit

Repayment / Takeout Loans (previous phases)

Total Repayments:  
NET SOURCES

Acquisition  
Financing

Date \_\_\_/\_\_\_/\_\_\_

Predevelopment  
Financing

From \_\_\_/\_\_\_/\_\_\_  
To \_\_\_/\_\_\_/\_\_\_

Construction  
Financing

From \_\_\_/\_\_\_/\_\_\_  
To \_\_\_/\_\_\_/\_\_\_

Permanent  
Financing

Date \_\_\_/\_\_\_/\_\_\_

Totals

Status  
R/C/P

Received  
Committed  
Pending

**USES**

E

**Acquisition  
Financing**

**Predevelopment  
Financing**

**Construction  
Financing**

**Permanent  
Financing**

**Totals**

**ACQUISITION**

Site Acquisition  
Legal/Closing Costs  
Appraisal  
Market Study  
Other Soft Costs  
Contingency






**PREDEVELOPMENT**

Site Development (hard costs)  
Loan Fees  
Loan Interest  
Architecture  
Engineering  
Soils/Geotechnical Testing  
Environmental  
Legal/Closing Costs/Permits  
Contingency






**CONSTRUCTION**

Construction Hard Costs  
Loan Fees  
Loan Interest  
Construction Inspection  
Other soft costs  
Contingency






**PERMANENT**

Loan Fees  
Other Closing Costs  
Loan Interest  
Operating/Replacement Reserves






DEVELOPER'S FEE  
CONSULTANT FEE  
OTHER:






**TOTAL USES**  
per unit

**Net Excess/Shortfall**






Prepared by:

PROJECT:

SOURCES AND USES STATEMENT (by stage)

Number Units

PRELIMINARY DEVELOPMENT BUDGET

Acquisition	
Appraisal	
Market Study	
Environmental Report	
Survey	
Working Capital	
Site Work / Landscape	
Soft Cost Contingency	
Taxes	
Insurance	
Legal	
Title	
Closing Costs	
Architecture	\$ 0
Engineering	\$ 0
Water /Sewer Tap Fees	
Construction Loan Interest	
Construction Loan Fee	
Development fee	
Consultant Fee	
Housing Counseling	
Marketing	
Other (specify) _____	
Construction / Rehabilitation	
Permits	
Clerk-of-Works	
Construction Contingency	
Construction Inspector	
TOTAL DEVELOPMENT COSTS	\$ 0
AVERAGE COST PER UNIT	\$ 0

**PRELIMINARY OPERATING BUDGET (Annual)**

**PROJECT INCOME**

Rent	\$	_____
Vacancy - <input type="text" value="7.00%"/>	\$	_____
Other (specify) _____	\$	_____
Total Project Income	\$	_____
Income Escalation <input type="text" value="3.00%"/>		

**OPERATING EXPENSES**

Maintenance	\$	_____
Legal	\$	_____
Taxes	\$	_____
Insurance	\$	_____
Utilities	\$	_____
Management fee	\$	_____
Audit	\$	_____
Replacement reserve ( <input type="text" value="___%"/> )	\$	_____
Operating reserve ( <input type="text" value="___%"/> )	\$	_____
Other (specify) _____	\$	_____
Total Operating Expenses	\$	_____
Expense escalation <input type="text" value="3.00%"/>		

**DEBT SERVICE**

_____	\$	_____
_____	\$	_____
_____	\$	_____
_____	\$	_____
_____	\$	_____
<b>Total Debt Service</b>	\$	_____
Net income (cashflow)	\$	_____
<b>DEBT SERVICE COVERAGE</b>		_____

**BUDGET FOR SINGLE FAMILY HOMES**

Sales Price of House  
Closing Costs  
Less Down Payment  
Less Grant Funds

Amount to Finance

**MONTHLY HOUSING EXPENSES**

MORTGAGE

Source: \_\_\_\_\_

Terms: \_\_\_\_\_ % for \_\_\_\_\_ Years

MORTGAGE

Source: \_\_\_\_\_

Terms: \_\_\_\_\_ % for \_\_\_\_\_ Years

INSURANCE

UTILITIES

TAXES

LEASE FEES

TOTAL

**MINIMUM INCOME REQUIRED**

Monthly Housing Expenses  
Yearly Housing Expenses  
Minimum Income Level  
(Yearly expenses divided by 28%)

Median Income (Monthly)  
Median Income (Yearly)

Lowest Income Served  
Highest Income Served  
(percentage of median income)

**APPENDIX E:**  
**FORM (USDA) RD 440-34,**  
**“OPTION TO PURCHASE REAL PROPERTY”**



UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL DEVELOPMENT  
FARM SERVICE AGENCY

OPTION TO PURCHASE REAL PROPERTY

1. In consideration of the sum of \$ \_\_\_\_\_ in hand paid and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned (hereinafter called the "Seller"), who covenants to be the owner thereof, hereby, for the Seller and the Seller's heirs, executors, administrators, successors and assigns, offers and agrees to sell and convey to

\_\_\_\_\_  
(Name and Address)

(hereinafter called the "Buyer"), and hereby grants to the said Buyer the exclusive and irrevocable option and right to purchase, under the conditions hereinafter provided, the following-described property, located in \_\_\_\_\_

County, State of \_\_\_\_\_:

(Insert here full and complete legal description, including volume and page where recorded, of the property including any water rights and water stock being purchased.)

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0172. The time required to complete this information collection is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The title to said property is to be conveyed free and clear of all encumbrances except for the following reservations, exceptions and leases, and no others:

(Insert here a full statement of all reservations, exceptions and leases, including in the case of leases, the date of the termination of the lease, the correct name(s) and address(es) of the lessee(s) and, if recorded, the place of recordation)

2. The option is given to enable the Buyer to obtain a loan made by the United States of America, acting through the ☐ Rural Housing Service; ☐ Rural Utilities Service; ☐ Rural Business-Cooperative Service; ☐ Farm Service Agency, hereinafter called the "Government" for the purchase of said property. It is agreed that the Buyer's efforts to obtain a loan constitute a part of the consideration for this option and any downpayment will be refunded if the loan cannot be processed by the Government.

3. The total purchase price for said property is \$ \_\_\_\_\_ ; said amount

☐ includes ☐ excludes the \$ \_\_\_\_\_ mentioned in paragraph 1.

4. The Seller agrees to pay all expenses of title clearance including, if required, abstract or certificate of title or policy of title insurance, continued down to the date of acceptance of this option and thereafter continued down to and including date of recordation of the deed from the Seller to the Buyer, costs of survey, if required, and attorney's fees; and the Seller agrees that, except as herein provided, all taxes, liens, encumbrances or other interests in third persons will be satisfied discharged, or paid by the Seller including stamp taxes and other expenses incident to the preparation and execution of the deed and other evidences of title. Title evidences will be obtained from persons and be in such form as the Government shall approve.

~~(Strike inapplicable language above or insert herein any different agreement regarding the paying of title clearance charges)~~

5. The Seller also agrees to secure for the Buyer, from the records of the Farm Service Agency, aerial surveys of the property when available, all obtainable information relating to allotments and production history and any other information needed in connection with the consideration of the proposed purchase of the property.

6. The Seller further agrees to convey said property to the Buyer by general warranty deed (except where the law provides otherwise for conveyances by trustees, officers of courts, etc.) in the form, manner and at the time required by the "Government, conveying to the Buyer a valid, unencumbered, indefeasible fee-simple title to said property meeting all requirements of the Government; that the purchase price shall be paid at the time of recording such deed; and that said lands, including improvements, shall be delivered in the same condition as they now are, customary use and wear excepted.

7. Taxes, water assessments and other general and special assessments of whatsoever nature for the year in which the closing of the transaction takes place shall be prorated as of the date of the closing of the transaction, it being expressly agreed that for the purpose of such proration the tax year shall be deemed to be the calendar year. If the closing of the transaction shall occur before the tax rate is fixed, the apportionment of taxes shall be on the basis of the tax rate for the next preceding year applied to the latest assessed valuation.

*(Insert here any different tax agreement)*

8. This option may be exercised by the Buyer, at any time while the offer herein shall remain in force, by mailing, telegraphing or delivering in person a written notice of acceptance of the offer herein to \_\_\_\_\_ ,  
at \_\_\_\_\_ , in the city of \_\_\_\_\_ ,  
County of \_\_\_\_\_ , State of \_\_\_\_\_ ,

The offer herein shall remain irrevocable for a period of \_\_\_\_\_ months from the date hereof and shall remain in force thereafter until one (1) year from the date hereof unless earlier terminated by the Seller. The Seller may terminate this offer at any time after the \_\_\_\_\_ months irrevocable period provided herein by giving to the Buyer ten (10) days written notice of intention to terminate at the address of the Buyer. Acceptance of this option by the Buyer within ten (10) days after such notice is received by the Buyer shall constitute a valid acceptance of the option.

9. Loss or damage to the property by fire or from an act of God shall be at the risk of the Seller until the deed to the Buyer has been recorded, and in the event that such loss or damage occurs, the Buyer may, without liability, refuse to accept conveyance of title, or may elect to accept conveyance of title, in which case there shall be an equitable adjustment of the purchase price.

10. The Seller agrees that, irrespective of any other provision in this option, the Buyer, or the Buyer's assignees, may, if the option is accepted, without any liability therefore refuse to accept conveyance of the property described herein if the foresaid loan cannot be made or insured because of defects in the title to other land now owned by, or being purchased by, the buyer.

11. The Seller agrees to furnish, at Seller's expense, to the Buyer a certificate from a reliable firm certifying that the following described building(s) covered by this option (a) is now free of termite infestation and (b) either is now free of unrepaired termite damage or has suffered unrepaired termite damage which is specifically described in the certificate.

12. The Seller agrees to furnish, at the Seller's expense, to the Buyer evidence from the Health Department or a reliable and competent source that the waste disposal system for the dwelling is functioning properly, and the water supply for domestic use meets State Health Department requirements. This evidence must be in the Agency Office before a loan will be approved.

13. The Seller hereby gives the Government or its agents consent to enter on said property at reasonable times for the purpose of inspecting or appraising it, in connection with the making of a loan to purchase the property.

14. Insert here conditions peculiar to this particular transaction.

(Sellers Telephone Number)

IN WITNESS WHEREOF, the Seller and the Buyer have set their hands and seals this \_\_\_\_\_ day  
of \_\_\_\_\_ , \_\_\_\_\_ .

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Seller)\*  
\_\_\_\_\_  
(Seller)\*  
\_\_\_\_\_  
(Buyer)\*  
\_\_\_\_\_  
(Buyer)\*  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\*(Indicate marital status of Seller as "married", "legally separated", "unmarried", after signature)  
(over)

(For use if Seller is a corporation)

IN WITNESS WHEREOF, the Seller has caused its corporate name to be hereunto subscribed by its \_\_\_\_\_  
President, and its duly attested corporate seal to be hereunto affixed by its \_\_\_\_\_  
Secretary, at \_\_\_\_\_, State of \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

(CORPORATE SEAL)

\_\_\_\_\_  
*Name of Corporation*

ATTEST: \_\_\_\_\_ By: \_\_\_\_\_  
\_\_\_\_\_  
Secretary. \_\_\_\_\_ President.

#### ACKNOWLEDGMENT

***APPENDIX F:***  
***GLOSSARY OF REAL ESTATE WORDS AND TERMS***

## **APPENDIX F: GLOSSARY OF REAL ESTATE WORDS AND TERMS**

**ABSOLUTE FEE SIMPLE TITLE (FEE SIMPLE).** One that is unqualified; it is the best title one can obtain.

**ABSTRACT OF TITLE.** A condensed history of the title consisting of a summary of the original grant and all subsequent conveyances and encumbrances relating to a particular parcel of real estate.

**ACCELERATION CLAUSE.** The clause in a mortgage or trust deed that can be used to make the entire debt immediately due if the mortgagor defaults on a payment or other covenant.

**ACCEPTANCE.** Agreement to the terms of a written sales contract evidenced by the party's signature on the contract; acceptance binds a party to a contract.

**ACCESS.** The right to enter and leave a tract of land from a public way, sometimes by easement over land owned by another.

**ACRE.** A measure of land: 43,560 square feet, 160 square rods, 4,840 square yards.

**AFFIDAVIT OF TITLE.** A written statement made under oath by seller or grantor and acknowledged before a notary public in which grantor: (1) identifies himself and his marital status, (2) certifies that since the examination of title on the date of the contract there are no judgements, bankruptcies or divorces against him, no unrecorded deeds or contracts, no repairs or improvements that have not been paid for, and no defects in his title that he knows of, and (3) certifies that he is in possession of the premises.

**AIR RIGHTS.** The right to use the space above the physical surface of the land, generally allowing the surface to be used for some other purpose.

**AMORTIZED MORTGAGE.** A mortgage loan in which the principal as well as the interest is payable in monthly or periodic installments during the term of the loan.

**APPRAISAL.** An estimate of quantity, quality or value. The process through which conclusions of property value are obtained. Also refers to the report setting forth the estimate and conclusion of value.

**APPROACHES TO VALUE.** An appraiser employs three approaches to estimate the value of real estate: cost approach, income approach and market data approach.

**APPURTENANCES.** Those rights, privileges, and improvements that belong to and pass with the transfer of real property but are not necessarily a part of the property, such as rights-of-way, easements, water rights, and property improvements.

**ASSESSED VALUE.** The value placed on land and building by a government unit (assessor) for use in levying annual real estate taxes.

**BALLOON PAYMENT.** The final payment of a mortgage loan that is considerably larger than the required periodic payments; results from the fact that the loan amount was not fully amortized.

**BENCH MARK.** A permanent reference mark or point established for use by surveyors in measuring differences in elevation.

**BLANKET MORTGAGE.** A mortgage covering more than one parcel of real estate, providing for a partial release from the lien of the mortgage upon repayment of definite portions of the debt.

**BUILDING CODE.** An ordinance that specifies minimum standards of construction for buildings in order to protect public safety and health.

**CAPITALIZATION.** The process employed in estimating the value of a property by the use of a proper investment rate of return and the annual net income expected to be produced by the property, the formula being expressed:  $\text{Income/Rate} = \text{Value}$

**CAVEAT EMPTOR.** Let the buyer beware (Latin).

**CHAIN OF TITLE.** The succession of conveyances from some accepted starting point whereby the present holder of real property derives his title.

**CHATTELS.** Personal property items.

**CLOSING STATEMENT.** The computation of financial adjustments between buyer and seller computed as of the day of closing a sale to determine the net amount of money which buyer must pay to seller to complete his purchase of the real estate.

**CLOUD ON THE TITLE.** An outstanding claim or encumbrance which, if valid, would affect or impair the owner's title; a judgment, interest of another party, or mortgage.

**CLUSTERING.** The grouping of homesites within a subdivision on smaller lots than normal, with the remaining land used as common areas.

**COMPARABLES.** Properties listed in an appraisal report that are substantially equivalent to the subject property.

**CONDEMNATION.** Taking private property for public use through court action, with compensation to the owner, under the right of eminent domain.

**CONSIDERATION.** That which is received by the grantor in a sale in exchange for his deed. Something of value which induces one to enter into a contract. It may be "valuable"

(money or money's worth) or "good" (love and affection). Can be expressed in the deed as "nominal" (\$10 and other good and valuable consideration) or as "actual" (the full sales price).

**CONTIGUOUS.** Adjacent, in actual contact, touching.

**CONTRACT.** An agreement entered into by two or more legally competent parties by the terms of which one or more of the parties, for a consideration, undertakes to do or refrain from doing some legal act or acts. A contract may be either unilateral, where only one party is bound to act, or bilateral, where all parties to the instrument are legally bound to act as prescribed.

**CONTRACT FOR DEED.** A contract for the sale of real state wherein the purchase price is paid in periodic installments by the purchaser, who is in possession of the property even though title is retained by the seller until final payment. Also called installment contract.

**COST APPROACH.** The process of estimating the value of property by adding to the estimated land value the appraiser's estimate to the reproduction cost of the building less depreciation.

**COUNTEROFFER.** A new offer made as a reply to an offer received. It has the effect of rejecting the original offer, which cannot be accepted thereafter unless revived by the offeror's repeating it.

**COVENANT.** An agreement written into deeds and other instruments promising performance or nonperformance of certain acts, or stipulating certain uses or nonuses of the property.

**CURTESY.** A life estate (usually a fractional interest such as one-third) given by some state laws to the surviving husband in real estate owned by his deceased wife. Most states have abolished curtesy.

**DEDICATION.** The voluntary giving of private property by the owner of a development for some public use (streets, schools, etc.).

**DEED.** A written instrument that, when executed and delivered, conveys title to or an interest in real estate.

**DEED RESTRICTIONS.** Clauses in a deed limiting the future uses of the property. Deed restrictions may take many forms; they may limit the density of buildings, dictate the types of structures that can be erected, or prevent buildings from being used for specific purposes or used at all. Deed restrictions may impose a myriad of limitations and conditions.

**DOMINANT TENEMENT.** A property that includes in its ownership the appurtenant right to use an easement over another's property for a specific purpose.



**DOWER.** A life estate allowed by state laws to the widow in the real estate owned by her husband during the marriage.

**EARNEST MONEY.** An amount of money deposited by a buyer under terms of a contract, which amount is to be forfeited if buyer defaults, otherwise to be applied on purchase price when sale is closed.

**EASEMENT.** A right to use the land of another for a specific purpose such as a right of way or for utilities (an incorporeal interest in land). An easement appurtenant passes with the title to the land when conveyed.

**EASEMENT BY NECESSITY.** An easement allowed by law as necessary for the full enjoyment of a parcel of real estate. For example, a right of ingress and egress over another's land.

**EMINENT DOMAIN.** The right of government or municipal quasi-public body to acquire private property for public use, through a court action called condemnation, in which the court determines that the use is a public use and determines the compensation to be paid to the owner.

**ENCROACHMENT.** A building or some portion of it, or a wall or fence which extends beyond the land of the owner and illegally intrudes upon some land of an adjoining owner or a street or alley.

**ENCUMBRANCE.** Any lien, such as mortgage, tax or judgment lien, an easement, a restriction on the use of the land, or an outstanding dower or curtesy right that may diminish the value of the property.

**EQUITY.** The interest or value that an owner has in his or her property over and above the mortgage against it.

**ESCHEAT.** The reversion of property to the state or county, as provided by law in cases where a decedent dies intestate without heirs capable of inheriting or when the property is abandoned.

**ESCROW.** The closing of a transaction through a third party called an escrow agent or escrowee, who receives certain funds and documents to be delivered upon the performance of certain conditions outlined in an escrow agreement.

**ESTATE.** The degree, quantity, nature and extent of interest which a person has in real property.

**EVIDENCE OF TITLE.** Proof of ownership of property; is commonly a certificate of a title, a title insurance policy, and abstract of title with lawyer's opinion, or a Torrens registration certificate.

**FEE SIMPLE.** The largest possible estate or rights of ownership of real property continuing without time limitation. Sometimes called fee or fee simple absolute.

**FORECLOSURE.** A legal procedure whereby property used as security for a debt is sold to satisfy the debt in the event of default in payment of the mortgage note or default of other terms in the mortgage document. The foreclosure procedure brings the rights of all parties to a conclusion and passes the title in the mortgaged property to either the holder of the mortgage or a third party who may purchase the realty at the foreclosure sale, free of all encumbrances affecting the property subsequent to the mortgage.

**FRONT FOOT.** A standard of measurement, being a strip of land one foot wide fronting on the street and extending the depth of the lot. Value may be quoted per front foot.

**HIGHEST AND BEST USE.** That possible use of land which will produce the greatest net income and thereby develop the highest land value.

**INCOME APPROACH.** The process of estimating the value of an income-producing property by capitalizing of the annual net income expected to be produced by the property during its remaining useful life.

**INDEMNITY.** An agreement or contract in which one person promises to secure another against damages or losses.

**INSTALLMENT CONTRACT.** A contract for the sale of real estate wherein the purchase price is paid in installments over an extended period of time by the purchaser, who is in possession. Title is retained by seller until final payment. Purchaser's payments usually may be forfeited upon default. Also called a contract for deed.

**INTERIM FINANCING.** A short-term loan usually made during the construction phase of a building project, often referred to as a construction loan.

**JOINT TENANTS.** Two or more owners of real estate who have been specifically named in one conveyance as joint tenants. Upon the death of a joint tenant, his or her interest passes to the surviving joint tenant or joint tenants by the right of survivorship, which is the important element of joint tenancy.

**JUDGMENT LIEN.** A claim on the property of a debtor resulting from the decree of a court, properly entered and recorded, declaring that debtor is indebted and fixing the amount of the indebtedness.

**LAND CONTRACT.** A contract for the purchase of real estate on an installment basis; upon payment of last installment, deed is delivered to purchaser. Also called a contract for deed.

**LEASE.** A written or oral contract between a landlord (the lessor) and a tenant (the lessee) that transfers the right to exclusive possession and use of the landlord's real property to the lessee for a specified period of time and for a stated consideration (rent). By state law,

leases for longer than a certain period of time (generally one year) must be in writing to be enforceable.

**LEASEHOLD ESTATE.** The tenant's right to occupy real estate during the term of lease. This is generally considered a personal property interest.

**LIFE ESTATE.** An interest in real estate which is limited to the lifetime of some certain person.

**LISTING AGREEMENT.** A contract between a landowner (as principal) and a licensed real estate broker (as agent) by which the broker is employed as agent to sell real estate on the owner's terms within a given time, for which service the landowner agrees to pay a commission.

**LITTORAL RIGHTS.** 1. A landowner's claim to use water in large navigable lakes and oceans adjacent to his or her property. 2. The ownership rights to land bordering these bodies of water up to the high-water mark.

**MARKET DATA APPROACH.** The process of estimating the value of property through the examination and comparison of actual sales of comparable properties.

**MARKET VALUE.** The highest price which a buyer, ready, willing and able but not compelled to buy, would pay, and the lowest price a seller, ready, willing and able but not compelled to sell, would accept.

**MECHANIC'S LIEN.** A statutory lien created in favor of contractors, laborers, and materialmen who have performed work or furnished materials in the erection or repair of a building.

**METES AND BOUNDS DESCRIPTION.** A legal description of a parcel of land that begins at a well-marked point and follows the boundaries of the land, using direction and distances, around the tract and back to the place of beginning.

**MILE.** A measurement of distance: 1,760 yards or 5,280 feet.

**MONUMENT.** A fixed natural or artificial object used to establish real estate boundaries for a metes and bounds description.

**MORTGAGE.** A conditional transfer or pledge of real property as security for the payment of a debt. Also, the document used to create a mortgage lien.

**MORTGAGEE.** A lender in a mortgage loan transaction.

**MORTGAGE LIEN.** The claim on his real estate given to the mortgagee when the mortgagor executes a mortgage or trust deed to secure his note.

**MORTGAGOR.** A borrower who conveys his or her property as security for a loan.

**NONCONFORMING USE.** A use of property that is permitted to continue after a zoning ordinance prohibiting it has been established for the area.

**OPTION.** An agreement to keep open for a set period of time an offer to sell or purchase property for a specified price and terms; the right to purchase or sell may or may not be exercised at the option holder's discretion.

**PLANNED UNIT DEVELOPMENT.** Commonly referred to as a PUD, it is a planned combination of diverse land uses, such as housing, recreation and shopping contained in one subdivision or development.

**PLAT.** A map of a town, section or subdivision indicating the location and boundaries of individual properties or with lots and streets and other details shown.

**POINTS.** A unit measurement used for various loan charges; one point equals 1% of the amount of the loan. Discount points represent the percentage by which the face amount of an FHA mortgage is reduced in order to bring its fixed interest rate yield into competition with the conventional money market.

**PURCHASE MONEY MORTGAGE.** A note secured by a mortgage or trust deed given by buyer, as mortgagor, to seller, as mortgagee, as part of the purchase price of the real estate.

**QUIT CLAIM DEED.** A conveyance by which grantor transfers whatever interest he has in the real estate without warranties or obligation.

**REAL ESTATE.** Land; a portion of the earth's surface extending downward to the center of the earth and upward into space including all things permanently attached thereto by nature or by humans; freehold estates in land.

**RECONCILIATION.** The final step in the appraisal process, in which the appraiser reconciles the estimates of value received from the market data, cost, and income approaches to arrive at a final estimate of market value for the subject property.

**RECORDING.** The act of entering or recording documents affecting or conveying interest in real estate in a recorder's office established in each county. Until recorded, a deed or mortgage generally is not effective against subsequent purchasers or mortgages.

**REDEMPTION PERIOD.** A period of time established by state laws during which the property owner has the right to redeem his or her real estate from a foreclosure or a tax sale by paying the sale price, interest and costs. Many states do not have mortgage redemption laws.

**REMAINDER.** The remnant of an estate that has been conveyed to take effect and be enjoyed after the termination of a prior estate, such as when an owner conveys a life estate to one party and the remainder to another.

**REPLACEMENT COST.** The new cost of replacing the subject property with property having exactly the same utility and amenities.

**RESTRICTION.** A limitation on the use of real estate, generally originated by the owner or subdivider in a deed.

**REVERSION.** A remnant of an estate that the grantor holds after s/he has granted a limited estate such as a leasehold or life estate to another person. The estate will return or revert back to the grantor; also called reverter.

**RIGHT-OF-WAY.** The right which one has to pass across the lands of another. An easement.

**RIPARIAN RIGHTS.** An owner's rights in land that borders on or includes a stream, river, lake or sea. These rights include access to and use of the water.

**ROD.** A measure of length: 16 ½ feet.

**SALES CONTRACT.** A contract containing the complete terms of the agreement between buyer and seller for the sale of a particular parcel or parcels of real estate.

**SECTION.** A portion of a township under the rectangular survey system. A township is divided into 36 sections, numbered 1 to 36. A section is a square with sides one mile long and area of one square mile or 640 acres.

**SETBACK.** The amount of space local zoning regulations require between a lot line and a building line.

**SEVERALTY OWNERSHIP.** Ownership of real property by one person as sole owner.

**SPECIAL ASSESSMENT.** A charge or tax against real estate made by a unit of government to cover the cost of an improvement such as a street or sewer, customarily imposed against only those specific parcels that will benefit.

**SPECIAL WARRANTY DEED.** A form of deed whereby the grantor covenants against lawful claims of all persons claiming by, through or under the grantor only.

**SPECIFIC LIENS.** Liens which affect or attach to only a certain, specific parcel of land or piece of property.

**SPECIFIC PERFORMANCE.** A suit brought against a party to a contract who has failed to fulfill his promise. This suit is brought in the case of unique goods or property (including real estate), when damages will not be adequate compensation for the breach of the agreement.

**SUBDIVISION.** A tract of land divided by the owner (subdivider) into blocks, buildings, lots and streets according to a recorded subdivision plat; compliance with local regulations is required.

**SUBORDINATION.** Relegation to a lesser position, usually in respect to a right or security.

**SUBSURFACE RIGHTS.** Ownership rights in a parcel of real estate to the water, minerals, gas, oil, and so forth that lie beneath the surface of the property.

**SURFACE RIGHTS.** Ownership rights in a parcel of real estate that are limited to the surface of the property and do not include the air above it (air rights) or the minerals below the surface (subsurface rights).

**SURVEY.** The process by which boundaries are measured and land areas are determined; the on-site measurement of lot lines, dimensions, and position of a house on a lot, including the determination of any existing encroachments or easements.

**TENANCY AT SUFFERANCE.** The tenancy of a lessee who lawfully comes into possession of the landlord's real estate, but continues to occupy the premises improperly after his lease rights have expired.

**TENANCY AT WILL.** An estate which gives the lessee the right to possession until terminated by notice or death of the landlord. The term of his holding is indefinite.

**TENANCY BY THE ENTIRETY.** Under certain state laws, the joint ownership of property acquired by husband and wife during marriage. Upon the death of one spouse, it becomes the property of the survivor.

**TENANCY IN COMMON.** A form of co-ownership by which each owner holds an undivided interest as though s/he were sole owner. Each individual owner has the right to partition.

**TIME IS OF THE ESSENCE.** A phrase in a contract that requires the performance of a certain act within a stated period of time.

**TITLE.** The evidence of right which a person has to the ownership and possession of land.

**TITLE INSURANCE POLICY.** A policy insuring owner or mortgagee against loss by reason of defects in the title to a parcel of real estate, other than those encumbrances, defects and matters which are specifically excluded by the policy.

**TITLE SEARCH.** An examination of public records, liens and court decisions to disclose the current facts regarding ownership of a specific parcel of real estate.

**TOPOGRAPHY.** Surface features of land; elevation, ridges, slope, contour.

**TRUST DEED.** An instrument used to create a mortgage lien by which the mortgagor conveys his or her title to a trustee who holds it as security for the benefit of the note holder (the lender). Also called deed of trust.

**VARIANCE.** Permission obtained from zoning authorities to build a structure or conduct a use that is expressly prohibited by current zoning laws; an exception from the zoning ordinances.

**ZONING ORDINANCE.** Exercise of police power by a municipality to regulate and control the character and use of property.



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During the 1990s, there have been large, steady increases in the costs and risks of development. While these risks have led many nonprofit housing organizations to seek the assistance of professional development consultants, not all rural nonprofits have the financial resources to do so. In order to successfully self-manage a land development, construction or rehabilitation venture, a nonprofit developer must have a thorough understanding of the predevelopment process long before the ground at the site is broken.

This manual has been prepared to guide less experienced nonprofit staff through the site evaluation and acquisition process so that they may more effectively achieve their organization's housing goals and avoid the costly pitfalls that many organizations face.

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