

Putting Faith in Housing: A Primer for All Partners

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Many areas in the U.S. currently face an affordable housing crisis. Due to recent legislative changes, a quarter million fewer affordable housing units will be built over the coming decade, exacerbating the housing shortage. As American cities look to house greater numbers of low to middle income individuals, there is one resource that has been overlooked. A successful collaboration between a faith-based organization and private developer, either for profit or not-for-profit, should yield a new complex that is a credit to the community and give the faith-based organization long-term financial benefit.

Churches and other faith-based houses of worship are some of the nation's largest landowners. Those that have adjacent land or other buildable assets, some of which were built as far back as the Civil War (and earlier) are particularly well-suited to create housing for their communities.

Faith-based property development is an exciting option for America's cities. Yet there are questions and concerns to address so that the resulting equation works for all parties.

A panel of experts with deep experience in faith-based property development, accounting; tax and real estate law; and city and state protocol engaged in a comprehensive discussion about a faith-based affordable housing blueprint that any institution can put into action.

The panel members agreed on best practices for religious institutions and their partners. There are many ways to improve and streamline the process for these kinds of developments during what is a time of uncertainty for tax-law and finance in our country.

The panel discussion was moderated by **Charlie Herman**, WNYC Radio's Business & Culture Editor, and included:

Reverend Karim Camara, Executive Director, Governor's Office of Faith-Based Community Development Services

Mike Greenwald, Partner, Friedman LLP, a leading accounting and advisory firm serving the affordable housing community

Brian Hsu, Partner, Goldstein Hall, a full-service real estate law firm with a concentration in affordable housing and community development

Nathan Simms, Assistant Commissioner, New Construction Finance at NYC Department of Housing Preservation & Development

Jamie Smarr, Senior Vice President, NHP Foundation, a leading builder of quality affordable housing

Richard Andrew Smith, President, Temple Builders, LLC a frequent consultant to faith-based leaders

Dave Walsh, Senior Vice President of Community Development Banking at JP Morgan Chase, one of the largest affordable housing lenders in the community.

The resulting insights, summarized in this paper, can help push faith-based housing forward, creating thousands of much-needed affordable rental units in New York (where the panelists reside) as well as across the country where much of the same type of opportunities exist.

To better enable and increase these affordable housing options, the panel recommended eight basic steps.

1. Identify the mission

The "mission" can vary. For some faith-based leaders, the aim is to sell the property outright and invest the proceeds in other relevant projects. But for most, the mission is to turn available land into service-enriched, affordable housing that serves those in the community—families, veterans, seniors, and others in need.

The mission may also include a community center or other gathering place for neighbors. Before some institutions can make those decisions faith-based leaders are advised to listen to the congregation's desires and develop a well-defined mission statement. Developing a mission statement requires three important initial steps.

- 1) Obtain an accurate valuation of the available land.
- 2) Determine the buildable square footage—how big can/should you build?
- 3) Figure out a wish list, what does your organization want?

Before beginning the process, cautioned panelist Mike Greenwald of Friedman LLC, “Make sure to look within your organization and say, ‘Do I have the capability to be a partner in this project? Other than my asset, what else do I bring to the table, and what else do I need to have to protect my interests?’”

2. Get an independent, accurate valuation of the property

Before any group enters into a development deal, they should engage the services of an independent appraiser to determine the value of the property and a zoning expert to determine the buildable square footage. This is the amount of building that you’re allowed to construct on a particular building site. NY State’s Camara added, “It’s important to know the buildable square footage of residential and commercial space as you consider constructing a community center or church expansion in addition to housing. Know the square footage of all available space, including air rights.”

Team expertise should also include an understanding of minutiae such as FAR (Floor Area Ratio) to help determine build capacity. Adds NHPF’s Smarr, “This can be daunting since different neighborhoods have different FAR, and zoning code can run thousands of pages.”

Some religious institutions “dream big” and must be educated on some harsh realities. An example discussed at the panel was a project where a church’s average Sunday attendance was about 20 to 30 people and the pastor asked for a sanctuary for a thousand. That is an untenable proposal that would receive a resounding “no” from any qualified developer.

3. Partner with the most experienced and knowledgeable people

A religious institution that has made the decision to develop adjacent land or air rights on its property and has determined the value and build capacity now must vet and interview several players in the industry and assemble a team of “good-faith” actors who will respect the religious institution.

The first step for some is to retain an experienced Development Consultant who can size up the faith-based organization’s needs and bring together the necessary expertise, including:

- **Legal counsel** Seek a firm specifically trained in municipal and state real estate law and with a track record of previous deals.
- **Accountant** Look for the same high-level experience in tax law pertinent to faith-based housing.
- **Developer** Research experienced for-profit and not-for-profit providers, and plan to interview 5-10 contenders.
- **Builder** Whether a congregation is land rich and cash poor or very well capitalized, the builder can budget and plan accordingly to realize the partners’ vision.
- **Financial Partner** Religious organizations have a host of healthy options for financial support, including banks with strong community-lending programs to service affordable or market-rate housing deals.

4. Take advantage of city and state assistance

Supportive agencies at the city and state level stress that although these deals are “long-haul,” two to three years from inception to build if all goes well. State and municipal agencies can offer guidance and help safeguard the investment. Faith-based groups should reach out to these entities as part of their process. In New York, these include:

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Governor's Office of Faith-Based Community Development Services

A good place to start is with the appropriate state agency for some guidance through the state-funding process. Karim Camara with NY State notes that they typically ask about the capacity to finish the project. And the best way to determine that, notes Camara, is an assembled team that has completed such projects in the past, particularly with state involvement.

Importantly, some states do have money. In New York, the governor has recently committed \$20 billion to affordable housing development and homelessness.

Finally, know that the state has a very formal unified funding process. Camara cautions, "Plan ahead and make sure you don't think, 'Okay, I've got this property and I want financing next week!' Think in terms of a likely two-to three-year plan."

NYC Department of Housing Preservation & Development

In New York, there is city money available with an annual capital budget for housing, (probably one of the largest in the country), that has increased from \$1.3 billion annually to \$1.9 billion. The city needs to ascertain that the proper team is in place to finance faith-based projects.

There are many factors that impact how the money is spent. These include construction costs, which continue to rise, as well as the future of tax credits (addressed later in document). In short, cities have resources, and it behooves partners to look into what's available.

5. Learn common pitfalls and how to avoid them

Deficient developer fee information

It is incumbent upon the team to ask the right questions to determine the development fee and how it will be paid. Due to changes in tax law, a lot of developers are changing the way they take fees, with many looking for "carried interest" vs. actual upfront fee. This affects the future of a property. To the extent that there's a refinancing or sale down the road, carried interest allows developers to receive capital gain treatments. It's also important to know your balance sheet when calculating the risk associated with the guarantees being made. Some faith-based organizations have stronger financial statements than others so it pays (literally) to know.

Lack of appropriate expertise and leadership

The pastor or other religious leader may not be the best candidate to lead the housing effort. In fact, many recommend appointing someone else within the organization, less emotionally involved, and perhaps with some experience and time to oversee the effort.

Misunderstanding tax law

Tax code is extremely complicated, and experts have to stay up-to-date on changes. For example, recent changes to the tax code have created a situation where the very productive existing (LIHTC) low income housing tax credits of 4% and 9% are now worth less since the corporate tax rate was cut from 35% at the top to 21%. Investors in the LIHTC now pay less for each dollar of credit because the net after tax benefit is worth a little bit less to them, necessitating more creative ways to close funding gaps.

These include additional city or state subsidies as well as the NMTC (new market tax credit). Allocated by the federal government, it resembles the LIHTC, but with key differences. Qualified intermediaries are allocated NMTC from the government then sub-allocate the credits to community businesses in low income areas. The 39% credit, allocated over seven years, doesn't support housing per se, but can be used to support a new supermarket on the ground floor of an affordable housing building in a low income area.

The industry is also looking forward to implementation of the “opportunity zone.” These state and IRS-designated zones, typically in lower income areas, enable a taxable developer to build housing, and if ownership holds the asset long enough, to avoid capital gains tax.

Creating UBTI (unrelated business taxable income)

“There are tripwires related to some very complicated rules about what not-for-profits can and can’t do in order to make money,” warned panelist Greenwald. For example, a not-for-profit considering a multi-use build-out is at risk if they don’t properly separate for-profit activity from not-for-profit.

If a not-for-profit owner constructs market-rate or high-end housing, it will fall outside the mission of the non-profit. Without the proper separate ownership structure, taxable income from such property could jeopardize a not-for-profit’s status.

Often partnerships will create “condo split” structures to avoid this. A new mixed-use development can be split into separate condominiums and owned by different, likely unaffiliated entities. For example, one condominium owns and operates the retail space, while another owns and operates the affordable portion. A third condominium owns and operates the market-rate units, all within the same complex. This arrangement isolates risk and enables each entity to obtain its own financing.

Insufficient financial advice

There are many examples of poorly structured deals predicated by a lack of financial education on the part of the faith-based partner. Look to the financial team members to explain tools like LC (letters of credit) a payment guarantee that funders like the State or City finance agencies require to guarantee the funding they give a project, or a performance bonds which are provided by the contractor to the developer to ensure the building is finished as contracted—even if the contractor has difficulties during the development.

Financial advisors can also ensure that the church is an equitable partner in the deal as opposed to solely a tenant. The right partners will help faith-based owners maintain some form of ownership in perpetuity. It all begins, said panelist Smith, with finding a team that respects the faith-based vision and takes the leaders along for the journey. “If the developer is just showing up to have you sign papers, that’s not really a relationship,” added Smarr, of NHPF. “Ideally, we try to leave churches in a better position, managerially and financially, in order to better help communities. “

Veteran banker Dave Walsh of Chase Bank reinforced the importance of an experienced financial team. The bank looks at whether an organization has the capacity to undertake a project and if it has completed a similar project in the past. And while steering clear of making partner recommendations, he does want to know who makes up the team: the developer, the contractor and the property manager, e.g. He also advises affordable housing prospects to gain familiarity with existing programs. It may seem daunting, but interested parties should know that Walsh loves to finance community-based-type development “because the organization is so engrained in the communities they are looking to develop in.”

6. Incorporate all your constituencies in the decision-making process

One aspect of faith-based development stressed throughout the discussion was the importance of buy-in from a congregation to undertake a housing initiative. If affordable housing is being built, this includes helping congregants understand that the new apartments might be subject to a housing lottery and other forces at work which, including income limitations, that will determine who will live in the units.

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There are other groups to bring into the process as well. First, faith organizations should include community voices in the discussion through City Council and other meetings. Some neighborhoods will likely protest if a Civil War-era church is facing demolition, for example. But, in many cases, according to Richard Smith, builder and architect, “If a building is in disrepair and is not landmarked, the cost of restoring may be impractical and the church will have to come down and be rebuilt to better suit the overall development.”

Some communities also face the prospect of unwanted gentrification and may view new construction as part of that, so partners need to paint a clear picture of what the construction will do to the neighborhood character and how it aims to strike a healthy balance. As well, communities need to be made aware of the day-to-day disruption that construction may bring and will want to hear what the team will do to mitigate.

Another constituency that must be factored in is the governing body of the religious institution, like the Catholic Diocese, for example. Those seeking to build affordable housing or to sell off their property must have approval from those in authority, if applicable. As well, in New York and other states, the Attorney General’s office must approve all faith-based deals.

Partnerships seeking to build affordable or market-rate housing should also be in touch with their local municipal Department of Development. These departments can help churches and synagogues with usages and rezoning often necessary to realize their vision.

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7. Reevaluate and collaborate to determine the most realistic and beneficial vision for the property

Once a partnership has gone through the rigors of valuation, costs and community input, it’s time to take a hard look at what kind of property will yield the best all-around results. Often there have been changes in law or zoning in the years since a church began the path towards building. These changes can affect a final decision.

For some, the decision to sell their land makes the most sense. For others, a fully affordable complex best meets their needs. And for still others, a hybrid will work. This may be a new mixed-use development including condominiums and retail space, as well as market-rate units all within the same complex. While making these decisions it’s important to factor in the long-range implications of each. Will your congregants be able to live in the units? Will the construction help boost a flagging congregation? How will the tax structure benefit or harm the property owners? A faith leader may start the process with one vision and come to realize a very different, and hopefully most beneficial one, at the end.

8. Communicate, communicate, communicate

With approvals and financing in hand and contractors and architects signed up, it’s time to communicate with all your stakeholders, honestly and often about the building process and how it will affect their lives.

Time, expense and other factors must be communicated as well. Those seeking to move into the planned housing must be informed about the all-important qualifiers and lottery selection process.

It’s also important during this phase to implement community and media relations. This includes everything from inviting congregants and local civic leaders to status meetings to issuing press updates to local media.

Important benchmarks like groundbreaking, topping-out ceremonies, ribbon-cuttings and rental application days must also include your constituencies. The panel also promoted hard-hat tours for city and state officials and media as well.

With these steps in place, and as residents move into their new dwellings, owners can take pride in a job well done and look forward to managing their community with satisfaction and equanimity.

Conclusion

The city of New York, like the nation, is experiencing a shortage of quality affordable housing that will only worsen as the population increases and available land diminishes. Our religious institutions, both in their inherent missions to provide for others, and their ownership of property, become excellent sources for housing that will make a difference in people's lives.

But, as the distinguished panel pointed out, the best faith-based housing outcomes are borne of knowledgeable, respectful, and experienced teams. Successfully assembling these joint ventures is the key to a smooth, productive process for religious institutions and their constituencies moving forward.

It is our hope that churches, mosques, synagogues, and other faith-based organizations engage in the prescribed "best practices" to help them—and everyone in the industry—create successful housing through equitable partnerships that benefit the organizations, the community, and society at large.

“Putting Faith in Housing: A Primer For All Partners” is based on a panel discussion produced by The NHP Foundation with the support of Chase Bank, Friedman LLP, and Goldstein Hall, PLLC. The panel and primer are part of a continuing series of thought leadership initiatives which further the mission of NHPF. Headquartered in New York City with offices in Washington, DC, and Chicago, IL, The NHP Foundation was launched on January 30, 1989, as a publicly supported 501(c)(3) not-for-profit real estate corporation. NHPF is dedicated to preserving and creating sustainable, service-enriched multifamily housing that is both affordable to low and moderate income families and seniors, and beneficial to their communities. NHPF also provides a robust resident services program to more than 28,000 community residents. Through partnerships with major financial institutions, the public sector, faith-based initiatives, and other not-for-profit organizations, NHPF has preserved 81 properties, including 6,801 units, in 16 states and the District of Columbia.



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