Multifamily Housing Bonds

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by

John H. T. Bales, Esq.

Affordable Housing and Education

- Reduce the frequency of disruptive moves (but not all moves are negative)

- Reduce overcrowding and avoid housing-related health hazards

- Reduce homelessness among families with children

Affordable Housing and Education

- **A Two Step Approach:**

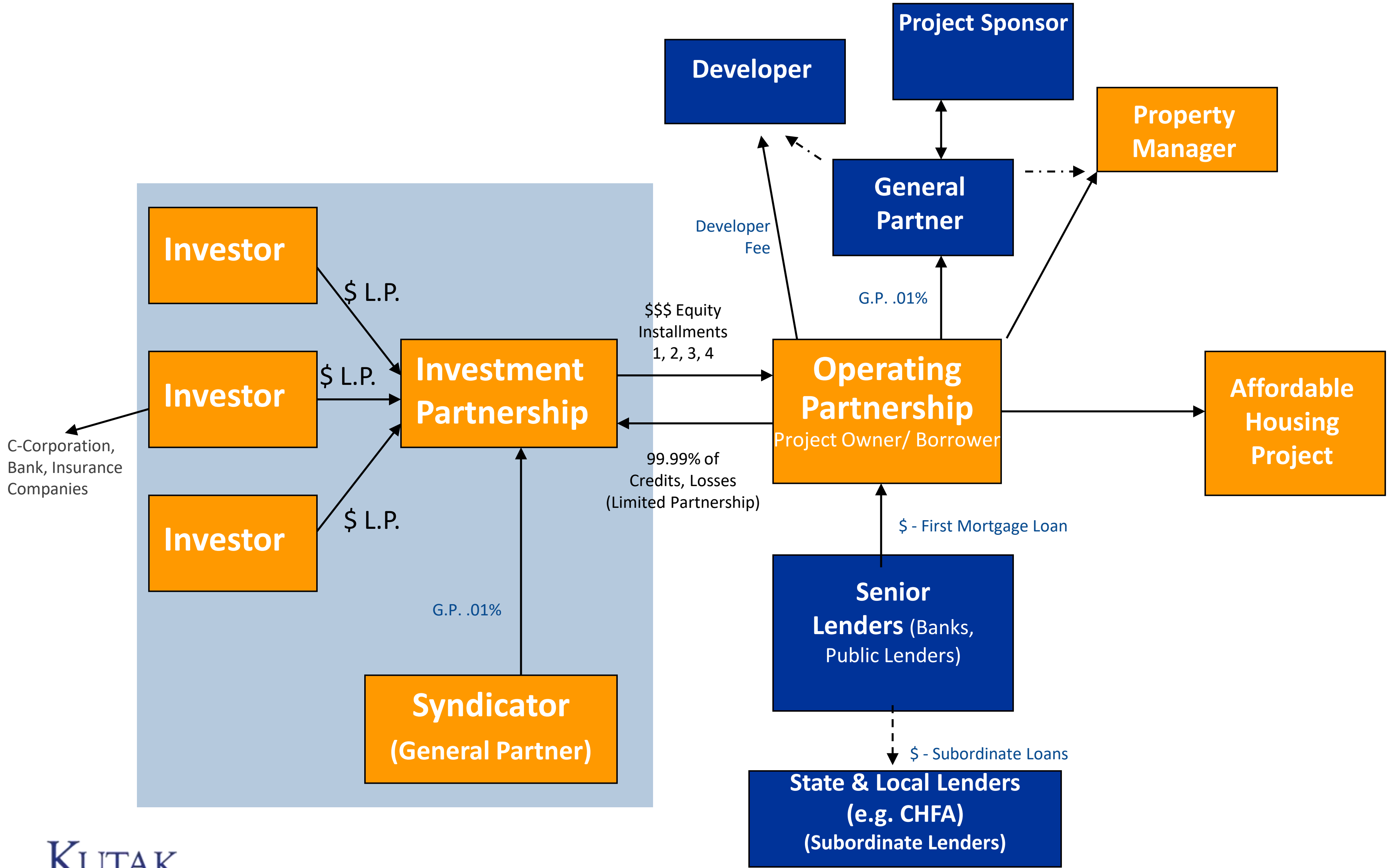
  1. **Helps with moves to higher quality schools**

  2. **Holistic community development**

Tax-Exempt Multifamily Bond Requirements

- **Issued by a State or Political Subdivision** (the "**Conduit**" issuer) – Bonds are special limited revenue obligations of the Issuer
- **Public Hearing (TEFRA) and approval requirements**
- **Inducement Resolution (Official Intent)**
- **Allocation of Private Activity Volume Cap requirement**
  - Low Income Housing Tax Credits ("LIHTC") (4%) maximized where at least 50% of construction (or acquisition/rehabilitation) costs are paid with tax exempt bonds.
- **Proceeds used to Fund Multifamily Mortgage Loan(s)** – 2% Cost of Issuance, 5% "Bad" money limits
- **Tax Regulatory Agreement** – designed to ensure tax exempt Bond interest
  - Borrower covenants to restrict Project by income for the Qualified Project Period (minimum-15 years)
    - 20% tenants at 50% AMI, or
    - 40% tenants at 60% AMI
  - Tax Credit Regulatory Agreement (and agreements relating to certain sub-debt) may impose additional income and/or rent restrictions

Low Income Housing Tax Credit ("LIHTC") Financings



LIHTC Financing

I. **<u>Mechanics for Calculating and Obtaining Credits</u>**. The amount of Annual Credit equals product of the "*Applicable Percentage*" times the "*Qualified Basis*" where:

A. The "*Applicable Percentage*" is 4% (bond transactions) or 9% (no bonds)

B. The "*Qualified Basis*" generally equals the percentage of "Low Income Units" in the Project <u>times</u> the cost of the Project (net of grants, etc.)

II. **<u>The Typical LIHTC Structure</u>**

A. Borrower is typically a limited partnership or LLC.

B. The tax credit investor must be a partner or member of the Borrower.

LIHTC Financing (Continued)

III. Ongoing Compliance

A. The "Compliance Period" for maintaining low-income set-aside is 15 years, during which the IRS has enforcement powers.

If a Project falls out of compliance, all or a portion of the credit may be recaptured.

B. There is also an "Extended Use Period" of an additional 15 years (or more), during which the allocating/administering State Agency has enforcement powers.

Extended Use period terminates upon foreclosure or State's inability to find buyer willing to present a "qualified contract" to purchase the Project and maintain low-income and rent restrictions.

HUD Programs
Often Present in Bond Transactions

I. Section 8 – HAP Contracts. Provide guaranteed rents for units housing income qualifying tenants. Payments under HAP contracts are pledged as security for Borrower's loan obligations.

II. Sections 221(d)(3), 221(d)(4) and 223f: most popular long term financing vehicles for multifamily construction and acquisition/rehabilitation. These programs provide a federal guaranty of Borrower payments on the underlying loan. Insured loans usually purchased by Ginnie Mae.

Bond Proceeds Are Not Enough

Most Multifamily Transactions Use One or More of the Following Subordinate Financing

- HOME Funds
- State and Local Affordable Housing Loans
- Seller Take-Back Financing
- CDBG Funds

Kutak Rock LLP

Questions or Comments?

John H. T. Bales
Direct Dial: (303) 292-7861
john.bales@kutakrock.com