

NYCHDC Issues First ‘Recycled’ Bonds

By Jennifer Dockery, Staff Writer, Novogradac & Company LLP

The New York City Housing Development Corporation (NYCHDC) on April 21 approved its first “recycled” bond transactions for two affordable multifamily properties in New York City. The historic bond deal was made possible by a provision included in the Housing and Economic Recovery Act of 2008 (HERA). NYCHDC, instrumental in persuading Congress to include the recycled bond provision in the HERA, plans to use the new financing tool to award hundreds of millions of dollars worth of tax-exempt bonds (TEBs) to multifamily properties in New York City without reducing the state’s volume cap.

“It allows us to have a little bit more versatility. In New York City, because of the high-cost nature of housing, this allows us to use tax-exempt bonds. This allows us to finance projects that might not be financeable [otherwise],” said Richard Froehlich, executive vice president and general counsel at NYCHDC.

At its April 21 meeting, the NYCHDC Board of Directors approved \$72 million in tax-exempt multifamily housing revenue bonds. That amount included \$58 million in recycled bonds—TEBs that come from pooled prepayment proceeds and do not reduce the state’s private activity bond volume cap. The bonds will help fund a mixed-income development in the Melrose section of the Bronx and a senior development in Staten Island’s Stapleton neighborhood.

“Historically, the only way to do a mixed-income project was to use taxable bonds. Volume cap is such a precious commodity they only wanted to use it only on low-income projects. Without the recycled bonds, we could not build mixed-income because taxable bonds do not have a market right now,” said Eli S. Weiss, of the Jackson Development Group. Weiss serves as project manager for St. Ann’s Terrace in the Bronx, one of the properties awarded recycled bonds in April.

Developments funded with the recycled bonds must qualify for tax-exempt financing and reserve a minimum of 20 percent of the units for people earning up to 50 percent of the area median income (AMI) or 25 percent of the units for people earning no more than 60 percent of the AMI. NYCHDC must issue refunding bonds before redeeming the bonds issued from those proceeds. Once the properties return their recycled bonds, NYCHDC has a six-month window to reissue the bonds to another property. Because of the strict time limit, the agency will award the bonds on a first-come, first-served basis.

A Useful Tool

There are three potential users of recycled bonds, according to Froehlich: mixed-income properties with a significant number of market-rate units; properties that used to be funded with taxable bonds, such as St. Ann’s Terrace; and 100 percent LIHTC properties that need capital up front that will later be replaced with tax credit equity.

“It’s a great tool [to use] private activity cap on projects that are mostly affordable,” Froehlich said.

In order to help properties that receive recycled bonds qualify for LIHTCs, NYCHDC encourages developers to divide their properties into multiple projects, or condominiums—one condominium that contains only low-income units and another condominium that contains mixed-income or market-rate units. NYCHDC then awards bonds to each of the condominiums.

“We’re trying to use this in the context of bifurcated transactions. You bifurcate the units eligible for the tax credits from the units that aren’t. [The low-income units] qualify for tax credits separate from the market-rate units,” Froehlich said.

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St. Ann's Terrace

NYCHDC used the condominium model when it awarded \$79 million in TEBs to the six buildings that comprise St. Ann's Terrace. The agency allocated \$27 million in recycled bonds to three of the buildings and \$52 million in TEBs to the remaining three buildings in the development.

"We're both excited and nervous to be the guinea pigs, especially on such a large project," Weiss said. St. Ann's Terrace, like many mixed-income developments in New York City is referred to as an 80/20 development. Eighty percent of the units have rents affordable to people earning 80 percent of AMI and 20 percent of the units are affordable to those earning up to 60 percent of AMI.

The three buildings receiving the recycled bonds will feature 166 units, including 133 units affordable for people earning 80 percent of AMI and 96 units affordable for those earning up to 60 percent of the AMI. The three buildings with traditional bond financing will provide 314 units affordable to residents earning up to 60 percent

of the AMI and 95 units for formerly homeless tenants.

"The only difference is the [recycled] bonds have to be paid off within 34 years of the original issuance," Froehlich said.

This reduces the amount of time that the developers have to repay the bonds. For properties such as St. Ann's that receive both recycled and traditional TEBs, the developer will have to pay off the recycled bonds first.

"Their duration is a little bit shorter because they go back to when they were originally issued [but] we have had no adverse effect using the recycled bonds," Weiss said. He said that Jackson will use up two of the recycled bonds during construction. Froehlich said that he anticipates that developers will use most of the bonds during construction and then return them to the agency.

Not Just a Novelty

"But for the recycled bonds, this type of project couldn't happen," Weiss said of mixed-income properties such as St. Ann's Terrace.

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By the end of June, Froehlich said that NYCHDC planned to use \$172 million in recycled bonds to provide a total of \$130 million in funding to properties that feature a large number of affordable rental units. In addition to St. Ann's Terrace and the senior property in Stapleton, NYCHDC planned to close financing on four proper-

ties in New York City. NYCHDC hoped to have a total of \$210 million available for properties in 2009.

"We're very excited. We greatly appreciate having this opportunity. Right now, it's a nice tool for us to have," Froehlich said. ♦

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