

The logo for LISC, consisting of the letters 'LISC' in a large, dark blue, serif font. A decorative, dark blue, wavy line curves under the letters.

LISC

*Helping neighbors
build communities*

Experts Online

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Refinancing HUD 202 Elderly Housing

Participants

- ❑ Vincent O'Donnell, Vice President, LISC Affordable Housing Preservation Initiative
 - ❑ Charles Laven, President, Forsyth Street Advisors
 - ❑ Peter Brodie, Acquisitions Manager, National Equity Fund
 - ❑ Toby Halliday, Program Director, LISC Affordable Housing Preservation Initiative
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Instant Survey

Are you a (check all that apply):

- 202 Owner?
 - Nonprofit organization?
 - Lender?
 - Investor/syndicator?
 - Developer/consultant?
 - Government employee?
 - Other?
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What Is the 202 Program?

- ❑ Principal vehicle for affordable elderly rental housing since 1959
 - ❑ Created 207,000 affordable senior apartments.
 - ❑ Main varieties of 202 properties:
 - 1959-1977: 40-year direct loans at 3%.
 - 1977-1990: 40-year direct market-rate federal loans (most with project-based Section 8).
 - Post-1990: direct HUD capital grants + Section 8 (no HUD debt).
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Multifamily Experience

SURVEY My organization owns:

- Fewer than 50 units of affordable rental housing
- 50-250 units
- 251-1000 units
- Over 1000 units of affordable rental housing

SURVEY These units are:

- All 202 Elderly units
 - Mostly 202 Elderly units
 - Mostly other types of affordable rental housing
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Authority

- ❑ American Homeownership and Economic Opportunity (AHEO) Act of 2000 authorized prepayment of Section 202 Direct Loans.
 - ❑ Congress exempted Section 202 projects refinanced with FHA insurance from MAHRA and Section 8 rent comparability.
 - ❑ HUD Notice H 2002-16 (August 23, 2002) and Notice H 2004-21 (November 12, 2004) provide program guidance.
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Why Refinance?

- ❑ Replace systems, reconfigure units, improve amenities, or enhance services.
 - ❑ Replace high interest debt and re-amortize to support additional debt.
 - ❑ Historically low interest rates, good tax credit pricing, and new program opportunity.
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Types of Prepayment

- ❑ **No Approval Needed:** Section 202 projects approved from 1977 to 1982 (property loses Section 202 status).
 - ❑ **HUD Approval Required:** For projects developed after 1982, prepayment allowed under the provisions of Notice H 2002-16 (“under the Notice”). Owners of pre-1982 properties may also opt to prepay under the Notice.
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What Types of Projects?

SURVEY #2 Are you primarily interested in:

- Prepayments by right (1977-1982 only)
- Prepayments under Notice H 2002-16
- Both types of prepayments

SURVEY #3 Has your organization used Low Income Housing Tax Credits?

- Yes
 - No
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Sojourner Truth Apartments: §202 Refinancing and LIHTC Syndication Southeast Alabama Self-Help Association (SEASHA)

SOURCES OF FUNDS	Principal	Per Unit
Alabama Multifamily Loan Consortium	1,813,343	18,133
SEASHA	50,000	500
Additional Financing: FHLB, etc.	309,000	1,200
Building Operations + Reserves	232,442	2,324
GP Capital	100	1
Deferred Developer Fee	553,000	5,530
Net Equity [NEF]	3,378,829	33,788
Total Sources	6,336,714	61,477
USES OF FUNDS	Total	Per Unit
Acquisition	1,500,154	15,002
Construction	3,014,420	30,144
Soft Costs	597,140	5,971
Developer Fee	570,000	5,700
Initial Operating Reserve (6.0 mos)	133,000	1,330
Capitalized Revenue Deficit Reserve	522,000	5,220
Total Uses	6,336,714	63,367

Distributions and Fees

- ❑ No equity take-out allowed at refinancing, but a seller may receive equity based on the lesser of sales price or unassisted market value.
 - ❑ LIHTC equity limits developer fee to 15% of development cost, or the state LIHTC cap.
 - ❑ Surplus cash distribution limited to 6% of owner equity paid at refinancing, including LIHTC equity but not government funds (HOME and CDBG).
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Procedures: All Projects

- ❑ Flexible Subsidy and HELP Loans must be repaid. Any Flexible Subsidy Use Agreements remain in effect.
 - ❑ A 30 day written notice to HUD and the residents. HUD submission must include tenant comments and owner's response.
 - ❑ A checklist ensures project eligibility (even for pre-'82 properties).
 - ❑ HUD encourages early owner consultation.
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Procedures: Prepayment Under Notice

- ❑ Refinancing must result in a lower interest rate and debt service reduction.
 - ❑ At least 50 percent of savings must benefit the tenants, including:
 - Payment of up to 15 percent of supportive services cost.
 - Rehabilitation, modernization or retrofitting.
 - Additional facilities, including assisted living.
 - Reduction of rents for tenants without rental assistance.
 - ❑ A Use Agreement will regulate the project until the original Section 202 Loan the maturity date.
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Section 8 Contracts

- ❑ Project-based Section 8 contract rents will not be increased “at the time of prepayment processing.”
 - ❑ Projects processing under the Notice and projects refinancing without FHA insurance may renew their Section 8 contracts with above-market rents.
 - ❑ Section 8 is still subject to underwriting by debt and equity providers.
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Use Agreement Provisions

- ❑ Owner must continue to operate the project on terms at least as advantageous to existing and future tenants.
 - ❑ Owner must continue to accept Section 8 contract renewals or operate in accordance with Rent Supplement Contract.
 - ❑ Owner may not impede tenant organizing activity.
 - ❑ Future owner must be a nonprofit or a limited partnership with nonprofit-controlled general partner.
 - ❑ Admission is restricted to very low-, low- and moderate-income tenants.
 - ❑ Rents must be approved by HUD.
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FHA Mortgage Insurance and Risk-Sharing

- ❑ FHA mortgage insurance will be based on current contract rents, even if it exceeds the market rent, and assumes full future Section 8 rental assistance.
 - ❑ Risk-Sharing processing rents will be the lesser of (a) comparable unassisted market rents or (b) current project-based rental assistance contract rents.
 - ❑ HUD encourages sponsors to discuss prepayment approvals before submitting a formal application for FHA Insurance or Risk-Sharing.
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For More Information

- ❑ LISC Affordable Housing Preservation Initiative, 202-739-9274 or www.lisc.org/preservation
 - ❑ Charles Laven, Forsyth Street Advisors, 212-697-1640
 - ❑ Peter Brodie, National Equity Fund, 212-455-5630
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For More Information

□ Download additional resources from the LISC Preservation website at:

<http://www.lisc.org/whatwedo/programs/preservation/resources.shtml>

