

Fall Developers Forum

October 15-16, 2019



GP Offer to Purchase LP Interest:

Apartment Community A
175 Units

EOC = 2022

LP Residual = 10%

REJECTED

**Offer made in Year 12
should not consider pre-
payment penalty**

**Partnership agreement
language does not
provide for discount**

Fair Market Value (BOV)	\$ 8,250,000
Plus:	
Cash/Reserves	\$ 155,000
Cash Proceeds	\$ 8,405,000
Less:	
Closing Costs	\$ (82,500)
Broker Commission	\$ (225,000)
Mortgage	\$(5,467,500)
Prepayment Penalty	\$ (270,000)
Distributable Proceeds	\$ 2,360,000
10% to LP	\$ 236,000
Discount 20% for ILP Interest	\$ 188,800
Total GP Offer to LP	\$ 188,800



Disposition Language from Partnership

Agreement:

- Any time after EOC, LP can request GP to offer property for sale.
- If no sale is approved and consummated within one year of LP request, GP and LP shall attempt to agree upon FMV of property.
- If no agreement within 60 days, GP and LP shall each appoint appraiser and two appraisers shall appoint third appraiser.
- Each appraiser shall determine FMV.
- FMV shall equal what partners agreed to or the average of the two appraisals closest of the three.
- Once FMV determined, GP has option to purchase LP interest for amount equal to what LP would receive from a third party sale of the property at FMV.

GP Offer to Purchase LP Interest:

Apartment Community B/140 Units

EOC = 2018

LP Residual = 30%

Positive Capital Y/E 2019 = \$1,900,000

APPROVED

Fair Market Value (BOV)	\$ 8,425,000
Plus:	
Cash/Reserves	\$ 303,000
Cash Proceeds	\$ 8,728,000
Less:	
Closing Costs	\$ (250,000)
Broker Commission	\$ (250,000)
Mortgage	\$(2,500,000)
Distributable Proceeds	\$ 5,728,000
30% to LP	\$ 1,718,400
Total GP Offer to LP	\$ 1,700,000



Disposition Language from Partnership

Agreement:

- Any time after EOC, LP can request GP to offer property for sale.
- If no sale is approved and consummated within one year of LP request, GP and LP shall attempt to agree upon FMV of property.
- If no agreement within 60 days, GP and LP shall each appoint appraiser and two appraisers shall appoint third appraiser.
- Each appraiser shall determine FMV.
- FMV shall equal what partners agreed to or the average of the two appraisals closest of the three.
- Once FMV determined, GP has option to purchase LP interest for amount equal to what LP would receive from a third party sale of the property at FMV.

Apartment Community C/70 Units

EOC = 2018; Non-Profit GP (2 non-profit members)

Option/ROFR to each non-Profit member of GP

Option/ROFR Terms:

- Term 1/1/2018 – 6/30/2020
- Option Price = Greater of (a) FMV or (b) Statutory Purchase Price
- ROFR = In case of bona fide third party offer at price not less than Statutory Purchase Price, and if Managing Member determines it's in best interest of Owner to sell, than ROFR triggered at Statutory Purchase Price.
- Cash/Reserves = \$1,481,000

GP Offer to Purchase LP Interest:

- Offer made = \$110,000
- FMV = No appraisal or BOV Ordered (assume FMV > Statutory Purchase Price)
- Expected LP Taxes on Sale = \$0
- LP Share of Cash/Reserves = \$150,000+



Apartment Community C/70 Units

EOC = 2018; Non-Profit GP (2 non-profit members)

Option/ROFR to each non-Profit member of GP

Investor and syndicator have large presence in market where property located and on-going relationship with GP.

Local and state authorities focused on non-profit preservation of housing and treatment of cash/reserves upon sale.

APPROVED



Apartment Community D1

- 60 Units
- EOC = 2014
- LP Residual = 20%
- Positive Capital Y/E 2018 = \$1,530,000

Apartment Community D2

- 75 Units
- EOC = 2017
- LP Residual = 20%
- Positive Capital Y/E 2018 = \$4,050,000


GP Offer to Purchase LP Interests:

D1

Fair Market Value (BOV)	\$ 4,200,000
Plus:	
Cash/Reserves	\$ 412,000
Cash Proceeds	\$ 4,612,000
Less:	
Closing Costs	\$ 0
Broker Commission	\$ (126,000)
Mortgage	\$(1,185,000)
Distributable Proceeds	\$ 3,301,000
20% to LP	\$ 660,200
Total GP Offer to LP	\$ 985,000

D2

Fair Market Value (BOV)	\$ 5,400,000
Plus:	
Cash/Reserves	\$ 497,000
Cash Proceeds	\$ 5,897,000
Less:	
Closing Costs	\$ 0
Broker Commission	\$ (162,000)
Mortgage	\$(1,232,000)
Distributable Proceeds	\$ 4,503,000
20% to LP	\$ 900,600
Total GP Offer to LP	\$ 1,575,000

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- Mortgage maturing in 2020 on D2. Original LP offer was positive capital account balance.
 - GP did not accept these terms and suggested offers of \$600,000 (D1) and \$1,000,000 (D2) based on capital transaction waterfall.
 - GP also disputed value assigned to D1 of \$4.2M and suggested \$3.7M was more accurate.
 - Weak or no disposition language (see below), strong GP with ability to pay off maturing mortgage in full and bypass LP consent to refinance.
 - Investors and syndicator have long-term on-going and favorable relationship with GP.

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Disposition Language from Partnership Agreement:

D1

- None

D2

- If requested by LP any time after Y14, GP will file QC (Partnership had no QC Rights).
- Put Option added per Amendment subsequent to refinancing in 2012. If exercised, GP to pay LP mutually agreed to price based on annual Cash Flow and any outstanding fees, but no less than \$15,000. GP also agreed to 3-year residual receipt note to LP re: proceeds from any subsequent refinance less amounts previously paid.

GP Offer to Purchase LP Interest:

Apartment Community E/60 Units

EOC = 2014

LP Residual = 20%

Positive Capital Y/E 2015 = \$2,344,000

OPTION after Year 30/ROFR through Year 30 at
Statutory Minimum

APPROVED

Fair Market Value (BOV)	\$ 10,150,000
Plus:	
Cash/Reserves	\$ 95,000
Cash Proceeds	\$ 10,245,000
Less:	
Closing Costs	\$ (90,000)
Broker Commission	\$ (185,000)
Mortgage	\$ (2,970,000)
Distributable Proceeds	\$ 7,000,000
Positive Capital + 20% Residual	\$ 3,744,000
Total GP Offer to LP	\$ 2,845,000



Partnership included both a for-profit and not-profit GP.

The non-profit GP had an option to purchase after Year 30 and a ROFR at debt plus taxes through Year 30.

The ROFR also prohibited cash out refinance without consent of non-profit GP.

Non-profit GP received no cash flow and 10% residual.

In this case the for-profit GP used \$1.25M of the GP proceeds of \$4.155M to buy out the non-profit GP and negate the ROFR. The non-profit GP used proceeds to further its mission.