

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT



# Section 232 Application Processing

# Delays

- Key Risks not addressed in LN
- Internal Consistency/Accuracy of Information
- Waivers not identified
- 92264a-ORCF is incorrect
- Environmental Items
- Loan Sizing/Appraisal
- Clear/Comprehensive LDL Responses not provided



# Delays

- Previous Participation
- Program Eligibility
- Risk Management Programs
- Following *Current* Published Guidance
  - Application Checklists
  - Handbook
  - Email Blasts
  - LeanThinking

# Lender Narrative

**Purpose:** To summarize the Lender's analysis as it relates to each of the exhibits in the application.

- Must be consistent with other exhibits
- Please check the math
- Strengths and risks fully analyzed & risk mitigation provided

## Lender Narrative (continued)

- Proofread your Lender Narrative before you submit
- If something is not applicable, explain why (Please don't make us guess!)
- **The better the Lender Narrative, the faster the ORCF review!**

# Maximum Insurable Loan Calculation 92264a-ORCF

- Replaces both Form 92264-HCF & Form 92264a
- Provides a standardized Sources & Uses
- Double-check latest updates are incorporated!



# Lean Processing – Deficiencies

- ORCF UW advises lender of any defects or deficiencies
- Lender has 10 business days (or other brief time period) to correct deficiencies
- **Other applications pulled for review while the application is on hold awaiting lender revision take precedence over the hold application**

# Pro Tips

- **ONE** comprehensive response to deficiency items. Clearly explain how each item is addressed and attach appropriate documentation.
- Piecemeal adds time to our process.



# Program Eligibility

- 62+ for ALF requirement
- Board and Care State Requirements
- Citizenship of Principals
- Licensing Issues

# Risk Management Programs

- Identify – Tier 1 (Baseline)/Tier 2 (Elevated)
- Administered by – Internal/Third-Party
- Components:
  - Real-time incident reporting & tracking
  - Experience of staff
  - Staff Training programs
  - Continuous Improvement
  - Systems Descriptions/Experience Demonstration

# Application Exhibits



- Review all exhibits to assure complete and accurate submission.
- All exhibits on each application checklist are required, as applicable.
- Proof Draft Firms
  - Current template version
  - Confirm entries reflect final submission details
  - Section 38 - typically needs 2 participants referenced per HB Ch. 6.1.E.3., an individual & parent entity (not the borrower entity)

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- Questions that impact eligibility/feasibility of a project
- Environmental Concerns
  - Unusual Site Conditions
  - Flood Hazards or Wetlands
  - State Historic Preservation Office (SHPO)/Tribal Consultations
- Other questions you have while assembling the application
- Include copies of any email guidance from LEANThinking or other HUD staff regarding your project.



# Underwriting Highlights

223(f) Refinance

# Underwriting Highlights

## Valuation Issues & Concerns:

- Aggressive NOI conclusions
- NOI Conclusion not yet Achieved
- Fluctuating NOI History
- Declining NOI trend
- Aggressive Expense Ratio
- Aggressive Cap Rate



# Underwritten Net Operating Income

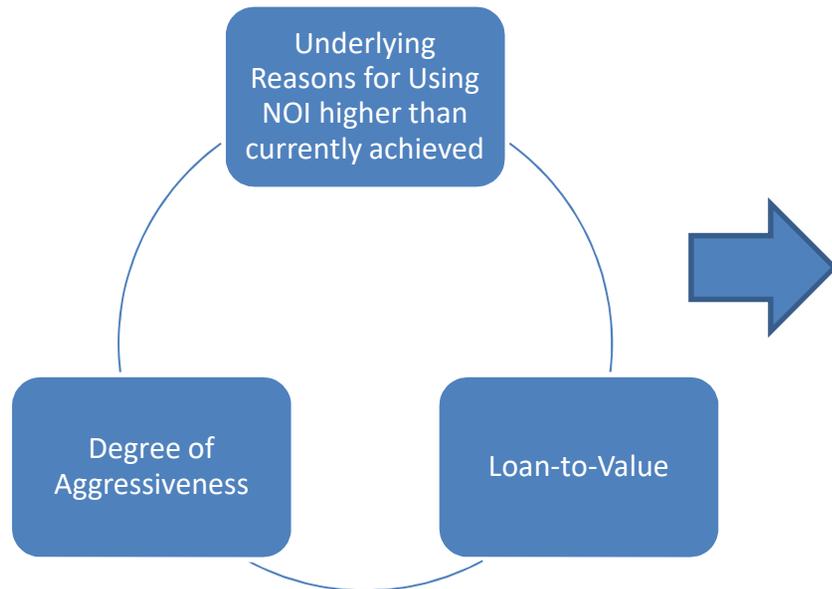
➤ Problems occur when underwritten NOI is optimistic compared to recent performance

- Loan Committee concerns:

- UW NOI > T12 and recent year-end figures
- When **annualized** NOI is used to support UW NOI
- Big delta between NOI for value and NOI for DSCR
- Turnarounds – Operator must have **proven** track record of successful turnarounds and maintaining operations

# Use of Aggressive NOI in Underwriting

Combination of:



Appropriate Mitigation

- Reduce Mortgage
- Debt Service Reserve - to be held for 12 consecutive months at underwritten NOI
  - Reserve amount equal to 6-12 months of debt service
- Accept As-Is
- Do Not Approve
- Defer to Let Season and Prove Out

# Unacceptable Example

Key Data	Year Ending 12/31/11	Year Ending 12/31/12	Year Ending 12/31/2013	T-12 thru Feb 2014	Appraisal (Market)	Lender's DSC analysis
Effective Gross Income	\$5,272,383	\$5,601,459	\$6,055,217	\$6,313,247	\$6,723,652	\$6,657,770
Net Operating Income	\$2,088,173	\$2,270,679	\$2,149,143	\$2,206,319	\$2,461,843	\$2,336,770
Normalized Net Operating Income	\$1,735,634	\$1,903,314	\$1,786,683	\$1,815,298	N/A	N/A
Occupancy	73.50%	76.00%	75.20%	73.30%	80.80%	80.00%
Potential # Res Days	75,190	75,190	75,190	75,190	75,190	75,190
Actual # Res Days	55,298	57,159	56,575	55,115	60,753	60,152

# Acceptable Example

<b>Key Data</b>	Year Ending 12/31/2011	Year Ending 12/31/2012	Year Ending 12/31/2013	T-12 (Apr '13 - Mar'14)	Appraisal (Market)	DSC analysis
Effective Gross Income	\$3,273,634	\$3,353,312	\$3,344,971	\$3,423,171	\$3,178,320	\$3,178,320
Net Operating Income	\$703,813	\$921,912	\$828,799	\$890,885	\$541,429	\$518,879
Normalized Net Operating Income	\$543,980	\$733,338	\$642,298	\$702,847		
Expense Percentage	78.5%	72.5%	75.2%	74.0%	83.0%	83.7%
Occupancy	100.6%	101.5%	100.9%	102.2%	95.0%	95.0%
Potential # Res Days	14,965	14,965	14,965	14,965	14,965	14,965
Actual # Res Days	15,062	15,183	15,104	15,292	14,217	14,217

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# Contractor Process

# Contractor Process

- Contract UW and Contract Closer are your main point of contact
- GTMs should be copied on all correspondence
- GTMs do not get into details on UW side until review of the LC package, unless Contractor or Lender raises questions/concerns

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# Previous Participation Reviews

# Previous Participation Review

- **Purpose:** HUD wants to check the Previous Participation of the Individuals and Entities in control of our projects.

# Previous Participation Reviews

- Recent Regulation Change 24 CFR part 200, subpart H (24 CFR 200.210-222)
- Housing Notice H 16-15 is the Processing Guide
- Industry Training Archived on ORCF's Website

## ORCF Training Presentations

Previous Participation Industry and Staff Training - November 7, 2016

- **[Webcast Presentation Material](#)**
- **[Archive of Previous Participation Training Webcast](#)**



# Processing Guide

## Housing Notice 16-15

- **One Stop Shop** for Previous Participation Review Guidance
- **30 Day Comment Period** before HUD can make substantive changes to the guide
- **New Process:** Supersedes and clarifies past practice and guidance
- **Goal:** Focus on the people and entities with operational and/or financial control
- **Flags:** Updated and standardized

# Identifying Controlling Participants

- **Key Question:** Who has Operational and/or Financial Control?
  - We want submissions for those individuals / entities that exercise control.
  - We don't want all the other noise that distracts us from reviewing the important individuals and entities.
- The first determination is made by the FHA Lender

# Identifying Controlling Participants

- Controlling Participants include:
  - Specified Capacities (entity)

Specified Capacities

	Multifamily Housing	Office of Residential Care Facilities	Office of Hospital Facilities
<b>Borrower or Owner</b>	X	X	X
<b>Management Agent</b>	X	X	X
<b>Operator</b>		X	X
<b>General Contractor</b>	X	X	X
<b>Construction Manager</b>			X
<b>Master Tenant/Landlord</b>		X	X

- Individuals and entities that control the Specified Capacities
- At least one natural person for each project

# Organization Charts

- Visual representation of the ownership structure of an organization
- Separate chart submitted for each Specified Capacity
- **Key Point:** Clear enough for someone unfamiliar with the project and entities involved to understand ownership and control structure.

# Organization Charts

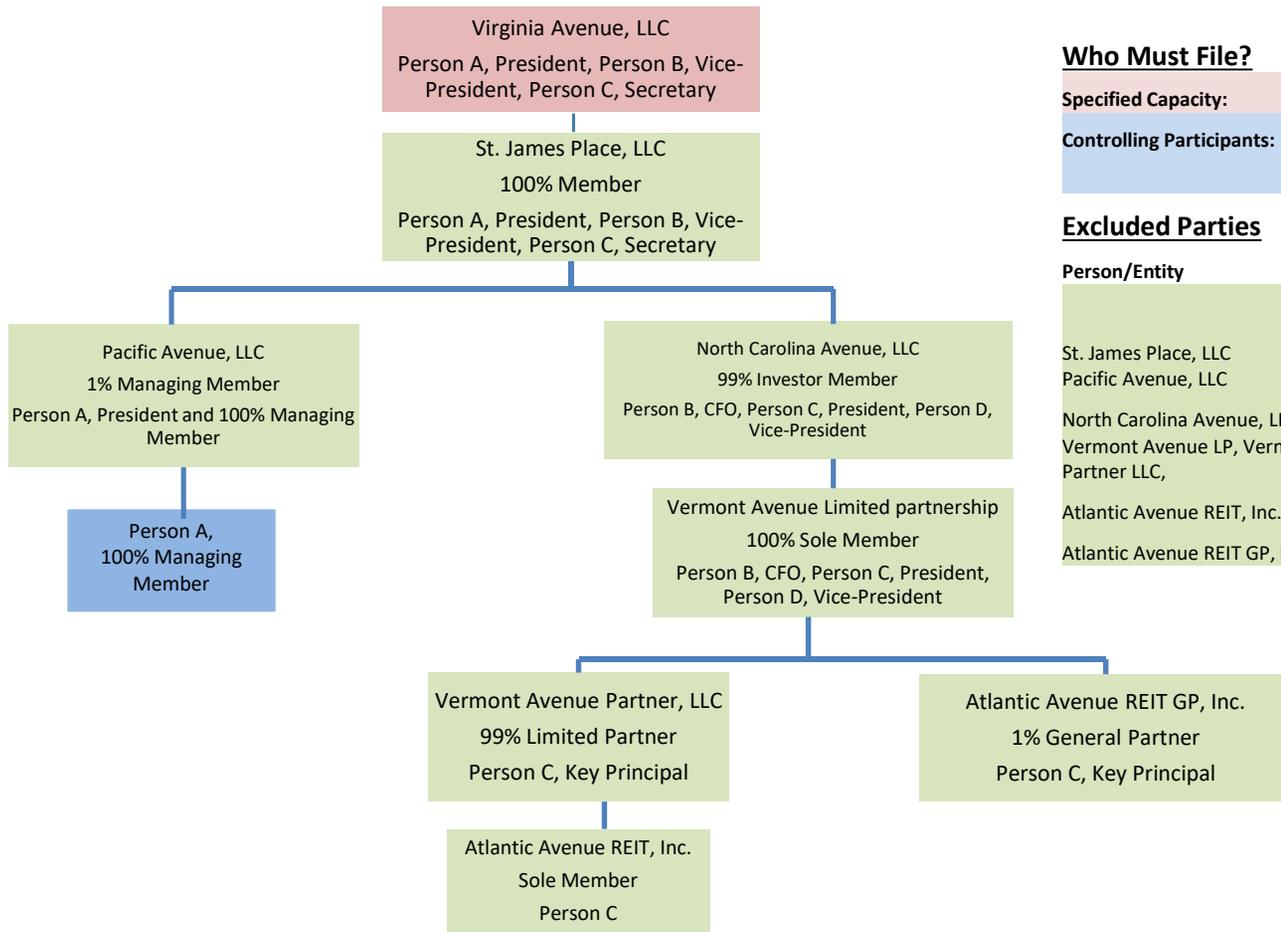
- Show all tiers of ownership structure including members or owners of the entities listed.
- Show all participants, not just controlling participants
- Show percentages of ownership and role in the entity (add up to 100%).
- At least one natural person

# Organizational Charts

- Not everyone listed on the Org Chart must file a Previous Participation submission.
- The org chart is how we check that the identified Controlling Participants make sense.



# Acceptable Organization Chart Example



**Who Must File?**

<b>Specified Capacity:</b>	Virginia Avenue, LLC
<b>Controlling Participants:</b>	Person A

**Excluded Parties**

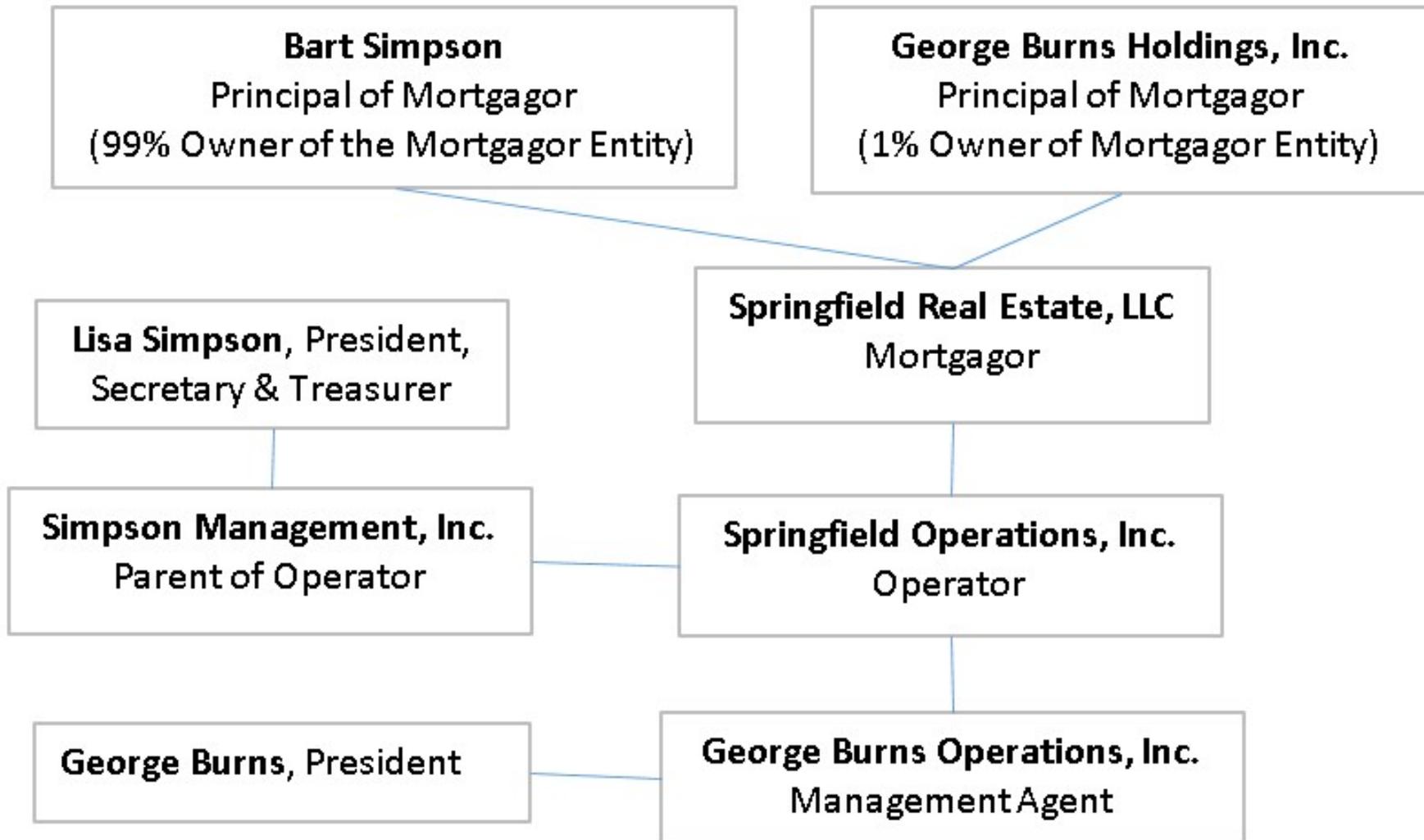
Person/Entity	Reason for Exclusion
St. James Place, LLC Pacific Avenue, LLC	Wholly-owned entities
North Carolina Avenue, LLC Vermont Avenue LP, Vermont Avenue Partner LLC,	No authority over day-to-day operations Shell entity & No control
Atlantic Avenue REIT, Inc.	No authority over day-to-day operations
Atlantic Avenue REIT GP, Inc.	No authority over day-to-day operations



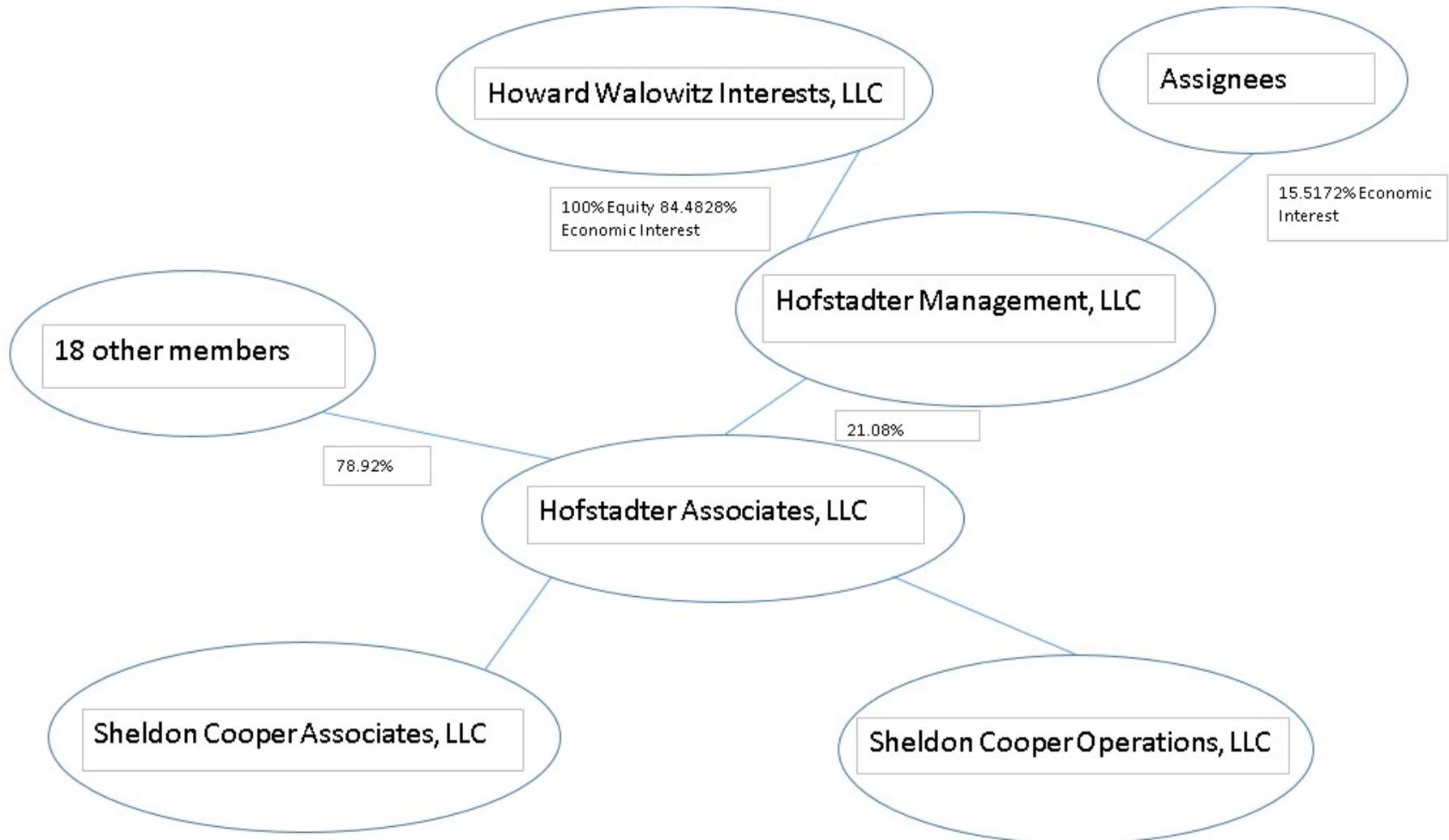


# Unacceptable Organization Chart Examples

# Springfield Manor



# Big Bangview Senior Living



# Pawnee Park Care Center

## **Pawnee Park, LLC**

Pawnee Real Estate, LLC

Tom Haverford

JJ, LLC

## **Mortgagor Entity**

46.67% Member

33.33%

20% Member

## **Pawnee Real Estate, LLC**

The Leslie Knope 2016 Trust

45% Member

The Ron Swanson 2016 Trust

45% Member

The April Ludgate Revocable Trust

10% Member

Leslie Knope

Manager

## **The Leslie Knope 2016 Trust**

Donna Meagle

Trustee

Jerry Gergich

Trustee

Ann Perkins

Trustee

## **The Ron Swanson 2016 Trust**

Donna Meagle

Trustee

Jerry Gergich

Trustee

Ann Perkins

Trustee

## **The April Ludgate Revocable Trust**

April Ludgate

Trustee



# Previous Participation Filing Methods

## ORCF Options:

Active Partners Performance System (APPS) or  
Consolidated Certification Previous Participation Section

Filing Method	Multifamily Housing & Grant Administration Projects	Office of Residential Care Facilities	Office of Hospital Facilities
Active Partners Performance System (APPS) Submission	X	X	X
OR			
Form HUD-2530 (paper)	X		X
Consolidated Certification Previous Participation Section (paper)		X	

# Active Partners Performance System (APPS) Submission

- **Encouraged filing method**
- Several upgrades to improve applicant submission process such as e-signatures
- Only need to include Controlling Participants in APPS
- Upload the Organization Chart with the Signature Pages into the APPS system

# ORCF Paper Option

- Previous Participation Certification incorporated into Consolidated Certifications
- Attach organization chart to consolidated certification
- Register in the Business Partner Registration System (BPRS)
- Organization chart **MUST** include TINs or SSNs for Controlling Participants
- Form 2530 no longer used for 232 projects.

# ORCF Paper Option

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## Part VII. Previous Participation

- Principal** HAS completed an electronic Previous Participation certification via the Active Partners Performance System (APPS), and is proceeding to Section VIII.
- Principal has NOT completed an electronic submission, and must complete this Section VII certification.

The Principal certifies that:

- It has NO Previous Participation in Office of Residential Care Facilities (ORCF) or Multifamily Housing programs of HUD, USDA FmHA, State, or Local Housing Finance Agencies.
- It DOES have Previous Participation as a Principal in ORCF or Multifamily Housing programs of HUD, USDA FmHA, State, or Local Housing Finance Agencies as listed on Attachments 1 and 2 (included with this certification).

Principal further certifies that:

1. Principal's organizational chart, in such detail as approved by HUD, including participation role, ownership percentage, and SSN/TIN, is attached hereto ("Organizational Chart"). This Organizational Chart lists all Principals of Principal, as defined in 24 CFR 200.215 or otherwise required by HUD, and such listed Principals are referred to as "Principal's Members" for purposes of this certification.



# ORCF Paper Option

**Attachment 1 to Principal of the Borrower's Consolidated Certifications:  
Schedule of Previous Participation in HUD Insured & Other Government Agency Projects/Facilities**

Project/Facility (name, location)	Roles in Project/Facility	Loan Status
<b>Name of Facility</b> City, State	Role in Project/Facility (describe):  Dates Participated in Project/Facility to  Healthcare Facility YES <input type="checkbox"/> NO <input type="checkbox"/>	<input type="checkbox"/> HUD      FHA Number: <input type="checkbox"/> Gov't Agency Financing other than HUD (indicate):  <u>Loan Status during participation:</u> <input type="checkbox"/> Current <input type="checkbox"/> Default Assignment <input type="checkbox"/> Foreclosed

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# Waiver Requests Form HUD 2-ORCF

# Completion of Waiver Requests

1. Waiver Requested by (name, entity):		
2. Project Name and FHA Project Number:		
3. Relief Sought (including directive name/number, section, paragraph, etc.):		
4. Justification:		
5. Did a check of SharePoint indicate prior approval of a similar waiver?  <input type="checkbox"/> Yes (Section #6 below is not required) <input type="checkbox"/> No (Section #6 is required)		If previously approved, list OHP Waiver Control Number: OHP XXXX
6. <u>Counsel Determination</u> : The waiver proposal <input type="checkbox"/> does not conflict <input type="checkbox"/> conflicts with statutory or regulatory provisions (comments or statutory/regulatory provision): 		
Counsel Name and Signature:		Date:
7. <input type="checkbox"/> Granted <input type="checkbox"/> Not Granted	Authorized ORCF Signatory	Date:
8. Comments (optional): 		
9. OHP Waiver Control Number (completed when signed HUD-2-ORCF is uploaded to SharePoint): OHP		

# Completion of Waiver Requests

- Provide in Word Format
- **Section 1:** Lender's Name and Company
- **Section 2:** Project Name and FHA Number
- **Section 3:** Specific Directive you are requesting to waive.
- **Section 4:** Justification: Provide thorough justification and attach additional information as needed.

# Completion of Waiver Requests

- **Section 3: Relief Sought**

- Needs to be a specific reference (typically a handbook reference).
- **Acceptable Example**: Handbook 4232.1, Section II Production, Chapter X.XX.
- **Unacceptable Example**: Waive the requirement to do x, y and z.

# Completion of Waiver Requests

- **Acceptable Justification:**
  - Explanation as to why HUD should waive this particular provision on this particular transaction.
  - Mitigating factors for any risks associated with the waiver
- **Unacceptable Justification:**
  - “We did it on our last project.”
  - “HUD said we could.”