

3510 DEVELOPMENT FINANCING

- 3510.1 The land trust may provide development financing to a developer notwithstanding whether the land trust previously issued a development financing commitment to the developer.
- 3510.2 Any promissory note, loan agreement, equity agreement, deed of trust, ground lease, declaration of covenants, financing statement, assignment of lease, or other legal document used in conjunction with a development financing shall not differ substantially from the template documents approved under section 3506.
- 3510.3 The application for development financing established under section 3506 shall include requirements that developers:
- (a) Submit pro formas that detail project costs with and without assistance from the land trust;
 - (b) Certify that assisted units are or will be of equal quality to comparable market-rate units;
 - (c) Certify that the developer will comply with all applicable provisions of section 3511; and
 - (d) Specify the proposed number of land trust housing units, and the proposed sizes, types, quality, and prices or levels of affordability of the units.
- 3510.4 In determining whether to provide development financing to a developer, the land trust shall apply, in addition to the standards and criteria set forth in section 3506, the following standards and criteria:
- (a) Geographic distribution, unit distribution, and development criteria goals;
 - (b) Developer experience, development team members, and the developer's equity contribution to the project;
 - (c) Site control and project readiness;
 - (d) The extent to which developer submissions meet or exceed the criteria described in paragraphs (a), (b), and (c) of this subsection;
 - (e) Marketing strategies;
 - (f) Plans and mechanisms to attain and maintain affordability; and
 - (g) The requirement that total construction or permanent financing shall not exceed the available security interest.
- 3510.5 The terms of each development financing shall include:
- (a) A requirement that any promissory note, loan agreement, equity agreement, deed of trust, ground lease, declaration of covenants, financing statement, assignment of lease, or other legal document used in conjunction with the construction loan shall secure the loan and shall contain such other provisions as are normal and customary if the provisions do not conflict with this chapter or any other District law or regulation;

- (b) The specific number of land trust housing units and the sizes, types, quality, and price or level of affordability of each unit; and
- (c) A limit on developer profit, if fifty percent (50%) or more of the housing units are assisted by the development financing.

3510.6 The land trust shall not close on a development loan unless:

- (a) The required minimum percentage of presales have been made and the required minimum level of developer equity has been or will be invested in the applicable project; and
- (b) The developer has received all required zoning approvals, permits, and additional financing sources.

3510.7 The land trust shall place or cause to be placed deed restrictions related to the resale and continuing affordability of each land trust housing unit assisted by development financing.

3510.8 The land trust shall determine and make available to the public information on the terms of each development financing.

3510.9 Each development financing that is in the form of a loan shall be a recourse loan.

SOURCE: Final Rulemaking published at 55 DCR 7924 (July 25, 2008).