

## Glossary

Accessible: A term used with respect to the design, construction, or alteration of an individual dwelling unit, indicates that the unit is located on an accessible route and when designed, constructed, altered or adapted can be approached, entered and used by individuals with physical disabilities. A unit that is on an accessible route and is adaptable and otherwise in compliance with the applicable standards set forth in the Building Code of New York State, New York City Building Code, Section 504 of the Rehabilitation Act of 1973, the Federal Fair Housing Act and their respective regulations and guidelines is accessible within the meaning of this paragraph.

Accessible route: A continuous unobstructed path connecting accessible elements and spaces in a building or facility that complies with the space and reach requirements of applicable standards prescribed by the Building Code of New York State, New York City Building Code, Section 504 of the Rehabilitation Act of 1973 and the Federal Fair Housing Act and their respective regulations and guidelines.

Adaptable: The ability of certain elements of a dwelling unit, such as, but not limited to, kitchen counters, sinks, and grab bars, to be added to, raised, lowered, or otherwise altered, to accommodate the needs of persons with or without disabilities, or to accommodate the needs of persons with different types or degrees of disability. The adaptation of an element shall require no special knowledge or tools and shall be accomplished with no structural change. For example, in a unit adaptable for a hearing-impaired person, the wiring for visible emergency alarms may be installed but the alarms need not be installed until such time as the unit is made ready or occupancy by a hearing-impaired person.

Acquisition Cost: The amount of cash or other valuables necessary to obtain title to property, which includes, in addition to the purchase price, such items as closing costs, mortgage origination fees, finance charges, and title insurance.

Amortization: Repayment of a debt by means of systematic payments of principal and/or interest over a set period.

Annual Income or Income: The adjusted gross income of all income-earning household members that was reported (or would have been reported) in the previous year's federal income tax returns, minus such exemptions and deductions for medical expenses as were actually taken by the taxpayer.

Application Review Letter: A letter which is sent after DHCR/HTFC's review of a Unified Funding Application, and which notifies the applicant that the project has achieved one of the following statuses:

- a) not selected for funding - the application was incomplete, ineligible or noncompetitive or a project application which did not demonstrate project feasibility;
- b) waiting list - the project is eligible and competitive, however, there are not currently adequate Program funds to fund the project or program; applications remain on the waiting list until the next funding round for the Program under which the applicant requested funds is issued, or until the waiting list is discontinued;

- c) selected for funding - the application is eligible, competitive, and has been selected to receive a Funding Commitment letter (projects) or a Program Agreement (LPAs).

Appraisal: The formulation and support of an opinion of value. Appraisals are usually required when real estate is sold, financed, condemned, taxed, insured, or partitioned. An appraisal is an estimate of value, and not a determination. The three major approaches to formulating appraisals are listed below:

- a) The Market Data Approach: The current sales prices of similar properties are compared and analyzed after necessary adjustments are made for any differences in the properties. This approach is used most frequently in evaluating residences, and is also called the "direct sales comparison approach."
- b) The Cost Approach: This approach involves an estimation of the value of the land (usually determined by the market data approach), plus the cost of replacement of any improvements to the land, minus depreciation. This approach is used primarily to estimate the value of service-type properties, such as churches and post offices.
- c) The Income Approach: This approach, frequently used to determine the value of income-producing properties such as apartment buildings, involves an estimation of value based on the capitalization of income and productivity. Often called the "income approach to value," it appraises the current worth of a property's future benefits.

Where applicable, an appraisal reconciles information from all three approaches. The three appraisal methods serve as checks on one another to evaluate a property. In determining the weight to be given to each approach, consideration is given to such factors as the type of property involved, the appraisal's purpose, and the adequacy of the compiled data.

Appreciation: A temporary or permanent increase in the value of property.

Appurtenant: Something, such as a right, privilege or property, considered incidental to the principal property for purposes including passage of title, conveyance or inheritance.

Arm's Length Transaction: A transaction negotiated by unrelated parties, each acting in their own self interest.

Arrears: Money which is overdue and unpaid

As-Built Drawings or Record drawings: Architectural drawings, usually prepared by the architect in cooperation with the general contractor, which show significant changes made during the construction process, based on marked up prints and other data furnished by the contractor.

Assignment: The transfer of one person's (the assignor) right, title, and interest in a property to another person (the assignee).

**Balloon Payment:** The payment of the remaining balance which is due upon the maturity of a note or obligation, and which repays the debt in full

**Basic Rent:** The actual rent necessary to cover operating and maintenance costs, including debt service and reserve fund contributions.

**Basis:** The financial interest of an asset attributed to the owner by the Internal Revenue Service to determine annual depreciation and gain or loss on the sale of the asset.

**Bid Document Review:** A review of the final plans, specifications, and any addenda submitted prior to bidding the project. Bid documents are reviewed to ensure that: the applicant complies with conditions and scope of work included in the Funding Commitment and the documents comply with all relevant DHCR/HTFC design and development requirements.

**Blanket Position Fidelity Bond:** See the definition for "Fidelity Bond."

**Bridge Loans:** See the definition for "Interim Financing".

**Builder's Overhead:** The general administrative costs of the builder, including, but not limited to, office expenses, permits, taxes, performance bonds, field personnel, small tools, etc.

**Builder's Risk Insurance:** Fire and extended coverage insurance to cover risks during a building's construction. Coverage increases automatically as the construction progresses, and is terminated upon completion. Builder's Risk Insurance should be replaced with permanent insurance once the building is ready for occupancy.

**Building Codes:** Local or State government codes which are established to provide and regulate minimum building and construction standards to safeguard the health, safety and welfare of the public. Building codes regulate and control the location, design, construction, quality, occupancy, and maintenance of all buildings and structures. Building codes are enforced via inspections, the issuance of building permits and certificates of occupancy, and by fines imposed for violations.

**Building Permit:** Written permission by a municipal government to construct a new building or other improvement to install prefabricated housing, or demolish, or substantially repair an existing structure. Building permits are obtained prior to the start of construction.

**Buy-Sell Agreement:** An agreement between an interim and a permanent lender, providing for the sale and assignment of a mortgage to the permanent lender upon a building's completion. Often the mortgagor is a party to the agreement on the theory that the mortgagor would have a contractual right to insist that the permanent lender buy the mortgage. Also referred to as an intercreditor agreement.

**Carrying Charges:** Costs which are incurred in connection with owning a property through the completion of its development, such as the developer's costs for property taxes and construction loan interest paid during the development phase.

Cash Flow: The amount of money netted from operating income-producing property over a set time period, after paying operating expenses and debt service, but prior to deducting depreciation and income taxes.

Certificate of Incorporation: A legal document, filed with the State, which describes the legal organizational structure of a corporation, and any amendments and restatements of the certificate of incorporation.

Certificate of Insurance: A document issued by an insurance company which certifies that a particular policy insuring specific parties is in effect for specific coverage amounts and periods of time.

Certificate of Occupancy: A certificate which is issued by the local government building department, as evidence that a building is prepared and fit for occupancy, and that it is free of building code violations.

Certificate of Title: A statement of opinion regarding the status of title to a parcel of real property, prepared by the title company, and based on an examination of certain public records. While it does not guarantee title, it does certify the condition of the title as of the date of issuance.

Change Order: An order which authorizes changes or modifications to the construction work originally shown in the contract drawings, plans, or specifications.

Clear Title: Title to property which is free from any defects, liens, or other encumbrances which the buyer or mortgagee has not agreed to accept (such as a mortgage to be assumed).

Closing: The fulfillment of a real estate transaction, when title is transferred from the seller to the buyer in exchange for the purchase price.

Commissioner: The Commissioner of the New York State Division of Housing and Community Renewal.

Commitment: A pledge to do something, such as a bank's promise to loan to a buyer a certain sum of money at a certain interest rate provided that certain conditions are satisfied by a certain date.

Common Areas: Land, improvements and amenities which are for the benefit and use of all occupants, as well as the property owner, such as corridors, hallways, playgrounds and elevators.

Communal Housing Arrangement (CHA): See Housing Types.

Comparable Rent: The prevailing rent for comparable apartments in the same neighborhood or service area.

Condominium Project: A system of ownership in which there is individual ownership of units in a project, combined with joint ownership of common areas.

Construction Loan Agreement: The contract which documents the terms for development of the project and disbursement of the award proceeds.

Construction Costs or "Hard" Costs: The costs incurred by the contractor in providing all of the labor, materials, equipment, general conditions, overhead and profit for the construction of a project.

Construction Loan: A short-term loan to cover a project's construction costs, with loan proceeds disbursed periodically in installments as the work progresses.

Contiguous: Adjoining or abutting.

Contract Closing: The closing which occurs when all contract documents have been approved, or approved with conditions. The Regulatory Agreement is executed at the Contract Closing and, depending on the funding Program and the structure of the interim financing, a Construction Loan Agreement, or a Mortgage and Promissory Note, may also be executed.

Contract Work Hours and Safety Standards Act (CWHSSA): This act requires time and one half pay for overtime (over 40 hours in any work week) worked on a covered federally assisted project.

Contractor: (Also known as "Builder" or "General Contractor") A person or corporation who contracts with an owner or developer to supply labor and materials for a specific project.

Conversion: The transformation of non-residential property into residential property.

Cooperative Project: A type of project in which each tenant is a shareholder in a corporation which owns the building. As a shareholder, each tenant has the right to occupy a unit in the building.

Copeland Anti-Kickback Act: This act makes it a federal crime for anyone to require any laborer or mechanic employed on a federally assisted project to kickback (give up or pay back) any part of their wages. The Copeland Act requires every employer to submit weekly certified payroll reports and regulates permissible deductions.

Cost Certification: The accounting of actual project costs as expended for all project related expenses from all project funding sources.

Credit Ceiling or Ceiling: The annual allocation of Low Income Housing Credit which New York State receives and allocates in accordance with the Qualified Allocation Plan so as to meet the most pressing State and local housing needs.

Credit Rate: (LIHC Program term). The credit rate (applicable percentage) is calculated monthly by the U.S. Department of the Treasury based on changes in federal borrowing to reflect the present values of 70 percent and 30 percent of qualified basis. The credit rate is multiplied by the qualified basis to calculate a Credit allocation amount.

Davis-Bacon and Related Acts (DBRA): This is the extension of the Davis Bacon Act, which requires payment of U.S. Department of Labor determined wage rates for construction, alteration or repair. This applies to several HUD programs, including on an am HOME (12 or more units), Housing Choice Vouchers (9 or more units) and CDBG.

Debt Service: The amount of cash necessary to meet the periodic payments of principal and interest on an amortizing mortgage or debt.

Deed: A legal document by which a property owner (the grantor) conveys and transfers ownership interest in real property to another (the grantee).

Density: A zoning term for the number of building units per acre, or the number of persons or families per unit of land area.

Depreciation: An asset's loss in value over a period of time.

Detached/Semi-Detached: See Housing Types.

Developer: A person or corporation which organizes and supervises all phases of a project, including acquisition, construction and final sale.

Disbursement: Money which is paid out.

Division or DHCR: The New York State Division of Housing and Community Renewal.

Easement: An interest which one person has in land owned by another, which entitles the holder of the interest to limited use or enjoyment of the other's land.

Elderly: A person 55 years of age or older as defined by the New York State Human Rights Law, Section 296 of the Executive Law.

Elderly Project: A project which excludes non-elderly persons based on age and as prescribed by the federal Fair Housing Act and the New York State Human Rights Law, Section 296 of the Executive Law.

Eleemosynary Corporation: A nonprofit corporation formed for charitable purposes.

Eligible Basis: (LIHC Program term). The proportion of project cost attributable to residential purposes under the LIHC Program, as defined under Section 42 of the IRS Code.

Environmental Impact Statement (EIS): A report which reviews the probable environmental impact of a proposed project during all phases of development. It includes a detailed description of the proposed project and the existing environmental setting, and emphasizes local and regional perspectives on the project and its impact on the environment.

Equity: The remaining interest in, or value of, a property after all liens and/or other charges on the property have been paid. In general, an owner's equity in her/his property is the amount of monetary interest he/she holds over and above the mortgage indebtedness.

Equity and Regulatory Agreement: (HTF Program term). A document which establishes the regulation of the operation of the project, pursuant to Article 18 of the PHFL, the regulations and the policies and procedures of the Corporation. The Agreement also establishes the permissible return on equity, if any.

Escrow: A procedure in which a disinterested third party holds money and/or documents until all terms and conditions of the escrow instructions have been satisfied, and the escrowed funds and documents are delivered and transferred.

Extended Coverage: A term used in fire insurance policies to include damage by such perils as wind, hail, explosion, riots and smoke. A title insurance policy with extended coverage insures against risks not normally covered by standard policies.

Facade: The front (or exposed part) of a building.

Fair Labor Standards Act (ELSA): Federal minimum wage, overtime, and child labor requirements. DHCR will refer to HUD any possible FLSA violations found on federally assisted projects.

Fair Market Value: The highest price a property would bring if offered for sale in a competitive market for a reasonable time period, with both buyer and seller being fully aware of all the property's present and future uses without being compelled to conduct the transaction.

Family Project: A project containing a majority of dwelling accommodations for families of three or more persons.

Feasibility Study: A study which is used by developers to analyze a proposed project in terms of probable income and expenses, and beneficial use and design.

Federal Labor Standards: A collection of labor standards, laws, and regulations which Fide apply to federally assisted construction projects commonly known as "Davis-Bacon".

Fidelity Bond or Surety Bond: A bond which protects against theft of funds by employees.

Fiduciary: A relationship which implies a position of trust or confidence wherein one person (the fiduciary) is entrusted to act on the behalf of a principal.

Firm Commitment: A lender's irrevocable agreement to loan a specific sum of money at a specified interest rate for a definite term, subject to certain conditions.

First Mortgage: A mortgage which is superior in right to any other mortgage on the property.

Frail Elderly: Persons age 55 or more who require assistance with one or more activities of daily living or instrumental activities of daily living. Also persons age 55 or more who have limitations in mental capacity or emotional strength and motivation that affect their capacity to viably live independently; that is without assistance or intervention.

Funding Commitment: A letter sent by DHCR/HTFC which identifies all conditions to be met prior to Contract Closing, and sets forth the amount of the payment, grant or loan which will be provided for the project by DHCR/HTFC. Funding Commitments may be amended to adjust the funding amount based on the DHCR/HTFC approved Development Budget at the time of Contract Closing.

Gap Financing: Financing which is: a) used to make up the difference between the underlying loan and the total amount required to undertake the project; or, b) used as a temporary device, until permanent financing is secured; it is sometimes called a "bridge mortgage".

General Contractor: A contractor who does not personally do all construction work on a project, but requires the use of other specialty contractors, such as electrical or plumbing contractors, whose work the general contractor superintends.

General Conditions: that part of the contract documents that describe the rights, responsibilities and relationships of the owner, architect and contractor.

General Requirements: The project specific costs of the builder, including, but not limited to, temporary utilities, temporary construction, scaffolding, on-site security, project signs, field office, on-site storage facilities, etc.

General Partner: A natural person, partnership, corporation or other person or entity in its own or any representative capacity who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement.

Generic Housing: Housing that is available to the general population without restriction or, housing financed by DHCR/HTFC available to any low/moderate-income household without restriction.

Good Faith: Bona Fide. An action is taken in good faith if it is done honestly.

Grant Conditions Compliance Enforcement Mortgage: A document which secures the performance of the project recipient under the Construction Loan Agreement and the Equity and Regulatory Agreement by the placement of a mortgage on the project site in the amount of the grant.

Gross Income: A project's total income before deductions are made for expenses, taxes, etc.

Hard Costs: See the definition of "Construction Costs".

HCA: (LIHC term). Housing Credit Agency. An Agency which is legally authorized to allocate and award tax credits to eligible projects.

Holdback: The portion of a loan or payment which is held by the lender pending the satisfaction of all requirements, such as completion of all construction work.

Homesteading Project: a) A one-to-four unit dwelling, of which one unit is occupied by the property's owner as a primary residence (HTF Program); or, b) housing that is owned and made available by a public agency at favorable terms to low- or moderate-income homeowners.

Housing Development Fund Company or HDFC: A company incorporated under Article XI of the PHFL, and the provisions of either: a) the Business Corporation Law (for cooperatives); or, b) the Not-for-Profit Corporation Law (for rental housing).

Housing Types: One of the four types of dwelling units as described below:

- a) Detached/Semi-Detached: A structure consisting of either a single living unit surrounded by permanent open spaces, or a structure containing two living units separated by a common vertical wall;
- b) Rowhouse: A structure containing three or more living units, each separated by vertical walls and having individual entrances; or, a multi-story low-rise (five or less stories) structure containing two or more living units between vertical walls, provided there is no more than one unit on the majority of the stories;
- c) Walk-Up: A multi-story low-rise (five or less stories) structure containing two or more living units on at least half of the stories , each separated horizontally and vertically; and
- d) Single Room Occupancy (SRO): A residential structure in which individuals and/or families share only one of the following spaces: cooking, sanitary, or sleeping facilities. (formerly known as “Communal Housing Arrangement”) Cooking facilities must include a full kitchen and sanitary facilities must include a full bath.

HTFC: The Housing Trust Fund Corporation, a public benefit corporation established under Section 45-a of the PHFL.

HTF Program: The Low Income Housing Trust Fund Program.

HUD: The United States Department of Housing and Urban Development - the department of the federal government primarily responsible for housing and community development programs.

Identity of Interest: A condition which exists when:

- a) there is any financial interest of the developer or owner in the general contractor, subcontractor, architect, or consultant which receives compensation in regards to the project;
- b) one or more of the officers, directors or stockholders of the developer or owner is also an officer, director, or stockholder of the general contractor, subcontractor, architect or consultant;
- c) any officer, director or stockholder of the developer or owner has any financial interest whatsoever in the general contractor, subcontractor, architect or consultant;
- d) the general contractor, subcontractor, architect or consultant advances any funds to the developer or owner;

- e) the general contractor, subcontractor, architect or consultant provides and pays, on behalf of the developer or owner, the cost of any architectural services or engineering services other than those of a surveyor, general superintendent, or engineer employed by a general contractor in connection with his/her obligations under the construction contract;
- f) the general contractor, subcontractor, architect or consultant takes stock or any interest in the developer or owner corporation, or partnership as part of the consideration to be paid it;
- g) any relationship (e.g., family) exists which would give the developer or owner or general contractor control or influence over the price of the contract or the price paid to the subcontractor, material supplier or lessor of equipment; or
- h) there exist (or come into being) any side deals, agreements, contracts or undertakings entered into or contemplated, thereby altering, amending, or cancelling any of the required closing documents, except as approved by DHCR/HTFC.

Improved Land: Land which has been increased in value by the addition of on- and off-site improvements such as utilities, roads, buildings and sewers.

Improvements: Additions made to property which amount to more than repairs, and which enhance the property's value.

Income Rent: Rent which is based upon 30 percent of a tenant's annual income.

Income Requirements: The income necessary to pay a project's actual operating and maintenance costs, including debt service, operating reserves and replacement reserves.

Incorporation: Forming a legal corporation through the preparation and filing of a certificate of incorporation with the appropriate government agency or division.

Insurance Binder: A legal document which gives immediate insurance coverage until the time that a regular insurance policy can be issued. Binders are sometimes issued pending a real estate closing.

Intercreditor Agreement: See: "Buy-Sell Agreement".

Interim Financing or Interim Loans: Financing provided for a limited period, to be "taken out" by permanent financing or equity.

Lease: An agreement which transfers the right to exclusive possession and use of real property for a specific period of time.

Letter of Credit: A bank's agreement or commitment, made at a customer's request, to honor a third party's demands of payment upon compliance with the conditions specified in the letter of credit.

Lien: A claim which one person has upon another person's property as security for a debt or obligation.

LIHC: Low Income Housing Credit program.

Limited Partnership: A partnership formed by two or more persons under Articles 8 or 8A of the Partnership Law, having one or more general partner and one or more limited partners.

Local Program Administrator (LPA): An applicant to whom HTFC makes payments, grants or loans for the purpose of constructing, rehabilitating, or converting its own projects, or making payments, grants or loans to subrecipients (HTF or HOME) or other eligible recipients for the construction, rehabilitation or conversion of projects, or for the purpose of providing tenant-based rental assistance (HOME only). LPAs select projects or recipients to receive financing according to a program design approved by HTFC. They also supervise construction of such projects and monitor compliance with HTF or HOME Program requirements for the duration of the regulatory period.

Loss Payee: The entity which an insurance policy designates as the one to be paid should the insured property be damaged or destroyed.

Maintenance: The general upkeep and repair of a property.

Management Agent: The company or individual who markets, leases, manages, and maintains the project.

Management Agreement: A contract between a project owner and the individual or company who will manage the property, which establishes the agent's obligations, compensation, scope of authority, methods of paying project expenses, etc.

Market Rent: The unit rent that would be charged if the DHCR/HTFC monies used to fund the unit were treated as a 30-year, amortized, interest-bearing loan, at the 30-year U.S. Treasury bond interest rate in effect 30 days prior to the execution of the Regulatory Agreement.

Metes and Bounds: A method of land description which identifies a parcel by specifying its shape and boundary dimensions, using terminal points and angles.

Moderate Rehabilitation: A project which has a per unit total development cost of \$25,000 or less.

Mortgage: A legal document which is used to secure the performance of an obligation. When a mortgagee loans funds to a mortgagor, the mortgagor is required to sign a promissory note for the borrowed amount, and execute a mortgage to secure the debt. A mortgage is typically secured by real property.

Mortgageable: Project costs which are reimbursable under the permanent project financing.

Mortgagee: The lender in a mortgage transaction, who receives and holds a mortgage as security for a debt.

Mortgagor: A borrower who gives a mortgage as security for a debt.

Multiple Dwelling: A structure which houses three or more households in separate living units.

Negative Declaration: A finding by DHCR/HTFC's SEQRA Officer that the proposed project will have no impact, or no significant impact, upon the environment.

Nonprofit or Not-for-Profit Corporation: A corporation incorporated under the State Not-For-Profit Corporation Law or its predecessors.

Note: A document which serves as evidence of a borrower's debt in connection with a loan. The Note sets forth the loan amount, interest rate, time and method of repayment, and the borrower's obligation to repay the loan.

OCD: DHCR's Office of Community Development.

Offsite Costs: Costs which are incurred while developing unimproved land, but which are not connected with the onsite costs of the project's actual construction. Offsite costs include such items as sewers, streets and utilities.

Operating Expenses: Periodic expenses which are essential for a project's continuous operation and maintenance. Operating expenses may be fixed, such as property taxes and insurance, or they may be variable, such as utilities or payroll. Operating and replacement reserve contributions are operating expenses; mortgage principal and interest, and depreciation are not.

Operating Pro Forma: An operating budget statement which predicts a project's expected income, operating costs and net operating income for a 12-month period.

Operating Reserve: A fund into which monies are set aside at the time of initial occupancy and each month thereafter for unanticipated operation and maintenance costs.

Option: A legal agreement between parties to keep open an offer to sell, buy or lease property over a specific time period. Options allow time for the buyer to settle issues of title, zoning, financing and feasibility before making a commitment to purchase or lease the property.

Owner: A person, corporation or other entity which has legal title to property.

Owner/Occupant: An owner of a piece of real estate who occupies the property.

Partnership Expense: (LIHC Program term). Any partnership expense paid from the proceeds of syndication of Low Income Housing Credits which are not allocated to developer's fee or syndication cost.

Performance Bond: A bond posted by a contractor which guarantees a project's completion according to contract. The bond generally provides for the insurer to either complete the project or pay damages up to the performance bond's limit should the contractor fail to complete the contract.

Permanent Financing: A long-term loan, often used to "take out" the interim lender who loaned money to finance the construction of a major project.

Persons at the Public Assistance Level: Persons receiving benefits pursuant to Section 131-A of the Social Services Law, or who can afford rents no greater than those paid by persons receiving benefits pursuant to such law.

Person with Special Needs: means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment.

(a) Physical or mental impairment includes:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitorurinary; hemic and lymphatic; skin; and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(b) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(c) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(d) Is regarded as having an impairment means:

(1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(3) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment.

PHFL: Private Housing Finance Law.

Plans and Specifications: Plans are the architectural drawings pertaining to a project being considered for development, and include such items as building(s) and mechanical and electrical drawings. Specifications are written instructions to the contractor which contain all pertinent information regarding materials, quality of work, style, fabrication, colors and finishes, and which supplement the details contained in the construction drawings.

Pre-Construction Meeting: A meeting held after the Contract Closing, but prior to the start of construction, with all project participants in attendance to discuss the proposed work, set forth all program regulations, procedures and requirements, and delineate the roles and responsibilities of each project participant.

Predevelopment Costs: Costs which are incurred in conjunction with, but prior to, the actual commencement of the project's construction, such as site option costs, site carrying charges, architectural and engineering fees, and appraisal fees.

Predevelopment Costs Agreement: (HTF Program term). A document which sets forth the terms for partial disbursement of a Housing Trust Fund award for costs associated with the predevelopment stage of a project. If a project proceeds to construction, this agreement will be superseded by the Construction Loan Agreement.

Present Value: (LIHC Program term). The value today of payments to be made or received in the future.

Principal: Any person or public or private entity that will participate in the proposed project as an applicant, owner, builder, developer, or managing agent. Architects, attorneys or other consultants who have an interest in the project, other than an "arms-length" fee arrangement for professional services, are also considered principals. All general and limited partners having a 25 percent or more interest in a partnership are considered principals. Principals of public or private corporations include the president, vice president, secretary, treasurer, and all executive officers who are directly responsible to the board of directors or equivalent governing body, as well as each director and stockholder having a ten percent or more interest in the corporation.

Private Developer: A person, firm, corporation or partnership of which less than 50 percent is controlled by a not-for-profit corporation, charitable organization or a wholly-owned subsidiary of such corporation or organization, whose business activities include residential construction or rehabilitation.

Private Financing: Funding which is provided from a private, non-governmental source, such as a banking institution.

Pro Forma: See the definition of "Operating Pro Forma".

Program Agreement: (HTF and HOME Program). The agreement which is entered into between HTFC and its LPAs for the administration of a program.

Program Design: An exhibit to the Program Agreement which sets forth the program of work to be performed by an LPA on behalf of HTFC. The Program Design specifies how the HTF LPA will meet all HTF Program requirements set forth in the LPA Program Agreement, Article 18 of the PHFL, the rules and regulations promulgated pursuant to Article 18 of the PHFL, and any other applicable laws or codes; or how a HOME LPA will administer its program in a manner which meets all applicable HOME Program and other applicable Federal statutes and regulations.

Progress Payments: Scheduled payments of construction funds which are disbursed as phases of the project's construction are completed, rather than in one lump sum at the beginning of construction.

Project Architect: The architect of record for the project.

Project Contingency: A percentage of the project's total soft costs and contractor's cost, usually a minimum of five percent, which is budgeted to pay for any unforeseen project costs which may be incurred after construction begins.

Project Development Meeting: A meeting held, after a successful project applicant signs and returns its Funding Commitment letter, between the project team and OCD staff to discuss the following project-related topics: roles of OCD staff, program and development requirements, required documents, coordination with other agencies, timetables, fee arrangements, and any issues raised by the Funding Commitment letter or as a result of DHCR/HTFC' review of the project. Project

Participants: Includes the project applicant, owner, contractor, and architect, the OCD project manager, construction monitor, and staff architect, and if applicable, the construction manager, clerk of the works, and representatives of the construction lender and additional funding source(s).

Project Recipient: An applicant to which HTFC makes a direct payment, grant or loan for the construction, rehabilitation or conversion of a project.

Promissory Note: One person's unconditional written promise to pay a specific sum of money to another (or order, or bearer), at a future specified time.

Public Financing: Funds which are provided from a government source, State, local or federal.

Punch List: A listing of construction defects or omissions which must be corrected or completed in order to bring the building(s) into compliance with its plans and specifications. The punch list is completed by the project architect following the punch list inspection (see below).

Punch List Inspection: An inspection of the project which is made when contractor advises the owner that the project is substantially complete, for the purpose of making a punch list of all incomplete or incorrect work.

Purchase Price: The amount of money and/or other considerations set for the sale of the property which is to be the site(s) of the regulated project.

QAP: (LIHC Program term). A Qualified Allocation Plan, which is prepared and issued by a Housing Credit Agency pursuant to Section 42 of the Internal Revenue Code and which establishes the criteria by which LIHC funds will be allocated on a geographical basis.

Qualified Basis: (LIHC Program term). The proportion of eligible basis which qualifies for Low Income Housing Credit as defined under Section 42 of the IRS Code.

Regulatory Agreement: The contract between DHCR/HTFC and the project owner which prescribes the terms under which the project will be owned and operated.

Regulatory Period: The period of time for which the project's Regulatory Agreement is in effect.

Rehabilitation: See definitions of "Moderate Rehabilitation" and "Substantial Rehabilitation". In general, it is the restoration of a building to its former or improved condition, as when buildings are renovated or modernized. Rehabilitation usually does not alter a structure's basic plan or style, but may include some new construction, buildings, or additions.

Rent: A fixed payment made periodically by a tenant to a property owner in exchange for the possession and use of a dwelling unit.

Rental Project: A project which is owned and operated as a rental residential property, for which occupants pay rent in exchange for the right to occupy a unit in the building.

Rent Control: Regulation by the State or local governments which restricts the amount that landlords can charge their tenants.

Rent-Up: The process by which a project's units are initially leased to tenants.

Replacement Cost: The current cost of replacing a building with one which has the same practical use, but which may differ from the original in size, materials, and design.

Replacement Reserve: The amount set aside at the time of initial occupancy, or each month thereafter, for the future replacement of items including, but not limited to, flooring, plumbing systems, heating systems, security systems, electrical systems, roofs, and window and door units, as approved by DHCR/HTFC.

Reserve Fund: Monies set aside as a cushion for future payment of items such as taxes, insurance, deferred maintenance, and roof replacement. See definitions for Operating Reserve and Replacement Reserve.

RESTORE Program: Residential Emergency Service to Offer Repairs to the Elderly Program.

Restricted Rent: (LIHC Program term). The rent limitation for a dwelling unit for purposes of qualifying for Low Income Housing Credit as defined under Section 42 of the IRS Code.

Retainage: A portion or a percentage of the construction contract which is withheld until the construction contract has been satisfactorily completed and the period for filing mechanics' liens has expired (or when the lien has been released by the contractor and subcontractor).

Return on Equity: An annual amount to be paid to the developer out of the project's earnings after all necessary operating expenses, including contributions to the reserve fund, are paid. The Return on Equity is calculated as a percentage of the developer's original financial contribution to the project.

Rowhouse: See Housing Types.

RRAP: Rural Rental Assistance Program.

Rural: Cities, towns or villages with a population of less than 25,000.

Satisfaction of Mortgage: An instrument which the mortgagee issues when a mortgage has been paid in full, or is otherwise satisfied.

Schematics: Architectural drawings which are not greatly detailed, but which show basic project layouts in broad scheme.

Seed Money: Funds which a developer needs prior to the submission of an application for full project funding to determine the feasibility of the project.

SEQRA: State Environmental Quality Review Act.

Setback: Zoning restrictions on the amount of space required between a property's lot and building lines.

Shelter Allowance: The Department of Social Service's maximum rental allowance for persons receiving public assistance; the allowance is based on county of residence and family size.

Shelter Rent: The maximum rent which can be charged for units to be occupied by persons receiving public assistance, or who have incomes at the public assistance level.

SHPO: State Historic Preservation Office.

Single-Family Residence: A structure which is used as a single dwelling unit and is designed for single-family occupancy.

Site Improvements: Additions to a site, such as grading, utilities, sewers, streets and sidewalks, made when the site is developed.

Site Inspection: A visit to and review of the premises.

Soft Costs: Costs, other than acquisition and construction/ rehabilitation costs, which are incurred while holding unimproved property or during construction. Soft costs may include, but are not limited to, such items as carrying charges (interest, real estate taxes, and ground rents), professional service and audit fees, offering plan/prospectus costs, surveys, relocation expenses, insurance, assessments, mortgage insurance premiums, inspection, recording and filing fees, Not-for-Profit Developer's Allowance (NPDA), FNMA/GHMA fee, mortgage recording tax, and title examination costs.

Specifications: Written instructions which supplement the project's architectural plans, and which provide the contractor(s) detailed information regarding features of the proposed project's construction, such as materials, colors, etc.

Subcontractor: A builder/contractor who performs a specific portion of the work on a project, such as the plumbing, pursuant to an agreement with the project's developer or general contractor.

Subrecipient: An applicant to whom a Housing Trust Fund Program Local Program Administrator (LPA) makes a payment, grant or loan for a project pursuant to a formally executed Subrecipient Regulatory Agreement.

Subsidy: A grant made by a government or other entity to reduce the cost of housing to the occupant.

Substantial Completion: The stage of construction when building(s) are determined based upon inspections by the DHCR/HTFC construction monitor, to be habitable and in compliance with codes, although minor items, such as landscaping, may remain to be completed.

Substantial Rehabilitation: A project which has a per unit total development cost in excess of \$25,000.

Survey: The measurement of boundaries, dimensions and position of buildings on a lot, including the determination of any existing encroachments or easements.

Syndication Cost: (LIHC Program term). The costs of legal, marketing and syndicator fees necessary to sell partnership interest providing federal tax benefits in the form of Low Income Housing Credits.

Takeout Financing: Long-term permanent financing used to pay off a project's short-term construction loan. This term is used when a project's financing involves two lenders: the interim and the permanent lender. Prior to making a construction loan, an interim lender usually requires a commitment from the permanent lender to "take out" the interim lender when construction is completed, by taking over the mortgage as a permanent (long-term) investment.

Tax Credit: A dollar-for-dollar reduction in federal tax liability for investors who invest in qualified low-income housing under the Low-Income Housing Credit Program.

Technical Assistance: Assistance provided by DHCR/HTFC to help applicants in the design, development, ownership or management of affordable housing projects or programs.

Temporary Certificate of Occupancy: A permit issued to a property owner by the local governmental agency having jurisdiction, when all major building systems are in compliance with the applicable State and local building codes, except for minor compliance items which do not impair the health or safety of the occupants.

Tenant: A person who has the temporary use and occupation of real property owned by another person.

Tenant Paid Utilities: Those utilities whose costs are paid directly by the tenant.

Title: Evidence of the ownership of land; or, the right to or ownership of land.

Title Insurance: A contract under which a title insurance company guarantees to indemnify the policy holder against a loss arising through title defects. Unlike most insurance policies which protect against loss from a future event, title insurance protects against loss from something that has already occurred, such as an undisclosed heir turning up to claim title.

Title Report: A preliminary report showing the current state of the property's title, including any unpaid mortgages, easements, or other recorded objections to clear title.

Title Search: An examination of public records to determine if any defects exist in the chain of title.

Total Development Cost (TDC): The sum of all eligible, necessary and reasonable construction/rehabilitation, site acquisition, and soft costs for a project, excluding working capital and replacement and operating reserve costs.

Total Housing Expense or Total Housing Cost: A household's total monthly expenditure for rent plus utilities.

Total Project Cost (TPC): The sum of all eligible, necessary and reasonable acquisition, construction/rehabilitation, and soft costs for a project, as well as working capital and reserve fund capitalization costs, where applicable.

Track Record: A developer's or owner's past experience in developing the kind of projects for which funds have been requested.

Turnkey Development Method: A method used to develop low-income housing in which the development of the project is handled by an experienced builder who at the completion of the development phase turns it over to an experienced owner to operate and manage the project (in some cases, the builder and the owner may be the same entity).

USDA Rural Housing Services (Rural Development): an U.S. Department of Agriculture agency, which assists rural residents and communities through a variety of housing credit and development programs.

Unified Funding Process: The process by which applicants may apply for technical assistance, seed money and capital project funding from DHCR/HTFC.

Unit: A discrete portion of a building designed for residential living.

Urban: Cities, towns or villages with a population of 25,000 or more.

Utilities: Basic services required for a project, such as electricity, water, and gas.

Vacancy Rate: The vacancy rate is the percentage of total units that are vacant in a particular project or area.

Variance: Permission from government zoning authorities to construct a building or utilize a property in a way which is prohibited by the locality's zoning laws; an exception from the zoning laws.

Very Low Income Persons: Persons or households whose incomes are less than or equal to 50 percent of the area median income.

Walk-Up: See Housing Types.

Working Capital Fund: A fund to be used for start-up expenses incurred in the first year after substantial completion including, but not limited to, liability insurance, fidelity bond premiums, utility hook-up deposits, maintenance equipment, movable furnishings and equipment, and other initial project-related expenses, as approved by DHCR/HTFC.

Work-Out: A mortgagee's attempt to help a mortgagor who is in default to arrange a plan to cure the default.