



Public Housing Repositioning Wednesday Webinar Series: Faircloth-to-RAD Development

September 20th, 2023

Check out Previous Wednesday Webinars

Webinar Topic	Date
<u>Developing a Repositioning Strategy</u>	May 13, 2020
<u>Options for Scattered-Site Units</u>	June 3, 2020
<u>Options for 50-and-Under PHAs</u>	June 24, 2020
<u>Streamlined Voluntary Conversion</u>	September 2, 2020
<u>Project-Based Voucher Program Overview</u>	December 2, 2020
<u>RAD and Section 18 New Blend Options</u>	February 17, 2021

Webinar Topic	Date
<u>Preservation Strategies</u>	March 17, 2021
<u>PHA/Developer Roles</u>	June 30, 2021
<u>Choice Neighborhoods and Repositioning</u>	October 27, 2021
<u>Homeownership Programs</u>	February 9, 2022
<u>You Have SAC Approval – Now What?</u>	September 28, 2022
<u>Reinvestment, Recapitalization, Repositioning Tools</u>	June 7, 2023

All webinars are recorded and posted at www.hudexchange.info

Presenters

- Will Lavy, Office of Recapitalization
- Stacy Harrison, Office of Recapitalization
- Nick Birck, Office of Public Housing Investments

Why are we here?

The goal of this webinar is to:

1. Introduce the concept of “Faircloth-to-RAD” development and how Public Housing Authorities (PHAs) can use it to build and preserve deeply affordable housing in their communities.
2. Provide an overview of the Faircloth-to-RAD development process
3. Highlight examples of how PHAs are currently using Faircloth-to-RAD development



What is Faircloth-to-RAD Development?

New Public Housing? HUD Has Found a Way

For decades, the number of public housing units across the U.S. has been shrinking. But within the limits of the law and funding, HUD has figured out a way to get back some of the housing that has been lost.

By **Josh Cohen** - October 8, 2021

Faircloth-to-RAD: A New Development Opportunity for Affordable Housing Expansion

Faircloth-to-RAD Conversions Pose Possibilities for PHAs, Developers

New Pathways to Create More Deeply Affordable Housing: Early Lessons from HUD's Faircloth-to-RAD Program



The Faircloth Amendment



(3) LIMITATION ON NEW CONSTRUCTION.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a public housing agency may not use any of the amounts allocated for the agency from the Capital Fund or Operating Fund for the purpose of constructing any public housing unit, if such construction would result in a net increase from the number of public housing units owned, assisted, or operated by the public housing agency on October 1, 1999, including any public housing units demolished as part of any revitalization effort.

- Introduced as part of the 1998 Quality Housing and Work Responsibility Act to amend the Housing Act of 1937.
- It has effectively capped the number of public housing units HUD will support at the number of units a PHA had in 1999.

Faircloth Authority

- Any units demolished or removed through Section 18 (including the Section 18 units in a RAD/Section 18 Blend) remain in a PHA's Faircloth authority.
- Any units converted through RAD are no longer counted as part of your Faircloth authority.
- Your Faircloth authority is retained, even if you do not currently have any public housing units.

How do I find my agency's Faircloth Authority?

HUD publishes a list of every PHA's available Faircloth authority on the [Office of Capital Improvements website](#).

Find your agency's Faircloth authority [here](#).

Faircloth Authority

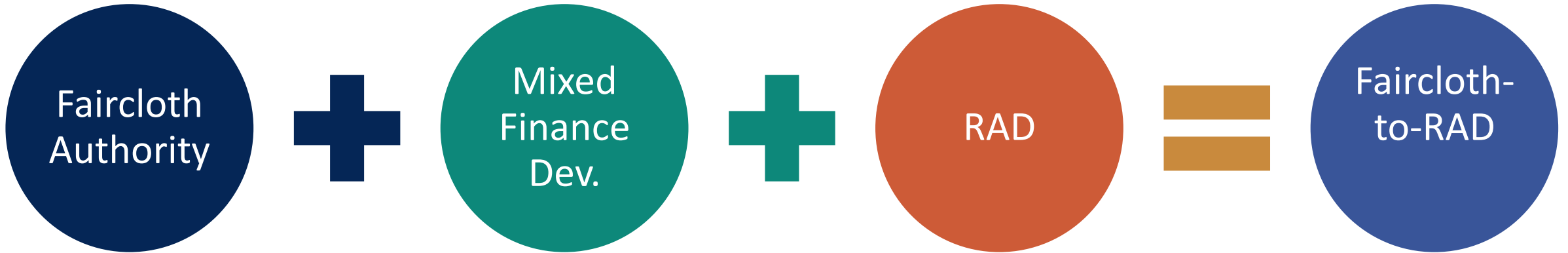
- If a PHA uses one of the tools that requires it to close out of public housing (Streamlined Voluntary Conversion, Section 18 "50 and under", Small PHA RAD & Section 18 Blend) the PHA may develop Faircloth-to-RAD units prior to closing out their public housing program.
- However, if you have “closed out” of the public housing program (i.e., terminated the Public Housing Annual Contributions Contract), your Faircloth authority is permanently removed.

Faircloth Authority

249,878

Units of available “Faircloth Authority” (as of 12/31/22); units HUD would fund, if PHAs were able to build them

The Faircloth-to-RAD Concept

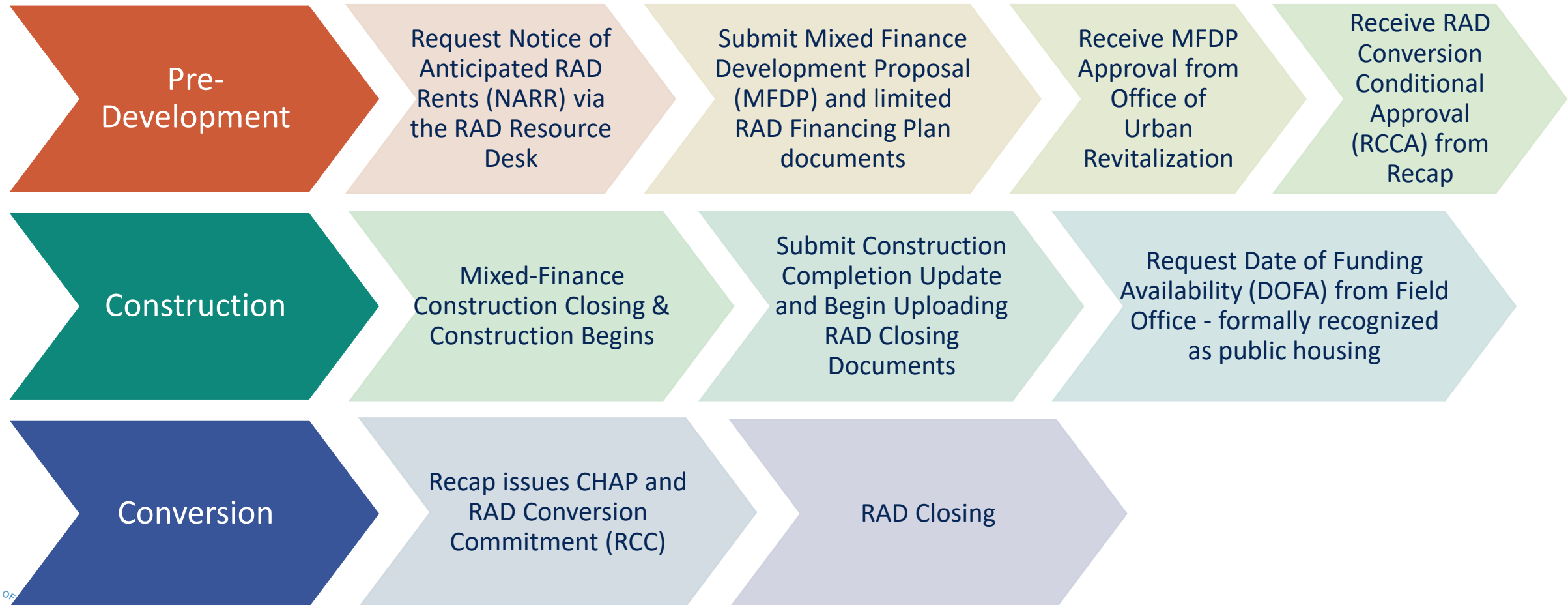


Development Process

Overview of Faircloth-to-RAD Process



Faircloth-to-RAD Process



Making Faircloth-to- RAD Work

Requesting a Notice of Anticipated RAD Rents



Notice of Anticipated RAD Rents - NARR

- Notice of Anticipated RAD Rents (NARR) serves to:
 - Reserve conversion authority for the proposed project under the RAD cap
 - Provide RAD Contract Rents that can be used for underwriting
- PHAs request NARR through the RAD Resource Desk
 - Log in and go to Action Items
 - Select Faircloth Conversion Reservation
- Requesting a NARR does not commit you to pursuing a project. You can request a NARR to test the feasibility of a project
- RAD rents for Faircloth units are initially based on the estimated Operating Fund and Capital Fund levels for new units
- RAD rents are locked in – not subject to continued uncertainty

Resident Notification and Engagement for Existing Occupied Projects

Prior to Requesting NARR

- Issue a RIN and/or GIN
- Conduct at least 2 meetings with residents

After NARR, prior to submitting MFDP

- Conduct at least 2 meetings with residents

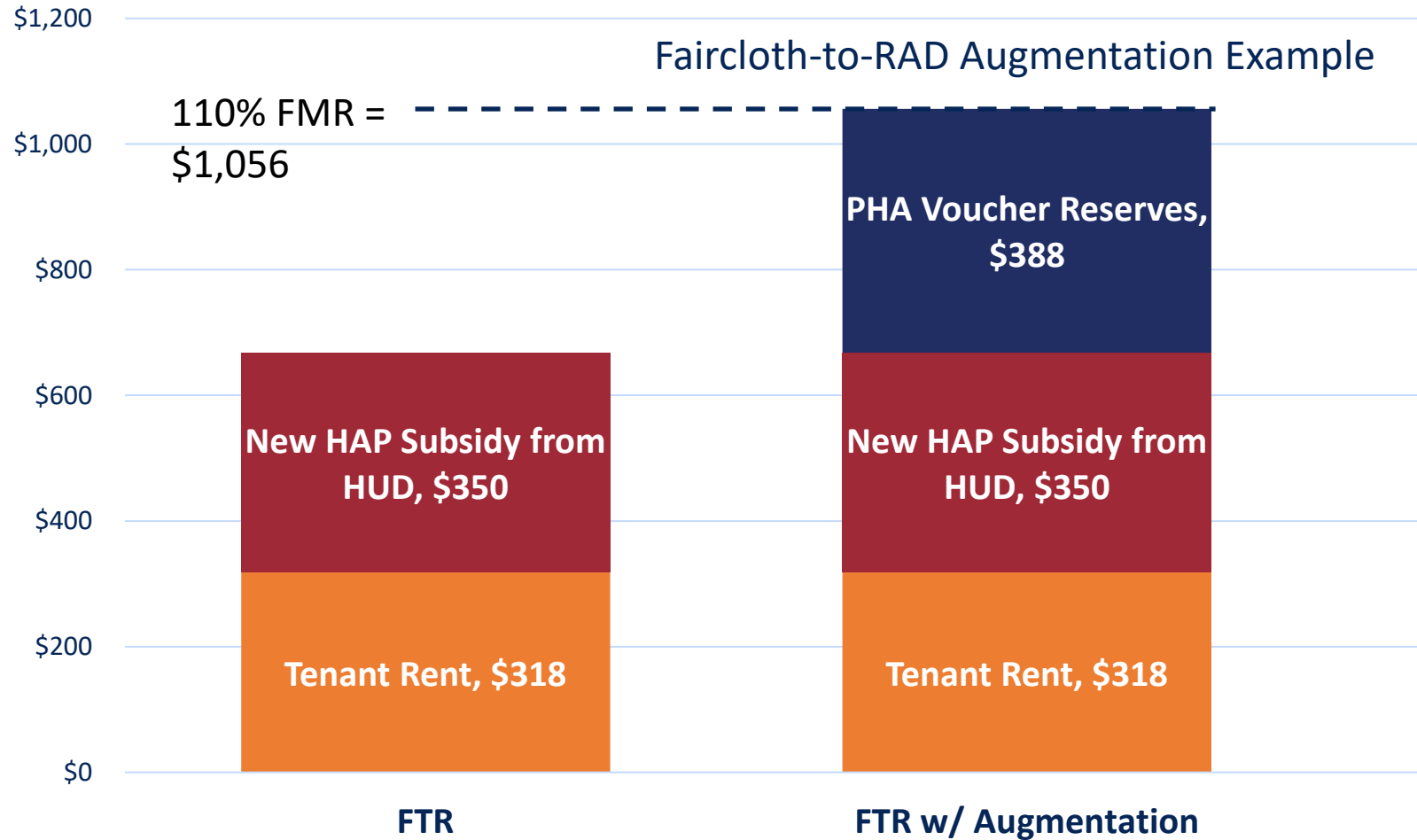
After MFDP Submission, prior to construction finance closing

- Conduct at least 1 meeting with residents

Faircloth-to-RAD Rent Flexibilities

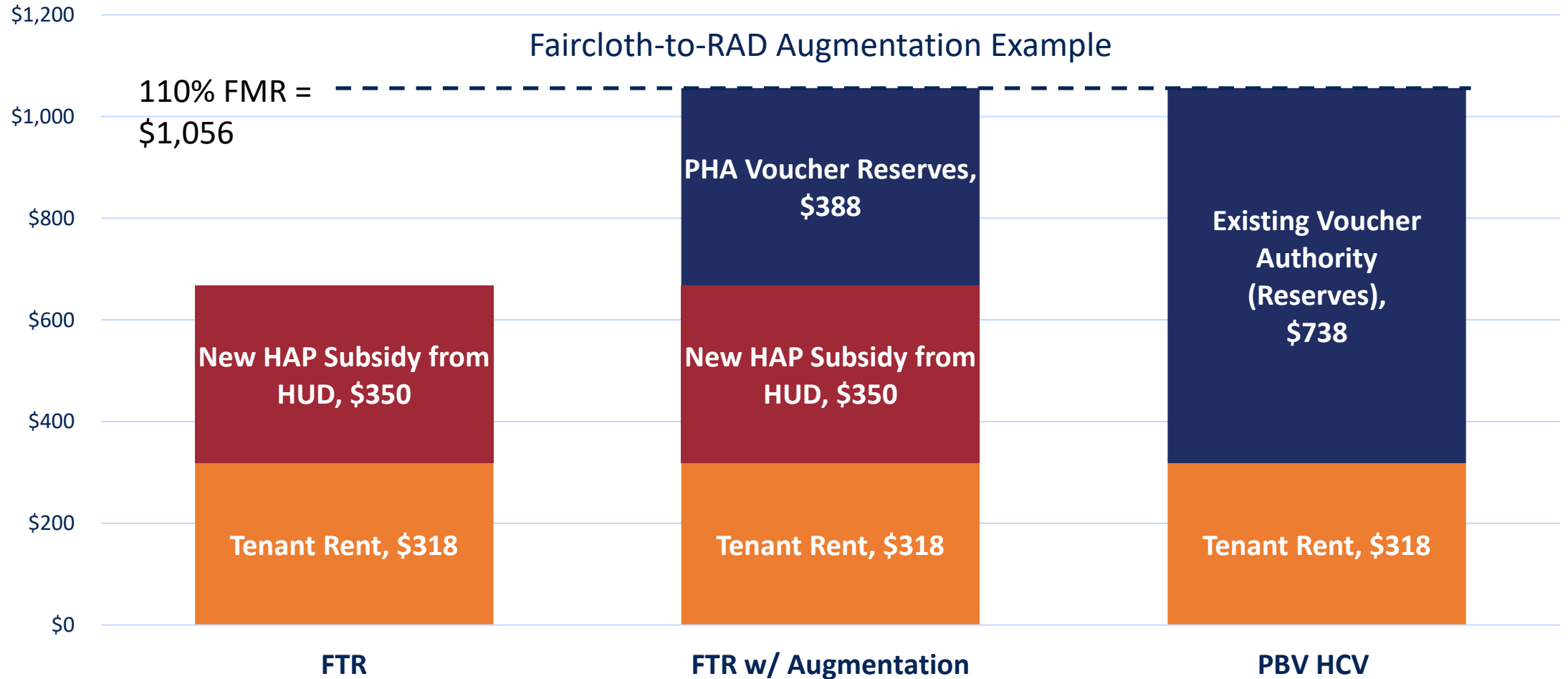
- Faircloth-to-RAD rents tend to be lower, on average, than regular RAD rents for existing public housing. The capital fund portion of the rent is low, due to the given Date of Funding Availability (DOFA) of the property.
- MTW agencies have historically been able to use their fungible MTW funds to augment the RAD rents, including Faircloth-to-RAD rents.
- The 2023 RAD Supplemental Notice
 - Allows non-MTW agencies to augment the Faircloth-to-RAD Rents for PBV conversions using existing voucher budget authority, under certain circumstances.
 - Allows agencies to use the Opportunity Zone Rent Boost for PBRA conversions

Augmenting Rents



Note: Contract rents are capped at normally applicable PBV rent caps – reasonable rent and up to 110% of FMR, less utility allowance

Augmenting Rents



Augmenting Rents (non-MTW)

Non-MTW agencies can augment rents if both conditions are met:

- 1. The Faircloth-to-RAD units do not make up more than:**
 - a) The greater of 25 units or 25% of the units in the project; or
 - b) The greater of 25 units or 40% of units in the project if it is in census tract where the poverty rate is no greater than 20%; or
 - c) No limitation if the units are made exclusively available to people who are elderly, eligible for supportive services, or youth receiving HCV Family Unification Program assistance.
- 2. The Faircloth-to-RAD project is in one of the following locations:**
 - a) A Metropolitan Statistical Area, Micropolitan Statistical Area, or ZIP code where the rental vacancy rate is less than 4 percent; or
 - b) A ZIP code where 90 percent of the Small Area FMR is more than 110 percent of the metropolitan area FMR.

Budgeting for Augmented Rents

- HUD will provide new incremental voucher funding for the first full calendar year following conversion using the base NARR rents, before any rent augmentation amount is applied.
- PHAs must budget for the augmented funding in their renewal funding eligibility as follows:
 - For the 39 Original MTW agencies, the augmentation of Faircloth-to-RAD rents must be budgeted for in annual MTW funding or reserves.
 - Expansion MTW agencies and non-MTW agencies will need to withhold voucher funds to fund the augmentation only in the first full year after conversion. Beginning the second full year after conversion, the full contract rent amount (including the rent augmentation) will be picked up in HAP renewal baseline.

Rent Augmentation and MTW Substantially the Same Requirements

- Any use of MTW funds in setting higher initial contract rents shall be subject to subsidy layering review and MTW continued service (i.e., “Substantially the Same” or “STS”) requirements (PIH 2013-02)
- For Original MTW agencies, the Faircloth units will get added to your baseline and could result in a slight reduction in your STS percentage over time. Discuss with your HUD MTW Coordinator to confirm no issues
- For Expansion MTW agencies, the STS obligation calculation is based on expenditure of HAP funds for conventional HAP uses, including a PBV contract created through Faircloth-to-RAD

Augmenting Rents

- Projects planning to convert to a Multifamily PBRA contract are eligible for a rent boost up to \$100 per unit, per month if located in an Opportunity Zone and is undertaking new construction or substantial rehabilitation.
- See Section 1.7.A.5.e of the RAD Notice for more details on the Opportunity Zone rent boost. Find more information on Opportunity Zones [visit here](#).
- Other RAD Rent Flexibilities also apply, including:
 - Trading in future Replacement Housing Factor (RHF) or Demolition Disposition Transition Funding (DDTF) funds to offset rents
 - Rent Bundling

Requesting Augmented Rents

Submit a request for a Notice of Anticipated RAD Rents (NARR) via the RAD Resource Desk by selecting the “Faircloth Conversion” option and providing HUD with specific information needed to calculate the estimated RAD rents for the project at the time of conversion.

- The RAD Resource Desk will guide the user through any eligibility questions and submission requirements
- Any rent augmentation the PHA intends to make can be applied to the rents reflected in the NARR.
- If a PHA wishes to modify the rents with MTW funds or HAP reserves, it can request to do so by communicating to HUD how much additional funding per unit should be added to the rents up to initial contract rent setting limits (110% of FMR for PBV).

Faircloth-to- RAD Process

Submitting the Mixed Finance Development Proposal



Submit Mixed-Finance Development Proposal

MIXED-FINANCE
DEVELOPMENT PROPOSAL

When RAD Conversion is
Contemplated

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-
(exp. 04/30/2)

Public reporting burden for this collection of information is estimated to average 16 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information is required for developing a Mixed-Finance rental project pursuant to HUD regulations 24 CFR 905. The information will be used to provide HUD with sufficient information to enable a determination that the proposed housing project is demographically and financially feasible and that HUD statutory and regulatory requirements have been met.

Pursuant to 24 CFR 905.606, prior to developing public housing, either through new construction or through acquisition (with or without rehabilitation), public housing authorities (PHA) must submit a Development Proposal to HUD which contains information about the project. Submission of a Development Proposal allows HUD to assess the viability and financial feasibility of a proposed development and to assure compliance with public housing regulations.

A Development Proposal must be submitted for all types of public housing development, including mixed-finance development. If a PHA does not submit a Development Proposal and secure HUD approval, the PHA may have to repay any public housing funds used in conjunction with the project.

The purpose of this document is to provide a template for preparation of the Development Proposal. Information may be typed directly into the form. This template may be used for all



- [HUD Form 50157](#) – We provide a Form 50157 with some clarifying questions that assist PHAs with covering what we need:
 - Indicate RAD-PBV or RAD PBRA
 - Ownership & Control documentation (Section 1.4.A.11 of the RAD Notice)
 - Replacement Reserve based on 20 yr capital needs IDRR/ADRR or \$450 unit per year
 - Subsidy methodology = NARR
 - PILOT legal opinion

Submit Subsidy Layering Review / Total Development Cost Workbook

Development Proposal Calculator U.S. Department of Housing and Urban Development Office of Public and Indian Affairs OPM Approval No. 2517-0275 (exp. 6/30/2015)

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. This collection of information is required for developing a Mixed-Finance rental project pursuant to HUD regulations 24 CFR 941.600. The information will be used to provide HUD with sufficient information to enable a determination that the proposed housing project is

**FOR THOSE FAMILIAR WITH THE INSTRUCTIONS:
START ON THE NEXT TAB AND CONTINUE TO MOVE RIGHT THROUGH THE TABS**

Instructions: TDC & HCC Limit Calculation Worksheets

Tips: Enter information in cells with blue borders, text or numbers on screen.
All other cells are locked, and all calculations are automated.
Print these instructions for easy reference, then begin at Step 1.

Step 1. Select City and State


- > Navigate to the worksheet titled "Select City & State".
- > Make the appropriate selections from the menu lists provided there.
- > Navigate to the worksheet titled "Unit Mix".
- > Continue at Step 2.

Note: To navigate among the worksheets, click the individual worksheet tabs at the bottom of this window. If no worksheet tabs are visible, select "Options..." from the "Tools" menu. In the dialogue box, select the "View" tab. Under "Window options" put a check mark in the "Sheet".

Step 2. Enter the PHA Name, Development Name, and Phase Number or Description (on the "Unit Mix" worksheet)

Step 3. Enter the Number of Units of Each Type and Size (on the "Unit Mix" worksheet)

- > Select the appropriate column(s) for the proposed units based on tenure type (Rental or Homeownership, PH or Non-PH), and the development.
 - Rent-to-Own units are to be counted initially as Rental Units.
 - Possible development methods are Rehabilitation (of existing public housing only), New Construction, or Acquisition (with or without rehab).
- > Enter the number of units proposed, by Structure Type, in the appropriate row based on the Number of Bedrooms.
 - TDC limit applies to all units on the Annual Contributions Contract (ACC) with HUD, or developed with Public Housing Capital Assistance
 - **Public Housing Capital Assistance (PHCA)** includes the following development sources (and borrowed funds to be repaid from these):
 - HOPE VI grant funds;
 - Public housing Capital Fund and Public Housing Development assistance provided under sections 9 and 5 of the 1937 Housing Act; and
 - Public Housing Operating Fund assistance provided under section 9 of the 1937 Housing Act that is used for development.
 - The TDC limit for Modernization of existing public housing is 90% of the published TDC limit for a given structure and unit type.
 - The HCC limit is applicable only to New Construction units (not applicable to Rehabilitation of existing public housing, or to Acquisition units).
 - The "TDC & HCC Limit calculations" worksheet reflects all such applicability as described above.
- **Definitions of Structure Types** specified on the Unit Mix worksheet:
 - Detached: A structure that consists of a single living unit surrounded by permanent open space on all sides.
 - Semi-detached: A structure containing two living units separated by a common vertical wall.
 - Elevator: Any structure of four or more stories above ground in which an elevator is provided.
 - Row House: A structure containing three or more living units separated only by vertical walls.



Mixed-Finance Development Approval Process

1. PHA submits request for NARR through the RAD Resource Desk and receives from OUR/RECAP
2. Preliminary call with PHA, Recap, and OUR Grant Manager
3. PHA prepares a [Development Proposal](#) and [Development Calculator](#) on F2R specific proposal and submits them to the Office of Public Housing Investments at HUD HQ. Basis of subsidy estimates must be NARR.
4. Grant Manager at HUD HQ reviews Development Proposal and Calculator and presents it to the Mixed-Finance panel. **HUD Field Office conducts site and neighborhood standards, UFAS accessibility, and environmental reviews.**
5. HUD reviews & approves of Development Proposal, Calculator and Draft Evidentiary Documents. HUD OGC reviews the evidentiary documents, and the HUD Field Office Counsel approves survey and title documents. HUD Field Office PIH staff approves management documents.
6. HUD provides PHA its Mixed-Finance approval letter. OUR provides RECAP with its certification memo. RECAP provides PHA its RCCA. PHA and partners close and execute evidentiary documents.
7. PHA submits and HUD approves final executed evidentiary documents and HUD releases PH funds to PHA if needed.



Mixed Finance Development Approval Process

F2R Mixed-Finance Development Projects must meet public housing requirements!



All typical public housing requirements remain, so project should not receive more public funding than necessary



Must comply with Site & Neighborhood Standards, Accessibility, and all other requirements of Mixed-Finance projects



RAD Specific: Part 58 review must state that a RAD conversion is being contemplated



Subsidy Estimate of Pro Forma must be based on NARR



Must meet RAD's Ownership & Control requirements



New Construction or LIHTC: Annual deposit to the replacement reserve must be at least \$450 per unit per year (\$37.50 per unit per month)



PHA must make simultaneous submissions to RAD Resource Desk

MTW and Faircloth to RAD

MTW Agencies can apply many of their MTW program flexibilities to the RAD conversion and to the post-converted RAD units.

- Capital – MTW Agencies can use MTW funds as an additional source of capital to support conversion.
- Operating – MTW Agencies can augment the conversion's RAD rents.

MTW agencies will be able to apply activities impacting the PBV program that are approved in their MTW to properties as long as they do not conflict with RAD requirements.

The augmentation of Faircloth-to-RAD rents must be accounted for each year – either drawing down reserves or through controlled leasing.

“Substantially the Same” requirements apply. The Faircloth units will get added to your baseline and could result in a slight reduction in your STS percentage over time.

RAD Financing Plan

- Parallel to submission of the MFDP, a PHA will upload to the Resource Desk only the RAD Financing Plan documents that are not covered within the MFDP, specifically the following items:
 1. Conversion Overview, including a description of the proposed RAD ownership structure and confirmation of PBV/PBRA selection
 2. Certification of Board Approval of the RAD Conversion
 3. Approved Significant Amendment to PHA Plan/MTW Plan
 4. Approved amendment to Attachment A of the MTW Agreement (if applicable)
 5. Title Report
- The Office of Public Housing Investments underwrites the development financing of project. Since the RAD conversion does not occur until construction completion, the Office of Recapitalization will underwrite the RAD conversion as a no-debt conversion without any construction.

Making Faircloth-to- RAD Work

Construction Completion and Closing

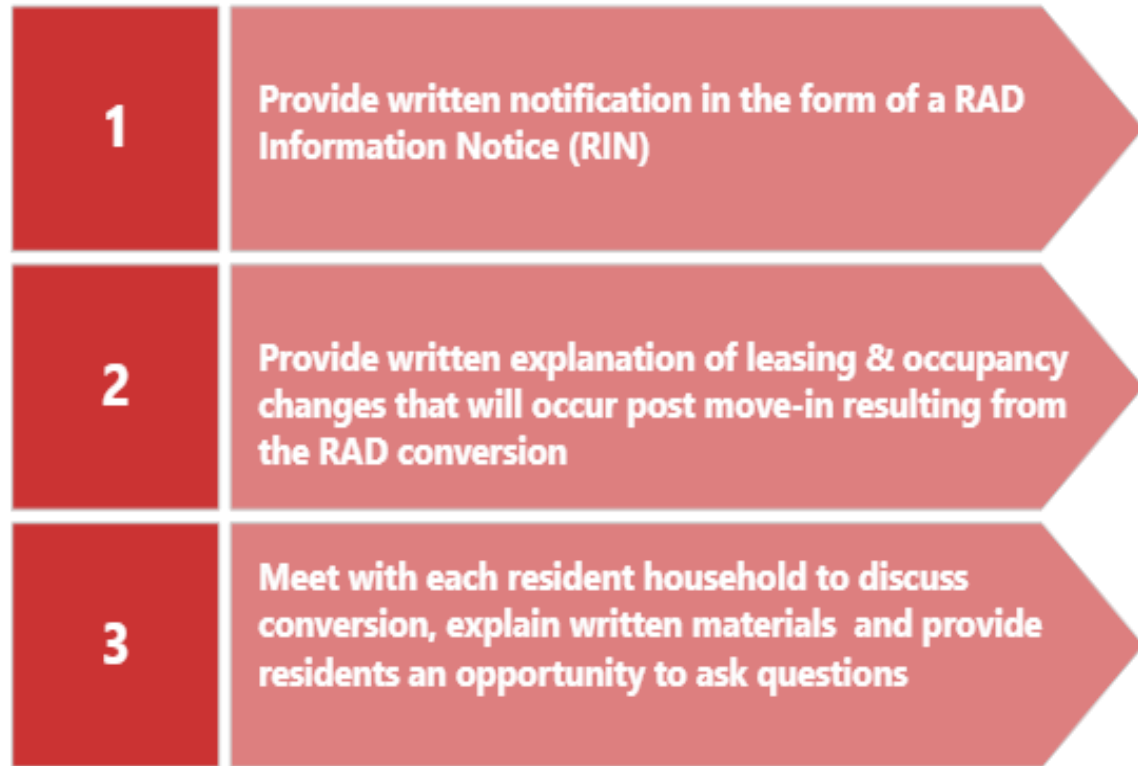


Supporting a Quick Conversion

- A property is eligible to be converted as soon as the public housing property achieves the Actual Date of Funding Availability (DOFA)
- A property achieves Actual DOFA when it has received Certifications of Occupancy for 95% of units
- Once the property has an Actual DOFA, HUD will issue the CHAP and the RAD Conversion Commitment
- PHA should submit final Financing Plan materials and Closing documents to HUD **prior to** construction completion to support an expeditious closing

Resident Notification and Engagement

- If tenants are admitted after RAD conversion closing, there are no RAD notification requirements. Families are admitted as Section 8 households
- If tenants are admitted to the property in accordance with public housing admissions requirements **after** issuance of an RCC and **prior** to the Closing of the RAD conversion, the PHA shall, **prior** to the execution of the lease:



Funding in the Year of Conversion

- **All** RAD projects are funded from public housing Operating and Capital Funds obligated in that year plus tenant rents
- **New** Projects are subject to the same general rule, but note:
 - Capital Fund – the property receives no Capital Fund allocation since the formula does not recognize new projects until the following year
 - Operating Fund – follow annual Operating Fund processing guidance; project must reach DOFA and submit materials prior to the “new project submission deadline” (generally in the Summer)
- ***Important to budget for initial operating deficit in the development budget***
- Beginning January 1 of first calendar year after conversion, project is funded according to Section 8 HAP contract rents

Key Considerations

1. How will you make the project pencil?
2. What is your development capacity?
3. What is your timing for construction delivery and occupancy? Will units be leased as PH or Section 8?
4. How will you cover funding in the year of conversion?

Case Study

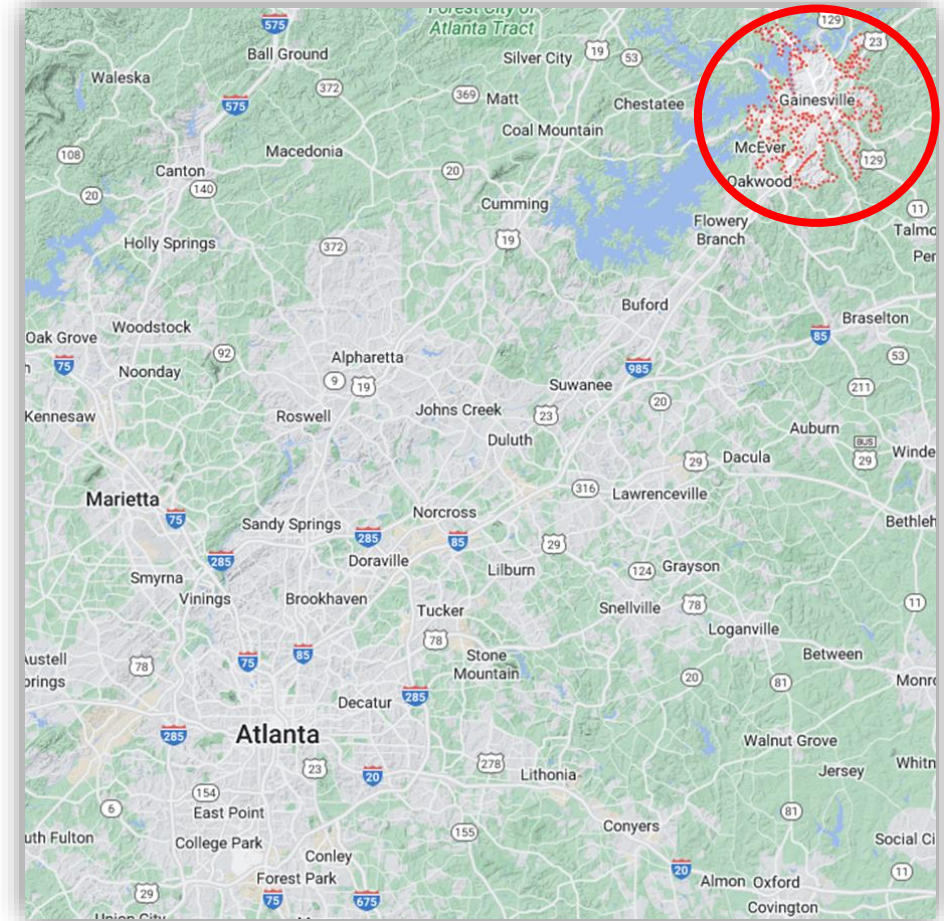
Gainesville, Georgia Walton Harbor

Gainesville, GA

Population: 42,296

Median Income: \$54,662 (families)

- 40% of renters in the city are cost-burdened, more than 20% are severely cost burdened.
- Gainesville HA had previously demolished an aging public housing development and wanted to build back a mixed-income community, including Faircloth-to-RAD units.



Walton Harbor - Overview

- 13 Faircloth-to-RAD units in an 81-unit multifamily rental project.
 - 14 one-bedrooms
 - 44 two-bedrooms
 - 23 three-bedrooms
- The 13 units converted via RAD and the remaining 68 will be LIHTC units



Walton Harbor – Sources & Uses

- Funding sources:
 - Capital Fund loan
 - Program Income loan
 - State & federal LIHTC equity
 - Private loans



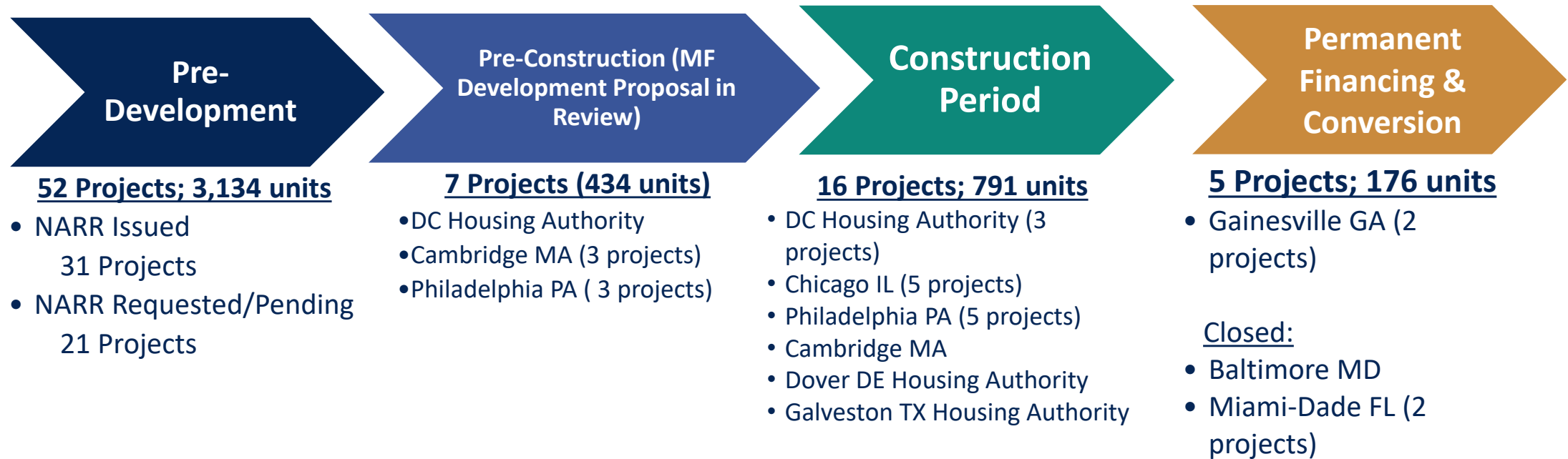
Source: [Legacy at Walton Harbor | Apartments in Gainesville, GA](#)

Faircloth Pipeline

4,359

Faircloth-to-RAD units currently in the pipeline.

Faircloth to RAD Pipeline Development Status



Resources

- **Faircloth-to-RAD Guide**

- Expect an updated Faircloth-to-RAD guide in the coming days that will cover all Supplemental Notice changes

- **Mixed-Finance Development**

- Forms, Tools, related Notices and other guidance on Mixed Finance Development program rules are posted on <https://www.hud.gov/mixedfinance>

- **RAD Notices**

- RAD Supplemental Notice 4B, and RAD Notice Rev-4 as amended by Supplemental 4B are posted on www.hud.gov/rad and www.radresource.net

- **Coming Soon!**

- Group Learning Faircloth-to-RAD sessions facilitated through the Office of Recap's Technical Assistance providers

Who to Contact to Learn More

- **HUD's Office of Urban Revitalization: OUR@hud.gov**
 - Contact for more information on Mixed Finance Development Process
- **HUD's Office of Recapitalization: RAD@hud.gov**
 - Contact for more information on requesting your Notice of Anticipated RAD Rents, or the RAD conversion components of a Faircloth-to-RAD development.



Questions?

