AGENDA

Workshop Meeting

BEE CAVE DEVELOPMENT BOARD

Tuesday, March 19, 2024

9:00 AM, City Hall

4000 Galleria Parkway

Bee Cave, Texas 78738-3104

THE CITY OF BEE CAVE DEVELOPMENT BOARD MEETINGS ARE AVAILABLE TO ALL PERSONS REGARDLESS OF DISABILITY. IF YOU REQUIRE SPECIAL ASSISTANCE, PLEASE CONTACT KAYLYNN HOLLOWAY AT (512) 767-6641 AT LEAST 48 HOURS IN ADVANCE OF THE MEETING. THANK YOU.

1. Call meeting to order
2. Roll Call
3. Discussion and update regarding current and future City projects and priorities for strategic planning purposes including, long-term financial structures presented by Butler Snow.
4. Adjournment

The Board may go into closed session at any time when permitted by Chapters 418 or 551, Texas Government Code, or Section 321.3022 of the Texas Tax Code. Before going into closed session a quorum of the Board must be present, the meeting must be convened as an open meeting pursuant to proper notice, and the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code, or Section 321.3022 of the Texas Tax Code authorizing the closed session.

Economic Development Board Meeting
3/19/2024
Agenda Item Transmittal

Agenda Item:	**3.**
Agenda Title:	**Discussion and update regarding current and future City projects and priorities for strategic planning purposes including, long-term financial structures presented by Butler Snow.**
Board Action:	
Department:	**Administration**
Staff Contact:	

1. INTRODUCTION/PURPOSE

The purpose of this item is to allow board discussion about current and future project planning which may include discussion around prioritization, budgets, and future undertakings.

2. DESCRIPTION/JUSTIFICATION

a) Background

Previous discussions of the board regarding projects and general direction of the corporation led staff to recommend a workshop for directors to hear from Butler Snow about options for financial structures to help with Workforce Housing and Infrastructure.

b) Issues and Analysis

Esme Thoman and Carley Butler, with Butler Snow, will present financial structures that could enhance projects currently involved with, including but not limited to:

1. Workforce Housing
2. Infrastructure
3. Property acquisition

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

ATTACHMENTS:

	Description	Type
🗋	Financial Structure Presentation - Edited	Backup Material
🗋	Financial Structure Presentation	Backup Material

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2. Infrastructure
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BUTLER | SNOW

Economic Development

Esme Thoman and Carley Butler

LAW ELEVATED

Public Facility Corporation

- Governed by Chapter 303 of the Texas Local Government Code
- A **public private partnership** tool used by local governments to create **workforce housing** and promote **economic development.**
- Local government entities create a PFC to provide a property tax exemption in return for the development of multifamily units offered for workforce housing.
- PFCs can own and finance property and issue tax exempt bonds.
- **PFC owned property is exempt from property taxes.**

- Example of a PFC Partnership for new Construction, conventionally financed project with a Section 303.042(f) Exemption:

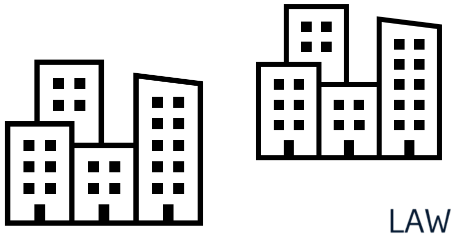
Developer
(acquires control of land)

→ **Land ownership transferred to PFC** →

Public Facility Corporation (PFC)
PFC leases land and to-be-built apartment complex to a newly-formed **Development Partnership** for 60+ years (option to renew)

→ **Ground Lease (leasehold interest)** →

Development Partnership
Builds and rents apartments on the land. The partnership is *exempt* from paying property taxes on the land and apartments in exchange for developing moderate income units.



Development Partnership
Developer | Investors
PFC (special limited partner, .01% interest)

LAW ELEVATED

Chapter 303 of Texas Local Government Code

- When a PFC leases land and improvements built on that land to a private developer, the leasehold interest is now taxed in the name of the public facility corporation and is 100% exempt from property taxes.
- With the local government as only a minor limited partner, the leasehold interest is easily transferred to new buyers without the authorization of the local governmental entity.
- A PFC financing structure allows for the leasehold interest by a private owner to remain tax exempt <u>*as long as*</u> they meet the requirements under Chapter 303 of the Local Govt code.
- The private developer maintains control of the land while the land/buildings are taxed in the name of the PFC (which is 100% exempt from property taxes).

How a PFC Partnership Works for new Construction Projects with a Section 303.042(f) Exemption:

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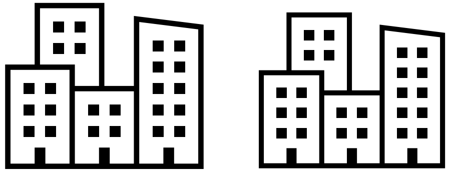

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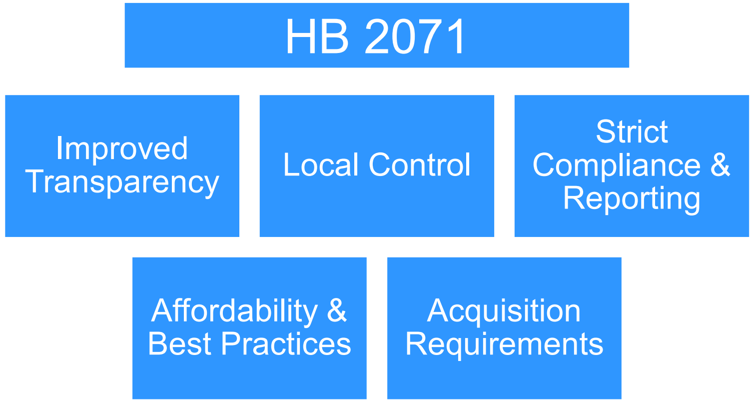
PFC Proliferation & Media Attention

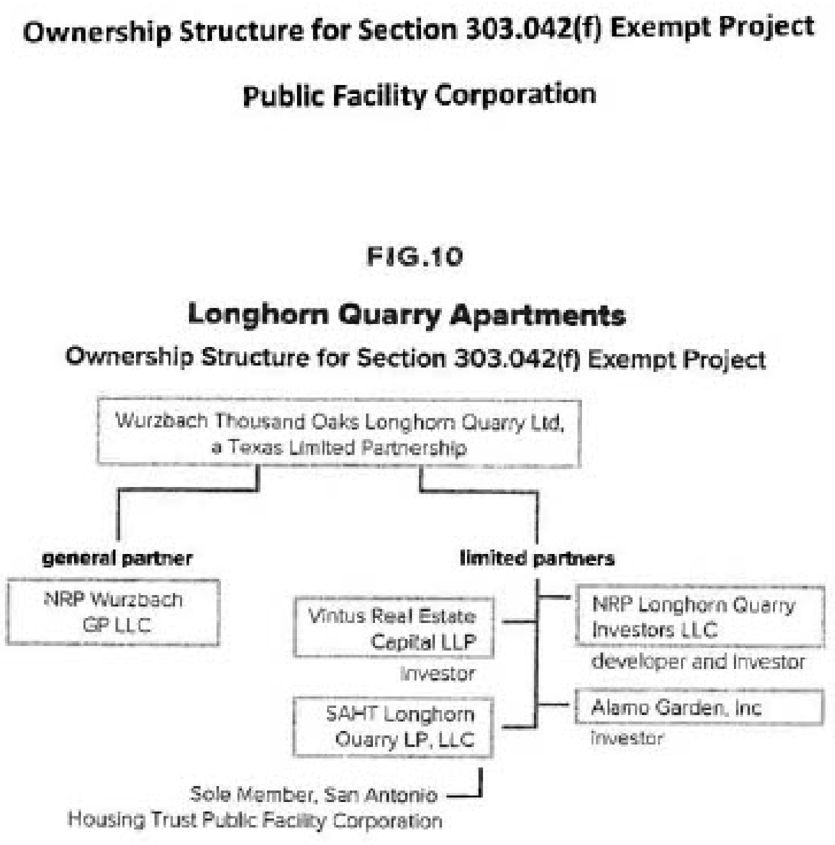
- From 2015 – 2023, PFCs only required 50% of the units to be reserved at 80% of the area median income.
- Media attention:
  - The University of Texas at Austin Report shed light on the perceived misuse of the PFC tool and how it was being misused across the state.
- Chapter 303 statute reform addressed the following concerns:
  - Improved transparency
  - Local control
  - Strict compliance and reporting
  - Affordability and best practices
  - Acquisition requirements



PFC Ownership Structure

- In exchange for the PFC offering a 100% tax exemption, the developer offers the PFC some form of financial incentives:
  - Developer or acquisition fee
  - 10-25% of net cash flow
- PFC and developer agree on affordability terms. PFC deals include the following income and rent restrictions (adjusted for family size):
  - Income Restrictions:
    - 40% of the units at 80% AMI
    - 10% of the units at 60% AMI
  - Rent Restrictions:
    - 30% of units at 60% AMI
    - 30% of units at 80% AMI

These commitments are contained in the ground lease for the project and in the regulatory agreement that is recorded in the deed records.

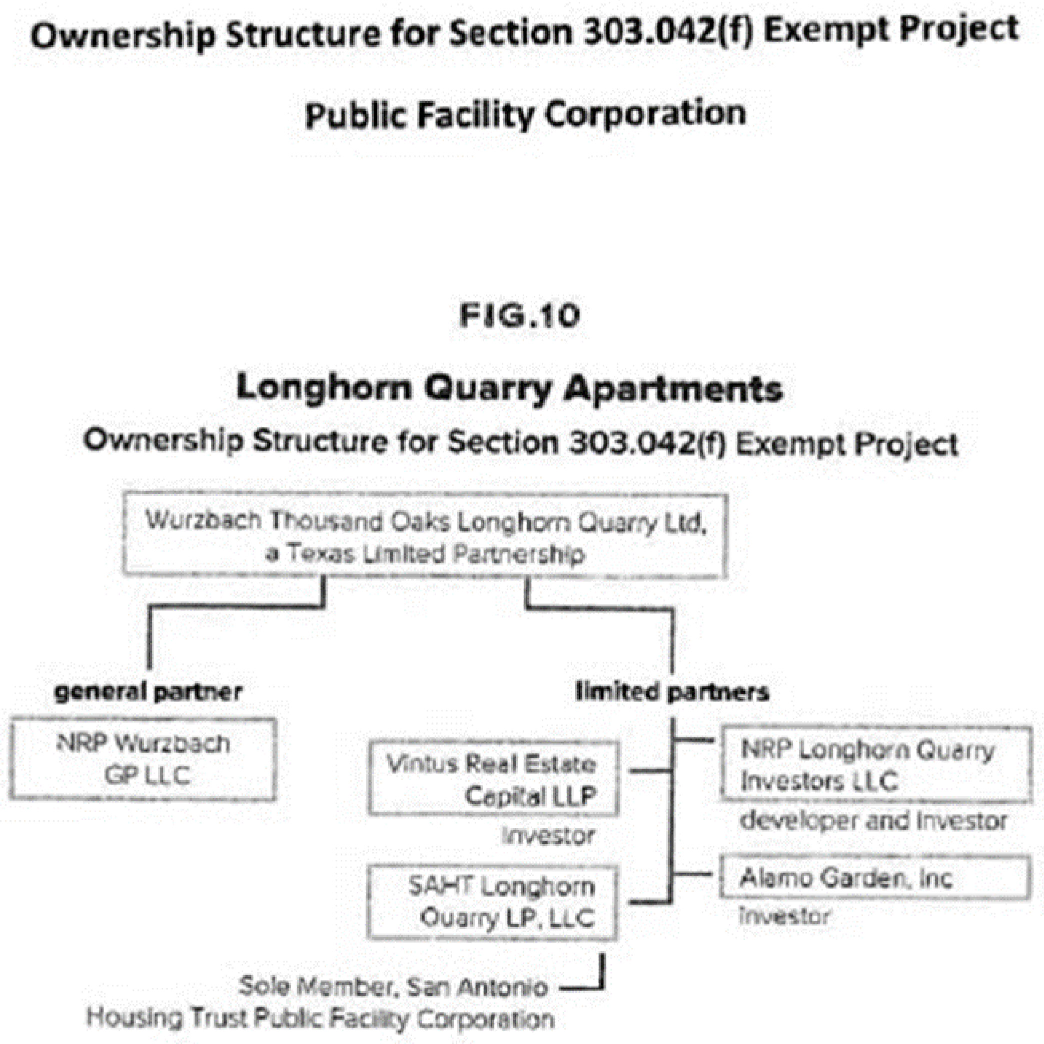


LAW ELEVATED

PFC Ownership Structure

This example shows a typical structure of a PFC arrangement:

- A new limited partnership is formed.
  - **General Partner:** private developer who controls the land and buildings
  - **Limited Partners:** PFC and investors



PFC Structure

PFCs generate revenue that can be used to fund workforce housing projects including:

- Application Fee
    - $5k-$25k
- Origination Fee
    - .5 to 1% of development costs
- Net Cash Flow
    - 10%-25%
- Asset Management Fee
    - $12k-$25k/year paid after stabilization
- Net Sales Revenue
    - If leasehold interest is sold to a third party, a PFC can be eligible to receive 10-25% of the net sales revenue, depending on structure of the deal and if PFC remains in the deal.

The Upton at Longhorn Quarry (opened for leasing in 2017)

Revenue	
Application fee (one-time, up-front fee)	None
Origination fee (one-time, up-front fee)	$250,000
Cumulative asset management fees ($25,000 annual fee once project is leased)	$47,916
Cumulative share of rental revenue (annual fee)	$21,271
Total revenue to the PFC, as of June 2020	**$319,188**

Tax Savings	
Property tax exemption	Total: $2.6 million 2020: $445,942 (pro rata as of July 2020) 2019: $891,884 2018: $892,804 2017: $373,112
Estimated sales tax exemption (one-time)	$1.3 million
Total tax savings, as of June 2020	**$3.9 million**

The Baldwin at St. Paul Square (opened for leasing in May 2018)

Revenue	
Application fee (one-time, up-front fee)	$3,000
Origination fee (one-time, up-front fee)	$250,000
Cumulative asset management fees ($25,000 annual fee once project is leased)	$16,666
Cumulative share of rental revenue (annual fee)	$11,656
Total revenue to the PFC, as of June 2020	**$281,322**

Tax Savings	
Property tax exemption	Total: $2.1 million 2020 (pro rata): $532,128 2019: $1,042,726 2018: $371,624 2017: $133,165
Estimated sales tax exemption (one-time)	$1.1 million
Total tax savings, as of June 2020	**$3.8 million**

PFC Partnership Process

1. A developer pitches an acquisition or new construction of an apartment complex to a PFC.
2. The developer and PFC negotiate the financial benefits to the local jurisdiction and the affordability restrictions or terms (including affordability) to be included.
3. The local government approves the deal (i.e., the PFC board, city council).
4. For new construction projects, the developer transfers the land to the PFC and the PFC leases the land and to-be-built improvements to a limited partnership entity controlled by the developer (typically for 60+ years). For acquisition projects, the developer transfers the land and improvements to the PFC, which are then leased back to the limited partnership.
5. A 100% property tax exemption is secured on the property from the local appraisal district.
6. The developer, via the limited partnership entity, builds and rents out the apartment complex (for new construction projects), with a 100% sales tax exemption on construction materials.
7. Upon stabilization, the developer and investors can sell the leasehold interest to a third party. The PFC can choose to remain in the partnership, which extends the property tax exemption on the property.

PFC: Affordability Requirements

	BEFORE	AFTER HB 2071
Income Restrictions	50% of units at 80% AMI	40% of units at 80% AMI 10% of units at 60% AMI
Rent Restrictions	N/A	30% of 60% AMI 30% of 80% AMI
Adjustment for Family Size	N/A	Required per HUD Standards
Proportionality	N/A	Restricted units must be distributed among BR types
Housing Voucher Program	N/A	No income source discrimination
Lease Requirement	N/A	Certain tenant protections (tenant organizations)
LURA	N/A	Required to document affordability for 10 years

PFC: Local Control

	BEFORE	AFTER HB 2071
Jurisdiction	N/A	Development located in the sponsor's boundaries
Notice Requirement	Public Hearing (HAs)	Notice to all taxing units 30 days prior to board action
Elected Official Approval	PFC Board only	If majority of PFC board not elected officials, must be approved by City/County
Exemption	100%	Does not include MUD taxes without written agreement
Exemption Term	For as long as PFC owns land (typical ground lease 75-99 years)	60 years with option for renewal

PFC: Improved Transparency

	BEFORE	AFTER HB 2071
Underwriting Assessment	N/A	Development would not be feasible without participation of a PFC
Notice Requirement	Public Hearing (Housing Authorities)	Notice to all taxing units 30 days prior to board action
Website Information	N/A	Publish compliance requirements, voucher participation
Affirmative Marketing	N/A	Affirmatively market for voucher holders, notify local PHAs

PFC: Compliance & Reporting

	BEFORE	AFTER HB 2071
Audit Requirements	N/A	Audit report required to show compliance with affordability requirements; difference in market vs. restricted rents
TDHCA	N/A	Reviews third-party audit reports; gives notice of any non-compliance
Auditor Rotation	N/A	Must rotate audit firm every 3 years

PFC: Acquisition Requirements

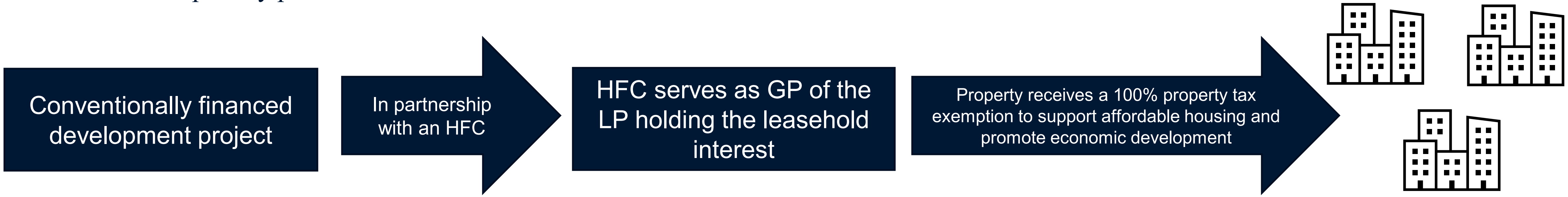
	BEFORE	AFTER HB 2071
Income Restrictions WITH Renovation	50% of units at 80% AMI	40% of units at 80%AMI 10% of units at 60% AMI **AND** 15% of the total gross costs spent on renovation
Income Restrictions WITHOUT Renovation	50% of units at 80% AMI	40% of units at 80% AMI 25% of units at 60% AMI
Underwriting Report	N/A	Must show that reduced rents will equal at minimum 60% of the anticipated tax savings
City/County Approval(no reno)	N/A	Must receive City Council approval if in city, otherwise County Commissioner approval
Exemption Length	N/A	30 years

Statutory Property Tax Breaks for Affordable Rental Housing Developments in Texas:

- In addition to the 100% property tax exemption for apartment complexes on leasehold interests granted by **public facility corporations**, Texas provides another mechanisms by which an affordable rental housing development can receive an exemption from ad valorem taxes:
    - **100% Exemption for Apartment Developments owned by Political Subdivisions and their Instrumentalities.**
        - **Housing Finance Corporations.**

Housing Finance Corporation

- Governed by Chapter 394 of the Texas Local Government Code
- A **public private partnership** tool used by local governments to create **workforce housing** and promote **economic development.**
- Established by a sponsoring local government to support workforce housing by providing financing for multi-family housing projects.
- HFCs can sponsor conventionally financed development projects where the public entity (HFC) is serving as the general partner of the limited partnership holding the leasehold interest in the property.
    - Property receives a 100% property tax exemption because the public entity (HFC) is the general partner of the entity holding the leasehold interest.
    - To qualify for this 100% exemption, a property must be both **publicly owned** and used for **public purposes**. Property used for **public purposes** qualifies for an exemption ***as long as*** it is "equitably owned" by a public entity.
    - **Equitable Title** is determined by having the public partner as the general partner of the lessee. This gives the public partner control rights to the property or claw backs to gain control of the land.
    - Few restrictions regarding limiting rents or incomes. At least 90% of a development must used or "intended to be occupied by persons of low or moderate income."



Housing Finance Corporation

To qualify for this 100% exemption using Section 394, a property must be both **publicly owned** and used for **public purposes**.

Publicly owned: Equitable ownership means that the local governmental entity has the “present right to compel legal title.” A property is equitably owned by a city or county housing finance corporation when the following conditions exist:

1. The land is owned in fee simple by the HFC and leased for at least 50 years to a limited partnership;
2. The improvements are owned by the limited partnership, but the public entity has control over the conditions to compel transfer of legal title to the property to the public entity, such as an option to acquire the property;
3. The public entity is the general partner of the limited partnership (or owns at least a 51% interest in the general partnership), while the investors and other for-profit partners are limited partners;
4. The public entity has a right of first refusal (usually at fair market value) to acquire the property if a purchase offer is received by a third party; and
5. The public entity has the right to cure financing defaults by the partnership.

Public purpose: To qualify for the 100% exemption, at least 90% of a residential development must be used or “intended to be occupied by persons of low or moderate income.”

Housing Finance Corporation

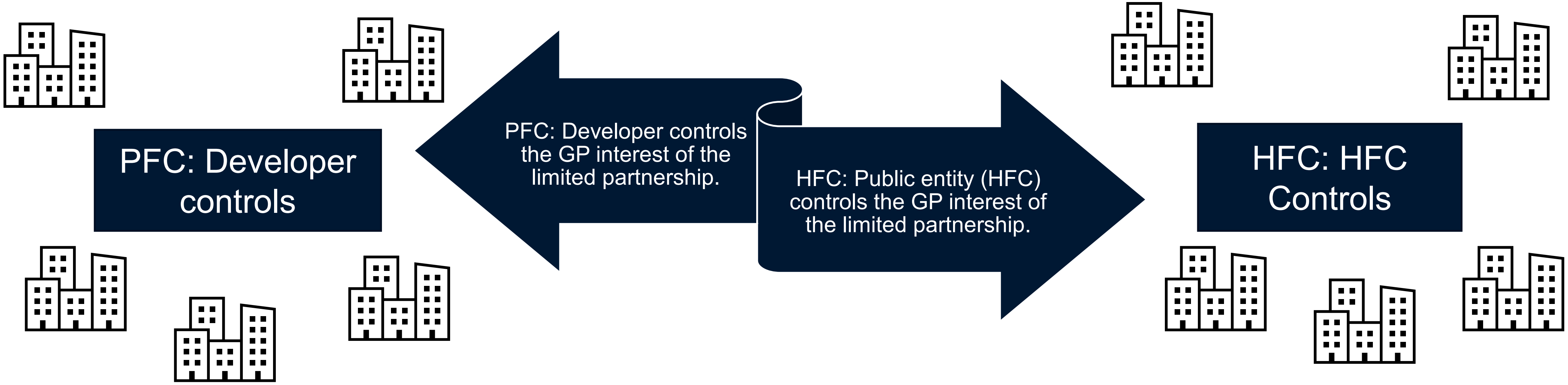
Note: In these conventionally financed projects, all of which are eligible for a 100% property tax exemption, the finance corporation serves as the general partner in the entity holding the leasehold interest to the property.

Travis County Housing Finance Corporation Examples:

Name of apartment complex	Address	Year of Partnership approval, # of units	Income Targeting	Tax Exemption	Notes
SOCO Dwell	4401 and 4411 South Congress Avenue, Austin	2019, new construction, 275 units/mixed use. Cypress Realty	10% at 60 AMI; 35% at 80% AMI; 15% at 90% AMI; 30% at 120% AMI	Property tax exemption: $834k Sales tax exemption: $1.1M	11 year affordability period; right of first refusal at FMV at 11 years
Riverside Dwell	6507 E. Riverside, Austin	2019, new construction, 225 units/mixed use. Cypress Realty	12% at 60% AMI; 48% at 80% AMI; 30% at 120% AMI; 10% Market Rate	Property tax exemption: $1.025M Sales tax exemption: $928k	11 year affordability period; right of first refusal at FMV at 11 years
701 Trinity Street	701 Trinity Street, Austin	2020, new construction, 342 units/mixed use. Cielo Property Group	45% at 80% AMI 45% at 140% AMI 10% Market Rate	Property tax exemption: $2.2M Sales tax exemption: $1.4M	99 year income restrictions

HFC vs. PFC

- ***Similar* arrangements**
    - Both PFC and HFC structure offer a 100% property tax exemption.
    - Ownership structures are different.
        - In a PFC arrangement, a <u>private developer controls the general partnership.</u>.
        - In an HFC structure, the <u>public entity (HFC) controls the general partnership.</u>



Municipal Management Districts (MMDs)

Governed by Chapter 375 of the Texas Local Government Code

Management Districts are commonly used to:

- Support existing major activity centers;
- Promote neighborhood revitalization; and
- Support raw land development

MMDs are created within an existing commercial area to finance facilities, infrastructure, and services beyond those already provided by individual property owners or by the municipality.

- Improvements may be paid for by self-imposed property taxes, special assessments, and impact fees, or by other charges against property owners within the district.
- Several Texas cities have used MMDs to provide much-needed funding to enhance the economic vitality of the business centers within the municipality.

MMDs can be established to enhance:

Major activity centers (Downtown areas),

Revitalize existing areas/neighborhoods

Provide infrastructure to develop raw land development.

Municipal Management Districts (MMDs)

Governed by Chapter 375 of the Texas Local Government Code

Formation:

- **Legislation.** Typically, MMDs are formed through a special local bill in the State Legislature and must be supported by the local municipality.
- **Petition TCEQ.** Less frequently, MMDs can be formed by petition to the Texas Commission on Environmental Quality for creation of the district.
- <u>MMDs may not impose taxes, assessments, or fees for projects and services without board and property owner's approval.</u>
- MMDs may be used as a financing mechanism to issue debt on a contract basis with an overlay tax increment reinvestment zone. This mechanism allows for the issuance of debt by a political subdivision of the state and it not city debt.
- MMDs can be used to provide the infrastructure needed to serve raw land development and function similarly to a municipal utility district (MUD) to construct and finance water, sewer, road improvements.
    - As development progresses, the MMD can then provide many of the supplemental services and improvements of a traditional MMD.

Municipal Management Districts (MMDs)

MMDs have the authority to:

- Issue Tax Exempt Bonds BUT bond debt is not city debt and does not impact city bonding capacity.
  - Bond issuance must be approved by City Council.
- Levy taxes, assessments and impact fees in accordance with service plan.
  - Assessments only by petition of affected property owners and property taxes require approval by majority of eligible voters in district.

MMDs are often combined with TIFs to provide funding necessary to finance infrastructure improvements and supplement city's capital investments

MMD Benefits:

- Strong powers by law to address development needs
- May levy special Real Property tax and assessments under its authority
- May impose impact fees under its authority
- May issue bonds with City approval
- May provide services that are supplemental and/or complimentary to City services
- May be used in conjunction with a TIF as a financing entity to support TIF revenue bonds or vice versa
- Bond debt is not City debt and does not impact City bonding capacity

Municipal Management Districts (MMDs)

Example: The City of Rowlett

Formation: In 2011, the Texas Legislature approved the City of Rowlett's three proposed municipal management districts. Districts included: Downtown MMD, Pecan Grove MMD, Waterfront Entertainment MMD

Due to the city's participation in the DART, they were ineligible to form a development corporation. Instead, The City of Rowlett developed a community strategic plan to target incentives in identified growth areas and formed MMDs to target incentives in those districts. The approach has led to over $1.5B in private investment.

Purpose & Goal of the MMDs:

- Attracting businesses or development, keeping them, or getting them to expand operations often involves a request for some sort of incentive. The City of Rowlett was motivated to provide such incentives to ensure higher quality growth, diversify their tax base, bring in jobs, and/or provide amenities that may not currently exist.
- The City of Rowlett MMDs were created to promote, encourage and maintain employment, commerce, transportation, housing, tourism, recreation, arts, economic development, safety and public welfare within the district's boundaries.
- District collaborates development and bond issuance plan with the City.
- Finance capital improvements and/or services by taxing and assessing only the benefited territory within the districts.
- Finance improvements and/or services by issuing obligations of the districts, not of the City.
- Maintain control of what improvements are provided for and how they are funded through direct or appointment process, and participation and direction of nonvoting ex-officio directors.
- Maintain control through Bond Issuance Plan and Project Development Agreement.

Municipal Development District (MDDs)

Municipal Development Districts (MDDs):

- **Creation**: Cities can hold an election in all or part of a city, including its extraterritorial jurisdiction (ETJ), to create an MDD.
- **Purpose**: MDDs are established to promote economic development within their designated area.
- **Funding**: MDDs can adopt a **sales tax** to fund their projects. It may issue bonds or other obligations to pay the costs of a development project after approval by the attorney general.
- Scope: The revenue generated from the MDD sales tax can be spent on similar economic development projects as a Type B EDC.
- **Limitation**: Funds can only be spent within the district boundaries.

Think of MDDs as a "Type B EDC on steroids" – they can undertake similar projects without the procedural requirements.

MDDs are considered political subdivisions.

Municipal Development District

Municipal Development Districts can fund:

- Infrastructure improvement projects,
- Recreational or community facilities,
- Projects related to business enterprises that create or retain primary jobs,
- Projects that promote new or expanded business development, and
- Convention center facilities, parking garages and civic center hotels. and related improvements.

Advantages of a MDD sales tax vs. an economic development sales tax:

1. The MDD tax need not be levied over the entire city, which is useful for cities that are at the two-percent sales tax “cap” in some portion of the city but not in others; and
2. It is the only municipal sales tax that may be levied in a city’s extraterritorial jurisdiction (ETJ)

An MDD is the only way a municipal sales tax can be levied on a city’s ETJ.

Municipal Development District (MDD)

Example: The City of Rockdale utilized a Municipal Development District (the Rockdale Municipal Development District) to transform a once undeveloped industrial park into a residential community to be known as Cornerstone Development.

The Rockdale Industrial Park is undeveloped but is equipped with essential infrastructure including water and sewer service to the site. The MDD board intended for the property to be developed for residential purposes and sold the land to a development company. The development company partnered with a homebuilder to develop a community with 660 lots ranging from 40-50 feet wide and a selection of townhomes, with a projected buildout of 5-7 years.

- The first batch of houses were slated to be completed by 12/31/2024
- There is also a 13-acre site reserved for a future elementary school
- The Cornerstone Development will represent a significant milestone in Rockdale's economic growth, as it transforms an underutilized industrial area into an attractive residential community.
- The project showcases the city's commitment to progress, job creation, and enhancing the quality of life for its residents.

Tax Increment Financing (TIF)

- **Tax Increment Financing (TIF):** is an economic development tool that allows cities and counties to capture tax revenue from Tax Increment Reinvestment Zones (TIRZs).
- When a **TIRZ** is formed, the amount of existing tax collections originating from inside the zone's boundary is set as the baseline. As tax revenues increase in future years, the amount that exceeds the baseline is redirected out of the city's general fund (which funds things like parks, public safety, and sidewalks across the city) into the TIF fund for the zone.
- The TIF fund can be used for:
    - Project costs that benefit the zone (costs of public works, public improvements, programs, and other projects benefiting the zone); and
    - Certain costs can be outside the zone: public infrastructure, affordable housing, and areas of public assembly. • A large amount of property tax revenues in several Texas cities get diverted to TIF funds.
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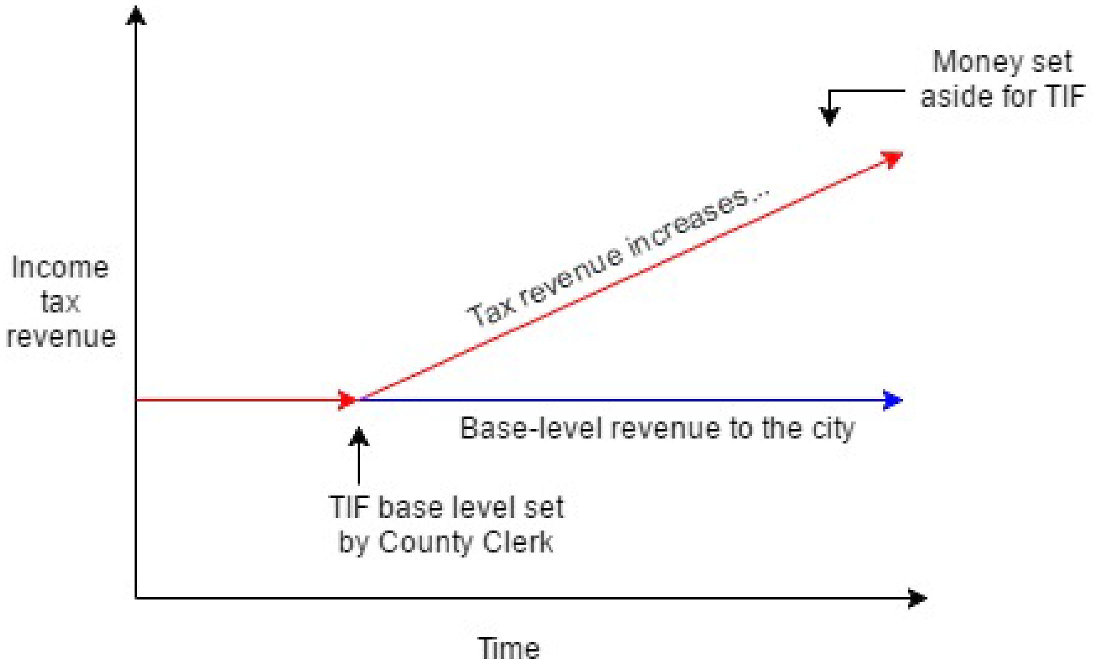

Fair Housing Guidelines

Protected classes under federal law include: race, color, religion, sex, national origin, familial status, disability.

Advertising & Marketing Guidelines:

When advertising housing, it is prohibited to specify a preference or limitation of housing based on someone's membership in any of the **protected classes**.

Marketing and incentives can be targeted towards certain groups as long as no preference is given based on someone's membership in any of the **protected classes**.

Thank You

BUTLER | SNOW

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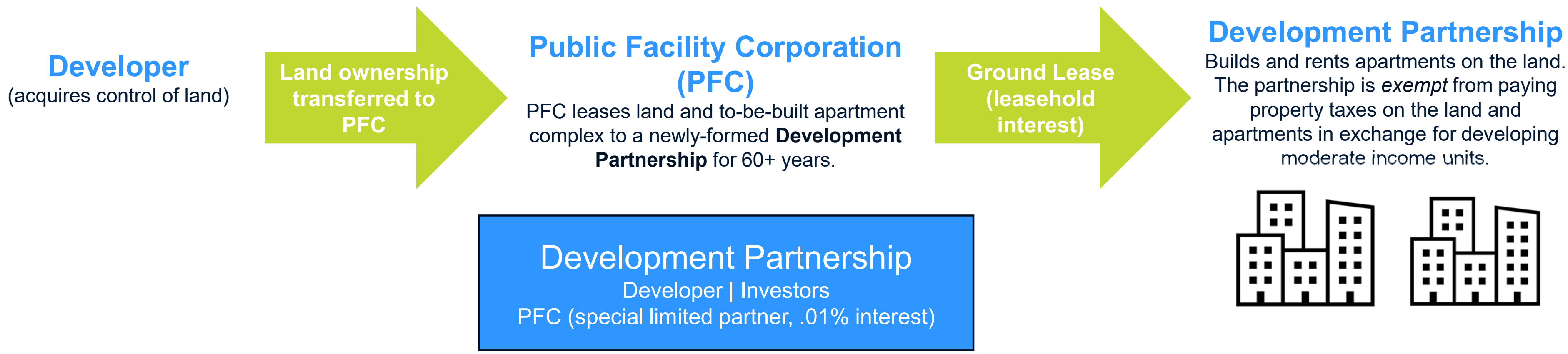

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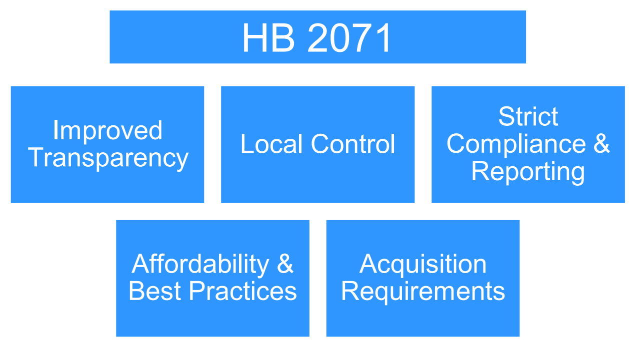

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  - 10-25% of net cash flow
- PFC and developer agree on affordability terms. PFC deals include the following income and rent restrictions (adjusted for family size):
  - Income Restrictions:
    - 40% of the units at 80% AMI
    - 10% of the units at 60% AMI
  - Rent Restrictions:
    - 30% of units at 60% AMI
    - 30% of units at 80% AMI

These commitments are contained in the ground lease for the project and in the regulatory agreement that is recorded in the deed records.

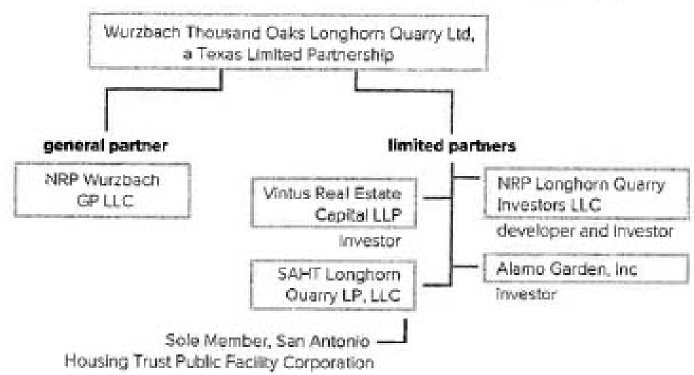
Ownership Structure for Section 303.042(f) Exempt Project

Public Facility Corporation

FIG.10

Longhorn Quarry Apartments

Ownership Structure for Section 303.042(f) Exempt Project



PFC Ownership Structure

This example shows a typical structure of a PFC arrangement:

- A new limited partnership is formed.
    - **General Partner:** private developer who controls the land and buildings
    - **Limited Partners:** PFC and investors

Ownership Structure for Section 303.042(f) Exempt Project

Public Facility Corporation

FIG.10

Longhorn Quarry Apartments

Ownership Structure for Section 303.042(f) Exempt Project

PFC Structure

PFCs generate revenue that can be used to fund workforce housing projects including:

- Application Fee
  - $5k-$25k
- Origination Fee
  - .5 to 1% of development costs
- Net Cash Flow
  - 10%-25%
- Asset Management Fee
  - $12k-$25k/year paid after stabilization
- Net Sales Revenue
  - If leasehold interest is sold to a third party, a PFC can be eligible to receive 10-25% of the net sales revenue, depending on structure of the deal and if PFC remains in the deal.

The Upton at Longhorn Quarry (opened for leasing in 2017)

Revenue	
Application fee (one-time, up-front fee)	None
Origination fee (one-time, up-front fee)	$250,000
Cumulative asset management fees ($25,000 annual fee once project is leased)	$47,916
Cumulative share of rental revenue (annual fee)	$21,271
Total revenue to the PFC, as of June 2020	**$319,188**

Tax Savings	
Property tax exemption	Total: $2.6 million 2020: $445,942 (pro rata as of July 2020) 2019: $891,884 2018: $892,804 2017: $373,112
Estimated sales tax exemption (one-time)	$1.3 million
Total tax savings, as of June 2020	**$3.9 million**

The Baldwin at St. Paul Square (opened for leasing in May 2018)

Revenue	
Application fee (one-time, up-front fee)	$3,000
Origination fee (one-time, up-front fee)	$250,000
Cumulative asset management fees ($25,000 annual fee once project is leased)	$16,666
Cumulative share of rental revenue (annual fee)	$11,656
Total revenue to the PFC, as of June 2020	**$281,322**

Tax Savings	
Property tax exemption	Total: $2.1 million 2020 (pro rata): $532,128 2019: $1,042,726 2018: $371,624 2017: $133,165
Estimated sales tax exemption (one-time)	$1.1 million
Total tax savings, as of June 2020	**$3.8 million**

PFC Partnership Process

1. A developer pitches an acquisition or new construction of an apartment complex to a PFC.
2. The developer and PFC negotiate the financial benefits to the local jurisdiction and the affordability restrictions or terms (including affordability) to be included.
3. The local government approves the deal (i.e., the PFC board, city council).
4. For new construction projects, the developer transfers the land to the PFC and the PFC leases the land and to-be-built improvements to a limited partnership entity controlled by the developer (typically for 60+ years). For acquisition projects, the developer transfers the land and improvements to the PFC, which are then leased back to the limited partnership.
5. A 100% property tax exemption is secured on the property from the local appraisal district.
6. The developer, via the limited partnership entity, builds and rents out the apartment complex (for new construction projects), with a 100% sales tax exemption on construction materials.
7. Upon stabilization, the developer and investors can sell the leasehold interest to a third party. The PFC can choose to remain in the partnership, which extends the property tax exemption on the property.

PFC: Affordability Requirements

	BEFORE	AFTER HB 2071
Income Restrictions	50% of units at 80% AMI	40% of units at 80% AMI 10% of units at 60% AMI
Rent Restrictions	N/A	30% of 60% AMI 30% of 80% AMI
Adjustment for Family Size	N/A	Required per HUD Standards
Proportionality	N/A	Restricted units must be distributed among BR types
Housing Voucher Program	N/A	No income source discrimination
Lease Requirement	N/A	Certain tenant protections (tenant organizations)
LURA	N/A	Required to document affordability for 10 years

LAW ELEVATED

PFC: Local Control

	BEFORE	AFTER HB 2071
Jurisdiction	N/A	Development located in the sponsor's boundaries
Notice Requirement	Public Hearing (HAs)	Notice to all taxing units 30 days prior to board action
Elected Official Approval	PFC Board only	If majority of PFC board not elected officials, must be approved by City/County
Exemption	100%	Does not include MUD taxes without written agreement
Exemption Term	For as long as PFC owns land (typical ground lease 75-99 years)	60 years with option for renewal

PFC: Improved Transparency

	BEFORE	AFTER HB 2071
Underwriting Assessment	N/A	Development would not be feasible without participation of a PFC
Notice Requirement	Public Hearing (Housing Authorities)	Notice to all taxing units 30 days prior to board action
Website Information	N/A	Publish compliance requirements, voucher participation
Affirmative Marketing	N/A	Affirmatively market for voucher holders, notify local PHAs

LAW ELEVATED

PFC: Compliance & Reporting

	BEFORE	AFTER HB 2071
Audit Requirements	N/A	Audit report required to show compliance with affordability requirements; difference in market vs. restricted rents
TDHCA	N/A	Reviews third-party audit reports; gives notice of any non-compliance
Auditor Rotation	N/A	Must rotate audit firm every 3 years

LAW ELEVATED

PFC: Acquisition Requirements

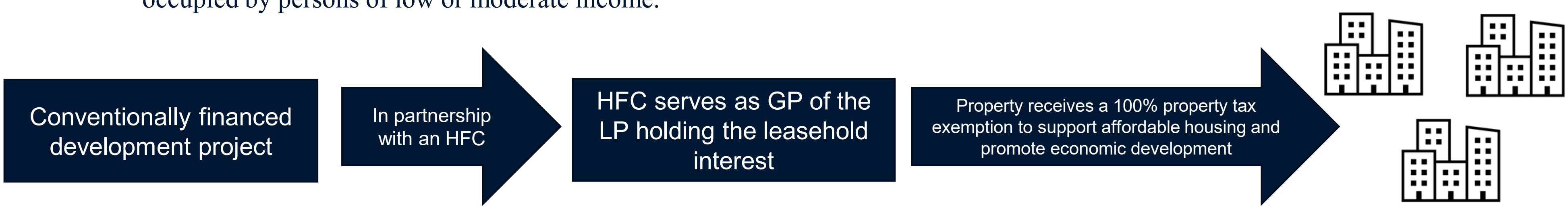
	BEFORE	AFTER HB 2071
Income Restrictions WITH Renovation	50% of units at 80% AMI	40% of units at 80%AMI 10% of units at 60% AMI **AND** 15% of the total gross costs spent on renovation
Income Restrictions WITHOUT Renovation	50% of units at 80% AMI	40% of units at 80% AMI 25% of units at 60% AMI
Underwriting Report	N/A	Must show that reduced rents will equal at minimum 60% of the anticipated tax savings
City/County Approval(no reno)	N/A	Must receive City Council approval if in city, otherwise County Commissioner approval
Exemption Length	N/A	30 years

Statutory Property Tax Breaks for Affordable Rental Housing Developments in Texas:

- In addition to the 100% property tax exemption for apartment complexes on leasehold interests granted by **public facility corporations**, Texas provides another mechanisms by which an affordable rental housing development can receive an exemption from ad valorem taxes:
    - **100% Exemption for Apartment Developments owned by Political Subdivisions and their Instrumentalities.**
        - **Housing Finance Corporations.**

Housing Finance Corporation

- Governed by Chapter 394 of the Texas Local Government Code
- A **public private partnership** tool used by local governments to create **workforce housing** and promote **economic development.**
- Established by a sponsoring local government to support workforce housing by providing financing for multi-family housing projects.
- HFCs can sponsor conventionally financed development projects where the public entity (HFC) is serving as the general partner of the limited partnership holding the leasehold interest in the property.
    - Property receives a 100% property tax exemption because the public entity (HFC) is the general partner of the entity holding the leasehold interest.
    - To qualify for this 100% exemption, a property must be both **publicly owned** and used for **public purposes**. Property used for **public purposes** qualifies for an exemption ***as long as*** it is "equitably owned" by a public entity.
    - **Equitable Title** is determined by having the public partner as the general partner of the lessee. This gives the public partner control rights to the property or claw backs to gain control of the land.
    - Few restrictions regarding limiting rents or incomes. At least 90% of a development must used or "intended to be occupied by persons of low or moderate income."



LAW ELEVATED

Housing Finance Corporation

To qualify for this 100% exemption using Section 394, a property must be both **publicly owned** and used for **public purposes**.

Publicly owned: Equitable ownership means that the local governmental entity has the "present right to compel legal title." A property is equitably owned by a city or county housing finance corporation when the following conditions exist:

1. The land is owned in fee simple by the HFC and leased for at least 50 years to a limited partnership;
2. The improvements are owned by the limited partnership, but the public entity has control over the conditions to compel transfer of legal title to the property to the public entity, such as an option to acquire the property;
3. The public entity is the general partner of the limited partnership (or owns at least a 51% interest in the general partnership), while the investors and other for-profit partners are limited partners;
4. The public entity has a right of first refusal (usually at fair market value) to acquire the property if a purchase offer is received by a third party; and
5. The public entity has the right to cure financing defaults by the partnership.

Public purpose: To qualify for the 100% exemption, at least 90% of a residential development must be used or "intended to be occupied by persons of low or moderate income."

Housing Finance Corporation

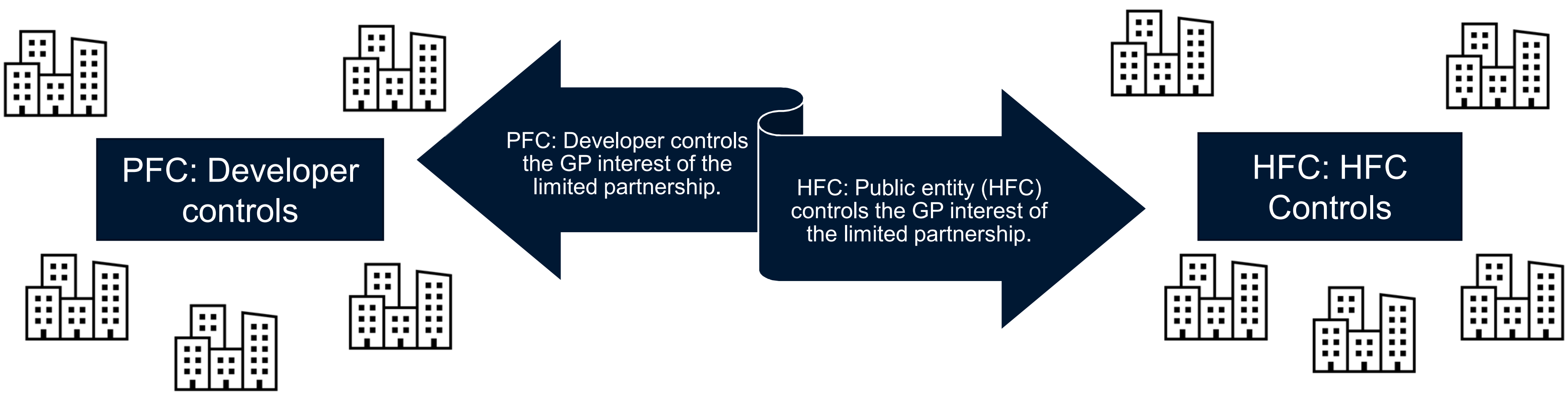
Note: In these conventionally financed projects, all of which are eligible for a 100% property tax exemption, the finance corporation serves as the general partner in the entity holding the leasehold interest to the property.

Travis County Housing Finance Corporation Examples:

Name of apartment complex	Address	Year of Partnership approval, # of units	Income Targeting	Tax Exemption	Notes
SOCO Dwell	4401 and 4411 South Congress Avenue, Austin	2019, new construction, 275 units/mixed use. Cypress Realty	10% at 60 AMI; 35% at 80% AMI; 15% at 90% AMI; 30% at 120% AMI	Property tax exemption: $834k Sales tax exemption: $1.1M	11 year affordability period; right of first refusal at FMV at 11 years
Riverside Dwell	6507 E. Riverside, Austin	2019, new construction, 225 units/mixed use. Cypress Realty	12% at 60% AMI; 48% at 80% AMI; 30% at 120% AMI; 10% Market Rate	Property tax exemption: $1.025M Sales tax exemption: $928k	11 year affordability period; right of first refusal at FMV at 11 years
701 Trinity Street	701 Trinity Street, Austin	2020, new construction, 342 units/mixed use. Cielo Property Group	45% at 80% AMI 45% at 140% AMI 10% Market Rate	Property tax exemption: $2.2M Sales tax exemption: $1.4M	99 year income restrictions

HFC vs. PFC

- ***Similar* arrangements**
  - Both PFC and HFC structure offer a 100% property tax exemption.
  - Ownership structures are different.
    - In a PFC arrangement, a <u>private developer controls the general partnership.</u>.
    - In an HFC structure, the <u>public entity (HFC) controls the general partnership.</u>



Municipal Management Districts (MMDs)

Governed by Chapter 375 of the Texas Local Government Code

Management Districts are commonly used to:

- Support existing major activity centers;
- Promote neighborhood revitalization; and
- Support raw land development

MMDs are created within an existing commercial area to finance facilities, infrastructure, and services beyond those already provided by individual property owners or by the municipality.

- Improvements may be paid for by self-imposed property taxes, special assessments, and impact fees, or by other charges against property owners within the district.
- Several Texas cities have used MMDs to provide much-needed funding to enhance the economic vitality of the business centers within the municipality.

MMDs can be established to enhance:

Major activity centers (Downtown areas),

Revitalize existing areas/neighborhoods

Provide infrastructure to develop raw land development.

Municipal Management Districts (MMDs)

Governed by Chapter 375 of the Texas Local Government Code

Formation:

- **Legislation.** Typically, MMDs are formed through a special local bill in the State Legislature and must be supported by the local municipality.
- **Petition TCEQ.** Less frequently, MMDs can be formed by petition to the Texas Commission on Environmental Quality for creation of the district.
- MMDs may not impose taxes, assessments, or fees for projects and services without board and property owner's approval.
- MMDs may be used as a financing mechanism to issue debt on a contract basis with an overlay tax increment reinvestment zone. This mechanism allows for the issuance of debt by a political subdivision of the state and it not city debt.
- MMDs can be used to provide the infrastructure needed to serve raw land development and function similarly to a municipal utility district (MUD) to construct and finance water, sewer, road improvements.
    - As development progresses, the MMD can then provide many of the supplemental services and improvements of a traditional MMD.

Municipal Management Districts (MMDs)

MMDs have the authority to:

- Issue Tax Exempt Bonds BUT bond debt is not city debt and does not impact city bonding capacity.
  - Bond issuance must be approved by City Council.
- Levy taxes, assessments and impact fees in accordance with service plan.
  - Assessments only by petition of affected property owners and property taxes require approval by majority of eligible voters in district.

MMDs are often combined with TIFs to provide funding necessary to finance infrastructure improvements and supplement city's capital investments

MMD Benefits:

- Strong powers by law to address development needs
- May levy special Real Property tax and assessments under its authority
- May impose impact fees under its authority
- May issue bonds with City approval
- May provide services that are supplemental and/or complimentary to City services
- May be used in conjunction with a TIF as a financing entity to support TIF revenue bonds or vice versa
- Bond debt is not City debt and does not impact City bonding capacity

Municipal Management Districts (MMDs)

Example: The City of Rowlett

Formation: In 2011, the Texas Legislature approved the City of Rowlett's three proposed municipal management districts. Districts included: Downtown MMD, Pecan Grove MMD, Waterfront Entertainment MMD

Due to the city's participation in the DART, they were ineligible to form a development corporation. Instead, The City of Rowlett developed a community strategic plan to target incentives in identified growth areas and formed MMDs to target incentives in those districts. The approach has led to over $1.5B in private investment.

Purpose & Goal of the MMDs:

- Attracting businesses or development, keeping them, or getting them to expand operations often involves a request for some sort of incentive. The City of Rowlett was motivated to provide such incentives to ensure higher quality growth, diversify their tax base, bring in jobs, and/or provide amenities that may not currently exist.
- The City of Rowlett MMDs were created to promote, encourage and maintain employment, commerce, transportation, housing, tourism, recreation, arts, economic development, safety and public welfare within the district's boundaries.
- District collaborates development and bond issuance plan with the City.
- Finance capital improvements and/or services by taxing and assessing only the benefited territory within the districts.
- Finance improvements and/or services by issuing obligations of the districts, not of the City.
- Maintain control of what improvements are provided for and how they are funded through direct or appointment process, and participation and direction of nonvoting ex-officio directors.
- Maintain control through Bond Issuance Plan and Project Development Agreement.

Municipal Development District (MDDs)

Municipal Development Districts (MDDs):

- **Creation**: Cities can hold an election in all or part of a city, including its extraterritorial jurisdiction (ETJ), to create an MDD.
- **Purpose**: MDDs are established to promote economic development within their designated area.
- **Funding**: MDDs can adopt a **sales tax** to fund their projects. It may issue bonds or other obligations to pay the costs of a development project after approval by the attorney general.
- Scope: The revenue generated from the MDD sales tax can be spent on similar economic development projects as a Type B EDC.
- **Limitation**: Funds can only be spent within the district boundaries.

Think of MDDs as a "Type B EDC on steroids" – they can undertake similar projects without the procedural requirements.

MDDs are considered political subdivisions.

Municipal Development District

Municipal Development Districts can fund:

- Infrastructure improvement projects,
- Recreational or community facilities,
- Projects related to business enterprises that create or retain primary jobs,
- Projects that promote new or expanded business development, and
- Convention center facilities, parking garages and civic center hotels. and related improvements.

Advantages of a MDD sales tax vs. an economic development sales tax:

1. The MDD tax need not be levied over the entire city, which is useful for cities that are at the two-percent sales tax "cap" in some portion of the city but not in others; and
2. It is the only municipal sales tax that may be levied in a city's extraterritorial jurisdiction (ETJ)

An MDD is the only way a municipal sales tax can be levied on a city's ETJ.

Municipal Development District (MDD)

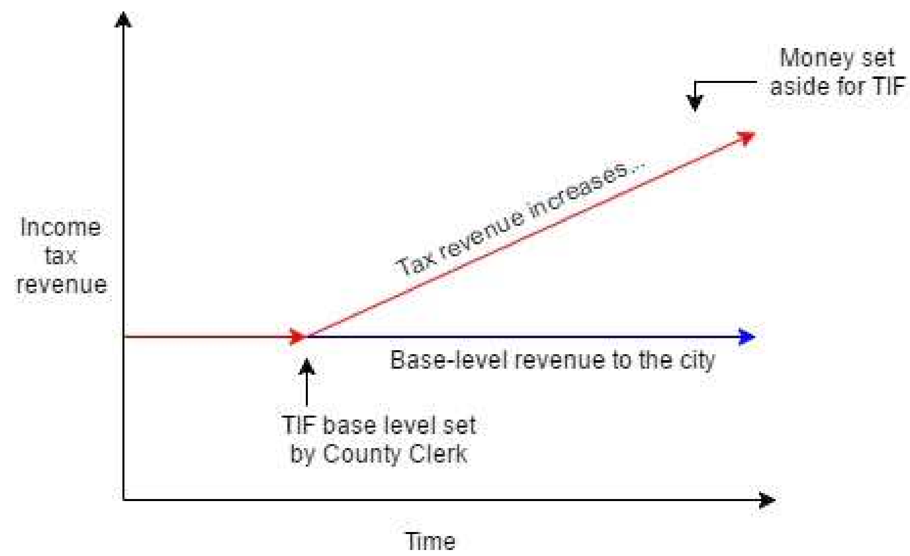
Example: The City of Rockdale utilized a Municipal Development District (the Rockdale Municipal Development District) to transform a once undeveloped industrial park into a residential community to be known as Cornerstone Development.

The Rockdale Industrial Park is undeveloped but is equipped with essential infrastructure including water and sewer service to the site. The MDD board intended for the property to be developed for residential purposes and sold the land to a development company. The development company partnered with a homebuilder to develop a community with 660 lots ranging from 40-50 feet wide and a selection of townhomes, with a projected buildout of 5-7 years.

- The first batch of houses were slated to be completed by 12/31/2024
- There is also a 13-acre site reserved for a future elementary school
- The Cornerstone Development will represent a significant milestone in Rockdale's economic growth, as it transforms an underutilized industrial area into an attractive residential community.
- The project showcases the city's commitment to progress, job creation, and enhancing the quality of life for its residents.

Tax Increment Financing (TIF)

- **Tax Increment Financing (TIF):** is an economic development tool that allows cities and counties to capture tax revenue from Tax Increment Reinvestment Zones (TIRZs).
- When a **TIRZ** is formed, the amount of existing tax collections originating from inside the zone's boundary is set as the baseline. As tax revenues increase in future years, the amount that exceeds the baseline is redirected out of the city's general fund (which funds things like parks, public safety, and sidewalks across the city) into the TIF fund for the zone.
- The TIF fund can be used for:
    - Project costs that benefit the zone (costs of public works, public improvements, programs, and other projects benefiting the zone); and
    - Certain costs can be outside the zone: public infrastructure, affordable housing, and areas of public assembly. • A large amount of property tax revenues in several Texas cities get diverted to TIF funds.
- A large amount of property tax revenues in several Texas cities get diverted to TIF funds.



Fair Housing Guidelines

Protected classes under federal law include: race, color, religion, sex, national origin, familial status, disability.

Advertising & Marketing Guidelines:

When advertising housing, it is prohibited to specify a preference or limitation of housing based on someone's membership in any of the **protected classes**.

Marketing and incentives can be targeted towards certain groups as long as no preference is given based on someone's membership in any of the **protected classes**.

Thank You

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