

GOVERNING DOCUMENTS & AGREEMENTS

Presented by Janice Gibbons

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DOCUMENTS TO BE DISCUSSED

- Articles of Incorporation
- Agency By-Laws
- Board Appointments
- Oath of Office
- General Depository Agreement
- Annual Contributions Contract (ACC)
- Cooperation Agreement
- Payment in Lieu of Taxes (PILOT) Form
- Declaration of Trust/Restrictive Covenants
- Agency Memorandums of Understanding (Mou's)

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WHY DOCUMENTS & AGREEMENTS PLAY AN IMPORTANT ROLE

- Provide evidence of mutual understanding
- Bind the parties to work together
- List terms to which both parties agree
- Reflect specific dates and signatures
- Avoid future complications or conflicts

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ARTICLES OF INCORPORATION

WHAT IS THE PURPOSE?

- Necessary to establish a business
- Contains the identifying characteristics of the business
- Ensures that a similar business name is not used in the same state
- Location will designate what laws must be obeyed
- Must be filed with a state agency
- Once articles are approved, business is legal

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ARTICLES OF INCORPORATION

INCLUDES

- Entity Name
- Principal office street address
- Principal office mailing address
- Registered agent name and mailing address
- Names and address of organizers
- Purpose of the business
- Description of distribution of assets upon dissolution

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ARTICLES OF INCORPORATION

SIGNIFICANCE OF INCORPORATION

- Protects the Board from personal liability
- Corporation protects Board for the business debts and obligations
- Corporation is seen as a legal entity
- Corporations have unlimited life

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AGENCY BY-LAWS

WHAT IS THE PURPOSE?

- Serve as your organizational manual
- Establish procedures for holding elections, organizing meetings, quorum requirements, membership structure
- Address essential operations of the organization

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AGENCY BY-LAWS

ARTICLE I. THE AUTHORITY

Section 1. Name of the Authority

Section 2. Seal of Authority

Section 3. Office of Authority

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AGENCY BY-LAWS

ARTICLE II. OFFICERS

Section 1. Officers

Section 2. Chairperson

Section 3. Vice-Chairperson

Section 4. Secretary

Section 5. Executive
Director/CEO

Section 6. Additional Duties

Section 7. Election or
Appointment

Section 8. Vacancies

Section 9. Additional Personnel

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AGENCY BY-LAWS

ARTICLE III. MEETINGS

Section 1. Annual Meeting

Section 2. Regular Meetings

Section 3. Special Meetings

Section 4. Quorum

Section 5. Order of Business

Section 6. Manner of Voting

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AGENCY BY-LAWS

ARTICLE IV. AMENDMENTS

- By-Laws can be amended with approval of a quorum
- No amendment can be adopted unless at least seven days notice has been given

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PHA BOARD APPOINTMENTS

- State law mandates a PHA be governed by a Board of Commissioners (BOC)
- The number of BOC members depends on State Law
- Federal regulations require PHAs have a Resident Commissioner

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PHA BOARD APPOINTMENTS

- In most cases, a commissioner cannot be an official or employee of the local municipality
 - ✓ New York: Not more than one member of the authority may be an official or an employee of the municipality at any one time.
- Certificate of Appointment filed

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PHA BOARD APPOINTMENTS

- PHA Board members cannot receive compensation paid out of Program Receipts from HUD
 - ✓ May be reimbursed for actual expenses incurred in the discharge of their duties
- BOC member may be removed for inefficiency, neglect of duty, or misconduct in office
- A Commissioner may not have dealings with a PHA for pecuniary gain or have a conflict of interest

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CERTIFICATE OF APPOINTMENT OF COMMISSIONERS

HOUSING AUTHORITY OF THE CITY OF _____
(Succeeds _____) Term Expires _____

I HEREBY APPOINT the _____ () persons hereinafter named to serve as Commissioner(s) of
the Housing Authority of the City of _____, _____ from the _____ Day of
_____, _____, until the expiration date as indicated below.

_____, _____ (Succeeds _____) Term Expires _____, _____ (Succeeds
_____) Term Expires _____, _____ (Succeeds _____) Term Expires
_____, _____ (Succeeds _____) Term Expires _____
(Succeeds _____) Term Expires _____

I hereby certify that none of the above newly designated Commissioners is an officer or employee of the
City of _____ WITNESS WHEREOF, I have hereunto signed my name as Mayor
of the City of _____, _____, and caused the official seal of said City to be
attached this _____ Day of _____, _____.

City Clerk

Mayor

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OATH OF OFFICE

SOLEMNLY SWEAR:

- I will faithfully execute my duties as a commissioner
- Protect, preserve and defend the U.S. Constitution
- I have not directly or indirectly paid, or promised to contribute
any money or promised any employment as a reward to secure
this appointment

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OATH OF OFFICE OF COMMISSIONERS

HOUSING AUTHORITY OF _____, I do solemnly swear that I will faithfully execute the duties of the office of the Commissioner of the Housing Authority _____, _____, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State. I solemnly swear that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward to secure appointment, so help me God.

Commissioner

Subscribed and sworn to before me, by the said _____ this _____ Day of _____, _____, to certify which witness my hand and seal of office.

Notary Public

(SEAL)

My Commission Expires: _____.

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GENERAL DEPOSITORY AGREEMENT FORM HUD-51999

- Required to be executed with every financial institution where funds are deposited
- Deposits must be insured by the Federal Deposit Insurance corporation (FDIC), or a National Credit Union Share Insurance Fund (NCUSIF)

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GENERAL DEPOSITORY AGREEMENT

FORM HUD-51999

- Monies must be in an interest-bearing account
- Any portion of a PHA deposit not insured shall be collateralized with US Government securities
- If the Depository receives written notice from HUD that no withdrawals by the PHA from the PHA accounts, the Depository shall not honor any check from the PHA until HUD authorizes that permission to do so again

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GENERAL DEPOSITORY AGREEMENT

FORM HUD-51999

- The rights and duties of the Depository under this Agreement shall not be transferred or assigned to another Depository without permission by HUD
- HUD is intended to be a third-party beneficiary of this Agreement and may sue to enforce this provision and to recover damages
- Execution of Agreement is witnessed by the Chairperson and Secretary of the BOC

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ANNUAL CONTRIBUTIONS CONTRACT (ACC)

FORM HUD-53012

- Contract between US Government (HUD) and PHA
- Covers all PH Projects and all amendments and any new developments that may be added by future amendments
- Remains in effect for the maximum period remaining under previously executed ACCs

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ANNUAL CONTRIBUTIONS CONTRACT (ACC)

FORM HUD-53012

Section 1. Definitions

Section 2. Mission of HUD and HA

Section 3. HUD Requirements.

Section 4. Cooperation Agreement(s)

Section 5. Declaration of Restrictive Covenants

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ANNUAL CONTRIBUTIONS CONTRACT (ACC)

FORM HUD-53012

Section 6. Disposition and Encumbrances

Section 7. Insurance Requirements

Section 8. Employer Requirements

Section 9. Accounts, Records and Government Access

Section 10. Grant Funding

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ANNUAL CONTRIBUTIONS CONTRACT (ACC)

FORM HUD-53012

Section 11. Term

Section 12. Depository

Section 13. Termination of a Project

Section 14. Notices, Defaults, Remedies

Section 15. HUD in Possession of Project(s)

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ANNUAL CONTRIBUTIONS CONTRACT (ACC)

FORM HUD-53012

Section 16. Conflict of Interest

Section 17. Civil Rights Requirements

Section 18. Members or Delegates to Congress

Section 19. Rights of Third Parties

Section 20. Waiver or Amendment

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ANNUAL CONTRIBUTIONS CONTRACT (ACC)

FORM HUD-53012

- ACC Termination when removing units from PH program will only be granted after the PHA has performed HUD prescribed tasks
- Certain Federal requirements and record keeping obligations remain in effect after termination is granted

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COOPERATION AGREEMENT

- Required by Housing Authority State Law
- Establishes Payment in Lieu of Taxes (PILOT)
- Provision of services/utilities for PHA developments
- Easements and street dedication included
- Local officials cannot have any interest with any property or contract in connection with Project

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PAYMENT IN LIEU OF TAXES (PILOT) FORM HUD-52267

- Provided for in State Law
- Required in Cooperation Agreement
- Formula fee set by HUD
- Required to be reviewed in Audit process

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DECLARATION OF TRUST/RESTRICTIVE COVENANTS (DOT/DORC) | FORM HUD-52190

- Legal instrument granting HUD an interest in PH property
- Provides public notice that property must be operated in accordance with Federal regulations
- Must maintain valid DOT/DORC on all Public Housing properties that receive HUD assistance

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DECLARATION OF TRUST/RESTRICTIVE COVENANTS (DOT/DORC)

FORM HUD-52190

- PHA properties that continue to receive HUD assistance are required to have a DOT recorded
- PHAs should record DOTs on an on-going basis to:
 - ✓ Ensure the accuracy of HUD subsidy calculations and payments under the Operating and Capital Fund and
 - ✓ Expedite HUD's processing and approvals of other HUD programs

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DOT/DORC COMPLIANCE

- Under the ACC, PHAs certify with their 5-Year/Annual Plan that they are compliant with all Federal requirements
- PHAs must ensure all current DOTs are recorded
- HUD expects all PHAs to be in compliance and PHAs should closely monitor all their properties

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RELEASE OF A DOT BY THE FEDERAL GOVERNMENT

- Current forms of DOT do not automatically terminate or expire from public records when HUD approves a property from removal from the ACC
- PHA must request that their Field Office release the DOT for the property that was approved
- PHA may not dispose of a property that has been approved by the Special Applications Center (SAC) until the Field Office releases the DOT

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PHA MEMORANDUM OF UNDERSTANDING (MOU)

- Formal agreement between State Agency and Housing Agency
- Identifies roles and responsibilities of each party
- Importance of data sharing
- Outline procedures to be used to exchange information

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