EXCERPT

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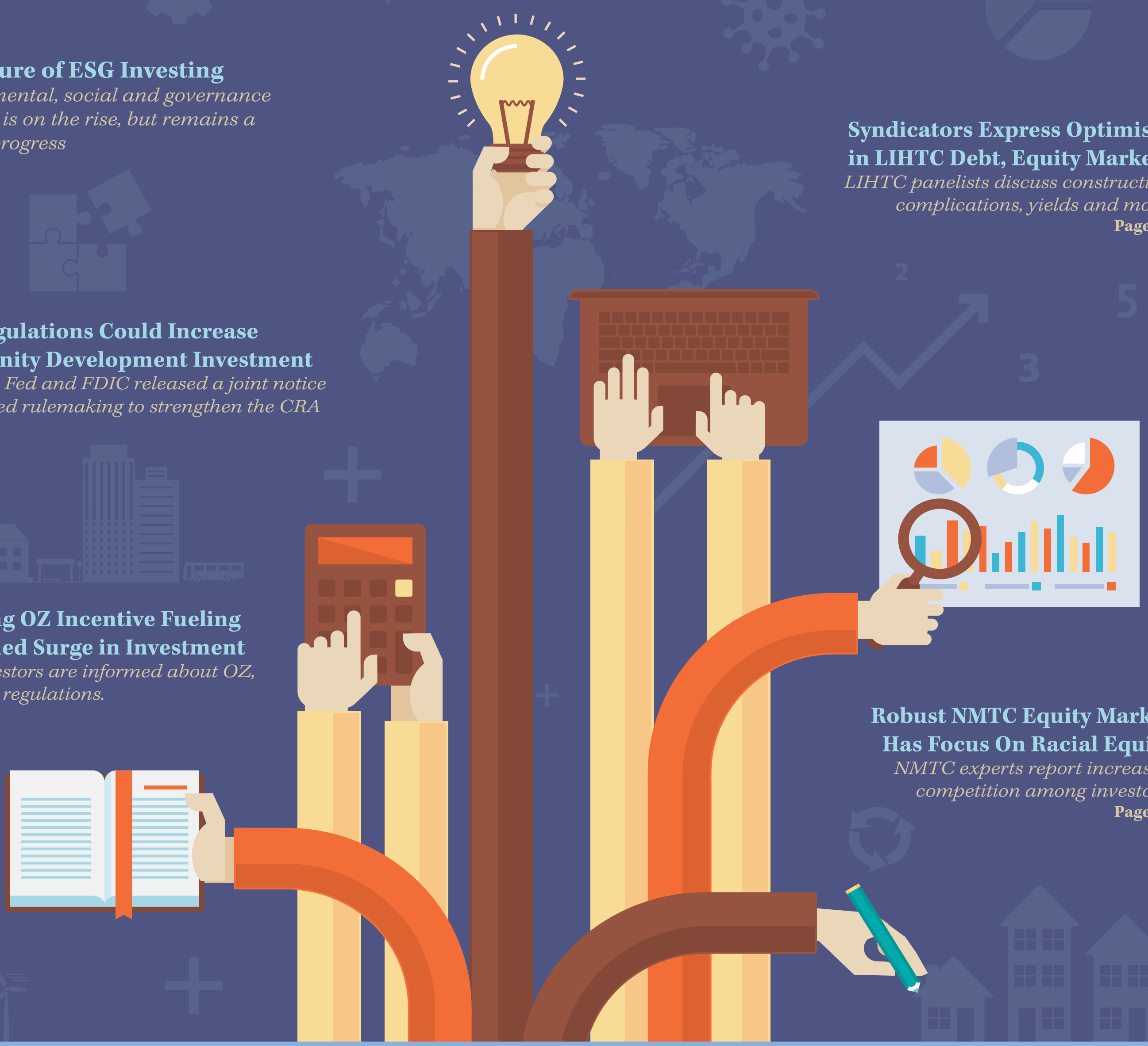

Insights On Affordable Housing, Community Development, Historic Preservation, Renewable Energy and Opportunity Zones

Q&A: Help from Cindy Hamilton on Part 2 and Part 3 Delays

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One of the key elements in successfully rehabilitating a property and receiving federal historic tax credits (HTCs) is obtaining Part 2 and Part 3 approval from the National Parks Service (NPS) or the state historic preservation office (SHPO). Delays in obtaining Part 2 and Part 3 can cause a postponement in equity or loan proceeds, construction lags and a holdup of closing with limited partners. Understanding common delays in Part 2 and Part 3 approval can help developers avoid pitfalls and enhance the possibility of a successful historic rehabilitation project.

We are fortunate to have Cindy Hamilton, president of Heritage Consulting Group, provide her expertise in answering questions about Part 2 and Part 3 delays.

Q: What is the main cause of delay in Part 2 approval?

A: Developers need to strike a balance between submitting early to inform the rehabilitation and design decisions while providing information sufficient for the NPS to issue a Part 2 approval. Delays occur when the Part 2 is rushed and information contained in the Part 2 application is insufficient. Insufficient information will cause reviewers to put review of the Part 2 on hold and request additional information.

Q: What are some of the most common requests for additional information in Part 2 application?

A: I've seen a variety of requests for additional information, but the most common I would say is additional drawings, supplemental photographs of the project, details of proposed mechanical systems and additional information on an existing feature.

Q: Why are amendments to the Part 2 application used and is there a timeframe developers can expect for amendments to the Part 2 application to be reviewed and approved?

A: There are numerous reasons why a developer would want or need to amend the Part 2 application. Some of the more common reasons are that the Part 2 approval was issued with conditions that require follow up. Often in the course of design development, changes are made to the proposed design, such as value engineering decisions, and those changes should be documented in an amendment. In terms of the timing for the reviews, the timeframes for amendment review are recommended to be 30 days at the state followed by 30 days at the NPS. Those timeframes can be extended depending on the workload of the reviewer, so for projects requiring changes during construction, the timing of the amendment review can be critical to the project schedule.

Q: A lot of developers have experienced extreme delays in Part 2 and Part 3 approval due to backlog from the NPS or SHPO. Are there current delays in the review process and what

is a reasonable timeframe to expect Part 2 and Part 3 review and approval?

A: The program regulations include a recommended review period for all applications of 30 days at the SHPO followed by 30 days at the NPS. But the timeframe really does vary from state to state and is largely dependent on the completeness of the application and the workload of the reviewer. In certain states that have state HTC programs with funding rounds, federal applications may be placed on hold at the state until the state HTC awards are announced. It is critical that a developer and investor understand the process and timeline for reviews for each project.

Q: What is the main cause of delay in Part 3 approval?

A: The main cause of delay for Part 3 approval is developers not completing the rehabilitation in accordance with the approved Part 2. It is imperative that developers complete the work as approved in the Part 2 application and any subsequent amendments. For example, if the Part 2 application proposes that green granite will be replaced with green granite and the developer installs gray granite, then most likely the Part 3 application will be placed on hold until the developer installs green granite as originally proposed and approved in the Part 2 application. Another common cause for a Part 3 to be placed on hold is lack of sufficient photos included in the application. The Part 3 photos are evidence that the rehab was completed in accordance with the approved Part 2 application.

Q: Let's talk windows. Everyone in the HTC industry probably has a window horror story or two. Why are windows so complicated to rehabilitate and why do they cause delays in the Part 2?

A: Windows are an essential part of the architecture of the building and often times are a prominent feature in a historic building. For this reason, the NPS requires that historic windows be repaired where possible or replaced where necessary with a closely matching replacement window. If a developer wants to keep the windows, no survey is required.

If a developer wants to replace the historic windows, a survey is required.

Completing such a survey can be a time-consuming endeavor. Once replacement is approved, a developer must identify a manufacturer that can manufacture a window that meets the NPS requirements. This can be challenging in several ways. Window manufactures typically offer off-the-shelf solutions and customizing a replacement window requires technical engineering by the manufacturer. Some manufacturers are more willing to endure the brain damage than others. While the number of manufacturers in the historic space has certainly increased in recent decades, each has their own specialty, so not every manufacturer can produce each window type. Once a manufacturer is identified and details of the replacement window are available, an amendment is filed proposing the window solution. If the NPS requires changes to the details, profiles or dimensions, additional amendment submission(s) would be required until a final solution is identified. This back-and-forth can extend months and can impact a project schedule. Finally, the lead time required in the manufacturing process is significant and this has been exacerbated during the pandemic. Having a project team that understands window challenges and is proactive in identifying solutions is critical to the success of the project and critical to keeping the Part 2 and Part 3 reviews on schedule.

As we see from Cindy's answers, there are a lot of details surrounding submission of Part 2 and 3 and without knowledge of the pitfalls to be aware delays in could occur. It is imperative for developers to understand these issues and work with qualified experts to ensure a successful Part 2 and Part 3 application and approval.

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