

# Top 10 Risks and How to Prevent Them

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# Development Risks

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## ***1. Missed the Market***

The market is not what you thought, or it has changed and project never stabilizes

## ***2. Experience***

PHA is unable to fully evaluate risks and does not partner with experienced developers

## ***3. HUD***

PHA misuses HUD funds for non-HUD projects

# Development Risks

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## ***4. Neighborhood***

NIMBY

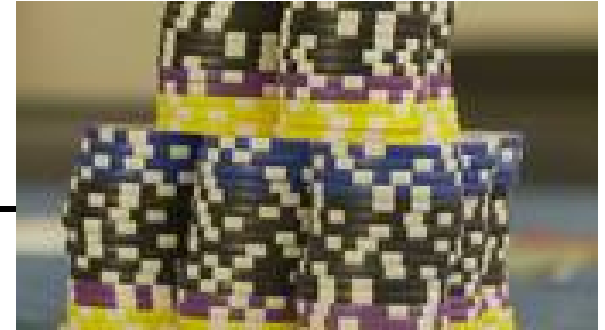
## ***5. Entitlements***

Zoning and entitlements



# Development Risks

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## **6. *Construction***

Costs initially are higher than expected or new issues occur during construction

## **7. *Construction Financing***

Construction financing comes in lower than expected

## **8. *Permanent Financing***

Project does not convert at projected permanent debt



# Development Risks

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## ***9. Investor Equity***

- (i) default to investor creates liability to investor; or
- (ii) investor does not contribute capital when planned

## ***10. Mismanagement***

Property is mismanaged



# Determining Capabilities of Your Organization

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- Using the Right External Team
  - Financial advisors
  - HUD consultants
  - Development consultants
  - Architects
  - Accountants
  - Lawyers



# Legal Approaches to Managing Risk

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- Contractual business and development risks
- HUD restrictions
  - Overall health of PHA
  - Identity of interest
  - Cost allocation
  - Pledging and encumbering of HUD assets
  - Loans of HUD funds

# Managing Risks through Entity Selection

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- Risks which can be managed through entities
  - Third party liabilities
  - Certain contractual risks
  - Certain guarantees
- Risks which cannot be managed through entities
  - Contractual obligations and guarantees which are expressly assumed

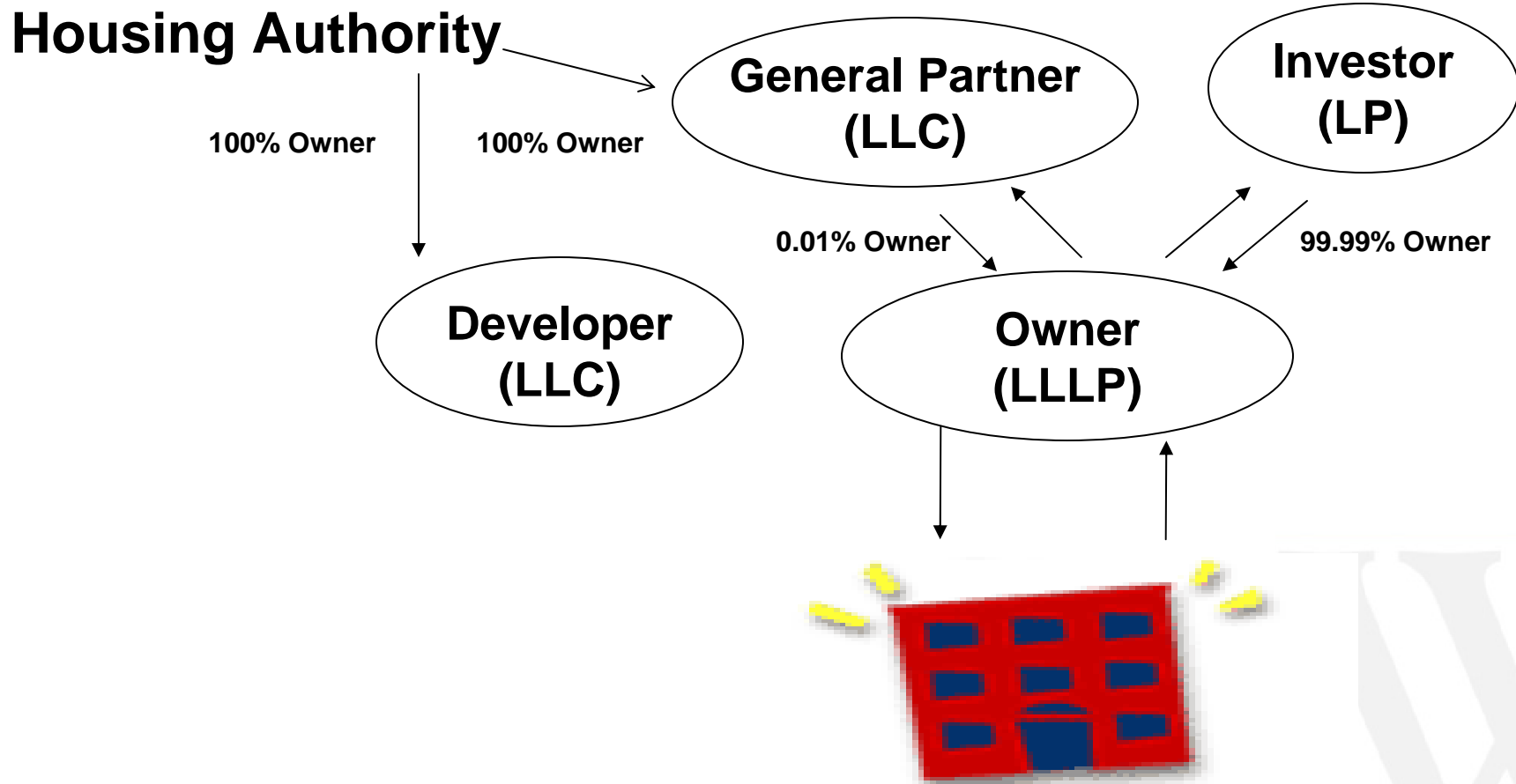
# Limited Liability Entities

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- Limited liability entities
  - Corporations
  - S corporations
  - Limited liability companies
  - Limited partnerships (to limited partner)
  - Limited liability partnerships
  - Limited liability limited partnerships
- Non-limited liability entities
  - Sole proprietorships and general partnerships

# Development Ownership Structure





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