



Connecting lawyers, nonprofits, and communities

Do you run a nonprofit Housing Development Fund Corporation?

Here are some tips for making sure your HDFC is operating in compliance with law and taking advantage of all of the benefits of being an HDFC:

1. Review the HDFC's certificate of incorporation, by-laws and, if available, the application for 501(c)(3) status to make sure that they each reflect current operations.
2. Hold an annual meeting for the HDFC for the election of directors and officers as required by the New York Not-for-Profit Corporation Law ("NPCL").
3. Confirm that the HDFC's annual federal tax returns and NYS Attorney General filings are current. Tickle the dates that Form 990 and Char 500 must be filed each year. Contact Lawyers Alliance if you have questions about any delinquencies.
4. For HDFCs that were granted 501(c)(3) status pursuant to an Advance Ruling, note when the Advance Ruling period expires and be sure to send Form 8734 to the IRS.
5. Secure exemption from New York State and local sales and use tax. Contact Lawyers Alliance if you need assistance in completing the application for exemption, Form ST-119.2.
6. Plan prior to any transfer of title to minimize the tax liability. A transfer of title by or to a tax-exempt organization is exempt from NYC Real Property Transfer Tax. An HDFC is *only eligible* for this exemption, *if* it has obtained 501(c)(3) status or has received an exemption ruling from the NYC Department of Finance. An exemption ruling cannot be guaranteed and takes months to obtain. Only projects operated exclusively for religious, charitable or educational purposes are eligible.
7. If you're forming a new HDFC, confirm your project will qualify for NYC Real Property Tax exemption. A project isn't entitled to exemption just by virtue of being owned by an HDFC. Its use must be examined.
8. Review the HDFC's property, liability and directors and officers insurance coverage annually *and* when there is a sale, lease or purchase of new property, to ensure that the HDFC's property, activities and directors and officers are covered, and to ensure compliance with any lenders' requirements.
9. Does your non-profit provide loans to any affiliated HDFCs or alternatively, does the HDFC provide any intercompany loans? The NPCL forbids intercompany loans, except in certain limited circumstances.
10. Call the Lawyers Alliance Resource Call Hotline (212) 219-1800 ext. 224, the next time you have a question about HDFC governance.

For information on how to follow through with the governance checklist visit our new website www.lawyersalliance.org. For legal assistance contact Hedwig O'Hara, Senior Staff Attorney for Affordable Housing and Homeless Services, at (212) 219-1800 ext. 226 (hohara@lawyersalliance.org) or Gail Bayarin, Staff Attorney for Affordable Housing and Homeless Services, at (212) 219-1800 ext. 279 (gbayarin@lawyersalliance.org).