

# RISK CONTROL SERVICES

## WHAT TO CONSIDER BEFORE ACCEPTING A DONATED BUILDING

As an affordable housing provider, you may be offered a building that your local municipality wants to donate, in some cases so the municipality can receive a tax deduction. Before you accept, there are several important factors to consider.

---

First, make sure the building will meet your organization's needs, both now and in the future. If it will, hire a qualified firm to conduct a building inspection, which will uncover adverse conditions, such as aging HVAC systems or mold, which may not be apparent from the property's exterior. (Since licensing programs vary by state, make sure the building inspector is licensed and certified in accordance with county and state jurisdictions.) The firm you hire should also consult with local building and health department officials to identify potential risks associated with the building.

Pay close attention to any high-risk exposures that are uncovered during the inspection. These include overall poor and depreciating building conditions, structural damage, moisture and mold, lead-based paint, asbestos, defective drywall installed between 2001 and 2009, leaking underground storage tanks, and electrical risks, including aluminum wiring.

In tandem with the building inspection, consider conducting a neighborhood assessment to uncover known or knowable issues, such as crime statistics. Contact your local police department to obtain neighborhood crime reports, or use online resources such as [www.crimereports.com](http://www.crimereports.com).

Other issues uncovered during your due diligence process also merit attention. The following, for example, should raise red flags:

- contractual or other commitments to others, such as existing tenants
- liens, including outstanding taxes
- pending or threatened litigation
- violations of federal, state, or local laws
- a historic landmark register or similar designation

# RISK CONTROL SERVICES

## WHAT TO CONSIDER BEFORE ACCEPTING A DONATED BUILDING

Talk to the current building owner and contact the applicable department within your city or town to obtain this information. Use the findings to help you determine whether the property will be a positive contribution to your housing portfolio—or a detriment.

### Other Considerations

**External Costs.** There may be legal and other fees associated with accepting a building donation, such as those associated with environmental cleanup or legal liability. Under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), for example, an owner of real property may be held liable for environmental cleanup, even if the owner was not involved in or did not know of environmental contamination on the property.

Before accepting a donation, it is critical to establish a baseline of the property's environmental health before taking title. You can do this by hiring an environmental consultant to conduct a Phase I environmental site assessment. The Phase I, which should comply with ASTM standard E1527 – 13, satisfies CERCLA's "all appropriate inquiry" requirement and can help the owner qualify for liability protection should the need arise.

Another important consideration is whether the donor has clear title to the property. Your organization can conduct a title search, which can be coupled with the purchase of title insurance through your insurance carrier, to mitigate risk.

**Utility Fees.** Are there any open or past due water bills or other utility payments associated with the property? Before accepting a donated structure, confirm that you will not be responsible for any remaining utility payments.

**Available Resources.** It's important to have adequate resources to maintain the property in question. Adding additional responsibilities to an already understaffed workforce may impact your employees' ability to do their job and achieve the core mission of your organization.

**Contingencies and Stipulations.** Are there any contingencies associated with the donation? For example, if a building is being donated by a local city, the city may ask to retain a portion of the building for storage space for a certain amount of time. If so, what type of storage and who would have access to the building? Would this impact your organization's development plans?

# RISK CONTROL SERVICES

## WHAT TO CONSIDER BEFORE ACCEPTING A DONATED BUILDING

**Local Zoning Codes.** Development plans may be restricted by local zoning laws. If your organization is planning on refurbishing, remodeling, or renovating the property after the transaction is complete, ensure the future use of the property will not run afoul of local zoning codes.

**Insurance Coverage.** Depending on conditions and based on an underwriting review, traditional coverage through Housing Authority Property Insurance (HAPI) may not be available for buildings that have been vacant for more than 120 days. After 120 days, coverage may be available through HAI Group's agency team or through our Housing Specialty Insurance Company, Inc. (HSIC).

**Before you decide to add a donated building to your portfolio, contact your insurance representative to learn about available coverage options.**

### Did You Know?

If you leave a unit on your property vacant for more than two weeks, you can experience similar risks, from hidden mold to vandalism. [Be prepared](#) by knowing what risks you might face. Then, contact your insurance representative to learn about coverage options where vacancies are involved.