

SPECIAL USE FACILITIES

HEALTHCARE MORTGAGEE ADVISORY COUNCIL

Financing Seniors Housing for America



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What are Special Use Facilities?

- In the 232 Program, the term Special Use Facility references a facility that is:
 - Statutorily eligible under Section 232 of the National Housing Act that serve niche market (for the mentally ill / developmentally disabled).
 - Serves a resident group that requires specialized care & poses risks of a type or degree not present in other residential care facilities.
- Examples (among others):
 - Behavioral Health Residents
 - Mentally Ill Residents
 - Bariatric Residents
 - Residents aged 21-65 requiring specialized treatment of serious mental illness (excluding dementia and intellectual/developmental disabilities)
 - Projects with a concentrated population of residents with MI/DD (e.g., $\geq 25\%$) and 20% or more of the facility's revenue will attract more scrutiny from HUD - this percentages are general guidance, not set in stone

What are NOT Special Use Facilities?

- A facility may serve a resident group requiring specialized care and may pose unique risks but NOT be a Special Use Facility
 - It is not an eligible facility type under the Section 232 statutory language.
- Before making a “special use” inquiry, assure the facility type fits within one of the statutory categories:
 - Nursing Home/Intermediate Care Facility
 - Assisted Living Facility
 - Board and Care Home
- In doing so, compare the Section 232 definitions with the designation in the state’s license or certification

Facilities that often don't fit within the program

Drug and Alcohol Rehabilitation Facilities are typically:

- Regulated but not licensed as a SNF
- Not categorized by State as an ALF (and even if so, not age restricted)
- Don't fit within 232's "Board and Care Home" statutory definition

Inpatient Behavioral Care Facilities that are:

- Licensed by the State as Hospitals
- Categorized by CMS as Hospitals

What types of risks do Special Use Facilities present?

- Quality of Care Risks
 - Risks posed by some residents to themselves and others
 - Inadequate availability of staff with niche expertise
- Olmstead-driven Census Risk
 - Loss of current residents (if they are incentivized to relocate)
 - Ability to backfill (reduced if prospective residents are incentivized to choose a non-institutional setting)
- Funding Risk
 - Reliability of primary funding source for this population
 - Loss of supplemental funding layer
 - if residents move and are replaced with other residents
 - HCBS compliance issues (for Medicaid waivers in ALFs)

Addressing Risks of a Special Use Facility: Quality of Care Risks

- Resident groups with special needs present unique care risks, such as:
 - Heightened medical risks, risks of injury to themselves/others
 - Availability of managerial and staff-level professionals to address the risks
 - Regulatory and liability risks associated with the heightened care risks
- A long track record is key
 - Not just experience but highly successful experience
 - at the same facility and/or (but preferably “and”) elsewhere
 - To the extent experience elsewhere is relied upon, it must
 - be with residents having similar needs to subject
 - demonstrate success in dealing with the applicable regulatory entities
 - The longstanding quality care must be evidenced (e.g., surveys)

Addressing Risks of a Special Use Facility: Olmstead-Driven Census Risk

- Establish, given resident mix, the scope of the risk of current resident loss
 - Olmstead risk exists even though records say SNF care is needed.
 - When state liaison or advocate is engaged, that is challenged.
 - Even needs of “frail elderly” can often be met in community settings
 - Risk of resident loss is higher if large % of the residents are:
 - Behavioral care residents or
 - Non-elderly
- Address the Facility’s ability to backfill for...
 - Current residents lured to other settings
 - Prospective future residents being lured to other settings
 - State’s use of Medicaid waivers to address Olmstead
 - Involves examining anticipated market demand but w/ Olmstead impact

Addressing Risks of a Special Use Facility: Funding Risk

- Funding for special populations differs from basic Medicaid
- Some resident types have entirely different funding streams, such as:
 - Oregon Dept. of Human Services Personal Professional Services Contract;
 - Minnesota Department of Human Services Housing Support Program
- Other resident types have supplemental funding streams i.e., Medicaid add-on rates
- Examine the separate and/or supplemental funding.
 - Historic reliability, and any upcoming changes likely to impact it.
 - Impact on funding stream if resident type changes (attrition & replacement)

Addressing Risks of a Special Use Facility: Funding Risk (continued)

- To maintain Medicare waiver funding, an ALF must be a Home & Community Based Setting
- Examine risk that HCBS status will be lost. Examples:
 - Project undergoing CMS' "heightened scrutiny" examination.
 - Facilities most likely to get "heightened scrutiny" include ALFs or B&Cs that:
 - Are located on same campus as SNF, or
 - Have some "institutional" characteristics (e.g., non-lockable doors, no choice in roommates, no choice in mealtimes) .
- If significant risk of loss exists, address mitigants
 - Only a small portion of beds have waivers?
 - Facility is competitive in marketplace and could backfill w/ market rate?

Getting ORCF's initial take on Special Use Facility via Lean Thinking: First review "Characteristics of Successful Applications"

| Type | Loan Term | Experience | Maximum LTV | Recent Purchase, Quick Turnaround | Limited Debt Seasoning Exception |
|--|------------------|--|--------------|-----------------------------------|----------------------------------|
| Assisted Living/Board and Care Medicaid Waiver with an Enhanced Services Contract | 20 years or less | 5+ years of relevant experience with this type of facility | 60% LTV | No | No |
| SNF with regular license, but has MI/DD as a primary or secondary diagnosis (20% or more of the facility's revenue) | 35 years or less | 5+ years of relevant experience with this type of facility | 80% LTV | No | No |
| SNF with regular license, but has MI/DD as a primary or secondary diagnosis (one wing/nominal part of the facility-Less than 20% of revenue) | 35 years or less | 5+ years of relevant experience with this type of facility | 80% LTV | Yes | Yes |
| Drug and/or Alcohol Rehabilitation Facilities or Transitional Housing | Not Eligible | Not Eligible | Not Eligible | Not Eligible | Not Eligible |

Limited Debt Seasoning Exception-Not applicable to Special Use Facilities

Debt that is not used for project related purposes must season 2+ years prior to application submission

Handbook Chapter 3.13D provides an exception to the 2+ year debt seasoning for loans with:

Low-LTV

3+ years of stabilized historical cash flow
long-term owner and operator
other low-risk characteristics

Special Use Facilities are NOT eligible for reduced debt seasoning time

Recent Purchase, Quick Turnaround Projects

Purchase or Significant operational changes (within the last 2 years)
Track record at this project doesn't support underwritten levels or there is a short Track record (less than 2 years operating relatively in line with underwritten levels)
Often includes repayment of all or most partnership debt

**Don't let this be you... contact Lean
Thinking**



Getting ORCF's initial take on your Special Use Facility: Lean Thinking

- Come to Lean Thinking before applying. Here are topics to cover in LT
- The Resident Population...What makes them special?
 - Discuss diagnoses, services needed, etc.
 - For behavioral care, distinguish primary v. secondary & % residents below 65
- The Facility Itself...Location, age, design, condition
 - Characteristics for primary diagnosed MI population. Locked wards, wings?
 - Functional obsolescence? (wards, aged plant, marketability at market rate)
 - Type of License(s)
- The Proposed Loan: LTV and Loan Term...

Getting ORCF's initial take on your Special Use Facility: Lean Thinking (continued)

- The Participant's Experience & Capacity with this Population (5+ years)
 - How long have they owned/operated this facility?
 - Star ratings/survey history
 - G tags, particularly any related to special use population
 - Experience as a whole team
 - Preferably at subject facility and beyond (similar settings/population)
 - Reliance on care provider partners/subcontracts?
 - Track record of successful financial performance
 - Experience with the applicable state/local regulatory/funding agencies.

Getting ORCF's initial take on your Special Use Facility: Lean Thinking (continued)

- Risk of Census Loss Related to Special Use
 - Olmstead
 - HCBS (not limited to, but particularly relevant to, Special Use Facilities)
 - State's rebalancing efforts
 - Other emerging state statutory/regulatory changes
 - Ability to backfill such losses while maintaining operations & debt service
- Funding Issues Related to Special Use
 - What funding source limitations and/or /rate adjustments apply here?
 - What impact if special use census was lost and backfilled?
 - If ALF w/ Medicaid waivers, any risk of HCBS compliance issues?

Challenges Lenders are Facing with Special Use Facilities

1. Experience of the Participants with the type of facility and population
2. Proving stability and sustainability of the ongoing funding sources for the life of the loan
3. Quality of Care / Star Rating
4. Appropriate mitigation measures to address the higher risks associated with the special use facilities

ALF Example

- Licensed ALF - The facility is a residential care facility that is licensed by the State
- Specializes in behavioral residential care through a Professional Services Contract with the State
- Occupancy – 94% at closing

Challenge

Borrower/Operator Successful Experience in dealing with Contemplated Population:

Facility has an Administrative Services Agreement with a Management firm who has 20+ years of experience with working in assisted living, residential care, memory care and facilities serving clients with behavioral and developmental disabilities and 7+ years with the subject



Mitigation

1. A condition of commitment that key principal of the Management company with their extensive knowledge and experience, be elevated to a principal / managing member level to meet the HUD-required borrower / operator experience in dealing with the contemplated population
2. Successful experience can be tied to the year over year 90%+ occupancy

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Challenge

Long-Term Reliability and Adequacy of Funding Stream:

The subject facility has partnered with the state under the special needs contract since 2017

Mitigation

1. State's special need contract in place since 2006
2. Extensive research on availability of future funding and its longevity
 - a. Calls with State representatives to provide comfort with the longevity of the program
 - b. Assurance from the program director on the continuity of the program
 - c. Researching industry commitments, such as lawmakers' pledge of \$1 billion for the specific population
3. Lower term: 20 years



Successful Mitigants

1. **State Oversight:** The state and the facility engage in an annual contract review, initiated by the state, to evaluate the facility's performance
2. **HCBS Compliance:** The facility demonstrates how it operates in compliance with the Home and Community-Based Services (HCBS) system
3. **Appraisal Support:** Supplemental Analysis / Alternative Use of the Facility - ALF/Memory Care
4. **Higher Professional Liability Insurance:** To further reduce risk exposure
5. **Higher Risk:**
 - a. LTV: 71%
 - b. Cap Rate: 13%

SNF Example

Challenge

Operator Successful Behavioral Health Experience

Facility Overview:

1. The facility's current resident population ranges in age from 29 – 96 years, with an average age of 67 years
2. CMS 672 form showed 2 residents with an F108 diagnosis and 60 residents with F110 (29%).
3. No residents with F110 as a primary diagnosis

- Licensed SNF – The facility is licensed 100% for nursing care with a total capacity of 240 beds, there is no specialty bed licensing
- Facility operates with 211 beds, of which, approx. 70 beds are set aside for behavioral (non-memory care) patients
- DSCR over 2x with an overall 2 Star Rating



Mitigation

1. Operator has a strong history of managing behavioral units in several facilities in multiple states
2. No citations / deficiencies related to its behavioral health program within the past three years
3. No professional liability claims filed against the facility, for an incident involving a behavioral resident

SNF Example

Challenge

Healthcare Surveys

1. Star Rating: 2 Star Rating
2. Quality of Care
3. Availability of managerial and staff-level professionals to address the risks

- Licensed SNF – The facility is licensed 100% for nursing care with a total capacity of 240 beds, there is no specialty bed licensing
- Facility operates with 211 beds, of which, currently approx. 70 are set aside for behavioral (non-memory care) patients
- DSCR over 2x with an overall 2 Star Rating



Mitigation

1. Demonstrating sponsors other facilities in the portfolio with better star rating and measures taken to successfully improve quality of care
2. The facility employed behavioral Psychologists who work closely with the facility's physicians & nurse practitioners
3. All aides and nursing staff at the facility are required to participate in behavioral management training
4. Third Party Risk assessment

Successful Mitigants

1. **PASRR: Conducting PASRR is a federal requirement, which ensures that individuals are not inappropriately placed in nursing homes for long-term care**
2. **Olmstead Decision Compliance: Due to the complex medical needs of some of the younger residents, their care cannot be adequately provided in a community-based setting. As a result, the facility remains in compliance with the Olmstead Decision**
3. **High Acuity Residents: Several high-acuity residents need to be placed in a SNF, as providing care in a home and community-based services (HCBS) setting is not feasible**
4. **Elopement Prevention: All entrances and exits within the facility are equipped with secured keypad access and a surveillance/security camera system, ensuring the resident safety**
5. **Market Analysis supporting the need for this contemplated population: Higher Medicaid Rate / Risk of census loss**
6. **Higher Risk:**
 - a. **Debt Service Escrow & Quality of Care Escrow**
 - b. **Higher Cap Rate: 13%**

Successful Application!!!

