

Creating a development team

- the make-up of your development team and legal team
 - types of development partnerships and what makes them work
 - how to choose the right development team: sample interview questions
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Development team

Development lead

- takes the lead in planning the development
- is the executive director, a board member or a committee member
- communicates with the development team and legal team
- works closely with the development consultant

Development consultant

- plans and oversees the development
- evaluates development options (intensification of existing property, renovation, new build)
- explores potential funding and procurement options
- helps search for a suitable property
- helps prepare the development proposal
- communicates with municipal contacts about the development plans

Architect

- evaluates suitability of proposed property
- obtains city approvals, including building permit and re-zoning
- designs building
- estimates costs
- oversees quality of construction
- oversees completion of deficiency work
- applies for occupancy permit from city

Planner

- helps obtain re-zoning or other special city approvals

Engineer

- usually part of the architect's team, includes structural, mechanical and electrical engineers

- consults with the architect
- drafts engineering plans

Technical consultants

- Soil consultant
 - evaluates environmental issues and potential remediation
 - assesses soil stability, suitability for construction
- Sound/noise consultant
 - evaluates effect of ambient noise of construction requirements (eg. air conditioning units)
- Traffic consultant
 - assesses impact of the development on traffic conditions
 - designs access routes to street
- Quantity surveyor
 - estimates the cost of construction according to the architect's design

Builder

- bids on the construction job based on the architect's design
- constructs the building

Subcontractor

- performs various trades (concrete forming, structural steel work, drywall, flooring, mechanical systems, etc.)
- usually hired, supervised and paid by the builder

Legal team

The main member of your legal team is a development lawyer.

A development lawyer needs to know:

- planning law (re-zoning, hearings)
- construction law
- how to make offers to purchase land
- how to draft construction contracts

Saving on legal costs

- Meet with your lawyer before you begin development. Describe the role you hope he/she will play in the development, and ask for an estimate of the total costs.
 - Consider cost-effective alternatives:
 - have your development consultant or real estate agent submit offers to purchase
 - have a paralegal deal with incorporations or the closing of a real estate deal
 - have your architect do most of the re-zoning work
 - Consider the flexibility of funding programs. Is it good value for money to have your lawyer review contracts that governments won't change anyway?
 - Consider sharing costs with another organization. Have one lawyer draft standard documents that you can both use.
 - Don't assume a lawyer willing to do "pro bono" work is your best option. You might be eager to hire a lawyer who has donated his/her services, but there may be unexpected costs associated with these services in the future. A paralegal or junior lawyer is a more cost-effective option.
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Development partnerships

Sometimes, two or more parties work together to develop non-profit housing. This type of partnerships involves at least one of the following:

- contribution of land, money, time or expertise
- shared risks or liabilities and shared benefits
- shared control and responsibility

Types of development partnerships:

Development turnkey

Modified turnkey/design build

Head lease or other lease arrangement

Successful partnerships must:

- ensure all partners gain from the partnership
- ensure all partners understand and accept what each partner gains from the project.
- have clear and realistic expectations and objectives

- have clearly defined responsibilities and risks
 - involve trust and clear communication
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Development turnkey

A private developer builds the project or has it built by others on behalf of a non-profit organization. The non-profit organization can have input along the way.

It is the developer's role to:

- secure the land
- hire architects and engineers
- get planning approvals
- construct the building

When the project is complete, the non-profit organization purchases both the land and building from the developer for a fixed price. The price is usually agreed upon before the start of construction, but there are no payments made during the development stage.

Modified development turnkey

Generally, a non-profit organization purchases the land at the beginning of the development process, and a developer builds on this land.

Payments are made throughout the process, and the non-profit organization may have more involvement in the design and development.

Head lease or other lease arrangement

There are a number of arrangements non-profit organizations and building owners can make when it comes to leases.

A non-profit organization can:

- lease an entire building from a private owner and manage it for a fixed term
- lease a portion of a building and manage it
- lease some units, fill these units, collect the rent, maintain unit interiors and provide support (a private owner manages the entire building)
- fill some units and provide support (a private owner manages all the units)

A non-profit building owner can:

- lease commercial space to a private firm
 - build and lease the back portion of a building to a private firm
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Interviewing potential development team members

Sample interview questions:

- for development consultants
 - for architects
 - for lawyers
 - for builders
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Interviewing potential development consultants

Ask about roles and responsibilities:

- What do you see as your role during the development of the project?
- What do you see as the organization's role?
- Do you have a list of standard services you provide?
- What services will you provide once construction is completed?

Ask about communication and decision-making:

- How will you communicate with our organization?
- Will you come to board meetings?
- What if an important decision must be made, but no one from the organization is available?
- What information do you need from us before accepting this contract?

Ask about expertise and past experience:

- What other non-profit housing developments have you worked on since 1995?
- What has been your role on these developments?
- What are the key factors for success when developing non-profit housing?
- What are the most common challenges with the type of project we are proposing?

- How would you overcome these challenges?

Ask about their firm:

- Who will actually be working on this project?
- What is their background?
- Do you have a standard contract?
- How would you resolve disputes between our organization and your firm should they arise? Do you have a standard process?
- How much time will you dedicate to this project?

Ask about fees:

- How do you calculate your fees?
- What is the billing schedule?
- What are some potential additional charges?
- What advice can you offer to keep costs down, and make the best use of your services?

Other areas to ask about, if they are important to your organization's needs, include:

- searching for and securing a property
- obtaining municipal approvals
- overcoming neighbourhood opposition
- creating and managing a development team
- obtaining funds and liaising with lenders
- obtaining government capital and operating funding
- obtaining support funding and liaising with support ministries
- controlling costs during development
- developing a management plan
- training and advising our own staff
- selecting tenants

Interviewing potential development architects

Ask about roles and responsibilities

- How would you describe your role during the development of the project?
- Do you have a list of "standard services" you provide?
- What is the organization's role?

- Please describe the design process and our involvement at each step.

Ask about communication and decision-making:

- How will you communicate with our organization?
- Will you come to board meetings or team meetings (and is this an additional charge)?
- What if an important decision must be made, but no one from our organization is available?

Ask about the project:

- Does the development of affordable housing interest you?
- What do you see as important issues or considerations for the project?
- What are the specific challenges presented by the project?

Ask about expertise and past experience:

- Have you designed non-profit housing before?
- Do you have a list of past projects and clients that we can call as references?
- What is your familiarity with energy efficiency measures?

Ask about their company:

- How many employees does your company have?
- How many projects are you working on right now?
- Will our project be a priority?
- We have a timeline for the stages of drawings. Do you think you can meet this timeline?

Ask about fees

- How are fees established?
 - What is your total estimate for this project?
 - If the scope of the project changes, will there be additional fees?
 - Are you willing to bill separately for conceptual drawings, schematic and working drawings and site visits?
 - In case we are unable to move forward at this time, we would like to own the rights to the drawings. Is this possible?
 - Can the drawings be supplied on a DVD?
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Interviewing potential development lawyers

Ask about the communication process:

- How will you communicate with our organization?
- What if an important decision must be made, but no one from our organization is available?
- If we have questions, how should we contact you?
- If you are not available when we call, who should we speak to?
- How will you keep us informed of progress?
- Will you send us copies of all correspondence that you receive and send?

Ask about expertise and past experience:

- What experience do you have working with a non-profit organization developing housing?

Ask about their firm:

- How many lawyers are employed by your firm?
- Who else in the office will be working on our case?

Ask about fees:

Rates and estimate:

- What are your rates?
- What is an estimate for the total bill, including fees and expenses?

Additional fees:

- Will any junior lawyers or legal assistants be working on our case?
- Do you charge for the legal assistant's time?
- Do you charge for the legal secretary's time?
- What type of additional expenses or disbursements will there be?
- Do we need to pay these in advance?

Billing:

- How often will you bill us?
- How far in advance will you let us know when I need to advance funds?
What type of receipt(s) will we get for funds which you disburse?

Interviewing potential development builders

Ask about the company:

History

- How long has your company been in business?

Licensing, insurance and registration

- Do you have a current license and registration?
- Do you have insurance? What type(s)?
- If subcontractors are used, does the contractor's insurance also cover subcontractors?

Employees

- How many people - direct employees - work for your company?
- Who will be on-site and in charge of the project each day?
- Do you work with both unionized and non-unionized workers?

Workload

- How many jobs does your company have in progress right now?
- Will our project be a priority?
- How do you manage your jobs on a day-to-day basis?

References

- Can we see a list of references, specifically financial references?

Ask about expertise and past experience:

- Have you ever worked with a non-profit organization?
- Have you ever built non-profit housing?
- Have you ever built a project of this size?

Ask about communication and decision-making:

- How will you communicate with our organization?
- Will you attend our organization's board meetings?
- What will you do if an important decision must be made, but no one from our organization is available?
- Are you familiar with the board/committee decision making process associated with non-profit organizations?
- What information would you need from our organization before accepting this contract?