

WHY Multifamily Syndicators and Passive Investors Should Care About 1031 Exchanges!

DUGAN P. KELLEY, Esq.

Shareholder

KELLEY CLARKE, PLLC

www.kelleyclarkelaw.com

972-253-4440

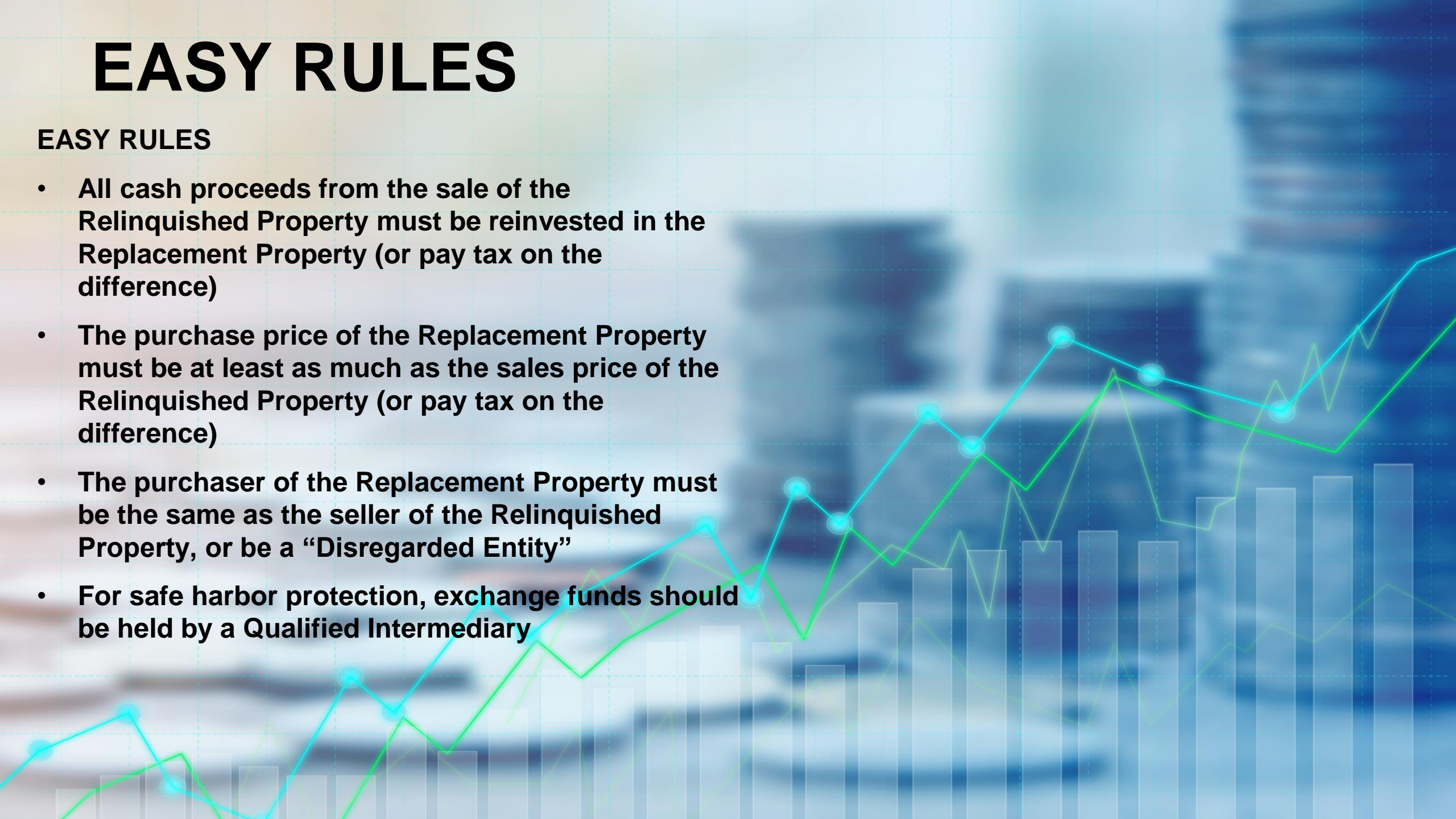


What is a 1031 Exchange?

- Section 1031 of the IRS tax code allows property owners to sell one or more of their properties and exchange with one or more “like-kind” *replacement* properties.
- The tax code enables a taxpayer to sell investment property with little or no tax liability on any resulting gain – preserving the sale proceeds for the purchase of another property.
- **HELPS INVESTORS = Continue an Investment without adverse tax consequences!**

EASY RULES

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- All cash proceeds from the sale of the Relinquished Property must be reinvested in the Replacement Property (or pay tax on the difference)
 - The purchase price of the Replacement Property must be at least as much as the sales price of the Relinquished Property (or pay tax on the difference)
 - The purchaser of the Replacement Property must be the same as the seller of the Relinquished Property, or be a “Disregarded Entity”
 - For safe harbor protection, exchange funds should be held by a Qualified Intermediary
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YOUR TYPICAL DEAL STRUCTURE FOR SYNDICATION OF MULTIFAMILY PROPERTIES

Limited Partners/Class A Members
(70%)

*No investor owns either directly or indirectly, 20% or more in NEWCO, LLC

Class B Members/Sponsors (30%)

BEST GALS, LLC – 50%
BEST GUYS, LLC – 50%

NEWCO, LLC (TX)
(Owner of Building)

Asset Managers: BEST GALS, LLC and
BEST GUYS, LLC

WHY Consider 1031 Exchange?

- \$\$\$\$ The Biggest Challenge to Syndication
- Helps Solve your raise issues
- 1031 \$\$\$\$ Has the potential to shrink the amount you need to raise QUICKLY!

IMPORTANT CONSIDERATIONS

A small metal house figurine is placed on a calculator. In the foreground, several coins of various denominations are scattered on a document with some text and asterisks. The background is a blurred calculator keyboard.

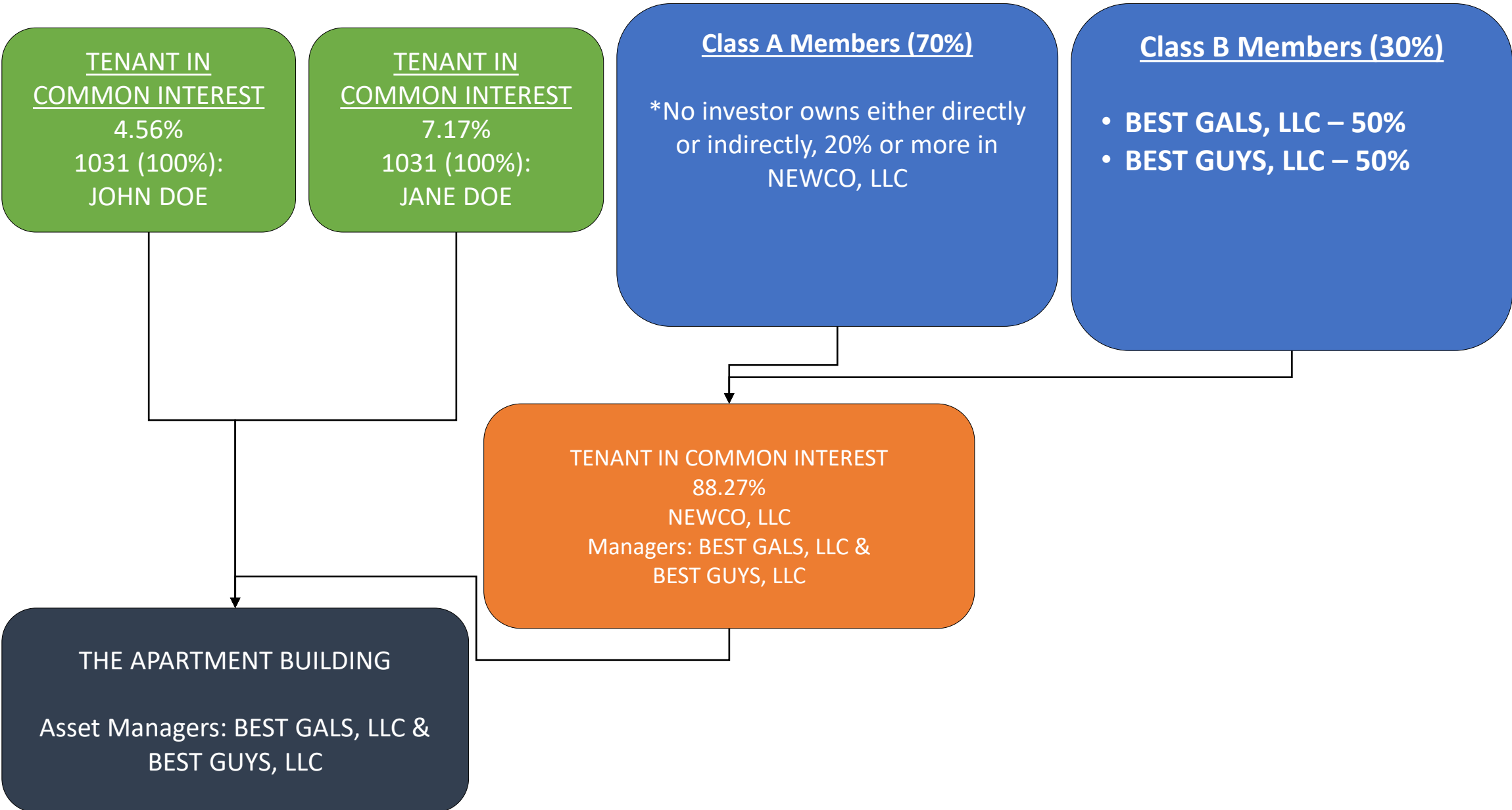
- How much \$\$\$ is coming from the 1031?
- Timing! Aligning Closing Date with the 1031 Deadlines?
- Expectations? Be Aligned!
 - Money
 - Control
 - Exit Strategy

TENANTS IN COMMON aka TIC

- **Tenants in common**
Ownership in which two or more people/entities own separate shares of the same real property. Each person holds an individual, undivided ownership interest!



YOUR STRUCTURE WILL CHANGE WITH 1031 MONEY



IMMEDIATE ACTION ITEMS

- *Notify your lender!**
- *Understand Lender's Rules!**
- *Notify the Qualified Intermediary!**
- *Start working on the required diligence items!**
- *Informing Your Investors!**
- *Make Sure Your Proforma Works!**





TIC AGREEMENT

- You are _____
CO-OWNERS, Not Partners

- Your Ownership
With the TIC Parties will be governed by a TIC
Agreement



KEY TERMS

1. Each of the co-owners must hold title to the property as a tenant-in-common.
2. The co-owners ARE NOT partners.
3. The number of co-owners can not exceed 35 persons. (Husband and wives are generally considered one person).
4. Term. Make sure that TIC Agreement aligns with NEWCO Operating Agreement.
5. Actual Ownership Interests stated.



KEY TERMS

6. Control. Day to day management of the PM and Property!
7. Restricted ability to transfer, sell, or encumber (debt) in connection with the TIC's Interests.
8. Distributions. When, how, and in what amount.
9. Debts. When, how, and in what amount.
10. Voting Rights. Sale, Transfer, or Debt.
11. Default. Dispute resolution (Mediation, Arbitration).
12. EXIT STRATEGY
 - Timeline
 - Market price agreed (Drag Along)
 - Restriction on right to force sale
 - Right of first refusal



LENDER will enforce its rights on the TIC Parties

- Will want one "Managing TIC Person/Entity."
- No Conflicts with Loan Docs.
- No Right to "Partition" (sell, transfer etc...) while loan is present

1031 RECAP

1. 1031 Benefit Both Syndicators and Passive Investors
2. Determine 1031 benefits
3. Notify all Parties (Lender, QI, Investors)
4. Change your Structure
5. Create the TIC Agreement
6. Sign TIC Agreement, Loan Docs, and Transfer Docs
7. Close on the Acquisition

