

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
December 12, 2012

Consideration and Approval of the 3rd Street Residential Development Apartments
Waiver of the Performance Deposit and Negative Points
(Agenda Item No. 5)

ACTION:

Approve the Waiver of the Forfeiture of Performance Deposit and Negative Points for the 3rd Street Residential Development Apartments (11-124).

BACKGROUND:

An Applicant bears the risk of forfeiting all or part of their performance deposit and receiving negative points if the Allocation is not used in accordance with the conditions and timeframes set forth in the California Debt Limit Allocation Committee (“CDLAC”) Resolution. As provided for under the Government Code, CDLAC permits an Applicant to request the waiver of the forfeiture of the performance deposit and negative points if the allocation is not used to issue the bonds within the set timeframe given. For a waiver to be approved, the CDLAC Executive Director subjects the request to two tests: 1) was the issue or event that prevented the issuance of the bonds unforeseen; and 2) was the issue or event wholly outside the control of the Applicant and Project Sponsor. A request must pass both tests.

DISCUSSION:

3rd Street Residential Development Apartments Project (11-124)

On September 28, 2011, the 3rd Street Residential Development Apartments Project (“Project”) was awarded \$7,298,412 in tax-exempt bond allocation. The Project’s original issuance deadline was December 27, 2011; which the Executive Director extended to the January 18, 2012 allocation meeting. At the January allocation meeting, the Committee granted a second extension to March 26, 2012. In accordance with the CDLAC regulations for carryforward allocation the Executive Director granted a third extension to December 31, 2012.

On November 5, 2012, the City of San Jose (the Applicant) notified CDLAC that the entity make-up of the Project Sponsor had changed and as a result, the allocation would be reverted to CDLAC due to the Applicant’s inability to issue bonds under the CDLAC–approved Project Sponsor, 3rd Street Residential Development, L.P. The Project’s new Project Sponsor, 3rd Street Associates, L.P. includes the former managing general partner, Foundation for Affordable Housing V, Inc., a California non-profit public benefit corporation. However, the administrative general partner has changed from Global Premier Development Inc. to TPC Holdings V, LLC. As documented in other recent Committee actions, Global Premier Development has encountered difficulties with one of their existing tax credit investor partners; and at this time, is unable to proceed on a variety of projects that they were involved with. The new Project Sponsor has applied for tax-exempt bond allocation in the amount of \$7,000,000 at the December 12, 2012 Committee meeting; which will allow the Project to move forward.

RECOMMENDATION:

In light of the circumstances described, staff recommends the approval of the Waiver of Forfeiture of the Performance Deposit and Negative Points for the 3rd Street Residential Development Apartments (11-124).

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