

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
July 17, 2013

Consideration of a Request for a Waiver of the Forfeiture of Performance Deposit
for the Gold Country Village Apartments (12-111)
Qualified Residential Rental Project Program
(Agenda Item No. 5)

ACTION:

Consider the approval of a Waiver of the Forfeiture of Performance Deposit for the Gold Country Village Apartments (12-111).

BACKGROUND:

An Applicant bears the risk of forfeiting all or part of their performance deposit and/or 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 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.

On September 26, 2012, the Gold Country Village Apartments Project (“Project”) was awarded \$7,915,352 in tax-exempt bond allocation. The Committee later approved a bond issuance extension to April 16, 2013 and the Executive Director then approved a Carryforward extension extending the issuance deadline to September 30, 2013. With the approval of the Carryforward extension, came the requirement for the Project’s performance deposit to be forfeited to the Committee.

The Project Sponsor is now requesting consideration of a waiver of this penalty in light of the circumstances. According to the Project Sponsor, on November 14, 2012, Umpqua Bank informed GVGCV Investors, a California Limited Partnership (“the Project Sponsor”) that the bank had decided not to proceed with the financing of the Project. Umpqua Bank has indicated that its decision to withdraw from the Project financing was unforeseen and wholly outside the control of the Project Sponsor. Since that time, the Project Sponsor has obtained a commitment from the Bank of the West for construction and permanent financing. The Project Sponsor is submitting an appraisal and construction documents for building permits on July 15, 2013. Also, they plan on having the finalize syndicator contract by August 15th and close by September 30, 2013. In response to the Project’s anticipated year-end closing, staff has approved a Carryforward extension to September 30, 2013.

DISCUSSION:

In light of the circumstances that appear to be both unforeseen and outside the control of the Applicant and Project Sponsor, staff recommends the approval of the Waiver of Forfeiture of the Performance Deposit.

RECOMMENDATION:

Staff recommends the approval of the Waiver of Forfeiture of the Performance Deposit for the Gold Country Village Apartments Project (12-111).

Prepared by Richard Fischer