

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE**  
**December 14, 2011**

**Consideration and Approval of**  
**Waiver of the Penalties for Various Projects – Qualified Residential Rental Program**  
**(Agenda Item No. 8)**

**I. ACTION**

Approve the Waiver of Forfeiture of Performance Deposit and Negative Points for the School House Station & Vista Grande Apartments Project (Application # 11-049), Manzanita Apartments (11-057), Kenneth Henry Court Apartments (11-087), Aspens at South Lake Tahoe Apartments (11-066), and Drasnin Manor Apartments (11-090) (the “Projects”).

**BACKGROUND**

An Applicant bears the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and timeframes set forth in the Committee 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.

**II. DISCUSSION:**

The Project Sponsors for the Projects noted above have each returned their initial award of 2011 allocation and are requesting a waiver of the forfeiture of the performance deposit and the negative points penalty. Each Project’s funding agreement between the Project Sponsor and the applicable redevelopment agency has been delayed due to the current Supreme Court-issued Stay; which among other imposed limitations, prevents each redevelopment agency from coordinating the closing and/or modifying the terms and conditions of committed redevelopment agency funds.

After reverting their initial allocation, each Applicant and Project Sponsor reapplied for a new award of allocation intending to proceed with the closing of the project financing immediately after the Supreme Court-issued Stay is lifted and/or the Supreme Court decision impacting the existence and authority of redevelopment agencies is determined. This decision is expected in January 2012.

Awards of allocation for each Project were granted well before the lawsuit and the Supreme Court Stay were issued; evidencing that the circumstances experienced by each Project were unforeseen and wholly outside the control of the Applicant and Project Sponsor.

**III. RECOMMENDATION:**

Given the facts associated with these waiver requests, staff recommends the approval of a waiver of the performance deposit forfeiture and a waiver of negative points for the School House Station & Vista Grande Apartments Project (11-049), Manzanita Apartments (11-057), Kenneth Henry Court Apartments (11-087), Aspens @ South Lake Tahoe Apartments (11-066), and Drasnin Manor Apartments (11-090) at this time.

*Prepared by Misti Armstrong*