

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
September 26, 2012

**Consideration and Approval of Issuance Date Extensions and
Penalty Waivers for Various Qualified Residential Rental Projects**
(Agenda Item No. 4)

ACTION:

Approve various Issuance Date Extensions and/or Penalty Waivers for the following projects:

BACKGROUND:

12-005 Fickett Tower Apartments

Fickett Tower Apartments is relying upon a delayed 223f HUD Loan; now planned to fund in mid-September. Bonds will be issued shortly thereafter. A Citibank Loan commitment has also been obtained as an alternative structure in the event the HUD loan is not approved. The Applicant has been granted a carryforward extension and is now seeking a waiver of the required forfeiture of the performance deposit.

11-127 Taylor Yard Apartments

The Applicant has experienced an issuance delay due to unanticipated HOME Loan processing delays by the California Department of Housing and Community Development (HCD). The Applicant has been granted a carryforward extension and is now seeking a waiver of the required forfeiture of the performance deposit.

12-002 Cherry Orchards Apartments

Approval of the bond issuance by the governing board of the Housing Authority was scheduled for July 24th, 2012, with the closing and bond issuance scheduled later that week. The members of the City Council of the City of Anaheim and Housing Authority Board are synonymous. Unfortunately, due to civic unease in the wake of two police involved shootings in the City of Anaheim the weekend before, violence erupted on the evening of the scheduled board action as protestors clashed with police outside City Hall where the scheduled board action was to take place. The board adjourned without taking any voting actions. The rescheduled board action took place on August 21, 2012, and it will take a few additional weeks to issue the bonds. The Applicant has been granted a carryforward extension and is now seeking a waiver of the required forfeiture of the performance deposit.

11-050 Oakridge Apartments

The development of this project involves the transfer of a leasehold interest, which has been delayed by the current landowner. The execution of certain documents (e.g., Subordination, Non-disturbance and Attornment (SNDA)) between the Project Sponsor and the existing lender for the mobile home park has also thus been delayed. In addition, the owner of the mobile home park (i.e. the current lessee) refinanced the property on September 14th and the new lender must now review the SNDA along with the lessor (i.e. the landowner). The ground lease and SNDA are expected to be executed on September 28, 2012, and the bonds will be issued on October 5, 2012. The Applicant has been granted a carryforward extension and is now seeking a waiver of the required forfeiture of the performance deposit.

12-032 Harvest Park Apartments

Tax increment payments to the Successor Entities from County Assessors now occur on a semi-annual basis; which in some cases is now delaying the full payment of loan and/or bond disbursements to projects. The Harvest Park Apartments now cannot close on its financing (including the bond issuance) until the second RDA loan disbursement for the project becomes available in January 2013. Additionally, a California Appellate Court ruling now clouds the applicability of prevailing wages to projects with certain types of local agency assistance. The Project Sponsor is also seeking a Labor Counsel confirmation that prevailing wage is not applicable to the project. The Applicant has been granted a carryforward extension and is now seeking a waiver of the required forfeiture of the performance deposit.

11-137 Ramona Park Apartments

Tax increment payments to the Successor Entities from County Assessors now occur on a semi-annual basis; which in some cases is now delaying the full payment of loan and/or bond disbursements to projects. The Harvest Park Apartments now cannot close on its financing (including the bond issuance) until the second RDA loan disbursement for the project becomes available in January 2013. The City (as the Successor Entity) submitted the project on the first half of 2013 Recognized Obligation Payment Schedule ("ROP") to the California Department of Finance ("DOF") August 30, 2012. After this approval is granted, the City will be authorized to secure and release the loan payment for the project. The City will not be able to fund the loan until it receives the tax increment funds from the County Assessor in January 2013. The Applicant has been granted a carryforward extension and is now seeking a waiver of the required forfeiture of the performance deposit.

12-012 Oak Center Apartments

According to the Applicant, complicated and unforeseen issues arose related to the previously undisclosed federal tax liability of the seller, as well as newly increased insurance costs. The seller now needs additional proceeds at closing and is unable to supply the full amount of the seller take back loan as originally required under the purchase agreement. Changes must now be made to the original financial structure of the transaction. The Applicant has been granted a carryforward extension and is now seeking a waiver of the required forfeiture of the performance deposit.

12-036 Gridley Springs Apartments

The Project is comprised of two adjoining complexes. In April, the Department of Housing and Community Development - HOME Program (HCD) staff realized that the funding for the two phases was not identical, and then informed the applicant that there had to be identical common financing on the two phases or they would not fund Gridley I and Gridley II as one "project". The HCD staff determined that an appropriate solution would be to split the application into two projects, Gridley Springs I Apartments and Gridley Springs II Apartments. The applicant then submitted two new applications to TCAC for separate allocations and submitted the revised budgets to HCD in July. HCD later informed the developer that they would not fund Phase II and asked if the developer wanted to accept funds for Phase I alone. The applicant decided to go with Phase I alone and sent their revised budget to HCD. Given the delays, it became unlikely that the developer could close the loan with Rabobank by the October 16 CDLAC deadline. As such, the Applicant has returned its initial allocation to CDLAC and is now seeking a new allocation at the September 26th meeting. Because this delay was brought on by the modification requirements of HCD after the projects had been granted an HCD approval, the Applicant requests a waiver of the forfeiture of the performance deposit and negative points associated with the return of its initial allocation.

12-037 Lugonia Avenue Apartments

The City's conditions of approval for Valencia Grove Apartments (formerly known as Lugonia Avenue Apartments) require the realignment of Delaware Avenue on the north side of the project site. To accomplish the realignment, a 30-foot strip of Delaware Ave needs to be reconstructed, and that strip was owned by the Redlands Unified School District. Prior to approving the project entitlements, the City required that an agreement be reached with the District on how to accomplish this. In 2009, the sponsor/developer received a written commitment letter from the District agreeing to provide an easement which would allow for the realignment construction. After considerable delay, the District notified the sponsor/developer on March 30, 2012 that they would not be honoring their written agreement to provide the easement. However, in late May 2012, the District decided that sale of the Land by the District and acquisition of the land as part of the Valencia Grove Apartments project was an acceptable option. The acquisition finally closed on August 24, 2012. With the addition of the Delaware Avenue strip to the land being leased for Valencia Grove Apartments, the City then wanted the tract map for the Valencia Grove Apartments parcel to be redrawn and resubmitted for City approval. The acquired land has been added to the tract map and has been submitted to the City. The City has indicated that it is unlikely to be able to

approve the revised tract map in time for Valencia Grove's original deadline for issuing bonds. As a result, the initial allocation has been reverted to CDLAC and a new allocation will be requested at the CDLAC September 26, 2012 allocation meeting. Because this delay was not due to any actions of the Applicant, the Housing Authority is requesting a waiver of the performance deposit forfeiture and negative points associated with the return of its initial allocation.

12-051 Madera Apartments

The Project has experienced a delay in receiving the TCAC Reservation Letter, thus delaying the closing date of the Project. In addition, the City is taking longer than expected to process the necessary parcel map approval. The issuer now anticipates closing by early October 2012. The Applicant is requesting an issuance extension to November 27, 2012.

12-049 Westlake Christian Terrace Apartments

The Project is experiencing delays in obtaining approval from HUD headquarters on the prepayment of the existing 202 loan, as well as deferment of the existing Flex Subsidy loan. In addition, the Project is waiting on an approval from HCD on a deferment request for the project's existing CHRP loan. The Applicant is requesting an issuance extension to December 26, 2012.

12-055 High Place East Apartments

The redevelopment funds committed from the City of Santa Monica has delayed the closing and construction of the Project. On August 27, 2012, the Project's loan disbursement was approved on the ROPS by the Oversight Board. The next step is for the Department of Finance to provide comments (if any) to the ROPS by October 1, 2012. Once the Project is approved by the DOF, the lenders and investors will complete their due diligence and prepare bond and loan documents. The bonds are expected to be issued by mid-December. The Applicant is requesting an issuance extension to December 26, 2012.

Discussion:

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 Committee 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.

In addition, the CDLAC Regulations state that if an Allocation was awarded during an Open Allocation Round, the Committee may extend a Project or Program's expiration date up to the next regularly scheduled meeting at which time the Committee may elect to grant an additional extension up to ninety (90) days.

The Projects noted above are otherwise in full compliance and eligible for an extension and/or waiver of penalties under the CDLAC Regulations.

RECOMMENDATION:

Staff recommends the approval of waivers of the performance deposit forfeiture, waivers of negative points, and/or extensions of the issuance deadline for all Projects noted above.

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