

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE**  
**September 18, 2013**

**Consideration of a Request for a Waiver of the Forfeiture of Performance Deposit**  
**for the Park Village Apartments (12-142 & 13-020)**  
**Qualified Residential Rental Project Program**  
**(Agenda Item No. 6)**

**ACTION:**

Consider the approval of a Waiver of the Forfeiture of Performance Deposit for the Park Village Apartments (12-142 & 13-020).

**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 December 12, 2012 and March 13, 2013, the Park Village Apartments Project ("Project") was awarded \$24,250,000 and \$1,750,000 in tax-exempt bond allocation, respectively. Due to issuance delays and after various standard extensions, the Executive Director approved a Carryforward extension moving the issuance deadline to August 31, 2013. The approval of the Carryforward extension required that the Project's performance deposit be forfeited to the Committee. Park Village Family Apartments, L.P. (The "Project Sponsor") is now requesting consideration of a waiver of this penalty due to an unexpected delay in the approval of financing by the U.S. Department of Housing and Urban Development ("HUD").

The Project is assisted by project-based Section 8 moderate rehabilitation contracts (the "Mod Rehab Contracts") administered by the Housing Authority of the County of Los Angeles (the "PHA"). The Project Sponsor made an application to HUD on January 23, 2013 for conversion of the Mod Rehab Contract to a Project Based Voucher ("PBV") program contract (the "PBV Contract") under HUD's Rental Assistance Demonstration program ("RAD") in order to facilitate Project rents more closely tied to the market and to obtain a long-term subsidy contract. Because the Project was among the first of the projects to close under the RAD Program, there was an unexpected delay in getting the ACC Amendment processed. After more than six months, RAD approved the conversion of the Mod Rehab Contract to a PBV Contract on July 30, 2013, and on August 13, 2013 issued an updated approval providing further assurances that the formal funding agreement (known as an amendment to the Annual Contributions Contract between HUD and the PHA (the "ACC Amendment")) was in process. As soon the ACC Amendment came through from HUD several days later, the PHA executed the PBV Contract and the Project issued bonds on Friday August 27, 2013.

**DISCUSSION:**

While it is reasonable to assume some delay in getting commitments through a relatively new program, the Project Sponsor had been assured by HUD that they would expedite the process for this project. The fact that it would ultimately take more than six months for the HUD (RAD) approval was not anticipated

by both the Project Sponsor and HUD regional staff. 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 Park Village Apartments Project (12-142 & 13-020).

*Prepared by Richard Fischer*