

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
May 21, 2014

Consideration of Requests for a Waiver of the Forfeiture of Performance Deposit for Various Projects
(Agenda Item No. 6)

ACTION:

Consider the approval of a Waiver of the Forfeiture of Performance Deposit for the Rio Vista Apartments Project (13-067), Villa Nueva RHCP Apartments Project (13-084), and the Santa Monica RHCP Apartments Project (13-083).

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. All projects noted below have received Carryforward extension approvals; which the Executive Director approved to provide each project with additional time to issue bonds. Approval of a Carryforward extension requires the forfeiture of the Project’s performance deposit. 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.

Villa Nueva RHCP Apartments (13-084) and the Santa Monica RHCP Apartments (13-083)

On September 18, 2013, Villa Nueva RHCP Apartments (13-084) and the Santa Monica RHCP Apartments (13-083) were awarded \$2,300,000 and \$4,500,000 in tax-exempt bond allocation respectively. The Projects continue to experience delays in the completion of loan documents necessary to close the transactions and it is no longer possible to close the bonds by the previously established final issuance deadline. The delay is due to the extended time required by the California Department of Housing and Community Development (HCD) to prepare legal documents related to the assumption and restructuring of its existing loans, which is both unexpected and beyond the control of the borrower.

Rio Vista Apartments (13-067)

On September 18, 2013, Rio Vista Apartments (13-067) was awarded \$4,000,000 in tax-exempt bond allocation. The Project continues to experience delays in the completion of loan documents necessary to close the transaction and it is no longer possible to close the bonds by the previously established final issuance deadline. Unfortunately, as HUD has worked through issues related to the new Rental Assistance Demonstration (RAD) program, there have been program-related delays that have prevented the Project from closing. However, HUD has provided a written confirmation regarding the remaining steps to complete the transaction and is now confident they will be able to close by June 15, 2014.

RECOMMENDATION:

In light of the circumstances described, staff recommends the approval of the Waiver of Forfeiture of the Performance Deposit for the Villa Nueva RHCP Apartments (13-084), the Santa Monica RHCP Apartments (13-083) and the Rio Vista Apartments (13-067) Projects.