

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
May 18, 2016

Consideration of Requests for a Waiver of the Forfeiture of Performance Deposit and Waiver of Negative Points for the E. Boyd Esters Manor Apartments Project (15-452)
(Agenda Item No. 5)

ACTION:

Consider the approval of a Waiver of the Forfeiture of Performance Deposit and Waiver of Negative Points for the E. Boyd Esters Manor Apartments Project.

BACKGROUND:

An Applicant bears the risk of forfeiting all or part of their performance deposit and receiving negative points if the Allocation is reverted to the Committee and not used in accordance with the conditions and timeframes set forth in the California Debt Limit Allocation Committee (“CDLAC”) Resolution. As provided for within CDLAC’s regulations, CDLAC permits an Applicant to request a waiver of the forfeiture of the performance deposit if the reason prompting the forfeiture is unforeseen and outside the control of the Project Sponsor and the development team. Additionally, CDLAC permits an Applicant to request a waiver of the negative point assessment if the reason prompting the forfeiture is unforeseen and outside the control of the Project Sponsor.

The E. Boyd Esters Manor Apartments (“Project”) was a recapitalization Project being bought and sold by related entities. The Project received allocation on December 16, 2015 and had an issuance deadline of March 25, 2016. Bonds were not issued for this Project and accordingly were reverted to CDLAC prompting the imposition of negative points and the loss of the performance deposit.

In October of 2015, at the time the Project application was submitted, Mr. Blair Williams was the Chairman of the Board of Rosecrans Manor Inc. (“the Board”), the General Partner of the E. Boyd Esters Manor Preservation, L.P. (“Project Applicant”). The performance deposit was provided by Blue Green Preservation and Development (“Project Developer”). Mr. Williams as the president of Rosecrans Manor Inc. was the signatory on the CDLAC application and signed the purchase and sales agreement as the representative for the buyer and the seller. Subsequent to submission of the application, Mr. Williams resigned his position as president of the Board on December 21, 2015. In January of 2016, Dolores Zurita was elected to the Board filling the vacancy left by Mr. Williams.

In March of 2016, shortly before the expected issuance date of the bonds but more than three (3) months after the Project received an allocation of bonds, CDLAC received correspondence from Mr. Williams that the CDLAC application and the accompanying purchase and sale agreement had fraudulent signatures. In a preceding e-mail to the US Department of Housing & Urban Development (HUD), Mr. Williams rescinded his board resignation letter. Subsequent to Mr. Williams claims, the Board Chair, Dolores Zurita, confirmed that the Board never accepted the purported rescinded resignation of Mr. Williams nor was there any affirmative vote of the Board of Directors to accept his purported retracted resignation. Additionally, in March of 2016, the Board affirmed their authorization for the CDLAC application and accompanying submitted documentation. Due to this unforeseen circumstance relating to the above described dispute, the planned recapitalization of the Project was not able to move forward. As a result the bond allocation awarded to the Issuer, the California Public Finance Authority (CalPFA), was subsequently reverted to CDLAC. The Board is pursuing legal action against Mr. Williams.

Subsequent to the withdrawal of the application, CDLAC requested and received copies of the corporate resolution authorizing the sale and recapitalization of the property to occur. Additionally, CDLAC has been provided e-mails written to and from Mr. Williams that indicate he was in full support of the proposed recapitalization through the time the application was submitted to CDLAC and the Bond allocation was

awarded in December of 2015. Other than Mr. Williams, no member of the development team including Blue Green Preservation (~~“Project Developer”~~) nor the Rosecrans Manor Inc. Board has corroborated Mr. Williams’s claims. Furthermore, despite his claims of forgery, Mr. Williams has instructed CDLAC to allow the transaction to proceed.

STAFF COMMENTS:

In consideration of the circumstances, staff recommends that the Committee assess Mr. Williams’s negative points given his role as the principal of Rosecrans Manor at the time of the application. Furthermore, staff recommends that the Committee waive the Negative Points penalty to Rosecrans Manor Inc. given the dispute was unforeseen and beyond the control of the current Rosecrans Manor Inc. Board. Staff recommends that the Committee waive Forfeiture of the Performance Deposit given that the circumstances leading to the reversion were outside of the control of the current Project Sponsor and developer team members. This would allow for a partial penalty for the failure to issue bonds that will impact future projects submitted by Mr. Williams.

RECOMMENDATION:

Staff recommends imposition of negative points to Mr. Williams in connection with his role in the E. Boyd Esters Manor Apartments Project (15-452). Additionally, staff recommends a waiver of the imposition of negative points to Rosecrans Manor Inc. and waiver of the forfeiture of the performance deposit penalty for the E. Boyd Esters Manor Apartments Project (15-452).

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