

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
September 21, 2016

Consideration of Requests for a Waiver of the Forfeiture of Performance Deposit for the Pacific Rim Apartments Project (15-453) and Las Cortes Apartments Project (15-316)
(Agenda Item No. 4)

ACTION:

Consider the approval of a Waiver of the Forfeiture of Performance Deposit for the Pacific Rim Apartments and Las Cortes Apartments (“the Projects”).

BACKGROUND:

The Projects received a Carryforward extension approval; which the Executive Director approved to provide the Projects with additional time to issue bonds. Approval of a Carryforward extension requires the forfeiture of each Projects’ performance deposit. For a waiver to be approved, the CDLAC Executive Director subjects each 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. Each request must pass both tests.

DISCUSSION:

The Pacific Rim Apartments Project issued by California Public Finance Authority (“the Applicant”) on behalf of Pacific Rim Preservation, L.P. (“the Project Sponsor”) and Las Cortes Apartments issued by California Statewide Communities Development Authority (“the Applicant”) on behalf of UHC 00558 Oxnard, L.P. (“the Project Sponsor”) received allocation on December 16, 2015 and September 16, 2015 respectively. Issuance was postponed for both Projects due to delays in review and approval by the Department of Housing and Urban Development (HUD). These delays were due to the transitions within the HUD office (from Los Angeles to San Francisco) requiring HUD additional time to complete their approvals for the Projects. As a result, a Carryforward extension was required for each Project to provide the additional time needed to issue bonds. Please note, these Projects are subject to the regulations in place prior to staff’s October 2015 clarification regarding the loss of a project’s performance deposit as it relates to a bond issuance deadline extension and CDLAC has consistently approved waivers for projects in similar situations.

As part of such an extension approval under the CDLAC Regulations, the Applicant is required to surrender the associated performance deposit. The Applicants and Project Sponsors are now requesting a waiver of this requirement based upon the unforeseen delays experienced by the HUD administrative staff. For Pacific Rim Apartments, the Project Sponsor is confident that they will be able to complete all closing steps by the extended bond issuance date of November 14, 2016. Las Cortes Apartments has since issued bonds on June 29, 2016.

RECOMMENDATION:

In light of the circumstances described above, staff recommends the approval of the Waiver of Forfeiture of the Performance Deposit for the Pacific Rim Apartments and Las Cortes Apartments Projects.

Prepared by Richard Fischer