

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

December 21, 2020

Consideration of Appeal(s) and Applications for an Allocation of the State Ceiling on Qualified Private Activity Bonds for Qualified Residential Rental Projects and Awards of Allocation from the December 9, 2020 Allocation Meeting (Action Item)
(Agenda Item No. 6)

ACTION:

Consideration of Appeal(s) for Qualified Residential Rental Projects and Awards of Allocation from the December 9, 2020 Allocation Meeting (Action Item)

DISCUSSION:

On December 9, 2020, there were two appeals that were not heard at the meeting due to the Committee Members not receiving the appeal materials.

The Project was seeking points for both New Construction and Preservation points. Staff informed the Applicant that points for these different types of projects cannot be combined as to advantage the ranking of a project. If a Project is categorized as a new construction project, then it is eligible for points associated with the new construction project type. If a Project is categorized as a preservation project, then it is eligible for points associated with the preservation project type. The Applicant appealed staff's preliminary recommendation and subsequently staff's final recommendation. After the Executive Director discussion with STO General Counsel it was confirmed that the project was not eligible for both.

Staff has provided the materials for the Committee's consideration.

RECOMMENDATION:

Staff recommends the Committee deny the Applicant's appeal for this project.

Prepared by Sarah Lester

Blackwell, Judith

From: Jenny Scanlin <Jenny.Scanlin@hacla.org>
Sent: Wednesday, December 2, 2020 10:14 PM
To: Blackwell, Judith
Cc: Cardone, Frank; Witte, Bill; Kwok-Linehan, Shaena
Subject: RE: Rose Hill Courts Appeal

Judith:

At Rose Hill Courts ("RHC"), our project serves a population that is primarily comprised of extremely low income senior households who belong to an underrepresented racial or ethnic group and have or reside with a family member who has a disability. These demographics place our residents among the most COVID vulnerable populations which is why more than ever our project must be considered for additional project funding allocation.

According to data collected from the Centers for Disease Control and Prevention, COVID has disproportionately affected the Hispanic/Latino and Black/African-American population. At Rose Hill Courts, the majority of our residents represent these racial and ethnic groups with 83.4% identifying as Hispanic or Latino and 7.5% identifying as Black or African-American. Age and medical condition are also factors in determining the COVID vulnerability of a population and among the 87 households in Rose Hill Courts, 58.6% of households have a head of household or spouse who is 62 years of age or older and 42.5% of households report having a resident with a disability. The nature and severity of the disabilities are mainly those of mobility, due to conditions of arthritis, vision impairment, and joint, back, hip, arm and leg problems but there are also residents who report having issues such as chronic illness, diabetes, and cancer which have been identified as underlying medication conditions that put an individual at greater risk of severe illness if they contract the virus.

The socio-economic status of our residents should also be considered since groups with very low and extremely low income are particularly vulnerable to not only the health effects of the virus but the economic hardships caused by limited work hours and job loss. At Rose Hill Courts, 11.5% of households are classified as having very low income and 73.6% of households are classified as having extremely low income.

Collectively, these factors place the residents of Rose Hill Courts at a greater risk of experiencing the health and economic hardships associated with the Corona virus and why we believe the Committee should prioritize the Rose Hill Courts project for additional funding allocation.

Respectfully,

Jenny

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Build HOPE: Investing in People and Place

From: Kwok-Linehan, Shaena <Shaena.Kwok-Linehan@related.com>
Sent: Monday, November 30, 2020 5:21 PM
To: 'Judith.Blackwell@treasurer.ca.gov'
Cc: Witte, Bill; Cardone, Frank; Silverberg, Ann
Subject: Rose Hill Courts Appeal



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December 2, 2020

CDLAC Committee Members
And Judith Blackwell, Executive Director
California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
Sacramento CA 95814

Re: Rose Hill Courts Phase I Application #20-670

Dear CDLAC Committee and Executive Director Blackwell,

Please accept this letter as our appeal of CDLAC's final recommendation for the scoring and ranking of Rose Hill Courts Phase I, under Section 5038 of the CDLAC regulations. This letter serves as notice of our intention to present our case to the Committee at the December 9th, 2020 Allocation meeting. Attached is our revised appeal that specifically addresses the points raised by Executive Director Blackwell in her response to our preliminary appeal.

We strongly urge CDLAC staff and the CDLAC Committee to support this first phase of development at Rose Hill Courts and approve the points which this important project deserves and qualifies for in order to allow the project to commence construction early next year.

Sincerely,

Douglas Guthrie
President and CEO

William Witte
Chairman and CEO

Encl.: Appeal of Preliminary Recommendation; Revised Letter from Cox, Castle & Nicholson



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November 18, 2020

CDLAC Committee Members
And Judith Blackwell, Executive Director
California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
Sacramento CA 95814

Re: Rose Hill Courts Phase I Application #20-670

Dear CDLAC Committee and Executive Director Blackwell,

Please accept this letter and the attached legal opinion as our appeal of the scoring and ranking of Rose Hill Courts Phase I, under Section 5036 of the CDLAC regulations. While the technical support for our submitted scoring is detailed in the attached letter, as detailed below, Rose Hill Courts is a prime example of a project CDLAC should support and one which must be scored in accordance with CDLAC's written regulations.

The Housing Authority of the City of Los Angeles ("HACLA") and Related have been working on the redevelopment of Rose Hill Courts for over six years. Originally built in 1942, the Rose Hill Courts property is one of the oldest public housing sites in HACLA's portfolio. The buildings have outlived their planned life cycle and HACLA has had to take 9 of the existing public housing units off-line due to damage caused by termites. The existing units are mostly two-story walk-up, and no current unit on site meets current ADA standards. This sits in stark contrast to what the Authority understands are the needs of the extremely and very low-income households we serve. Currently, 50% of the over 50,000 households on HACLA's public housing wait list self-identify as having a family member with one or more disabilities or are considered elderly and would do best in universally adapted units.

In 2014, HACLA identified Rose Hill Courts as a top priority in the public housing portfolio for redevelopment and partnered with Related to realize our goal of achieving the maximum number of new units built on site, while minimizing resident relocation. The Rose Hill Courts redevelopment will provide 185 new units, split into two phases (89 units in Phase I and 96 units in Phase II), nearly doubling the existing density. To obtain community support for this increased density, HACLA held over 40 meetings and design charrettes, creating a feedback loop with its public housing residents, the Neighborhood Councils, and other members of the community. The community of residents, advocates, and stakeholders have participated in interactive meetings on various aspects of the Project including the development program, design features, relocation, environmental review, and the provision of Sustainable Infrastructure and Transportation Related Amenities.

The resulting redevelopment plan puts the needs of the residents first, by minimizing off-site relocation of residents, offering all households a right to return, and providing housing for the next century, stewarded for the public good and permanently affordable. The residents of Rose Hill Courts have been waiting over 6 years for this redevelopment to begin, and the second phase of Rose Hill Courts will not be able to start until the first phase has been completed. Relocation is set to commence in December, and construction is scheduled to start in April, 2021.

The Rose Hill Courts redevelopment is a prime example of both preservation of affordable housing and construction of new deeply affordable housing stock, which should be embraced in California and rigorously supported. The federal government is providing unique support through its RAD Conversion Program and Tenant-Protection Vouchers which is being paired with HUD's Section 18 demolition disposition approval, allowing HACLA and the State of California the opportunity to meet their affordable housing needs. Failing to fully support these opportunities is tantamount to turning away millions of dollars in federal resources to help resolve our housing crisis.

HACLA is investing \$15.45 million in Rose Hill Courts Phase I, in addition to committing project based vouchers for all of the units (77 Project Based Vouchers and 11 RAD vouchers). The RAD program extends to all units at Rose Hill Courts, not only those receiving the 11 vouchers, as all units will be subject to the RAD regulatory agreement. Rose Hill Courts Phase I also has a significant State investment, through a \$12 million commitment from HCD under the AHSC program and a \$3.5 million commitment from HCD under the IIG program. The City of Los Angeles is using an additional \$8 million in AHSC funds to provide pedestrian safety upgrades in the immediate neighborhood, 6 new bus shelters and 8 electric buses, among other improvements. Rose Hill Courts represents a combination of every possible public policy objective: preservation of the site as deeply affordable through a long term ground lease with HACLA, increasing density through the provision of new construction units (Phase I represents a 345% increase over the 20 units it is replacing), meeting state objectives for GHG reduction, utilizing funding from every level of government (local, state and federal), and is broadly supported by the residents who live there and the neighboring community.

We strongly urge CDLAC staff and the CDLAC Committee to support this first phase of development at Rose Hill Courts and approve the points which this important project deserves and qualifies for in order to allow the project to commence construction early next year. The attached letter from Cox Castle outlines the factual basis for our appeal of the scoring.

Sincerely,



Douglas Guthrie
President and CEO



William Witte
Chairman and CEO

Encl.: Letter from Cox, Castle & Nicholson

December 2, 2020

California Debt Limit Allocation Committee
915 Capital Mall, Room 311
Sacramento, CA 95814

Re: Rose Hill Courts Phase I (CDLAC Application #20-670)

Dear CDLAC and CDLAC Committee Members:

This letter constitutes an appeal of the final CDLAC staff recommendation for Rose Hill Courts Phase I (CDLAC Application #20-670), on behalf of The Housing Authority of the City of Los Angeles (the “Applicant”). This appeal is filed pursuant to Section 5038 of the CDLAC program regulations (adopted June 9, 2020) (the “Regulations”). The Applicant submitted the proposed Rose Hill Courts Phase I project (the “RHC Project”) under CDLAC’s New Construction Pool and requested points under Regulation 5230(b) because the RHC Project meets the objective requirements for scoring points under the express language of Section 5230(b), yet CDLAC has refused to award those points on the grounds that the RHC Project is not competing in CDLAC’s Preservation Pool.

This appeal letter explains that the clear language in the Regulations and in CDLAC’s own application materials obligate CDLAC to award the maximum twenty (20) points requested by the Applicant under Regulation 5230(b). No new or additional information beyond that provided in the original application is provided in connection with this appeal.

1. **The Regulations provide that ALL Qualified Residential Rental Projects are eligible to receive points under Section 5230(b).** Regulation 5230 expressly provides that all Qualified Residential Rental Project applicants are eligible to receive points under each point scoring category, explaining that the scoring criteria set forth in Regulation 5230 “will be used to evaluate and rank all Applications whether for Mixed Income Projects, Rural Projects or other Qualified Residential Rental Projects...” (emphasis added). The RHC Project proposed in the Application is a “Qualified Residential Rental Project” under the Regulations, and therefore is entitled to all point scoring categories set forth in Regulation 5230.

Regulation 5230(b) also expressly provides that all Qualified Residential Rental Project applicants are eligible to receive points under Regulation 5230(b), explaining that “[p]rojects meeting the following criteria shall receive the following points, up to a maximum of 20 points...” If CDLAC

had intended to restrict points under Regulation 5230(b) only to projects competing in CDLAC's Preservation Pool, CDLAC should have expressly provided for that limitation in the Regulations. Yet the existing Regulations contain no such limitation. Quite the opposite: the Regulations provide that all Qualified Residential Rental Projects that meet the point scoring criteria under 5230(b) shall receive the requisite points.

2. **CDLAC's application materials also provide that ALL Qualified Residential Rental Projects are eligible to receive points under Section 5230(b).** Consistent with Regulation 5230, the CDLAC application materials for the December 9, 2020 application round instruct applicants to identify all project types that apply to the proposed project. Section 5 of the CDLAC application materials (Project Type and Characteristics) instructs the applicant to "[c]heck as many items as are applicable to the Project," followed by a list of project types that includes both "Preservation Projects," described in Regulation 5230(b) as being subject to existing HAP or other rental/operating assistance contracts, and "New Construction Projects" as defined in Regulation 5170. The RHC Project qualifies under both of these project types, as defined in the Regulations, and therefore checked both boxes, consistent with the Regulations and consistent with the express instructions in the application.

3. **Regulation 5034 requires CDLAC to rank applications in a competitive application process according to the number of points awarded pursuant to the evaluation criteria in the Regulations, and therefore CDLAC must account for all of the points the RHC Project qualifies for, including points under Regulation 5230(b).** Regulation 5034 obligates CDLAC to score all projects in competitive application rounds according to the points those projects attain under CDLAC's point scoring criteria. Regulation 5034 prevents CDLAC from awarding a project fewer points than that project qualifies for under the point scoring formulation provided in the Regulations. Yet this is exactly what CDLAC has done in its final recommendations for the December 9, 2020 CDLAC meeting, by wrongly depriving the points under Regulation 5230(b) to a project that objectively qualifies for those points under the express terms of the Regulations, and despite express instructions in CDLAC's own application materials instructing the applicant to apply for those points.

4. **CDLAC staff's interpretation of Regulation 5230(b) is not supported by the Regulations.** In a letter responding to the Applicant's November 19, 2020 appeal of the preliminary CDLAC staff recommendation for the RHC Project, CDLAC's Executive Director explained to the Applicant that CDLAC "interprets" Regulation 5230(b) as applying exclusively to "Preservation Projects," implying that the RHC Project is not a "Preservation Project." The express language of Regulation 5230(b) does not support this "interpretation" for the following reasons:

- First, as described in Section 1 above, the Regulations expressly provide that all Qualified Residential Rental Projects that meet the point scoring criteria under 5230(b) shall receive the requisite points.
- Second, the Regulations do not define "Preservation Project," and therefore there is nothing in the Regulations supporting CDLAC staff's interpretation that a "Preservation Project"

cannot also be a New Construction Project. On the contrary, the Regulations and the CDLAC application materials provide that all Qualified Residential Rental Projects are eligible to receive points under Regulation 5230(b) if they meet the objective criteria enumerated in that Section.

- Third, the Regulations do define “Preservation Pool,” and the RHC Project categorically meets the qualifying criteria for the Preservation Pool by satisfying Regulation 5170 (definition of “Preservation Pool”). The RHC Project qualifies under subsection (2) of the definition of “Preservation Pool (“any replacement or rehabilitation project approved by HUD pursuant to a Section 18 Demolition/Disposition authorization” (emphasis added)).

The RHC Project meets the objective criteria for receiving points under Regulation 5230(b), and also meets the qualifying criteria for CDLAC’s “Preservation Pool.” Either way, the RHC Project qualifies for points under Regulation 5230(b). CDLAC staff does not have the authority to “interpret” the Regulations to deny the RHC Project its points under Regulation 5230(b).

5. **CDLAC’s proposed 2021 Regulations limit points under Regulation 5230(b) to preservation and other rehabilitation projects, but there would be no need for this proposed revision if the existing CDLAC regulations already imposed this limitation.** CDLAC is currently working on revised regulations for 2021, including an overhaul of Regulation 5230(b). These proposed revisions do not apply to the RHC Project’s current application in front of CDLAC. However, the content of those proposed revisions is relevant for purposes of understanding CDLAC’s current regulations. Proposed new Regulation 5230(b) provides that only preservation and other rehabilitation projects are eligible to receive points under Section 5230(b). The fact that CDLAC is now proposing to limit points in Regulation 5230(b) to preservation and other rehabilitation projects, and to exclude new construction pool projects from this point category, necessarily means that Regulation 5230(b) as it exists today does NOT restrict eligibility for points in this manner. Otherwise, there would be no need for this change. Yet the RHC Project is not competing under the proposed revised regulations. It is competing under the existing Regulations. The existing Regulations provide that all Qualified Residential Rental Project applicants (including New Construction pool projects) are eligible to receive points under Section 5230(b).

6. **The RHC Project addresses a critical housing need in the City of Los Angeles, while preserving precious federal housing subsidies. CDLAC should follow its own rules and award the mandated Section 5230(b) points to support the RHC Project.** As described in the cover letter from the RHC Project sponsors, the RHC Project is a critically needed rebuild of an existing public housing project in Los Angeles, with deep affordability for vulnerable Los Angeles families and a substantial financial commitment from federal, state and local government. The RHC Project also constitutes phase one of a two-phase project, with the second phase also offering a critically needed rebuild of an existing public housing project. If CDLAC does not award the requested Section 5230(b) points for the RHC Project, in violation of the express language of CDLAC’s own Regulations and CDLAC’s own application documents, then CDLAC will needlessly damage and delay not just one, but two priority affordable housing projects for HUD,

the State of California, and the City of Los Angeles. CDLAC must follow its own rules and grant the Section 5230(b) points to which the RHC Project is entitled.

Sincerely,



Ofer Elitzur,
Cox, Castle & Nicholson LLP