

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
January 20, 2016

Consideration of Requests for a Waiver of the Forfeiture of Performance Deposit for the Leaster Apartments (Scattered Site) Project (15-307)
(Agenda Item No. 5)

ACTION:

Consider the approval of a Waiver of the Forfeiture of Performance Deposit for the Leaster Apartments (Scattered Site) Project.

BACKGROUND:

The Project received a Carryforward extension approval; which the Executive Director approved to provide the Project with additional time to issue bonds. Approval of a Carryforward extension requires the forfeiture of each 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.

The Leaster Apartments (Scattered Site) Project ("Project") received allocation on March 18, 2015 and initially had its issuance deadline extended by the Committee to December 15, 2015, as permitted under the CDLAC Regulations. As a result of several unforeseen delays outside the control of the Project Sponsor, the CDLAC Executive Director provided a subsequent Carryforward extension to January 29, 2016.

Issuance has been postponed due to delays in review and approval of certain items by the Department of Housing and Urban Development (HUD), specifically the approval of post-rehabilitation rents. The Sponsor has submitted documentation to HUD for its review. HUD has requested approvals involving the field office and HUD Central Office which have greatly extended the time for approval. While HUD has indicated that approvals are progressing, it was unable to provide a definitive timeframe for issuing by December 15, 2015. A Carryforward extension was required to provide the additional time needed to issue the bonds for this Project.

As part of such approval under the CDLAC Regulations, the Applicant is required to surrender the associated performance deposit. The Applicant and Project Sponsor hereby request a waiver of this requirement based upon the unforeseen delays experienced by the HUD administrative staff. The development team is now confident that it will be able to complete all closing steps by the extended bond issuance date of January 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 Leaster Apartments (Scattered Site) Project (15-307).

Prepared by Richard Fischer