

FOR CONSIDERATION

August 18, 2011

TO: The Directors

FROM: Kenneth Adams

SUBJECT: City of New York (Kings County)
Sea Rise I Residential Project - UDC Loan No.65
Sea Rise II Residential Project - UDC Loan No. 66

REQUEST

FOR: Authorization to (i) Commence Foreclosure Proceedings, (ii) Create ESD Subsidiary Corporations to Acquire Title to Projects, (iii) Make a Section 32 Mortgage Advance, (iv) Make a Determination of No Significant Effect on the Environment, and (v) Take All Related Actions.

PROJECT SUMMARY

Location: City of New York, County of Kings

Improvements: The site consists of two separate multi-story buildings, one each on adjoining parcels. The first is a 335 unit development located at 3325 Neptune Avenue and West 33rd Street, aka Sea Rise I, and the second is a 338 unit development located at 3415 Neptune Avenue and West 37th Street, aka Sea Rise II, in the Coney Island section of Brooklyn, New York. Both structures are irregularly shaped, multi-level buildings ranging in height from 1 story to a maximum of 24 stories.

BACKGROUND

Legal title to the Sea Rise I project (Sea Rise I) and Sea Rise II project (Sea Rise II) (collectively, the "Projects") is held respectively by Coney Island Site 4A-1 Houses, Inc. and Coney Island Site 4A-2 Houses, Inc. (collectively, the "Housing Companies"), affiliates of the Starrett Corporation ("Starrett" or the "Owners"), with beneficial ownership respectively held by Bay Park One Company and Bay Park Two Company, each of which is a New York limited partnership (collectively, the "Partnerships").

FUNDING SOURCE ESD Housing Repair Fund Account

PRIOR BOARD ACTION

Under an authorization by the Boards of Directors of the New York State Mortgage Loan Enforcement and Administration Corporation ("MLC") and the New York State Urban Development Corporation ("UDC"), a workout agreement was executed in 1985. In November 2010, the ESD Board authorized the sale of the Projects to Bay Park Towers, L.P. or other single purpose entity controlled by the Starrett

Corporation; acceptance of a partial prepayment of the FMD mortgages; forgiveness of the remaining balance of mortgage indebtedness; and the making of a Section 32 mortgage advance.

FINANCIAL

Sea Rise I was originally financed by UDC with a mortgage loan in the amount of \$16,406,000 and Sea Rise II's original mortgage loan totaled \$17,078,000 ("Final Mortgage Determination" or "FMD").

The current debt structure consists of the following outstanding indebtedness:

Sea Rise I: FMD mortgage in the amount of \$16,406,000, additional note with a balance of \$792,224, arrearage notes with outstanding balances totaling \$19,399,762, Section 32 advances of \$215,817, and a Project Improvement Program loan ("PIP") of \$986,920. As of July 31, 2011, accrued interest arrears total \$23,189,534. The Project is subsidized under Section 236 of the National Housing Act and receives annual interest reduction payments ("IRP") from HUD in the amount of \$977,173. The Project's IRP contract expires in February 2025. The Project also receives the benefit of a Rent Supplement Contract for 132 apartments (39.4% of the Project), which provides rental assistance payments to qualified tenants.

Sea Rise II: FMD mortgage in the amount of \$17,078,000, additional note with a balance of \$664,229, arrearage notes with outstanding balances totaling \$20,125,358, Section 32 advances of \$211,198, and a Project Improvement Program loan ("PIP") of \$955,995. As of July 31, 2011, accrued interest arrears total \$24,119,427. The Project is subsidized under Section 236 of the National Housing Act and receives annual interest reduction payments ("IRP") from HUD in the amount of \$999,823. The Project's IRP contract expires in June 2025. The Project also receives the benefit of a Rent Supplement Contract for 129 apartments (38.2% of the Project), which provides rental assistance payments to qualified tenants.

CURRENT STATUS

Constructed in the early 1970s, the Projects are located in the Coney Island section of Brooklyn. Since their initial occupancy, the Projects, which are managed by Grenadier Management Company, have been owned and operated as Mitchell-Lama Projects. They are currently in need of extensive and significant rehabilitation of the buildings' facades as well as the building systems, interiors and apartments.

In November 2010, the ESD Board approved a plan for the comprehensive rehabilitation of the Projects to be financed by a mortgage loan from New York State Homes & Community Renewal ("HCR") funded through the issuance of its tax exempt bonds and the decoupling of the Section 236 contracts from the existing UDC mortgages so that the new owners would continue to receive the mortgage subsidy payments from HUD for the remaining term of the Section 236 contract. The plan provided for payment to ESD of \$5.6 million, subordination by ESD of approximately \$76.5 million of its debt to the HCR financing, and forgiveness by ESD of the remaining outstanding indebtedness of \$38.8 million. The Board also authorized a mortgage advance for emergency façade work at the Projects in an amount not to exceed \$2.0 million to be repaid to ESD at the time of closing from proceeds of HCR's bond issuance.

Starrett was unable to complete the planned refinancing of the Projects with HCR prior to the end of 2010, at which time the consents received from the limited partners expired. In re-evaluating their prior consents, several of the limited partners decided not to extend their prior consents on the proposed

terms. As a result, none of the prior terms of the Board's November, 2010 authorization were implemented and the Owners no longer have the necessary authority to proceed with the approved financial restructuring at this time.

MANAGEMENT ACTION

The \$2.0 million Section 32 mortgage advance authorized by the Board in November 2010 has not yet been advanced. Given the significantly deteriorating condition of the Projects and the major health and safety issues requiring immediate remediation, we request that the Board reaffirm its authorization to make this Section 32 mortgage advance of \$2.0 million, even though ESD may not be repaid since the HCR refinancing, the proceeds of which were to repay this advance, is not moving ahead at this time. Furthermore, to protect the interests of the Corporation, we request that the Board authorize an additional \$1.5 million to address additional emergency façade repairs that must be completed at this time. All authorized Section 32 mortgage advances are to be funded from the Housing Repair Fund Account, which consists of savings realized from the 1996 Corporate Purpose Bond Restructuring.

Since the limited partners are unwilling to consent to the plan approved by ESD's Board of Directors in November 2010, the contemplated capital improvements and rehabilitation of the Projects cannot be completed. Given the seriously deteriorating condition of these Projects, which are close to 40 years old and the lack of partner consent to the plan, we request authorization to commence foreclosure proceedings on the Projects and create a subsidiary corporation for each Project pursuant to Article II of the NYS Private Housing Finance Law. This will allow ESD to acquire title to the Projects through foreclosure and seek new ownership in the event the consent of the limited partners cannot be secured to enable the HCR or other refinancing to proceed. In the event such financing does proceed, staff will implement the material terms of the prior authorization or return to the Board for an amended authorization.

PUBLIC PURPOSE

The Public Purpose to be served by the making of an emergency Section 32 advance will be to protect the projects' tenants by allowing critical repairs, some of a health and safety nature, to begin immediately.

NON-DISCRIMINATION

ESD's Non-Discrimination and Affirmative Action policy will apply. Purchaser and every successor in interest to the Property shall not discriminate upon the basis of race, creed, color, sex or national origin in the sale, lease or rental, or in the use or occupancy of the Property or improvements erected or to be erected thereon or any part thereof. This covenant shall run with the land in perpetuity.

ENVIRONMENTAL REVIEW

Pursuant to the requirements of the State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation, ESD staff performed an uncoordinated review. This review determined the project to be an Unlisted Action, which would not have a significant effect on the environment. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

REQUESTED ACTION

The Directors are requested to adopt the attached resolution authorizing (i) the commencement of foreclosure proceedings, (ii) the creation of ESD subsidiary corporations to acquire title to Projects, (iii) the making of a Section 32 mortgage advance, (iv) the making of a determination of no significant effect on the environment, and (v) the taking all related actions.

RECOMMENDATION

Based on the foregoing, I recommend approval of the attached resolution.

ATTACHMENTS

Resolution
Summary Approval Sheets

August 18, 2011

CITY OF NEW YORK (KINGS COUNTY) –SEA RISE I (UDC LOAN NO. 65) AND SEA RISE II (UDC LOAN NO. 66) RESIDENTIAL PROJECTS – AUTHORIZATION TO (I) COMMENCE FORECLOSURE PROCEEDINGS, (II) CREATE ESD SUBSIDIARY CORPORATIONS TO ACQUIRE TITLE TO PROJECTS, (III) MAKE A SECTION 32 MORTGAGE ADVANCE, (IV) MAKE A DETERMINATION OF NO SIGNIFICANT EFFECT ON THE ENVIRONMENT, AND (V) TAKE ALL RELATED ACTIONS.

RESOLVED, that based on the materials presented to this meeting and ordered filed with the records of the New York State Urban Development Corporation, relating to the Sea Rise I (UDC LOAN NO. 65) and Sea Rise II (UDC LOAN NO. 66) Residential Projects, the Corporation be and hereby is authorized to (i) Commence Foreclosure Proceedings, (ii) Create ESD Subsidiary Corporations to Acquire Title to Projects, (iii) Make a Section 32 Mortgage Advance, (iv) Make a Determination of No Significant Effect on the Environment, and (v) Take All Related Actions, and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.