

FOR CONSIDERATION

September 17, 2009

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Tenant Repair and Improvement Loan Program
Apple Walk Houses, Inc. – UDC Loan No. 12
Buffalo, New York

REQUEST

FOR: Authorization to (i) Make Tenant Repair and Improvement Loan to Apple Walk Houses, Inc in an Amount Not to Exceed \$2,887,500, (ii) Delegate Authority to the Senior Vice President & Chief Financial Officer or her Designee to Increase Loan Amount, if Deemed Necessary, to Complete Approved Work Items, and (iii) Take All Related Actions.

PROJECT SUMMARY

Project Name: Apple Walk Houses (“Apple Walk” or the “Project”)

Location: City of Buffalo, County of Erie

Improvements: 204 residential units consisting of 10 garden style and 12 townhouse style buildings

Legal Title: Apple Walk Houses, Inc. (the “Housing Company”)

BACKGROUND

The Project was originally financed by a mortgage loan in October 1971 by the New York State Urban Development Corporation (“UDC”) d/b/a Empire State Development Corporation (“ESDC” or “the Corporation”) to LeHigh Valley Houses, Inc. Title was acquired by Apple Walk Houses, Inc. in May 1991 subsequent to a successful foreclosure action brought by UDC. Apple Walk Houses, Inc. executed a \$5,215,500 first mortgage loan and arrearage notes totaling \$6,064,706. The current outstanding mortgage balance is \$11,280,206 and interest arrears total \$8,902,696.93. The Project also received \$303,920 of Section 32 mortgage advances.

CURRENT STATUS

At the April 15, 2009 meeting of the ESDC Board of Directors, the Directors were informed of a plan to establish the Tenant Repair and Improvement Loan Program (the “Program”) to eliminate health and safety issues, enhance living conditions, and improve the fiscal health of the Mitchell-Lama housing projects in ESDC’s loan portfolio. The Program provides that ESDC will make low cost loans for tenant repair and improvement to eligible properties with the requirement that all approved repair and construction work be completed within six months of the start of construction. The source of funds for this initiative is the Corporation’s Housing Repair Fund Account (the “Account”), which is funded from savings realized from the 1996 Corporate Purpose Bond Restructuring. In accordance with the original intent of the bond resolution, ESDC will access this Account to fund immediate capital needs of the projects, which will contribute to the preservation of the Corporation’s affordable housing portfolio originally financed in the 1970s.

Apple Walk Houses is financially distressed and unable to address its immediate capital needs. Unmet capital needs at the Project negatively affects the quality of life of the tenants and are likely to result in increased vacancy levels leading to greater shortfalls in operating revenues and operating escrow funds. Providing financial support to fund the physical needs of the Project will have a positive impact on its habitability and contribute to the preservation of safe and affordable housing for low and moderate income residents of Buffalo.

Pursuant to the revised Program Parameters, which were adopted by the Board of Directors at their August 2009 meeting, in return for receiving the Tenant Repair Loan, Apple Walk will commit to continue as an affordable housing project for the next 15 years or 5 years beyond the maturity date of the UDC first mortgage, whichever is later.

MANAGEMENT ACTION

In June 2009, Portfolio Management staff received an application for a Tenant Repair and Improvement Loan from Apple Walk. DHCR has now approved Project repairs and capital improvements for the Project, including replacement of windows; replacement of electrical transformers; apartment rehabilitation; and upgrading of apartments with energy-efficient kitchen appliances, carbon monoxide/smoke detectors and safe electrical outlets.

In order to complete the approved repairs and capital improvements, the Directors are requested to approve a Tenant Repair and Improvement Loan in the amount of \$2,887,500. To assure that the Program goals are achieved in an expeditious manner, it is requested that the Directors delegate authority to the Senior Vice President & Chief Financial Officer or her Designee to approve the release of additional funds from the Account in the event of unforeseen or unanticipated additional costs to cover the approved work for the Project. The amount of any additional loan shall not exceed 25% of the final approved repair amount for the Project.

ENVIRONMENTAL REVIEW

ESDC staff has determined that this request authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act (“SEQRA”) and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with the action.

AFFIRMATIVE ACTION

ESDC’s Non-Discrimination and Affirmative Action policy will apply. Program applicants are encouraged to use their best efforts to achieve Minority and/or Women-owned Business Enterprise participation of not less than 20% in the New York City Region and 10% in all other regions of the total dollar value of work performed pursuant to contracts or purchase orders entered into in connection with the tenant repair and improvement work related to the initiative, and to include minorities and women in any job opportunities created.

REQUESTED ACTION

The Directors are requested to adopt the attached resolution authorizing (i) the making of a Tenant Repair and Improvement loan to Apple Walk Houses, Inc. in an amount not to exceed \$2,887,500, (ii) delegation of authority to the Senior Vice President & Chief Financial Officer or her Designee to increase loan amount if deemed necessary, to complete approved work items, and (iii) the taking of related actions.

RECOMMENDATION

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

ATTACHMENTS

Resolution
Summary Approval Sheet

September 17, 2009

New York State Urban Development Corporation d/b/a Empire State Development Corporation (the "Corporation") - Authorization to (i) Make Tenant Repair and Improvement Loan to Apple Walk Houses, Inc. in an Amount Not to Exceed \$2,887,500, (ii) Delegate Authority to the Senior Vice President & Chief Financial Officer or her Designee to Increase Loan Amount, if Deemed Necessary, to Complete Approved Work Items, and (iii) Take All Related Actions.

RESOLVED, that upon the basis of the materials presented to this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation be and is hereby authorized to (i) make Tenant Repair and Improvement Loan to Apple Walk Houses, Inc. in an amount not to exceed \$2,887,500, (ii) delegate authority to the Senior Vice President & Chief Financial Officer or her designee to increase loan amount by an amount not to exceed 25% of the initial loan amount, if deemed necessary, to complete approved work items, and (iii) take all related actions; and be it further

RESOLVED, that the Chairman and Chief Executive Officer-Designate 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.