



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

File #: 446

Agenda Date: 12/7/2023

Agenda #:

Presentation, discussion, and possible action regarding a material amendment to the Housing Tax Credit Application for Canyon Pass (HTC #20474)

RECOMMENDED ACTION

WHEREAS, Canyon Pass (the Development) received a 4% Housing Tax Credit (HTC) award in 2020 for the new construction of 264 units in San Antonio, Bexar County;

WHEREAS, Pedcor Investments-2019-CLXXV, L.P. (the Development Owner or Owner) requests approval to change the Qualified Low Income Housing Development Election from the requirement that specifies that at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election) to the Average Income set-aside;

WHEREAS, the revised election does not affect how the Development was underwritten because all of the units at the Development are being leased at the 60% Area Median Income (AMI) level;

WHEREAS, Board approval is required for a request to implement a revised election under §42 (g) of the Code prior to filing of IRS Form(s) 8609 as directed by 10 TAC §10.405(a)(4)(G), and the Owner has complied with the amendment requirements under 10 TAC §10.405(a); and

WHEREAS, the requested change does not negatively affect the Development, impact the viability of the transaction, or impact the tax credit award;

NOW, therefore, it is hereby

RESOLVED, that the requested material amendment for Canyon Pass is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

Canyon Pass was approved for a 4% HTC award in 2020 for the new construction of 264 units of multifamily housing in San Antonio, Bexar County. Construction of the Development has been recently completed, and IRS Forms 8609 have not been issued by the Department. The Owner originally elected the requirement that specifies that at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election), and the Owner

identified the set-asides for the all units at 60% AMI. In a letter dated October 20, 2023, Jean Latsha, the representative for the Owner, requested approval for a material amendment to HTC Application. The Owner requests to revise the Qualified Low Income Housing Development Election from the 40% at 60% minimum set-aside election to Average Income.

The Owner states that the rent schedule is not changing at this time since the Development is already leasing 100% of the units at 60% AMI, but the requested change is to allow for more flexibility in leasing in the future, including the ability to lease to extremely low income families without a significant loss of revenue, since the lower rents can be off-set with higher rents at the 70% AMI level. The Owner has provided documentation from the lender and the investor acknowledging the requested change.

Staff recommends approval of the material Application amendment request.



October 20, 2023

Rosalio Banuelos
Director of Multifamily Asset Management
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Request for Material Amendment for Canyon Pass Apartment Homes, TDHCA #20474

Dear Mr. Banuelos:

Please accept this letter as a request for a Material Amendment in accordance with 10 TAC §10.405(a)(4)(G) of the 2023 Asset Management Rules. The original application for Canyon Pass Apartment Homes included an election under §42(g) of the Internal Revenue Code that indicated that at least 40% of the residential units would be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income, adjusted for family size. More specifically, the application also indicated that 100% of the units would be rent and income restricted at the 60% AMI level.

We are requesting to change that election to "Average Income" in accordance with IRC §42(g)(1)(C). Attached you will find approval for this requested change from both our lender Merchants Capital, and our equity investor/syndicator Regions Bank. Because this development is already being leased, we are not proposing a new rent schedule at this time and are leasing 100% of the units at the 60% AMI level. Therefore, there are no revised application exhibits.

Please let me know if you need any additional information from me.

Sincerely,

A handwritten signature in black ink that reads "Jean Latsha". The signature is written in a cursive, flowing style.

Jean Latsha
Vice President - Development
Pedcor Investments, A Limited Liability Company
ilatsha@pedcor.net

(512) 470-7312

Jean Latsha

From: Eric Speichinger <eric.speichinger@regions.com>
Sent: Thursday, October 19, 2023 5:16 PM
To: Jean Latsha; Tom Crowe; Kathleen Ramey
Subject: Income Averaging for Canyon Pass Apartments - San Antonio, TX (TDHCA #20474)

Jean,

This email is to confirm that Regions Bank, as tax credit investor for the above referenced development, is aware that the Managing Member is submitting a request to the Texas Department of Housing and Community Affairs (TDHCA) for a Material Amendment in accordance with Section 10.405(a)(4)(G) of the 2023 Asset Management Rules, in order to change the election under IRC Section 42(g) from "(40/60) to "Average Income" prior to filing IRS Form(s) 8609. The only requirement once approved by TDHCA and HUD/HUD Servicer is the payment of a one-time \$25,000, and any legal cost associated with amending the operating agreement.

Please forward us the approvals from TDHCA and HUD/HUD Servicer once received and we will commence the document modifications necessary for the operating agreement.

If you should have any questions please contact me.

Thank you,

Eric Speichinger

Regions Affordable Housing

Regions Bank



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Southwest Multifamily Region

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www.hud.gov

Michalle Small, SVP, FHA Chief Underwriter
Merchants Capital Corp.
410 Monon Boulevard, 5th Floor
Carmel, IN 46032-2345

SUBJECT: Housing Memorandum Approval for Income Averaging
Canyon Pass FHA #115-35889
San Antonio, TX 78258

Dear Ms. Quintana:

This letter represents HUD Multifamily Housing's approval to amend the Regulatory Agreement to reflect income averaging rents at 30%, 50%, 60%, and 70% area market income. Canyon Pass initially endorsed December 2020 and is targeting Final Endorsement in October 2023. Rents are currently underwritten with 100% of the Subject's units restricted to 60% AMI.

An amendment or addendum to the Regulatory Agreement must be approved by Production Division Director, Ken Cooper and assigned HUD OGC prior to Final Endorsement.

All other terms and conditions to the Firm Commitment and Firm Commitment Amendments issued remain the same. If you have any questions regarding this memo, please contact Tiffoney Pierre at tiffoney.a.pierre@hud.gov and Leslie Winston at Leslie.e.winston@hud.gov.

Sincerely,

Tiffoney A. Pierre
Acting Underwriting Branch Chief
Southwest Multifamily Region

*Fort Worth Regional Office
801 Cherry Street Unit #45, Suite 2500
Fort Worth, Texas 76102*

*Kansas City Satellite Office
400 State Avenue, Suite 300
Kansas City, KS 66101*



September 20, 2023

Art Wells
Underwriting Branch Chief
US Department of Housing and Urban Development
Multifamily Housing, Southwest Region
307 W. 7th St., Suite 1000
Fort Worth, TX 76102

Re: Canyon Pass
FHA #115-35889
Request for Amendment

Dear Art,

Please allow this letter to serve as our formal request to amend the **Canyon Pass** HUD Firm Commitment dated **August 13, 2020**.

Underwriting Revisions

Canyon Pass initially endorsed December 2020 and is nearing construction completion. Merchants plans to submit the Final Endorsement package to HUD by the end of September, targeting Final Endorsement in October. Originally, rents were underwritten, and the Firm Commitment was issued under the assumption 100% of the Subject's units would be restricted to 60% AMI. However, the client has elected to use income averaging, which requires a change to the recorded Regulatory Agreement. The current Regulatory Agreement references the 20% at 50% AMI or 40% at 60% AMI set aside. The revised Regulatory Agreement will reference the Income Averaging set aside.

As we discussed via email this week, our plan is to submit this Amendment Request to the Firm Commitment, detailing the proposed change to income averaging, along with the below analysis and backup documentation on the current achieved rents versus the original underwritten rents (to document how the DSCR will be the same or higher). Once the Amendment Request is reviewed/approved by HUD, we will work with our attorneys to amend the Regulatory Agreement and send along to HUD OGC for review before anything is recorded.

Below is our rent analysis, which compares our original underwriting (100% @ 60%) to current leasing activity at 60% AMI to current leasing activity using income averaging. As you can see, utilization of income averaging results in nearly the exact amount of GPR as compared to 60% AMI rents.

Original Underwriting - 40@60					
Bedrooms	Square Feet	Units	Median Income	Net Rent per Unit	Monthly Rent
1	733	108	60%	\$741	\$80,028
2	1016	132	60%	\$894	\$118,008
3	1221	24	60%	\$1,032	\$24,768
					\$222,804
Annual					\$2,673,648

Current Leasing Activity - 40@60					
Bedrooms	Square Feet	Units	Median Income	Net Rent per Unit	Monthly Rent
1	733	108	60%	\$846	\$91,368
2	1016	132	60%	\$1,025	\$135,300
3	1221	24	60%	\$1,188	\$28,512
					\$255,180
Annual					\$3,062,160

Current Leasing Activity - Income Averaging					
Bedrooms	Square Feet	Units	Median Income	Net Rent per Unit	Monthly Rent
1	733	3	30%	\$407	\$1,221
1	733	3	50%	\$719	\$2,157
1	733	91	60%	\$846	\$76,986
1	733	11	70%	\$846	\$9,306
2	1016	4	30%	\$491	\$1,964
2	1016	4	50%	\$864	\$3,456
2	1016	109	60%	\$1,025	\$111,725
2	1016	15	70%	\$1,025	\$15,375
3	1221	1	30%	\$564	\$564
3	1221	1	50%	\$996	\$996
3	1221	17	60%	\$1,188	\$20,196
3	1221	5	70%	\$1,188	\$5,940
					\$249,886
Annual					\$2,998,632

As shown below, the DSCR drops 4bps from 1.51x to 1.47x with income averaging.

	Original Application - 40@60	Current Leasing Activity 40@60	Current Leasing Activity Income Averaging
Potential Gross Rent	\$2,673,648	\$3,062,160	\$2,998,632
Vacancy	-\$169,536	-\$192,847	-\$189,035
Net Rental Income	\$2,504,112	\$2,869,313	\$2,809,597
Other Income	\$151,956	\$151,956	\$151,956
Effective Gross Income	\$2,656,068	\$3,021,269	\$2,961,553
Advertising	\$26,400	\$26,400	\$26,400
Management Fee	\$79,682	\$90,638	\$88,847
Other Admin	\$79,200	\$79,200	\$79,200
Electric	\$46,200	\$46,200	\$46,200
Water/Sewer	\$92,400	\$92,400	\$92,400
Trash Removal	\$66,000	\$66,000	\$66,000
Payroll	\$299,784	\$299,784	\$299,784
Repairs	\$118,800	\$118,800	\$118,800
Exterminating	\$5,280	\$5,280	\$5,280
Insurance	\$60,192	\$60,192	\$60,192
Ground Expenses	\$92,400	\$92,400	\$92,400
Replacement Reserves	\$66,000	\$66,000	\$66,000
Other Taxes	\$8,792	\$8,792	\$8,792
Total Expenses	\$1,041,130	\$1,052,086	\$1,050,295
Net Operating Income	\$1,614,938	\$1,969,183	\$1,911,258
Debt Service	\$1,301,109	\$1,301,109	\$1,301,109
DSCR	1.24	1.51	1.47

Enclosed please find a rent roll dated 9/19/23 which we used for our above analysis. Please contact us with any questions. Thank you for your assistance.

Sincerely,

Michelle Small
FHA Chief Underwriter

Enclosure(s)

cc: Ken Cooper
Eddie Dietrick
David Hines
Kristin Quintana
Christin Currie
Regina Burks
Vicki Major
Michael Reichert