



May 23, 2024

VIA EMAIL: cody.campbell@tdhca.state.tx.us

Mr. Cody Campbell
Direct of Multifamily Finance
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: Request for Force Majeure for The Sasha (#23011)

Dear Mr. Campbell:

DMA and The SAFE Alliance represent the development team for The Sasha, LP, the recipient of a 2023 9% LIHTC allocation for The Sasha in Austin. We are submitting this request to return our tax credits and have TDHCA reallocate the tax credits in the current year pursuant to the "Force Majeure" provisions in Section 11.6(5) of the 2024 Qualified Allocation Plan (QAP).

The basis for this request is two-fold:

1) Permitting delays.

It takes more than a year to obtain a site development permit in the City of Austin, even under the City of Austin's streamlined process for supportive housing deals, for which this development qualified. As part of that process, our architect and engineer had multiple meetings with Development Services staff starting in February 2023, with consultations at various stages of the design process intended to limit questions and redesign requests that typically come up after formal submittal. Despite these exhaustive pre-submittal efforts, and despite that we submitted our site development plan application in May 2023, two months before we received an award of tax credits, we only received site plan approval this month, after more than a 15-month processing time.

2) Extended construction period.

The general contractor cannot construct this development in less than 24 months because this is a high-density podium product located on a very tight site, within the larger SAFE campus that requires unusual security measures due to the safety needs of SAFE's client base (families who have recently experienced domestic violence). Further, in this post-pandemic world, contractors will no longer agree to aggressive construction timelines because there are so many things still outside of their control—like availability of certain products and services, and mostly notably in Austin, equipment necessary for permanent electric. Whereas before the pandemic, a 60-unit development like The Sasha could be constructed in 12-14 months, now similarly sized developments take 18-24 months to construct. See attached letter from Bailey Elliott Construction (the GC) for further support.

Despite these two major timing challenges, we have been working diligently on getting this development to the finish line for the past year, by undertaking the following:

- October 2023. SAFE/DMA receives the Commitment Notice.
- January 2024. SAFE/DMA receives a proposal from the selected General Contractor with a construction contract amount that is \$4M more than budget.
- March 2024. SAFE/DMA sign Letter of Intent with syndicator for \$0.86, approximately \$0.02 less than what we had at the time of application and commitment in 2023.
- March 2024. SAFE/DMA select a second General Contractor to rebid the construction contract. The GC received bids that resulted in a construction contract amount that is approximately \$2M more than what we had budgeted. Additionally, the GC will not commit to anything less than a 24-month construction schedule.
- April 2024. To make up for the gap caused by increased construction costs and reduced equity pricing, we requested and received an additional 5 Project-Based Vouchers and reduced the land cost (related party seller) from \$1M to \$0. The remaining gap is being filled with deferred developer fee.

Due to these exhaustive efforts to arrange the financing, and given the fact that we are permit ready, we finally can close this transaction within the next 3 months. However, our investor, Enterprise, requires us to receive this force majeure approval prior to closing because, while our placed in service deadline is not for another 18 months from now, we will be unable to meet that deadline because our construction period is 24 months. Stated another way, the December 2025 deadline is impossible to meet at this point.

The delays imposed by the uncertainty in the construction market are "force majeure" events that have materially impeded our ability to finalize financing and begin construction on a property that SAFE owns. Unforeseeable issues with the City of Austin as well as additional time required for value engineering have made the current 2023 awardee timelines unachievable. Our circumstance clearly satisfies TDHCA's requirements for a reallocation of LIHTC under Section 11.6(5) of the QAP and we request that this matter be considered at the next available Board meeting with a recommendation for approval.

SAFE and DMA are committed to closing this transaction and placing this development in service. SAFE currently owns the site and DMA has expended over \$1M in getting this development shovel ready. We are simply asking for more time here to place in service.

We thank TDHCA for their consideration of our request. If additional information is required, please contact me at JanineS@dmacompanies.com or 512-328-3232 extension 4505.

Sincerely,

DMA DEVELOPMENT COMPANY, LLC



Janine Sisak

Senior Vice President/General Counsel