

CSH Skyline at Cedar Crest, LTD

3701 Kirby Drive, Suite 860
Houston, TX 77098

June 5th, 2025

Texas Department of Housing & Community Affairs
221 E. 11th Street
Austin, TX 78701
Attn: Cody Campbell

RE: Request for Return and Reallocation of Tax Credits – Force Majeure under 10 TAC 11.6(5)
Skyline at Cedar Crest (TDHCA Application #21004, #22833, #23901)

Dear Mr. Campbell,

CSH Skyline at Cedar Crest, Ltd. (the “Applicant”) received an award of 2021 9% Low Income Housing Tax Credits and an award of 2023 Supplemental 9% Housing Tax Credits (the “Tax Credit Awards”) for Skyline at Cedar Crest (the “Development”) located in Dallas, Texas.

The Development closed in May 2024 with construction beginning immediately. Prior to Closing, the Development experienced extensive delays related to higher construction cost, rising interest rates, identifying sources so the Development remained feasible, municipal plan reviews and issuance of building permits. Since Closing, construction progress has been negatively impacted and delayed due to inspections and severe storms. Delays to the Development have resulted from unforeseen conditions outside the control of the Applicant. The Applicant believes the circumstances, individually and collective, constitute “force majeure” events. The Applicant is requesting a Force Majeure Extension and exchange of tax credits to extend the placed-in-service deadline.

The Applicant requests that the Board (TDHCA) consider and approve this request to exchange the 2023 9% Low Income Housing Tax Credits for CSH Skyline at Cedar Crest, LTD (#23901) to an allocation of 2025 Tax Credits and establish the placed-in-service deadline as June 30, 2026. The request is being made under 10 TAC 11.6(5). The force majeure exchange would allow Skyline at Cedar Crest to meet the Placed-In-Service (“PIS”) deadlines and satisfy a requirement from the Investor that the Applicant obtain an extension to the placed-in-service deadline.

Sudden and Unforeseen Circumstances Outside of the Applicant’s Control

1. Permitting Delays

The Applicant experienced delays in the design and permitting phase due to a very lengthy permitting process and prolonged approvals from the City of Dallas which created significant delays to the Closing. The property consists of two adjacent parcels. Following initial submissions and an initial predevelopment meeting, the City required the project to be submitted as two entirely separate projects with shared utilities. The development was reviewed and permitted as two entirely independent properties by separate plan reviewers working independently of each other. The delays were primarily caused by this requirement for separate independent plan reviews. The condition put the applicant in the position of navigating conflicting review comments from multiple staff members who reviewed plans with no effort to coordinate reviews and avoid conflicting comments. The requirement to submit and obtain separate permits was not known to the Applicant or the design team prior to the initial submission. The number of days from the time of the Initial Plat Submittal to the City of Dallas in 2021 until building permits were received from the City of Dallas in 2024, was approximately 975 days (2.5+ years). There were substantial delays due to configuring two plans sets, numerous resubmissions, prolonged plan reviews, staff changes and conflicting review comments.

The Applicant attempted to mitigate the impact of the lengthy plan approval and permitting process by early initiation of plan preparation, timely submissions and resubmissions, engaging locally based consultants and hiring a highly experienced plan expeditor with extensive knowledge of the permitting process at the City of Dallas. Despite the best efforts, the process was inefficient and prolonged. The extreme inefficiency and the excessively prolonged nature of the permitting process could not have been foreseen by the Applicant.

2. Finance and Closing Delays

Higher construction cost and rising interest rates negatively impacted feasibility prior to Closing. To mitigate against higher construction hard costs and higher interest rates, the Applicant applied for and was awarded funding from LISC Dallas in the amount of \$5,000,000 (the "LISC Opportunity Fund") and the City of Dallas in the amount of \$3,750,000 (the "Dallas Grant") from a CHDO HOME CF Loan.

At commitment from LISC, LISC had not yet identified the investors and/or secured capital for the opportunity fund. Once this commitment was made, LISC went to market to identify and target investors then raised the capital for their opportunity fund. Due to the process of identifying investors and securing capital for the opportunity fund, LISC ability to provide the committed funding and thus the closing was delayed significantly. The application to LISC was submitted in October 2022 with final funding approval being received in April 2024.

The release of funding for the Dallas Grant required City staff to initiate and complete an environmental clearance process in addition to a clearance for compliance matters prior to Closing. The process was prolonged and controlled entirely by staff at the City of Dallas. The process was impacted by changes to key staff in addition to a ransomware attack on the City of Dallas in May 2023. The Dallas Grant was approved by City Council in August 2022. The AUGF or authority to release the Dallas Grant funding was received Dec 2023 and the clearance for compliance matters occurred in April 2024 .

The proceeds from Dallas Grant and the LISC Opportunity Fund closed the gaps and insured feasibility for the Development, however, the processes and length of time was unforeseen by the Applicant and out of the control of the Applicant.

3. Weather and Construction Delays

Construction has been delayed by severe weather, unforeseen condition of offsite underground utilities and scheduling & completion of inspections with the City of Dallas. Change orders for time have been justifiable and granted to the Contractor. The Contractor change orders for time total 121 days.

The onsite waterlines were connected to an existing offsite waterline. During construction it was discovered that the existing offsite waterline was extremely old, in poor condition and buried significantly deeper than anticipated. Due to the age and obsolete piping material of the existing offsite waterlines, the City of Dallas required extensive testing/re-testing and remediation (chlorination) for the two connections to the offsite waterlines. The depth, poor condition and the requirements for extensive testing and remediation of the existing offsite waterline was unforeseen and delayed the start of other critical construction activities such as underground utilities and paving by 18 days.

Construction was significantly delayed by repeated cancellation and rescheduling of inspections of the fire suppression sprinkler systems by the City of Dallas. The inspections were required before other phases of the construction could begin. Citing a heavy workload and being under-staffed, the City inspectors repeatedly cancelled and rescheduled inspections of the fire suppression sprinkler system over a period of 42 days.

Weather related delays have included severe storms and flooding in October 2023 prior to closing as well as severe weather during construction in May 2024 (DR-4871-TX), August 2024, December 2024 and winter storms in Jan 2025. Weather delays have added 61 days to the Contractor construction schedule.

The Contractor's construction schedule anticipated Completion and achieving placed-in-service by November 2025. Based on the Contractor change orders for time, the anticipated Completion and achievement of placed-in-service is March 2026.

4. Summaries

The following Force Majeure events have materially impeded progress toward closing, completion and achieving placed-in-service for the Development:

- Assessment, planning and adjustment to unfavorable economic conditions
- Identifying and securing additional Sources
- Lender(s) closing due diligence and readiness to close
- Municipal plan reviews and excessively prolonged permitting processes
- Poor condition and remediation of offsite utilities
- Repeated cancellation of key municipal inspections
- Severe weather events that directly impacted the City of Dallas

The Applicant believes circumstances, individually and collectively, have created Force Majeure events that have significantly impeded the Applicant's ability to comply with the current placed-in-service deadline. Force Majeure events were unforeseen and have been out the control of the Applicant

The Applicant kindly requests this matter for Skyline at Cedar Crest be presented to the Board with a recommendation for approval for a Force Majeure Tax Credit Exchange with a place-in-service deadline of June 30, 2026. If any additional information is required, please feel free to contact me directly.

Your helpful attention to this matter is greatly appreciated.

Sincerely,

CSH Skyline at Cedar Crest, LTD


Eleanor M.C. Fanning
emcfanning@bromptonchdc.org

Attachments:

Attachment A

Timeline and Key Milestones and Approvals from the City of Dallas

08/2021 Design Team Engaged
09/2021 Initial Plat Preparation
12/2021 Preliminary Plat Approvals
12/2021 Predevelopment Meeting (City requires 2 plan Sets)
03/2022 Initial Site Plan Submittals - Paving & Storm Drain Plan – Plan Set 1
05/2022 Initial Site Plan Submittals - Paving & Storm Drain Plan – Plan Set 2
12/2022 Building Plans Accepted and Submitted
01/2023 Meetings with City Staff and responses by Design Team (2-3 iterations of each site)
03/2023 Easement Abandonments Acceptance
05/2023 Easement Abandonments Approved
04/2024 Site Plans submitted as final to account for all changes during the engineering process.
05/2024 North Addition Development Permit Received
05/2024 South Addition Development Permit Received

Attachment B

Contractor Change Orders for Time Delays

CO #1	05/20/2024	15 days added - severe storms and flooding
CO #2	08/13/2024	7 days added - severe storms and flooding
CO #3	09/17/2024	17 days added - excessive heat
CO #4	12/19/2024	7 days added - severe storms and flooding
CO #4	12/19/2024	18 days added – testing and inspection of old offsite waterline
CO #5	01/16/2025	15 days added - winter snow storms
CO #6	05/15/2025	42 days added – inspection of fire suppression & sprinkler systems