

October 10, 2025

Board of Directors
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, Texas 78711-3941

RE: Request for Force Majeure Relief – Sherry Pointe Apartments, Arlington, Texas
(the “**Development**”)
TDHCA File No. 24171

Dear Board Members:

On behalf of AT Sherry Housing, LP (the “**Owner**”), we respectfully submit the enclosed request for Force Majeure relief pursuant to Section 11.6(5) of the Qualified Allocation Plan. This request pertains to the Sherry Pointe Apartments development in Arlington, Texas, which was awarded 2024 9% Low-Income Housing Tax Credits.

Despite the Owner’s diligence and good-faith efforts throughout 2024 and 2025, the Development has encountered significant and unforeseen delays beyond its control—most notably:

- Required modifications to the approved site plan following updated Erosion Clear Zone Standards issued by the City; and
- Unexpected delays in the City’s review and approval of the final plat submittal.

Collectively, these circumstances have materially affected the project schedule and made it impossible for the Development to meet the federally mandated placed-in-service deadline.

The enclosed memorandum provides a detailed account of these events, the mitigation measures undertaken by the Owner, and the justification supporting this request. We respectfully ask that this matter be placed on the agenda for the next available TDHCA Board meeting, with a recommendation for approval.

Sincerely,



Cynthia L. Bast

Enclosures:

- Exhibit A – Force Majeure Narrative
- Exhibit B – Lender and Syndicator Letters
- Exhibit C – Timeline of Events for Tax Credit Application.
- Exhibit D – City Permitting Timeline
- Exhibit E – HUD 221(d)(4) Closing Timeline
- Exhibit F – Prior Site Plan Amendment Request

EXHIBIT A

**REQUEST FOR FORCE MAJEURE RELIEF
Sherry Pointe Apartments
Arlington, Texas**

(continued on next page)

October 10, 2025

VIA EMAIL DELIVERY

Cody Campbell
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: Sherry Pointe Apartments in Arlington, Texas (the "**Development**")
TDHCA File No. 24171

Greetings:

We represent AT Sherry Housing, LP (the "**Owner**"), which was awarded an allocation of Low-Income Housing Tax Credits ("**Tax Credits**") in the 2025 9% Application Round. Under program requirements, the Owner must place the Development in service by December 31, 2026.

Despite diligent efforts and proactive engagement, the Owner has encountered substantial, unforeseen delays beyond its control, primarily due to new and unanticipated requirements imposed by the City of Arlington, particularly the enforcement of Erosion Clear Zone standards.

Pursuant to the force majeure provisions outlined in Section 11.6(5) of the Qualified Allocation Plan, the Owner hereby respectfully requests to return the previously allocated Tax Credits and receive a reallocation in the current year.

Opening Statement

The need for this relief arises from four interrelated delays, all of which were outside the Owner's control:

1. Required Modifications to the Site Plan Due to Erosion Clear Zone Standards

As identified in a prior site plan amendment request, the City required unanticipated modifications to the site plan to comply with Erosion Clear Zone standards. This adjustment necessitated a reconfiguration of the site layout and delayed the preparation of final drawings needed for permitting and construction bidding. See **Exhibit F**.

2. Unexpected Delays in Final Plat Submittal

During the City's development review process, new and expanded requirements were imposed in connection with the final plat submittal. These requirements were not reasonably foreseeable and significantly delayed the finalization of both civil and architectural drawings required for City review.

3. Need for Value Engineering

Site redesigns along with updated municipal mandates led to higher construction costs, requiring an intensive value engineering process to maintain financial feasibility.

4. Delayed HUD Application Process Due to Design and Cost Uncertainty

As outlined in the Tax Credit Application, Owner's debt financing will be provided through an FHA-insured 221(d)(4) loan. The FHA 221(d)(4) financing timelines were directly affected by unresolved scope and budget elements, making the original placement in service deadline infeasible.

For all these reasons, the Owner's ability to meet the federally mandated placement in service deadline is jeopardized. The project's investor and lender have expressed that they cannot proceed to closing absent assurance that TDHCA will extend the placement in service deadline pursuant to the force majeure relief provided under Section 11.6(5) of the Qualified Allocation Plan. Please see **Exhibit B**. Accordingly, the Owner respectfully submits this request.

Detailed Justification

1. Delays associated with the Erosion Clear Zone standards

The Development site required rezoning, which the Owner initiated prior to filing a Tax Credit Application for the 2023 Application Round. Initial coordination meetings were held with the City in December 2022, followed by a pre-application meeting in February 2023, during which City departments provided early design input. A site plan incorporating this feedback was

submitted with the Planned Development (PD) zoning application, which was formally approved on October 17, 2023. However, this project did not receive Tax Credits in 2023, and the Development was put on hold until the Owner could apply again in 2024.

The Owner re-applied for Tax Credits in the 2024 Application Round. When the Tax Credit award was received, it commenced detailed design, building upon the zoning work that had been done in 2023. To the Owner's surprise, the City mandated on November 14, 2024, that the previously approved site plan be revised to comply with Erosion Clear Zone regulations—a new condition that materially altered the development footprint. Specifically, the Owner was required to relocate residential buildings outside the erosion zone, despite prior approvals.

This reconfiguration required extensive redesign by engineers, consultants, and architects, and the revised site plan was not approved by TDHCA until June 11, 2025. Until that approval, critical submittals—including final construction drawings—could not be completed, resulting in an unanticipated six-month delay to the overall project timeline.

2. Delays Associated with Final Plat Submittal

The Owner has experienced substantial delays in the final plat submittal process due to a series of expanded and evolving requirements imposed by the City—many of which were not reasonably foreseeable despite the diligence of both the Owner and the civil engineer. These unexpected requirements have materially impacted the timeline for preparing and submitting the final plat, with corresponding delays to the overall development schedule. Key contributing factors include:

(a) Inconsistent City Oversight

Frequent reassignment of City engineers has resulted in conflicting or redundant review comments, prolonging the approval cycle and reducing process efficiency.

(b) Third-Party Drainage Review

The City's use of an external consultant for drainage evaluation added multiple rounds of review, significantly extending timelines beyond standard expectations.

(c) Off-Site Water Line Redesign

Although City records indicate that a water line along Carter Drive already exists, the Owner has been directed to design and construct a new line. The lack of formal confirmation regarding the existing line's adequacy stalled civil design completion and affected cost projections.

(d) New Off-Site Drainage Easement Requirement

The City has requested that an off-site drainage easement be secured to convey runoff from an adjacent development to the east, through the Owner's site, and to a nearby creek—a requirement not identified during earlier coordination meetings.

Despite these unforeseen conditions, the Owner remains actively engaged with the City and the project team to address evolving requirements and minimize further delays. Nevertheless, these issues have significantly affected the permitting schedule and impeded timely progression to construction.

Please see **Exhibit D** for a timeline of events associated with PD approval.

3. Delays Associated with Financing

The above delays—particularly the site plan reconfiguration, final plat complications, and permitting hold-ups—have had direct and material downstream effects on HUD financing. Although the Owner submitted its HUD Concept Package in April 2024, prior to receiving the Tax Credit award, the changes in site layout and construction scope delayed the submission of final plans required for a complete HUD 221(d)(4) application. Key milestones include:

- HUD Concept Package submitted in April 2024
- Tax Credits awarded on July 25, 2024
- HUD Concept Meeting #2 held on December 4, 2024
- HUD Form 2328 (Initial Budget) submitted on July 26, 2025 (delayed because of City's required site plan changes)
- Revised HUD Form 2328, incorporating value engineering, expected by October 31, 2025
- Anticipated Full HUD Application submission by December 31, 2025

Please see **Exhibit E** for a timeline of events associated with HUD 221(d)(4) Closing Timeline.

With HUD's standard review period for 221(d)(4) applications taking approximately 60 days, the earliest possible approval date is December 31, 2025, pushing debt and equity closing into April 2026, and construction start shortly thereafter. Based on the projected 12-month construction schedule, placing the Development in service by December 31, 2025 is no longer feasible under the current allocation.

These delays are not isolated—they are directly attributable to earlier municipal delays and redesigns stemming from a change in regulatory guidance, and are further compounded by HUD's rigid, sequential processing structure. Accordingly, force majeure relief is necessary to

preserve the viability of the Development and ensure alignment with federally mandated timelines.

4. Owner's Mitigation

As outlined in this discussion and the timelines provided in Exhibits C, D, and E, the Owner has exercised diligence and consistently worked to advance the design and financing of the Development throughout the 2024 Application Round. The Owner and its team have diligently worked to mitigate delays at every stage of the development process. Key efforts include:

- Maintaining continuous coordination with the City of Arlington, TDHCA, HUD, and all project consultants;
- Promptly responding to City's required changes based upon the Erosion Clear Zone;
- Submitting final civil drawings for final plat and construction drawings approval, with a target City approval date of October 2025;
- Receiving updated HUD Form 2328 (Construction Budget) and HUD Form 5372 (Construction Schedule); and
- Expending significant funds on professional fees, permits, deposits, and completing the land acquisition.

The Owner has consistently acted in good faith, responded promptly to governmental and agency requests, and taken proactive measures to remain on track. Regular coordination meetings were held with consultants and municipal staff, and every available step was taken to advance the project in line with regulatory timelines. These delays are not part of standard interaction with a city during a permitting process. Rather, they result from the City's changes to its regulatory requirements for the Erosion Clear Zone, and delays in final plat processing—which disrupted the design schedule and delayed permitting. These upstream challenges in turn delayed the submission of HUD financing documents and impacted the broader development timeline.

Now, with those infrastructure-related delays nearly resolved, the project faces an unavoidable hurdle: the inherent lag in City and HUD review cycles. These third-party agency timelines are beyond the Owner's control and cannot be accelerated through additional effort or funding.

Accordingly, the Owner is in an untenable position—having fulfilled its responsibilities and invested significant resources, yet unable to meet the placement in service deadline due to delays it could neither prevent nor resolve independently. Force majeure relief is therefore critical to protect the viability of the Development and prevent penalization for circumstances outside the Owner's control.

Conclusion and Request for Relief

Pursuant to Section 11.6(5) of the Qualified Allocation Plan, the Owner respectfully submits that it satisfies all criteria for the force majeure relief being sought. In support of this request, the Owner offers the following:

1. Qualifying Force Majeure Event

The delay imposed by the City of Arlington—most notably its post-approval mandate requiring significant revisions to the previously approved Planned Development site plan—constitutes a qualifying force majeure event. This materially disrupted the Development’s timeline and impeded timely advancement toward construction.

2. Unforeseeable Municipal Requirements

The additional City-imposed requirements were not reasonably foreseeable at the time of PD approval. The Owner proceeded in reliance on City Council’s prior approval and could not have anticipated the need to reconfigure the site plan in compliance with Erosion Clear Zone standards.

3. Good Faith Mitigation Efforts

Throughout the development process, the Owner has acted in good faith and with diligence—promptly responding to regulatory inquiries, maintaining continuous communication with City and HUD officials, and pursuing all required submittals and milestones to mitigate delay.

4. Placement in Service Deadline No Longer Feasible

Despite these efforts, the cumulative impact of City-imposed delays and HUD’s sequential processing requirements has made it impossible for the Development to be placed in service by December 31, 2026.

5. Development Remains Viable

The Development continues to be financially sound and is ready to proceed once the requested relief is granted. Final civil plans have been submitted, financing is being finalized, and construction is expected to commence promptly upon closing.

Accordingly, the Owner respectfully requests that this matter be included on the agenda for the next available TDHCA Board meeting, with a recommendation for approval of the requested

Cody Campbell
Texas Department of Housing and Community Affairs
October 10, 2025
Page 7

relief. Should the Department require any further information, clarification, or documentation in support of this request, the Owner remains available to promptly provide the same.

Sincerely,

A handwritten signature in blue ink that reads "Cynthia L. Bast". The signature is written in a cursive, flowing style.

Cynthia L. Bast

EXHIBIT B

LENDER AND SYNDICATOR LETTERS

Mike Bisanz
Senior Vice President |
Chief Operating Officer – HUD/FHA
Colliers Mortgage

Colliers Mortgage
90 South Seventh Street,
Suite 4300
Minneapolis, MN 55402

Main: +1 612 376 4000
Direct: +1 317 317 2119
Mobile: +1 651 338 1482
colliers.com



September 16, 2025

Mr. Deepak P. Sulakhe
President / CEO
OM Housing
5033 Brookview Drive
Dallas, TX 75220

Re: Support for Exchange of 9% Low Income Housing Tax Credits (LIHTCs)
Sherry Pointe Apartments – Arlington, Texas

Dear Mr. Sulakhe,

Colliers Mortgage ("CM") is pleased to serve as the Lender for the HUD Section 221(d)(4) financing of Sherry Pointe Apartments, a proposed 96-unit mixed-income multifamily development located in Arlington, Texas. We appreciate the opportunity to partner with you and OM Housing on this impactful project.

The development is now in the final stages of underwriting and is on track to submit a Firm Commitment Application to HUD by November 1, 2025. However, due to this projected timeline, the anticipated financing closing date will be in February 2026, which would not allow the project to meet the current Placed-in-Service (PIS) deadline under the original 2024 LIHTC award.

Over the past several months, CM has worked closely with Mr. Sulakhe and the development team to navigate the underwriting process. Unfortunately, unforeseen delays, particularly those associated with revising the site plan to comply with the City of Arlington's Erosion Control Zone requirements, have prevented timely completion of construction drawings and competitive bidding. These issues necessitated formal extension requests and have directly impacted the financing schedule.

Given these facts, CM cannot proceed with a loan closing unless both the 10% Test deadline and the current Placed-in-Service deadline are extended. We are therefore in full support of the request to exchange the existing Tax Credit award and provide a new allocation under TDHCA's force majeure provisions.

CM remains confident in the long-term viability of the project and is proud to support its mission of delivering high-quality, affordable housing to the Arlington community.

Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "MBisanz", is placed above the typed name.

Michael P. Bisanz, Jr.
Senior Vice President | Chief Operating Officer – HUD/FHA

Colliers Mortgage is the brand used by Colliers Mortgage LLC and Colliers Funding LLC

Accelerating success.

October 3, 2025

AT Sherry Housing, LP
Mr. Deepak P. Sulakhe
President / CEO, OM Housing
5033 Brookview Drive
Dallas, Texas 75220

Re: Sherry Pointe Apartments

Arlington, Texas

Dear Deepak,

I am writing regarding our investment in **Sherry Pointe Apartments**, a proposed 96-unit mixed-income multifamily community in Arlington, Texas. We are nearing the completion of our due diligence and remain enthusiastic about the opportunity. At this stage, we have secured **Investment Committee approval** and are on track to finalize the Letter of Intent (LOI) prior to the projected HUD Firm Commitment submission.

However, **unexpected delays in City approvals**—particularly related to site plan amendments and drainage infrastructure requirements—have postponed the completion of construction drawings and delayed bidding, both of which are essential prerequisites for the HUD application. These delays have pushed the anticipated financing closing to **May 2026**, which falls **after the 10% Test deadline** and does not allow sufficient time to meet the current **Placed-in-Service (PIS)** requirement.

Given these circumstances, we regret that we cannot proceed with the investment in this transaction unless we receive assurance that the **10% Test and PIS deadlines will be extended**. These delays stem from factors outside the control of the Developer, and we believe they warrant relief under TDHCA's **force majeure provisions**.

Accordingly, we respectfully request that you pursue the necessary extension. Confirmation of such relief is essential for us to move forward with closing on this investment.

Sincerely,

PNC Bank



Robert Dicks
Senior Vice President

EXHIBIT C

TIMELINE OF EVENTS FOR TAX CREDIT APPLICATION

Date	Activity
2022 - Q4	Owner identifies the Development Site in preparation for filing an Application for the 2023 9% Application Round.
2023 – March 1	Owner applies for 9% Tax Credits
2023 – July	Owner does not receive 2023 9% Tax Credits
2024 - March 1	Owner applies for 9% Tax Credits again
2024 - July 27	TDHCA Board meeting to award Tax Credits. Owner received the 9% Tax Credits
2024 - November 28	Owner submits its fully executed Commitment Notice. Owner submits its Carryover Allocation Agreement
2024 - December 22	Carryover Allocation Agreement is fully executed by TDHCA
2025 - June 25	TDHCA extends 10% Test Documentation Delivery Date from July 1 to October 31
2025 - October 31st	Current 10% Test Documentation Delivery Date, which can be achieved
2026 - December 31	Current Placement in Service deadline, which is impossible to meet, with a 14-month construction schedule after the anticipated HUD closing timeline

EXHIBIT D

TIMELINE OF EVENTS FOR CITY PERMITTING

Date	<u>Phase</u> ¹	Activity
2022 – Q4		Owner identifies the Development Site.
2022 – December	ZO	Owner and civil engineer hold an informal meeting with City staff to discuss rezoning.
2023 – February	CD/CP/ PL/ZO	Pre-application meeting with all City departments to discuss the Development, including a discussion of drainage.
2023 - March	ZO	Owner submits rezoning application.
2023 – October 17	ZO	City approves PD site plan.
2024 - October	CD/CP/PL	Preliminary architectural drawings received.
2024 - November 14	CD/CP/PL	Civil Identified Need for Erosion Clear Zone
2024 - Jan	CD/CP/PL	Amended Site Plan received from Architect.
2025 - Jan 6	PL	Prelim Plat - Submittal 1
2025 - Jan 21	PL	Prelim Plat - Submittal 2
2025 - Feb 13	PL	Prelim Plat Corrections Report from COA
2025 - June 11	CD	SP Site Amendment Approval from TDHCA
2025 - June 18	PL	Final Plat - Submittal 1
2025 - June 17	CD	Permit issue Architectural Drawings
2025 - June 18	PL	Submit Drainage Study
2025 - July 11	PL	Final Plat Correction Report from COA - Requesting off-site drainage easement
2025 - August 4	PL	Final Plat - Submittal 2
2025 - August 8	PL	Drainage Study - Submittal 2
2025 - September 30	PL	Drainage Study Approved. Comments on Final Plat

¹
CD – Civil Design
CP – Construction Permits
PL – Platting
ZO – Zoning

Date	<u>Phase</u> ¹	Activity
2025 – October 3	PL	Submittal of Final Plat
2025 – October 31	CD	Anticipated approval of Final Plat
2025 – December 31	CD	Anticipated Approval of Building Permits

EXHIBIT E

TIMELINE FOR HUD CLOSING

Date	Activity
2024 - April 4	First Concept Meeting with HUD
2024 - December 4	Second Concept Meeting with HUD
2024 - December 10-19	Third Party Consultants: Appraisal Market Study Phase I Environmental
2025 - June 1-19 update	
2025 - June	Final Drawings for Bids
2025 – July 26	Receipt of HUD Form 2328 (Final Budget)
2025 - August	Lender due diligence substantially complete
2025 - August	Coordinate with project consultants for value engineering
2025 - October 31	Anticipated receipt of revised HUD Form 2328 (Final Budget)
2025 – December 31	Anticipated submission to HUD
2025 - February 28	Anticipated HUD approval
2026 – April 1	Anticipated Closing

EXHIBIT F

PRIOR SITE PLAN AMENDMENT REQUEST



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.texas.gov

Greg Abbott
GOVERNOR

BOARD MEMBERS
Leo Vasquez, *Chair*
Kenny Marchant, *Vice Chair*
Cindy Conroy, *Member*
Anna Maria Farias, *Member*
Holland Harper, *Member*
Ajay Thomas, *Member*

June 11, 2025

Writer's direct dial: 512.475-2109
Email: lucy.weber@tdhca.texas.gov

Alyssa Carpenter
AT Sherry Housing, LP
5033 Brookview Dr.
Dallas, TX 75220
(214) 432-7610
Via Email Transmission: ajcarpen@gmail.com

RE: SHERRY POINTE APARTMENTS (DEVELOPMENT), HTC #24171/CMTS #6102

Dear Ms. Carpenter:

The Texas Department of Housing and Community Affairs (the "Department") received your notification dated June 9, 2025, that there have been changes to the original site plan pursuant to Section §10.405(a)(2)(A)(B)(C). You state that changes to the development site acreage required by the City does not result in a modification to the residential density of more than 5%, the minor modification includes: increases in common areas that do not result in a material amendment under paragraph (4). Minor reconfigurations to the Development's unit types and common area interiors have changed during final design from time of Application resulting in the following:

- An increase of the common space from 16,834 sf to 19,510 sf.
- An increase in the site acreage from 7.33 acres to 7.512 acres, an increase of 2.48% in acreage and a 2.42% decrease in residential density.
- The total parking spaces will remain unchanged at 215 spaces; however, the accessible parking spaces have increased from 12 spaces to 14 spaces with a higher number of van spaces.

The changes noted above do not impact the scoring of the Application or significantly affect the construction budget. Therefore, the change is considered a Notification Item under §10.405(a)(2)(A)(B)(C) of the Post Award and Asset Management Requirements and are hereby acknowledged.

Sincerely,

A handwritten signature in cursive script that reads "Lucy Weber".

Lucy Weber
Asset Manager

221 East 11th Street P.O. Box 13941 Austin, Texas 78711-3941 (800) 525-0657 (512) 475-3800

