

## **Multifamily Housing Notice 20-4**

**March 30, 2020**

**To:** Developers, Sponsors, and Local Housing Contacts

**From:** Matthew Heckles, Assistant Secretary DHCD

**Re:** **DHCD COVID-19 Advisory, State Multifamily Loans Audits and Surplus Cash**

Governor Hogan and Secretary Holt have identified two overarching priorities for our response to the COVID-19 public health emergency. The first is to protect the lives and health of the people of Maryland. The second is to mitigate the economic damage being done by the virus to Maryland families, businesses, and communities. Accordingly, and in consultation with our critical stakeholders, particularly the Maryland Affordable Housing Coalition, the Department advises you of the following:

1. For all CDA cash-flow loans, the deadline for submitting property audits is extended 30 days from April 1<sup>st</sup> to May 1<sup>st</sup>. No prior notification to the Department is required to take advantage of this extension. No penalties for submission after April 1<sup>st</sup> but by May 1<sup>st</sup> will be assessed. Any prior penalties are unaffected.
2. For all CDA cash-flow loans whose deadline for making the cash-flow payments required under the loan documents is April 1<sup>st</sup>, that deadline is extended 75 days to June 15<sup>th</sup> per the conditions outlined below. The Department intends this deferral to help projects that suffer reduced revenue or increased expenses owing to the COVID-19 Emergency, where operating reserves use requirements are excessively time-consuming or burdensome, or where the cash-flow payments for possible COVID-19 Emergency related-use are to:
  - a. Open an account with the bank holding other project operating accounts named to identify it as the recipient of deferred surplus cash payments.
  - b. Notify the Department in a manner consistent with and through the same channels as an operating reserve withdrawal request of the intended use of these funds, clearly identifying the request as a COVID-19 Emergency Surplus Cash request. Such requests will be reviewed as high priority matters by the Department.

- c. Use such deposited funds to meet COVID-19 related revenue shortfalls or increased expenses tracking them adequately for future verification. CDA's consent to use funds to meet COVID-19 related revenue shortfalls or increased expenses does not constitute authorization to do so in violation of the borrower's organizational documents, agreements with third parties, or applicable program guidelines and laws.
3. Within 30 days of the earlier of June 15 or an officially declared end of the COVID-19 Emergency, borrowers will make the surplus cash payments to the Department less the expended funds in the previously described COVID-19 Emergency account plus COVID-19 emergency expenses accrued but unexpended.
4. It is required that owners defer any surplus cash payments which they are entitled to keep under the loan documents in proportion to those amounts owed to but deferred by the State. It is hoped but not required that other parties entitled to surplus cash payments will, in like manner, also defer the payments to which they would be entitled.
5. All deferred, expended, and thus foregone surplus cash used under this COVID-19 Emergency process will be deemed accrued interest to be paid as future cash flow or recapitalization events permit or upon maturity of the loan. Interest shall continue to accrue on the outstanding principal according to the terms of the loan documents.
6. The Department believes that it has the authority under project loan documents to grant this deferral option, but has not and will not review the documentation of individual projects to confirm that assessment for specific projects. Borrowers may wish to consult their project documents or obtain the advice of their counsel to confirm their ability to employ this option. The Department intends to make a general notification to the broad community of project stakeholders including lenders, investors, local jurisdictions, and others but not specific notifications to each project owner or others detailed in specific project documents.

The Department's agreement and consent to deferral of surplus cash payments are contingent upon compliance with the terms and conditions outlined in this letter. Any deviations must be approved by the Department, in writing.



## MULTIFAMILY HOUSING UPDATES

Everyone at the Department, like you, recognizes the dire, immediate threat COVID-19 poses, and yet the step taken to offer the deferral of surplus cash payments was not easily made. These funds are essential resources for the preservation and creation of affordable housing as well as the revitalization of challenged communities. It is because we have great confidence in the judgment and integrity of partners that we regard this measure as responsible as well as useful in our joint effort in this emergency.

**If you have any questions, please contact John MacLean, Director, Multifamily Asset Management via email at [Johnf.MacLean1@Maryland.gov](mailto:Johnf.MacLean1@Maryland.gov).**

###

### *IMPORTANT NOTICE REGARDING EMAILING OF MULTIFAMILY NOTICES*

*Multifamily Housing issues periodic notices (such as the one above) to announce new initiatives, provide important news, announce funding round deadlines, significant application changes, bond program amendments, and other key dates and facts on our website and by email only. You can subscribe to receive Multifamily Housing Notices at the following link:*

<http://dhcd.maryland.gov/HousingDevelopment/Pages/About.aspx>

*Notices are posted to the DHCD website at the following location:*

<http://dhcd.maryland.gov/HousingDevelopment/Pages/MFLibrary.aspx>