

## CHFA Resolution 94-148

94-148

### A RESOLUTION

#### CONCERNING DISTRIBUTIONS FOR NONPROFIT AND HOUSING AUTHORITY SPONSORS

WHEREAS, the Colorado Housing and Finance Authority (the "Authority") was created by the Colorado Housing and Finance Authority Act, Part 7 of Article 4 of Title 29, Colorado Revised Statutes (the "Act") to make loans ("Housing Facility Loans") to eligible entities ("Sponsors") to finance the acquisition and construction or rehabilitation of multifamily rental housing facilities for low- and moderate-income persons and families; and

WHEREAS, the Act provides that a Sponsor may not make distributions with respect to a housing facility in excess of that percentage of the Sponsor's equity in such facility which the Authority determines feasible and necessary to protect against the realization by Sponsors of excessive financial returns or benefits; and

WHEREAS, the Board has previously authorized distributions for nonprofit and public housing authority Sponsors, and has determined to modify such authorization.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

1. It is hereby found and determined that the distributions hereinafter authorized are used by non-profit and housing authority sponsors for charitable and public purposes and therefore do not constitute excessive financial returns or benefits within the meaning and intent of Section 29-4-715 of the Act.

2. Nonprofit and public housing authority Sponsors shall be permitted to distribute all of a rental housing project's "surplus cash" (as defined in the Authority's standard form of Regulatory Agreement) in any year with respect to "Partially-assisted Projects" (as defined in Resolution 80-110 of the Authority, adopted December 17, 1980), the right to make such distributions being cumulative, subject to the following conditions:

- (a) In the case of a project subject to limitations on distributions imposed by the U.S. Department of Housing and Urban Development ("HUD"), such distribution shall be permitted by applicable HUD regulations.
- (b) The project must have a replacement reserve of three years' contributions after giving effect to the distribution.
- (c) The project must demonstrate sound management practices and financial health, as determined in accordance with guidelines established by the Executive Director.
- (d) The Sponsor must certify that the distribution will be used to further its charitable or public purpose.
- (e) The distribution must have the prior written approval of the Authority's Asset Management Division.

3. Notwithstanding the provisions of Section 2 hereof, no distributions shall be permitted with respect to projects receiving a loan from the Authority's Housing Opportunity Fund until that loan has been paid in full.

4. Resolution 93-31 hereby is repealed.

5. The provisions of this Resolution shall be applied retroactively to housing facilities as to which the Housing Facility Loans have closed.

INTRODUCED, READ AND ADOPTED by a vote of 9 for and 0 against at a regular meeting of the Board of Directors of the Colorado Housing and Finance Authority on December 22, 1994, at 1:00 p.m. at its offices at 1981 Blake Street, Denver, Colorado 80202. Mr. Quinn abstained from voting.