



Tennessee Housing Development Agency

404 James Robertson Parkway, Suite 1200

Nashville, Tennessee 37243-0900

615/815-2200

Ted R. Fellman
Executive Director

Writer's Phone Number:
615-815-2142

Writer's Fax Number:
615-564-2700

Writer's E-mail Address:
evandell@thda.org

MEMORANDUM

TO: Recipients of a Section 1602 **Phase II** Conditional Commitment Letter

FROM: Multifamily Division/Legal

SUBJECT: Section 1602 **Phase II** Closing Documents and Closing Requirements

DATE: September 21, 2010

The attached documents are the closing documents THDA expects to use for developments that have received a Section 1602 **Phase II** Conditional Commitment Letter ("CCL"). These documents are based on the Section 1602 documents THDA has already used for the Section 1602 transactions that have closed thus far, consequently, THDA will consider only minimal changes, unless there are compelling reasons to do otherwise. We do understand and anticipate that the Intercreditor Agreement will be revised for certain transactions, as we have revised it in the past for transactions involving HUD and Fannie Mae. We will also work with USDA to develop a form of THDA Intercreditor Agreement that is acceptable to USDA and THDA. Regardless of the situation, however, we do expect that the THDA form of Intercreditor Agreement will be used.

Please note, extensive comments will result in closing delays. We urge you to make your lenders and other financing partners aware of these documents as soon as possible.

THDA is committed to making every reasonable effort to close these transactions as expeditiously as possible to assist these developments in meeting the federally mandated "30% test" by December 31, 2010. As a result, THDA is willing to close on Section 1602 funding for a development prior to the closing of the development's construction financing. THDA **will not**, however, disburse any Section 1602 funds until the development's **construction** financing is closed.

Once the THDA Section 1602 funding **and** the construction financing for a development are closed, THDA will disburse Section 1602 funds to fund acquisition costs, subject to all THDA draw requirements and all Section 1602 Phase II Program Requirements. THDA expects that the next draw will be from the construction financing in an amount equal to the amount of the first THDA disbursement. Thereafter,

disbursements will be prorata, subject to all THDA draw requirements and all Section 1602 Phase II Program Requirements.

Please note, developments can meet the “30% test” without closing the THDA Section 1602 funding since the “30% test” is measured against reasonably expected basis not the amount of Section 1602 funding. A closing of Section 1602 Assistance Funds is **not required** in order to pass the “30% test” (see guidance posted to the THDA web site at <http://www.thda.org/rentdev/tcap1602/E9-20903.pdf>).

If you have questions, please contact:

Mike Blade, Assistant General Counsel
615/815-2029 or mblade@thda.org

Or

Ed Yandell, Director of Multifamily Development
615/815-2142 or eyandell@thda.org