

RECEIVED

MAR 28 2017

CITY CLERK'S OFFICE

March 28, 2017

Doris Sorum, City Clerk
City of Tacoma
733 Market Street, Room 11
Tacoma, WA 98402

Re: **Notice of Objections to LID Assessment**
Assessment Hearing: March 29, 2017 at 9:00 a.m.
LID Number: 8645
Assessment Number: 00130
Assessment Amount: \$557,861.00

Dear Clerk Sorum:

Pursuant to RCW 35.44.110, we write to express for the record our objections to the final assessment for the Local Improvement District Number 8645 for Paving for The Winthrop property at 773 Broadway, tax parcel ID 2007050150. The legal description of the property is Section 04 Township 20 Range 02 Quarter 22 : New Tacoma L 19 LESS N 8 1/2 IN. B 705 INC PART RAINIER ST VAC.

We have two objections to the assessment amount. The first objection is that the Broadway LID Special Benefits Study prepared for the City by Valbridge Property Advisors erroneously concluded that The Winthrop property has increased in value as a result of the work performed. The study's calculations fail to recognize that The Winthrop's residential units are classified as affordable housing by both the federal (U.S. Department of Housing and Urban Development) and state (Washington State Housing Finance Commission) governments. The Winthrop is an affordable housing project. The property has specific, recorded land use restriction agreements that restrict us from renting apartments to tenants earning more than 50% or 60% of the area median income as well as the amount of rent we are eligible to charge tenants. These restrictions last until 2035 and 2045, respectively. Given these facts, it is not feasible for the property and its owners to economically benefit from the work performed. The situation is explained more fully in the letter report from Lea & Company, a copy of which is attached as **Exhibit 1**. Copies of the recorded land use restriction agreements are attached as **Exhibit 2**.

Our second objection relates to the cost allocations and overruns incurred with the structural walk work that when combined with the above resulted in a greater than **60% increase** in the final assessment over the preliminary assessment. The City approved multiple change orders, suggesting that either the design work was incomplete or the contractor did not efficiently complete the work. We believe either the City should absorb this increase or it should seek recovery from the contractor and the design team. Also, we note the calculations we have received indicate that PCS charges of \$36,936.95, city labor and equipment charges of \$70,259.38 and interest charges of \$16,679.69 were allocated to The Winthrop. A copy of the calculations are attached as **Exhibit 3**. Despite repeated requests, no backup of the allocation of these charges has been provided. We ask that they be stricken. Finally, we note there is a line for a discount of

ORIGINAL EX. 7

cc: legal
HEX
LID


Doris Sorum, City Clerk
March 28, 2017
Page 2

\$11,874.59; however, instead of reducing the total costs allocated to us the discount, in fact, was added to the total. When taken together (the special benefit plus the cost overruns plus the allocation of expenses) the amount in dispute is greater than \$300,000.

We would appreciate the opportunity to have this notice of objection be presented to the Hearings Examiner and City Counsel and for an opportunity to speak at the hearing scheduled for Wednesday, March 29, 2017.

Sincerely,

The Winthrop, LP

By:  _____

Ryan Fuson
Managing Director, Redwood Housing Partners, LLC

Enclosure

ORIGINAL

EXHIBIT 1

ORIGINAL

LEA & COMPANY

Affordable Housing Valuation & Consulting Solutions

Jay A. Wortmann, MAI
Amanda M. Baker, MAI
Byron N. Lea, MAI

www.leacompany.com

March 28, 2017

To Whom It May Concern,

Lea & Company is familiar with The Winthrop project located at 773 Broadway Street in Tacoma, Washington having previously performed an appraisal, market study and rent comparability study related to the project. Additionally, we have reviewed the appraisal conducted by Valbridge Property Advisors (“Valbridge”) titled Broadway LID Special Benefits Study dated November 23, 2016. It is our professional opinion that the stated associated special benefits derived by the Broadway Street Improvement project referenced in the Valbridge appraisal that were allocated to “The Winthrop – Apartment” do not accurately represent the increase in value associated with the above-mentioned improvement project. In fact, it is in our judgement based upon our expertise that given The Winthrop is as an affordable housing project, as further elaborated below, the value to The Winthrop associated with the above-mentioned improvement project should be zero dollars.

The Winthrop consists of a mixed use multifamily property located at the above-mentioned address. All of the project’s residential units are affordable housing and are regulated by the U.S. Department of Housing and Urban Development (“HUD”) and the Washington State Housing Finance Commission (“WSHFC”) and there are strict limitations on the amount of rent and fees that can be charged to residents.

While the specific rules and regulations are quite complex, in summary The Winthrop is restricted via a contract with HUD and multiple land use restriction agreements (which are covenants that run with the land). The project is required to rent apartments to tenants not earning more than 50% or 60% of the county’s area median income and furthermore the amount of rent and fees allowed to be charged to such tenants is strictly governed by HUD and WSHFC as set forth in the above referenced agreements. This strict limitation on rents and profits nullifies any perceived increase in value to The Winthrop associated with the Broadway Street Improvement project irrespective of which appraisal techniques are ultimately used, including but not limited to the income approach, sales comparable approach or cost approach.

ORIGINAL

Southern California
PO Box 68
Corona Del Mar, California
(818) 914-1892

Midwest Omaha
11060 Oak Street Suite 6
Omaha, Nebraska
(402) 202-0771

While unrestricted properties may have the ability to increase rents and profits based upon the above-mentioned improvements, The Winthrop is not afforded such right due to its strict limitations of the governing regulations. To that end, it is our expert opinion that the value of "The Winthrop – Apartment" did not change (hence a zero dollar increase in value) due to the Broadway Street Improvement project.

Lea & Company provides affordable housing valuation and consulting solutions within the affordable housing industry and provides wide range of specialized services designed to meet the needs of our clients. The Partners of Lea & Company are experienced in the interpretation of the myriad of rules, regulations and procedures affecting valuation issues within the dynamic affordable housing industry.

Our clients include developers, lenders, government agencies, investors and tax-credit syndication firms. These services include tax credit application market studies and appraisals, lender appraisals and feasibility consulting. We work extensively with proposed and existing family and senior LIHTC properties, USDA Rural Development properties and HUD properties. Our work specializes within several programs that have specific reporting requirements that require specialized knowledge both of the program and property type.

Should you have any questions please do not hesitate to contact our office.

Respectfully submitted,

LEA & COMPANY



Jay A. Wortmann, MAI
jaywortmann@leacompany.com



Amanda M. Baker, MAI
WA Certified General Real Estate Appraiser
No. 1102380 Expiration 11/06/2017
402-305-1693
amandabaker@leacompany.com

EXHIBIT 2

ORIGINAL

Please return to:
PACIFICA LAW GROUP LLP
1191 Second Avenue, Suite 2000
Seattle, WA 98101
Attention: Faith Li Pettis, Esq.

672707

WE HEREBY CERTIFY THIS TO BE A TRUE AND
CORRECT COPY OF THE ORIGINAL RECORDED

ON: 5/5/15 INSTRUMENT # 201505050509

COUNTY OF: Pierce

FIRST AMERICAN TITLE COMPANY

BY: [Signature]

REGULATORY AGREEMENT
(The Winthrop)

Grantor: THE WINTHROP, LP (BORROWER)

Grantee: WASHINGTON STATE HOUSING FINANCE COMMISSION

Legal Description

Abbreviated form: Ptn Lot 19, Blk 705, Map of New Tacoma, Washington Territory

Additional legal on page A-1 of document

Assessor's Property Tax Parcel Account Number(s): 200705-015-0

Reference number(s) of documents being assigned or released and related documents: _____

ORIGINAL

REGULATORY AGREEMENT

TABLE OF CONTENTS

(This Table of Contents is for convenience of reference
and is not part of the Regulatory Agreement.)

	<u>Page</u>
Section 1. Definitions	2
Section 2. Federal Tax Law Requirements	5
Section 3. Additional Requirements of the Commission	7
Section 4. Set Aside Requirements	8
Section 5. Regulatory Period	8
Section 6. Reporting Requirements	8
Section 7. Project Access	9
Section 8. Covenants to Run with the Land	10
Section 9. Sale, Transfer or Conveyance of the Project	11
Section 10. Uniformity; Common Plan	13
Section 11. Noncompliance; Defaults; Remedies	13
Section 12. Enforcement of Terms	13
Section 13. Term, Amendment; Termination	14
Section 14. Involuntary Termination	14
Section 15. Indemnification	15
Section 16. No Conflict with Other Documents	15
Section 17. Severability	15
Section 18. Notices	15
Section 19. Governing Law	17
Section 20. Counterparts	17

TESTIMONIUM
SIGNATURES

EXHIBIT A Legal Description

REGULATORY AGREEMENT
The Winthrop

THIS REGULATORY AGREEMENT (the "Regulatory Agreement" or "Agreement") is entered into as of May 1, 2015, between the WASHINGTON STATE HOUSING FINANCE COMMISSION (the "Commission"), a public body corporate and politic and THE WINTHROP, LP, a Washington limited partnership (the "Borrower").

W I T N E S S E T H:

WHEREAS, the Commission is authorized by the Constitution and the laws of the State of Washington, particularly Laws of 1983, Ch. 161, codified at chapter 43.180 RCW, as amended (the "Act"), to assist in the financing of multifamily housing projects in Washington; and

WHEREAS, Section 142 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the interest on obligations issued by or on behalf of a state or a political subdivision thereof which are used to provide qualified residential rental projects is exempt from federal income taxation if certain conditions specified in the Code are met; and

WHEREAS, the Borrower has applied to the Commission to issue two revenue notes designated as the Multifamily Revenue Note (The Winthrop Project), Series 2015A and the Multifamily Revenue Note (The Winthrop Project), Series 2015B (together, the "Notes") and to use the proceeds from the sale thereof to acquire two loans made to the Borrower by the Mortgage Lender (the "Borrower Loans"), for the acquisition, rehabilitation and equipping of a 194-unit multifamily residential project located in the City of Tacoma, Pierce County, Washington, known or to be known as The Winthrop, located on land described at Exhibit A hereto and incorporated herein by this reference (such land, with all buildings, fixtures, equipment and improvements now or hereafter constructed or installed thereon, is herein referred to as, the "Project"); and

WHEREAS, in order to provide such financing, the Commission, U.S. Bank National Association (the "Fiscal Agent") and Citibank, N.A. (in such capacity, the "Funding Lender") have executed a Funding Loan Agreement (the "Funding Loan Agreement") dated as of May 1, 2015, pursuant to which the Funding Lender will make two loans to the Commission (the "Funding Loans"), and the Commission will issue the Notes in favor of the Funding Lender; and

WHEREAS, the Commission, the Fiscal Agent, Citibank, N.A. (in such capacity, the "Mortgage Lender") and the Borrower have executed a Borrower Loan Agreement (the "Borrower Loan Agreement") dated as of May 1, 2015, pursuant to which the Commission will acquire the Borrower Loans made to the Borrower, evidenced by two notes (the "Borrower Notes") in favor of the Mortgage Lender; and

WHEREAS, the Commission and the Borrower intend to restrict the use of the Project in accordance with requirements of the Code as provided herein to preserve the exemption from federal income taxation of interest on the Notes; and

WHEREAS, in addition to restricting the Project in order to meet the requirements of the Code, the Commission and the Borrower intend to restrict the use of the Project as provided herein to satisfy the purposes of the Commission in issuing the Notes; and

NOW, THEREFORE, in consideration of the issuance of the Notes by the Commission and the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower does hereby impose upon the Project the following covenants, restrictions, charges and easements, which shall run with the land and shall be binding and a burden upon the Project and all portions thereof, and upon any purchaser, grantee, owner or lessee of any portion of the Project and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee, owner or lessee of any portion of the Project and any other person or entity having any right, title or interest therein, for the length of time that this Regulatory Agreement shall be in full force and effect.

Section 1. Definitions. Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the terms defined above shall have the meanings set forth above and the following terms shall have the respective meanings set forth below for the purposes hereof. Capitalized terms not defined herein shall bear the meaning given them in the Funding Loan Agreement.

“Acceleration Default” means an event of default under this Agreement or the Funding Loan Agreement which, in the opinion of Note Counsel, would be likely to prevent the exclusion from federal income taxation of the interest on the Notes or a portion thereof in the absence of an acceleration of the Notes and redemption of the Notes.

“Additionally Qualified Residents” means and includes individuals and households earning up to 50% of median gross income for the area, adjusted for household size, determined in a manner consistent with determinations of lower-income households under Section 8 of the United States Housing Act of 1937, as amended. Occupants of a Unit shall not be considered Additionally Qualified Residents if all residents in the Unit are students (as defined in Section 152(f)(2) of the Code), none of whom file a joint income tax return unless such residents satisfy an exception for students set forth in Section 42(i)(3)(D) of the Code. The method of determining low or moderate income in effect on the date of issue will be determinative for the Notes, even if such method is subsequently changed.

“Available Unit” means a residential unit that is actually occupied and a residential unit that is unoccupied and has been leased at least once after becoming available for occupancy, provided that (a) in the case of an acquisition of an existing residential rental project, a Dwelling Unit that is unoccupied on the later of (i) the date the project is acquired or (ii) the earliest issue date of bonds issued to finance the acquisition of the project, under Section 142(d) of the Code, is not an “Available Unit” and does not become an “Available Unit” until it has been leased for the first time after such date, and (b) a Dwelling Unit that is not available for occupancy due to renovations is not an “Available Unit” and does not become an “Available Unit” until it has been leased for the first time after the renovations are completed.

“Borrower” means The Winthrop, LP, a Washington limited partnership, its successors and assigns.

“Borrower Loan Agreement” means the Borrower Loan Agreement, of even date herewith among the Commission, the Mortgage Lender, the Fiscal Agent and the Borrower, relating to the Borrower Notes and the Borrower Loans, as amended, modified, supplemented or restated from time to time.

“Borrower Loans” means the two nonrecourse loans, evidenced by the Borrower Notes to provide financing for the Project.

“Borrower Notes” means, collectively, the Multifamily Note (Variable Rate) and the Multifamily Note (Fixed Rate) in the original aggregate principal amount of \$28,000,000 of the Borrower in favor of the Mortgage Lender, which has been assigned to the Commission and further assigned to the Funding Lender.

“Code” means the Internal Revenue Code of 1986, as amended, together with corresponding and applicable final and temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the Department of the Treasury or the IRS of the United States. All references herein to sections, paragraphs or other subdivisions of the Code or the regulations promulgated thereunder shall be deemed to be references to correlative provisions of any successor code or regulations promulgated thereunder.

“First Occupied” means the date of first occupancy of a Unit by a resident (irrespective of whether such resident is a Project Qualified Resident).

“Fiscal Agent” means U.S. Bank National Association, a national banking association, and its successors and assigns.

“Functionally Related and Subordinate” shall mean and include facilities (other than Units) for use by residents; for example, laundry facilities, parking areas, swimming pools and other recreational facilities and other facilities which are reasonably required for the Project (including heating and cooling equipment, trash disposal equipment and Units for resident managers or maintenance personnel); provided, that such facilities are of a character and size commensurate with the character and size of the Project.

“Funding Lender” means Citibank, N.A., a national banking association, and any subsequent holder of the Notes.

“Funding Loan Agreement” means the Funding Loan Agreement, of even date herewith among the Commission, the Fiscal Agent and Citibank, N.A., relating to the Notes and the Funding Loans, as amended, modified, supplemented or restated from time to time.

“Funding Loans” means the two nonrecourse loans, evidenced by the Notes to provide financing for the Project.