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October 31, 2000

Tax Exempt “Essential Function” or “Governmental Purpose” Multifamily Housing Bonds

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Introduction

Types of Tax-Exempt Multifamily Housing Bonds. There are three general types of tax exempt multifamily housing bonds which are issued to provide financing for the construction or acquisition and rehabilitation of multifamily rental housing projects. These are: (i) “private activity bond financings” under Section 142(d) of the Internal Revenue Code of 1986 (the “Code”), where the project is owned by a partnership or other profit motivated sponsor, (ii) “Section 501(c)(3)” financings under Section 145 of the Code, where the project is owned by a nonprofit corporation which has received a Section 501(c)(3) determination letter from the IRS, and (iii) “essential function bond” or “governmental purpose” financings, where the project is owned by public body (such as a city, county or housing authority), or a controlled subsidiary of such a public body.

Private Activity Bonds under Section 142(d). Far and away the biggest category of these three is private activity bonds issued under Section 142(d) of the Code for projects to be owned by profit-motivated sponsors. These financings are subject to a substantial array of requirements, including (i) low or moderate income occupancy or “**targeting**” requirement that twenty percent (20%) of the units be set aside for persons whose incomes do not exceed fifty percent (50%) of area median income or that forty percent (40%) of the units be set aside for persons whose incomes do not exceed sixty percent (60%) of area median income, in each case, for a family of four, adjusted up or down for family size; (ii) the necessity of obtaining a **private activity bond volume allocation** for the financing; and (iii), in the case of acquisition financings, the requirement that an amount equal to fifteen percent (**15%**) of the portion of the depreciable cost of building and fixtures financed from bond proceeds be spent for **rehabilitation** of the project within 24 months after issuance. Where private activity bond volume is available and a profit-motivated sponsor is or can be involved in the project, these financings are often the most feasible, since they are also eligible for allocation of four percent

low-income housing **tax credits**, which can produce additional equity proceeds equal to twenty or thirty percent or more of total project costs. On the other hand, in recent years as many as half of the states allocated **no** private activity bond volume to tax exempt multifamily housing bonds, and private activity bond volume has become increasingly scarce in a number of the states which do allocate volume to multifamily housing. Where private activity bond financing under Section 142(d) has been unavailable, other means of issuing tax exempt bonds have been sought.

Section 501(c)(3) Financings under Section 145. The second type of tax exempt multifamily housing bond financing, “Section 501(c)(3) Bonds,” have often been used to fill the gap. In order to be eligible for this type of financing, the project must be **owned in its entirety** by a charitable organization having designation as such under Section 501(c)(3) of the Code, and whose mission includes the provision of housing for persons of low or moderate income, housing for the elderly or handicapped, or certain other specified charitable purposes involving housing under Section 501 (c)(3) of the Code. There is “bad news” and “good news” on such financings. The “bad news:” they **do not enjoy the benefit of four percent tax credit equity**; the “good news:” they are also **free of the increasingly tight private activity bond volume allocation requirement**, as well as the fifteen percent rehabilitation requirement which applies to private activity bond deals under Section 142(d). As a result, in many markets where private activity bond volume is scarce or otherwise unavailable, financings are often structured so as to meet the requirements of Section 145 of the Code for Section 501(c)(3) bond financings. Like private activity bond financings under Section 142(d), these financings (even for the elderly or handicapped) are generally subject to 20/50 or 40/60 type targeting, unless they involve new construction or very substantial rehabilitation (i.e., rehabilitation where the amount of the rehab work exceeds the adjusted basis of the building acquired), or where the issuer puts its general credit behind the bonds (which will very rarely be the case in local agency financings).

While such financings require that the project be completely owned by the Section 501(c)(3) nonprofit corporation, private developers and other profit-motivated parties may play very significant roles in these transactions. These roles include a development role, construction of the project, management, loan servicing, guarantee of operating deficits, assurance of completion and other functions. The Code imposes very rigorous tests for how profit-motivated parties are compensated in these financings. In general, counsel will require demonstration that the **compensation paid** to each such private party **is reasonable** in light of the services performed and the risk incurred, often based on charges incurred for such functions in non-bond related transactions. In addition, if the project is being acquired by a Section 501(c)(3) borrower, counsel will require a carefully drawn **appraisal** to establish that the Section 501(c)(3) borrower is not paying an above market price for the project. In addition, counsel will require a demonstration that the Section 501(c)(3) corporation is a “**true owner**” of the facility. This will generally require the proponents of the financing to provide cash flow projections and other analyses demonstrating that the cash flow projected from the project (based on reasonable and customary assumptions regarding increases in rents, operating expenses and other factors) will be sufficient to cover operating expenses and reserves and to pay, when due, debt service on the tax exempt bonds proposed to be issued and other debt which will be borne by the project, while still leaving some projected material residual cash flow and/or residual sale or refinancing proceeds available to the Section 501(c)(3) owner entity. The Code contains specific guidelines

with respect to management contracts which are also generally followed in these transactions. In many instances, Section 501(c)(3) financings can fill the gap where private activity bond volume or a profit-motivated sponsor is not involved, or such a role would not be appropriate, and these types of financings have provided a great deal of housing for persons of lower income, the elderly and the handicapped in recent years.

“Essential Function” or “Governmental Purpose” Bonds

The vast majority of tax exempt multifamily housing bond financings are private activity bond financings under Section 142(d), and, to a lesser degree, Section 501(c)(3) financings. However, in situations where private activity bond volume is not available and where, for one reason or another, Section 501(c)(3) bonds are not a possibility, it may nonetheless be possible to issue tax exempt bonds for multifamily housing where that housing will be **owned by a state, county, city, housing authority, redevelopment agency or other public, governmental body, or by a “Revenue Ruling 63-20” or other controlled nonprofit subsidiary** of such a governmental body. In these cases, the authority often serves as both issuer of the bonds and owner of the project. As a general matter, none of the foregoing requirements with respect to private activity bond or Section 501(c)(3) bond financings apply if the owner of the project to be financed is such a governmental entity or a subsidiary thereof. As a result, these bonds, which derive their tax-exemption under Section 103 of the Code (and not any specific subcategory such as Section 142 or Section 145) are often referred to as “essential function” bond or “governmental purpose” bond financings. In effect, when the public body is willing to own the facility in question in an exercise of its essential governmental functions, the bonds may be issued under Section 103 free of the foregoing requirements and most other requirements applicable to the first two categories of bond financing.

One significant rationale for the use of essential function bonds is where the public body wants to play a more significant role in the ownership and operation of the housing than would be the case in a conduit financing with a profit-motivated or nonprofit owner, even though the project to be financed might otherwise qualify for the issuance of private activity bonds under Section 142(d) or Section 501(c)(3) bonds under Section 145 of the Code. These types of essential function bond financings generally are undertaken by sophisticated issuers who have large staff and are able to develop their own housing program using this type of bond financing. Excerpts from an Official Statement on one such recent financing are attached as Exhibit A to this memo. Of course, many local authorities will lack the staff or prefer to avoid the political consequences which can be incurred where the public body or one of its controlled subsidiaries is the owner of the housing in question.

Perhaps the biggest advantage of essential function or governmental purpose bonds over the prior two categories is that such bonds may be used to finance a potentially broader range of projects than can be financed with private activity bonds under Section 142(d) or Section 501(c)(3) bonds under Section 145. For example, a local housing authority might conclude that there is a need for rental housing aimed generally at low or moderate income residents whose incomes don't exceed, for example, 80 to 100% of area median income, but would not satisfy the more restrictive 20/50 or 40/60 low or moderate income targeting requirements of Section 142(d)

or the related targeting requirements applicable to most Section 501(c)(3) financings which do not involve new construction or substantial rehabilitation. In such a case, the public body which is willing to own the property to be financed, or to have the property owned through a directly controlled subsidiary, may issue its essential function bonds to finance the project. Of course, such a project would be required to meet any requirements as to low or moderate income targeting, maximum rents or other requirements imposed on the issuing authority under state law.

Another use of essential function bond financing may be found in the financing of single room occupancy (“SRO”) facilities, which generally do not contain separate kitchens or baths in each unit and thus are ineligible for financing with private activity bonds under Section 142(d). While such facilities may be financed with Section 501(c)(3) bonds (generally free of any specific income targeting requirements), the level of public support and involvement required for such a project may be such that a 501(c)(3) owner cannot be found or the authority may desire the greater degree of control which direct or indirect ownership of the facility provides, making essential function bonds the debt financing vehicle of choice.

In other instances, we have seen essential function bonds proposed for student housing bond financing in college or university communities where the community felt that there was a major need for additional housing, but for political or other reasons the college or university was unable to provide the degree of involvement and support to make the financing eligible under the guidelines applicable to Section 501(c)(3) student housing bond financings. Especially if such a transaction involves the acquisition of existing, rather than new construction or substantial rehab, it can be very difficult or impossible for a student housing project to satisfy the low or moderate income targeting test generally applicable to private activity bonds under Section 142(d) and Section 501(c)(3) bonds, since in order to qualify as a low or moderate income tenant, one cannot be declared as a dependent on anyone else’s tax return and, in the case of full-time students, one must generally be married and filing a joint return. Where the city or a local housing authority, redevelopment agency or other public body is willing to own the project in question, tax exempt essential function bond financing can be provided for the facility, free of the income targeting requirements which would apply and would prevent the use of the other two categories of bonds.

Of course, as is the case with a Section 501(c)(3) financing, it is necessary that the public body, or its controlled subsidiary, be the true owner of any facility financed with essential function bonds and that any amounts paid to any private, profit-motivated participants be subjected to the same type of tests described above for Section 501(c)(3) bond financings.

This does not, however, mean that the public body which owns the facility has to put its general credit behind the financing. These financings are often done as revenue bond financings, just as is the case in private activity bond financings under Section 142(d) and Section 501(c)(3) bond financings, where the primary source of repayment of the bonds is net operating income from the project and where no pledge of the issuer's/owner's general credit is involved. Of course, in order to make the bonds salable, third party credit enhancement is often used in these transactions, just as is the case in the other two categories of bonds. We have closed essential function bond financings with FHA insurance, with and without GNMA wraps, as well as with credit enhancement from Fannie Mae and other major third party credit enhancers. Such credit enhancers may require that the project be owned by a "single asset mortgagor" to avoid bankruptcy problems, but this has been satisfied in a number of financings by the local authority's simply setting up a state law nonprofit corporation which it completely controls (and which may or may not get Section 501(c)(3) designation from the IRS) to serve as the ownership vehicle. Revenue Ruling 63-20 provides a specific set of guidelines under which the bonds can actually be **issued by** the controlled, nonprofit owner, but we have more often seen the bonds issued by a parent authority, with ownership of the project simply placed in such a controlled single asset mortgagor subsidiary.

Closing the "Equity Gap"

Of course, since four percent tax credit equity is not available in essential function bond financings, these types of transactions may suffer the same disadvantages as Section 501(c)(3) transactions in generating sufficient proceeds to cover total project costs. Most credit enhancers will impose debt service coverage ("DSC") and loan-to-value ("LTV") tests which will effectively limit the amount of financing obtainable through the credit enhanced tax exempt bonds on the transaction to eighty or ninety percent of total project costs. In some cases, nonprofit or public borrowers may receive larger loans or other more lenient loan terms than profit-motivated borrowers receive. For example, under certain FHA insurance programs, a publicly controlled nonprofit mortgagor, as well as a Section 501(c)(3) corporation, may be entitled to mortgage loan financing which will cover as much as 98% of replacement cost. In addition, Fannie Mae may waive certain restrictions on subordinated debt where the mortgagor is a nonprofit or public borrower.

In both Section 501(c)(3) and essential function bond financings, creative strategies have been devised to provide other means of closing this equity financing gap. These often involve the use of grants from HUD or other federal, state or local sources, or subordinated loans from such sources, which are much more likely to be available if the owner of the facility in question is a Section 501(c)(3) corporation or, in the case of an essential function or governmental purpose financing, a public body or controlled subsidiary. For example, in California, redevelopment agencies are required to set aside a certain percentage of their tax increment revenues to provide housing for persons of low or moderate income, or else lose those tax increment revenues to the state. While political and other considerations may bar the granting of these monies to profit-motivated sponsors or the lending of them to profit-motivated entities at below-market rates, such issues are much less likely to become major obstacles where the owner of the project being financed is a Section 501(c)(3) nonprofit corporation or a public body providing affordable housing for citizens of the community.

Finally, it is not unusual for investment bankers to structure one or more series of subordinated tax exempt bonds which may be sold to cover the fees of various private participants involved in the financing, or which may be delivered to the seller of a property, or to participating private participants in lieu of cash consideration for the property provided or services rendered. In each of the cases, counsel will carefully test to see that the above guidelines of reasonableness of compensation and true ownership by the Section 501(c)(3) nonprofit or public entity owner have not been violated, but such devices are frequently used to close the financing gap which would otherwise apply to these deals.

Sample Financing

Thus a hypothetical source of funds on such a financing might be as follows:

Series A Credit Enhanced, Rated Senior Tax Exempt Bonds (\$5,000 minimum denominations, publicly offered; first lien; 1.25:1 DSC; 75% LTV)	75%
Series B Non-Credit Enhanced, Unrated Subordinate Tax Exempt Current Interest Bonds (\$100,000 minimum denominations, institutionally placed; second lien; 1.10 to 1.15:1 DSC; 85-90% LTV)	15%
Series C Non-Credit Enhanced, Unrated Junior Subordinated Tax Exempt Compound Interest Bonds (\$250,000 minimum denominations or single bond, institutionally placed; third lien; 1.05:1 DSC; 95% or greater LTV) - (“Seller Takeback” or “Fee for Services” Bonds)	6%
State or City (Fourth lien) Loan or Grant	4%
Total	100%

Conclusion

“Essential function” or “governmental purpose” bonds remain a small percentage of the tax exempt bonds issued by local housing finance agencies to provide rental housing in their communities. However, where private activity bond volume is unavailable or is becoming increasingly scarce, and as the rules governing Section 501(c)(3) financings become increasingly complex, we expect to see essential function bond financing become an important and growing financing technique to provide affordable housing in the years ahead.

OFFICIAL STATEMENT

NEW ISSUE: BOOK ENTRY ONLY

Rating: Standard & Poor's: "AAA"

(See "RATING" herein)

In the opinion of Bond Counsel, under existing law, subject to the conditions described under the caption "TAX EXEMPTION," interest on the Bonds (1) will not be included in the gross income of the recipients thereof for federal income tax purposes, (2) will not be an item of tax preference for purposes of the federal alternative minimum income tax imposed on individuals and corporations and (3) will be exempt from income taxation by the State of Georgia. Such interest may be included in the calculation of a corporation's alternative minimum tax and a holder may be subject to other federal tax consequences as described under the caption "TAX EXEMPTION."

\$36,200,000

**HOUSING AUTHORITY OF THE COUNTY OF DEKALB, GEORGIA
MULTIFAMILY HOUSING REVENUE REFUNDING BONDS
(THE PARK AT BRIARCLIFF APARTMENTS PROJECT)**

SERIES 1998A

and

\$8,000,000

**HOUSING AUTHORITY OF THE COUNTY OF DEKALB, GEORGIA
MULTIFAMILY HOUSING REVENUE REFUNDING BONDS
(THE PARK AT BRIARCLIFF APARTMENTS PROJECT)**

SERIES 1998B

Dated: November 1, 1998 Maturity: As shown on the inside cover

Initial Remarketing Date: December 1, 2008

The above-captioned bonds (including the Series 1998A Bonds (as defined below) and the Series 1998B Bonds (as defined below), the "Bonds") are being issued by the Housing Authority of the County of DeKalb, Georgia (the "Issuer") to advance refund the Issuer's Municipal Housing Revenue Refunding Bonds (The Park at Briarcliff Apartments Project) Series 1991A in the original aggregate principal amount of \$26,400,000 and Series 1991B in the original aggregate principal amount of \$12,525,000 (collectively, the "Prior Bonds"). The proceeds of the Prior Bonds were loaned (the "Prior Loan") to Park at Briarcliff, Inc., a Georgia non-profit corporation (the "Borrower") to acquire and rehabilitate a project known as The Park at Briarcliff (the "Project") located in DeKalb County, Georgia. The Issuer had previously sold and delivered \$50,000,000 in aggregate principal amount of Municipal Housing Revenue Bonds, Series 1987A to finance the acquisition, construction, renovation and development of multiple projects, including the Project, approved by the Issuer. The proceeds of the Bonds, which consist of \$36,200,000 of Series 1998A Bonds (the "Series 1998A Bonds") and \$8,000,000 of Series 1998B Bonds (the "Series 1998B Bonds" and together with the Series 1998A Bonds, the "Bonds"), will be used to fund a mortgage loan (the "Mortgage Loan") to be made by the Issuer to the Borrower for the purpose of (i) prepaying the Prior Loan and, as a consequence of such prepayment, advance refunding the Prior Bonds, (ii) providing funds to the Borrower to pay TCR Park at Briarcliff Limited Partnership ("TCR") certain accrued fees associated with the Project ("Accrued Fees"), and (iii) paying the Costs of Issuance associated with the Bonds. The Bonds are being issued pursuant to a Trust Indenture, dated as of November 1, 1998 (the "Indenture"), by and between the Issuer and Reliance Trust Company (the "Trustee"), as trustee. The Mortgage Loan will be made pursuant to a Financing Agreement, dated as of November 1, 1998 (the "Financing Agreement"), among the Issuer, the Trustee, Patrician Financial Company Limited Partnership (the "Servicer") and the Borrower.

Fannie Mae has issued a commitment (the "Fannie Mae Commitment"), dated October 28, 1998, to the Servicer with respect to the Mortgage Loan, pursuant to which Fannie Mae has agreed, subject to satisfaction of the terms and conditions of the Fannie Mae Commitment, to provide credit enhancement for the Mortgage Loan pursuant to, and subject to the limitations of, a Collateral Agreement.

Payment of the principal of and interest on the Bonds will be secured, to the extent described herein, by the Mortgage Loan and by certain other resources and assets constituting the trust estate under the Indenture, all as described herein. In addition, certain required payments due under the Mortgage Note evidencing the Mortgage Loan will be secured, to the extent described herein, by Fannie Mae under the Collateral Agreement. The Collateral Agreement will also provide liquidity support for the purchase of tendered Bonds.

PAYMENT OF PRINCIPAL OF PREMIUM, IF ANY, AND INTEREST ON, THE BONDS IS NOT GUARANTEED BY FANNIE MAE. FANNIE MAE'S SOLE OBLIGATION WITH RESPECT TO THE MORTGAGE LOAN WILL BE CONTAINED IN THE COLLATERAL AGREEMENT, AND WILL BE LIMITED SOLELY TO ITS OBLIGATIONS THEREUNDER, AS DESCRIBED IN THIS OFFICIAL STATEMENT. THE COLLATERAL AGREEMENT WILL ALSO PROVIDE LIQUIDITY SUPPORT FOR TENDERED BONDS ON THE INITIAL REMARKETING DATE (AS DEFINED BELOW). THE OBLIGATIONS OF FANNIE MAE UNDER THE COLLATERAL AGREEMENT WILL BE SOLELY THE OBLIGATIONS OF FANNIE MAE, A FEDERALLY CHARTERED STOCKHOLDER-OWNED CORPORATION, AND WILL NOT BE BACKED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA. FANNIE MAE HAS NO OBLIGATION TO PURCHASE, DIRECTLY OR INDIRECTLY, ANY OF THE BONDS. THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, OR OF ANY AGENCY THEREOF, OR OF FANNIE MAE, AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA OR BY FANNIE MAE. SEE "FANNIE MAE" HEREIN.

THE BONDS ARE SPECIAL OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM AND SECURED BY THE PLEDGE OF REVENUES PURSUANT TO THE INDENTURE. THE ISSUER HAS NO TAXING POWER. THE BONDS ARE NOT A DEBT OF THE STATE OF GEORGIA, THE COUNTY OF DEKALB OR ANY POLITICAL SUBDIVISION THEREOF. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF GEORGIA OR THE COUNTY OF DEKALB IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE BONDS.

The Bonds will be delivered in fully registered form only and, when issued and delivered, will be registered in the name of Cede & Co., as nominee of The

Depository Trust Company, New York, New York (“DTC”). Ownership interest in the Bonds may be purchased in book-entry form only in the denomination of \$5,000 and integral multiples thereof. Ultimate purchasers of Bonds will not receive physical certificates representing their interest in such Bonds. So long as the Bonds are registered in the name of Cede & Co., as nominee of DTC, references herein to the Bondholders shall mean Cede & Co. and shall not mean the ultimate purchasers of the Bonds. See “**THE BONDS-Book-Entry-Only System**.”

Interest on the Bonds will be payable semiannually on June 1 and December 1 of each year (each, an “Interest Payment Date”), commencing June 1, 1999. Interest will be payable by check mailed by first-class mail or by wire transfer, as permitted by the Indenture and described herein, to the registered owners of the Bonds appearing on the registration books of the Trustee at the close of business on the fifteenth day of the month preceding the applicable Interest Payment Date. Principal and premium, if any, on the Bonds will be payable by check or by wire transfer, as permitted by the Indenture and described herein, upon surrender thereof at the office of the Trustee designated in the Indenture. So long as the Bonds are registered in the name of Cede & Co., as nominee of DTC, payments of the principal of, premium, if any, and interest on such Bonds will be made directly to DTC or its nominee, Cede & Co., by the Trustee. Disbursements of such payments to DTC’s Participants are the responsibility of DTC and disbursements of such payments to the Beneficial Owners are the responsibility of DTC’s Participants and Indirect Participants, as more fully described herein.

The Bonds are subject to redemption prior to maturity. See “**THE BONDS, Redemption**.”

On December 1, 2008 (the “Initial Remarketing Date”) the Bonds are subject to mandatory tender for purchase and remarketing and the interest rate on the Bonds will be adjusted to a new interest rate, or the Bonds will be subject to mandatory redemption, all in accordance with the Indenture. See “**THE BONDS - Special Mandatory Redemption in Connection With Remarketing**.” **THIS OFFICIAL STATEMENT IS NOT INTENDED FOR USE WITH RESPECT TO THE REMARKETING OF THE BONDS ON THE INITIAL REMARKETING DATE.**

This cover page of the Official Statement contains certain information for quick reference only. It is not a complete summary of the Bonds. Investors should read the entire Official Statement to obtain information essential to the making of an informed investment decision.

The Bonds are offered when, as and if issued and received by the Underwriters, and subject to the approval as to their legality by Hunton & Williams, Atlanta, Georgia, Bond Counsel. Certain legal matters will be passed upon for Fannie Mae by its Legal Department and by Arent Fox Kintner Plotkin & Kahn, PLLC, Washington, D.C., Counsel to Fannie Mae, for the Issuer and the Borrower by Chesnut Livingston & Pye, P.C., Doraville, Georgia, and for the Underwriters by Eichner & Norris PLLC, Washington, DC. It is expected that the Bonds will be available for delivery in book-entry form through DTC in New York, New York on or about November 25, 1998.

NEWMAN & ASSOCIATES, INC.

MERCHANT CAPITAL, L.L.C

November 9, 1998

MATURITY SCHEDULE

Series 1998A Serial Bonds

\$2,315,000 (aggregate)

Maturity	Principal Amount	Interest Rate	Price
June 1, 1999	\$320,000	3.45%	100%
December 1, 1999	270,000	3.45%	100%
June 1, 2000	275,000	3.90%	100%
December 1, 2000	280,000	3.90%	100%
June 1, 2007	380,000	4.50%	100%
December 1, 2007	390,000	4.50%	100%
June 1, 2008	400,000	4.55%	100%

Series 1998A Term Bonds

\$3,930,000 4.35% due December 1, 2006 Price 100%
\$29,955,000 4.55% due December 1, 2028** Price 100%

Series 1998B Term Bond

\$8,000,000 4.70% due December 1, 2028** Price 100%

****Initial Remarketing Date for Term Bonds Maturing December 1, 2028: December 1, 2008.**

SOURCES AND USES OF FUNDS

The following are the expected sources and uses of funds with respect to the Bonds, exclusive of accrued interest as set forth below.

Sources:

Principal Amount of Series 1998A Bonds	\$36,200,000
Principal Amount of Series 1998B Bonds	8,000,000
Prior Trust Accounts	<u>7,361,586</u>
TOTAL SOURCES	<u>\$51,561,586</u>

Uses:

Defease Prior Bonds	\$45,572,519
General Receipts & Disbursements Account	120,000
Cost of Issuance Fund	1,726,875
Payment of Accrued Fees to TCR	3,500,000
Surplus (Contingency)	<u>642,192</u>
TOTAL USES	<u>\$51,561,586</u>

THE ISSUER

Organization

The Housing Authority of the County of DeKalb, Georgia (the “Issuer”) was created in 1955 pursuant to the Housing Authorities Law of the State (O.C.G.A. §8-3-1 *et seq.*), as amended. The powers of the Issuer are vested in five commissioners appointed by the Board of Commissioners of DeKalb County. The current members of the Issuer are as follows:

<u>Name</u>	<u>Office</u>
Donetta E. Smith	Chairman
Ralph W. Thomas	Vice Chairman
Joseph Nairon	
Ernestine French	
Maxine E. McNutt	

The day-to-day activities of the Issuer are administered by its Executive Director, Paul Pierce who also serves as Secretary for the Issuer. The Issuer’s administrative offices are located at 325 Swanton Way, Decatur, Georgia 30031.

The Housing Authority of the County of DeKalb, Georgia and its sister agency, the Housing Authority of the City of Decatur, Georgia, are separate and distinct entities, but share the same Executive Director and administrative staff of 110 full-time and part-time employees. The “Decatur/DeKalb Housing Authorities” have adopted the following mission statement: “To serve the City of Decatur and the County of DeKalb and their citizens by focusing on affordable housing and related economic development, employing creative endeavors and practicing sound financial management.”

The Decatur/DeKalb Housing Authorities accomplish their missions in four principal areas of activity: (i) the ownership and operation of federally subsidized public housing, (ii) the administration of Section 8 assisted housing programs, (iii) the ownership and operation of non-public housing, and (iv) serving as a “conduit issuer” for the issuance of tax exempt bonds to finance affordable housing development on behalf of both for-profit and non-profit housing borrowers.

The following table summarizes multifamily properties and rental assistance contracts managed by the Decatur/DeKalb Housing Authorities (pure conduit financings are not shown):

<u>Project/Program</u>	<u>Units</u>	<u>Financing Source</u>
Public Housing		
Allen Wilson Terrace	200	HUD
Johnson Ferry East	498	HUD
Swanton Heights	93	HUD
Tobie Grant Manor	<u>200</u>	HUD
	991	
Non-Public Housing		
Gateway Manor Apartments	87	Section 8 Substantial Rehab tax exempt mtg
North Hairston Apartments	170	Section 8 New Construction tax exempt mtg
Oakview Road Apartments	24	Section 8 Substantial Rehab tax exempt mtg
Park at Briarcliff Apartments	1,017	Tax-exempt bonds*
Park Trace Apartments	169	Tax-exempt bonds
Spring Chase Apartments	380	Tax exempt bonds and HOME funds
Spring Pointe Apartments	65	HOME funds/public loan
Spring Terrace Apartments	10	HOME funds/public loan
White Oak Apartments	<u>16</u>	Tax credits and conventional loan
	1,938	
Rental Assistance Program		
Section 8 Housing Assistance Payment		
Vouchers	<u>2,922</u>	
Total Units	<u>5,581</u>	

*The Project.

Through its subsidiary non-profit corporation, Affordable Housing Development Corporation of DeKalb, the Issuer developed Peachcrest Trace Subdivision, a planned new home community of 156 two and three bedroom single family homes. The first time home buyers who occupy Peachcrest Trace are couples, elderly and single parent families with average household incomes equal to approximately 54% of Area Median Income. All homes have been sold and all indebtedness of the Affordable Housing Development Corporation and the Housing Authority of the County of DeKalb, Georgia incurred in connection therewith has been paid in full.

The Issuer currently has 37 tax exempt bond issues outstanding totaling \$600,340,000 that finance 11,401 multifamily units owned by for-profit and non-profit housing sponsors. In addition, the Issuer has sold eight issues of Single Family Mortgage Revenue Bonds totaling \$335,139,000 to finance below-market-rate mortgage loans for first time home buyers.

THE BORROWER AND THE PROJECT

The Borrower

The Borrower is Park at Briarcliff, Inc., a Georgia non-profit corporation formed by the Issuer for the purposes of: relieving a shortage of decent, safe and sanitary housing for persons of low and moderate income, including families and elderly, handicapped or disabled persons, and to promote, advance or develop decent, safe and sanitary housing for such persons; preventing the spread of slum conditions which result in an increase in disease and crime constituting a menace to the health, safety, morals and welfare of the residents of the State of Georgia; raising funds necessary to finance projects to own, manage or operate projects, on its own behalf or on behalf of others; and lessening the burdens of government. Pursuant to the Bylaws of the Borrower, the board of directors of the Borrower must consist of three members, all of whom shall, at the time of their election, be members of the board of commissioners of the Issuer or employees of the Issuer. Appointments to the board of directors of the Borrower are controlled by the Issuer. The board of directors of the Issuer presently consists of Mr. Paul Pierce, Executive Director of the Issuer, Mr. Ralph W. Thomas and Ms. Donetta E. Smith.

The Borrower was incorporated for the sole purpose of holding title to and contracting for the operation and management of the Project. The Borrower will have no assets other than the Project and has no employees. The Borrower is wholly dependent upon the successful operation of the Project to meet its obligations under the Loan Agreement.

The Project

The Park at Briarcliff Apartments (the "Project") consists of two existing, contiguous multifamily apartment communities, The Gardens (572 units) and Willow Lake (445 units), located in Land Lot 153 of the 18th District, DeKalb County, Georgia. Each community is operated separately with its own leasing office and amenities. The Project is located on approximately 74.4 acres. The Project contains forty eight (48) two- and three-story buildings of wood frame, brick veneer construction built in five phases between 1966 and 1970 by Monumental Properties of Baltimore, Maryland.

As indicated below, the average unit has approximately 756 heated square feet, and the entire Project contains approximately 769,003 heated square feet of rentable area. In addition, the Project contains two clubhouses, two cabanas, three swimming pools, two lighted tennis courts, laundry rooms in each building, barbecue grills and picnic areas, intruder alarms in each unit and a jogging trail around a man-made lake which drains both communities. There are 1,525 total parking spaces providing approximately 1.5 spaces per unit.

The units consist of the following:

		<u>Square Footage</u>	<u>Number of Units</u>
Efficiency		631	46
One Bedroom	One Bath	719	394
Two Bedrooms	One Bath	715	448
Two Bedrooms	1 ½ Bath	865	22
Two Bedrooms	1 ½ Bath (Townhouse)	1,085	76
Two Bedrooms	One Bath (Handicap equipped)	1,089	7
Three Bedrooms	1 ½ Baths	1,248	2
Three Bedrooms	1 ½ Baths (Townhouse)	1,248	7
Three Bedrooms	Two Baths	1,223	12
Four Bedrooms	Two Baths (Townhouse)	1,350	<u>1</u>
			<u>1015</u>

Summary of Operations

The following table provides a summary of operations of the Project for the years ended December 31, 1995, 1996 and 1997, based on the audited financial statements prepared by independent certified public accountants.

	<u>For the Years Ended December 31</u>		
	<u>1995</u>	<u>1996</u>	<u>1997</u>
Average Annual Effective Occupancy	95%	96%	94%
Total Net Revenue	\$7,449,492	\$8,090,772	\$8,358,251
Less: Total Operating Expenses before Interest, Depreciation and Financial Expenses	<u>(3,573,407)</u>	<u>(3,837,503)</u>	<u>(4,070,484)</u>
Income Available for Debt Service	\$3,876,085	\$4,253,269	\$4,287,767
Less: Interest	(3,232,500)	(3,232,500)	(3,232,500)
Depreciation and Amortization	<u>(2,090,168)</u>	<u>(2,155,343)</u>	<u>(1,844,340)</u>
Net Profit (Loss)	(\$1,446,583)	(\$1,134,574)	(\$789,073)
Add Back: Depreciation and Amortization	<u>2,090,168</u>	<u>2,155,343</u>	<u>1,844,340</u>
Net Cash Flow	643,585	1,020,769	1,055,267

The foregoing information has been provided by the Borrower. The Issuer and the Underwriter have not verified any of the foregoing information and accept no responsibility for the accuracy or completeness of this information.

Managing Agent

The Project will be managed by East Apartment Management, Inc., d/b/a East RS, Inc./Gables Residential Trust (the "Manager") which is a wholly owned subsidiary of Gables Realty Limited Partnership, the operating partnership of Gables Residential Trust. The Manager was founded in 1982 and has been involved in the management of residential rental projects since 1982. The Manager has approximately 1,350 employees. The Manager currently owns and manages 83 apartment projects comprising a total of 24,268 units and, in addition, currently manages 53 apartment projects comprising a total of 17,615 units. The Projects are located throughout the states of Texas, Tennessee, Georgia and Florida.

Tenant Restrictions

The Issuer has adopted certain program guidelines (the "Program Guidelines") which further the public purposes of the Issuer. Pursuant to the Program Guidelines, the Project must set aside at least twenty percent of the units in the Project for tenants whose gross income (determined at the time such persons initially become tenants of the Project) does not exceed 80% of the median family income published in the Federal Register annually by the Department of Housing and Urban Development with respect to Atlanta.

Subordinated Note to Seller

The Borrower has agreed to pay TCR a total of \$5,646,611 in accrued fees due with respect to TCR's role in the management and rehabilitation of the Project and other matters subsequent to the issuance of the Prior Bonds in 1991. This amount will be paid with a portion of the Bond proceeds and the remainder will be financed as follows: Simultaneously with the issuance of the Bonds, the Borrower expects to execute and deliver a subordinated note to TCR (the "Subordinate Note") to secure payment of a portion of the accrued fees (the "TCR Debt"). The TCR Debt will mature on December 1, 2028 and is to bear interest at a rate of 7.75% per annum, compounded monthly. The principal and interest due and payable with respect to the TCR Debt is payable only from and to the extent of Available Net Cash Flow, as defined in the Subordinated Note. The payment of the principal and interest amounts due on the TCR Debt are subordinate in right of payment to the prior payment in full of all amounts due and payable with respect to the indebtedness evidenced by the Mortgage Note. Payments of interest and principal are due semi-annually on each December 1 and June 1, commencing on December 1, 1999 until all payments thereunder have been paid in full.

Ground Lease

The Project site is located on certain leasehold estates created by virtue of three ground leases with original terms, including renewals, of 86, 87-1/2 and 90 years. The leases are scheduled to expire in April, 2054 and October, 2053 assuming that the two remaining option renewals are exercised. Lease payments under all three ground leases are currently \$56,000 per year until November 2013 and April 2014 at which time the leases may be extended for two additional terms of twenty five and fifteen years each, with annual lease payments of \$64,000 and \$72,000 per year, respectively, during the term of such extension.

Failure on the part of the Borrower to pay rentals under the ground leases or real estate taxes on the Land and Project when due would constitute an event of default under the ground leases and, if not timely cured, the lessors under the ground leases may terminate the ground leases and institute proceedings for recovery of the Land and Project. In order to mitigate the risk of any such default, the Servicer will, consistent with Fannie Mae requirements, require the Borrower to fund escrows for both rent payments and real estate taxes.

The ground leases allow the Borrower, as lessee thereunder, to construct new or additional buildings on the site as well as to make substantial changes to the existing improvements provided such additions or changes comply with applicable zoning laws. The Borrower may assign its interest in the ground leases to a subsequent purchaser of the improvements and has a right of first refusal with respect to any sale by the lessor of its interest in the land.

Limited Recourse to Borrower

The Borrower and its officers and directors will not (subject to certain exceptions to nonrecourse liability set forth in the Mortgage Loan Documents) be personally liable for payments on the Mortgage Note, the payments on which are to be applied to pay the principal of and interest on the Bonds; nor will the Borrower (subject to certain exceptions to nonrecourse liability set forth in the Mortgage Loan Documents) be personally liable under the other documents executed in connection with the issuance of the Bonds and the making of the Mortgage Loan. Furthermore, no representation is made that the Borrower will have substantial funds available for the Project. Accordingly, neither the Borrower's financial statements nor those of its officers and directors are included in this Official Statement.

THE MORTGAGE NOTE

The Mortgage Loan will be evidenced by the Mortgage Note. The Mortgage Note will be a non-recourse obligation of the Borrower to repay the Mortgage Loan and will be secured by the Mortgage. The Mortgage Note is in the aggregate principal amount of \$44,200,000, but comprises two distinct Principal Amounts, \$36,200,000, evidencing Principal Amount A, and \$8,000,000, evidencing Principal Amount B. The Mortgage Note provides that each of Principal Amount A and Principal Amount B will be separately amortized in 360 consecutive level monthly installments of principal and interest (at the Mortgage Note Rate, as described below). Amortization is to begin on December 1, 1998 (the "Amortization Commencement Date") and is to continue until the entire indebtedness evidenced by the Mortgage Note is paid in full, with final maturity due on November 1, 2028. Principal Amount A and Principal Amount B have been created in order to allow for the possible mandatory prepayment of Principal Amount B in accordance with the terms of the Mortgage Note, as described below. On the first to occur of the fourth anniversary of the Amortization Commencement Date or the date on which Principal Amount B is mandatorily prepaid as provided in the Mortgage Note, the unpaid principal balance of Principal Amount A and the unpaid principal balance of Principal Amount B will be combined into a single Principal Amount and, if necessary, an allonge to the Mortgage Note will be executed to reamortize the combined principal balance over the then remaining term of the Mortgage Note.

Prepayment of Principal Amount A is not permitted prior to the seventh anniversary of the last business day of the month preceding the month in which the Closing Date occurs, except (a) prepayments from (1) insurance proceeds or (2) the proceeds of any condemnation award or (b) other prepayments expressly permitted by the Mortgage Note or the other Mortgage Loan Documents. Principal Amount A is subject to earlier mandatory prepayment in part, however, in connection with a mandatory prepayment of Principal Amount B as required by the Mortgage Note, if the amount prepaid with respect to Principal Amount B is in excess of the amount needed to prepay Principal Amount B in its entirety, as described below; in such case, the excess is to be applied to prepay Principal Amount A in part.

Principal Amount B cannot be prepaid in any fashion prior to the third anniversary of the last business day of the month preceding the month in which the Closing Date occurs. Principal Amount B is, however, subject to mandatory prepayment in whole, and not in part, during a one year "window period" beginning on the third anniversary of the last business day of the month preceding the month in which the Closing Date occurs and ending on and including the fourth anniversary of the last business day of the month preceding the month in which the Closing Date occurs, but only if a portion of the Project is sold, as more particularly described in the Mortgage Note. Subject to certain requirements imposed by Fannie Mae, the Mortgage Note requires that all of the proceeds of any such sale be applied to the mandatory prepayment of Principal Amount B, resulting in a special mandatory redemption of the Series 1998B Bonds as described above in subparagraph (iii) of the section "**THE BONDS — Redemption — Mandatory Redemption — Special Mandatory Redemption**", and that any excess proceeds be applied to prepay Principal Amount A in part. Any such sale at fair market value could produce proceeds in excess of the amount needed to prepay Principal Amount B in whole. If Principal Amount B is not mandatorily prepaid during the window period, then Principal Amount B is subject to optional prepayment in the same manner as Principal Amount A on or after the last business day of the month preceding the month in which the seventh anniversary of the Closing Date occurs and on the same terms and conditions.

The Mortgage Note will bear interest at 5.23% per annum, the Mortgage Note Rate. The Mortgage Note Rate comprises (a) a Pass-Through Rate of interest ("Pass-Through Rate") and (b) a fixed rate of interest; the fixed rate of interest will be equivalent to the Facility Fee payable to Fannie Mae and

the Servicing Fee. The Pass-Through Rate is 4.58% per annum and includes an amount, expressed as a percentage, sufficient to pay the annual fees of the Trustee and the Rebate Analyst, if any, included in the Mortgage Note Rate. The Mortgage Note provides that if any installment or other amount due under the Mortgage Note is not paid when due, or any other default exists under the Mortgage Note, the Mortgage or any other Mortgage Loan Document, Fannie Mae, at its option, may declare the entire principal amount outstanding under the Mortgage Note, plus accrued interest, at once due and payable.