

August 10, 2023

Matthew Hader, Esq.  
City of Commerce City Attorney's Office  
7887 E. 60<sup>th</sup> Avenue  
Commerce City, CO 80022

Re: SP Crossing Apartments, 7190 Colorado Blvd., Commerce City, CO 80022

Dear Mr. Hader,

I write in regard to SP Crossing Apartments, a 60-unit affordable housing project located at 7190 Colorado Boulevard that we and our partner, Nesbitt Development, LLC, are developing through our subsidiary, 72 Colorado, LLC (the "**Project**").

The Project will be funded by private investment, federal low-income housing tax credits ("**LIHTC**"), and loans from the Colorado Housing Finance Authority, Colorado Department of Local Affairs, Division of Housing, Adams County, as well as Commerce City, pursuant to an Affordable Housing Assistance Agreement (the "**AHA Agreement**").

Brinshore has developed 120 communities throughout the United States totaling approximately 12,000 units. Brinshore has won numerous awards for excellence in design and development. Brinshore requires its property managers to manage our properties at a high standard.

In connection with the AHA Agreement, a question arose at a recent City Council meeting as to whether the City should have consent rights over the Project's property management company. While we understand and share the City's desire to develop a well-managed project in Commerce City, for the reasons stated below, we do not believe it is appropriate for the City to have operational control of the Project through a consent right of the property manager or otherwise.

- In the event that the property manager at the Project is not performing, we have the ability to terminate the management agreement and replace the manager, and in such situation we would be highly motivated to do so; as the unlimited guarantor of the Project that provides operating deficit guaranties, we limit our financial risk by selecting only high-performing property managers.
- The Project is funded in large part from LIHTC that are allocated to an institutional investor in the partnership. Such allocation can be recaptured if the property is poorly managed. As a result, the investor is very focused on compliance issues and will require the right to remove any property manager that is failing to comply with applicable law, including fair housing laws, affordability requirements and general property maintenance. The investor will require that its right to remove the property manager be absolute, and not subject to City or City Council approvals that could delay or derail the investor's ability to replace a property manager.

- Finally, if the City were to assume the responsibility of selecting property managers, any fair housing or affordable housing claim brought by a tenant against a property manager that was vetted and selected by the City could potentially implicate the City itself, especially if the City lacks a comprehensive policy that applies equally to all projects.

The property inspection rights granted to the City in the draft AHA Agreement provide ample opportunity for the City to ensure that the Property complies with the property management plan and conforms with local and state housing and health codes. Indeed, the reporting requirements of the various other Project lenders and the investor add several more layers of oversight that help to ensure the Property is well-managed.

We share the City's desire to provide high quality affordable housing to Commerce City, and given our extensive track record over two decades, we are confident that we can do so. We greatly appreciate the City's partnership in SP Crossing. We look forward to working with you and bringing 60 new units of high-quality affordable housing to Commerce City.

Please let us know if you have any questions or would like to discuss further.

Sincerely,



Todd Lieberman  
Executive Vice President  
Brinshore Development, LLC