

## **Pooled Money Investment Board (PMIB) -- Stalled Funds**

**Development Name:** Comunidad Cesar Chavez

**Location:** 207 & 221 N. Breed Street, Los Angeles

**Development Owner:** L.A. Family Housing, Inc.

**Type of homes:** Homeless Shelter, 146 beds

**Status of the development:** Rehabilitation the Emergency Housing and Assistance Program Capital Development loan/grant, administered by California Housing and Community Development (HCD) was completed in October 2008 with a notice of completion recorded October 31, 2008, in accordance with HCD requirements for retention payment.

**Population Served:** Homeless Families, mostly women and children referred by Los Angeles Homeless Services Authority (LAHSA).

**Funds needed:** Development needs \$ 95,000 retention which was due and payable December 31, 2008.

### **What will happen if the funds aren't received on time?**

- Contractor and subcontractors who have not received retention payments are threatening legal action. According to the construction contract for this job which was approved by HCD, "final payment should be made 60 days after Notice of Completion has been recorded by the Owner and issuance of an endorsement of lien-free title".
- General Contractor and subcontractors are threatening legal action. Payment was due December 31 and is currently more than 60 days late. In their demand for payment, they cite California Prompt Payment Statutes which require payment of legal fees and 2% per month. [Please see attached article Prompt Payment Statutes Revisited by Bernard S. Kamine.]
- All required documentation for release of retention was submitted to HCD on December 8, 2008 in anticipation of the December 31 datedown by title and release of retention funds.
- Required payment of 2% per month on \$95,000 retention would be \$1,900 per month. According to statute, \$3,800 has already accrued for late payment. In addition, there could be thousands of dollars in legal fees which would have to be absorbed by the project. Is the State prepared to pay late fees and legal fees?
- State, County and City "Homeless Service Dollars" do not pay for needed capital improvements. The unpaid retention is from a \$1.0 million capital improvement grant to provide emergency capital repairs. The owner, L.A. Family Housing has no funds from which to pay fines and legal fees.