

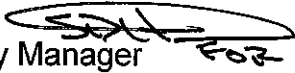
11-3-15
WALK-ON



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

#15-1439

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager 

DATE: November 3, 2015

TITLE: **WALK-ON** - Motion to Amend Condition Requiring an Amended
Restrictive Covenant on the Development of Northwest Gardens Phase V.

Recommendation

It is recommended that the City Commission approve a motion to modify one of the conditions imposed by the City relating to the Northwest Gardens Phase V Redevelopment Program. The amendment would allow the current Restrictive Covenant to encumber Northwest Gardens Phase V and would expire 20 years from the date it was initially recorded in 2009.

Background

Under CAM #15-1072, the City Commission approved the transfer of property located at 1212 NW 7th Street (the "Unit") from Housing Enterprises of Fort Lauderdale, Florida, Inc. to the Housing Authority of Fort Lauderdale (HACFL or Housing Authority) provided the Housing Authority amends the Restrictive Covenant to restart the 20 years restrictions on the Unit starting from the date the Northwest Gardens Phase V Project is complete and units are placed in service. This Unit, along with other parcels, are part of the Northwest Gardens Phase V Redevelopment Project.

On August 18, 2015, the City Commission approved a transfer of the Unit to HACFL and imposed several conditions, one of which is as follows:

1. Amend the Restrictive Covenant to encumber the new development (Northwest Gardens V) to provide that the units shall be leased to low income residents for 20 years starting from the date the units are placed in service.

The Unit is currently occupied by an eligible tenant and the Restrictive Covenant was recorded on the Unit in 2009. The Housing Authority has asked the Commission to waive the requirement to restart the 20 year restrictive covenant.

The current Restrictive Covenant would stay in place and would expire 20 years from the initial recording date (2009) rather than 20 years from some date in the future.

Resource Impact

There is no financial impact to the City.

Attachments:

Exhibit 1 – CAM #15-1072

Exhibit 2 – Restrictive Covenant

Prepared by: Lynn Solomon, Assistant City Attorney
City Manager: Lee R. Feldman, ICMA-CM, City Manager



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

#15-1072

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: August 18, 2015

TITLE: Motion Approving Housing Authority Requests Related to Northwest
Gardens V Redevelopment and Approval of the Amended and Restated
Cooperation Agreement

Recommendation

It is recommended that the City Commission approve (1) the third amendment to the Conveyance, Development and Use Agreement and Partial Release; (2) the third amendment to Declaration of Restrictive Covenants and Partial Release; and, (3) the first amendment and joinder to Agreement relating to the Northwest Gardens V Redevelopment Project. Further it is recommended that the City Commission approve the Amended and Restated Cooperation Agreement relating to the reinstatement of a Payment-In-lieu-Of-Taxes (PILOT) payment to the City.

Background

The Housing Authority of the City of Fort Lauderdale (HACFL) has made two (2) requests to support the Northwest Gardens Phase V Redevelopment project. The first request is to release two (2) surplus properties- 1220 NW 7th Street and 650 NW 14th Avenue. Under the terms of the Conveyance Agreement, HACFL was obligated to build 38 multifamily units. According to HACFL the units were built with the development of prior phases of the Project Northwest Gardens. The second request is to consent to the transfer of property located at 1212 NW 7th Street from Housing Enterprises to the HACFL which will encumber the units under a long term ground lease. Housing Enterprises would be released from any liability under the 2008 CHDO Agreement and the HACFL would be added as the Participant. It is recommended the City impose the following conditions:

1. Amend the Restrictive Covenant to encumber the property located at 205 NW 11th Avenue;
2. Amend the Restrictive Covenant to encumber the new development (Northwest Gardens V) to provide that the units shall be leased to low income residents for 20 years starting from the date the units are placed in service;

3. Execution of the First amendment and Joinder to Agreement (Exhibit 4); and,
4. HACFL provides the City with a certified copy of the Ground Lease.

Additionally, HACFL has agreed to pay the City an annual PILOT payment in the amount of \$54.87 per unit per year (currently 1,458 units totaling \$80,000), adjusted annually by the Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment with no increase or decrease to be greater than 3%. This is memorialized in the Amended and Restated Cooperation Agreement (Exhibit 5).

Resource Impact:

It is estimated that the PILOT payment will generate \$80,000 annually to the City of Fort Lauderdale.

Strategic Connections:

This item is a *Commission Annual Action Plan* priority, included within the Policy Agenda, advancing the Comprehensive Homeless Strategy.

This item is a Press Play Fort Lauderdale Strategic Plan 2018 initiative, included within the Public Places Cylinder of Excellence, specifically advancing:

- Goal 3: Be a community that finds opportunities and leverages partnerships to create unique, inviting and connected gathering places that highlight our beaches, waterways, urban areas, and parks.
- Objective 5: Work with partners to reduce homelessness by promoting independence and self-worth through advocacy, housing, and comprehensive services.
- Initiative 2: Implement a comprehensive short and long-term strategy with community partners to address Homelessness.

This item also furthers the *Fast Forward Fort Lauderdale 2035 Vision Plan: We are Community*.

Attachments:

Exhibit 1 - Letter from HACFL dated February 9, 2015

Exhibit 2 - Third Amendment to the Conveyance, Development and Use Agreement and Partial Release

Exhibit 3 - Third Amendment to Declaration of Restrictive Covenants and Partial Release

Exhibit 4 - First Amendment and Joinder to Agreement

Exhibit 5 - Amended and Restated Cooperation Agreement

Prepared by: Katerina Skoundridakis, City Manager's Office

Department Director: Lee R. Feldman, ICMA-CM, City Manager

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (hereinafter "Declaration" is made this 17th day of August, 2009, by Housing Enterprises, of Fort Lauderdale, Florida, Inc., a Florida not for profit corporation (PARTICIPANT);

WHEREAS the CITY has accepted upon certain terms and conditions HOME Investment Partnership Program ("HOME") funds from the U.S. Department of Housing and Urban Development ("HUD") to provide for the Development of affordable housing in the City of Fort Lauderdale ("CITY"); and

WHEREAS, in connection with the acceptance and such use of the HOME funds, U.S. Department of Housing and Urban Development ("HUD") regulations mandate the enforcement of certain "affordability" requirements upon the Property for a specified period of time; and

WHEREAS, PARTICIPANT has entered into a Home Investment Partnership Grant Community Housing Development Organization (CHDO) agreement with the City of Fort Lauderdale ("City"), dated October 29, 2008 ("Agreement"); and

WHEREAS, in order to comply with the HUD affordability requirements, PARTICIPANT wishes to restrict the use of certain property upon which affordable housing will be provided using HOME funds provided by HUD through the CITY pursuant to the Agreement;

NOW, THEREFORE, in accordance with and in consideration of the foregoing, PARTICIPANT declares that the Property described herein shall be held and occupied subject to the restrictions, covenants, servitudes, impositions, charges and liens hereinafter set forth:

1. The above recitals are true, complete and correct and are hereby incorporated herein by this reference.
2. Housing Enterprises, of Fort Lauderdale, Florida, Inc. is the Owner of, and is lawfully seized of the subject property, consisting of 4 units, legally described as follows:

Lot 7, Block "B", of Home Beautiful Park Subdivision, according to the Plat thereof, as recorded in Plat Book 2, at Page 47, of the Public Records of Broward County, Florida, more commonly known as 1212 NW 7 Street, Fort Lauderdale, FL 33311
3. The restrictions contained herein shall apply for a period of twenty years from the date this document is recorded ("the period of affordability"). This period of affordability will continue for the stated number of years regardless of any resale, transfer or vacancy of the Property.
4. During the period of affordability, Participant shall only rent units in the above-described property to tenants eligible under HOME Programs rules at 24 CFR 92.
5. Within the period of affordability, units in the subject property must be occupied by low-income households consistent with the requirements of 24 CFR 92.254. Units not meeting this requirement will be subject to recapture of funds used to rehabilitate the unit, prorated for the length of time the unit met the requirement.

6. These covenants shall remain in effect until amended with written consent of the City of Fort Lauderdale, or for the period of affordability set forth in paragraph 1.
7. The CITY OF FORT LAUDERDALE, its successors and assigns, is the beneficiary of these restrictive covenants and as such may enforce these restrictive covenants by action at law or in equity against any person or persons, entity or entities, violating or attempting to violate the terms of these Restrictions.
8. Any failure of the CITY to enforce these restrictive covenants shall not be deemed a waiver of the right to do so thereafter. The CITY shall be entitled to enforce the obligations set forth in this declaration by an action in law or equity. In any action to enforce the obligations of this Declaration, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs.
9. Invalidation of any one of these restrictive covenants by judgment or court order shall in no way affect any other conditions which remain in full force and effect.
10. The CITY, at the request of PARTICIPANT or its successor, shall cause a release to be recorded in the Official Records of Broward County, Florida upon expiration of the twenty-year period of affordability.
11. It is intended that this Declaration and the rights and obligations set forth herein shall run with the land and shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.
12. Declaration of Restrictive Covenants shall be recorded in the Public Records of Broward County, Florida, and shall become effective upon recordation and the rights and obligations hereunder shall be binding upon the Owner and its successors in interest.

IN WITNESS WHEREOF, the Participant has executed this Declaration of Restrictive Covenants on the date first above written.

Signed, sealed and delivered in the presence of:

Gloria P. Lowe
Witness #1 Signature

Housing Enterprises, of Fort Lauderdale, Florida,
Inc., a Florida not for profit corporation

GLORIA LOWE
Witness #1 Printed Name

[Signature]
Witness #2 Signature

[Signature]
Tam English, Vice President/Secretary

Shawn Jewer
Witness #2 Printed Name

**STATE OF FLORIDA
COUNTY OF BROWARD**

The foregoing instrument was acknowledged before me this 21st day of August, 2009
by Tam English who is personally known to me or has produced _____ as
identification.

SEAL

Heather E. Bodden
Notary Public

Heather E. Bodden
Printed Notary Name: HEATHER E. BODDEN
COMMISSION # DD536757
EXPIRES: April 04, 2010
Notary Discount Assoc. Co.

My Commission Expires:



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