December 12, 2017

Dear Mayor Seiler, Commissioner Roberts, Commissioner Trantalis, Commissioner McKinzie, Commissioner Rogers and CRA Staff -

First, let me begin by sincerely apologizing for my behavior at the end of the CRA meeting last week. It is not typical of me and I am truly sorry for my actions. I can and will do better in the future.

Not as an excuse but I was frustrated that after waiting over 4 months and having multiple rescheduled meetings, to finally get on the agenda and quickly realize that the underlying issues were not understood, and the issue was at best going to be pushed into 2018 was quite unnerving. With all of the time since August, my office happily and easily could have taken any steps to better explain or provide any additional information needed to clearly show the use of these funds to better the Progresso Village area and the protections that were in place for the City of Ft. Lauderdale CRA. Instead, I first received an email 3 hours prior to the meeting with a list of "concerns" and had little time to pull together the information that I would have had I been advised sooner.

So, in an effort to remedy that issue and hopefully to clearly explain things – I took notes of the day's events and listened to the questions and concerns of those in attendance and have tried to provide a comprehensive overview of the situation.

Please see below and attached documents.

Notes from CRA Meeting of 12/5/17 RE: Request for CRA to Approve Subordination of Mortgage Agreement for $100,000 Property & Business Improvement Program forgivable loan made to Rechter Holdings, Inc. ($50,000 of which has been funded to date with balance due post project completion).

In addition to underlying subordination agreement, the request is also to approve a "Modification of Mortgage" and an "Amendment to Property & Business Investment Program Agreement" to include the additional collateral/properties.

Concerns (as discussed by ***John Herbst, CPA, CGFO, CGMA*** - ***City Auditor)***

1. **<u>LOAN TO VALUE INCREASE:</u>** The LTV is going from 30% to 68%, leaving the properties more highly leveraged.
   In percentage terms, that is correct. In dollar terms, the previous 70% equity = $1.076M and the current 32% of the revised mortgage to additional collateral = $1.485M, i.e. the actual equity in the project is now HIGHER by $409,000. As such, the $100,000 CRA forgivable loan is MORE secure as there is more equity.

2. **<u>OTHER LIENS / ENCUMBRANCES:</u>** Are there any other liens/encumbrances on the additional properties being proposed as security for the mortgages?
   No, there are no other liens/encumbrances. The two new properties (716 NE 2nd Ave & 835 NE 2nd Ave) that have been added to the CRA collateral were purchased using owner cash, were unencumbered previously and were included as part of the new Stonegate Bank loan.

3. **<u>USE OF FUNDS:</u>** What is the developer using the additional proceeds of the new mortgage for?

To purchase and rehabilitate other properties in the area. See below for details.

How much it being reinvested into the new properties and how much is cash going back to the developer?

ALL of the refinance proceeds are being used into the new properties. $1.8M + closing and carrying costs were spent in June 2017 on acquiring 3 new properties one (1) block away on 2nd Avenue. These 2 properties are currently vacant former automotive uses, and the current condition of the properties is poor. As such, I expect to invest an additional $400-500K for each of the two new buildings each minimum to renovate, lease, tenant improvement them. Plus $100K minimum to redo the parking lot that will serve as shared parking for the 3 surrounding properties. At a minimum, the new projects inclusive of renovation costs, tenant improvements, etc will cost $3M additional – which is a conservative estimate. This does not take into account the $270K paid + the $150K for renovations for the property that is also part of the collateral (716 NE 2nd Avenue) that is already stabilized. The $3.2M that was refinanced is 100% invested into the other properties in the immediate area.

<u>The ONLY difference – and apparently a source of confusion - here is that I have ALREADY bought the properties. Instead of promising to invest the money in the area (as the CRA apparently is accustomed to with sometimes less than stellar results and hence the reservations) – I have ALREADY done so.</u>

4. **<u>CASH OUT REFINANCE.</u>** If it is a cash-out refinancing, shouldn't we get repaid? The refinancing is effectively the same as a sale in that instance.
   This question is "off the mark" and it indicates that this situation was never understood by those evaluating it and discussing it. <u>The refinancing was done to reinvest in the same area, which is the purpose of the CRA and achieves its objectives.</u> But, besides that, for several technical reasons, the city should not get repaid as had been suggested:
   *A)* The loan documents do not call for it as the property was refinanced **<u>prior to project completion</u>**. Specifically, see relevant language below:
   *The Property and Business Improvement Program does not require payments on the principal amount of the CRA loan as long as the property is not sold, transferred, or refinanced **<u>following project completion</u>** and is not in default.*
   *B)* It was always the intention of the developer to refinance. The need and plan to refinance was clearly and always part of the plan – and was communicated as such and is in the CRA Motion #15-0743 Page 3, from July 7, 2015.
   *"The developer plans to secure permanent financing for the project after completion and therefore would need to request a subordination of the CRA second mortgage for CRA Board consideration at that time".*
   C) It was not a "cash out" financing in the traditional meaning and use of this term or, as was ascribed to this refinance. Simply, the developer model is to invest all or nearly 100% of the cash needed for a project (as it is difficult to receive financing for dilapidated, vacant buildings) and then apply commercially reasonable debt after the renovations have been done, the property is repositioned and the building is leased up.

5. **<u>FUTURE OF ADDITIONAL PARCELS:</u>** What is the long-term intended use for the additional parcels?

The additional parcels added to the collateral – are BOTH 100% leased. As is the original building. (See attached leases)

ADDITIONAL NEW COLLATERAL BUILDINGS

A) 716 NE 2nd Avenue, following renovation and mural (see attached photo) has been leased/stabilized for 3 years almost now to Triniti Imports – the US office of a European importer/wholesaler of luxury cigar, lifestyle goods (supplies Tommy Bahamas, etc).

B) 835 NE 2nd Avenue, is 100% long term leased to SOL Yoga, a yoga studio opening it's 2nd location (the other is in Wynwood) (See attached elevation – it is currently in the building department for permit with expected start of construction date late January 2018)

ORIGINAL COLLATERAL BUILDING (see attached elevations)

C) 913 NE 4th Avenue – Two Tenant
   a. Restaurant/Bar - American Icon Kitchen & Taproom (www.americaniconbrewery.com)
   b. Residential Real Estate Brokerage

## RELEVANT FACTS:

1. **PLAN TO REFINANCE.**
   The need and plan to refinance was clearly and always part of the plan – and was communicated as such and is in the CRA Motion #15-0743 Page 3, from July 7, 2015.

   *"The developer plans to secure permanent financing for the project after completion and therefore would need to request a subordination of the CRA second mortgage for CRA Board consideration at that time".*

2. **ADDITIONAL OWNER EQUITY.**
   The CRA is now 2nd position behind 3 properties (with significantly more equity than previous), not 1. The amount of collateral in real dollar terms – the only figure worthy of discussion (measuring % is as good as saying that a business that went from $10 in sales to $15 or 50% is doing better than one that went from $100 to $120 or ONLY 20). Having 32% of equity of $4.685M exceeds having 70% of $1.526M by $409,000. Thus, there is $409,000 in additional owner equity to protect the $100,000 CRA loan. The total is now $1.485M of owner equity to collateralize $100,000. A figure that I believe I have personally guaranteed – which represents less than ½ of 1% of my net worth. I am confident than any banker would agree that having $100,000 loan against $1.485M in equity or 6.7% loan to equity with a personal guarantee of a high net worth, experienced, unblemished borrower is about as safe as it gets.

3. **ORIGINAL 2015 LTV.**
   Back in 2015, following purchase of the building for $615,000 and a Landmark Bank mortgage of $450,000 that was obtained after the acquisition, the CRA approved the $206,000 package including the $100,000 forgivable loan. Essentially, at that point in time – the CRA 2nd mortgage was behind ONLY $170,000 in value/equity. Obviously, the amount of equity protection for the city has been elevated considerably since.

4. **CRA BORROWER ABLE TO REFINANCE PRIOR TO PROJECT COMPLETION:**
   The loan documents CLEARLY state that the property is allowed to be refinanced prior to completion without the need to repay the loan (which has not been fully funded to date). I do

not believe that I should not be penalized or criticized for doing something that follows the agreement.

*The Property and Business Improvement Program does not require payments on the principal amount of the CRA loan as long as the property is not sold, transferred, or refinanced **<u>following project completion</u>** and is not in default.*

5. **<u>STONEGATE BANK IS THE 1ST MORTGAGE HOLDER.</u>**
Stonegate currently has a \$3.2M 1st mortgage on these 3 properties. The CRA is in 2nd position behind this mortgage. The subordination simply would have given Stonegate the comfort level that banks or other 1st mortgage holders oftentimes seek. Nothing more. And, in the process, it would have done what the CRA was designed to do, assist a developer doing positive things in an area that has few (and had fewer prior to the efforts that have helped spur the progress).
6. **<u>IF THE CRA DOES NOT PROVIDE THE SUBORDINATION AGREEMENT.</u>**
Not the end of world as nothing will occur except that the bank will simply keep our \$125,000 in escrow (or, preferably, apply it to the loan balance thereby reducing the outstanding loan balance). However, as a result, the city is little to no more "protected" than it would have been otherwise and I will have \$125,000 sitting in an escrow account for the next 5 years – that could have and would have been invested into the other properties in the area. At will cost 5% interest that I will now be forced to pay on unusable, inaccessible monies - it will cost me \$25K in interest during this time period
7. **<u>BUSINESS PLAN/FINANCIAL STATUS OF THE PROPERTIES.</u>**
See attached leases and proforma for these 3 properties, which are 100% leased to solid credit tenants.

**<u>INDIVIDUAL CRA BOARD AND STAFF NOTES/COMMENTS</u>**
**<u>With Michael Rechter Response/Comments (in blue)</u>**

Commissioner Trantalis: *Progresso is a "dicey area". City is a "partner" that has assisted with change of zoning to assist developers.*

Correct. It was and still is a dicey area. We continually deal with vandalism, graffiti and break ins and have always felt that the city was a "partner" in trying to improve that section of town. That is, until the recent CRA meeting. As a partner, I believe it is a reasonable request to seek from my partner a subordination agreement with an increased amount of owner equity as collateral so that the bank, who holds the 1st mortgage, and is another partner in our projects, can feel more secure.

Commissioner Rogers: *You closed without getting our permission. You already closed.*

Frankly, I did not know that I needed a subordination agreement from CRA until late in the refinance process with Stonegate. I learned of it after simply sending an email to Mr. Wojcik in August advising him of the refinance and he/Lynn Solomon notified me and the attorneys working on the closing of the need for CRA board approval – which at that time was scheduled for late September. As such, as a solution to keep the closing on track, the decision was made to escrow 1.25x the total CRA forgivable loan. While Stonegate is the 1st mortgage holder and the CRA currently has the 2nd position behind Stonegate's new mortgage – banks want clarity, hence the request for the subordination from the CRA.

Mayor Seiler: *Wants to see documentation the monies are being reinvested; making sure that city is "protected"; He has concerns if it takes this long to explain this deal; . I don't have any problem extending this but I thought it was a much simpler matter.*

I think the previously provided appraisals and other pertinent data regarding the other area investments properly document the additional significant investment in the area. Any lack of clarity is ONLY because it has not been laid out properly and/or nobody has taken the time to evaluate it, request the information, ask the right questions and provide reasonable time to reply, etc. We are happy to provide any additional information that is requested.

*Where the funds are going – to incentivize two other properties. What protections are in place?*

The use of funds has been answered elsewhere. As far as the protections in place, I was under the impression that they city attorney's drafted documents – (Amendment to the Property and Business Investment Program Agreement; Modification of Mortgage; and of course CRA Board and Staff review) sufficiently satisfied this need.

*Trust Issue - regarding the closing despite it not being recorded properly at the time of the refinance. I am not following. If we do this, our funds are protected. I don't like that someone said "you didn't do something, that I am not honoring our deal". That's problematic. We are IN THIS TOGETHER. That's a trust issue, a relationship.*

That is NOT what I said and definitely NOT what I meant. I am nothing without honor and integrity. I have NEVER not honored a promise or an obligation, and is a large part of my success in business, as a parent and husband, and as a person. I would honor an agreement that was not in writing – let alone, not recorded. Over 20 years, I have built, from scratch, a nearly 250 person company, been married to a woman I met when I was 15 and received recognition for accomplishments in both business and for philanthropic efforts. I don't know of many that can accomplish these things without honor and high levels of integrity.

That said – it is fact that the original mortgage was incorrectly recorded as it both lacked a date and was attached to the agreement, which was recorded. However, It has been since corrected.

*The CRA gave these dollars to assist with redevelopment of this area.*

I think that the CRA funds have satisfied their purpose as it created the climate for me to invest in this area – and I, in turn, I have gone above and beyond with this project. And, then additionally, I then invested millions more of my money into the same area. So, it seems to be working as a viable incentive to spur redevelopment.

John Herbst: *Mr. Herbst correctly recognized that I have already "fronted" the money and invested in the area, specifically, in purchasing building 2 and building 3. Would like to see a business plan.*

Financials for all 3 properties have been provided along with actual signed leases and elevations of each property (either completed or underway)

**STRATEGIC OBJECTIVES OF THE CRA:**

- Objective 2 – Facilitate a responsive and proactive business climate.
- Initiative 1 – . . . Expand our exiting portfolio of business attraction incentives.

I believe that, following a thorough analysis and understanding of the underlying facts, the failure to approve DOES NOT help advance and is detrimental to the these objectives.

Also, I think it is a fact and I believe strongly that my work both on 913 NE 4th Avenue and the new 2nd Avenue properties advances the CRA Strategic Objective of its 5 Year Program to target and attract specific businesses, retail users and industries to establish a presence in the redevelopment area and create jobs for area residents.

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