



Good Neighbors

San Diego
Housing Commission

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REPORT

DATE ISSUED: January 6, 2006

ITEM 103

REPORT NO.: HCR05-110 **REVISED**
For the Agenda of January 13, 2006

SUBJECT: Preliminary Items Pursuant to Issuing Multifamily Housing Revenue Bonds for Studio 15 Apartments (Council District 2)

SUMMARY

Issue #1: Should the Housing Commission recommend that the Housing Authority and City Council take the initial steps to issue multifamily housing revenue bonds to finance the acquisition and construction by Housing Development Partners of San Diego (“HDP”) of the Studio 15 Apartments located in the East Village area of downtown San Diego?

Recommendation #1: That Housing Commission recommend the:

A. Housing Authority approve a bond inducement resolution (a “declaration of official intent”) for up to \$25 million in multifamily housing revenue bonds for new construction of the 275-unit Studio 15 Apartments;

B. Housing Authority approve an application (and subsequent applications if necessary) to the California Debt Limit Allocation Committee (“CDLAC”) for an allocation of authority to issue tax-exempt “private activity bonds” for the Studio 15 Apartments (*Applications to CDLAC are due no later than January 20, 2006*); and,

C. City Council hold a public hearing (*known as a TEFRA hearing - Tax Equity and Fiscal Responsibility Act*) and adopt a resolution approving the issuance of tax-exempt bonds in an amount up to \$25 million by the Housing Authority.

Issue #2: Should the Housing Commission approve a financing team from the previously approved list of Financial Advisors and Bond Counsels to work on preparing the proposed bond issuance?

Recommendation #2: That the Housing Commission approve Peter Ross of Ross Financial Services as financial advisor and Quint & Thimmig LLP as bond counsel to begin work on the project.



Fiscal Impact: Approval of the bond inducement and TEFRA resolutions do not commit the Housing Authority to issue bonds. If bonds are ultimately issued for the project, the bonds will not financially obligate the City, the Housing Authority or the Housing Commission because security for the repayment of the bonds will be limited to specific private revenue sources.

Housing Affordability Impact: 10% of the units (28) will be restricted at 40% Area Median Income (AMI) (\$27,600 for a family of four), 40% of the units will be restricted (110) at 50% AMI (\$34,250 for a family of four), and 50% of the units (137) will be restricted at 60% AMI (\$41,100 for a family of four) The units will be restricted for a minimum of 55 years.

Environmental Impact: This project is within the jurisdiction of the Centre City Development Corporation (“CCDC”). CCDC has conducted an Environmental Secondary Study for the project in accordance with the Master and Supplemental Environmental Impact Reports (MEIR/SEIR) for the Community Plan and Planned District Ordinance. The Mitigation Measures listed in the MEIR/SEIR will be applied to the project. The bond-related actions contemplated by this report do not constitute a project within the meaning of the California Environmental Quality Act.

Future Related Action(s): If the requested items are approved by the Housing Commission, Housing Authority, and City Council, an application to CDLAC will be submitted by January 20, 2006 for consideration by CDLAC at its March 15, 2006 meeting. Specific authorization to issue bonds for Studio 15 Apartments will be sought from the Housing Commission and Housing Authority at a future date (Refer to Attachment 1, Section 4 “Final Bond Approval”). Bonds may not be issued without final approval of the Housing Authority. CCDC and Redevelopment Agency approval of a gap loan will also be sought prior to the issuance of bonds.

BACKGROUND

The Housing Commission utilizes the Housing Authority’s tax-exempt borrowing status to pass on lower interest rate financing (and make federal tax credits available) to developers of affordable housing. The Housing Authority’s ability to issue bonds is limited under the U.S. Internal Revenue Code. To issue bonds for a project, the Housing Authority must first submit an application to CDLAC for a bond allocation. Prior to submitting applications to CDLAC, projects are brought before the Housing Commission, Housing Authority, and City Council. Housing Authority bond inducement resolutions must be obtained prior to application submittal and City Council TEFRA resolutions must be secured no later than 30 days after application submittal.

The developer has requested that staff submit an application to CDLAC in January if approved by the Housing Authority. If necessary, staff will submit additional applications to CDLAC to secure a bond allocation for the project.

A general description of the Multifamily Bond Program and actions that must be taken by the Housing Authority and by the City Council to initiate and finalize proposed financings are described in Attachment 1.

DISCUSSION

The Developer

HDP is a nonprofit public benefit corporation established by the Housing Commission, a public agency, in 1990 to acquire and develop publicly financed low and moderate-income housing and to provide facilities and services related to housing. The organization is operated as an independent nonprofit by a Board of Directors consisting of two members of the Board of Commissioners of the San Diego Housing Commission, the Chief Executive Officer of the Housing Commission, and four at-large directors. HDP's Statement for Public Disclosure and most recent financials are included as Attachments 2 and 3. None of the Board members of the Commission, nor the CEO of the Commission, receive any remuneration for sitting on the 501(c)(3) nonprofit board.

HDP will act as the managing general partner of Studio 15, L.P., a limited partnership that has been formed to own and operate the project. HDP developed and operates two affordable housing projects in San Diego: Casa Colina del Sol and Knox Glen. Knox Glen is a 54-unit affordable housing development for families located in the San Diego community of Lincoln Park. Casa Colina del Sol is a 75-unit affordable housing project for seniors located in City Heights. In 2002 HDP acquired the Mason Hotel, a 27-unit single-room-occupancy facility located at 1345 Fifth Avenue in downtown San Diego. (A cigarette started a fire in this property in December of 2004; HDP carries fire insurance for the asset and claims have been filed against HDP in connection with the fire.) HDP is also a general partner with Barone Galasso & Associates ("BGA") in the Island Village development, a 280-unit rental-housing complex located in the East Village.

BGA originally intended to be a co-general partner in Studio 15, L.P. However, BGA is a member of 500 West Broadway, L.P. which is currently in technical default on a Redevelopment Agency (the "Agency") loan for the YMCA SRO project in downtown San Diego. The YMCA project is in technical default because the construction loan has expired and the partnership has not been able to secure a new, first position permanent loan that is acceptable to BGA, the tax credit limited partner, and the Agency. The Agency loan is secured in second position behind the construction loan and the parties intend to keep this loan (\$1,630,000) in place along with the existing rent restrictions on 52 of the total 261 units. In order to facilitate the refinancing of the

YMCA project, 500 West Broadway, L.P. filed for bankruptcy. The bankruptcy is currently pending. BGA is a creditor in the bankruptcy.

Due to the status of the YMCA project, BGA will not be included as a member of Studio 15, L.P. Instead, BGA will act as a development consultant to HDP for the project. BGA is an experienced affordable housing developer who has successfully developed over \$100 million in affordable and market rate housing over the past 10 years in San Diego and throughout California. In addition to the 280-unit Island Village project, BGA has also recently completed 235 unit Palermo Apartments in downtown San Diego.

Despite the temporary issues discussed above, both HDP and BGA are seasoned affordable housing developers who have the financial and technical expertise to develop and operate the Studio 15 project. There is no evidence that the technical default at the YMCA project will in any way limit BGA's ability to meet its development obligations to HDP on Studio 15. In the unlikely event that BGA is unable to meet its obligations, HDP would have the option to complete the project itself or hire another development consultant.

BGA currently expects that the default and bankruptcy of 500 West Broadway, L.P. will be resolved in the next few months through a refinancing of the loan on the project and a reorganization of the limited partnership. Should these events occur, BGA intends to reenter the limited partnership that will own and operate the Studio 15 project, subject to approval by CCDC, the Housing Commission, and the tax credit limited partner.

The Project

Studio 15 Apartments is a new construction project that will create a total of 275 new units. The development will be located on the southwest corner of 15th Street and Imperial Avenue in the East Village neighborhood of downtown San Diego. The location map is included as Attachment 4.

The project would consist of 275 furnished rental housing units and approximately 2,000 square feet of commercial lease space in one four-story building. One of the restricted units would be reserved for an on-site manager. The design of the exterior elevations avoids a monolithic appearance through various combinations of setbacks, awnings, and other architectural details. The building would have a landscaped interior courtyard with a fountain. Parking would be provided in an underground garage beneath the building.

The proposed apartments would meet the requirements of "living units" under San Diego Municipal Code Section 103.1959 since they would be larger and have more amenities than typical SRO units. Each apartment would have a bathroom, and a kitchenette equipped with a combination microwave/convection oven, a sink with a garbage disposal, and a small refrigerator. The units differ from a standard studio apartment because they are smaller, with

living areas averaging 275 square feet rather than the 400 square feet of a typical studio. Maximum allowable occupancy for the proposed units would be one person.

Rent and Income restrictions for the project are outlined in the chart below:

Type	AMI	Number of Units	Restricted Rent (with utility allowance)	Market Rate	Monthly Savings per unit
Studio/SRO	40% AMI	28	\$483	\$750	\$267
Studio/SRO	50% AMI	110	\$603	\$750	\$147
Studio/SRO	60% AMI	136	\$724	\$750	\$26
1 Bedroom*	60% AMI	1	\$776	\$850	\$74
Total		275			
Total Annual Savings					\$327,072

*Manager's Unit

Selection of the Financing Team Members

Staff recommends assigning Peter Ross as financial advisor and Quint & Thimmig LLP as bond counsel to work on the project. The proposed financing team members have been selected in accordance with the existing policy for the issuance of bonds. Financial advisors and bond counsels are designated on a rotating basis from the firms selected under the program through a competitive RFP process.

Financial Structure

The \$25 million allocation that will be sought from CDLAC is approximately 20% higher than the amount for which the project is currently being underwritten. The developer has requested this cushion to account for possible increases in the bond amount due to increases in construction costs or decreases in the assumed interest rate. Of the total \$25 million bond allocation, approximately \$10-15 million in housing revenue bonds will be used to finance the construction of the project and will be paid off at conversion to permanent financing. The permanent bond amount will be based upon estimated project costs, revenues, and interest rates at the time of bond issuance.

The estimated development cost of the project is approximately \$39.4 million. Anticipated permanent financing sources include \$10.4 million in bonds, \$14.2 million in tax credit equity, and up to a \$14.8 million residual receipts loan from CCDC. Issuance of the bonds is contingent on approval of the residual receipts loan by CCDC and the Redevelopment Agency, among other contingencies.

The developer is currently investigating various ways to structure the issuance of bonds for the project, i.e. sale through a public offering or private placement. However, whatever bond

structure is used will have to comply with the Housing Commission's Multifamily Housing Revenue Bond Program policy.

In the future, should the Housing Authority, under a separate action, authorize the issuance of bonds for the project, the bonds would not constitute a debt or liability of the Housing Authority or the City of San Diego. Neither the faith and credit nor the taxing power of the City or the Authority would be pledged to the payment of the bonds because security for bond payments is limited to the value of the property and its revenue sources. The developer is responsible for the payment of all costs under the financing, including the Housing Commission's annual administrative fee.

Disclosure

Commissioners Sal Salas and Tony Yip and Chief Executive Officer of the Housing Commission, Elizabeth C. Morris, are each directors and officers of Housing Development Partners, a California nonprofit public benefit corporation qualified as an Internal Revenue Code Section 501(c)(3) corporation. Neither Commissioner Salas, Commissioner Yip, nor Ms. Morris receives any compensation for their service on the Board of Directors of Housing Development Partners. Pursuant to the provisions of Government Code Section 1091.5(a)(7) and (8), Commissioner Salas, Commissioner Yip, and Ms. Morris each have a "non-interest" as described in Government Code Section 1091.5 in these actions and Commissioners Yip and Salas are legally entitled to participate, vote and be counted for quorum purposes in the matters referenced in this report.

It is the opinion of Charles B. Christensen, General Counsel for the Housing Commission, that none of the board members of Housing Development Partners has a financial interest in the development that would legally preclude their participation under the provisions of Government Code Sections 1090 and/or 87100 et.seq. (no compensation is paid by HDP to any of its members and HDP is an approved 501(c)(3) entity under the Internal Revenue Code) and/or the San Diego Housing Commission's Conflict of Interest Code. This disclosure shall be and is hereby documented in the official records of the San Diego Housing Commission.

Further, the action on these bond matters by the Housing Commission is advisory to the Housing Authority of the City of San Diego. The Housing Authority of the City of San Diego will make all final decisions on the matters which are the subject of this report.

Risks and Mitigation

Approval of the bond inducement and TEFRA resolutions do not commit the Housing Authority to issue bonds. If bonds are eventually issued, the risk associated with the financing will be minimal because the security for the bond repayment is limited to the value of the subject property and its revenue sources.

ALTERNATIVES

Do not recommend approval of the bond inducement and TEFRA resolutions. If the recommended actions are not taken, the project will not be able to benefit from tax-exempt below-market rate financing or gain access to low income housing tax credits.

Respectfully submitted,

Cissy Fisher
Director of Housing Finance & Development

**Signature on File
With Original Document**

Approved by,

Carrol M. Vaughan
Executive Vice President &
Chief Operating Officer

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- Attachments:
1. Multifamily Bond Program Summary
 2. HDP Developer's Disclosure Statement*
BGA Developer's Disclosure Statement*
 3. HDP Developer's Financial Statement*
BGA Developer's Financial Statement*
 4. Location Map

* Distribution of the attachment is limited. A copy is available for review at the Housing Commission office located at 1625 Newton Avenue.

Attachment 1

HOUSING COMMISSION MULTIFAMILY HOUSING REVENUE BOND PROGRAM Summary

General Description: The multifamily housing bond program provides below-market financing (based on bond interest being exempt from income tax) for developers willing to set aside a percentage of project units as affordable housing. Multifamily housing revenue bonds are also known as “private activity bonds” bonds because the projects are owned by private entities, often including nonprofit sponsors and for-profit investors.

Bond Issuer: Housing Authority of the City of San Diego. There is no direct legal liability to the City, the Housing Authority or the Housing Commission in connection with the issuance or repayment of bonds; there is no pledge of the City’s or the Housing Authority’s faith, credit or taxing power. The bonds do not constitute a general obligation of the issuer because security for repayment of the bonds is limited to specific private revenue sources, such as project revenues. The developer is responsible for the payment of costs of issuance and all other costs under each financing.

Affordability: Minimum requirement is that at least 20% of the units are affordable at 50% of Area Median Income (AMI). Alternatively, a minimum of 10% of the units may be affordable at 50% AMI with an additional 30% of the units affordable at 60% AMI. The Housing Commission requires that the affordability restriction be in place for a minimum of 15 years. In practice, projects financed by multifamily housing bonds are affordable for a minimum of 30 years. Bonds may also be combined with other financing sources to create deeper affordability and longer terms of restriction.

Rating: Generally “AAA” or its equivalent with a minimum rating of “A” or, under conditions that meet IRS and Housing Commission requirements, bonds may be unrated for private placement with institutional investors (typically, large banks). Additional security is normally achieved through the provision of outside credit support (“credit enhancement”) by participating financial institutions that underwrite the project loans and guarantee the repayment of the bonds. The credit rating on the bonds reflects the credit quality of the credit enhancement provider.

Approval Process:

- **Inducement Resolution:** The bond process is initiated when the issuer (Housing Authority) adopts an “Inducement Resolution” to establish the date from which project costs may be reimbursable from bond proceeds (if bonds are later issued) and to authorize staff to work with financing team to perform a due diligence process. The Inducement Resolution does not represent any commitment by the Housing Commission, Housing Authority, or the developer to proceed with the financing.

- TEFRA Hearing and Resolution (Tax Equity and Fiscal Responsibility Act of 1982): To assure that projects making use of tax-exempt financing meet appropriate governmental purposes and provide reasonable public benefits, IRS Code requires that a public hearing be held and that the issuance of bonds be approved by representatives of the governmental unit with jurisdiction over the area in which the project is located (City Council). This process does not make the City financially or legally liable for the bonds or for the project.

[Note: It is uncommon for the members of the City Council to be asked to take two actions at this stage in the bond process---one in their capacity as the City Council (TEFRA hearing and resolution) and another as the Housing Authority (bond inducement). Were the issuer (Housing Authority) a more remote entity, the TEFRA hearing and resolution would be the only opportunity for local elected officials to weigh in on the project.]

- Application for Bond Allocation: The issuance of these “private activity bonds” (bonds for projects owned by private developers, including projects with nonprofit sponsors and for-profit investors) requires an allocation of bond issuing authority from the State of California. To apply for an allocation, an application approved by the Housing Authority and supported by an adopted inducement resolution and by proof of credit enhancement (or bond rating) must be filed with the California Debt Limit Allocation Committee (CDLAC). In addition, evidence of a TEFRA hearing and approval must be submitted prior to the CDLAC meeting.
- Final Bond Approval: The Housing Authority retains absolute discretion over the issuance of bonds through adoption of a final resolution authorizing the issuance. Prior to final consideration of the proposed bond issuance, the project must comply with all applicable financing, affordability, and legal requirements and undergo all required planning procedures/reviews by local planning groups, etc.
- Funding and Bond Administration: All monies are held and accounted for by a third party trustee. The trustee disburses proceeds from bond sales to the developer in order to acquire and/or construct the housing project. Rental income used to make bond payments is collected from the developer by the trustee and disbursed to bond holders. If rents are insufficient to make bond payments, the trustee obtains funds from the credit enhancement provider. No monies are transferred through the Housing Commission or Housing Authority, and the trustee has no standing to ask the issuer for funds.

Bond Disclosure: The offering document (typically a Preliminary Offering Statement or bond placement memorandum) discloses relevant information regarding the project, the developer, and the credit enhancement provider. Since the Housing Authority is not responsible, in any way, for bond repayment, there are no financial statements or summaries about the Housing

Authority or the City that are included as part of the offering document. The offering document includes a paragraph that states that the Housing Authority is a legal entity with the authority to issue multifamily housing bonds and that the Housing Commission acts on the behalf of the Housing Authority to issue the bonds. The offering document also includes a paragraph that details that there is no pending or threatened litigation that would affect the validity of the bonds or curtail the ability of the Housing Authority to issue bonds. This is the extent of the disclosure required of the Housing Authority, Housing Commission, or the City. However, it is the obligation of members of the Housing Authority to disclose any material facts known about the project, not available to the general public, which might have an impact on the viability of the project.

F: Bond Program*Summary*Mar2005