



Good Neighbors

San Diego
Housing Commission

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REPORT

DATE ISSUED: November 17, 2003

ITEM 103

REPORT NO.: HCR03-109
For the Agenda of December 12, 2003

SUBJECT: Acceptance of Property Settlement related to 3010 39th Street, San Diego, CA (Council District #3).

SUMMARY

Issue: Should the Housing Commission recommend that the Housing Authority accept a Property Settlement Agreement from the City of San Diego related to 3010 39th Street?

Recommendation: Recommend Housing Authority acceptance of a Property Settlement Agreement to release the City of San Diego from any property damage claims relating to 3010 39th Street; and authorize the Chief Executive Officer to execute the Property Settlement and Release Agreement and Covenant to Restrict use of Property Environmental Restriction (Attachment #1) for the amount of \$94,500.

Fiscal Impact: This action will result in the receipt of \$94,500 to be placed in the Housing Commission's Conventional Public Housing Reserves. These reserves are restricted for use on public housing properties only.

Future Related Action: Approval of this recommendation will be sought from the Housing Authority at its next scheduled meeting.

BACKGROUND

The Housing Authority of the City of San Diego currently owns a duplex located in the City Heights area of San Diego at 3010 39th Street. The Housing Commission manages this two four-bedroom unit dwelling structure under the Department of Housing and Urban Development's (HUD) Conventional Public Housing Program; the property is part of a larger HUD Scattered Site Project known as CA160P063-013.



DISCUSSION

The City of San Diego Environmental Services Department recently performed a clean-up of the former burn ash site located in the vicinity of Quince Street and 38th and 39th Streets in the City of San Diego. Burn ash was discovered at 3010 39th Street and was remediated by the City and the United States Environmental Protection Agency. In accordance with the standard clean-up plans, some burn ash remains under certain portions of the Housing Authority property necessitating some restrictions on the use of the property as required by the regulatory agencies.

The City of San Diego acknowledges that affected property owners may bring claims against the City and has offered compensation to the affected property owners, including the Housing Authority, for both diminution of value and for the loss of use. The City of San Diego's first offer to the Housing Authority was \$50,000 for the diminution of value and \$17,500 for loss of use (Attachment #2) in exchange for the covenant to restrict use as included in the Property Settlement and Release Agreement. The Property Settlement and Release Agreement is designed to resolve any claims that the Housing Authority may have against the City of San Diego regarding the property located at 3010 39th Street.

In response to a letter from the Housing Commission dated May 28, 2003 (Attachment #3) and after negotiations, the City's appraiser has determined a market value for the property of \$385,000 and is increasing its original offer for diminution of value from \$50,000 to \$77,000 with the amount for loss of use remaining at \$17,500 (Attachment #4). As before, the City is offering these amounts in exchange for a complete release of all property damage claims as outlined in the Property Settlement and Release Agreement.

ALTERNATIVE

The alternative would be to reject the offer and initiate litigation against the City based upon an inverse claim. This alternative is not recommended for economic and other practical reasons.

Respectfully submitted,

Steve Snyder
Asset Manager

**Signature on File
With Original Document**

Approved by,

Elizabeth C. Morris
Chief Executive Officer

Steve Snyder 578-7545

- Attachments:
- 1 - Property Settlement and Release Agreement
 - 2 - Correspondence from City Attorney to Housing Commission dated April 18, 2003
 - 3 - Correspondence from Housing Commission to City Attorney dated May 28, 2003
 - 4 - Correspondence from City Attorney to Housing Commission dated September 2, 2003