



# REPORT

**DATE:** For the Agenda of December 13, 2002 **Item 106**

**REPORT NO:** HCR02-110

**SUBJECT:** Multifamily Housing Revenue Bonds For New Construction Project to be Located at 9<sup>th</sup> & Broadway (Council District 2)

## SUMMARY

**Issue No. 1:** Should the Housing Commission recommend that the Housing Authority and City Council take the initial steps to issue tax-exempt and taxable multifamily housing revenue bonds to finance a 398-unit new construction multifamily development by Arnold G. "Budd" Fischer in downtown San Diego?

**Recommendation: No. 1:** That the:

- A. Housing Authority approve an Official Intent Resolution to issue up to \$30 million in multifamily housing revenue bonds to finance new construction of a 398-unit multifamily development to be located at 9<sup>th</sup> and Broadway (Council District 2);
- B. Housing Authority approve applications to Round I and, if necessary, subsequent rounds of the State's 2003 allocation rounds for bond issuing authority; 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 bonds by the Housing Authority.

**Issue No. 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 No. 2:** That the Housing Commission approve CSG Advisors, Inc. as financial advisor and Stradling, Yocca, Carlson & Rauth as bond counsel to begin work on the project.

**Fiscal Impact:** Approval of the Official Intent and TEFRA Resolutions do not commit the Housing Authority to issue bonds. The developer is responsible for the payment of all costs under the financing for the proposed project.



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**Housing Affordability Impact:** 20 percent (81) of the apartments will be restricted at 50 percent AMI (\$30,050 for a family of four); Two percent (eight) of the apartments at 60 percent AMI (\$36,060 for a family of four), and 52 percent (208) of the apartments at 80 percent AMI. The affordability restrictions will remain in place for 55 years. The remaining 25 percent (101) apartments will be rented at fair market value.

**Future Related Action(s):** Specific authorization to issue bonds for the project will be sought from the Housing Commission and Housing Authority at a future date (Refer to Attachment 1, Section 4 “Final Bond Approval”). The Centre City Development Corporation will seek Redevelopment Agency approval of a loan to the project.

## **BACKGROUND**

There are two primary ways the Housing Commission provides financial assistance for development of affordable housing: 1) direct lending of Housing Commission HOME and Housing Trust Fund monies; and 2) issuance of tax-exempt multifamily housing revenue bonds through the Housing Commission’s multifamily bond program. The Housing Commission utilizes the Housing Authority’s tax-exempt borrowing status to pass on lower interest rate financing to developers of affordable housing. Some projects require both forms of assistance. This report pertains specifically to the issuance of tax-exempt multifamily housing revenue bonds, as the project will not require other financing assistance from the Housing Commission.

The Housing Authority’s ability to issue bonds is limited under the U.S. Internal Revenue Code. The California Debt Limit Allocation Committee (CDLAC) accepts applications generally two to three times during the year (funding “rounds”), and typically receives more applications for bonding authority than it has available.

Prior to the CDLAC funding rounds, projects are brought to the Housing Commission, Housing Authority and City Council. Official Intent Resolutions must be obtained prior to application submittal and TEFRA resolutions must be secured no later than 30 days after application submittal. The next CDLAC application submittal date is January 15, 2003.

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 the proposed financings are described in Attachment 1.

## **PROJECT NARRATIVE**

Mr. Bud Fischer (“developer”) proposes to construct a twelve-story, 398-unit affordable housing project on a 25,000 sq. ft. site located at the southeast corner of 9<sup>th</sup> and Broadway. The project will contain 271 “living units”, 91 one-bedroom apartments, 36 two-bedroom apartments, 2,000 sq. ft. of commercial/retail space, and two levels of underground parking. Approximately 75 percent of the units will be restricted to provide affordable rents to persons of low and moderate incomes.

The developer has successfully developed, owns, and operates several residential rental projects downtown including the Library Lofts, Church Lofts, Island Inn, Baltic Inn and the J Street Inn. The developer is knowledgeable of the downtown market, currently operating over 700 living units/SRO rooms. The developer’s Statement for Public Disclosure is included as Attachment 2.

The proposed project is located on the southeast corner of Broadway and 9<sup>th</sup> Avenue. The site currently contains two small nonresidential structures totaling less than 10,000 square feet, which will be demolished. The balance of the 25,000 sq. ft. site is being utilized as a surface parking lot. Directly south of the site is the Library Lofts, adjacent to that is the Church Lofts, to the east of the site are two buildings of three and four-stories which are potentially historically significant, and across Broadway is the Senior Community Centers facility. The location map is included as Attachment 3.

The project addresses a critical need for housing for individuals and small households. In addition, it advances several objectives such as providing high-density affordable housing, workforce housing, and SRO replacement housing.

Of the 398 units, a total of 297 units will carry 55-year affordability restrictions. Approximately 75 percent of the units are restricted to 80 percent of AMI or less. Of the total number of units, 22 percent are restricted to 60 percent or less of AMI; consequently, the project exceeds the requirements of the City’s proposed Inclusionary Housing Program, which would require developers to designate 10 percent of a project’s units for occupancy by persons earning less than 65 percent of AMI. The restricted rents for the project (outlined below) will also apply if Section 8 tenants occupy the units.

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

| Type          | Square Footage | AMI    | Number of Units | Average Current Rents | Restricted Rent (Minus utility Allow) | Market Rate | Savings per unit |
|---------------|----------------|--------|-----------------|-----------------------|---------------------------------------|-------------|------------------|
| Living Unit   | 266            | 50 %   | 55              | N/A                   | \$507                                 | \$875       | \$368            |
| Living Unit   | 266            | 80%    | 191             | N/A                   | \$822                                 | \$875       | \$ 53            |
| Living Unit   | 266            | Market | 25              | N/A                   | \$875                                 | \$875       | N/A              |
| 1 Bedroom     | 532            | 50%    | 18              | N/A                   | \$575                                 | \$1,075     | \$500            |
| 1 Bedroom     | 532            | 60%    | 8               | N/A                   | \$696                                 | \$1,075     | \$379            |
| 1 Bedroom     | 532            | 80%    | 10              | N/A                   | \$935                                 | \$1,075     | \$140            |
| 1 Bedroom     | 532            | Market | 55              | N/A                   | \$1,075                               | \$1,075     | N/A              |
| 2 Bedroom     | 780            | 50/%   | 8               | N/A                   | \$644                                 | \$1,275     | \$631            |
| 2 Bedroom     | 780            | 80%    | 7               | N/A                   | \$1,049                               | \$1,275     | \$226            |
| 2 Bedroom     | 780            | Market | 21              | N/A                   | \$1,275                               | \$1,275     | N/A              |
| <b>Total:</b> |                |        | <b>398</b>      |                       |                                       |             |                  |

## SELECTION OF THE FINANCING TEAM MEMBERS

Staff recommends assigning CSG Advisors, Inc. as financial advisor and Stradling, Yocca, Carlson & Rauth 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.

## FINANCING STRUCTURE

The total cost for development and construction of the project is estimated to be \$39,422,000. It is anticipated that the bond-financed loan of approximately \$27,977,000 will be underwritten utilizing Federal National Mortgage Association (“Fannie Mae”) or Federal Home Loan Mortgage Corporation (“Freddie Mac”) credit enhancement resulting in an AAA rating of the bonds. Newman & Associates, Inc. will serve as the project’s underwriter to market and sell the bonds. The Centre City Development Corporation (CCDC) is expected to make a loan to the developer in an amount not to exceed \$6,000,000. The developer’s minimum equity contribution is \$5,445,000. A Preliminary Sources and Use budget is included as Attachment 4.

Pursuant to Housing Authority approval, staff will submit, on behalf of the developer, an application for private activity bond allocation to CDLAC. If successful, the bond financing may qualify the project for an allocation of 4 percent low-income housing tax credits. These proceeds may serve as a contribution

of project equity. If the application is unsuccessful, at the request of the developer, staff will resubmit the application for a subsequent round.

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 Housing Authority would be pledged to the payment of the bonds because the security for the bond repayments is limited to the value of the subject 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.

## **RISKS AND MITIGATIONS**

Approval of the Official Intent and TEFRA resolutions do not commit the Housing Authority to issue bonds. The recommended actions do not represent any commitment by the Housing Authority or the applicant to proceed with the tax-exempt or taxable financing of the project. When eventually issued, the financing risks associated with the project will be minimal since repayment of the bonds will be guaranteed by a third party.

## **ALTERNATIVE**

Do not recommend approval of the Official Intent and TEFRA resolutions. If the recommended actions are not taken, the project will not be able to benefit from tax-exempt below-market financing.

Respectfully submitted,

Approved by,

**Signature on File  
with Original Document**

Jack D. Farris  
Manager, Housing Finance &  
Development

Elizabeth C. Morris  
Chief Executive Officer

## **ATTACHMENTS:**

1. Description of Bond Program and Actions to be Taken
2. Developer Disclosure Statement and Financial Statements\*
3. Project Location Map
4. Preliminary Sources and Uses

\*Distribution of this attachment is limited. A copy is available for review at the Housing Commission's 1625 Newton Avenue office and the office of the City Clerk, 2<sup>nd</sup> floor, 202 "C" Street.

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# ATTACHMENT 1

## SAN DIEGO HOUSING COMMISSION MULTIFAMILY BOND PROGRAM

### **General Description**

The Multifamily Bond Program provides below market financing (based on tax exemption of bond interest) for developers willing to set aside a portion of the units in their projects as affordable housing. The issuer of these bonds is the Housing Authority. At the present time, \$515 million in outstanding bonds provides permanent financing for more than 8,900 multifamily rental units in the City, of which 4,200 units are restricted at various levels of affordability.

Bonds issued by the Housing Authority require a minimum "A" rating, which is typically achieved through the provision of an outside credit enhancement by participating financial institutions that underwrite the project loans and guarantee the repayment of bonds.

The authority to issue bonds is limited under the US Internal Revenue Code. The California Debt Limit Allocation Committee (CDLAC) accepts applications generally two to three times a year (funding "rounds"), and typically receives more applications than is available under its financing authority. The state has a \$75 per capita bonding capacity.

**The following actions must be taken by the Housing Authority and by the City Council to initiate a bond financing:**

#### **1. Official Intent (Bond Inducement)**

The adoption of an Official Intent (inducement) resolution is an initial step required by the Internal Revenue Service to initiate a possible new-money bond issuance. It does not represent any commitment by the Housing Authority or the applicant to proceed with the financing. Rather, it establishes, through public record, the date from which project costs incurred may be determined to be reimbursable from bond proceeds. Generally, the Official Intent amount is higher than the estimated bond amount to reflect a 10-15 percent contingency. The adoption also authorizes staff to work with the selected financing team to perform a due diligence process to determine the feasibility of the financing, the level of affordability of the set-aside units and structure a resulting proposal for the issuance of bonds.

#### **2. TEFRA Hearing and Approval**

In order for interest on the bonds to be tax-exempt and in accordance with the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982, Section 147(f) of the Internal Revenue Code of 1986, the issuance of bonds must be approved by representatives of the governmental unit with jurisdiction over the area in which the project is located after a public hearing for which a reasonable public notice was given. Therefore, federal regulations require that the issuance of bonds by the Housing Authority be

approved by the City Council, as the elected legislative body of the City. A notice of public hearing to be held by the City Council with respect to the proposed issuance of bonds will be published in the San Diego Daily Transcript at least fourteen days prior to the scheduled meeting. The purpose of such public hearing is to provide an opportunity for interested persons to provide their views on the proposed bond issuance and on the nature and location of the project.

### **3. Bond Allocation**

The issuance of bonds for projects owned by private developers (i.e., projects owned by private developers or by nonprofit sponsors with for profit investor participation - "private activity bonds") requires an allocation of a bond issuing authority from the State of California. In order to apply for the bond allocation, an application approved by the Housing Authority and supported by an adopted Official Intent 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.

### **4. Final Bond Approval**

The Housing Authority retains absolute discretion over the issuance of bonds through adoption of a final resolution authorizing the issuance. Initially, the information about the proposed tax-exempt financing of the project is preliminary. If the Official Intent and TEFRA resolutions are approved, a due diligence process conducted by staff and financing team members will generate additional information and analysis. Prior to final consideration of the proposed bond issuance by the Housing Authority, the project will have to comply with all the program's financing and affordability requirements, and undergo all required planning procedures/reviews by local planning groups, etc.

## ATTACHMENT 4

### PRELIMINARY SOURCES & USES BUDGET 9<sup>th</sup> & Broadway

#### Sources

|                                 |                     |
|---------------------------------|---------------------|
| Tax Exempt Bond Loan            | \$27,977,000        |
| Developer Equity – Deferred Fee | \$ 1,500,000        |
| Developer Equity – Land         | \$ 3,500,000        |
| Developer Equity – Cash         | \$ 445,000          |
| CCDC Loan                       | <u>\$ 6,000,000</u> |
|                                 | \$39,442,000        |

#### Uses

|                                 |                     |
|---------------------------------|---------------------|
| Land Costs                      | \$ 3,500,000        |
| Development Costs – Productions | \$34,830,815        |
| Development Costs – Financing   | <u>\$ 1,111,185</u> |
|                                 | \$39,442,000        |