



SAN DIEGO
HOUSING
COMMISSION

MINUTES

**SAN DIEGO HOUSING COMMISSION
MINUTES OF THE SPECIAL MEETING
JUNE 3, 2016
SMART CORNER
4th FLOOR CONFERENCE ROOM
1122 BROADWAY
SAN DIEGO, CALIFORNIA 92101**

ATTENDANCE

Present:

Chair Gary Gramling
Vice Chair Roberta Spoon
Commissioner Margaret Davis
Commissioner Kellee Hubbard
President & CEO Richard C. Gentry
General Counsel Charles Christensen

Absent:

Commissioner Ben Moraga
Commissioner Dorothy Surdi
Commissioner Frank Urtasun

10 CALL TO ORDER

Chair Gramling called the Regular Meeting to order at 9:10 a.m.

20 NON-AGENDA PUBLIC COMMENT

Mark E. Smith spoke about residing at San Diego Square Senior Apartments.

30 COMMISSIONER COMMENTS

There were no Commissioner comments.

40 REPORT BY PRESIDENT & CHIEF EXECUTIVE OFFICER

There was no report by the President & Chief Executive Officer.

Closed session items were introduced in open session at 9:17 a.m. and members of the public were given the opportunity to make public comment on the matters before the Housing Commission convened in closed session. There were no public comments made.



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CLOSED SESSION

IV. The San Diego Housing Commission convened in closed session to consider the following agenda:

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION pursuant to subdivision (c) of section 54954.5 of the Government Code and pursuant to subdivision (d)(2) of section 54956.9:

One (1) potential matter.

Counsel's Description of General Nature of Closed Session:

Counsel will discuss potential litigation arising out of property/project identified as the Mountain View Project. This will include a status update for the Board at time General Counsel will seek further direction.

B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION pursuant to subdivision (c) of section 54954.5 of the Government Code and pursuant to subdivision (d)(1) of section 54956.9:

Four (4) matters:

Lawanda M. Tucker vs. San Diego Housing Commission, et al., Superior Court of California, County of San Diego, Case No. 37-2015-00018608-CL-MC-CTL;

Marcus Bollinger, et al. vs. Smart Corner Owners Association, Smart Corner Owners Association vs. San Diego Housing Commission, et al. Superior Court of California, County of San Diego, Case No. 37-2015-00025175-CL-BC-CTL; and

San Diego Housing Commission vs. PERB, Superior Court of California, County of San Diego, Case No. 37-2012-00087278-CU-WM-CTL.

Quashana Simmons vs. San Diego Housing Commission, Superior Court of California, County of San Diego, Case No. 37-2016-00014888-CU-PO-CTL

Counsel's Description of General Nature of Closed Session:

Counsel will discuss the existing litigation, will report on status and will seek direction from the Commission concerning the same.



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V. Announcement of Actions Taken in Closed Session.

The Board met in closed session and discussed item IV. A. By a unanimous vote of 4-0, the Board gave direction to Counsel to initiate litigation and/or to defend litigation to protect the interests of the San Diego Housing Commission as determined by the President & CEO upon advice of Counsel. With respect to the four (4) items listed in IV. B., all items were informational only. No action was taken.

VI. Adjournment.

Chair Gramling adjourned the Closed Session at 10:13 a.m.

Chair Gramling reconvened the Special Meeting in open session at 10:13 a.m.

After reconvening in open session the actions taken in closed session were announced by General Counsel.

ACTION AGENDA:

100 HCR16-062 Mountain View Properties Ltd. General Partner Removal Request and Request for consent to substitute a new General Partner

Deborah Ruane, Senior Vice President, Real Estate Division; Ann Kern, Vice President, Real Estate Finance and Program Development; and Ted Miyahara, Director of Housing Finance, Real Estate Division, presented the request for approval.

Testimony in support by David Zaft, Alison Wadle, and Kris Graham.

Testimony in opposition by Gary Downs, Matthew Mahoney, Veverly Anderson, Kimberly Grady, and James Schmid.

A request was made by Vice Chair Spoon that the Board meet in closed session at 11:20 a.m.

Announcement of Actions Taken in Closed Session.

The Board met in closed session and discussed item IV. A. By a unanimous vote of 4-0, the Board voted to amend its previous direction to initiate litigation and/or to defend litigation to protect the interests of the San Diego Housing Commission as determined by the President & CEO upon advice of Counsel.

Chair Gramling reconvened the Special Meeting in Open Session at 11:50 a.m.

After the Board reconvened in open session, General Counsel announced the action taken by the Board concerning the initiation of litigation.



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Motion by Vice Chair Spoon to amend the staff recommendation as follows: Add to staff Recommendation No. 2.a.ii: "Any decision on the new nonprofit by the CEO shall contain a covenant that the resident services shall be re-established immediately as determined by the CEO, or designee, in his sole discretion." Seconded by Commissioner Hubbard and approved by a vote of 4-0.

Motion by Vice Chair Spoon to take the following staff recommended action, as amended by the Board, as follows: Add to staff Recommendation No. 2.a.ii: "Any decision on the new nonprofit by the CEO shall contain a covenant that the resident services shall be re-established immediately as determined by the CEO, or designee, in his sole discretion." Seconded by Commissioner Davis and passed by a vote of 4-0:

That the San Diego Housing Commission (Housing Commission) Board of Commissioners (Board) authorize and direct the following actions:

1. If all of the defaults under the terms of the loan documents, as amended, including but not limited to those defaults referenced below, are not timely cured by the Mountain View Properties Ltd. (Borrower) within the 30-day cure period, which cures include but are not limited to the reinstatement of the General Partner, San Diego Community Housing Corporation, and the payment of the Surplus Cash Deficiency, that the Housing Commission Board direct General Counsel and Staff to:
 - a. Provide notice of Acceleration of the Note to the Borrower; Record the necessary Notice of Default under the terms of the Deed of Trust; Proceed to foreclosure sale, while accelerating the entire amount due under the Note and Deed of Trust, including, the principal, interest and contingent interest. The defaults that must be cured, include, but are not necessarily limited to the, following:
 - i. The failure to pay Surplus Cash Payments under the terms of the Loan Documents in a timely manner and instead making distributions to the General Partner, the Special Limited Partner and Investor Limited Partner, all of which are breaches of the terms of the Loan documents, as amended;
 - ii. The unconsented [consent by the Housing Commission is required] removal of original General Partner, San Diego Community Housing Corporation, by the Special Limited Partner, in violation of the terms of the loan documents, as amended;
 - iii. The unconsented [consent by the Housing Commission is required] appointment of the Special Limited Partner as the new General Partner, a for-profit entity, without the advance written consent of the Housing Commission; and,
 - iv. Defaulting under the terms of the Federal Housing Administration (FHA) insured loan, by making payments to the General Partner, the Investor Limited Partner and the Special Limited Partner in violation of the terms of the FHA insured loan, concerning Surplus Cash Payments, which failure to



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timely make payments, constitutes a cross-default under the terms of the FHA insured first position loan.

2. If the major defaults listed in Recommendation 1 a. i. through iv., are timely cured, within the cure period, to the satisfaction of the President & Chief Executive Officer (President & CEO) of the Housing Commission, or designee, then it is recommended and directed that the following actions be taken by the Housing Commission President & CEO, or designee:
 - a. After San Diego Community Housing Corporation has been timely reinstated retroactive to the date of its removal, conditionally approve the removal of the San Diego Community Housing Corporation, on the express condition that immediately and simultaneously with the removal, a new nonprofit general partner, as approved by the President & CEO, or designee of the Housing Commission, be admitted as the General Partner of the Borrower, as described below. The Special Limited Partner shall make its written election as to which of the options listed in subparagraphs 2.a.i. or 2.a.ii., that it elects to pursue, which election shall be in writing and delivered to the Housing Commission in sufficient time during the cure period, to permit all actions listed in subparagraphs 2.a.i. or 2.a.ii. to be effectuated during the cure period. The written election shall be delivered to the Housing Commission, by the Special Limited Partner, within the cure period:
 - i. The admittance of Community Resident Services, Inc. is conditionally approved, but only upon the condition that a local nonprofit also be admitted as a co-General Partner. Such local nonprofit General Partner, must be as approved by the Housing Commission's President & CEO, upon advice of the General Counsel. The local General Partner may include Housing Development Partners, the Housing Commission's nonprofit affiliate, or any other local nonprofit with which the Housing Commission has worked well in the past, as shall be determined in the sole discretion of the President & CEO, or designee. The co-General Partner, may, in the alternative, also include any other entity that would allow for the reinstatement of the Revenue & Taxation Code Section 214(g) exemption, as approved by the President & CEO, or designee of the Housing Commission. In the alternative, at the written election of the Special Limited Partner, the substitution of a new nonprofit General Partner as referenced within subsection ii, below, is also conditionally approved; or,
 - ii. The admittance of a local nonprofit, as the sole General Partner of the Borrower, provided that the local nonprofit is acceptable to the Housing Commission, this may include Housing Development Partners, the Housing Commission's nonprofit affiliate, or any other local nonprofit with which the Housing Commission has worked well in the past as shall be determined in the sole discretion of the President & CEO, or designee. Any decision on the new nonprofit by the CEO shall contain a covenant that the resident services shall be re-established immediately as determined by the CEO, or designee, in his sole discretion. The approval of the local



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- nonprofit is delegated to the President & CEO of the Housing Commission, or designee, including, without limitation, the Executive Vice President and Chief Operating Officer, in the event, that Housing Development Partners is to be involved, should the Special Limited Partner elect this option, in writing, during the cure period. The election and replacement of the General Partner must occur during the cure period; time is of the essence.
- b. The Special Limited Partner shall also provide the Housing Commission, in writing, during the cure period, a document executed by the authorized officials from the United States Department of Housing and Urban Development (HUD), and an authorized official of the FHA, office of the Commissioner of the FHA, warranting that the default under the terms of the FHA insured loan, including, without limitation, the Second Amendment to the Commission Loan, has been cured and/or has been waived. Time is of the essence in completing the cure within the cure period, including delivering the cure documents to the Housing Commission, which are acceptable to the Housing Commission, as determined by the President & CEO, or designee of the Housing Commission.
 3. Authorize the President & CEO, or designee, as described above, to execute such documents, as approved by General Counsel, that are necessary and/or appropriate to carry out the recommendations and actions referenced above.
 4. Authorize the President & CEO, or designee, as described above, to perform such acts as are necessary and/or appropriate to implement the actions authorized above.
 5. Authorize General Counsel of the Housing Commission to initiate any and all legal proceedings and/or to defend such actions as may be filed to protect the interests of the Housing Commission and to take such actions as are necessary to implement the actions referenced above in coordination with the President & CEO, or designee.

ADJOURNMENT:

Chair Gramling adjourned the Special Meeting at 11:55 a.m.

Respectfully submitted,

Maria Velasquez
Senior Vice President
Communications and Legislative Affairs &
Chief Communications Officer
San Diego Housing Commission

Approved by,

Richard C. Gentry
President & Chief Executive Officer
San Diego Housing Commission