



REPORT TO THE HOUSING AUTHORITY OF THE CITY OF SAN DIEGO

DATE ISSUED: December 7, 2022

REPORT NO: HAR22-035

ATTENTION: Chair and Members of the Housing Authority of the City of San Diego
For the Agenda of December 13, 2022

SUBJECT: Designation of Legal Counsel to Represent the Housing Authority of the City of San Diego (Housing Authority) in Connection with a Lawsuit filed by Nationstar Mortgage LLC against the Housing Authority and Others, Case Number 37-2022-00042847-CU-OR-CTL, and Delegation of Authority to the San Diego Housing Commission and its General Counsel, Christensen and Spath LLP, to Defend the Housing Authority against the Lawsuit, Protect the Affordability of Affordable Rental and Affordable For-Sale Housing Units Produced through the North City Future Urbanizing Area (NCFUA) Inclusionary Housing Program, and Defend the Housing Authority in All Litigation Arising from the Affordable Rental and Affordable For-Sale Inclusionary Housing Program in the NCFUA

COUNCIL DISTRICT: 5

REQUESTED ACTION

Designate legal counsel to represent the Housing Authority of the City of San Diego (Housing Authority) in connection with pending litigation initiated by Nationstar Mortgage LLC, San Diego Superior Court Case Number 37-2022-00042847-CU-OR-CTL, and delegate authority to the San Diego Housing Commission and its General Counsel, Christensen and Spath LLP, to defend against the lawsuit, to protect the affordability of affordable rental and affordable for-sale housing units produced through the North City Future Urbanizing Area (NCFUA) inclusionary housing program, and to defend the Housing Authority in all litigation arising from the affordable rental and affordable for-sale inclusionary housing program in the NCFUA.

STAFF RECOMMENDATION

That the Housing Authority of the City of San Diego (Housing Authority) take the following actions:

- 1) Designate legal counsel to represent the Housing Authority in connection with pending litigation initiated by Nationstar Mortgage LLC against the Housing Authority and additional named civil defendants in San Diego Superior Court Case Number 37-2022-00042847-CU-OR-CTL.
- 2) Delegate authority to the San Diego Housing Commission (Housing Commission) and its General Counsel, Christensen and Spath LLP, to defend the Housing Authority against the lawsuit in San Diego Superior Court Case Number 37-2022-00042847-CU-OR-CTL.
- 3) Delegate authority to the Housing Commission and its General Counsel, Christensen and Spath LLP, to protect the affordability of affordable rental and affordable for-sale housing units produced through the North City Future Urbanizing Area (NCFUA) inclusionary housing program.

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Designation of Legal Counsel to Represent the Housing Authority and Delegation of Authority to Defend the Housing Authority in San Diego Superior Court Case No. 37-2022-00042847-CU-OR-CTL

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- 4) Delegate authority to the Housing Commission and its General Counsel, Christensen and Spath LLP, to defend the Housing Authority in all litigation arising from the affordable rental and affordable for-sale inclusionary housing program in the NCFUA.

SUMMARY

The Housing Authority is scheduled to meet in Closed Session December 13, 2022, to discuss the pending litigation initiated by Nationstar Mortgage LLC against the Housing Authority and additional named civil defendants in San Diego Superior Court Case Number 37-2022-00042847-CU-OR-CTL. Legal counsel is needed to represent the Housing Authority in this pending litigation.

FISCAL CONSIDERATIONS

The proposed action of designating legal counsel to represent the Housing Authority in connection with San Diego Superior Court Case Number 37-2022-00042847-CU-OR-CTL and to protect the affordability of affordable rental and affordable for-sale housing units produced through the NCFUA inclusionary housing program is not anticipated to have a fiscal impact.

ENVIRONMENTAL REVIEW

This activity is not a project as defined by the California Environmental Quality Act (CEQA) Section 21065 and State CEQA Guidelines Section 15378(b)(5) as it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment. Thus, this activity is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(3).

Respectfully submitted,

Sujata Raman

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Vice President, Single-Family Housing Finance
Real Estate Division

Approved by,

Jeff Davis

Jeff Davis

Interim President and Chief Executive Officer
San Diego Housing Commission

Docket materials are available in the "Governance & Legislative Affairs" section of the San Diego Housing Commission website at www.sdhc.org.

HOUSING AUTHORITY OF
THE CITY OF SAN DIEGO

RESOLUTION NUMBER HA-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF SAN DIEGO APPROVING DELEGATION OF AUTHORITY TO PROTECT AND DEFEND THE AFFORDABLE HOUSING PRODUCED BY THE NORTH CITY FUTURE URBANIZATION AREA INCLUSIONARY HOUSING PROGRAM AND ANY LITIGATION ARISING FROM THE PROGRAM TO THE SAN DIEGO HOUSING COMMISSION AND TO GENERAL COUNSEL OF THE SAN DIEGO HOUSING COMMISSION.

WHEREAS, the Housing Authority of the City of San Diego (Housing Authority) created the North City Future Urbanization Area Inclusionary Housing Program (Program) which required developers in that area to build and set aside rental and for-sale affordable housing units as part of their developments; and

WHEREAS, the Housing Authority delegated some administrative authority for the Program to the San Diego Housing Commission (Housing Commission) which included authority to execute and record documents to preserve the affordability of the housing units built through the Program. Those documents are executed in the name of the Housing Authority as beneficiary; and

WHEREAS, the Housing Commission typically administers affordable housing programs on its own behalf or is delegated complete administration of programs on behalf of the Housing Authority, but the Housing Commission does not currently have authority to protect the affordable housing units or defend the Housing Authority in litigation arising from the Program; and

WHEREAS, the Housing Commission administers the Program and has the expertise to defend the Housing Authority, and the Housing Authority wishes to authorize the Housing Commission and its General Counsel to protect and defend the affordable housing produced by the Program and defend the Housing Authority in any litigation arising out of the Program; and

WHEREAS, Nationstar Mortgage, LLC filed a complaint naming the Housing Authority, among others, as defendant alleging causes of action for equitable subrogation and declaratory relief regarding a property subject to the Program in the case *Nationstar Mortgage LLC v. Housing Authority of the City of San Diego, et al.*, 37-2022-00042847-CU-OR-CTL (Litigation); and

WHEREAS, the Housing Authority wishes to delegate and authorize the Housing Commission and its General Counsel to defend the Housing Authority in the Litigation; and

WHEREAS, Housing Commission staff determined this activity is not a project as defined by the California Environmental Quality Act (CEQA) section 21065 and CEQA Guidelines section 15378(b)(5); and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by Housing Commission staff, and verified by the Housing Commission's General Counsel, with the understanding that this information is sufficient to allow for a proper and complete analysis of this matter; NOW, THEREFORE,

BE IT RESOLVED, by the Housing Authority of the City of San Diego, that the San Diego Housing Commission and its General Counsel are authorized to protect the affordability of all affordable rental or for-sale housing units produced by the Program and defend the Housing Authority in any litigation arising out of the Program.

BE IT FURTHER RESOLVED, that the Housing Authority designates and authorizes the Housing Commission and its General Counsel to defend the Housing Authority in the case *Nationstar Mortgage LLC v. Housing Authority of the City of San Diego, et al.*, 37-2022-00042847-CU-OR-CTL.

BE IT FURTHER RESOLVED, that the Housing Commission staff will notify the Housing Authority and the San Diego City Attorney's Office about any subsequent amendments or modifications to the Program and other required documents, including amendments to any documents.

APPROVED: MARA W. ELLIOTT, General Counsel

By _____
Hilda R. Mendoza
Deputy General Counsel

HRM:nja:cm
11/22/2022
Or. Dept: SDHC
Doc. No. 3148713



The City of San Diego
Item Approvals

Item Subject: Designation of Legal Counsel to Represent the Housing Authority of the City of San Diego in Connection with a Lawsuit filed by Nationstar Mortgage LLC against the Housing Authority of the City of San Diego (Housing Authority), First American Title Insurance Company, Inc., Peter Ackoff and Elizabeth Ackoff, Case Number 37-2022-00042847-CU-OR-CTL and Delegation of Authority to the Housing Commission

Contributing Department	Approval Date
DOCKET OFFICE	11/23/2022
ENVIRONMENTAL ANALYSIS	11/23/2022

Approving Authority	Approver	Approval Date
HOUSING COMMISSION FINAL DEPARTMENT APPROVER	MARSHALL, SCOTT	11/21/2022
EXECUTIVE VICE PRESIDENT	DAVIS, JEFF	11/28/2022
CITY ATTORNEY	MENDOZA, HILDA	11/28/2022