Response to Questions from Councilmembers

April 20, 2011

1. **What other projects are in the pipeline for future action by the City Council?**

   CDC Staff receive on average 3-10 proposals for affordable projects each year. There have been significantly more proposals in the past 3 years than at any other time. Currently, there are two projects under review: a 100-unit acquisition/rehabilitation program in Southwinds for which $5.25 million is being sought from the City/CDC; and a 71-unit new construction apartment project in the Cypress neighborhood for which $5 million is being requested. The North and South Plaza areas of Downtown (in the vicinity of Plaza Park) are also under discussion, but the number of affordable units and amount of City/CDC assistance is not yet known.

2. **And how much is each project individually asking/expecting from the set aside fund for Low Moderate Income Housing Fund?**

   Please see the response to Question #1 regarding this question.

3. **What other projects approved by Council prior to Dec. 2010, have received a guarantee or promise of set aside funds?**

   a) An Owner Participation Agreement (OPA) for Wagon Wheel ("The Village") was approved by CDC in March 2010 which granted financial assistance in the form of six separate loans totaling $15.3 million, allowing the development of 140 affordable units and related relocation/replacement housing costs.

   b) A Pre-Development Loan in the amount of $3 million was granted to ED/KOH affiliates (RiverPark) for the development of between 28 and 53 affordable units.

   c) A list of projects previously approved by the CDC are identified in charts on pages 2-3.

4. **What is the status of the affordable housing project at the Wagon Wheel development?**

Two attempts have been made to secure 9% tax credits in 2010. Neither of those applications was successful. A third application for 4% tax credits is anticipated for the next round which is due on May 20, 2011. There are new owners of this project, which may require some modifications.

5. **What is the status of any other projects that have sought or are currently seeking Tax Credit Allocations?**

Sonata Apartments and Colonial House both anticipate the use of tax credits; 9% for Sonata and 4% for Colonial House. Developers for the Sonata Project had hoped to apply for the March 23rd round of 9% tax credits, but the City Council continued discussion on the matter. The deadline for next round for 9% tax credits is July 6, 2011. Colonial House, on the other hand, seeks 4% tax credits which are due on May 20, 2011 for the next round.

6. **As to all three projects what specific efforts have been made successful or not to secure other financing, per the findings that council is required to make pursuant to Section 33334.3(j) of the California Health and Safety Code regarding private or commercial financing? Please be specific.**

Please see the response to Question #7.

7. **Isn't it the usual procedure for such projects to secure at least some funding guarantees from other sources, federal, state, and private before receiving City approval? Please clarify if these three projects are or are not seeking funding guarantees elsewhere and what the status is.**

Sonata Apartments and Colonial House both entail tax credits with layered financing. City/CDC assistance is contingent upon award of tax credits and approval of other financing for both. In each case there is a private loan from an institutional lender in the maximum amount which will, with the CDC loan, maintain affordability. Application for tax credits cannot be made until there is a local funding commitment. In the case of Sonata, the non-profit developer has identified the California Community Reinvestment Center ("CCRC") as its lending partner, while either Wells Fargo or Citi Bank will be used for Colonial House.

CCRC is a non-profit lender made up of a consortium of banks that specialize in providing permanent financing for affordable housing projects, principally in Southern California (http://www.e-ccrc.org/aboutccrc.php). Member institutions receive Community Reinvestment Act credits for their participation. CCRC only provides financing commitments for projects that are deemed to be properly sourced. Without the participation of local jurisdictions (i.e., redevelopment agencies, housing authorities, etc.), projects such as Sonata and Colonial House, would not be deemed properly sourced.

FUNDING SOURCES	SONATA APARTMENTS		COLONIAL HOUSE	
Tax Credits	$ 9,925,701	60%	$ 6,421,950	39%
Permanent Loan	$ 2,840,000	17%	$ 5,000,000	30%
Deferred Developer Fees	$ 837,321	5%	$ 800,000	5%
Deferred Interest			$ 147,000	1%
City/CDC	$ 3,000,000	18%	$ 4,200,000	25%
Total	**$ 16,603,022**	**100%**	**$ 16,568,950**	**100%**

The Cuesta Del Mar Project has an entirely different structure. Section 8 rental assistance is treated as a source of funding, but cannot be guaranteed up-front without adding significant time and cost to the project. Consequently, conventional financing is not practical due to limited cash flows, coupled with Las Cortes being a relatively new non-profit entity. As such, The Cuesta Del Mar Project relies exclusively on City/CDC assistance on the "front-end" and federal rent subsidies on "back end." The use of Section 8 in this fashion is not an uncommon practice and is frequently coupled with tax credits and tax exempt bonds. In this particular instance, these funding sources are not feasible for a project of this size since the transaction costs are prohibitive.

8. **What is the level/amount of subsidy per unit in previously approved projects?**

The following chart is for previously approved projects completed since 1996. Every project has some similarities, but also unique characteristics that vary the financial gap.

NEW CONSTRUCTION SUBSIDIES	PROJECTS		CDC/CITY SUBSIDY		
	Year Built	No. of Units	Actual Cost	2010 Dollars	Per Unit
Villa Solimar - CEDC	1996	32	$ 579,000	$ 805,131	$ 25,160
Casa San Juan - Mercy	1997	64	$ 578,000	$ 785,712	$ 12,276
Casa Marina	1997	28	$ 50,100	$ 68,104	$ 2,432
Heritage Park	1998	28	$ 74,000	$ 99,050	$ 3,537
Casa Merced - Mercy	1999	40	$ 720,800	$ 942,906	$ 23,572
El Paseo - CEDC	2000	190	$ 1,380,000	$ 1,748,464	$ 9,202
Villa Madera - CEDC	2001	72	$ 1,600,000	$ 1,971,116	$ 27,376
Meta Street - CEDC	2002	24	$ 295,000	$ 357,768	$ 14,907
Cypress Court	2002	6	$ 162,000	$ 196,469	$ 32,744
Villa Cesar Chavez - CEDC	2003	52	$ 1,060,000	$ 1,256,895	$ 24,171
Villa Victoria - CEDC	2003	54	$ 1,101,500	$ 1,306,103	$ 24,187
Meadowcrest	2005	50	$ 320,000	$ 357,485	$ 7,149
Paseo Santa Clara	2006	160	$ 4,400,000	$ 4,761,821	$ 29,761
Hacienda Guadalupe - CEDC	2007	26	$ 250,000	$ 263,065	$ 10,117
Heritage Townhomes	2007	12	$ 790,000	$ 831,286	$ 69,273
The Village (Approved)	2010	140	$ 9,900,000	$ 9,900,000	$ 70,714
TOTALS					
Sum		978		$ 25,651,375	
Average					$ 26,228

9. **If there is a difference, please explain what the reasons for the differences are.**

Every project has its own peculiarities and is evaluated on its own merits. Some projects have multiple funding sources and require very little in the way of assistance from the City/CDC, while others rely exclusively on local funds and require significant contributions. The funding "gap" of each project varies for a variety of reasons including type of construction (podium vs. at-grade; wood frame vs. steel, etc.), unit sizing and occupancy mix (i.e., more units of extremely low income translates to less cash flow to support debt financing), etc. In addition, not all projects are equal in terms of the "value-added" nature of their contribution to the blight removal and revitalization objectives of the redevelopment.

The most recent trend we see is in the amount of assistance requested in connection with tax credit projects (please see Attachment No. 1 for background). Sonata Apartments and Colonial House both involve this financing vehicle. The per unit subsidy requested from the City/CDC is $56,604 for Sonata and $95,454 for Colonial House. The Sonata subsidy is less because it involves 9% tax credits as opposed to Colonial House which involves 4% tax credits. The trade-off comes from the availability and benefit of these credits: 9% credits attract larger syndicated capital but are highly competitive, while 4% credits are not as lucrative but are awarded on non-competitive basis. In both cases, the per unit subsidies are considerably ***less*** than the statewide average of $130,000 (per Attachment No. 1).

As previously noted, The Cuesta Del Mar Project involves an entirely different financial structure, and unlike Sonata and Colonial House which involve experienced non-profit partners, Las Cortes is fairly new. Consequently, obtaining conventional financing is problematic. This results in a per unit City/CDC subsidy of $228,571 at inception, but also anticipates full payoff (with interest) by year 35. This is made possible through cash flows that rely on market rents, while making the units affordable through federal rent subsidies, federal Section 8. The Cuesta Del Mar Project is viewed as an opportunity for Las Cortes to build its portfolio and gain credibility in the market place to undertake additional projects in the future. This is the primary motivation for "sister" agencies within the City family to assist one another (i.e., CDC and Housing Authority).

Again, every project has its own peculiarities and each is evaluated on its own merits. When a request is made of the City/CDC, the development proforma is compared against benchmarks that indicate whether the financial structure falls within industry norms (i.e., developer fees, land costs, capitalization rate, reversionary value, etc.). Where industry norms are exceeded, further discussions ensue as to the circumstances and possible remedies. In some cases, the differences are so large that project proponents are unable to close the "gap," in which case, the proposal never makes it to the City Council/Community Development Commission. Two recent examples include an apartment acquisition/rehabilitation project in Southwinds, and an adaptive retrofit of the former Press Courier building in Downtown.

10. As to the Sonata Project and the Colonial House project, please provide the identities & track record of all of the partners in building affordable housing. (For example, see Paragraph 8.10 of the loan agreement ("...because of PWC's demonstrated qualifications and identity that the City has entered into this Agreement with PWC...) It appears that PWC is not a California non-profit corporation and is listed in the Secretary of State's website as "Idaho Pacific West Communities", please clarify.

In regard to Sonata Apartments, the affordable housing will be developed and managed by Sonata at Riverpark Partners, L.P., a California limited partnership comprised of: (i) Central Valley Coalition for Affordable Housing as the Managing Partner; and (ii) Sonata at Riverpark Developers, LLC, as the Administrative General Partner. For information concerning Central Valley Coalition for Affordable Housing, please see http://www.centralvalleycoalition.com/CVCAH.htm. In regard to Sonata at Riverpark Developers, LLC, Mark Walther and Frank Fonseca are the controlling members (each with a 50% ownership interest) and will develop and manage the project through American Communities (which they also own). Please see http://www.americancommunities.net. for more information.

As for Colonial House, the structure is much more simple with Pacific West Communities ("PWC") as the developer. Staff's dealings with PWC have been exclusively through Caleb Roope, President and CEO. Mr. Roope has personally managed the development of more than 80 housing projects over the past decade and his company has developed more than 100 such projects in the western states of California, Arizona, New Mexico, Utah, Oregon, Montana, Idaho, Nevada, Colorado, Washington, and Wyoming. For detailed information on the credentials and portfolio of PWC, please see http://www.tpchousing.com/index.shtml. PWC is registered, in good standing, with the State of Idaho. For additional information, please see http://www.accessidaho.org/public/sos/corp/C156578.html.
Please see the attachment titled "Project Entities" for additional details.

11. **Were any efforts were made to find local, non-profit affordable housing developers? Was there a bidding procedure for any of the projects? (Am I correct that Sonata was part of the original Riverpark Masterplan? If it is, may I please have access to those development agreements and any subsequent amendments?)**

With rare exceptions, the City/CDC does not solicit proposals to develop affordable housing; rather, proposals are typically made to the City/CDC by developers who have already engaged non-profit partners to build and operate affordable housing, and own or can obtain a specified site. If a background check evidences that the non-profit sponsor is in good standing (i.e., properly certified by the governing State agency), its officers are credentialed and the entity has a solid track-record in developing affordable housing, then staff does not question the sponsor's selection. CDC/City participation is to evaluate funding requests, competitive bidding is not applicable, insofar as the City/CDC does not have site or development control. When the CDC/City have site control, staff has worked directly with non-profit developers which staff have had previous success with. On other occasions staff have circulated request for proposals (RFP's).

As for your specific request regarding Riverpark, we will furnish you with copies of the development agreement, Owner Participation Agreement, and related amendments.

12. As to the Colonial House Project, I understand that the City initially owned this property, sold it and now proposes to loan money to the project. Please provide a history of this.

The City, not CDC, acquired the property for potential roadway improvements. The roadway improvements were deemed not necessary sometime after the acquisition. Then, in early 2007, the City Council approved an Agreement of Sale and Exchange for the "Sports Park" site located at the southeast corner of Oxnard Blvd. and Gonzales Rd. The financial agreement for this transaction/acquisition included $10.8 million in cash and 2.12 acres of real property for development purposes, located at 711 North Oxnard Blvd., (The Colonial House site). The value at that time was $2.2 million.

The CDC played no role in this transaction. The owner of the property subsequently submitted development plans for entitlement purposes, and began discussions with CDC Staff regarding potential affordable housing in combination with other uses, and potential for contiguous property development. The proposed project was approved by the Planning Commission and the City Council for a mixed use (commercial/retail and residential), 44 residential units over 14,538 sq. ft. of commercial/retail.

13. I would like to see the purchase and sales agreement for this property, as I assume it is available to the City.

Assuming that your question pertains specifically to the Colonial House project, we have requested a copy of the purchase and sales agreement from Pacific West Communities and will provide you a copy as soon as we receive it. In the meantime, please see the appraisal summary in Attachment No. 2 which establishes land value at $3,500,000. As part of staff's evaluation of the proforma, we estimated the value of the property approximately $1million less, insofar as it exceeded the benchmark we use in evaluating development costs. As a result, the purchase price was lowered to $2,505,000 and takes into account that some of the land value will benefit development of the retail commercial component, as opposed to the affordable housing.

14. Has there been a legal review of the PILOT proposal in the loan agreement? I understand that this may jeopardize the non-profit status of the developer per the State Board of Equalization's previous opinions.

The PILOT Fees for those projects were extensively negotiated and were reviewed and discussed by and between the developer and their respective legal counsel. In response to this question and a letter dated April 6, 2011 from Barbara Macri-Ortiz, Staff and the City Attorney submitted this question to independent legal counsel (not associated with the project). Counsel is of the opinion that the PILOT in these transactions is not a tax and that the project affordability certifications can be made. A memo analyzing the issues is attached hereto. Staff will further discuss the issue with the developers and non-profits in question.

15. **As to all of the projects, why are there only a minimum number of very low or low-income units, and so many moderate-income units? What has been the past practice and philosophy of our City in negotiating a higher number of very low and low-income units in approved projects?**

Because of Article 34 of the California Constitution, the City/CDC can require only 49% of the units in a project to be low or very low income.

Sonata and Colonial House, however, are both Tax Credit Projects. Sonata is applying for the 9% tax credit program and Colonial House 4%.

Typically, the developer will in connection with tax credit allocations agree to a higher percentage of low income usage than these minimums, up to 100%, Article 34 does not prevent this. Accordingly, projects have been able to produce higher levels of affordability.

The table listed below was taken from the 2005-2014 Housing Plan of the 2010-2014 Redevelopment Implementation Plan. In summary, the overwhelming majority of funds and unit production have benefited lower income families. Based on this analysis, the housing production goals for the future can allow for more moderate income units to be funded and or produced through the use of set-aside funds.

TABLE 21: PREVIOUS IMPLEMENTATION PLAN (FY 2004-09)	FAMILY HOUSEHOLDS (By Income)			
	V.L.	Low	Mod	Total
HOUSING UNITS ASSISTED BY LMIHF				
FY 2004/05	71	79	70	220
FY 2005/06	19	42	1	62
FY 2006/07	4	94	13	111
FY 2007/08	1	5	9	15
FY 2008/09	2	9		11
Total	97	229	93	419
LMIHF EXPENDITURES (000's Omitted)				
FY 2004/05	$ 284	$ 544	$ 309	$1,136
FY 2005/06	$1,071	$ 215	$ 330	$1,616
FY 2006/07	$1,320	$ 80	$ 594	$1,994
FY 2007/08	$ 881	$ 966	$ 166	$2,013
FY 2008/09	$ -	$ 863	$ -	$ 863
Total	$3,555	$2,667	$1,400	$7,622

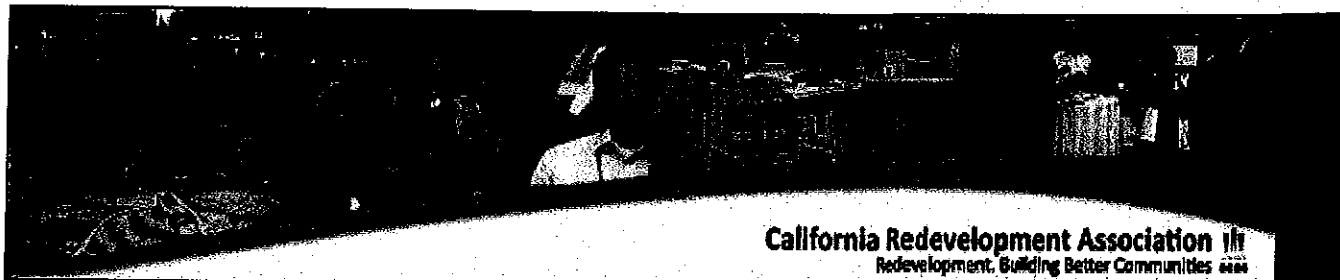
16. Finally, if all of these projects are approved what will be the balance left in the LMIHF/housing set-aside?

At present, there is a current unexpended balance of $13.6 million in the LMIHF/housing set-aside. Sonata, Colonial House and The Cuesta Del Mar Project together total $8.8 million (less $1.7 million in predevelopment loans already expended). The net result is a LMIHF/housing set-aside balance of $6.5 million assuming that all three projects fully funded at the time of approval. Over the remaining five-year term of the current adopted Redevelopment Implementation Plan (per the table below), an additional $14 million in housing set-aside funds are expected to be received (after deducting program operating costs). This would translate to a total fund balance of approximately $20.6 million by FY 2013-14 which would cover the pre-existing obligations of Wagon Wheel redevelopment.

If housing setaside receipts lag behind loan drawdowns, the City/CDC can issue a tax allocation bond to remedy the time gap. The City/CDC can also bridge this potential funding lag by loaning its discretionary tax increment to the LMIHF/housing set-aside. Other measures include the staging of loan draws that allow for the accumulation of LMIHF/housing set-aside over time. This particular feature is embodied in the Colonial Housing loan agreement and is currently under discussion with the new owners of Wagon Wheel.

LMIHF 2010-14 (000's Omitted)	MERGED PROJECT	SOUTH-WINDS	ORMOND BEACH	HERO-PROJECT	TOTAL
REVENUES					
Current Balance	$ 3,554	$ 850	$ 286	$ 6,711	$ 12,400
New Tax Incr.					
FY 2009-10	$ 1,207	$ 285	$ 433	$ 2,245	$ 4,170
FY 2010-11	$ 1,205	$ 285	$ 433	$ 2,244	$ 4,167
FY 2011-12	$ 1,228	$ 293	$ 444	$ 2,313	$ 4,278
FY 2012-13	$ 1,251	$ 301	$ 455	$ 2,384	$ 4,391
FY 2013-14	$ 1,274	$ 310	$ 466	$ 2,456	$ 4,506
Total Resources	$ 9,719	$ 2,324	$ 3,517	$ 18,353	$ 33,913
ADJUSTED TOTAL					
Subtotal	$ 9,719	$ 2,324	$ 3,517	$ 18,353	$ 33,913
Program Ops.	$ 1,160	$ 277	$ 420	$ 2,190	$ 4,046
Net Available	$ 8,559	$ 2,047	$ 3,097	$ 16,163	$ 29,867

ATTACHMENT NO. 1



Executive Director's Legislative Report

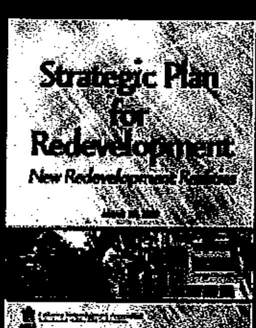
12/14/2010

CRA Annual Conference & EXPO

March 30 - April 1, 2011
San Jose Convention Center

Look for information in the mail

Strategic Plan for Redevelopment available online at www.calredevelop.org



Call for Improvements to Low-Income Housing Tax Credit Program

RA has joined with the California Council for Affordable Housing (CCAH) in calling for cost-cutting changes to the regulations used by the California Tax Credit Allocation Committee (TCAC) to award tax credits for local housing projects. We are asking our members to contact the three members of TCAC to urge changes to the regulations that will produce the maximum number of affordable homes.

Background

Low-income housing tax credits and redevelopment housing funds are the two primary funding sources for affordable housing in California. These two funding programs are frequently used together to provide high quality affordable housing throughout the state. However, in recent years the California Low Income Housing Tax Credit (LIHTC) Program has shown some troubling trends that hinder redevelopment agencies' efforts to leverage their housing funds and provide much needed affordable housing to their communities. First, the cost of affordable housing financed with tax credits has been rapidly escalating. The per-unit cost for tax credit financed housing averaged $339,000 in 2010—a 57% increase since 2005. Second, the amount of other public funding required for tax credit financed housing averaged $130,000 per unit in 2010—a 40% increase from the previous year. The bulk of this public funding comes directly from redevelopment agency housing funds.

While there are a number of factors that give rise to these increased costs, there are revisions that could be made to the LIHTC Program to improve its efficiency and maximize the use of this valuable resource. To that end, the California Council on Affordable Housing (CCAH) formed a task force to review the LIHTC Program and recommend improvements. The CCAH task force has completed its work and made a number of recommendations, which focus on increasing production of units under the 4% tax credit program, emphasizing improved cost efficiency in the scoring for the 9% tax credit program, and limiting the amount of public funds that can be used to reduce the amount of tax credits requested.

At its October 28 meeting, the CRA Housing Committee, chaired by Lisa Stipkovich from Anaheim, reviewed the task force's findings and is participating in the ongoing effort to make this program more cost effective.

Call for Action

As primary funders of tax credit projects, redevelopment agencies need to weigh in on the issue. Agencies should urge the members of the Tax Credit Allocation Committee (State Treasurer Bill Lockyer, State Controller John Chiang, and Governor-elect's Director of Finance Ana Matosantos) to work with California's affordable housing industry to improve the LIHTC Program.

Click ***here*** to view the CCAH sign-on letter recommending improvements to the LIHTC Program and click ***here*** to see a sample support letter for an agency or organization to send on its letterhead after adding local experiences with the LIHTC Program. If your agency or organization is willing to be added to the sign-on letter, please forward the name, title, and affiliation of the signer to jshirey@calredevelop.org or call (916) 448-8760 with the information. For more information on the CCAH recommendations, visit their website at http://www.californiacouncil.com/lihtc-task-force.

State Budget Takes Center Stage: Progress Unlikely Until after January 3

On December 6, the Governor called a special session for the State Legislature to work on the $6 billion hole in the FY 2010-11 state budget. The Legislature has 45 days to act, but it has adjourned until January 3 when Governor-elect Jerry Brown will be sworn into office and the regular session reconvenes as well.

The new Governor will have to submit a budget for 2011-12 by

January 10, a mere 7 days later. Governor-elect Brown is already at work on his proposed budget, appointing Director of Finance Ana Matosantos to the same position in his Administration and to his transition team and convening a Budget Forum in Sacramento and perhaps holding similar sessions in other locations in the state. All legislators and many local officials were invited to the forum in Sacramento.

During the brief time the State Legislature was in session on December 6, Senate President Pro Tem Darrell Steinberg named Senator Mark Leno (D-San Francisco) as the chair of the Senate Budget and Fiscal Review Committee. Senator Bob Huff (R-Diamond Bar) was appointed vice-chair of the committee. CRA will report on other Committee appointments of significance to local redevelopment once they are made.

The CRA website, including its legislative advocacy components, is undergoing major changes – look for these in the next month. Hopefully, the changes will be seamless, but if not, please contact Lillian Henegar, lhenegar@calredevelop.org or (916) 448-8760, with your questions.

Want more info? (916) 448-8760
admin@calredevelop.org
California Redevelopment Association, 1400 K Street Suite 240, Sacramento , CA 95814

ATTACHMENT NO. 2

TBC inc The Bronstein Company, inc.
REAL ESTATE VALUATION & CONSULTING

Cary R. Bronstein, MAI
Cell Phone: (818) 601-0776
Cary@TBCappraisal.com

APPRAISAL REPORT

Vacant Land with Entitlements
705-747 North Oxnard Boulevard
Oxnard, CA 93030

TBCinc File: 2126-F-211

19531 Ventura Boulevard, Suite 4
Tarzana, California 91356
Telephone (818) 344-6279 Fax (818) 344-8063

The Bronstein Company, inc.

REAL ESTATE VALUATION & CONSULTING

Cary R. Bronstein, MAI
Cell Phone: (818) 601-0776
Cary@TBCappraisal.com

Appraisal of
705,711 and 747 North Oxnard Boulevard
Oxnard, CA 93030

Property Type
Valuation of Vacant Land with Entitlements

Interest Appraised
Fee Simple

As of

Date of Inspection	*Date of Value*
January 24, 2011	January 24, 2011

USPAP Criteria

Report Type	*Development Process*
Summary	See Scope of Work

Prepared For
Ms. Maria Obledo
Century Housing
1000 Corporate Pointe
Culver City, CA 90230

Prepared By
Cary Bronstein, MAI
CA #AG013774; Expires 11/6/2012

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Cary@TBCappraisal.com

February 2, 2011

Ms. Maria Obledo
Century Housing Corporation
1000 Corporate Pointe
Culver City, CA 90230

RE: **Summary Appraisal Report**
Valuation of Land
705, 711 and 747 North Oxnard Boulevard
Oxnard, CA 93030
TBCinc File: 2126-F-211

Dear Ms. Obledo:

Per your request we have appraised the above captioned property. The purpose of the appraisal is to provide an estimate of the **"As Is" Market Value** of the subject property, defined as the Fee Simple interest of the land plus any contributory value allotted to existing entitlements.

Our analysis is in conformance with the cited Scope of Work outlined in this appraisal report, in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). Our appraisal report is a Summary report type complying with the reporting requirements set forth under Standards Rule 2-2(b) of USPAP. Additionally, this report is in compliance with the requirements set forth in Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA); Fair Lending guidelines; and, the specific requirements of our client.

This appraisal is valid only for the intended client and for the intended use noted below. This appraisal is not valid for any third party or any use other than that stated below.

Intended User	Century Housing Corporation
Intended Use	Acquisition Financing

Ms. Maria Obledo
Century Housing Corporation
Page 2

Based on the information, analysis and reasoning provided in the attached appraisal report, together with our best judgment and experience, we estimate the **"As Is" Market Value** of the subject property, as of the stated date of valuation, to be as follows:

Value Scenario	Date of Value	Value Indication
"As Is" Market Value	January 24, 2011	$3,500,000

The value estimate cited above is inclusive of real property and entitlements only and does not include any non-realty items. Our opinions and conclusions are subject to each of the Assumptions & Limiting Conditions made a part of the attached report.

Particular attention is directed to the following Extraordinary Assumption(s):

Extraordinary Assumption #1
Markets – on a macro (national) level – have experienced a high degree of turbulence and instability since the credit market collapse and national recession commenced in 2007. Since that time, investors have reacted to a continuum of negative news including: the decline of home values and record foreclosure rates, failure of prominent capital market entities and banks, rising unemployment, deteriorating consumer confidence, decreasing consumer spending levels, federal government bailouts, and growing state budget deficits around the country. As was predicted, commercial real estate markets started eroding in 2009 and continued throughout 2010. The broader default rate of non-performing commercial, construction and land loans exploded in 2009 to a record level of $135.7 billion, the highest volume of bad loans in 18 years. Indicators include deterioration of CMBS (commercial mortgage backed securities) performance and broader statistics of non-performing commercial, construction and land loans. The number of delinquencies within the conduit/fusion space of commercial mortgage-backed securities rose 79% in 2010, ending December at 8.79% up from 4.9% a year earlier, according to Moody's Investors Service. Moody's expects new CMBS issuance of about $37 billion in 2011 and projects its delinquency tracker to end this year between 9.5% and 11%. According to projections from Foresight Analytics, lenders can anticipate the volume of non-performing loans to jump to $165 billion, with the default peak not expected until early 2011. Three other forecasts by Moody's Investor Services, Fitch Ratings and the Urban Land Institute all expect the performance of commercial real estate loans to continue to erode in the near term. Therefore, due to the weakened state of the economy and particularly commercial real estate markets, at this time we caution the user of this report that it is conceivable property values may decline rapidly in the near or mid future. In light of the issues above, our analysis assumes no immediate, dramatic market volatility.

TBC inc

Extraordinary Assumption #2
The subject is currently in escrow for $3,500,000. Of note, the Purchase Agreement cites the following somewhat atypical language: "It is acknowledged that Seller shall retain the land and improvements associated with the commercial space in Buyer's proposed project, and Buyer and Seller agree to cooperate in good faith to facilitate such an arrangement...The Purchase Price of the Sale Parcel may be adjusted based upon this arrangement to the mutual satisfaction of both Buyer and Seller."

The language noted above reveals the seller anticipates having a future interest in the property (retail portion), but neither review of the Purchase Agreement nor a discussion with the Listing Broker was productive in terms of defining how this might occur, or the ultimate impact on value. The Purchase Agreement language appears to suggest that the retail portion would be sold back to the current owner (reference to the "Purchase Price of the Sale Parcel") *– but the language is ambiguous. When queried about this issue, the Listing Broker was unable to articulate how this aspect of the purchase agreement would be satisfied, suggesting only that* "maybe they'll opt to make the retail portion commercial condos."

With the above issues in mind, we emphasize that our value conclusion specifically assumes full ownership of each subject parcel, and all the rights inherent thereto.

Thank you for the opportunity to have been of service. If we can assist further, or if you have any questions regarding the material discussed in this report, please do not hesitate to call.

Respectfully Submitted,

THE BRONSTEIN COMPANY, INC.

Cary Bronstein, MAI
CA #AG013774; Expires 11/6/2012

Attachments: Appraisal Report

TBC inc

Memorandum

TO: Alan Holmberg, City Attorney

FROM: Iris P. Yang, Special Counsel

DATE: April 13, 2011

RE: PILOT Provision in Loan Agreements between City and Pacific West Communities and Sonata at RiverPark Partners, L.P.

QUESTION PRESENTED

The City has received a letter from Barbara Macri-Ortiz, dated April 6, 2011, alleging that certain provisions in the above-referenced loan agreements are illegal. Section 3.11 of each agreement provides that the developer shall make a payment that is referred to as a "payment in lieu of taxes" or PILOT. In her letter, Ms. Macri-Ortiz asserts that (i) PILOTs are not authorized by statute; (ii) the PILOT is a tax and making such payments jeopardizes the property owner's right to claim a property tax welfare exemption; (iii) the provision violates the intent of the statute authorizing property tax welfare exemptions; and (iv) the provision violates the anti-discrimination provisions of Government Code section 65008. However, Ms. Macri-Ortiz does not claim to represent either of the developers who are parties to the Loan Agreements. We assume the developers have been represented by legal counsel in their negotiations and that they are comfortable with the terms of the Loan Agreements.

As more fully discussed below, I do not believe that any of the claims described above has any merit. As structured in these agreements, the PILOT is not a tax imposed by the City, but is simply an agreement by the developer to make certain payments, which payments shall be made out of residual receipts from the operation of the housing project.

ANALYSIS

I. BACKGROUND

Both projects are affordable housing projects which are expected to receive tax credit financing. In both instances, the developer owns or will own the property on which the projects will be developed at the time the loan proceeds are disbursed. In addition, the City will be loaning funds to each project to help pay for the cost of development.[1] Section 3.10 of each agreement provides that the loan shall be repaid out of "Residual Receipts." Residual Receipts is defined as Gross Revenue less Operating Expenses, as determined by an annual audit.

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[1] The source of the funds is the Community Development Commission's Low and Moderate-Income Housing Fund, required to be established under Health and Safety Code section 33334.2 However, due to ongoing state budget discussions, the CDC has authorized the City to use the monies in this fund for these projects.

Section 3.10 further provides that:

> "City and [developer] shall each be allocated fifty percent (50%) of Residual Receipts. City's share of Residual Receipts shall first be applied to pay PILOT and second to retire interest and principal on the Loan."

Section 3.11 of each agreement is entitled "PILOT" and calls for the developer to pay the City a specified annual amount after the project is completed. The section also provides:

> "PILOT shall be paid on each Payment Date ... only to the extent of 50% of Residual Receipts, with such payment having a priority over payment of the Loan pursuant to Section 3.10. To the extent such 50% share of Residual Receipts is insufficient to pay the annual PILOT amount, such unpaid amount shall accrue and be paid out [of] the City's 50% share of Residual Receipts in succeeding years until the PILOT is paid in full. The obligation of [Developer] under this Section 3.11 shall be evidenced by a Promissory Note and secured by a Deed of Trust upon the [project] (junior to all Permitted Mortgages and the Loan) ... . If the City's 50% of Residual Receipts (as they may be available from time to time) are not sufficient to pay in full the annual and accrued amount PILOT by the end of the 55-year term of affordability covenants imposed upon the [project], the unpaid balance of principal and accrued interest remaining at the end of the term (if any) shall be exonerated, and the Promissory Note and the Deed of Trust shall be cancelled and re-conveyed."

II. AUTHORIZATION FOR PILOT

Ms. Macri-Ortiz states that "there is no constitutional or statutory authority that authorizes the City to impose such a tax on the development of affordable housing." She relies in part on a 2003 opinion letter from an attorney with the State Board of Equalization to the Imperial County Assessor on an unrelated housing project. In that letter, the attorney opines that a non-profit housing corporation cannot enter into a PILOT agreement with the county, and that if it did, it would risk losing its property tax welfare exemption.

First, the letter provides very little information about the facts in that situation, other than the proposed PILOT Agreement specified that the payment to be made to the County would be a tax paid for 17 years. The letter then states that because the legislature has specifically authorized that payments in lieu of taxes be made in certain specific situations, not including the one before him, the proposed PILOT agreement must be invalid. The letter also makes clear that the letter is advisory only and is "not binding on any person or public entity." (Steinberg letter, p. 3.)

The facts in Oxnard are quite different. First the PILOT obligation cannot be considered a property tax imposed by the City.[2] Ad valorem property taxes are established and limited by Articles XIII and XIIIA of the California Constitution. Further, while cities may seek to enact other

[2] Ms. Macri-Ortiz implies, but does not specifically state, that the "tax" allegedly being imposed is a property tax.

types of taxes, they must follow specified procedures to do so, such as obtaining voter approval for general or special taxes.

Nor is the PILOT being "imposed" by the City. If the developers do not wish to undertake the PILOT obligation, they are not required to enter into the Loan Agreements. The Loan Agreements are contracts that have been negotiated between the parties in which both sides have agreed to perform certain acts in exchange for receiving certain benefits.

Perhaps the most important distinction is that unlike property taxes, which are fixed annual obligations, the PILOT obligation is only to be paid out of the City's share of Residual Receipts, and only to the extent that they are available. The PILOT obligation could be considered more accurately to be a forgivable loan. If the full amount has not been paid in 55 years, then any remaining PILOT obligation is extinguished. The same is not true with property taxes.

III. IMPACT ON PROPERTY TAX WELFARE EXEMPTION

The owners of many affordable housing projects developed with tax credit financing, such as those described in the Loan Agreements, are eligible for and often seek an exemption from paying property taxes, as authorized under Revenue and Taxation Code section 214 (g), often referred to as a "welfare exemption." Ms. Macri-Ortiz correctly states that one of the eligibility requirements for a welfare exemption for these affordable housing projects is that the owner "certify that the funds that would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower income households." (Rev. & Taxation Code § 214(g)(2)(B).) In this instance, because the PILOT obligation is subordinate to all operating expenses of these projects, and is dependent upon the existence of Residual Receipts, the developer's eligibility for a welfare exemption should not be affected.

First, as discussed above, the PILOT is not a property tax. Second, the definition of "Operating Expenses" (in Section 1.38 of the Loan Agreements) specifically <u>excludes</u> "debt service contingent upon the availability of residual receipts or surplus cash of the Property." As mentioned above, "Residual Receipts" means Gross Revenues less Operating Expenses. The rents to be charged at the projects must be "affordable," which, of course, affects Gross Revenues. If Operating Expenses exceed Gross Revenues in a given year, there will be no Residual Receipts, and hence, no PILOT amount to pay. Thus the PILOT obligation, as structured in these Loan Agreements, cannot be considered necessary to maintain the affordability of the housing units. Therefore it would not affect the developer's ability to provide the certification required by Revenue and Taxation Code section 214(g)(2)(B).

IV. PUBLIC POLICY UNDERLYING WELFARE EXEMPTION

Ms. Macri-Ortiz states that the public policy underlying the welfare exemption provided in Revenue and Taxation Code section 214(g) is to help make affordable housing projects financially feasible by relieving them of the burden of paying property taxes. She is correct. However, she then states that "it would be totally inappropriate for the City to expect or require the proponent of an affordable housing development to relinquish its legislatively authorized welfare exemption in exchange for securing financing from a public fund that was specifically created for the purpose of supporting the development of low and moderate income housing."

In my review of the Loan Agreements, I did not see anything that would require either developer to "relinquish its legislatively authorized welfare exemption." In fact, the contrary would be true. If the purpose of the PILOT obligation is to make a payment in lieu of taxes, that would imply that the developer anticipates seeking a welfare exemption, rather than relinquishing that right.

V. GOVERNMENT CODE SECTION 65008

Finally, Ms. Macri-Ortiz claims that the PILOT provision violates Government Code section 65008, subdivisions (a), (b) and (d) because it discriminates on the basis of both the method of financing of the development and the intended occupancy by very low, low and moderate income families. It is unclear how the approval of two affordable housing projects or of the Loan Agreements violates these provisions.

Subdivision (a)(2) provides that any planning or zoning action is null and void if it "denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy or any other land use ...because of ...(2) The method of financing of any residential development of the individual or group of individuals....". The Loan Agreements will allow for the development of affordable housing which must be made available on a non-discriminatory basis. Ms. Macri-Ortiz fails to specify what individual or group of individuals have been harmed and how. The PILOT provision does not provide financing for the housing projects. The tax credit financing, City loan and other sources will finance the residential development. The PILOT provision is, as noted above, simply an obligation to make a payment out of Residual Receipts, if there are any.

Subdivision (b)(1) provides that no city shall, "in the enactment or administration of ordinances ... discriminate against any residential development ... (A) because of the method of financing...". There is no evidence to suggest, and Ms. Macri-Ortiz does not cite any, that the City has an ordinance that fits in this category.

Finally, subdivision (d) prohibits a city from imposing different requirements upon residential developments that receive federal or state subsidies from non-assisted residential developments. Such discrimination would include "the denial or conditioning of a residential development ...based in whole or in part on the fact that the development is subsidized, financed, insured, or otherwise assisted as described in this paragraph."

First, I believe that Ms. Macri-Ortiz may be confusing a city's ability to exercise its police power under Article XI , section 7 of the California Constitution and Government Code section 65000 *et seq.*, with the City's corporate authority to enter into contracts that will further a public purpose, in this instance the development of housing that must remain affordable, on a non-discriminatory basis, for 55 years.

For example, the recitals in the Loan Agreement with Pacific West Communities state that the project has received its land use entitlements, including a Planning and Zoning Permit, Tentative Map approval and Special Use Permit, that would allow the development to be built on the property. The Loan Agreement does not provide any land use entitlements, but is a financing agreement whereby the City is providing a loan under certain conditions to make the project financially feasible. In addition, the source of the funds is the CDC's Low and Moderate Income Housing Fund, which must be used in accordance with the provisions of Health and Safety Code sections 33334.2 and 33334.3, which authorize redevelopment agencies to enter into agreements to provide funds for the development of affordable housing. The facts with Sonata at RiverPark Partners, L.P. are substantially similar.

Finally, Ms. Macri-Ortiz alleges, without specifying any facts, that the City cannot demonstrate it has afforded equal treatment to all tax-exempt organizations and properties within the City, including those serving religious or educational needs, as well as those serving the housing needs of the low income community. Without knowing the basis for this general allegation, it is impossible to respond to it. In any event, it seems to be unrelated to the issue of the PILOTs.

CONCLUSION

Based on all of the above, it is our opinion that the PILOT provisions in the Loan Agreements are valid and are not illegal. Please do not hesitate to let me know if you have any questions.

IPY:mb

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PROJECT ENTITIES

SONATA APARTMENTS

(SONATA AT RIVER PARK PARTNERS, L.P.) – (AFFORDABLE HOUSING SPONSOR)

Managing Partner: Central Valley Coalition for Affordable Housing
Chief Executive Officer: Christina Alley
http://www.centralvalleycoalition.com/history_of_coalition.htm

Administrative General Partner: Sonata at Riverpark Developers, LLC
Chief Executive Officer: Frank Fonseca
http://www.americancommunities.net/AboutUs.html

(DEVELOPER) – (RIVERPARK MASTER BUILDER)

Managing Partner: E.D., LLC and E.D. 2, LLC
Member: Dave O. White
http://plazadevelopmentpartners.com/principals.html

Managing Partner: KOH, LLC, and KOH 12-17, LLC
Member: Paul Keller
http://www.centralvalleycoalition.com/history_of_coalition.htm

COLONIAL HOUSE

(PACIFIC WEST COMMUNITIES)

CEO: Caleb Roope
http://www.tpchousing.com/aboutus.shtml