ATTACHMENT 1

City of Santa Barbara
Community Development Department

Memorandum

DATE: August 4, 2014

TO: Mayor and City Council

FROM: Deirdre Randolph, Community Development Programs Supervisor
David Rowell, Project Planner

SUBJECT: 211 W. Gutierrez Street #16

The above moderate-income restricted unit is in foreclosure and therefore the City's affordable covenant and 2nd Deed of Trust are at risk of loss. The property's Homeowner's Association has recorded a Notice of Default and the 1st Deed of Trust is seriously delinquent and has been transferred to the lender's foreclosure department.

This memorandum is to inform you that, pursuant to the authority under Resolution 842, the City will advance ~$31,078 to stop both foreclosure actions and protect its affordability covenant. This will avoid the need for the City to purchase and resale the unit. There are sufficient Successor Agency Housing reserve funds available (~$700,000); however the total amount needed has not been appropriated in the Fiscal Year 2015 budget. The appropriation item will come before you in September for consent.

Background:

The Owner of this moderate-income restricted property was income qualified and purchased the El Zoco Artist Work/Live affordable studio for $199,800 on October 21, 1994. The Owner obtained an approved purchase money loan in the amount of $132,500 and an RDA second loan in the amount of $57,250. In 2003, after obtaining required City pre-approval, the Owner refinanced the purchase money loan. The City's RDA loan is paid current and has been paid down to approximately $32,000 (44% paid).

Unfortunately, in the past two years, due to numerous serious health concerns and resulting medical expenses, the Owner fell behind on first mortgage payments and HOA dues. Adult Protective Services has assigned a case worker to assist the Owner and make appropriate referrals for supportive services including "Age Well Fiduciary Services" which provides comprehensive elder care assistance and advocacy in the areas of health-care management, financial management, and fraud protection.

Authority

This is the first enforcement case post Redevelopment Agency (RDA) dissolution. In the past, RDA Housing set-aside funds were advanced to cure defaults to preserve affordable covenants. Staff acted under the authority granted by Resolution 842, under which Council approval is not required. This Resolution (and authority) transferred to the Successor Housing Entity along with all other former RDA assets and governing documents.

After the needed funds were advanced to cure a default, the City would start its own foreclosure which would force a resolution. Each enforcement case is unique; resolution *prior to Trustee's Sale and loss of City's interests* has been achieved in a number of ways, including but not limited to the following:

1) The defaulting owner would cure the default (repay the amount advanced by the City plus foreclosure fees); or
2) The Owner agreed (under threat of loss or litigation) to sell the property to a City-qualified buyer (the City loan was paid off upon transfer); or
3) The City would exercise its option and purchase the unit. During the City's ownership, it would continue to advance funds to pay any assumed mortgages, property taxes, HOA fees, and utilities until the unit was refurbished; and ultimately resold by lottery. The City may or may not recoup 100% of the funds advanced depending upon a number of factors, including the possibility of bankruptcy, funding needed for repairs, market conditions, etc. This case is estimated at roughly $150,000.

Current Action:

City staff has the authority to cure the default and force a resolution as described above; however, this case allows for a less costly resolution because Owner has a 2nd mortgage with the City. Instead of depleting the affordable housing reserves by advancing funds of +/- $150,000 to cure, defend, purchase, refurbish, hold and resale this unit, the City consistent with Resolution 842 can cure the default by advancing only the amount needed (~$31,078) from reserve funds; extend the affordability by 25 years; and ensure Owner is timely on future payments. There are sufficient Successor Agency Housing reserve funds available (~$700,000); however the amount needed has not been appropriated in the Fiscal Year 2015 budget.

As mentioned above, each enforcement case is unique. In this case, because the City already has a 2nd Deed of Trust on the property, securing advanced funds is a relatively simple process.

Under the authority of Resolution 842, the City will advance the above requested sums in order to avoid the need to purchase and resale the unit. In lieu of declaring its own default, the City will instead increase the existing 2nd City loan by the advanced amount. The City loan would be increased from its current balance of $32,000 to approximately $63,000. Monthly payments would be fully amortized based upon a 3% interest rate and a 30-year term.

The City will retain its second lien position on the property and the affordability will be extended from 2024 to 2049.

The property remains affordable to the Owner who has a fixed monthly income and, with a loan-to-value ratio of 65%; the City's risk of loss is low.

In Closing

This proposal preserves and extends the affordability of a City unit and prevents the loss of the City's 2nd mortgage loan. Although the aforementioned actions will be taking place immediately, this item will come to Council in September for consent. A new draft resolution that will better facilitate the preservation of affordable units by the Successor Housing Entity, post RDA, will be presented for ratification at a future date.

Please contact Deirdre Randolph at 564-5461 x 5511 should you have questions.

CC:
Jim Armstrong, City Administrator
Paul Casey, Assistant City Administrator
Ariel Calonne, City Attorney
Sarah Knecht, Assistant City Attorney
George Buell, Community Development Director
Sue Gray, Community Development Business Manager