



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: September 9, 2014

TO: Mayor and Councilmembers

FROM: Administration, Housing And Human Services, Community Development

SUBJECT: Affordable Housing Fund Appropriation

RECOMMENDATION:

That Council appropriate \$31,568 to the Affordable Housing Operating Fund from the Housing Reserve Fund to preserve a City affordable housing unit.

DISCUSSION:

In August 2014, Housing Staff was notified that a moderate-income owner-occupied unit was in foreclosure, and therefore the City's affordable covenant and 2nd Deed of Trust were at risk of loss. Since the dissolution of the Redevelopment Agency, the City no longer receives housing set-aside funding; therefore, any resolution of the default needed to 1) preserve the affordability of the unit and 2) minimize depletion of the Affordable Housing Reserves.

Staff estimated that the Housing Reserve Fund could be depleted by at least \$150,000 if the City purchased, rehabilitated, and resold the unit. However, under the authority granted to the Redevelopment Agency through Resolution 842, and transferred to the Successor Housing Entity, a lesser amount of \$31,568 was advanced to cure the default, and this amount was added to the Owner's existing City loan. This loan, plus three percent (3%) interest, will be repaid to the City in monthly installments and will be secured by the affordable unit. In addition, the term of the Affordable Covenant due to expire in 2024 was extended an additional 25 years to expire in 2049.

BUDGET/FINANCIAL INFORMATION:

There are sufficient Successor Housing Entity reserve funds available (~\$700,000); however, the amount advanced (\$31,568) needs to be appropriated in the Fiscal Year 2015 operating budget.

ATTACHMENT(S): Attachment 1: August 4, 2014 Memorandum to Mayor and City Council
Attachment 2: Resolution 842

PREPARED BY: Deirdre Randolph, Community Development Programs Supervisor/SLG

SUBMITTED BY: George Buell, Community Development Director

APPROVED BY: City Administrator's Office



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

RESOLUTION NO. 842

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SANTA BARBARA AUTHORIZING STAFF TO EXPEND AGENCY FUNDS FROM THE AFFORDABLE HOUSING SET-ASIDE TO PURCHASE AND RESELL ANY AFFORDABLE UNIT WHICH IS IN DEFAULT OR FORECLOSURE, WHETHER INSIDE OR OUTSIDE THE CCRP, IN ORDER TO PREVENT THE LOSS OF THE AFFORDABILITY RESTRICTIONS ON SUCH UNIT.

WHEREAS, each of the affordable condominiums in the City is subject to recorded resale price controls which assure that the unit remains affordable to subsequent purchasers over the long term; and,

WHEREAS, these resale price controls contain language required by lenders which provides that in the event of foreclosure by a 1st trust deed mortgage lender the price controls will expire; and,

WHEREAS, the Redevelopment Agency may be able to preserve the long term affordability of a housing unit which is in default or in foreclosure by purchasing such unit prior to foreclosure or at the foreclosure sale, at a price not to exceed the maximum affordable sale price plus costs of purchase, and reselling the unit to an eligible purchaser at an affordable price; and,

WHEREAS, there is a need for affordable housing within the City of Santa Barbara, and it is in the interest of the City for the Redevelopment Agency to preserve the long term affordability of such a unit through the purchase and subsequent resale; and,

WHEREAS, pursuant to the authority of Health and Safety Code § 33334.2(g), the Redevelopment Agency of the City of Santa Barbara has authorized the expenditure of Agency funds outside the Central City Redevelopment Project (CCRP) Area for low and moderate income housing by Resolution No. 695 dated July 17, 1984,

NOW THEREFORE, BE IT RESOLVED by the Redevelopment Agency of the City of Santa Barbara as follows:

- A. The Redevelopment Agency Board approves administrative authority for staff to expend Agency funds from the affordable housing set-aside to purchase and resell any affordable unit which is in default or foreclosure, whether inside or outside the CCRP, in order to prevent the loss of the affordability restrictions on such unit, provided the following conditions are met:
 1. The affordable unit is in the City of Santa Barbara (whether inside or outside the Central City Redevelopment Project area), and is subject to the City's affordability conditions.

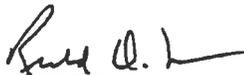
2. The owner is in default in the payments or conditions of a loan against the unit, and there is a chance that the City's resale price controls may be lost due to a foreclosure or tax sale.
3. There are adequate funds available for the purchase in the Agency's affordable housing set-aside.
4. Staff has determined that any risk of loss to the Agency's affordable housing set-aside funds, arising from the purchase and sale, is outweighed by the value to the Agency of retaining the affordability controls on the unit.
5. The purchase price paid by the Agency is as low as possible, and does not exceed the maximum resale price of that unit as determined by the City's recorded price controls, plus costs of purchase.
6. Immediately after the purchase the Agency shall market and sell the unit to an eligible buyer, at a price not to exceed the maximum resale price of that unit. The Agency may list the unit with a real estate broker to facilitate marketing. Any City or Agency loans on unit may be assumed by the purchaser.
7. The net proceeds from the sale of the unit are to be used to reimburse the Agency for the funds used for the purchase of the unit, and to bring current any City or Agency loans on the unit which were delinquent.
8. Any funds remaining after the Agency has been reimbursed for the costs to purchase the unit, and after any City or Agency loans are subtracted, shall be paid to the defaulting owner; this payment shall not exceed the owner's equity at the time of the Agency's purchase. However, if the defaulting owner had been in material breach of the City's recorded resale control covenant, the owner shall not be entitled to any payment from the Agency.

B. The Redevelopment Agency Board Authorizes the Deputy Director of the Agency to execute all documents necessary to purchase and resell any such affordable unit in conformance with the conditions contained in this Resolution.

BE IT FURTHER RESOLVED, that the foregoing Resolution No. 842 was adopted by the Redevelopment Agency of the City of Santa Barbara on the 27 day of April, 1993, by the following vote:

AYES 5 NAYS 0 ABSTAIN 0 ABSENT 2

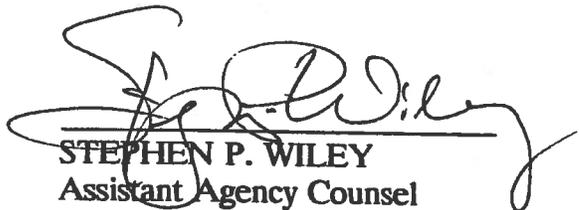
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the
Redevelopment Agency of the City of Santa Barbara this 30 day of April, 1993.



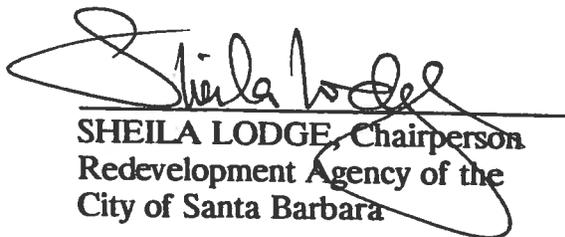
RICHARD D. THOMAS, Secretary
Redevelopment Agency of the
City of Santa Barbara

I hereby approve this Resolution No. 842 this 30 day of April, 1993.

Approved as to Form:



STEPHEN P. WILEY
Assistant Agency Counsel



SHEILA LODGE, Chairperson
Redevelopment Agency of the
City of Santa Barbara