Berkeley Housing Authority
1936 University Avenue, Suite 150, Berkeley, CA 94704
Telephone: (510) 981 5470 Fax: (510) 981 5480

Office of the Executive Director

Item 4

MEMORANDUM

Date: March 12, 2015

To: Honorable Chairperson and
Members of the Berkeley Housing Authority Board

From: Tia M. Ingram, Executive Director

Subject: Status of Berkeley Housing Authority Operations

This report summarizes the highlights of our current activities and advises upcoming projects:

HUD REPORTING/COMPLIANCE

1. 50058 Reporting. As required, we submit certifications to HUD via the PIC system – documenting (a) program utilization, and (b) completion of the annual tasks recertification for continued eligibility, and unit inspection for habitability:

		Oct 2014	Nov 2014	Dec 2014	Jan 2015	Feb 2015
A	Utilization % (Units)	92.60 (1,792)	90.75% (1,756)	91.17% (1,764)	90.86% (1,758)	89.8% (1,738)
B	Utilization ($)	96%	96%	96%	95%	95%
C	Port Outs	139	104	94	80	PIC data not available
D	Late/Missing Annual Recert	12	23	22	22	See above
E	Late/Missing Annual Inspect	4	16	2	13	See above

A = the decline in utilization is of concern (1) because we are not providing assistance to the maximum number of households, and (2) we are not realizing the maximum income potential from administrative fee.

B = the decline in HAP expense is a concern because HUD uses actual expense to project future need. This phase of under-leasing will result in less funding next year, when we hope leasing will have improved, and our per unit subsidy may be greater under a 120% exception Payment Standard.

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2. Davis-Bacon Wage Compliance. We first advised you of the wage violation allegation filed with the California Labor Commission, citing incorrect payment to laborers on the Spectrum Paining contract (at former LIPH and RHCP sites) in October, 2014. Although we did not own the units when the painting occurred, and notwithstanding the fact that we were not party to the Spectrum Contract, our efforts to have Berkeley Housing Authority exonerated have not been successful. Staff will continue to track the situation until our clear record is restored.

ADMINISTRATION

1. HUD Approval: Disposition Proceeds. We fought long and hard to have HUD reaffirm the original approval granted by the HUD Special Applications Center (SAC) in December 2010, and relied upon by BHA – that being – the Authority could use proceeds from the disposition to cover shortfalls in the S8 voucher program and provide supportive (self-sufficiency) services to program participants - "*According to the Office of the Chief Financial Officer, there is no outstanding debt for the Scattered Sites, CA058000002. The BHA will realize net proceeds from this disposition. In the application, the BHA proposes to use the proceeds of sale to provide supportive services to families in the Housing Choice Voucher (HCV) and for operating reserves to support the HCV program. We have determined that the use of proceeds meets the requirements of the statute and is also approved.*"

   In subsequent approvals qualifying language was inserted which diminished the initial approval, of particular concern is the requirement that any use of proceeds, beyond Fiscal Year 14-15, be subject to "*...compliance with all future HUD requirements on proceeds*" and that use of proceeds be restricted to use "*over a 15 year period.*"

   Miguel Correa, Public Housing Director, San Francisco Field Office facilitated a March 3rd discussion with SAC staffer (Kathy Szybist). Although no final decision was made, staff is encouraged by the SAC:
   a. Recognition of the precarious approval provided in the Jan 2014 letter, that grants approval, but not "quite" approval;
   b. Clarification that we can recognize the $2.7 million as proceeds, "gain on sale";
   c. Confirmation that we can request permission to use funds to cover shortfalls in the HCV program for FY 15-16; and
   d. Acknowledgement that total proceeds includes the initial $2.7 million plus residual receipts, which, when received, will also be recognized as gain on sale, "proceeds."

   We believe this provides sufficient authority to address the Auditor's specific concern with regard to the FY 2014 audit. We will be discussing a strategy for further discussion with the SAC with the Finance Committee, and will apprise the full Board at all critical junctures in the decision making process.

2. California Department of Housing and Community Development (HCD) Approval: State Rental Housing Construction Program (RHCP) Loan. I regret to advise no answer from the State with regard to repayment of the $763,689 RHCP loan. We were encouraged by news from Senator Loni Hancock, who has been a strong advocate for BHA, about ongoing dialogue her office was having with HCD. We were hopeful

those discussions might finally result in a final and favorable decision from HCD. Unfortunately, the issue remains unresolved. We confirmed that as of February 23rd the $763,689 remains in escrow.

3. Housing Trust Fund Loan - $300,000
The City of Berkeley's Housing Trust Fund (HTF) supported the disposition project with two awards: a $400,000 *grant* to Related (for rehabilitation), and a $300,000 *loan* to BHA (for relocation assistance). In April 2013, BHA sought to have the loan converted to a grant. Council did not approve the conversion, but did agree to eliminate all interest, and extend repayment from 5, to 10 years. We recently learned that the April 2013 modifications were not properly recorded; staff is seeking approval (correction) at the April 7 City council meeting.

4. Disposition: Post Construction Phase.

    a. Loan Conversion. We are advised by Related that they are closing out the construction loan, and converting to permanent financing. This is a routine, but significant milestone in that it provides the final figures that will be utilized to determine when, and how much the initial residual receipt payment will be. Our consultants Eric Novak and Scott Jepson (EJP/Praxis) will review all the documents on our behalf, and facilitate discussions with Related regarding any questions and/or adjustments.

    b. Second Year Tenancies. The first wave of 24 tenancies (those that executed a lease April-June) are coming up for renewal. This will necessitate BHA staff gathering information from the families regarding household composition (individuals living in the unit), income (earnings, benefits, etc), and allowable expenses (childcare, medical) to determine continued eligibility for (a) Section 8 rental assistance, and (b) qualification to remain in the unit (based on bedroom size of the voucher upon admission); notices have been mailed. In addition, we have been advised by Related, of its intent to seek rent increases to the current Payment Standards: from $1,736 to $1,743 for a 2-bedroom unit; from $2,424 to $2,434 for a 3-bedoom unit, and $2,974 to $2,987 for a 4-bedroom unit. In the best case, we will be able to process one transaction to adjust the contract rent, and re-determine family rent portion.

    c. Supportive Services. One critical element of the disposition approval, and the award of 75 project based vouchers, is the requirement to provide supportive services. Supportive Services is a significant line item in the project budget (approx $36,000). A first of what we anticipate to be quarterly meetings with Berkeley 75 Housing Partners (Related) and their service provider "Project Access" is scheduled for March 25th. We look forward to a good discussion, and receipt of information we requested on programs, enrollment, and early success stories.

5. Staff Training. The four Housing Specialists attended a week-long training session, providing an overview/refresher on all factors used in determining eligibility for rental assistance. Included in the program was testing and certification in proficiency. This training is particularly important as rules change and Authorities adopt different

policies/ practices based upon their interpretation. In the absence of a full-time S8 supervisor – it is possible our policies and practices were no longer fully compliant or ideal. We look forward to our staff having the benefit of the best thinking in the industry. NOTE: NAHRO was the trainer/Berkeley Housing Authority was the sponsor/Housing Authority of Alameda County was the host/and the endeavor generated one-time revenue for BHA.

6. Affordable Housing in the City of Berkeley.
Two efforts are underway to better coordinate the delivery, creation and preservation of affordable housing in the City of Berkeley: Chairperson Norris is facilitating a meeting of the various commissions (i.e. BHA, HAC, Rent Board), and staff has initiated the first of what we anticipate to be quarterly meetings at the staff level (BHA and the City's Housing Department (Health, Housing and Community Services). This initial meeting is scheduled for March 17th, and will convene at BHA's offices. Two recent articles suggest strategies we might explore in Berkeley, with affordability set at 30% Area Median Income (AMI), and the income generated to support BHA:

    a. Warm Springs Innovation District/Fremont eyes parcel plan (Oakland Tribune, March 1, 2015): This project proposes 1,256 rental units and 958 for-sale homes. Close to 13% of the residences, 286 units, would be affordable housing for low-income or very low-income households. This is encouraging, but the Planning commission took one additional step – something we would like to see happen in Berkeley: it approved the master plan and development agreement ***on the condition that Lennar (developer) increases its affordable housing units to 306, 20 more than proposed***. (Attachment 1)

    b. Crisis in California/More low-cost housing sought (Oakland Tribune, February 26, 2015): We have a housing crisis in California, and its time we offered some bold suggestions and solutions... the lack of affordable housing is undermining the qualify of life in California….it is harder for cities to offer housing because declining federal funding, increased demand from the recession, and the loss of redevelopment agencies that collected about $1 billing for affordable housing before they were shuttered. ***Assembly Speaker Atkins' proposal adds a $7 fee onto deeds and other real estate transaction documents when businesses buy property and residents refinance their homes.*** (Attachment 2)

7. Oregon Park Senior Apartments. This development, a cooperative, has particular significance in the African American community. It has provided a home for seniors (62+) and near seniors (55-61) for many years. Unfortunately, over the past several years there have been problems with management/governance adversely impacting the financial standing, and peaceful enjoyment of residents. The City has attempted to offer assistance (in the form of grants, loans) and BHA likewise tried to work with management on an application submitted in 2011 for Project based Vouchers (allocation subsequently rescinded due to improper timing of rehabilitation prior to Agreement signed with BHA). More recently, we have been concerned about allegations of inappropriate handling of finances and leasing/management issues. Beyond a general concern about the preservation of this affordable housing development, BHA currently has 19 section 8 tenant based voucher contracts at the property, thus creating an obligation to ensure the management is providing services as

required under the HAP contract. To that end, staff met with newly elected Board officers on March 2nd. We are reasonably confident that the problems are being addressed, and
our clients can safely remain at the property. Staff was invited, and accepted the invitation to attend upcoming meetings, including a March 28th meeting – where an election of officers will be held.

OPERATIONS

1. Utilization/Leasing. Leasing remains a concern. As of December 31, 2014, the number of voucher in service was 1,756 (of 1,935) – with a family receiving rental assistance; another 60 households have Vouchers and are searching for a unit. This number dropped to 1,738 as of January 31st, and to 1,736 as of February 28, 2015. There are currently 51 households with S8 vouchers that are searching for housing; our available unit listing report includes a total of 7 units (one studio; four 1-bedroom; and two 2-bedrooms). And we continue to see commuters to San Francisco lined up at bus stops all along University Avenue. The good news is we are at 91% lease up in terms of units, and 98.5% of budget authority, so for the time being, our SEMAP score is not in jeopardy.

2. Tenant Protection Vouchers (TPV). You may recall, BHA was awarded 34 TPVs associated with the Strawberry Creek Lodge project. TPVs are different from our "tenant" based and "project" based vouchers in one very important regard: they do not lower (or raise) the tenant rent portion to 30% of adjusted monthly income. A TPV "protects" (or better term, *preserves*) the family rent payment at the time the TPV is awarded. To enjoy the affordability provision of the voucher program (income based rent, and deductions for allowable expenses, i.e. medical) – the family would have to move off-site, or the household income would have to drop by 15% from the original income upon issuance of the TPV. Although many complained that the rent was not reduced, none of the 26 seniors granted TPVs last year exercised the option to move off site. We are approaching the first "anniversary," thus recertification, and the issue is once again being discussed by individuals who don't understand why their neighbor or friend with a S8 Tenant-based voucher pays a much lower rent (only 30% of income). There is no easy way to explain the fact that HUD funds both programs, but one was issued as a protection against the sale of the property to a for-profit developer (freezing rent at mortgage maturity date) while the other is an income-based program. Thus staff are allowing more time for the annual recertification – to give the families an opportunity to be heard, and to consider any interest in moving off-site, with S8 tenant based assistance.

3. Owner Retention
    a. Staff is working with Berkeley Property Owners Association to schedule, at their request, a focus discussion with 3-5 participating property owners. This is a very welcome opportunity to hear from owners, the issues of most concern, and for staff to correct any misconceptions that may be held, and provide additional information about the 120% Payment Standard request.

    b. The owner brochure is in the final stages of development. We are very fortunate to have a quote from the Honorable Mayor Tom Bates, Jason Russell, current landlord and real estate investor by trade; long-time landlord and former Berkeley City Council person Mary Wainwright; another long-time landlord and Berkeley Property Owners Association Board member, Jim Smith; and two program participants, Portia, a wheel chair bound client who feels strongly about living in Berkeley, and another family that shares a success story of moving from total dependence, to stability in her family, including her husband who has full time employment. We believe the brochure presents BHA in a way that will be well received by the intended audience – current and prospective landlords. Staff drafted the document, and is utilizing the services of a design firm to provide the final touches.

c. At the invitation of Jim Smith, Berkeley Property Owners Association, Commissioner Wilkinson, Executive Director Tia Ingram, Executive Director, and Management Analyst Rachel Gonzales-Levine attended the February 26th, Berkeley Youth Alternatives (BYA) annual " Crab Feed (fund raiser). The event was well attended, and gave staff an opportunity to engage with participating landlords in a social setting.

4. <u>Portability</u>. It is important to understand portability: the original intent; how it functions; how it helps and hurts lease up/earned admin fee revenue; impact on HAP funding; and its impact within our Agency.

   A. Before portability, if you received a voucher from Berkeley, you used that voucher in Berkeley. If you ever *needed* to move to another jurisdiction (i.e. to be closer to work or school), you forfeited the assistance. Thus – HUD introduced portability with the understanding it would allow families to further their goals (towards self sufficiency), and in some cases, to be near an ailing relative or to continue receiving specialized medical care. Unfortunately, the regulations never included a requirement to justify the request with documentation of *need.*

   B. As written, any family newly admitted to the program (from the wait list) can exercise portability:
      a. Immediately for a family that resided in the jurisdiction issuing the voucher at the time of waitlist application; or
      b. For "non-resident" applicants:
         i. after utilizing the assistance in the jurisdiction for one year; or
         ii. in the first year as a reasonable accommodation.
      c. Existing families (participants) can exercise portability at any time.

   C. Portability involves three parties: the housing authority that issued the voucher ("initial"), the family, and the housing authority in the new jurisdiction ("receiving").
      a. When a family ports the "voucher" issued by the initial housing authority is essentially transferred to the receiving housing authority.
      b. The receiving housing authority becomes responsible for ensuring the family remains eligible to receive assistance; inspecting the

unit to ensure it is safe, decent and sanitary; and making the monthly rental subsidy payments to the landlord.

c. The receiving housing authority can
   i. *Absorb* the voucher .... Meaning it will issue the family a voucher from its allocation (and return the voucher to the initial housing authority). The voucher is included in the leasing rate of the receiving authority, but not by the initial housing authority; or

   ii. *Manage* the voucher .... Meaning it will perform the services identified above, and bill the initial housing authority for 100% reimbursement of the rental subsidy, and 80% of the HUD provided admin fee. The voucher is included in the leasing rate of the initial and receiving housing authority.

D. In the best case, every voucher issued would be leased in the jurisdiction of the issuing Authority.
   a. This allows the housing authority to serve clients residing in its jurisdiction, and coming from its wait list;
   b. The housing authority recovers its cost of maintaining the wait list and determining eligibility through the monthly admin fee; and
   c. Diversity in the jurisdiction is furthered by the deep subsidy.

However there are situations where portability, especially managed portability, can be advantageous. For example, in our current rental market, countless hundreds of families would receive the long-awaited voucher, only to have it expire without the family finding a suitable unit, in Berkeley, to reside, and BHA would not receive any compensation (under portability BHA receives 20% of the earned admin fee).

But, it is important to note – the receiving housing authority maintains total control over the voucher. At any time – the receiving authority can, with 30-day notice, advise that a previously managed port contract is being absorbed. The receiving authority, without doing any additional work, begins earning 100% of the admin fee (not 80%), and eliminates the need to bill and receive payments from the initial authority. For the initial housing authority, this results in a loss of admin fee, a decline in lease up, and an urgent need to replace that contract by housing a family in Berkeley.

Berkley is a wonderful place to live, raise and educate children, and access community services; we experience families porting into Berkeley, and are praised for the quality of our client service. Although this is so, a large number of families port-out, because they are not able to secure a suitable unit in

Berkeley. Because of our leasing rate, we currently absorb 100% of all incoming port clients. Our outgoing portability stats, as of Feb 28, 2015 are below:

	Oakland	**Alameda County**	**Contra Costa County**	**Other Jurisdiction**	**Total**
Outgoing Managed	17	52		15	84

Over the past 12 months, we lost a net 124 vouchers due to portability, meaning there were more BHA vouchers that left Berkeley and were absorbed by other PHA's than vouchers coming in that BHA absorbed.

CONTACT PERSON

Tia M. Ingram, Executive Director, (510) 981-5471

Attachments:

1. *Warm Springs Innovation District/Fremont eyes parcel plan*, Oakland Tribune, March 1, 2015
2. *Crisis in California/More low-cost housing sought,* Oakland Tribune, February 26, 2015

Note: FY 2014 Audit (will be provided at the Board Meeting, if available)

Lennar eyes office space, some 2,200 residences in Fremont's Innovation District

By Chris De Benedetti cdebenedetti@bayareanewsgroup.com

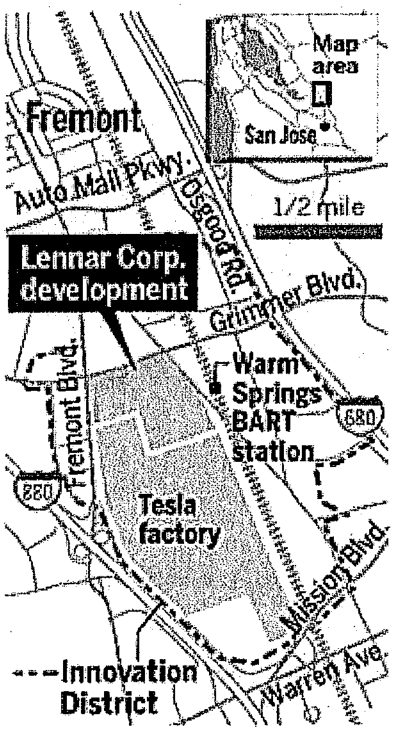
Posted: 02/28/2015 02:28:24

FREMONT -- A developer hoping to transform the largest undeveloped parcel in the Warm Springs Innovation District might clear a major hurdle later this month when council members consider its master plan.

Lennar envisions 2,214 housing units, a new elementary school and 1.4 million square feet of offices on 111 acres next to the Warm Springs-South Fremont BART station, set to open later this year.

The project would cover a significant chunk of the Innovation District, an 879-acre development where city leaders want to add more than 4,000 homes and 20,000 jobs.

Lennar's proposal represents a historic moment for the city, Mayor Bill Harrison said.



BAY AREA NEWS GROUP

"There hasn't been a development of this size in Fremont for a very long time, maybe ever," Harrison said.

Lennar proposes 1,256 rental housing units and 958 for-sale homes on property bounded by the Tesla factory, Lopes Court, and South Grimmer and Fremont boulevards. Close to 13 percent of the residences -- or 286 units -- would be affordable housing for low-income or very low-income residents.

The Planning Commission on Thursday approved the master plan and development agreement on the condition that Lennar increases its affordable housing units to 306 -- 20 more than proposed.

The City Council on March 17 will have several options, including supporting the plan with the Planning Commission's amendment; approving Lennar's proposal as is; or sending the developer back to the drawing board.

Other companies have already set up shop next to the Tesla factory. Thermo Fisher Scientific recently opened an $85 million 350,000-square-foot building on 22 acres there.

But the Lennar development would be the area's largest new one. The Miami-based developer would spend $30 million on the first of four phases, which would include Innovation Way, a road cutting through the heart of the mixed-use project.

"This will be the cornerstone of Warm Springs and the broader Innovation District," said Kelly Kline, Fremont's economic development director. "What makes this opportunity so unique is you have BART next to the site. ... We want the highest concentrations of new developments close to mass transit."

A Lennar spokesman declined to comment for this story.

Valley Oak Partners and Warm Springs Station Group -- two other Innovation District developers -- will join Lennar in contributing money for a new school.

With Lennar spending $25 million -- the lion's share of school funds -- the developers will build on 5 acres a 750-student school for grades K-5. They will add a 4-acre park next to the new campus.

They also will pay $14.2 million for new classrooms and other campus improvements at Walters Junior High and Kennedy High schools.

The school funding was born of "unprecedented cooperation among the city, the school district and developers who are spending more than the law requires," said Fremont Unified Superintendent Jim Morris. "This sets a high bar. ... We expect all developers to work with us to make sure children in Fremont have access to great neighborhood schools."

Lennar hopes to finish its first phase by 2017.

Innovation Way would have around 700,000 square feet of offices with ground-floor retail. Another 700,000 square feet would be set aside for research and development offices on 24 acres south of the new road, according to a city report.

"Mixing residential and commercial space is an expression of the 21st-century workplace we've been trying to create in Warm Springs," Kline said. "It reflects the city's desire to be strategically urban."

California's Affordable Housing Crisis Is a Crisis for Business

February 26, 2015

By Carson Bruno

Proposition 30, the California Environmental Quality Act (CEQA), not reforming education post-*Vergara v. California*, and AB 32 - are all easily identifiable policies contributing to California's struggling business climate. But let me add another one: California's housing affordability crisis.

California's housing affordability crisis extends not just to those wishing they could become homeowners, but also to renters. The average renter makes about $18 per hour in California, yet to afford the state's fair market rent requires an average wage of about $26 per hour. For would-be homeowners, there is a similar affordability gap. The median home sale price in California is just under $401,000, but the annual salary needed to afford such a home (assuming typical monthly payments) requires a salary of $77,000, which is about $16,000 above California's median household income.

California's knee-jerk response has been to relieve the symptoms, but ignore the disease. Rent control, inclusionary zoning (the practice of setting aside a certain percentage of new units for low-income tenants), and targeted subsidies all help individuals afford housing in a world without consequences, but as logic dictates, there are always consequences when governments meddle with prices. As one would expect, these subsidies increase demand. In fact, rent control and inclusionary zoning are both forms of price ceilings, which actually decrease supply, thus exacerbating the underlying problem further.

California's affordability crisis isn't a market failure; it is a government failure and one of our own doing. By restricting supply artificially through bad public policy, Californians are being priced out of their own state. For instance, between 2011 and November 2014, the City of Houston, Texas approved more housing permits than the entire state of California. In San Francisco, housing supply is about half of what is demanded. As UC Berkeley economist Enrico Moretti puts it, "the problem with high rents is the very, very constrained supply of housing, and the housing supply is so constrained because we made it so constrained."

And the issue impacts California's economic success. California's average business climate rank across the three major rankings (CEO Magazine, Forbes, and CNBC) is 40th. Most of the main contributors (i.e. those categories pulling California down) and areas of concern (i.e. categories where California ranks mediocrely, but not terribly) can be linked back to the affordability crisis. High regulations are the culprit restricting supply; high property and housing costs increase business costs and cost of living, thus making it harder for businesses to get off the ground and recruit workers; high housing prices impact the quality of life, and by eventual extension, the quality of the labor supply (those moving out of the state are more likely to be middle-class families and recent college grads); and because residents have to live on the outskirts of urban areas such that they're forced to commute long distances, high housing prices put pressure on the state's already inadequate transportation system.

Yet what's most threatening about the affordability crisis is how concerned Silicon Valley is about it. 90% of Silicon Valley CEOs list housing costs as one of the top three living challenges for their workers, while 72% of those same CEOs list housing costs among the top five business challenges. And because California's economy relies so heavily on Silicon Valley - the region has accounted for 30% of California's post-recession job creation despite it representing just 22% of the state's population growth - if the region falters for any reason, the Golden State will struggle to economically recover.

On the state-level, CEQA reform is a first step. Environmentalists use CEQA to stop all development, while unions use it as a tool to strong-arm developers into employing unionized labor. One solution: exempt all housing development construction from CEQA. There is no reason housing shouldn't be treated differently than a football stadium in Los Angeles or a basketball arena in Sacramento. The problem is that state-level policy is limited since most housing rules are local issues. Local leaders need to realize that their restrictive housing policies are negatively impacting their local economies, in addition to the state's.

By unleashing the power of increased housing supply, Californians would more easily be able to climb the housing ladder. Think of each "quality" level of housing being a rung on a ladder. By adding a new rung at the top, you have opened up supply for someone to climb up. Once that individual moves up, there's new supply below. While increasing housing supply takes time to fully implement, it is the only way to remedy the California affordability crisis. Only then will California have eliminated one of its barriers to vibrant and consistent economic success.