



Berkeley Housing Authority

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Office of the Executive Director

Item 6A
NEW BUSINESS
March 9, 2017

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

FROM: William E. Wilkins, Executive Director

SUBJECT: Monthly Report



1. HUD LETTER REGARDING USE OF NET DISPOSITION PROCEEDS:

On Friday, February 23, 2017 we received a letter (Attachment 1) from Jane Hornstein, Director of the Special Applications Center (SAC) regarding our request to amend and clarify the use of “net proceeds:”

- The SAC has amended the disposition approval to allow for the development or acquisition of low income housing funded under the U.S. Housing Act of 1937 (e.g. Section 8 or Section 9 Rental Units and/or a HUD – approved homeownership program authorized under Section 32, 9, 24 or any other Section of the 1937 Act).
 - In essence the utilization of funds would be restricted to Section 8 or Section 9 units; this does not present a problem because we would only be interested in the development of these projects. What may require negotiations is the position of our funding in the loan structure: BHA would have to be in first position, unless a waiver is received.
- Prior to obligation and/or use of disposition proceeds, BHA must obtain written approval from the HUD San Francisco Office of Public Housing (OPH), with concurrence from the Office of the General Counsel (OGC).
 - We have an excellent relationship with the Field Office and I do not expect this to change, so having them review our proposal would be a matter of process.
- The HUD San Francisco Office OPH, with concurrence from HUD OGC or their designees, if required, must approve all recipients of disposition proceeds.
 - Once again, this should not be problem because any proposed deal would simply be submitted to HUD for approval; the challenge will be turnaround time.
- Housing developed or acquired using net disposition funds are subject to use restrictions for a period of not less than 30 years. Housing developed or acquired pursuant to Section 9 of the Housing Act is subject to a use restriction for a period of not less than 40 years. BHA shall ensure that the units of housing developed or

acquired using disposition proceeds are operated as affordable and reserved for families at or below 80 percent of Area Median Income (AMI) during the use restriction period. These use restrictions must be enforced by use agreements, or other legal mechanisms as determined by the HUD San Francisco OPH. Such use restriction documents must be recorded in a first priority position against the properties, prior to any financing documents or other encumbrances, and remain in effect even in the event of default or foreclosure on the properties. BHA is responsible for monitoring and enforcing these use restrictions during the period they are in effect.

- Again, I don't believe these restrictions will pose a problem for BHA. I would expect use restrictions up to 55 years when possible. As for the affordable housing being reserved for families at or below 80% of AMI, currently BHA is required to provide housing subsidy to households at or below 50% AMI, unless a family was previously assisted, in which case we are allowed to go up to 80% AMI. This would also be expected given the possible use of Project Based Vouchers. The challenge may occur when multiple financing instruments are being used and each has a possible requirement for being in the first position. Finally I would propose that any long term development/loan deal be supplemented with a servicing entity capable of monitoring use restrictions during the period of the loan.

I believe the quick turnaround time from HUD's Special Application Center in responding to our request for clarification is a real bonus for us. More importantly, by placing the requirement that we work with the San Francisco OPH and OGC, is further assurance of being able to move a proposed development/loan faster than a resubmission to SAC. Furthermore, this approval shields BHA from the possibility of having funds moved by HUD to another initiative.

2. STATUS OF PROPOSALS/PROJECTS WITH CITY OF BERKELEY:

This information is intended to keep you apprised of the status of various projects/proposals that have been discussed with the City of Berkeley and are awaiting action(s):

- Payment of \$10 per voucher to BHA for a period of 3 years – awaiting City Council action and appropriation of funds;
- Payment of \$50,000 for establishment of Damage Claim and Landlord Incentive Program – awaiting City Council Action and appropriation of funds;
- Inclusionary Housing/Below Market Rate Units – City Council has approved amendment of City Ordinance to “set-aside” 40 percent of BMR units for Housing Choice Vouchers participants, 40 percent of BMR units for Shelter Plus Care participants and the remaining 20 percent to any family that meets the income definition of either HCV or Shelter Plus Care participants;
- City of Berkeley waiver of annual Rental Housing Safety Program? fees for all landlords currently participating in the Section 8 Program – pending City internal investigation and determination by City Council;
- Micro Housing Project – City currently working to locate land, and BHA will discuss with Mayor and City Council during 3X3 Meeting;
- Gap Funding for BHA from the City of Berkeley – to be discussed during 3X3 Meeting.

BERKELEY HOUSING AUTHORITY HOUSING CHOICE VOUCHER
PARTICIPANT INFORMATION

1	Number of head of households that are identified as working	527
	- <i>Earning wages</i>	430
	- <i>Own business</i>	81
	- <i>Both</i>	16
2	Number of head of households that are elderly –	680
3	Number of head of households that are disabled (not elderly)	407
4	Number of households that are one of the above, but have no income (elderly no income, disabled no income, etc.)	
	- <i>Elderly, \$0 income</i>	3
	- <i>Disabled, \$0 income</i>	4
5	Number of studios/ zero bedrooms under contract	145
6	Number of 1 bedrooms under contract	807
7	Number of 2 bedrooms under contract	565
8	Number of 3 bedrooms under contract	156
9	Number of 4 bedrooms under contract (1- BR unit)	31
10	Landlords – we have approximately 600 landlords, so what I would like is a breakdown of the number of units they have based on: large – 50 units or more; medium – 10 units or more; small 0 – 9 units.	
	<i>Small (0-9 units)</i>	522
	<i>Medium (10-49 units)</i>	24
	<i>Large (> 50 units)</i>	3
11	Number of landlords currently receiving direct deposits of monthly HAP	453
12	Number of inspections completed during the calendar year of 2016, to include re-inspections	
	<i>Annuals</i>	1832
	<i>No-shows</i>	446
	<i>Reinspections</i>	745
	<i>Initials</i>	138
13	Number of terminations during calendar year 2016 – for any reason	
	<i>S8</i>	163
	<i>Mod Rehab</i>	9
14	Number of recertifications completed during calendar year 2016	2673

3. BHA DASHBOARD REPORT: (this is February 2017 report)

		Nov-16	Dec-16	Jan-17	Feb-17
A	Utilization (%)	83.10%	82.90%	82.70%	83.00%
	(Units)	1607	1602	1601	1607
	Tenant Based %	81.08%	80.78%	80.53%	80.78%
	(Units)	1337	1332	1324	1332
	Project Based%	94.41%	94.41%	95.45%	96.15%
	(Units)	270/286	270/286	273/286	275/286
B	Utilization (\$)	102.93%	104.81%	112.91%	116.77%
		2,064,296	2,095,401	2,105,873	2,177,859
C	Mod Rehab %	0.97%	100.00%	100.00%	100.00%
	(Units)	97/100	98/98	98/98	98/98
D	Project Move Up	0/9	1/9	4/9	5/9
E	FSS	37	27 (10 pending)	27 (10 pending)	27 (10 pending)
F	Port In		5	0	3
	Port Outs		5	2	3
H	Late/Missing Annual Recert	1	1		8
I	Late HQS	0	0	0	0
J	Rent Increases - Received	44	88	106	8
	Rent Increases - Processed	29	33	22	45
K	Re-exams - Processed	157	201	196	145
L	New Landlords/Unit	0	0	0	10
M	New Vouchers Issued	20	0	9	9
N	Participants - Searching	28	28	34	35
O	New Admissions	2	10	6	1
P	Terminations	3	6	6	1
Q	# of disabled in program	807	1041	937	931
	# of elderly in program	724	744	674	673
	# of families in program	677	582	507	503
	# of eman. yth in prog	5	5	5	4
	# of HOPWA in program	7	7	7	7
R	# of Families on WL	3396	3396	3386	3354
S	Success Rate			11%	16%

4. Selection of Labor Negotiator for BHA – will be presented at meeting

Attachments:

1. HUD Letter regarding use of net disposition proceeds



OFFICE OF PUBLIC HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Special Applications Center
 77 W. Jackson Blvd., Room 2401
 Chicago, Illinois 60604-3507
 Phone: (312) 353-6236 Fax: (312) 886-6413

February 23, 2017

Mr. William E. Wilkins
 Executive Director
 Berkeley Housing Authority
 1936 University Avenue, Suite 150
 Berkeley, CA 94704

Dear Mr. Wilkins:

On January 31, 2017, the U.S. Department of Housing and Urban Development's (Department) Special Applications Center (SAC) received the Berkeley Housing Authority's (BHA)'s request, through William E. Wilkins, Executive Director of the Berkeley Housing Authority to further amend and clarify Public and Indian Housing Information Center (PIC) application DDA0003874.

History of Approvals

On December 22, 2010, the Department approved the disposition of 1.70 acres of land improved with 13 dwelling buildings containing 61 dwelling units at Scattered Sites, CA058000002. The Department restates the approval in the table below:

Scattered Sites, CA058000002			
Buildings: 13, Units: 61, Acres: 1.70			
Total Units to be Redeveloped	Less than 80% of Area Median Income		
61	ACC	Non-ACC	Market Rate
Rental	-	61	-
Acquiring (Entity)	Selected Developer Through Request for Proposal.		
Disposition Method	99-Year Ground Lease		
Terms	\$749,916 for Years 1-15, then \$1.00 Per Year		
Purpose	Rehabilitation and Management of Affordable Housing		

On May 12, 2011, the Department approved an amendment changing the language in the approval letter about relocation and disposition timing.

On July 2, 2012, the Department approved an amendment changing the estimated timeframe that the BHA would begin relocation (Section 5 of the PIC application). Specifically, the Department changed the estimated relocation commencement date from 90 to 450.

On January 14, 2014, the Department approved an amendment reducing the ground lease term, acknowledging the projected increase in proceeds and approving certain uses of net proceeds. The

Department restates the approval in the table below:

Scattered Sites, CA058000002			
Buildings: 13, Units: 61, Acres: 1.70			
Total Units to be Redeveloped 61	Less than 80% of Area Median Income		
Rental	ACC	Non-ACC	Market Rate
	-	61	-
Acquiring (Entity)	Berkeley 75 Housing Partners, a California LP.		
Disposition Method	Sale of Improvements and Ground Lease		
Terms	Seller financed Note for \$4,542,822, repaid from excess cash after Year 16, 99-Year Ground Lease at \$1 per year site for 33 units, 72-Year Sublease at \$1 per year per site fir 28 units		
Purpose	Rehabilitation and Management of Affordable Housing		

On January 4, 2015, the Department approved an amendment allowing the BHA to use \$252,000 in net proceeds to cover shortfalls (administrative budget) in its Section 8 Housing Choice Voucher (HCV) program for Fiscal Year 2015-16.

On March 16, 2016, the Department approved an amendment and clarified its disposition approval authorizing up to \$2,700,000 in net proceeds over a 15-year period to cover operational shortfalls in its (administrative budget) in its Section 8 housing Choice Housing Choice Voucher (HCV) program for Fiscal Year 2015-16. The approval included conditions for future reviews and approvals on the use of the proceeds.

Current Request, Approval and Conditions

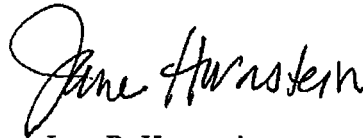
In the current request, the BHA is seeking amendment and confirmation that no further approval from the Special Application Center is required for BHA to use disposition proceeds for the provision of low income housing pursuant to 24 CFR 970.19(e)(2)(i). The Special Application Center, based on the information provided and its review of the previous approvals, hereby amends this disposition approval to allow the use of net proceeds (“Net Proceeds”) derived from the disposition of Scattered Sites CA058000002, for the development or acquisition of low income housing funded under the U.S. Housing Act of 1937 (e.g. Section 8 or Section 9 Rental Units and/or a HUD-approved homeownership program authorized under Section 32, 9, 24 or any other Section of the 1937 Act), subject to the following conditions:

- Prior to obligation and/or use of disposition proceeds; BHA must obtain written approval from the HUD San Francisco Office of Public Housing (OPH), with concurrence from the Office of the General Counsel (OGC).
- The HUD San Francisco Office of Public Housing (OPH), with concurrence from the HUD OGC or their designees, if required, must approve all recipients of disposition proceeds;
- Housing developed or acquired using net disposition funds are subject to use restrictions for a period of not less than 30 years. Housing developed or acquired pursuant to Section 9 of the Housing Act is subject to a use restriction for a period of not less than 40 years. The BHA shall ensure that the units of housing developed or acquired using disposition proceeds are operated as affordable and reserved for families at or below 80 percent of Area Median Income (AMI)

during the use restriction period. These use restrictions must be enforced by use agreements, or other legal mechanisms as determined by the HUD San Francisco OPH. Such use restriction documents must be recorded in a first priority position against the properties, prior to any financing documents or other encumbrances, and remain in effect even in the event of default or foreclosure on the properties. The BHA is responsible for monitoring and enforcing these use restrictions during the period they are in effect.

All other terms and conditions of the Department's previous disposition approval documents dated December 22, 2010; May 12, 2011; July 2, 2012; January 14, 2014; and March 16, 2016 remain as stipulated. Notwithstanding, in the event that there are any inconsistencies or ambiguities between this letter and the Department's previous approvals, this letter shall control. The HUD San Francisco OPH received a copy of this letter for their records. If you have any questions regarding this modification, please contact SACTA@hud.gov.

Sincerely,

A handwritten signature in black ink that reads "Jane Hornstein". The signature is written in a cursive, flowing style.

Jane B. Hornstein
Director

cc: San Francisco OPH