



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

OFFICE OF PUBLIC HOUSING

DEC 22 2010

2010 DEC 29 PM 2:17
 CITY OF BERKELEY
 HOUSING AUTHORITY

Ms. Tia M. Ingram
 Executive Director
 Berkeley Housing Authority
 1901 Fairview Street
 Berkeley, CA 94703

Dear Ms. Ingram:

The Department has reviewed the Berkeley Housing Authority's (BHA) application for the disposition of 13 dwelling buildings containing 61 dwelling units and 1.70 acres of underlying land at Scattered Sites, CA058000002. The Special Applications Center (SAC) received this application on December 30, 2009, via the Public and Indian Housing Information Center (PIC), Application DDA0003874. Supplemental information was received through October 18, 2010.

I am pleased to approve your request to dispose of 13 dwelling buildings containing 61 dwelling units and 1.70 acres of underlying land at Scattered Sites, CA058000002, at less than Fair Market Value (FMV), via a negotiated sale, as described in the application.

I am pleased to approve your request for disposition, as described in the application and identified below. As a condition of this approval, the BHA must describe how it will identify housing opportunities in non-minority areas and how it will reach out to landlords in non-minority areas to encourage them to accept vouchers. This can be accomplished through affirmative fair housing marketing with an evaluation and follow-up of success rates in placement of individuals in non-minority housing areas. The BHA must provide this information, within 30 days of the date of this letter, to the Offices of Public Housing and Fair Housing in the San Francisco Office for their review.

Scattered Sites, CA05000002			
Buildings: 13, Units: 61, Acres: 1.70			
Total Units to be Redeveloped	Less than 50% of Area Median Income		
61	ACC	Non-ACC	Market Rate
Rental	0	61	0
Method of Sale	Negotiated Sale via Request for Proposal to a Selected Developer Ground Lease for 99 Years		
Sale Price	\$750,000.00		

Lease Price	Total Lease Payment of \$749,916 in Years 1-15 and \$1.00 per Year Beginning in Year 16 of the Lease
Purpose	Rehabilitation and Management of Affordable Housing

The approval requires that the disposition documents include a reversion clause stipulating that if the acquiring entity fails to develop the property as outlined in the application, the property shall revert to the BHA and the lease will terminate.

Notwithstanding this approval, the BHA shall not proceed to enter into any long-term ground lease or disposition agreement until all residents have been relocated and until all disposition actions at the development are complete.

According to the Office of the Chief Financial Officer, there is no outstanding debt for 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.

Approval of your application is based on the Department's understanding of your submission, as outlined in the enclosed memorandum from me to the HUD San Francisco HUB Office.

The HUD San Francisco HUB Office has been informed of this approval. Its staff is available to provide any technical assistance necessary for your agency to proceed with the disposition.

24 CFR Part 970.31 eliminated the requirement for one-for-one replacement of public housing units. Therefore, the BHA is not required to provide for replacement housing, and the Department is under no obligation to fund replacement housing.

If you are interested in applying for housing choice vouchers for relocation in connection with the units approved for disposition, you must submit an application to the HUB Office of Public Housing for review and approval in accordance with the procedures in HUD Notice 2009-13, or HUD's current Notice outlining the application procedures.

In accordance with 24 CFR Part 970.35 of the regulation, your agency is required to inform the HUD San Francisco HUB Office of the status of the project (i.e., delays, actual disposition or other problems). When the disposition has been achieved, please submit a report to the HUD San Francisco HUB Office confirming the action and certifying compliance with all applicable requirements. Files must be maintained which are sufficient for audit purposes and must be made available upon request.

This action will remove all ACC units from the BHA's inventory, and will terminate that relationship with the Department. The BHA must have its accounts available for audit by the

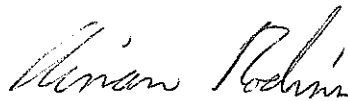
HUD San Francisco HUB Office the next time an audit is performed to verify compliance with respect to operating reserves, Capital Funds and non-expendable equipment. Any remaining funds shall be returned to the Department.

After the transfer of title occurs, the BHA may spend no more of its Operating funds. Prior to the transfer of title, the BHA may expend Capital Funds to carry out modernization activities that ensure the long-term viability of the units approved for affordable housing. After the transfer of title occurs, the BHA may only expend funds to close out contract obligations. The modernization work must occur before the property is disposed. The BHA must have an audit of its accounts to ensure compliance with applicable program requirements; any remaining funds shall be returned to the Department. Replacement Housing Factor Funds will be recaptured as they are issued.

The BHA must gather a master list of non-expendable equipment and have the disposition audited. This must be disposed of in accordance with the guidelines in 24 CFR 85.32(e).

As the BHA starts the process of implementation, I urge you to continue to maintain an open dialogue with your residents and local officials. If you have to modify your plans, the HUD San Francisco HUB Office stands ready to assist you.

Sincerely,



Ainars Rodins, P.E.
Director

Enclosure



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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OFFICE OF PUBLIC HOUSING

DEC 22 2010

MEMORANDUM FOR: Stephen Schneller, Director, Office of Public Housing, 9APH

FROM: Ainars Rodins, P.E., Director, Special Applications Center (SAC), PIA

A handwritten signature in cursive script, appearing to read "Ainars Rodins".

SUBJECT: Approval for the Berkeley Housing Authority's Request for the Disposition of 13 Dwelling Buildings Containing 61 Dwelling Units and 1.70 Acres of Underlying Land at Scattered Sites, CA058000002

The SAC received this application on December 30, 2009, via the Public and Indian Housing Information Center (PIC), DDA0003874. Supplemental information was received through October 18, 2010. The Environmental Assessment was completed by the City of Berkeley on May 6, 2010, in accordance with 24 CFR Part 58, and was signed off by the San Francisco HUB Office June 7, 2010.

The San Francisco HUB Office provided a certification stating that the subject submission accurately describes the project proposed for disposition, and the reasons provided by the Berkeley Housing Authority (BHA) to support the proposed action are correct and factual.

Under 24 CFR Part 970.7(a)(1), in order for a demolition or disposition application to be approved after November 24, 2006, the effective date of this regulation, a Public Housing Agency (PHA) must provide "A certification that the PHA has described the demolition or disposition in the PHA Annual Plan and timetable under 24 CFR part 903 (except in the case of small or high-performing PHAs eligible for streamlined annual plan treatment), and that the description in the PHA Annual Plan is identical to the application submitted pursuant to this part and otherwise complies with Section 18 of the Act (42 U.S.C. 1437p) and this part."

On July 31, 2010, the San Francisco HUB Office approved the BHA's agency plan, which includes the subject action.

Description of Development

The BHA proposed the disposition of 13 dwelling buildings containing 61 dwelling units and 1.70 acres of underlying land at Scattered Sites, CA058000002. Details of the proposed disposition are as follows:

Scattered Sites, CA058000002			
DOFA:12/31/1988			
Bedroom Size	3-BR	4-BR	Total
Existing Units	34	27	61
Proposed Units	34	27	61
Existing Land			1.70 Acres
Proposed Land			1.70 Acres
Number of Dwelling Buildings Existing			13
Number of Dwelling Buildings Proposed			13
Number of Non-Dwelling Buildings Existing			0
Number of Non-Dwelling Buildings Proposed			0
Number of (Dwelling and Non-Dwelling) ACC Units in PHA's Total Housing Inventory for All Developments			61

History of the Development

There has been no previous disposition activity at this development.

Reason(s) for Action (Justification)

The BHA proposed the disposition based on 24 CFR Part 970.17, which requires the PHA to certify that the retention of the property is not in the best interests of the residents or the PHA because the PHA has otherwise determined the disposition to be appropriate for reasons that are consistent with the goals of the PHA and the PHA Plan and that are otherwise consistent with the Act.

The BHA is proposing the disposition of its public housing inventory to ensure the long-term viability of an affordable housing asset. The proposed plan includes substantial rehabilitation and management of 61 scattered site units by a qualified entity that will be selected through a Request for Proposal process. The property will be conveyed via a long-term ground lease for a period of 99 years and will remain affordable to families with incomes at or below 50 percent of Area Median Income. The BHA proposes this strategy because it is a troubled agency with operating deficits that are unsustainable and capital and deferred maintenance needs that can not be met with existing federal subsidies.

Since 2005, the BHA has been "troubled" and is unable to meet its obligations under the Annual Contributions Contract with respect to the management and operation of its public housing inventory. In January 2008, the BHA entered into Memorandum of Agreement (MOA) with the City of Berkeley to bridge the BHA's annual operating deficit of \$106,000, as well as to provide administrative services including payroll, budgeting and webhosting. In June 2009, the BHA also entered into a MOU with the San Francisco HUD Field Office which required the BHA to submit a Capital Fund budget to address its \$3.6 million capital and deferred maintenance needs or to submit a demolition and/or disposition plan in accordance with Section 18 to the Department by December 31, 2009. A strategic plan developed by EJP Consulting LLC determined that the BHA lacked the resources to implement a comprehensive rehabilitation plan and insufficient operating subsidies to manage the properties without incurring a significant

deficit on an annual basis. In Fiscal Year 2009 and 2010, the BHA received \$422,949 in Capital Funds which represents a shortfall of \$3,177,051 to address all modernization needs. On August 4, 2010, the San Francisco Hub provided its concurrence with the BHA's assessment of its operating losses and a survey of private rents in the Berkeley area for a 3-br unit as compared to the Alameda County Housing Authority.

PHA Name	2007		2008		2009		2010	
	PUM-1	PUM-PEL	PUM-1	PUM-PEL	PUM-1	PUM-PEL	PUM-1	PUM-PEL
Alameda Co. PHA	\$404.07	\$394.60	\$358.98	\$413.77	\$358.98	\$430.32	\$415.04	\$450.98
Berkeley PHA	\$287.14	\$515.22	\$287.14	\$527.59	\$287.14	\$548.89	\$378.27	\$575.93

We concur with the BHA's determination that the disposition is in the best interests of the residents or the PHA because the disposition will allow for the comprehensive modernization of an affordable housing resource for families with incomes at or below 50 percent of area median income.

Appraisal

The BHA submitted an independent appraisal that determined the Fair Market Value of \$9,615,000.00 for the value of the land and improvements.

Negotiated Sale Commensurate Public Benefits

The BHA proposed the disposition via a long-term ground lease for 99 years to a qualified entity that will be selected through the RFP process. After rehabilitation, the units will remain affordable for families with incomes at or below 50 percent of area median income. In years 1-15, the BHA will receive a total of \$749,916 and \$1.00 per year between years 16-99. Therefore, although the negotiated sale price is less than FMV, because of the benefits arising from the negotiated sale, it is in the best interest of the public housing residents and the PHA, and will result in a commensurate public benefit.

Use of Proceeds

According to the Office of the Chief Financial Officer, there is no outstanding debt for 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 its Housing Choice Voucher Program (HCV) and to fund its operating reserve for the HCV program; the BHA manages a voucher program that includes 1,841 units. We determined that use of proceeds meets the requirements of the statute.

Relocation

When the application was developed and transmitted to the Department, 54 of the 61 units proposed for disposition were occupied. The BHA has submitted certification regarding relocation as required by 24 CFR Part 970.21(e) (f). The BHA estimated the relocation cost for the remaining residents to be \$513,000.00 which includes moving expenses and counseling/advisory services. The funds for relocation are allocated under the Capital Fund budget. The housing resources offered will be Housing Choice vouchers.

Fair Housing Requirement

In addition, the approval requires the BHA to describe how it will identify housing opportunities in non-minority areas and how it will reach out to landlords in non-minority areas to encourage them to accept vouchers. This can be accomplished through affirmative fair housing marketing with an evaluation and follow-up of success rates in placement of individuals in non-minority housing areas. The BHA must provide this information to the Offices of Public Housing and Fair Housing in the San Francisco Office, within 30 days from the date of the approval letter, for review.

Resident Consultation

1. Project(s) Specific Resident Organization(s): Resident Awareness In Action (RAIA)
2. PHA-wide Resident Organization: None
3. Resident Advisory Board (RAB) in accordance with 24 CFR Part 903.13: RAB

24 CFR Part 970.9 requires that an application for disposition be developed in consultation with the tenants of the project involved, any tenant organization at the project involved and any PHA-wide organizations that will be affected by the activity. The OPC (Overland, Pacific and Cutler) advisory/counseling relocation team prepared and distributed a GIN (general information notice) on October 26 and 27, 2009. On November 3, 2009, an informational meeting was held at the South Berkeley Senior Center. A follow-up meeting was held on December 9, 2009, where residents had the opportunity to provide feedback on the application. Approximately 60 percent of the potentially affected households attended these meetings. On November 3, 2009, the BHA met with the following Legal/Housing Advocate Organizations:

- The Bay Area Legal Aid Services
- East Bay Community Law Center
- National Housing Law Project

The Department received comments on the subject of the disposition application from the following:

- April 9, 2010; the SAC received a cc e-mail from Lynda Carson; the email was addressed to Secretary Shaun Donovan re: request for an investigation into the Berkeley Housing Authority (BHA).
- April 12, 2010, San Francisco Bay View Newspaper – “Berkeley public housing residents were not informed of their rights: by Lynda Carson”.

- April 12, 2010, Stephen Schneller, Director San Francisco Office of Public Housing has researched Ms. Lynda Carson's claims; "nothing has been substantiated and most are based on inaccurate interpretations, misleading statements, and/or factual errors".
- April 16, 2010, San Francisco Bay View Newspaper- "Berkeley public housing tenants demand resignations".
- Indy Bay News Wire- "BHA's public housing residents were not informed of their rights: By Lynda Carson - March 29, 2010".

The application includes a response letter dated June 10, 2010, from Ophelia B. Basgal, Regional Administrator, San Francisco Regional Office, to Ms. Lynda Carson "HUD will consider the complaints and take any appropriate actions with the Housing Authority and its application, if warranted".

On April 16, 2010, the SAC received an e-mail from Stephen Schneller, Director San Francisco Office of Public Housing indicating "all compilation allegations from Ms. Lynda Carson's blogs have been investigated and unsubstantiated by their office".

Additionally, the FHEO and the Office of Community Planning and Development (CPD) relocation at HUD Headquarters made inquiries with reference to the BHA's relocation plan. Based on the supporting documents received and recommendation provided from HUD Headquarters, the BHA has met the requirements for resident relocation as identified in 24 CFR 970.5.

The application package includes written comments/questions from the attendees; agendas, meeting flyers, general information notices, sign-in sheets and minutes.

Offer for Sale to the Resident Organization

24 CFR Part 970.9(b)(1) of the regulation requires that a public housing agency offer the opportunity to purchase the property proposed for disposition to any eligible resident organization, eligible resident management corporation as defined in 24 CFR Part 964, or to a nonprofit organization acting on behalf of the residents, if the resident entity has expressed an interest in purchasing the property for continued use as low-income housing. The BHA has chosen not to provide an opportunity based on the exception found in 24 CFR Part 970.9(b) (3). (ii) "A PHA seeks disposition outside the public housing program to privately finance or otherwise develop a facility to benefit low-income families (e.g., mixed-finance housing or other types of low-income housing)." We concur with the BHA's determination that it has complied with the requirements of 24 CFR Part 970.9.

On January 4, 2010, the RAIA sent a letter, to the HUD San Francisco Regional Office to express their interest in purchasing the 61 units.

On January 25, 2010, the San Francisco Regional Office advised the RAIA to contact the BHA directly to state their request. The BHA encouraged the RAIA to partner with a non-profit organization if they want to submit an application to purchase and manage the units.

The application includes a letter dated June 10, 2010, from Keith Carlisle, President, RAIA to express the council's interest in purchasing the 61 scattered site units. The BHA responded to the RAIA by letter dated June 17, 2010; *response*: "We will be certain to include RAIA on the mailing list

for the Request for Proposals for management services and/or purchase of the units. We will evaluate any proposal received from RAIA in the same manner as other proposals received, as required by federal procurement regulations”.

Board Resolution

As required by the 24 CFR Part 970.7(a)(13), the BHA’s Board of Commissioners approved the submission of the application for disposition of the proposed property on December 17, 2009, via Resolution Number 09-53. The last resident consultation was on December 9, 2009. The last consultation with the local government took place on August 6, 2010.

Mayor/Local Government Consultation

The Berkeley City Council was consulted on the subject of the planned disposition application, a joint meeting was held on July 13, 2010, with the BHA Board and full City Council. At a policy level, the BHA Board of Commissioners and the City Council members meet as a “3x3 Committee” (3 members of the City Council and 3 BHA Commissioners). Extensive meetings have taken place on October 22, 2008, April 29, 2009 and November 23, 2009. In the application, the BHA states in the November 23, 2009, meeting, the “3x3 Committee” members of City Council expressed their support for the proposed disposition activity. As required by 24 CFR Part 970.7(14), the application package includes a letter of support from (1) the Honorable Tom Bates, Mayor of the City of Berkeley, dated August 6, 2010, and (2) Mr. Phil Kamlarz, City Manager, dated December 15, 2009.

Replacement Housing

24 CFR Part 970.31 eliminated the requirement for one-for-one replacement of public housing units. Therefore, the BHA is not required to provide for replacement housing, and the Department is under no obligation to fund replacement housing.

Approval

We have reviewed the application and find it to be consistent with Section 18 of the Act, and the implementing regulations, 24 CFR Part 970, including requirements related to resident consultation, relocation and opportunity to purchase the property by the resident organization. Based upon our review, and finding that the requirements of 24 CFR Part 970 and Section 18 of the Act have been met, the disposition of 13 dwelling buildings containing 61 dwelling units and 1.70 acres of underlying land at Scattered Sites, CA058000002, as previously identified and described in the application, via a long-term ground lease for \$750,000.00, is approved. If the BHA fails to receive any bids at the established value identified here, please inform this office as to the BHA plans. The use of proceeds for operating reserves and supportive services for the BHA’s HCV program is also approved.

Scattered Sites, CA0500002			
Buildings: 13, Units: 61, Acres: 1.70			
Total Units to be Redeveloped 61	Less than 50% of Area Median Income		
	ACC	Non-ACC	Market Rate
Rental	0	61	0
Method of Sale	Negotiated Sale via Request for Proposal to a Selected Developer Ground Lease for 99 Years		
Sale Price	\$750,000.00		
Lease Price	Total Lease Payment of \$749,916 in Years 1-15 and \$1.00 per Year Beginning in Year 16 of the Lease		
Purpose	Rehabilitation and Management of Affordable Housing		

The approval requires that disposition documents include a reversion clause stipulating that if the acquiring entity fails to develop the property as outlined in the application, the property shall revert to the BHA and the lease shall terminate.

Notwithstanding this approval, the PHA shall not proceed to enter into any long-term ground lease or disposition agreement until all residents have been relocated and until all disposition actions at the development are complete.

Operating Subsidy

The disposition of these units will affect the BHA's operating subsidy eligibility significantly. The BHA was advised to contact the HUD financial analyst in the San Francisco HUB Office for additional information.

Housing Choice Vouchers

If the BHA is interested in applying for housing choice vouchers for relocation in connection with the units approved for disposition, it will need to submit an application to the San Francisco HUB Office. The BHA should submit its application in response to HUD Notice 2009-13, or HUD's current Notice outlining the application procedures.

PIC and Monitoring

The BHA must enter the "actual" dates of disposition directly into the Inventory Removals sub-module in PIC for the San Francisco HUB Office approval so that the status of the units in PIC is changed to "removed from inventory."

It is the San Francisco HUB Office's responsibility to monitor this activity based on its latest risk assessment. The San Francisco HUB Office must verify that the actual data is being entered by the BHA as the actions occur to ensure the Department is not over paying in operating subsidy, and the Capital Fund formula data is correct. Since this action expects to generate net

proceeds of \$750,000.00, it is the San Francisco HUB Office's responsibility to verify the funds were used as approved, and the HA's records are adequately documented to support this assertion.

Upon completion of disposition, the San Francisco HUB Office has the responsibility to release the parcel from the Declaration of Trust, as applicable, and update PIC to reflect the approved action as appropriate.

Terminating Annual Contributions Contract

This action will remove all ACC units from the BHA's inventory, and will terminate that relationship with the Department. In addition to the usual monitoring performed by the Field office in support of a Section 18 action, the Field Staff must also address the following issues, and ensure that the files are adequately documented to demonstrate BHA's compliance.

Operating Budget

After the transfer of title occurs, the BHA may spend no more of its Operating funds, other than those received as asset repositioning fees. The BHA must be instructed to have their accounts audited the next time an audit is performed to verify this, and any remaining funds shall be returned to the Department.

Capital Fund

Prior to the transfer of title, the BHA may expend Capital Funds to carry out modernization activities that ensure the long-term affordability of the units approved for disposition. After the transfer of title occurs, the BHA may only expend funds to close out contract obligations. The modernization work must occur before the property is disposed. The BHA must have an audit of its accounts to ensure compliance with applicable program requirements; any remaining funds shall be returned to the Department. Replacement Housing Factor Funds will be recaptured as they are issued.

Non-expendable equipment

By reducing the size of the BHA, there may be a surplus of non-expendable equipment. This must be disposed of in accordance with the guidelines in 24 CFR 85.32(e). The BHA must be instructed to gather a master list of non-expendable equipment and have the disposition audited the next time an audit is performed to verify this. Any remaining funds shall be returned to the Department.