

PDC

PORTLAND DEVELOPMENT COMMISSION

DATE: May 12, 2010

TO: Board of Commissioners

FROM: Bruce A. Warner, Executive Director

SUBJECT: Report Number 10-49
Administrative item to retroactively extend land lease term by 30 years prior to previously approved land sale in order to maximize Low Income Housing Tax Credit Equity investment.

EXECUTIVE SUMMARY

BOARD ACTION REQUESTED

Adopt Resolution No. 6795

ACTION SUMMARY

This action authorizes the retroactive 30 year extension on the remaining term of the land lease (the "Lease") on PDC-owned property located at 2650 NW Upshur ("Property"). The extension will be retroactive to January 29, 2009. The amendment extending the lease term will be executed immediately prior to PDC's sale of the Property to a Northwest Housing Alternatives controlled entity, authorized by Resolution No. 6783, adopted by the Board on April 14, 2010. Upon closing of the sale of the Property, the Lease, as amended, terminates. As a result, the Lease, as amended to extend the term, will be in place for only the brief period of time between the recording of the lease amendment and the recording of the Deed transferring title to the Property to the Northwest Housing Alternatives controlled entity. If the closing of sale of the Property does not occur, the lease amendment will not be executed. This administrative action is a requirement of the Upshur housing project's Low Income Housing Tax Credit Equity Investor for tax purposes in order to maximize funding for this low income housing rehabilitation project. This requirement was only recently called to PDC's attention otherwise staff would have requested Board action on this amendment as part of the approval of the sale of the Property.

PUBLIC BENEFIT

This action will ensure the long term financial viability of an affordable housing project in an underserved area of Northwest Portland containing 30 rental units.

This action will support the following PDC goals:

- Sustainability and Social Equity
- Healthy Neighborhoods
- A Vibrant Central City
- Strong Economic Growth and Competitive Region
- Effective Stewardship over our Resources and Operations, and Employee Investment

PUBLIC PARTICIPATION AND FEEDBACK

Not applicable. This is an existing affordable housing project

COMPLIANCE WITH ADOPTED PLANS AND POLICIES

The Thurman/Vaughn Corridor Improvement Plan was adopted by City Council in August, 1977, and called for new housing to be built on vacant land between NW 26th Ave. and NW 28th Place. City Council directed PDC through Resolution 32137 (adopted July 5, 1978) to work with Tom Walsh to develop housing on PDC owned land in the Thurman/Vaughn Corridor. Pursuant to that resolution, PDC leased the land on a long-term basis to a Tom Walsh controlled entity, which constructed and operated affordable housing on the site. An NHA controlled entity acquired the leasehold interest of the Tom Walsh entity in 2009 in anticipation of rehabilitating the affordable housing. PDC approved the assignment of the lease agreement to the NHA controlled entity through Resolution No. 6664 (adopted JANUARY 14, 2009) with 30 years currently remaining on the lease term. This action enables the preservation of the affordable housing on the site, which is located in an underserved part of the city, and supports the adopted city housing policy of preserving expiring Section 8 rental assisted projects.

FINANCIAL IMPACT

None.

RISK ASSESSMENT

Low- this administrative action will allow the project's Low Income Housing Tax Credit Equity to maximize funding.

WORK LOAD IMPACT

There are sufficient staff resources within the Housing and Legal Departments to process this request

ALTERNATIVE ACTIONS

The Board may withhold approval for the 30 year land lease extension and direct staff to continue discussions representatives with Northwest Housing Alternatives.

However delay of the action could result in the Low Income Housing Tax Credit Equity Investor not being able to maximize investment and creating an approximate \$500,000 funding gap for the project.

CONCURRENCE

PDC staff has conferred with the Portland Housing Bureau in evaluating the proposal.

BACKGROUND

Upshur House Apartments are located in Northwest Portland at 2650 NW Upshur Street. The project consists of five townhouse style apartment buildings for low-income families in a mix of 8 one-bedroom units, 12 two-bedroom units, and 10 three-bedroom units. PDC owns a fee simple interest in the land beneath the project, which is leased to project owner Upshur Renewal LLC. (Northwest Housing Alternatives, Managing Member).

On December 11, 1979, the Board approved Resolution No. 2799 authorizing the PDC to enter a 60 year land lease with Upshur House, LTD (Tom Walsh and Co., General Partner) for the sum of \$2,500 per year with the stipulation that Walsh develop affordable housing on the site. Upshur House, LTD and PDC entered into a 60 year Land Lease on February 29, 1980 and there are approximately 30 years left on the term.

On January 14, 2009, the Board approved Resolution No. 6664 authorizing the transfer of the land lease to Upshur Renewal LLC to facilitate the sale of the housing project to a Northwest Housing Alternatives (NHA) controlled entity in order to assist with the preservation of affordable housing.

On April 14, 2010, the Board approved Resolution No. 6783 authorizing the sale of the property for \$50,000 to a NHA controlled entity in order to facilitate the preservation and rehabilitation of affordable housing. Subsequent to board approval of the land sale, Enterprise (the Low Income Housing Tax Credit Equity Investor) requested that PDC retroactively amend the land lease to extend the remaining term by 30 years prior to the sale of the project in order to maximize their equity funding. The lease extension is requested to be retroactive to January 29, 2009 and is related to tax issues associated with acquisition tax credits. The land lease will be extinguished when the sale of the property closes, which is expected in May, 2010. Without the lease extension, Enterprise is going to decrease its funding related to acquisition tax credits which will result in an estimated \$500,000 funding gap for the project.