

Memorandum



DATE October 31, 2008

TO Housing Committee Members: Steve Salazar, Chair, Carolyn R. Davis, Vice-Chair, Tennell Atkins, Dr. Elba Garcia, Vonciel Jones Hill, Angela Hunt, Linda Koop, Pauline Medrano

SUBJECT Multifamily Low Income Housing Tax Credit Projects City Resale Term Options

On Monday, November 3, 2008, you will be briefed on Multifamily Low Income Housing Tax Credit Projects City Resale Term Options. A copy of the briefing is attached.

Please let me know if you have any questions.



A.C. Gonzalez, Assistant City Manager

c: The Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Deborah Watkins, City Secretary
Tom P. Perkins, Jr., City Attorney
Craig Kinton, City Auditor
Judge C. Victor Lander, Judiciary
Ryan S. Evans, First Assistant City Manager
Forest Turner, Interim Assistant City Manager
Ramon Miguez, P.E., Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Dave Cook, Chief Financial Officer
Jerry Killingsworth, Housing Director
Jeanne Chipperfield, Budget Director, Office of Financial Services
Helena Stevens-Thompson, Assistant to the City Manager

Multifamily Low Income Housing Tax Credit Projects City Resale Terms Options

A Briefing to the Housing Committee

November 3, 2008

Housing Department



PURPOSE:

- ❑ Inform Committee about current Low Income Housing Tax Credit (LIHTC) affordability terms
- ❑ Provide the Committee with information regarding rules governing resale of multifamily LIHTC projects
- ❑ Inform Committee about LIHTC projects with City Loans
- ❑ Advise Committee on possible options for future LIHTC projects and City loan terms

Rules Governing Affordability and Transferability of LIHTC Projects

- ❑ The Texas Department of Housing and Community Affairs (TDHCA) requires that LIHTC projects remain affordable for 30 years
- ❑ The affordability is enforced through a Declaration of Land Use Restrictive Covenants for Low-Income Housing tax Credits (LURA)
- ❑ The LURA does not contain provisions allowing the project units to be substituted at another site
- ❑ City is not a party to the LURA agreements and does not have authority to prevent sale to a new owner

Rules Governing Resale of Tax Credit Projects:

- TDHCA generally retains some limited rights to approve sale or transfer
- LURA contains provisions addressing sale of LIHTC projects to new owners
- LURA requires owner to notify TDHCA prior to any sale, transfer or exchange of ownership of LIHTC project and provide information so that TDHCA can determine if new owner is acceptable as project owner under TDHCA rules:
 - Economic viability
 - Prior record of ownership of other properties

Rules Governing Resale of Tax Credit Projects (cont.):

- TDHCA ownership ineligibility factors
 - Previously barred, suspended or terminated from state or federal procurement
 - Conviction of state or federal felony crime involving fraud, bribery, theft, misrepresentation of fact or funds in past 15 years
 - Subject to enforcement or disciplinary action under state or federal securities, federal tax lien or enforcement proceeding with any governmental entity
 - Failure to meet commitments or has unresolved audit issues with TDHCA

Rules Governing Resale (cont.):

- TDHCA ownership ineligibility factors (cont.)
 - Replacement of Private Activity Bond in less than 15 years
 - Revolving door for certain previously employed TDHCA staff
 - Providing false information or material misrepresentation to TDHCA
 - Material non-compliance with TDHCA

LIHTC Projects with City Loans

- City loans on LIHTC projects have various lien positions, maturity dates and terms (see attached schedule)
 - City has one loan on 12 projects and 3 loans on one other project
 - Loan maturity dates do not coincide with maturity dates of LIHTC restrictions
 - Loan terms range from forgivable to fully amortized
 - City loans contain terms requiring notice of sale or transfer and may require City approve buyer

Possible Options for LIHTC Projects without City Loans

- ❑ Require LIHTC applicants to execute Deed Restrictions allowing City approval of future buyers within term of tax credit LURA in return for City approval of project
- ❑ Unlikely that TDHCA would agree to modify LURA to contain requirement that City must approve future buyers*

*TDHCA previously advised that they would not modify LURA to address City's social services requirements

Possible Options for Future City Loans

- Mirror LURA maturity dates
- Deed Restrict property to require City preapproval of future buyers