

HACSA 3c

MEMORANDUM

AGENDA DATE: September 26, 2007

DATE: September 12, 2007

TO: Board of Commissioners of the Housing and Community Services
Agency of Lane County (HACSA)

PRESENTED BY: James R. McCoy, Development Director
Chris Todis, Executive Director

AGENDA ITEM TITLE: ORDER/In the Matter of Approving the Amended Limited
Partnership Agreement for the Turtle Creek Apartments

I. PROPOSED MOTION:

IT IS MOVED THAT:

(1) THE EXECUTIVE DIRECTOR OR THE DEPUTY DIRECTOR IS AUTHORIZED TO FORM AND SERVE AS THE GENERAL PARTNER OF TURTLE CREEK APARTMENTS LIMITED PARTNERSHIP (THE "PARTNERSHIP"), TO EXECUTE AN INITIAL PARTNERSHIP AGREEMENT WITH AN INITIAL PARTNER AND, THEREAFTER, TO ACT ON BEHALF OF THE GENERAL PARTNER OF THE TURTLE CREEK APARTMENTS LIMITED PARTNERSHIP TO EXECUTE THE AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT OF TURTLE CREEK APARTMENTS LIMITED PARTNERSHIP (THE "AMENDED PARTNERSHIP AGREEMENT") AND THAT SUCH ACTIONS TAKEN TO DATE, ARE HEREBY RATIFIED AND APPROVED.

(2) THE EXECUTIVE DIRECTOR OR THE DEPUTY DIRECTOR IS AUTHORIZED TO ACT ON BEHALF OF THE HOUSING AND COMMUNITY SERVICES AGENCY IN ITS OWN CAPACITY AND AS GENERAL PARTNER OF THE TURTLE CREEK APARTMENTS LIMITED PARTNERSHIP TO ENTER INTO THE FOLLOWING AGREEMENTS): THE DEVELOPMENT SERVICES AGREEMENT; THE PROPERTY MANAGEMENT AGREEMENT AND THE PURCHASE OPTION AND RIGHT OF FIRST REFUSAL AGREEMENT;

(3) THE EXECUTIVE DIRECTOR OR THE DEPUTY DIRECTOR IS AUTHORIZED TO ACT ON BEHALF OF THE HOUSING AND COMMUNITY SERVICES AGENCY IN ITS OWN CAPACITY AND AS GENERAL PARTNER OF THE TURTLE CREEK APARTMENTS LIMITED PARTNERSHIP TO LEND TO TURTLE CREEK APARTMENTS LIMITED PARTNERSHIP THAT PORTION OF THE PROJECT FINANCING RECEIVED AS A GRANT BY THE HOUSING AND COMMUNITY SERVICES AGENCY.

(4) THE EXECUTIVE DIRECTOR OR THE DEPUTY DIRECTOR IS AUTHORIZED TO DO AND PERFORM SUCH OTHER ACTS AND THINGS AND TO EXECUTE AND DELIVER SUCH OTHER DOCUMENTS AS MAY IN THEIR DISCRETION BE DEEMED REASONABLY NECESSARY OR PROPER IN ORDER TO CARRY INTO EFFECT ANY OF THE PROVISIONS OF THIS BOARD ORDER, TO ACT ON BEHALF OF THE HOUSING AUTHORITY AND COMMUNITY SERVICES AGENCY AND/OR THE PARTNERSHIP, AS THE CASE MAY BE, TO ACCEPT AND LEND THE PROCEEDS OF GRANTS FOR THE BENEFIT OF THE PROJECT AND THAT SUCH ACTIONS TAKEN TO DATE, ARE HEREBY RATIFIED AND APPROVED.

II. ISSUE/PROBLEM:

Board approval is necessary to enter into the Amended Partnership Agreement, thereby enabling the sale of the federal tax-credits reserved for the project.

III. DISCUSSION:

A. Background

In February 2004, the Intergovernmental Housing Policy Board and the City of Eugene selected HACSA as the developer for a 4-acre parcel located adjacent to HACSA's existing Walnut Park Duplex project. HACSA proposed to develop the site to accommodate 27 units of affordable, family housing. Consequently, the City of Eugene agreed to provide the site and HOME funds and the Lane County Board allocated \$220,000 in Lane County road funds. In 2006, HACSA received a reservation of \$290,671 of low-income housing tax credits for this project from the Oregon Housing and Community Services Department.

B. Analysis

Project Description

"Turtle Creek" consists of 27 units of affordable housing that:

- * Provides rental housing for families at or below 50% of area median income.
- * Contains five units targeted to homeless, hard-to-serve families. The families in these units will receive services from Shelter Care, Inc. to stabilize the family and assist them to achieve self-sufficiency.
- * Completes the City of Eugene's "Walnut Grove" community improvement effort that first began in 1991. Construction of the apartments is accompanied by adjoining park improvements, road construction, and new single-family development.

Turtle Creek contains 23 two-bedroom townhouse style units, 2 three-bedroom townhouse units, and 2 fully-accessible single-story two-bedroom units. It serves families and households with incomes at or below 50% of area median income and rents are established at \$417 for two-bedroom units and \$476 for three-bedroom units. In addition, the five "service-enriched" units set aside for homeless families will rent for \$297 per month.

The total estimated project cost is \$4,301,600 (approximately \$155,600 per unit.)

The project is designed to provide a quality environment for families. All units have individual entrances, with careful attention given to the important transition from public to private space. Buildings are placed around landscaped courtyards that provide common areas suitable for children and socializing. The project is within easy walking distance to elementary and middle-schools.

The development will share the community building that serves the Walnut Park Duplexes, a HACSA-owned LIHTC project directly on the east. The two projects will be operated as separate financial entities, but co-managed to obtain management cost efficiencies and operate as a single community.

Project Financing

Project financing includes the City of Eugene HOME funds and System Development Charge assistance; Oregon Housing and Community Services Housing Trust Fund grant and Weatherization Funds; mortgage financing from the Network for Oregon Affordable Housing and the sale of Low-income Housing Tax Credits

Past Board Actions

The Board has taken several previous actions which have authorized:

- * Application to the State of Oregon for financing subsidies;

- * Approval of the Architectural Services Contract with Carleton Hart;
- * Approval of CM/GC Contract with Meili Construction, Inc.

Approving the execution of the Amended Partnership Agreement represents the second to last step in finalizing the financial package for the project. This memorandum outlines the primary provisions of the proposed Limited Partnership Agreement and requests Board approval to execute it.

The Amended Limited Partnership Agreement

HACSA has received from the State of Oregon Housing and Community Services Agency federal low-income housing tax credits in the annual amount of \$290,671. Because HACSA is a government agency and has no taxable income, the vehicle for using these tax credits is to create a limited partnership with a private investor that wishes to "buy" and use them to reduce its tax liability. This approach has been used in the Richardson Bridge Apartments (1992), the Walnut Park Duplexes (1994), the Willakenzie Townhouses (1995), the Laurel Gardens Apartments, (1997), Jacob's Lane (1999), Sheldon Village (Phase I and II) (2002), Munsel Park Apartments (2005), and the New Winds Apartments, HACSA's prior tax credit projects.

Although many entities purchase tax credits, only a few specialize in working with government agencies and non-profits to ensure that the housing remains permanently low-income. The National Equity Fund (NEF) (and its affiliates) is such an equity fund and was selected as result of a competitive RFP process.

The Amended Partnership Agreement outlines the relationship between HACSA (the general partner) and the investor(s) and limited partner(s). This set of documents:

1. Delineates the rights, powers, and obligations of HACSA as the general partner and the rights and obligations of the limited partner(s).
2. Identifies the Turtle Creek development and outlines the regulations and requirements involved with the use of the tax credit (Section 42 of Internal Revenue Code of 1986).
3. Sets the schedule of Capital Contributions that are made in exchange for the tax credits.
4. Structures the "Operating Benefits" during the 15 year life of the Partnership.
5. Outlines specific provisions for HACSA to purchase the property at the end of the 15-year tax credit compliance period. The intent is to allow HACSA the opportunity to purchase the project for outstanding indebtedness and any state, local or federal taxes attributable to the sale.
6. Provides a guarantee, among others, from HACSA that it will be responsible for completing construction and for any cost overruns during construction.

7. Provides an Environmental Indemnification to the Partnership and the Limited Partner for the site.

The Agreement also involves a series of auxiliary agreements, including the following a Development Services Agreement, providing the legal basis for HACSA to continue to serve the Partnership as the development entity for the project; a Construction Completion Guaranty Agreement, in favor of the Partnership and the limited partner; and a Purchase Option and Right of First Refusal Agreement, granting HACSA the right to purchase the property at the end of the compliance period. It also structures the grant awards received from various sources to assist with project development as a series of loans to the Partnership in order to optimize the ability of HACSA to purchase the project back from the Partnership in 15 years after the tax credits benefits expire.

The attorney representing HACSA in this proposed transaction, Mr. Douglas Blomgren of Bates Preston Gates & Ellis, has reviewed and approved these documents.

C. Recommendation.

Approval of the proposed Motion.

E. Timing.

Upon approval of the Order, the Executive Director and/or the Deputy Director will execute the documents immediately.

IV. IMPLEMENTATION/FOLLOW-UP:

Same as Item III. E. above.

V. ATTACHMENTS:

None

IN THE BOARD OF COMMISSIONERS OF THE
HOUSING AND COMMUNITY SERVICES AGENCY
OF LANE COUNTY, OREGON

ORDER

In the Matter of Approving the Development and Financing for the
Turtle Creek Apartments

WHEREAS, the Housing Authority and Community Services Agency (HACSA) was duly formed to address needs in the community for affordable housing for low-income households; and

WHEREAS, the Housing Authority and Community Services Agency (HACSA) wishes to develop an affordable housing project known as the Turtle Creek Apartments; and

WHEREAS, ORS 456.120 includes in the Powers of Authority as a Public Corporation the authority to enter in a partnership agreement with an individual, partnership, corporation or other association to finance, plan, undertake, construct, acquire or operate a housing project; and

NOW IT IS THEREFORE ORDERED THAT:

- (1) The Executive Director or the Deputy Director is Authorized to form and serve as the General Partner of Turtle Creek Apartments Limited Partnership, to execute an initial partnership agreement with an initial limited partner and, thereafter, to act on Behalf of the General Partner to execute the Amended and Restated Limited Partnership Agreement of the Turtle Creek Apartments Limited Partnership and that Such Actions Taken to Date, Are Hereby Ratified and Approved.
- (2) The Executive Director or the Deputy Director Is Authorized on behalf of the Housing and Community Services Agency in its own capacity and as General Partner of the Turtle Creek Apartments Limited Partnership to enter into the Following Agreements: the Development Services Agreement; the Property Management Agreement; and the Purchase Option and Right of First Refusal Agreement.
- (3) the Executive Director or the Deputy Director Is Authorized to Act on Behalf of the Housing Authority and Community Services Agency in its own capacity and as General Partner of the Turtle Creek Apartments Limited Partnership to lend to Turtle Creek Apartments Limited Partnership that portion of the Project Financing previously received as a grant by the Housing Authority and Community Services Agency.
- (4) the Executive Director or the Deputy Director Are Authorized to Do and Perform Such Other Acts and Things and to Execute and Deliver Such Other Documents as May in Their Discretion Be Deemed Reasonably Necessary or Proper in Order to Carry into Effect Any of the Provisions of this Board Order, to Act On Behalf of the Housing Authority and Community Services Agency and/or The Partnership, As the Case May Be, To accept and Lend the Proceeds of Grants For the Benefit of the Project, and That Such Actions Taken to Date, Are Hereby Ratified and Approved.

DATED this _____ day of _____, 2007

Chair, HACSA Board of Commissioners

In the Matter of Approving the Limited Partnership Agreement for the Turtle Creek Apartments