



Office of Executive Officer

CONSENT CALENDAR  
September 10, 2013

To: Honorable Chairperson and Members of the Successor Agency to the  
Redevelopment Agency

From:  Christine Daniel, Executive Officer

Submitted by: Eric Angstadt, Director, Planning and Development

Subject: Transfer Oceanview Garden Apartments from the Successor Agency  
to the City Acting as Successor Agency for Housing

RECOMMENDATION

Adopt a Resolution authorizing the Executive Officer to execute all necessary documents to transfer title of the Oceanview Garden Apartments, former Berkeley Redevelopment Agency-owned property, from the Successor Agency to the City of Berkeley in its role as the Successor Agency for Housing.

FISCAL IMPACTS OF RECOMMENDATION

Fees for the transfer of title should be minimal.

CURRENT SITUATION AND ITS EFFECTS

Under the Redevelopment Dissolution Statute, all housing assets are subject to transfer to the entity acting as housing successor, in this case the City. Once transferred in accordance with the Dissolution Act, the property would no longer be subject to the requirements of the Dissolution Act and would become the property of the City. The Dissolution Act includes a provision that allows for the transfer of housing assets to the Successor Agency for Housing, upon approval of the Oversight Board and the Department of Finance (DOF) and prior to the Long Range Property Management Plan.

As described in more detail below, Oceanview Garden Apartments (1715-1735 Fifth Street; 1726-1732 Sixth Street; 1816-1832 Sixth Street and 813-815 ½ Hearst Street), a 62-unit affordable rental development for very low and lower income households, was not retained as a housing asset in accordance with State procedures in 2012. Ocean View Gardens LLC, owner of the Property Improvements, has a lease with the former Redevelopment Agency, which expires March 29, 2059.

Staff is requesting that the Successor Agency approve transfer of the parcels associated with the Oceanview Garden Apartments Ground Lease. The transfer is subject to approval of the Oversight Board and submittal to the DOF for their review.

The transfer becomes effective five (5) business days after notice has been provided to the DOF, pending a request for review by the DOF.

**BACKGROUND**

Pursuant to ABx1 26, California Health and Safety Code § 34175(b) all assets and properties of a former redevelopment agency were to be transferred by February 1, 2012 to the control of the agency’s successor agency. On January 17, 2012 the City Council passed Resolution No. 65,574-N.S. authorizing the City to become the successor agency for the purpose of managing housing assets of the Redevelopment Agency. The staff report listed the following Redevelopment Agency assets.

<b><i>Asset Description</i></b>	<b><i>Notes</i></b>
1654 Fifth Street – Vacant SFD	Fee title ownership. Plan to sell for market-rate housing
1631 Fifth Street – Community garden	Fee title ownership. Plan to manage lease & possible sale for continued garden use
“D&E” Properties not owned by Agency	11 residential owner-occupied properties on 5 <sup>th</sup> Street Deed restricted with Agency first-right-of-refusal and rental restrictions through 2017.
Delaware Historic District Properties	5 residential and commercial owner-occupied properties on Delaware Street with loans due in 2018.
1715 Fifth Street & 819 Hearst Oceanview Garden Apartments	Fee title ownership, with ground lease until 2059
1817 – 1819 4 <sup>th</sup> Street (commercial)	Fee title ownership, with ground lease until 2051

California Health and Safety Code § 34176(a) (2), required the entity assuming the housing functions of the former Redevelopment Agency submit a Housing Asset Transfer Form (HAT) by August 1, 2012 listing all housing asset transfers and explaining how the assets meet the definition of “housing asset” included in the Section. The Housing Asset Transfer form was not submitted because none of the properties were acquired for low-and-moderate-income purposes and, therefore did not meet the definition.

Since none of the above properties were transferred through the HAT process, the assets currently belong to the Successor Agency. To dispose the properties, the Agency must prepare a Long Range Property Management Plan (LRPMP), which must be approved by the Oversight Board and the State Department of Finance (DOF). The LRPMP cannot be approved until a Finding of Completion is issued by the DOF. Due to pending litigation, it is not anticipated that this will occur until 2014.

The land for Oceanview Garden Apartments was not acquired for low-and-moderate-income purposes – it was acquired as part of the West Berkeley Industrial Park Redevelopment Project, financed under a Neighborhood Development Program by annual increment financing through Housing and Urban Development (HUD) and local grants-in-aid by the City of Berkeley.

The Community Development Block Grant (CDBG) Close-Out Agreement dated September 12, 1978, stipulates that the proceeds from the sale of all properties purchased with Federal financial assistance as part of the Neighborhood Development Project, which includes the subject property, must be treated as program income to the CDBG program under the provisions of 24 CFR 570.506. Therefore, sale proceeds must be returned to the City's CDBG Program and treated as program income to support CDBG-eligible activity. Therefore, any transfer or disposition of this property would have a net zero effect on any balance available to the taxing entities.

RATIONALE FOR RECOMMENDATION

Oceanview Garden Apartments will be best managed as affordable housing if retained by the City acting as the Successor Agency for Housing.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Wendy Cosin, Deputy Director, Planning and Development, 981-7402

Attachments:

1: Resolution

RESOLUTION NO.

AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE ALL NECESSARY DOCUMENTS TO TRANSFER TITLE OF THE OCEANVIEW GARDEN APARTMENTS PROPERTY TO THE CITY OF BERKELEY IN ITS ROLE AS THE SUCCESSOR AGENCY FOR HOUSING

WHEREAS, Assembly Bill 1X 26 (the "Dissolution Act") and Assembly Bill 1X 27 (the "Alternative Redevelopment Program Act") were enacted on June 28, 2011, to significantly modify the Community Redevelopment Law (Health & Safety Code §33000, et seq.; the "Redevelopment Law"); and

WHEREAS, on August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts; and

WHEREAS, on December 29, 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional; and

WHEREAS, the Court's decision resulted in the dissolution of that all California redevelopment agencies on February 1, 2012; and

WHEREAS, on January 17, 2012, the City Council adopted a Resolution indicating its intent to become the Successor Agency as well as its election to become the Successor Agency for Housing; and

WHEREAS, the Successor Agency failed to list any assets on the Housing Asset Transfer Form, and the properties are now assets of the Successor Agency; and

WHEREAS, the Dissolution Act includes a provision that allows for the transfer of housing assets to the Successor Agency for Housing, upon approval of the Oversight Board and Department of Finance, and prior to the Long Range Property Management Plan; and

WHEREAS, the Successor Agency is requesting approval to transfer the parcels associated with the Oceanview Garden Apartments Ground Lease at 1715-1735 Fifth Street, 1726-1732 Sixth Street, 1816-1832 Sixth Street and 813-815 ½ Hearst Street to the City Acting as the Successor Agency for Housing.

NOW THEREFORE, BE IT RESOLVED by the Successor Agency to the Berkeley Redevelopment Agency that it hereby authorizes the Executive Officer to execute all necessary documents to transfer title of the parcels associated with the Oceanview Garden Apartments Ground Lease at 1715-1735 Fifth Street, 1726-1732 Sixth Street, 1816-1832 Sixth Street and 813-815 ½ Hearst Street from the Successor Agency to the City Acting as the Successor Agency for Housing.