



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Approve Assignment and Assumption and Modification Agreements between Senior Housing Solutions, Sunnyvale Senior Homes LLC (an affiliate of Charities Housing), and the City of Sunnyvale Regarding Transfer of 1230 Klee Court and 1675 S. Wolfe Road in Sunnyvale

BACKGROUND

Between 1994 and 2010, the City made several loans of Community Development Block Grant (CDBG) and HOME Investments Partnership Program (HOME) funds to Senior Housing Solutions (SHS), a non-profit housing agency based in Milpitas, to acquire and rehabilitate two residential properties in Sunnyvale to serve as group homes for lower-income seniors. These properties included a duplex located at 1230 Klee Court (which has a second street address of 436 Offenbach Place) and a single-family home located at 1675 S. Wolfe Road. The particulars of these loans are summarized in **Attachment 1**. Both of these homes are currently fully occupied by eligible seniors and receive operating subsidies in the form of project-based Section 8 vouchers provided by the Housing Authority of the County of Santa Clara.

In February 2013, through RTC 13-034, Council approved the transfer of a third Sunnyvale home previously owned by SHS, located on Socorro Avenue, to the Bill Wilson Center (BWC) for use as a home for young adults exiting foster care. The current proposal is to transfer the remaining two properties to Charities Housing similar to the method of transfer of the Socorro home to BWC. However, the remaining SHS homes both have estimated property values well in excess of the outstanding debts against the properties, and both homes are operating stably with a solid financial position.

About a year ago, SHS was still considering retaining the more successful group homes, such as the Klee and Wolfe homes, in its portfolio, which originally included 15 homes throughout the county, and transferring only those with operational difficulties to other entities. However, after careful analysis and consultation with its lenders, most of which were local jurisdictions, in June 2013 the SHS Board voted to dissolve SHS as a non-profit organization and transfer its assets and programs, if possible, to another qualified housing provider. SHS arrived at this decision after several years of inadequate funding to support its operations, exacerbated by the recession and dissolution of redevelopment agencies.

Several months before that vote, Charities Housing, a local non-profit housing provider, had been identified as the only qualified agency interested in and able to assume ownership of the agency's remaining properties and continue operating them as senior group homes. Charities agreed to assume fiscal and property management functions of the properties for an interim period, and entered into a conditional agreement to acquire the remaining SHS portfolio by the end of 2014. At that time the portfolio included 11 group homes in Santa Clara County, including the Klee and Wolfe

homes. The primary concern of SHS and the lenders, which included seven cities within the county as well as the County, was to avoid displacing the senior tenants from these group homes if at all possible.

The proposed transfer will avoid any displacement and will not cause any disruptions to the tenants, as Charities has already been managing the properties on behalf of SHS for the past year. Charities recently acquired title to an SHS home located in Cupertino consistent with the county-wide portfolio transfer plan, which calls for all SHS homes to be transferred by December 2014, so that SHS may complete the dissolution process by the end of 2014.

EXISTING POLICY

Housing Element of the General Plan:

Policy A.2: Facilitate the development of affordable housing through regulatory incentives and concessions, and/or financial assistance.

Policy A.7: Support collaborative partnerships with non-profit organizations, affordable housing builders, and for-profit developers to gain greater access to various sources of affordable housing funds.

Goal E: Promote equal housing opportunities for all residents, including Sunnyvale's special needs populations, so that residents can reside in the housing of their choice.

ENVIRONMENTAL REVIEW

This project qualifies for a categorical exemption under CEQA and NEPA because it involves only a change of ownership, and will not result in any change of use or occupancy that could impact the environment.

DISCUSSION

Charities Housing, a non-profit affordable housing developer, has been developing, preserving, and managing high quality affordable housing for low-income households in Santa Clara County since 1993. Its projects include supportive housing for very low-income and special needs individuals, such as the new Parkside Studios project currently under construction in Sunnyvale and the Stoney Pine Apartments for developmentally disabled adults, built in 2001 in Sunnyvale, as well as standard affordable rental housing. Charities manages and operates more than 1,000 housing units in seven cities throughout the county, and is a well-respected organization in Santa Clara County, known for providing high-quality property management and services to its tenants. The City has partnered with Charities on several past projects, including Stoney Pine and Parkside, and has worked closely with Charities and SHS in structuring the current transfer proposal.

At the request of SHS and its lenders, in early 2013, Charities completed an analysis of the financial and operational health of SHS. This report identified serious financial challenges resulting from both a lack of anticipated Section 8 vouchers and the rapid decline in availability of redevelopment agency funding, which had been one of its primary funding sources for capital projects. In May 2013, SHS's board concluded that the organization could no longer sustain itself, based on current financial projections. After meeting with all of the jurisdictions and funders, and with the agreement of the SHS Board of Directors, Charities agreed to assume fiscal and property management functions of all SHS properties for a limited term contract.

Since that time, the staff and board members of SHS and Charities have been working with staff of the County and cities' housing offices to plan for the orderly transfer of the remaining SHS homes to Charities. The County also engaged a housing consultant experienced in California non-profit dissolution and similar transfers of affordable housing assets to advise SHS, the lenders, and Charities about the steps in dissolution process, which is regulated by the State Attorney General, and ways to avoid potential difficulties post-dissolution which could affect any of the involved parties.

As part of Charities' due diligence process, Charities prepared a detailed feasibility analysis of each SHS property and portfolio in each jurisdiction, which included a Physical Needs Assessment (PNA), and acquisition feasibility analysis. The PNA concluded that the Klee and Wolfe homes are generally in good condition, but could use some improvements to provide greater accessibility, such as modified kitchen cabinets and door knobs, and to replace some worn items and/or extend the useful life of certain components.

In anticipation of this transfer, last spring Charities successfully applied to the City for housing rehabilitation funds for the Sunnyvale homes, and was awarded a conditional loan commitment of \$165,000 in CDBG revolving loan funds to address their identified immediate improvement needs. One of the conditions of that award was that Charities (or its affiliate) obtain fee title to the Sunnyvale homes prior to receiving final loan approval and any loan funds. Once the assignment and assumption has been completed and all other conditions have been met, such as federal environmental clearance, final approval of the rehabilitation loan can be issued and loan documents prepared. Staff expects that the loan could be funded by early 2015 and the rehabilitation work could then be completed by June 2015.

In order to allow the SHS dissolution to occur while maintaining all of the occupied group homes in their current state, the lenders need to approve assignments of their respective loans and affordability restrictions from SHS to Charities. Charities has set up new non-profit affiliate limited liability companies (LLCs), one for each jurisdiction with SHS homes, of which Charities is the sole member. The LLC established to assume the Klee and Wolfe homes and associated debt is called Sunnyvale Senior Homes LLC.

While the precise details of the assignments will vary somewhat by jurisdiction, the parties have coordinated to ensure effective completion to allow the dissolution to proceed, and to allow for greater consistency in operation of the homes. Staff has worked with Charities to develop the terms of the proposed Assignment and Assumption and Modification Agreements (the "Agreements") for the Sunnyvale homes, drafts of which are provided in **Attachments 2 and 3**, one for each home.

The proposed Agreements, which are based on the same template but vary slightly to cover the particulars of each home and its existing debt, set forth a process and general terms by which the outstanding City loans, regulatory agreements, and title to the Sunnyvale homes may be assigned to Sunnyvale Senior Homes LLC. The new loan documents and regulatory agreements for each home would be prepared following Council approval, based on current Housing loan templates and subject to the approval of the City Attorney.

The outstanding City debt on the homes, consisting of two loans on each property, includes approximately \$682,600 at Klee and \$202,900 at Wolfe. Approximately 21 percent of this total debt consists of deferred interest accrued through October 1, 2014. Please see **Attachment 1** for the

original principal and current balances of each loan. The outstanding City debt on each property represents approximately 52 percent of the current estimated property value of the Klee home and approximately 16 percent of the Wolfe home, respectively. The existing loans have interest rates of 3 percent simple partially or fully deferred, except for the 2002 CDBG loan on Wolfe, which has a rate of 5 percent simple.

The proposed Agreements include the following terms for all four loans to be assigned to Sunnyvale Senior Homes LLC: a 30-year term beginning on the date of transfer, a requirement to make annual residual receipts payments, an interest rate of three percent simple interest, to be charged on the original (pre-assignment) principal, but not on interest accrued and deferred by SHS prior to the transfer, which represents approximately 21 percent of the total outstanding balances to be transferred.

Payments of principal and interest would be deferred to the end of the new loan terms, except for the residual receipts payments, which are projected to be adequate to cover at least a portion of the annual interest accrual each year, at least through 2027 when the Section 8 contract is subject to renewal. In addition, staff proposes to consolidate the two loans currently on each property into one new loan on each property, with loan and regulatory agreements that will specify the original HOME and CDBG principal and interest amounts and include both HOME and CDBG terms and conditions. The final loan documents will be updated to reflect the interest accrued as of the actual transfer date once it is known.

The proposed changes to the regulatory agreements include standardizing the age limits to 62 years and the income and rent limits to the HOME program “very low” limits, which roughly coincide with 50 percent of area median income, and resetting the term to thirty years consistent with the new loan terms. These terms are all consistent with the intent of the original regulatory agreements, which varied in some details but all shared the goal of providing shared housing affordable to very low income seniors.

Approval of the proposed Agreements will allow the transfer of the remaining Sunnyvale group homes to occur, thus ensuring the long-term financial health and physical integrity of each home, and preserving this affordable housing resource for current occupants and any future occupants to move in during the term of restrictions.

FISCAL IMPACT

The recommended action would not impact the City’s General Fund. In accordance with the Agreements, the new Charities’ affiliate would assume all of SHS’s rights, title and obligations related to the Klee and Wolfe homes and associated city loans. Staff projects that approval of the Agreements would have a positive impact on the City’s CDBG and HOME funds, because the extended loan terms and residual receipts payment requirements will most likely result in a higher total amount of program income paid to these funds than would be received if no action is taken. In addition, the proposed action greatly reduces the risk that the current property owner, SHS, could default on any or all of the existing loans and create significant legal or other related expenses for the City in the event of a possible foreclosure.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public

Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

The Housing and Human Services Commission considered this item at its meeting on October 22, 2014 and recommended approval of the Agreements as attached. The draft minutes of that meeting are provided in **Attachment 4**.

RECOMMENDATION

Approve the Assignment and Assumption and Modification Agreements between Senior Housing Solutions, Sunnyvale Senior Homes LLC (an affiliate of Charities Housing), and the City, both in final form as approved by the City Attorney; and authorize the City Manager to execute agreements and related loan documents required to facilitate the transfer of 1230 Klee Court and 1675 S. Wolfe Road from Senior Housing Solutions to Sunnyvale Senior Homes LLC.

The Housing and Human Services Commission and staff recommend approval of the attached Agreements regarding transfer of 1230 Klee Court and 1675 S. Wolfe Road from Senior Housing Solutions to Sunnyvale Senior Homes LLC, an affiliate of Charities Housing. The City's approval of this proposed transfer of the Sunnyvale group homes will allow the current senior tenants to remain in their homes and will preserve this important affordable housing resource for the future.

Prepared by: Suzanne Isé, Housing Officer

Reviewed by: Hanson Hom, Director, Community Development Department

Reviewed by: Robert A. Walker, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Loans Summary
2. Assignment and Assumption and Modification Agreement between Senior Housing Solutions, Sunnyvale Senior Homes LLC, and the City of Sunnyvale (Klee Home)
3. Assignment and Assumption and Modification Agreement between Senior Housing Solutions, Sunnyvale Senior Homes LLC, and the City of Sunnyvale (Wolfe Home)
4. Draft Minutes of the October 22, 2014 Housing and Human Services Commission Meeting