



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

(Revised: 8/18/11)

Board Clerk Use Only

Meeting Date: 4/19/12
Agenda Item #: R.16
Est. Start Time: 11:30 am
Date Submitted: 4/11/12

**Agenda
Title:**

Resolution for the resale of certain real property first donated under the Affordable Housing Development Program and authorizes the Chair to execute an amendment to a Certain Declaration of Restrictive Covenants

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting 4/19/12 **Time Needed:** 15 minutes
Department: DCHS **Division:** Community Services
Contact(s): Mary Li or Rose Bak
Phone: 503-988-6295 **Ext.** 26787/28809 **I/O Address:** _____
Presenter Name(s) & Title(s): Mary Li, DCHS Community Services Division Manager

General Information

1. What action are you requesting from the Board?

Approval of resolution for the resale of certain real property first donated under the Affordable Housing Development Program to Sabin Community Development Corporation and authorizes the Chair to execute an amendment to a Certain Declaration of Restrictive Covenants

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

Multnomah County operates an Affordable Housing Development Program (AHDP) which transfers county-owned properties to local non-profit housing providers for the express purpose of the development of affordable rental housing or affordable homeownership opportunities. At the time of transfer declarations of restrictive covenants are placed on the property to ensure ongoing compliance with AHDP rules, including restrictions on sales to "Eligible Buyers" and the County's rights to the property in the event of non-compliance or foreclosure. "Eligible Buyers" according to AHDP rules are households with income at or below 80% of Area Median Income.

On December 1, 1995 via Resolution No 05-195 the Board approved a donation of real property to Sabin Community Development through the AHDP program. Now commonly known as 8605 N. Calvert, the property is legally described as Lots 51, 52 and the South

one-half lot 50, block 46, Peninsular Addition No. 4 to East Portland, in the City of Portland, County of Multnomah and State of Oregon (Calvert). On January 27, 2006 the Calvert property was deeded from Multnomah County to Sabin Community Development Corporation (Sabin CDC) to be rehabilitated and sold as a single family homeownership property under the rules of ADHP. At the time of recording of the deed, additional instruments were recorded that encumbered the property to ensure that the site would be used for single family homeownership property for Eligible Buyers under the rules of ADHP and maintained as such for a minimum of 30 years. These additional instruments included a "Declaration of Restrictive Covenants" (Declaration).

Due to tightening of regulations for mortgage lending, Sabin CDC reported that they were unable to find an Eligible Buyer who was able to obtain mortgage financing with the ADHP Declaration in place.

After consultation with County ADHP Program staff, Sabin approached Proud Ground about transferring ownership of Calvert. Proud Ground is a state-certified community land trust that has been operating since 1999. Proud Ground's mission is to offer affordable homeownership options for individuals and families in the community. In the land trust model Proud Ground retains property in the land trust and sells only the house and fixtures, creating affordable homeownership opportunities for households who might not normally qualify to purchase a home due to their limited income.

On January 30, 2012, Sabin sold the property to Proud Ground prior to obtaining written consent from the County. According to the Declaration the property could only be transferred to an Eligible Buyer. Proud Ground did not qualify as an Eligible Buyer. The sale of Calvert to Proud Ground must be approved by the Board.

ADHP program staff recommends that the Board of County Commissioners support and ratify the sale because Proud Ground will maintain the property for use by Eligible Buyers for a minimum of 99 years. Proud Ground has identified an Eligible Buyer for Calvert.

In order for the Eligible Buyer to secure financing for the property in today's lending environment, the Declaration of Restrictive Covenants needs to be revised to terminate in the event of foreclosure. In the event of a bank or HUD foreclosure, the covenant would terminate by adding the following clause:

"Foreclosure or Assignment of Mortgage: In the event the Grantee, its successors, or its assignees acquire title to the property through foreclosure, deed in lieu of foreclosure or assignment of insured mortgage to the Secretary of HUD, the Declaration and all provisions contained within shall terminate."

Following Proud Ground's purchase of the property from Sabin, the land portion of Calvert will be held in trust by Proud Ground and leased to an Eligible Buyer. Only the improvements on the property are purchased by the Eligible Buyer and can therefore be foreclosed by a lender. Future buyers for a period of 99 years are required by the by-laws of the land trust to be Eligible Buyers as provided by ADHP.

3. Explain the fiscal impact (current year and ongoing).

None

4. Explain any legal and/or policy issues involved.

The Current Declaration of Restrictive Covenants does not allow a sale between non-profit housing agencies, it only allows sale to an Eligible Buyer.

State law only requires the initial sale to an Eligible Buyer. The current Declaration of Restrictive Covenants for Calvert, consistent with AHDP rules set forth by the Board, requires subsequent buyers of Calvert to be Eligible Buyers for a minimum of 30 years from the original transfer.

Approving the recommended sale of Calvert to Proud Ground and amendment of the Declaration of Restrictive Covenants to allow termination in the event of foreclosure will not violate state law or require a shift in Board policy regarding AHDP. The sale to Proud Ground for the purpose of placement in their land trust program will require subsequent sales only to eligible buyers for a period of 99 years due to the provisions of the Proud Ground land trust. In the event of foreclosure, the Declaration will terminate but the provisions of the land trust will still require the subsequent buyer to be an Eligible Buyer. In addition, Proud Ground maintains a first right of refusal to re-purchase foreclosed land trust properties in order to facilitate a subsequent sale to an Eligible Buyer.

5. Explain any citizen and/or other government participation that has or will take place.

None

Required Signature

**Elected
Official or
Department
Director:**



Date: 04/11/12