

Staff Report

Date: April 7, 2021
To: Directors, Washoe County HOME Consortium
From: Housing and Neighborhood Development Division, City of Reno
Subject: PRESENTATION, DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING A REQUEST FOR CONSENT TO ASSIGN AUSTIN CREST HOME LOAN TO NEW OWNERS (For Possible Action)

Austin Crest is a 268-unit, Low-Income Housing Tax Credit (LIHTC), affordable, multi-family apartment complex located in Northwest Reno on Grand Summit Drive. In June of 1997, the Washoe County Home Consortium (WCHC) entered into an "Agreement to Loan Federal HOME Investment Partnership Program (HOME Program) funds and Non-federal Low Income Housing Trust Funds (LIHTF) to Community Services Agency Development Corporation (CSA/DC)/ Northwest Partners" (Borrower). Funding was provided in the amount of \$725,092 (HOME) secured by a Second Deed of Trust for eleven (11) two-bedroom units to be provided at 50% Area Median Income (AMI) for an affordability period of 41 years. In addition, \$24,908 (LIHTF) was provided and secured by a third Deed of Trust for six (6) two-bedroom units at 60% AMI for an affordability period of 41 years.

In 2012, the Borrower was reorganized under Chapter 11 Bankruptcy proceedings. As part of that proceeding, both Deeds of Trust and Installment Notes were replaced in 2016 with a Consolidated, Amended and Restated Promissory Note with HUD Secondary Financing Rider to repay \$600,000 at 0% interest on or before September 1, 2051. The HUD Secondary Financing Rider (Rider) identified the WCHC loan as a Junior Loan and includes a clause requiring HUD to approve the sale of the property and any assignment of the WCHC Junior Loan. The Consolidated, Amended and Restated Promissory Note further notes that the requirements of the Rider are applicable as long as HUD insures or holds a mortgage on the project. The original Loan Agreement which contains the HOME affordability and regulatory provisions was not disturbed by the Chapter 11 Plan; however, the parties entered into a new Declaration of Restrictive Covenants in 2016 in which the affordability period was extended to "the later of 54.22 years from the effective date of the Loan Agreement (stipulated expiration date of September 1, 2051) or the date that the Promissory Note is paid in full."

In December 2020, City of Reno staff was informed the property had gone up for sale with a potential buyer pending. At that time, CSA/DC attempted to exercise a First Right of Refusal in the hopes to reorganize with a new partner to purchase the property. Since that time, CSA/DC has withdrawn that first right of refusal (copy attached) and Northwest Partners has entered into a sales agreement, dated January 16, 2021, with Veneto Austin Crest, LLC to purchase the Austin Crest property. The WCHC has received the attached Request for Consent to Assignment and Assumption of Washoe County HOME Consortium Loan. With that Assignment and Assumption, the duties and obligations under the loan documents would be assigned to Veneto Austin Crest, LLC. WCHC would also enter into a subordination agreement regarding the loan documents with the senior lender. The affordability period on the deed restricted HOME units would not change. In addition, the Nevada Housing Division has indicated that Veneto has proposed the following for those units not covered under the WCHC agreements:

- All current 60% AMI occupied units would remain capped at 60% AMI until 3/1/2026;
- Occupied 60% AMI units would convert to 70% AMI from 3/1/2026 through 3/1/2028;
- Occupied 70% AMI units would convert to 80% AMI from 3/2/2028 through 12/31/2031 which exceeds the Low-Income Housing Tax Credits (LIHTC) commitment by an additional two years providing a level of restriction for a total of 32 years exceeding the LIHTC 30-year affordability period requirement;
- Any unoccupied units will be capped at 80% AMI.

On February 9, 2021, the Technical Review Committee reviewed and approved the recommendation to forward the Request for Consent to Assignment and Assumption of Washoe County HOME Consortium Loan to the Directors for approval. Veneto Austin Crest, LLC is refinancing the senior loan on the project and on March 25, 2021, Reno staff received clean and marked drafts of the Assignment and Assumption and Amendment of Loan Documents and related documents. It is noted that Veneto Austin Crest, LLC is refinancing the project, repaying the existing senior loan with a Fannie Mae loan and, as prescribed in the HUD Secondary Financing Rider, terminating the requirement for HUD approval to Assignment or Assumption. Draft agreements have been reviewed with comments returned in which Fannie Mae has requested the subordination of the WCHC Declaration of Restrictive Covenants, which staff has requested be removed.

Staff recommends approval of the Assignment and Assumption of Washoe County HOME Consortium Loan and related documents contingent upon proof the HUD senior loan is paid off, removing the requirement for HUD approval to Assignment or Assumption as outlined in the HUD Secondary Financing Rider. Staff further recommends that the WCHC Declaration of Restrictive Covenant not be included in the subordination of the loan documents so that the affordable housing requirement remain in place even in the event of a future default. Should Fannie Mae decline the request to remove the WCHC Declaration of Restrictive Covenant subordination, staff recommends consultation with the Federal HUD HOME Community Planning and Development Representative for direction to maintain the affordable housing requirement.

Possible Motion:

Move to approve the Assignment and Assumption of Washoe County HOME Consortium Loan and related documents contingent upon proof the HUD senior loan is paid off, thereby removing the requirement for HUD approval of the Assignment or Assumption as outlined in the HUD Secondary Financing Rider, and without subordination of the WCHC Declaration of Restrictive Covenants to the new senior loan documents unless approved by HUD.



January 19, 2021

Via FedEx

Washoe County HOME Consortium
City of Reno, Lead Agency
One East First Street, 12th Floor
Reno, Nevada 89502

Re: Request for Consent to Assignment and Assumption
of Washoe County HOME Consortium Loan

Ladies and Gentlemen:

Reference is made to the Agreement to Loan Federal HOME Investment Partnership Program (HOME Program) Funds and Non-federal Low Income Housing Trust Funds (LIHTF) to Community Services Agency Development Corporation/Northwest Partners executed June 16, 1997 (the “**HOME Agreement**”) between Northwest Partners, a Nevada limited partnership (“**Northwest**”) and Washoe County HOME Consortium (“**County**”). Capitalized terms used but not defined herein have the meanings ascribed to them under the HOME Agreement.

In connection with the sale of Austin Crest Apartments (the “**Property**”), pursuant to a Purchase and Sale Agreement by and between Northwest and Veneto Austin Crest, LLC, a Nevada limited liability company (“**Veneto**”) deemed effective as of January 16, 2021 (the “**Transaction**”), we write to notify you that, effective as of closing of the Transaction, Northwest intends to assign the HOME Agreement, including the assignment of all of its rights and the delegation of its performance under the HOME Agreement to Veneto (the “**Assignment**”). Veneto will be funded with in excess of \$15,000,000 of equity prior to its acquisition of the Property.

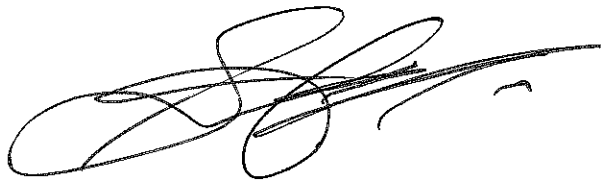
In accordance with the terms and provisions of the HOME Agreement, Veneto hereby request the County’s consent to the Assignment. Please sign this letter to acknowledge your consent and return it to Rice Reuther Sullivan & Carroll, LLP, Attn: Stephen M. Rice, Esq., 3800 Howard Hughes Parkway, Suite 1200, Las Vegas, Nevada 89169, E-mail: srice@rrsc-law.com, and Telephone: (702) 732-9099. Because the Transaction is scheduled to close during the first (1st) quarter of 2021 depending on certain agreed-upon deliverables, we ask that you send us the signed consent as soon as reasonably possible.

If you have any questions regarding the Assignment or this request for consent, please direct them to Rice Reuther Sullivan & Carroll, LLP, Attn: Stephen M. Rice, Esq., 3800 Howard Hughes Parkway, Suite 1200, Las Vegas, Nevada 89169, E-mail: srice@rrsc-law.com, and Telephone: (702) 732-9099.

We appreciate your assistance and thank you in advance for your prompt attention to this matter.

Very truly yours,

RICE REUTHER SULLIVAN &
CARROLL, LLP



Stephen M. Rice, Esq.

cc: Faraz Daneshgar, via E-mail; and
Jasmine Mehta, Esq., via E-Mail

CONSENT:

The undersigned hereby consents to the Assignment as of the date set forth below:

Washoe County HOME Consortium

By: _____

Name: _____

Title: _____

Date: _____



January 26, 2020

Mr. John Gezelin, Esq.
405 Marsh Avenue
Reno, NV 89509

Mr. Robert F. Nielsen
Manage, Inc.
380 Linden Street
Reno, NV 89502

WITHDRAWAL OF NOTICE OF EXERCISE OF RIGHT OF REFUSAL

Dear Mr. Gezelin and Mr. Nielsen:

This letter is to inform you that CSADC is withdrawing its Notice of Exercise of Right of First Refusal made pursuant to Section 8.02(c) of the Amended and Restated Agreement of Limited Partnership, Northwest Partners, pertaining to the acquisition of the Austin Crest Apartment Complex.

Regards,

A handwritten signature in blue ink, appearing to read "Victoria T. Oldenburg", is written over a horizontal line.

Victoria T. Oldenburg. Esq.

Copy to: Nevada Housing Division
Washoe County HOME Consortium
David A. Carroll, Esq., Veneto Capital Investments, Inc.

Vicky@OldenburgLawOffice.com
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Mailing Address: P.O. Box 17422, Reno, Nevada 89511
775-303-8877 (mobile); 775-971-4245 (office); 775-295-1771 (fax)