

To: Contra Costa County Housing Authority Board of Commissioners
 From: Joseph Villarreal, Housing Authority
 Date: April 12, 2016



Contra
Costa
County

Subject: Declarations of Trust Updates

RECOMMENDATIONS

APPROVE the recording of updated Declarations of Trust (DOT) for all public housing developments in the Housing Authority's (HACCC) portfolio that are due to expire or have expired.

BACKGROUND

The DOT is a legal instrument that grants the U.S. Department of Housing and Urban Development (HUD) an interest in a public housing property. It provides public notice that the property must be operated in accordance with all federal public housing requirements, including the requirement not to convey or otherwise encumber the property unless expressly authorized by federal law and/or HUD.

The need for housing authorities (PHAs) to ensure a current DOT is recorded against all property that has been acquired, developed, maintained or assisted with funds authorized by the U.S. Housing Act of 1937 (Act) is required by the Act, HUD regulations and the Annual Contributions Contract (ACC), which is attached to HUD funding. Notwithstanding this requirement, HUD has increasingly been finding that, in many instances, PHAs may be unaware that the original DOT recorded against the property (at acquisition or development)

Action of Board On: **04/12/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF COMMISSIONERS

AYE: John Gioia, Commissioner
 Candace Andersen,
 Commissioner
 Mary N. Piepho,
 Commissioner
 Karen Mitchoff,
 Commissioner
 Federal D. Glover,
 Commissioner
 Jannel George-Oden,
 Commissioner

ABSENT: Fay Nathaniel,
 Commissioner

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: April 12, 2016

Joseph Villarreal, Executive Director

By: June McHuen, Deputy

Contact: 925-957-8028

cc:

has expired with the repayment and/or forgiveness of development funds. However, if these developments have continued, and will continue, to receive assistance under the Act, federal law requires that PHAs record current DOTs against them.

In addition to being an ongoing federal requirement, it is important for PHAs to maintain current DOTs against their public housing properties for other reasons, including: (a) to ensure the accuracy of HUD subsidy calculations and payments under the Operating Fund and Capital Fund; and (b) to expedite HUD's processing and approvals

BACKGROUND (CONT'D)

of other federal public housing programs (e.g., Capital Fund Finance Program (CFFP) and Operating Fund Financing Program (OFFP) under Section 30 of the Act, mixed finance development under 24 CFR§ 941 Subpart F, and dispositions under Section 18 of the Act).

In HACCC's case, ensuring that the DOTs are updated properly will help expedite the RAD disposition of all or part of Las Deltas in North Richmond and will also ensure that future dispositions are not hung up due to the lack of a current DOT. If the Board votes to approve this item, HACCC will submit updated DOTs to the County Recorder's Office.

FISCAL IMPACT

There is no financial impact for the recording of the Declarations of Trusts for HACCC properties.

CONSEQUENCE OF NEGATIVE ACTION

Should the Board of Commissioners not approve the request to update the Declaration of Trusts for all public housing developments, HUD may take whatever action it deems necessary and appropriate, including, but not limited to, the following actions: (A) temporarily withhold cash payments pending correction of the deficiency by the PHA; (B) disallow all or part of the cost of the activity or action not in compliance; (C) wholly or partly suspend or terminate the current award for the PHA's program; (D) require that some or all of the grant amounts be remitted to HUD; (E) condition a future grant and elect not to provide future grant funds to the PHA until appropriate actions are taken to ensure compliance; (F) withhold further awards for the program, or (G) take other remedies that may be legally available.

CLERK'S ADDENDUM

ATTACHMENTS

Declarations of Trust