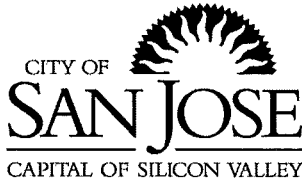


SENT TO COUNCIL:

Distributed on:



AUG 27 2010

by City Manager's Office  
*Memorandum*

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Leslye Krutko  
Scott P. Johnson

**SUBJECT:** SEE BELOW

**DATE:** August 20, 2010

Approved

Date

8/26/10

**COUNCIL DISTRICT:** Citywide

**INFORMATION**

**SUBJECT: REPORT ON ACTIVITIES UNDERTAKEN BY THE DIRECTOR OF HOUSING AND THE DIRECTOR OF FINANCE UNDER THE CITY COUNCIL'S DELEGATION OF AUTHORITY FOR THE PERIOD OF JANUARY 1, 2010 THROUGH MARCH 31, 2010**

**EXECUTIVE SUMMARY**

This Memorandum details actions taken under the City Council's delegation of authority to the Director of Housing and the Director of Finance for the third quarter of Fiscal Year 2009-2010. During this quarter, the Director of Housing approved: Modifications to eight (8) existing loans; business terms for three (3) loans and one (1) ground lease; thirty-seven (37) new rehabilitation loans and grants totaling \$967,700; one (1) housing trust fund grant in the amount of \$42,797; and, twenty-nine (29) homebuyer loans totaling \$2,485,444. There were no predevelopment loans to report, and there were no TEFRA hearings held this quarter.

**BACKGROUND**

On September 4, 1990, the City Council adopted Ordinance No. 23589 which delegated to the Director of Housing certain specified authorities in the administration of the City's comprehensive affordable housing program (the "Delegation of Authority" or "DOA"). On May 23, 2000, the Delegation of Authority was amended by Ordinance No. 26127 to clarify certain sections and to add several other provisions. On June 25, 2002, the Delegation of Authority was further amended by Ordinance No. 26657 to add several provisions delegating additional authority to the Director of Housing, the Director of Finance, and the City Manager. Subsequently, the City Manager delegated to the Director of Housing the contract authority granted to the City Manager. Effective July 26, 2007, the Delegation of Authority was further amended by Ordinance No. 28067 to modify certain provisions in order to streamline the Housing Department's process of making and adjusting loans and grants.

August 20, 2010

**Subject: Report on Activities Undertaken by the Director of Housing and the Director of Finance**

Page 2

The Delegation of Authority is codified in Chapter 5.06 of the Municipal Code. This Memorandum reports on activities undertaken pursuant to the Administration's delegated authority for the period of January 1, 2010 through March 31, 2010.

### **ANALYSIS**

The Delegation of Authority ordinance authorizes the Director of Housing: to develop and implement additional guidelines for housing programs; to adjust terms on housing loans and grants; to change the funding sources of a loan; to convert loans to grants; to loan or to grant Housing and Homeless funds, Predevelopment funds, and Housing Rehabilitation Program funds; to negotiate and to execute grant agreements necessary to implement Council-approved programs adopted in the Annual Action Plan of the Consolidated Plan; to provide management for, and/or dispose of, properties acquired through direct purchase, foreclosure or deed-in-lieu proceedings; to formalize the City Council's policies and procedures regarding housing loan defaults; to apply for federal or State funding; to determine, within defined parameters, various terms and conditions of loans and grants previously approved by the City Council; to make adjustments, within defined parameters, to loans and grants previously approved by the City Council; and to make other technical changes.

Further, the DOA Ordinance delegates jointly to the Director of Housing and Director of Finance certain authority related to the City's issuance of tax-exempt, private activity bonds to finance the development of affordable housing projects. The DOA Ordinance also delegates to the Director of Finance the authority to hold TEFRA hearings on the City's proposed issuance of tax-exempt bonds to finance affordable housing projects.

### **ACTIONS TAKEN BY THE DIRECTOR OF HOUSING AND THE DIRECTOR OF FINANCE**

Under the parameters of the Delegation of Authority, the Director of Housing and the Director of Finance have taken the following actions during the period of January 1, 2010 through March 31, 2010.

#### **Modifications to Council-approved Loan Terms & Conditions**

During this quarter, the Director of Housing approved modifications to eight existing loans.

#### **Morrone Gardens Associates, L.P. – District: 9 – SNI: N/A**

In September 1994, the City approved a funding commitment of up to \$972,000, to the Housing Authority of Santa Clara County ("HACSC" or "Housing Authority"), and a permanent loan to Morrone Gardens Associates, L.P. in the amount of \$1,677,500, for the development of the 102-unit senior rental development located at 1107 Lucchesi Drive. The land loan is secured by a fee deed of trust and the Morrone Loan is secured by a leasehold deed of trust. In September 2007, the City made a deferred, zero percent unsecured rehabilitation loan to Morrone Gardens Associates, L.P. in the amount of \$236,827 to help remedy mold problems.

August 20, 2010

**Subject: Report on Activities Undertaken by the Director of Housing and the Director of Finance**

Page 3

In November 2009, HACSC requested that the Housing Department capitalize the remaining rehabilitation loan balance into the City's existing permanent loan so that payments for both would be made from a share of net cash flow. The reason for the request was that structured payments on the rehabilitation loan had created an operating deficit and weak debt service coverage on the project. Therefore, on March 19, 2010, staff recommended that the Director of Housing: 1) capitalize the remaining Rehab Loan balance of \$124,832.13 into the Morrone permanent loan, and 2) modify the leasehold deed of trust to secure the capitalized amount of \$124,832.13. The resulting permanent loan amount increased from \$1,677,500 to \$1,802,332.13, which was authorized under the 1992 Council approval of a permanent loan amount of up to \$3,500,000. Staff also recommended that HACSC obtain CCRC's written consent authorizing HACSC to enter into these transactions with the City.

On March 30, 2010, the Director of Housing approved the recommended modifications.

**Approval to Write-Off a Housing Rehabilitation Z-Loan:**

Pursuant to Section 5.06.380 of the Delegation of Authority, on September 30, 1999, the City made a Deferred Zero-Interest Rehabilitation Loan in the amount of up to \$7,500 to the owner of the single-family residence located at 1145 Keltner Avenue for the purpose of replacing the roof.

Housing Department Staff determined that there are no reasonable means of collection available and declared the loan to be an uncollectible debt. On March 16, 2010, the Director of Housing approved the write-off of the Housing Rehabilitation Loan.

**Approval to Write-Off an Emergency Mobilehome Repair Loan:**

Pursuant to Section 5.06.380 of the Delegation of Authority, on May 18, 1989, the City made a loan in the amount of \$4,670.00 to the owner of the Mobilehome located at 2151 Oakland Road, Space #495 for emergency repairs (Loan No. 14082). The collateral for this fifteen-year term, five-year deferral, 3% interest accrual rate loan is the owner's 1976 double wide Fleetwood Mobilehome. The City's lien was in second lien position after Wells Fargo Bank.

Research revealed that the subject coach changed hands on February 11, 2005 and the City's lien was eliminated. Therefore, staff has determined that the City's loan is now unsecured, matured, and uncollectible and recommended the write-off of the borrower's obligation. On February 28, 2010, the Director of Housing approved to write-off the loan in the total principal plus accrued interest amount of \$7,573.83.

**Approvals to Write-Off Teacher Homebuyer Loans due to Foreclosure:**

On January 27, 2010, Loan Management/Loan Collection staff recommended the Director of Housing approve the write-off of a total of \$145,000 in loans made to three (3) individuals or households under the First-Time Homebuyers Program. A summary of each of these loans follows:

**1062 Summershore Court**

On August 25, 2006, the City Made a \$65,000 deferred, fourth-lien priority loan from HOME Funds to a prospective homeowner for the acquisition of a home located at 1062 Summershore Court, for the purchase price of \$270,000, CalHFA provided a 5.250% fixed rate, first lien priority loan in the amount of \$181,000 with monthly payments of principal and interest of \$999.49.

On July 30, 2009, CalHFA foreclosed on the property wiping out the City loan and the Restrictions.

**2056 Ojo de Agua Court**

On August 7, 2002, the City made a \$40,000 deferred, second-lien priority loan from 20% funds under the Teacher Housing Program to a prospective homeowner for the acquisition of a home located at 2056 Ojo de Agua Court, for the purchase price of \$275,000, current market value is \$214,000. First Nationwide Mortgage Corporation provided a 6.125% fixed first-lien priority loan in the amount of \$220,000 with monthly payments of \$1,336.75. In August 2005, the First Nationwide Mortgage loan was refinanced by a \$223,000 new senior loan from US Bank, N.A.

On September 15, 2009 US Bank foreclosed on the property, extinguishing the City loan and the Restrictions.

**1055 North Capitol Avenue, #140**

On July 13, 2005, the City made a \$40,000 deferred, third-lien priority loan from HOME Funds under the Teacher Homebuyer Program to a prospective buyer for the acquisition of her home located at 1055 North Capitol Avenue, #140, for the purchase price of \$365,000, current market value is \$207,000. CalHFA provided a 4.250% fixed first-lien priority loan in the amount of \$280,000 with monthly payments of \$1,377.43.

On October 15, 2009, CalHFA foreclosed on the property thereby extinguishing the City loan and the Restrictions.

Staff determined that these three City loans that were wiped out in the foreclosure proceedings are uncollectible debt. On February 2, 2010, the Director of Housing approved the write-off of the loans.

**Approval to Write-Off a HOME Loan due to Foreclosure:**

On October 13, 2005, the City made a \$60,000 deferred loan funded with HOME Funds to a prospective buyer for the acquisition of their home located at 2177 Alum Rock Avenue, Unit #212, for the purchase price of \$365,500, current market value is \$215,000. CalHFA provided a 7.0% fixed fully amortized first-lien priority loan in the amount of \$261,305 with monthly

principal and interest payments of \$1,323.99. On December 8, 2009, CalHFA foreclose on the property which wiped out the City's loan and Restrictions.

On February 10, 2010, the Director of Housing approved the write-off of the \$60,000 loan made to the prior owners of the property at 2177 Alum Rock Avenue, Unit #212.

**Approval of an Assumption and Modification of a Deferred Housing Rehabilitation Loan:**

On April 4, 1990, the City made a 3.0% deferred Housing Rehabilitation Loan in the amount of \$36,519 for the rehabilitation of a single-family residence located at 1049 Lincoln Court. With the passing of the owners, the property transferred to the son and two daughters by means of a Living Trust. The City obtained the heirs' financial information and determined their eligibility for the program as well as a deferment continuation. All three heirs will be asked to sign the assumption Agreement.

On March 1, 2010, the Director of Housing approved the following:

- Assumption of the Housing Rehabilitation Loan in the principal amount of \$36,399.75, together with accrued unpaid interest at 3.0% per annum.
- Extend the deferred payment status of the loan for an additional five years, with a re-review of borrower's finances to determine deferral continuation eligibility.
- Extend the maturity date from June 1, 2010 to September 1, 2018 to accommodate the terms of the Living Trust.

**Approval of a Conversion of a Mobilehome Repair Loan to a Grant:**

On June 22, 1993, the City of San José made a 15-year loan to the owner of a Mobilehome located at 218 El Bosque Drive in the amount of \$10,435 for emergency repairs. The loan became due and payable on July 1, 2008. The loan was reviewed in September 2007 and deferred for 5 years to September 2012. However, the owner is a 62-year old senior living on a fixed monthly disability income of \$1,391.00. Therefore, staff recommended that the loan be converted to a grant. As of March 1, 2010, the proposed grant amount was \$17,083.72.

On March 16, 2010, the Director of Housing approved the conversion of the Mobilehome repair loan to a grant.

**Approval of an Assumption of a Deferred Mobilehome Rehabilitation Loan:**

On March 8, 1995, the City made a deferred payment rehabilitation loan in the amount of \$11,015 to the owner of the mobilehome located at 165 Blossom Hill Road, Space #44. The loan recorded in first lien position and it accrues interest at the rate of 3.00% per annum.

August 20, 2010

**Subject: Report on Activities Undertaken by the Director of Housing and the Director of Finance**

Page 6

The owner passed away in August 2009. Staff completed an analysis of the new owner's financials and determined that she qualifies under the program guidelines as an Extremely Low-Income, soon-to-be owner occupied household.

On March 17, 2010, the Director of Housing approved the following:

- Assumption of a Mobilehome Rehabilitation Loan with a current principal and interest balance of \$17,132.72.
- Change the interest rate calculation from 3.00% compounded annually to 0.00% interest beginning March 1, 2010.
- Convert the three-year deferral to a full deferral for the life of the loan. Maturity date of the loan is April 1, 2015.

### **Loans/Grants Terms and Conditions**

During this quarter, the Director of Housing approved business terms for three (3) loans:

#### **San José Family Housing Partners, L.P. – District: 5 – SNI: Gateway East**

The subject of this action is a City Council approved funding commitment in the total amount of up to \$8,834,085 to provide for site acquisition and construction of the Fairways at San Antonio, an 86-unit rental family complex affordable to Very Low-, Extremely Low-, and Lower-Income households.

The Fairways project has been completed and has attained stabilized occupancy. Conversion to the permanent financing has been provided by Citibank and it occurred on April 8, 2010. The original construction budget had \$376,000 budgeted for the City's construction interest, the amount needed was \$667,693, so the budget was insufficient to cover interest costs.

The total construction-period interest of \$667,693 was added to the approved City permanent loan amount, resulting in a new City permanent loan amount of \$9,501,778. As consideration for the City capitalization of \$667,693, the City required: 1) changing to 0% interest rate from 2% on deferred developer fee, enabling fee to be taken faster and City payments to begin sooner; 2) adding two years on 55-year Affordability Restrictions for a total of 57 years; and, 3) receiving 25% share of savings, if any, from the \$500,000 legal settlement reserve that may be returned in case of a successful legal appeal.

On March 29, 2010, the Director of Housing approved the capitalization of up to \$667,693 in construction-period interest, and the specific business terms for the Council-approved construction/permanent loan for the Fairways at San Antonio.

The approved business terms are as follows:

<b>Terms for the Permanent Loan</b>	
Loan Amount:	\$9,501,778
Interest Rate:	4% Simple Interest
Loan Term:	396 Months from April 8, 2010 (the conversion date)
Repayment:	25% Annual payments after full payment of the deferred developer fee
Total Affordable Units:	86 Units restricted as follows: 22 units @ 30% AMI, 22 units @ 45% AMI, 36 units @ 50% AMI, 4 units @ 25% AMI, and 2 Managers' units @ 80% AMI
Affordability Term:	2 additional years as consideration for capitalization of interest for a total of 57 Years

**Orvieto Family Apartments, L.P. – District: 7 – SNI: N/A**

The subject of this action is a City Council approved funding commitment of up to \$11,228,000 to provide for a site acquisition and construction of the Orvieto Family Apartments. The project contains 92 one-, two-, and three-bedroom restricted units. The City Council has also approved the issuance of bond proceeds for this project and acknowledged the Housing Department's ability to increase the loan by the expected amount of \$1,200,000 through the usual loan increase procedures. The action also authorized the San José Joint Financing Authority ("SJFA") to purchase the site from the Borrower and to execute a ground lease of the site back to the Borrower for a term of 75 years. The land will be transferred to the City's Financing Authority for a land purchase price of \$2,940,000.

On January 21, 2010, the Director of Housing approved the following:

- Specific business terms for the Council-approved construction/permanent loan of \$11,228,000 to Orvieto Family Apartments, L.P. for the Orvieto Family Apartments project;
- An increase of \$1,200,000 in the construction/permanent loan for project costs;
- Capitalization of City acquisition loan interest expense to be accrued of up to \$164,138;
- Specific business terms for the Council-approved San José Joint Financing Authority's purchase of the land for \$2,940,000 and lease back to the borrower.

The approved business terms are as follows:

<b>Terms for Permanent Loan</b>	
Loan Amount:	\$9,652,138
Interest Rate:	4.0% Simple Interest
Loan Term:	Up to 35 Years
Repayment:	Residual Receipts 70% of Net Cash Flow
Total Affordable Units:	92 Units restricted as follows: 23 units @ 30% AMI, 14 units 45%, 54 restricted at 50% AMI, 1 Unrestricted Manager's Unit
Affordability Term:	55 years

<b>Terms for Land Transfer Allocation</b>	
Loan Amount:	\$2,940,000
Loan Term:	Initial term of 55 Years consistent with TCAC requirements for affordability, plus a Lessee option to extend the ground lease for an additional 20 years.
Repayment (Rent):	Required: \$1. per year for 55-year initial term of the lease payable in advance at closing. Residual payments: 4% annually of the land value and value of improvements with the appraisal, start of accrual and payments to begin at repayment of the City permanent loan.
Total Affordable Units:	92 Units restricted as follows: 23 units @ 30% AMI, 14 units 45%, 54 restricted at 50% AMI, 1 Unrestricted Manager's Unit
Affordability Term:	55 Years

**Cornerstone at Japantown, L.P. – District: 3 – SNI: 13<sup>th</sup> Street**

On June 24, 2008, the City Council adopted a resolution approving a funding commitment of up to \$6,300,000 to Cornerstone at Japantown, L.P. of which \$6,081,500 financed the land acquisition for the development of the 53-unit Cornerstone at Japantown Family Apartments to be made available to extremely low-, very low-, and low-income households with one unrestricted manager's unit.

In June 2009, the City sent a support letter to TCAC for Cornerstone's 9% application indicating that it would agree to capitalize up to \$567,210 of construction-period interest. The construction period is expected to be 22 months with marketing and lease-up starting in month 17 will full lease-up achieved in month 23 and conversion in month 26 with 4 months' cushion including the 6-month extension available under the construction period 30-month term.

On March 5, 2010, the Director of Housing approved the specific business terms for the \$6,300,000 Council-approved construction/permanent loan, and up to \$182,217 in accrued predevelopment loan interest and up to \$567,210 in construction period interest for the development of the Cornerstone at Japantown Apartments project located at 851 and 899 North 10<sup>th</sup> Street.



The approved business terms are as follows:

<b>Terms/Construction/Permanent Loan</b>	
Loan Amount:	\$7,049,427
Interest Rate:	4.00% Simple interest.
Loan Term:	24 Months plus 1 six-month extension option for Construction 384 Months for Permanent
Repayment:	Principal and Interest due at maturity
Total Affordable Units:	Total 53 Units with 14 Units @ 30% AMI, 6 Units @45% AMI, 25 Units @ 50% AMI, 7 Units @ 60% AMI, and 1 Unrestricted Manager's Unit
Affordability Term:	Two sets of restrictions on use have been recorded against the property because the property is in a Redevelopment Project Area. Both for 55 Years.

**Housing Trust Fund Grants**

During the period of January 1, 2010 through March 31, 2010, the Director of Housing approved the following grants:

**Housing Rehabilitation and Improvement Loans and Grants:**

<b>Agency Name</b>	<b>Project Name</b>	<b>Funded Amount</b>	<b>Approval Date</b>	<b>Project Description</b>
City Team Ministries	City Team Rescue Mission Feeding Program	\$42,797	3/16/2010	HTF will be used to support partial payment of the utilities necessary to operate the emergency feeding program; purchase and install an automatic fire suppression system that meets new State requirements; and replace the gas range and the steel griddle.
<b>TOTAL:</b>		\$42,797		

During this quarter, the Director of Housing approved the following Loans and Grants:

<b>ACTIVITY</b>	<b>NUMBER</b>	<b>AMOUNT</b>
REHABILITATION LOANS	14	\$422,100
REHABILITATION GRANTS	23	\$545,600
ENERGY GRANTS (stand-alone)	0	0
<b>TOTAL:</b>	<b>37</b>	<b>\$967,700</b>

**Total Homebuyer Loans made this period:**

During this quarter, the following loans closed through the Homebuyer program:

<b><u>ACTIVITY</u></b>	<b><u>NUMBER</u></b>	<b><u>AMOUNT</u></b>
Teacher Housing Program (20%) (HOME)	4	\$150,000 \$180,000
SJ State University Faculty and Staff Homebuyer Program	2	\$150,000
Inclusionary Loans	4	\$358,920
Other Project Loans (Including NOFA)	5	\$353,864
a) Other—including In-Lieu	0	\$0
b) Other—including HOME	0	\$25,000
BEGIN Loan Program	8	\$987,660
Welcome Home Loan Program (CalHome) (HOME)	4	\$0 \$200,000
American Dream Downpayment Initiative Loan Program	0	\$0
Developer Discount Loans	0	\$0
HOME—HOME Venture (NHSSV)	2	\$80,000
<b>TOTAL:</b>	<b>29</b>	<b>\$2,485,444</b>

**Predevelopment Loans**

None to report.

**TEFRA Hearings**

None to report

HONORABLE MAYOR AND CITY COUNCIL


August 20, 2010

**Subject: Report on Activities Undertaken by the Director of Housing and the Director of Finance**

Page 11

**COORDINATION**

Preparation of this report has been coordinated with the City Attorney's Office.

  
SCOTT P. JOHNSON  
Director of Finance

  
LESLEYE KRUTKO  
Director of Housing

For more information, contact Leslye Krutko, Director of Housing, at (408) 535-3851.