



HOUSING AUTHORITY AGENDA REPORT

TO: Chair O'Connell & Members of the Brisbane Housing Authority

Meeting Date: March 19, 2020

From: Clay Holstine, Executive Director

Subject: Resolution HA Resolution No. 2020-01 Declaring One Property Owned by the Housing Authority as Surplus Land and Another Property Owned by the Housing Authority as Exempt Surplus Land

Recommendation

Adopt the attached resolution declaring that one property owned by the Housing Authority, a vacant 4.2 acre site in the Brisbane Acres, as surplus land and another property, a condominium located at 1 San Bruno Avenue, as exempt surplus land.

Background

State law, the Surplus Lands Act ("SLA") requires that before a local agency (broadly defined) takes any action to dispose (sell or lease) property, it must declare the property to be either "surplus land" or "exempt surplus land". Unless the surplus land is exempt, the agency must give written notice of its availability to any local public entity, including schools and park districts, within whose jurisdiction the property is located, as well as to housing sponsors that have notified the State Department of Housing and Community Development (HCD) of their interest in surplus property. The notice of availability must be given prior to the agency "participating in negotiations to dispose of the property". An entity receiving notice from the agency has 60 days to notify the agency of its interest in purchasing the property and the agency is required to negotiate in good faith for not less than 90 days with any entity that has responded. Notwithstanding the obligation to negotiate in good faith, the local agency is not required to sell or lease the property for less than fair market value.

If an agency fails to provide the proper notices, there is a significant penalty that requires a local agency to forfeit 30% of the purchase/lease proceeds for the first violation and 50% for any subsequent violations.

The SLA has, however, a number of exemptions, some of which include: property that is less than 5000 square feet; property that is transferred to another local, state or federal agency for that agency's use; property exchanged for another property for that agency's use; property put out to competitive bid for 100% affordable housing units or for 300 (or more) housing units, at least 25% of which must be affordable to lower income households; property that is subject to a valid legal restriction not imposed by the local agency that would prohibit housing (non-residential zoning is not a valid legal restriction); property that is too small for residential use;, or is a former street or easement that is conveyed to an adjacent property owner; and property that is licenses or leased for one year or less.

The Housing Authority owns two properties, a vacant 4.2 acre site in the Brisbane Acres (commonly known as the “McLain property”) and a condominium at 1 San Bruno Avenue. The former Redevelopment Agency of the City of Brisbane purchased this vacant property for just under two million dollars with lower income housing funds. (Accordingly, any proceeds from the sale of that property must be placed in the Housing Authority’s Lower Income Housing Fund and used for affordable housing purposes). For many years, the Housing Authority has attempted to find a purchaser for this property that would develop the site for affordable housing. For a variety of reasons, mainly the economic challenge to develop the site because of its topography and location, the Authority’s efforts to sell the property so the property could be developed by an affordable housing project developer have not been successful. Accordingly, more recently, the Authority has considered various proposals to sell the property to private developers. If that were to occur, the sale proceeds would be placed in the Authority’s Lower Income Housing Fund and used for affordable housing purposes.

The condominium originally had been sold to purchasers through a First Time Home Buyers Program, which restricted the sales price to low and moderate income households (“eligible purchasers”) When the original purchasers wanted to sell, the Housing Authority was unable to find another “eligible purchaser” for the property and hence, exercised its option to purchase the property with the intent, through the First Time Home Buyer Program, to re-sell the unit to an eligible purchaser.

Accordingly, the Housing Authority does not need either of these properties for its use.

Discussion

Because the Housing Authority does not need either of these properties for its use, in order for the Housing Authority to sell these properties, it must declare the properties either surplus land (and provide the notices described above) or exempt surplus land (for one or more of the reasons also set forth above).

As to the 4.2 acre vacant property, staff recommends the Housing Authority declare this property “surplus land”, as none of the exemptions apply. Following that declaration, Housing Authority staff will notify the various agencies and any “sponsors” on HCD’s list of the availability of the site. Assuming the Housing Authority does not receive any interest within 60 days from any one to whom notice has been sent, staff will proceed to have a broker place the property on the market. If the Housing Authority receives any interest, it must in good faith negotiate for the sale of the property for 90 days with the interested party. The Housing Authority, however, is under no obligation to sell the property for less than fair market value. If the Housing Authority does not receive any interest or, if such interest is received but no agreement is reached, then the Executive Director will retain a real estate broker and market the property.

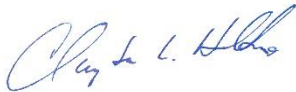
As to the condominium, it is less than 5000 square feet. Moreover, the unit is restricted to income restricted households and, as a practical matter, could not be used for recreational,

open space or school related purposes. Staff therefore recommends this property be declared exempt surplus land. As such, the Authority's efforts to market this property to eligible purchasers will continue.

Attached is a resolution making the findings that the 4.2 acre vacant property is surplus land and that the condominium is exempt surplus land.

Fiscal Impact

There is no fiscal impact by adopting the attached resolution. If the resolution is adopted, the Housing Authority may proceed to sell the properties. Proceeds from the 4.2 acre vacant property will be placed in the Lower Income Housing Fund. The sale of the condominium will be restricted to income restricted households.



Clay Holstine, Executive Director



Thomas McMorrow, Interim General Counsel



Attachment: Resolution Declaring One Property Owned by the Housing Authority as Surplus Land and Another Property as Exempt Surplus Land

ATTACHMENT 1

BRISBANE HOUSING AUTHORITY RESOLUTION NO. 2020-01

A RESOLUTION OF THE BRISBANE HOUSING AUTHORITY DECLARING ONE PROPERTY IT OWNS AS SURPLUS LAND AND ANOTHER PROPERTY IT OWNS AS EXEMPT SURPLUS LAND

Whereas, State law, the Surplus Lands Act (“SLA”) requires that before a local agency, including a Housing Authority, takes any action to sell or lease its property, it must declare the property to be either “surplus land” or “exempt surplus land”; and

Whereas, “surplus land” means land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular meeting declaring that such land is surplus and is not necessary for the agency’s use; and

Whereas, unless the surplus land is exempt, the agency must give written notice of its availability to any local public entity, including schools and park districts, within whose jurisdiction the property is located, as well as to housing sponsors that have notified the State Department of Housing and Community Development (HCD) of their interest in surplus property; and

Whereas, the Brisbane Housing Authority owns two properties, a vacant 4.2 acre site in the Brisbane Acres (commonly known as the “McLain property”) and a condominium at 1 San Bruno Avenue; and

Whereas, the former Redevelopment Agency of the City of Brisbane purchased the 4.2 acre vacant property for just under two million dollars with lower income housing funds and any proceeds from the sale of that property must be placed in the Housing Authority’s Lower Income Housing Fund and used for affordable housing purposes; and

Whereas, for many years the Housing Authority has attempted to find a purchaser for this property so that it could be developed for affordable housing purposes but those attempts have not been successful; and

Whereas, if the property were sold, the proceeds of such sale would be placed in the Housing Authority’s Lower Income Housing Fund and used for affordable housing purposes; and

Whereas, the condominium itself is less than 5000 square feet in area; and

Whereas, the condominium originally had been sold to purchasers through a First Time Home Buyers Program, which restricted the sales price such that only an “eligible purchaser”, i.e. a low or moderate income household, could purchase the property; and

Whereas, when the original purchasers wanted to sell the condominium, the Housing Authority was unable to find an “eligible purchaser” for the property and hence, exercised its option to purchase the property with the intent, through the First Time Home Buyer Program, to re-sell the property to an eligible purchaser.

Whereas, the Housing Authority now finds, based upon the foregoing recitals, that neither the 4.2 acre vacant property nor the condominium at 1 San Bruno Avenue is necessary for the Housing Authority’s use; and

Whereas, the Housing Authority further finds, based upon the foregoing recitals, that the 4.2 acre vacant property is surplus land and the condominium is exempt surplus land.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE RESOLVES AS FOLLOWS:

Section 1. The vacant, 4.2 acre property in the Brisbane Acres is declared surplus land and the Executive Director shall, on behalf of the Housing Authority, (a) send the appropriate notices under Government Code, section 54222, (b) negotiate in good faith for the disposition of the property should there be any interest in the property, and (c) participate in negotiations to dispose of the property should there be no interest or, if there is interest, no agreement as to the property's disposition is reached.

Section 2. The condominium located at 1 San Bruno Avenue, Brisbane, CA is declared exempt surplus land and the Executive Director shall, on behalf of the Housing Authority, participate in negotiations to dispose of that property.

Section 3. This Resolution shall become effective immediately upon its adoption.

Terry O'Connell, Chair

I hereby certify that the foregoing HA Resolution No. 2020-01 was duly and regularly adopted at a regular meeting of the Brisbane Housing Authority on March 19, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ingrid Padilla, Authority Clerk