

BOARD OF DIRECTORS
REGULAR MEETING
CP 250 CONFERENCE ROOM
3:30 PM NOVEMBER 17, 2009

Present: Jim Alexander, Jay Bond, Bill Dickerson, Michael LaCour-Little, Mark Stohs.

Staff/Guests: Ann Ehl, Bill Herbert, John Jay, Frank Mumford.

Excused: Bill Barrett, Ted Bremner, Pat Carroll, Henoc Preciado.

I. CALL TO ORDER

Chair Mark Stohs called the meeting to order at 3:30 p.m.

II. APPROVAL OF MINUTES

A. 10/27/09 ANNUAL MEETING

Bill Dickerson moved, Jim Alexander seconded and motion carried to approve the minutes of the October 27, 2009 Annual Board of Directors meeting.

B. 10/27/09 REGULAR MEETING

Michael LaCour-Little moved, Bill Dickerson seconded and motion carried to approve the amended minutes of the October 27, 2009 regular Board of Directors meeting.

III. TREASURER'S REPORT

Jim Alexander reported that financials are for the four months ending 10/31/09. They are still working to expand the balance sheet to include more detail. Current Housing Authority income is \$400, with depreciation of \$100,000 that was not included in the budget. The depreciation is rental property, since there is activity on the unsold (leased) property. The income statement shows \$100,312 in depreciation expense. We're depreciating approximately \$17,000/month; it is expected to increase to \$27,500 in January. We also expect to see income up to \$50,000/month if all rental income is received. We are ahead of schedule with rental income which will allow us to start funding reserves.

At University Gables, there were major problems with the pool which required resurfacing. Estimates will be obtained on painting which is expected to start in 2010.

IV. EXECUTIVE DIRECTOR'S REPORT

Bill Dickerson gave no report.

V. RATIFICATION: ELKS AGREEMENT

Jay Bond moved, Michael LaCour-Little seconded and motion carried to adopt the following resolution.

Elks Settlement

WHEREAS, the CSU Fullerton Housing Authority (“Corporation”) entered into a Purchase and Sale Agreement dated June 7, 2004 (the “Agreement”) with the Fullerton Lodge Building Corporation, a California corporation (the “Elks”) to purchase a portion of property owned by Elks for the purpose of building a faculty staff housing project; and

WHEREAS, the Agreement provided that in exchange for the land, the Corporation would provide the Elks with both monetary compensation and a new building (“Elks Lodge”); and

WHEREAS, the Corporation contracted with Valeo Fullerton I, L.P., a California corporation, (“Valeo”) to build the Elks Lodge; and

WHEREAS, Valeo failed to deliver the Elks Lodge within the timeframes contracted for; and

WHEREAS, the Elks Lodge constructed by Valeo contained multiple defects that interfered with the Elks use of the facility; and

WHEREAS, the Elks demanded compensation from the Corporation due to the delay in the delivery of the Elks Lodge and defects present therein; and

WHEREAS, when compensation from the Corporation was not forthcoming, the Elks increased their demands for compensation and threatened to file suit against the Corporation; and

WHEREAS, in an effort to resolve the Elks claims without litigation the Corporation proposed that the parties mediate the matter through JAMS and the Elks agreed; and

WHEREAS, prior to mediation the Corporation’s board granted management the authority to settle the Elks claims for up to \$450,000 in cash in addition to certain non-monetary inducements that had previously been offered to the Elks; and

WHEREAS, during mediation it became apparent that the Elks were unwilling to compromise their claims for less than \$550,000 in cash, the non-monetary inducements previously offered by the Corporation, and additional commitments demanded by the Elks; and

WHEREAS, in light of the risks posed by litigation and both the Corporation and the campus’s strong desire to see this matter resolved without litigation, management conducted a telephonic poll of the Corporation’s board to determine if the board would authorize an increase in settlement authority to the amount of \$550,000 and acceptance of the additional commitments demanded by the Elks; and

WHEREAS, after receiving an affirmative response to the request for an increase in settlement authority from a majority of the Corporation’s board, management for the Corporation entered into a memorandum of settlement with the Elks; and

WHEREAS, utilizing the memorandum of settlement, counsel for both parties drafted a formal settlement and mutual release agreement (the “Elks Settlement Agreement”); and

WHEREAS, the Elks Settlement Agreement was executed by the Corporation’s management and the Elks; and

WHEREAS, the Corporation desires to formally ratify the execution of the Elks Settlement Agreement by management; and

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE CSU FULLERTON HOUSING AUTHORITY DOES APPROVE AND RATIFY:

The Settlement Agreement and Mutual Release dated October 30, 2009, by and between the Fullerton Lodge Building Corporation and the CSU Fullerton Housing Authority, a copy of which is attached hereto and incorporated by reference.

The approval was unanimous.

VI. RESOLUTIONS

A. AUTHORIZATION TO PURSUE VALEO JUDGMENT

Bill Dickerson said that this will allow Mike Wolder to continue to represent the Housing Authority and retain him at reasonable rates to pursue the judgment against Valeo.

Jay Bond moved, Michael LaCour-Little seconded and motion carried to adopt the following resolution.

University Heights – Pistone & Wolder Fee Agreement

WHEREAS, Michael K. Wolder, of Pistone & Wolder, LLP (“Wolder”) has represented the CSU Fullerton Housing Authority (the “Corporation”) in litigation related to the University Height Project for the last year; and

WHEREAS, management believes that Wolder has represented the Corporation ably during that time; and

WHEREAS, Wolder’s fees were previously paid by the Corporation’s insurance company, but the insurance policy under which those legal fees were paid has been exhausted; and

WHEREAS, the Corporation needs litigation counsel to defend the Elks against the claim brought by subcontractor R.W. Smith and to pursue collection of the Corporation’s claims against the Valeo entities and its principals; and

WHEREAS, a suitable fee agreement (“Agreement”) has been prepared to serve as the framework for such services by and between the Corporation and Wolder; therefore

BE IT RESOLVED, that the Board of Directors of the CSU Fullerton Housing Authority authorizes the Executive Director to execute an Agreement, as attached, by and between the Housing Authority and Wolder.

The approval was unanimous.

B. APPROVAL OF UG WAIVER

Jim Alexander reported that several months ago, the Housing Authority approved a waiver when a UG home was sold to a member of the general public. We are again trying to sell a home; with no one from the University interested, we are looking to sell this home to the general public. This particular home at 20 Sycamore has been on the market for nine months; the buyer wishes to have the repurchase option waived.

John Jay added that if the waiver is not approved, we will most likely lose the sale.

Michael LaCour-Little moved, Bill Dickerson seconded and motion carried to adopt the following resolution.

University Gables Waiver of Repurchase Option

WHEREAS, due to the downturn in the overall housing market there is significantly less demand for homes at University Gables than existed at anytime in the past; and

WHEREAS, despite opening the eligibility list for homes in University Gables to practically all but the general public, there continues to be a lack of buyers for the homes; and

WHEREAS, the owners of the home at 20 Sycamore Lane have requested that the Corporation grant a one-time waiver of the Corporation's repurchase option set forth in Exhibit E, Section 1 (e) of the Ground Lease (reproduced below) to the purchaser of their home; and

If Homeowner was not upon the initial purchase of the Home, and is not at the time of the Reassignment Option Event, a fulltime employee of California State University ("CSU") or one of its auxiliaries, a Reassignment Option Event will occur on the fifth (5th) anniversary of the initial purchase of the Home, if Landowner determines that the Home needs to be reacquired for purposes of the Program.

WHEREAS, the Corporation generally disfavors such requests, but recognizes that such waivers may be appropriate in extreme circumstances; and

WHEREAS, the Board is aware that the property at 20 Sycamore has been on the market for more than 10 months and that currently the only potential buyer is a

member of the general public who would be unlikely to purchase the property without such a waiver; and

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE CSU FULLERTON HOUSING AUTHORITY DOES RESOLVE AS FOLLOWS:

The Board of Directors hereby authorizes the Director of Property Development to grant a one-time waiver of the Corporation's repurchase option set forth in Exhibit E, Section 1 (e) of the Ground Lease to the purchaser of the home located at 20 Sycamore Lane.

The approval was unanimous.

VII. DISCUSSION

A. CHECK WRITING/FISCAL AUTHORITY

Bill Dickerson said that this matter was brought up at the last meeting, triggered by the two fiscal resolutions approved then. This is the ASC's 1987 Board-approved purchasing policy. This may serve as a guideline for the Housing Authority; no action is necessary today.

Jay Bond noted that he understood the discussion to be more on transferring and wiring of money.

Mark Stohs asked whether the dollar amounts were still applicable.

Bill Dickerson said that he will work with Frank Mumford to come up with something that is more pertinent to the Housing Authority.

B. UH LEASE INCREASE AT RENEWAL

Bill Dickerson said that of the 26 leases at University Heights, some were leased at \$100/month less than others. Of those 26, 14 are not from the educational community. He asked whether we should consider raising leases or some variation thereof.

Michael LaCour-Little noted that he believes that rental rates are still falling for Orange County.

Mark Stohs asked whether the increases would apply to both the educators and non-educators alike. John Jay responded that we are under no obligation to do so.

Jim Alexander said that he will obtain Bob Clark's input for discussion at the next meeting.

Bill Herbert noted that there will be approximately five leases that will expire at year end and will go into month-to-month leases. Additionally, there has been one inquiry from a tenant that he would like to renew the lease with the option to buy.

John Jay said that many landlords will increase rates for month-to-month, but will keep rates the same for those who renew leases.

Jay Bond recalled that we had price differentials based on amenities when the homes were sold, but that wasn't the case for the leases. Bill Dickerson confirmed that and said that he, Jim Alexander and Bill Herbert will offer a proposal for the next meeting. Jay Bond asked for three options to be provided for discussion.

VIII. OTHER BUSINESS

There was no other business.

IX. ANNOUNCEMENTS

Next meeting: Tuesday 12/15/09 @ 3:30 pm.

X. ADJOURNMENT

Chair Mark Stohs adjourned the meeting at 4:45 p.m.

Approved by the Board of Directors, December 15, 2009.

Jay W. Bond, Secretary