

**REPORT TO MAYOR/REDEVELOPMENT AGENCY CHAIR
AND COUNCIL/AGENCY BOARD**

**TO: THE HONORABLE MAYOR/REDEVELOPMENT AGENCY CHAIR
AND CITY COUNCIL/AGENCY BOARD:**

DATE: June 1, 2009

**SUBJECT: APPROVE THE REMOVAL OF REMAINDER OF THE FORTY (40) YEAR
AFFORDABILITY RESTRICTION ON FUTURE USE OF THE PROPERTY AT
3142 GRANT STREET, RELINQUISH THE REQUIREMENT FOR SHARED
APPRECIATION VALUE, AND ACCEPT RETURN OF PRINCIPAL IN THE
AMOUNT OF \$80,000 AS PAYMENT IN FULL OF ALL FINANCIAL
OBLIGATIONS**

Report in Brief

STAND! Against Domestic Violence has requested permission to sell its Battered Women's Alternatives Transitional Housing Project at 3142 Grant Street to a for-profit developer. The project was established in 1989 with the assistance of \$80,000 in Housing Set-Aside Funds from the Concord Redevelopment Agency, and additional financial assistance from HUD and the County. In exchange for its contribution, the Agency secured a forty-year affordability restriction limiting occupancy to persons and families earning no more than 80 percent of area median income.

The property was closed in 2005 after it was discovered that the building was settling due to poor soil conditions and was in need of extensive repairs estimated as over \$1,000,000. Since that time, the three lenders have had extensive discussions with STAND! regarding their efforts to sell the property to a non-profit for continuation as an affordable housing project. Those efforts did not produce a viable purchaser, and only recently has STAND! received a non-contingent offer of \$1,150,000 from a for-profit developer to convert the property back to a market rate development.

Staff recommends that the Agency Board adopt City Council Resolution No. 09-49 and Redevelopment Agency Resolution No. 09-734 removing the 40-year deed restriction regarding affordability currently encumbering the sale and authorizing the Agency/City to accept \$80,000 representing the principal balance as payment in full for all financial obligations regarding the property at 3142 Grant Street; and authorize City of Concord Redevelopment Agency Executive Director Daniel E. Keen to execute and record a Release of Covenants and Restrictions with respect to the property, as well as a Reconveyance of the Deed of Trust securing the note to the property.

Background

The property at 3142 Grant Street was established as a Battered Women's Alternatives Transitional Housing project in 1989 and is more commonly known today as STAND! Against Domestic Violence.

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Previously, the facility was known as the “Margaret Leshner Center” and was operated by Battered Women’s Alternative, Inc. as a California non-profit public benefit corporation.

The facility consists of fifteen (15) two-bedroom units which were made available to clients whose income did not exceed eighty (80%) percent of area medium income and one (1) one-bedroom unit set aside for an onsite manager. There are fourteen (14) open onsite parking spaces on the property.

Over the years the project has received funding from Federal Community Development Block Grant (CDBG), Contra Costa County, and the City of Concord Redevelopment Agency. The City’s participation consisted of a \$100,000 bridge loan from CDBG which has been repaid, and an \$80,000 loan from Redevelopment Housing Set-Aside funds that is still outstanding.

In exchange for Agency funding, the property incurred a number of restrictions or requirements which include:

- A deed restriction on affordability for forty (40) years;
- A requirement to repay the \$80,000 principal plus a shared appreciation component; and
- A landscape maintenance agreement.

The 40-year affordability restriction is currently scheduled to run through August 30, 2029.

The property was operated in accordance with the requirements until the buildings began to fall into disrepair in 2005 primarily as a result of soil stability issues. Repair costs were estimated to be in excess of \$1,000,000, at that time, making building renovations infeasible for non-profit usage.

The facility has been vacant for several years and has become a blighted property. Recently an offer to purchase the property has been received. Because it is not economically feasible to renovate the buildings to continue the restricted use, staff is recommending that the Agency Board remove the remainder of the affordability period stated in the deed restriction which will allow the property to move forward in the market without an encumbrance. Similarly, staff is recommending that only the principal be required to be repaid without any claim on a share of appreciation.

Recently, STAND! received a non-contingent offer of \$1,150,000 from a for profit developer to convert the property back to a market rate development. Escrow is scheduled to close on June 5, 2009.

Discussion

STAND! purchased the property in 1989. It is located across from Hillcrest Park, and consists of 15 two bedroom units and a single one bedroom unit. In light of extensive previous efforts to sell the property to an entity that could continue the non-profit use with no success, and considering the deteriorated condition, the government agencies involved have all agreed to permit the property to be sold to a for-profit buyer.

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June 1, 2009

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HUD has approved the sale to the for profit company and will forego any appreciation or interest payments on its remaining loan amount of \$171,093. Similarly, County staff will be bringing an action forward to the Board of Supervisors on June 2 recommending approval of payment of its remaining loan balance of \$52,500 exclusive of appreciation or interest. Staff is recommending the Agency Board approve the acceptance of the \$80,000 loan exclusive of appreciation or interest and remove the affordability restrictions to allow the sale of the property and meet the escrow closure date of June 5, 2009.

Fiscal Impact

The full principal amount of \$80,000 will be repaid at close of escrow rather than as late as 2029. Any current or future share of appreciation will be waived.

Public Contact

Notice of this meeting has been posted. The current property owners and potential buyers have been provided with a copy of this staff report.

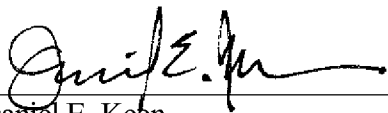
Recommendation for Action

Staff recommends that the Agency Board:

1. Adopt City Council Resolution No. 09-49 and Redevelopment Agency Resolution No. 09-734 revoking the 40-year deed restriction regarding affordability currently encumbering title to the property, and authorize the Agency/City to accept \$80,000 representing the principal balance as payment in full for all financial obligations regarding the property at 3142 Grant Street; and
2. Authorize City of Concord Redevelopment Agency Executive Director Daniel E. Keen to execute and record a Release of Covenants and Restrictions with respect to the property, as well as a Reconveyance of the Deed of Trust securing the note to the property.

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Daniel E. Keen
City Manager/Executive Director
Dan.Keen@ci.concord.ca.us

Attachment #1 – City Council Resolution No. 09-49

Attachment #2 – Redevelopment Agency Resolution No. 09-734

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution of the City Council of the City of Concord
Rescinding Resolution No. 89-94; Releasing the
Declaration of Covenants and Restrictions Recorded
Against 3142 Grant Street, and Accepting Return of
Principal As Payment In Full of All Financial
Obligations Owed to the City’s Redevelopment Agency** **Resolution No. 09-49**

WHEREAS, on July 25, 1989, the City Council of the City of Concord passed Resolution No. 89-94 approving the use of Eighty Thousand Dollars (\$80,000) of Low and Moderate Income Housing Funds as a loan to the Battered Women’s Alternatives Transitional Housing Project (now known as and referred to hereinafter as STAND! Against Domestic Violence) for the purpose of providing expanded rental housing options for low and moderate income households in the City of Concord; and

WHEREAS, pursuant to Resolution No. 89-94, as well as Health & Safety Code §§ 33334.2 and 33334.3, the Redevelopment Agency of the City of Concord thereafter extended a loan to STAND! Against Domestic Violence in the amount of Eighty Thousand Dollars (\$80,000) for the purpose of acquiring and rehabilitating the real property located at 3142 Grant Street, in Concord, California (the “Property”); and

WHEREAS, the Property was rehabilitated to include fifteen (15) two bedroom unit and a single one bedroom unit (the “Rental Units”);

WHEREAS, in order to ensure that the Rental Units remained affordable in the future, title to the Property was burdened with a Declaration of Covenants and Restrictions, recorded with the Contra Costa County Recorder on September 1, 1989, as document number 89-170069, and establishing a ceiling on the rental price of each Rental Unit for a period of forty (40) years, as well as income requirements for renters of the Rental Units; and

WHEREAS, the Property was closed in 2005 after it was discovered that the building was settling due to poor soil conditions and was in need of extensive repairs, the cost of which were then estimated at over One Million Dollars (\$1,000,000); and

WHEREAS, since the closure of the Property, STAND! Against Domestic Violence has made extensive attempts to locate a buyer for the Property who would continue to operate the Property as an

1 affordable housing project but has been unsuccessful, despite all such efforts; and

2 **WHEREAS**, STAND! Against Domestic Violence has recently received a non-contingent
3 offer of One Million One Hundred Fifty Thousand Dollars (\$1,150,000) from a for-profit developer to
4 convert the Property back to market rate development; and

5 **WHEREAS**, the housing market in Concord, like the rest of the state and the nation, is
6 enduring an economic downturn.

7 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
8 **RESOLVE AS FOLLOWS:**

9 **Section 1.** Based upon the foregoing, the City Council hereby agrees to the release of the
10 Declaration of Covenants and Restrictions, and also accepts STAND! Against Domestic Violence’s
11 repayment of the principal balance of Eighty Thousand Dollars (\$80,000), with no further amounts
12 owing, as payment in full of all financial obligations STAND! Against Domestic Violence owes to the
13 City. The City Manager is appointed to execute appropriate documents releasing the restrictive
14 covenants, returning the promissory note (marked paid in full), and executing a full reconveyance of
15 the Deed of Trust to STAND!.

16 **Section 2.** Based upon the materials above, the City Council also agrees to rescind Resolution
17 No. 89-94.

18 **Section 3.** This resolution shall become effective immediately upon its passage and adoption.

19 **PASSED AND ADOPTED** by the City Council of the City of Concord on June 1, 2009, by
20 the following vote:

21 **AYES:** Councilmembers -

22 **NOES:** Councilmembers -

23 **ABSTAIN:** Councilmembers -

24 **ABSENT:** Councilmembers -

25 **I HEREBY CERTIFY** that the foregoing Resolution No. 09-49 was duly and regularly
26 adopted at a regular joint meeting of the City Council and the Redevelopment Agency of the City of
27 Concord on June 1, 2009.

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Mary Rae Lehman
City Clerk

APPROVED AS TO FORM:

Craig Labadie
City Attorney

1 **BEFORE THE REDEVELOPMENT AGENCY OF THE CITY OF CONCORD**
2 **COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**
 RESOLUTION NO. 09-734

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4 **A RESOLUTION OF THE REDEVELOPMENT AGENCY**
5 **OF THE CITY OF CONCORD RESCINDING**
6 **RESOLUTION NO. 89-455; RELEASING THE**
7 **DECLARATION OF COVENANTS AND RESTRICTIONS**
8 **RECORDED AGAINST 3142 GRANT STREET,**
9 **AND ACCEPTING RETURN OF PRINCIPAL**
10 **AS PAYMENT IN FULL OF ALL FINANCIAL**
11 **OBLIGATIONS OWED TO THE CITY'S**
12 **REDEVELOPMENT AGENCY**

13 **WHEREAS**, on July 25, 1989, the Redevelopment Agency of the City of Concord passed
14 Resolution No. 89-455 approving the use of Eighty Thousand Dollars (\$80,000) of Low and Moderate
15 Income Housing Funds as a loan to the Battered Women's Alternatives Transitional Housing Project
16 (now known as and referred to hereinafter as STAND! Against Domestic Violence) for the purpose of
17 providing expanded rental housing options for low and moderate income households in the City of
18 Concord; and

19 **WHEREAS**, pursuant to Resolution No. 89-455, as well as Health & Safety Code §§ 33334.2
20 and 33334.3, the Redevelopment Agency of the City of Concord thereafter extended a loan to
21 STAND! Against Domestic Violence in the amount of Eighty Thousand Dollars (\$80,000) for the
22 purpose of acquiring and rehabilitating the real property located at 3142 Grant Street, in Concord,
23 California (the "Property"); and

24 **WHEREAS**, the Property was rehabilitated to include fifteen (15) two bedroom unit and a
25 single one bedroom unit (the "Rental Units");

26 **WHEREAS**, in order to ensure that the Rental Units remained affordable in the future, title to
27 the Property was burdened with a Declaration of Covenants and Restrictions, recorded with the Contra
28 Costa County Recorder on September 1, 1989, as document number 89-170069, and establishing a
ceiling on the rental price of each Rental Unit for a period of forty (40) years, as well as income
requirements for renters of the Rental Units; and

WHEREAS, the Property was closed in 2005 after it was discovered that the building was
settling due to poor soil conditions and was in need of extensive repairs, the cost of which were then

1 estimated at over One Million Dollars (\$1,000,000); and

2 **WHEREAS**, since the closure of the Property, STAND! Against Domestic Violence has made
3 extensive attempts to locate a buyer for the Property who would continue to operate the Property as an
4 affordable housing project but has been unsuccessful, despite all such efforts; and

5 **WHEREAS**, STAND! Against Domestic Violence has recently received a non-contingent
6 offer of One Million One Hundred Fifty Thousand Dollars (\$1,150,000) from a for-profit developer to
7 convert the Property back to market rate development; and

8 **WHEREAS**, the housing market in Concord, like the rest of the state and the nation, is
9 enduring an economic downturn.

10 **NOW, THEREFORE, THE REDEVELOPMENT AGENCY OF THE CITY OF**
11 **CONCORD DOES RESOLVE AS FOLLOWS:**

12 **Section 1.** Based upon the foregoing, the Redevelopment Agency hereby agrees to the release
13 of the Declaration of Covenants and Restrictions, and also accepts STAND! Against Domestic
14 Violence's repayment of the principal balance of Eighty Thousand Dollars (\$80,000), with no further
15 amounts owing, as payment in full of all financial obligations STAND! Against Domestic Violence
16 owes to the City. The City Manager is appointed to execute appropriate documents releasing the
17 restrictive covenants, returning the promissory note (marked paid in full), and executing a full
18 reconveyance of the Deed of Trust to STAND!.

19 **Section 2.** Based upon the materials above, the Redevelopment Agency also agrees to rescind
20 Resolution No. 89-455.

21 **Section 3.** This resolution shall become effective immediately upon its passage and adoption.

22 **PASSED AND ADOPTED** by the Redevelopment Agency of the City of Concord on June 1,
23 2009, by the following vote:

24 **AYES:** Councilmembers -

25 **NOES:** Councilmembers -

26 **ABSTAIN:** Councilmembers -

27 **ABSENT:** Councilmembers -

28 **I HEREBY CERTIFY** that the foregoing Resolution No. 09-734 was duly and regularly

1 adopted at a regular joint meeting of the City Council and the Redevelopment Agency of the City of
2 Concord on June 1, 2009.

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Mary Rae Lehman
City Clerk

6 **APPROVED AS TO FORM:**

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Craig Labadie
City Attorney