



## Cover Memorandum/Staff Report

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**File #:** 18-1117 CRA

**Agenda Date:** 7/14/2022

**Item #:** 7I.

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**TO:** CRA Board of Commissioners  
**FROM:** Kim N. Phan, Legal Advisor  
**THROUGH:** Renée A. Jadusingh, Executive Director  
**DATE:** July 14, 2022

### FIRST AMENDMENT TO SUBORDINATION AGREEMENT - 106 SW 6<sup>th</sup> AVENUE

#### **Recommended Action:**

Approve the First Amendment to the Subordination Agreement for the property located at 106 SW 6<sup>th</sup> Avenue owned by Reginald B. Jonas and Elizabeth Taylor pursuant to a new second mortgage with Amerant Bank.

#### **Background:**

Around March 2005, the City Commission approved Resolution No. 14-05 authorizing the CRA to acquire Lots 11 through 30 of the Carver Square subdivision which was the former location of an information dump. Organic matter that had been disposed of on the site had begun to deteriorate and the homes built in the subdivision were experiencing various degrees of settlement problems. Some of the structures had already been demolished by the time the CRA got involved, but there were twelve (12) remaining. Around April 2005, the CRA approved the Carver Square Relocation Plan ("Relocation Plan") plan to relocate the residents in order to demolish the structures. Relocation financial assistance was available through the Relocation Plan.

Eight homeowners qualified to receive financial assistance through the Relocation Plan. Financial assistance through the Relocation Plan included an interest free purchase money balloon mortgage due and payable in five (5) years to cover the homeowner's financing gap in an amount not to exceed \$40,000 for the purchase of a replacement house. Also, an additional \$25,000 subsidy to be used as down payment assistance for owner-occupants in the "medium or major" defect category purchasing replacement housing within the CRA district, secured by a mortgage that is forgiven at the rate of 10% per year for 10 years.

The purchase money balloon mortgage was set up as a balloon mortgage because of the expectation that the value of the homes would continue to rise and that the owners would be able to re-finance their mortgages and pay off the CRA mortgage. However, when the balloon mortgages matured in 2012, with the downturn of the real estate market, refinancing alternatives were difficult to obtain. Four homeowners were unable to repay these balances. All the homes had mortgages that exceeded their assessed values.

CRA staff presented this matter to the CRA Board in November 2012 and provided the CRA Board with the following options:

1. Initiate foreclosure proceedings in an attempt to capture the expenses incurred.

*Comment: This alternative would require action on the part of the Board to acquire the property, pay off the primary mortgage and possibly displace the occupants. This alternative could be initiated by the Board without the owner's prior approval.*

2. Process a Satisfaction of Mortgage and forgive the balances due.

*Comment: This alternative means the CRA would forgo the possibility of ever being repaid for the funding that was provided. This alternative could be initiated by the Board without the owner's prior approval.*

3. Convert the instruments to a mortgage that is due upon sale or transfer of the property.

*Comment: This alternative would maintain the CRA's continued interest and to some degree would protect its investment in the property. Depending upon the degree to which property values increase in the future, the CRA may at some point recoup all or part of the funds. This alternative will require the agreement of the owner.*

4. Extend the terms by providing a later payoff date.

*Comment: This alternative could ensure the CRA's continued interest and protect its investment in the property. This alternative will require the agreement of the owner.*

5. Convert the instrument to a forgivable mortgage, reducing the rate at 10% per year for 10 years.

*Comment: This alternative would be typical of most of the CRA's subsidy arrangements, whereby as long as the home remains occupied by an income eligible family the balance of the mortgage is reduced. The board could structure the mortgage to reduce the rate starting from the recordation of the original mortgage, or commence the 10-year period from the current maturity date listed in the spreadsheet. This alternative will require the agreement of the owner.*

The CRA Board approved option number three to convert the instruments to a mortgage that is due upon sale or transfer of the property.

Reginal B. Jonas and Elizabeth Taylor were residents that received financial assistance from the Relocation Plan. Around August 2007, Reginald B. Jonas and Elizabeth Taylor purchased the property located at 106 SW 6<sup>th</sup> Avenue, Delray Beach, Florida with a purchase price of \$282,750. The purchase price included a \$40,000 second mortgage provided by the CRA through the Relocation Plan and a \$222,750 first mortgage with National City Mortgage. The CRA also provided them an additional \$25,000 subsidy to be used as down payment assistance. As mentioned above, in 2012, the CRA Board modified their mortgage where the loan would become due upon sale or transfer of the property ("Modified Second Mortgage").

Currently, Mr. Jonas and Ms. Taylor are in the process of refinancing their first mortgage, which is now with PNC Bank, for \$75,000 with Amerant Bank in order to pay for medical expenses and repair or purchase a vehicle. The CRA has received a request from Amerant Bank to subordinate the CRA's \$40,000 second mortgage.

The bank appraised the subject property at \$425,000 on April 28, 2022, and the first mortgage with PNC Bank's remaining principal balance is approximately \$167,167.32. The CRA's Modified Second Mortgage is due upon the sale or transfer of the property. Accordingly, subordinating the CRA's Modified Second Mortgage will not affect the maturity date and based on the current appraised value, the CRA would still be able to recoup on the loan.

On June 8, 2022, the CRA Board approved the subordination of the CRA's Modified Second Mortgage loan to Reginald B. Jonas and Elizabeth Taylor to a new second mortgage with Amerant Bank.

On July 5, 2022, the CRA received a request from Amerant Bank to revise the Subordination Agreement relating to the outstanding first mortgage. At this time, Staff is requesting the Board approve the First Amendment to the Subordination Agreement for the property located at 106 SW 6<sup>th</sup> Avenue owned by Reginald B. Jonas and Elizabeth Taylor pursuant to a new second mortgage with Amerant Bank.

Attachments: Exhibit A - First Amendment to Subordination Agreement

**CRA Attorney Review:**

The CRA Attorney has reviewed the attached First Amendment to the Subordination Agreement and finds it acceptable as to form.

**Funding Source/Financial Impact:**

N/A

**Overall need within the Community Redevelopment Area:****Removal of Slum and Blight**

Land Use

Economic Development

**Affordable Housing**

Downtown Housing

Infrastructure

Recreation and Cultural Facilities