City of Delray Beach

100 N.W. 1st Avenue
Delray Beach, FL 33444

Legislation Details (With Text)

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Title:	APPROVAL OF TERMINATION OF LAND USE RESTRICTION AGREEMENT AND AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO EXECUTE, AS APPROPRIATE, SATISFACTIONS OF MORTGAGES, AND OTHER REQUIRED CITY DOCUMENTS IN CONNECTION WITH THE SALE OF AUBURN TRACE APARTMENTS				
Sponsors:	City Attorney Department, Cathy Inglese				
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Attachments:	1. Notice of Termination of Land Use Restriction Agreement, 2. Delray Beach LURA, 3. Notice of Termination of Land Use Restriction Agreement				

Date	Ver.	Action By	Action	Result
1/5/2016	1	City Commission	approved	Pass

TO: **Mayor and Commissioners**
FROM: **Noel Pfeffer, City Attorney**
DATE: **January 5, 2016**

APPROVAL OF TERMINATION OF LAND USE RESTRICTION AGREEMENT AND AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO EXECUTE, AS APPROPRIATE, SATISFACTIONS OF MORTGAGES, AND OTHER REQUIRED CITY DOCUMENTS IN CONNECTION WITH THE SALE OF AUBURN TRACE APARTMENTS

Recommended Action:

Motion to approve a Notice Of Termination of the June 29, 1989 Land Use Restriction Agreement for the Auburn Trace Apartments and to authorize the City Manager to execute Satisfactions of Mortgages and to authorize the City Attorney and City Manager to execute closing documents in connection with the sale of the Auburn Trace Apartments.

Background:

The sale of the Auburn Trace apartments is presently scheduled for mid-January. In connection with the closing, Buyer and Sellers counsel have requested Satisfactions of Mortgages for the City first and second mortgages and a Notice of Termination of the City's Land Use Restriction Agreement ("LURA"). The Satisfactions and Notice of Termination of the LURA will not be delivered to the Buyer and Seller until closing and only on the condition that the City receives all sums due pursuant to the bankruptcy proceedings for the first and second mortgages.

The property for the Auburn Trace Apartments is currently subject to two (2) Land Use Restriction Agreements.

Delray Beach LURA:

One of the terms of the 1989 UDAG grant required the owner of Auburn Trace to agree to certain land use restrictions which required the property to be developed as multifamily residential affordable housing. The City and owner recorded a LURA in June 1989 which required not less than 51% of the apartment units to be occupied by low or moderate income persons. The term of the LURA is until all UDAG requirements have been satisfied and the later of 15 years or the date the loan is paid in full. The City and HUD executed a close out agreement in September 1991 with respect to the City's UDAG obligations. Accordingly, the City LURA is entitled to be terminated upon payment of the loan. A copy of the City's LURA is attached as back-up material.

Florida Housing LURA:

In August 1993, Florida Housing Finance Corporation (Florida Housing) issued a loan to the owners of Auburn Trace Apartments under the State Apartment Incentive Loan Program ("SAIL Loan") for the construction and financing of Auburn Trace. By way of background, Florida Housing was created by the Florida Legislature to assist in providing a range of affordable housing opportunities for Florida developments, including administering several State loan programs. A LURA imposing affordable housing restrictions was required in connection with the Sail Loan. The Florida Housing LURA has a duration of 50 years. It was imposed on May 5, 2010 and expires May 5, 2060. This LURA further provides that 90% of the apartment units must be rented to very low income households with household income less than 60% of the area median income. The remaining 10% of the units are rent restricted for extremely low income households with household income less than 28% of area median income. The Florida Housing LURA will remain in effect after the proposed sale of the property. The Florida Housing LURA is for a longer duration than the City LURA, applies to all units, and requires rental to very low income residents.

Also, attached as back-up for this agenda item is a copy of the proposed Notice of Termination of the City LURA. The City Attorney recommends approval of the Notice of Termination in substantially the form attached to this agenda item and to authorize the City Manager and City Attorney to execute, as appropriate, the closing documents for this transaction, including the Satisfactions of Mortgages.

City Attorney Review:
The City Attorney recommends approval.

Timing of Request:
Closing is scheduled for mid-January, as a result this item is time sensitive.