

ITEM #46

ADDITIONAL MATERIAL

Regular Meeting

APRIL 9, 2019

SUBMITTED AT THE REQUEST OF

PUBLIC WORKS DEPARTMENT



CITY MANAGER'S OFFICE

Greg Harrison, City Manager

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April 1, 2019

VIA E-MAIL AND U.S. MAIL

Mayor Mark D. Bogen, Mayor
Lamar P. Fisher, Commissioner
Steve Geller, Commissioner
Tim Ryan, Commissioner
Barbara Sharief, Commissioner
Purvi Bhurgaita, Real Property Director
Broward County
115 South Andrews Avenue
Fort Lauderdale, FL 33301

Dale V.C. Holness, Vice-Mayor
Beam Furr, Commissioner
Nan H. Rich, Commissioner
Michael Udine, Commissioner
Bertha Henry, County Administrator
Ralph Stone, HFCRD Director

Re: Request County's Conveyance of 23 Escheat Lots Located in the City of Pompano Beach

Dear Mayor, Vice-Mayor, Commissioners, Mr. Stone and Mses. Henry and Bhurgaita:

This respectfully requests your assistance in facilitating the County's conveyance of the 23 escheat lots listed in Exhibit 1 to the City of Pompano Beach ("City") and the Pompano Beach Northwest Community Redevelopment Agency ("NWCRA"). This matter is currently scheduled as Item 46 on the Regular Agenda of the County Commission meeting to be held on April 9, 2019.

Both the City and NWCRA have a proven track record of eliminating blight; creating jobs and additional tax revenues; stabilizing neighborhoods; stimulating economic growth and developing quality, affordable housing. Specifically, both governmental entities are in the best position to leverage the opportunities created by these lots in terms of capacity because they have staff and financial resources dedicated to promoting affordable housing and sustainable economic redevelopment in Pompano Beach and qualified local builders ready to participate in our infill-housing programs.

Over the past decade, the City's Department of Housing and Urban Improvement ("OHUI") has built or partnered with non-profits and the private sector to add 1969 affordable, single and multi-family units citywide. Since the NWCRA's creation in 1989, the NWCRA and OHUI have

added 1,540 affordable housing units (656 single-family and 884 multi-family homes) within the boundary of the Northwest Community Redevelopment Area as detailed in Exhibit 2.

In addition, the NWCRA and OHUI have completed a full analysis to determine the highest and best use for each lot and are the most suited to obtain relief from the City's Zoning Code which would transform eight of the currently nine "unbuildable" lots to "buildable" status. Two of the lots are adjacent to properties owned by the City and NWCRA and can be unified to maximize redevelopment opportunities. Maps of the escheat lots in relation to City and CRA-owned properties are included as Exhibit 3.

Thirteen (13) of the lots are located in the long underserved community of Collier City and would be utilized to create additional housing and a new mini-park as set forth in the recommendations of the Collier City Development Concept Master Plan. At a recent Strategic Planning Workshop, the redevelopment of Collier City was ranked as a "Top Priority" by our City Commission who also serves as the CRA Board.

In response to the 2007-2010 subprime foreclosure crisis wherein over 3,500 homes in Pompano Beach were in some stage of foreclosure the federal government awarded the City a Neighborhood Stabilization Program ("NSP") grant in 2008. In implementing the grant, OHUI chose to stabilize neighborhoods by purchasing and rehabilitating blighted, vacant and foreclosed properties and offering them for sale to the public. In total, 89 homes were either fully renovated or newly built in place of blighted structures under the NSP grant.

In 2013, Rebuilding Together recognized OHUI for its dedication and commitment to rebuilding and improving its communities and granting Rebuilding Together the opportunity to be part of the rebuilding effort. In 2016, the City established the Affordable Housing Trust ("AHT") to provide affordable single-family home construction throughout the City's urban infill area. Currently there is over \$1.5 million in the City's AHT Fund to continue the construction of single-family homes. Exhibit 4 provides examples of some of the quality affordable models OHUI has built to date.

More recently, the Structural Insulated Panel Association ("SIPA") recognized OHUI as the winner of the *2017 Building Excellence Award for Affordable Housing* for constructing "the best affordable home in the U.S.A" which showcased innovative "green" technologies for hurricane, fire, mold, bug, sound and water resistance capabilities (Exhibit 5). The Florida Housing Coalition also recognized OHUI in 2017 "*as a model for leveraging SHIP in support of developing Affordable Housing for Florida's most vulnerable residents.*"

April 1, 2019

Page 3

The CRA has also established a very successful single-family, infill-housing program whereby it donates vacant lots to a qualified local developer who provides construction financing and a qualified buyer for the home. Similar to OHUI's infill-housing program, the process is handled through a series of agreements, including a Property Disposition and Development Agreement, Re-Conveyance Agreement, Declaration of Covenants and Restrictions and a Quit Claim Deed. Since 2013, the NW CRA has entered into 18 Development Agreements with 12 different local builders to construct a total of 42 new single-family residential homes, 82 townhomes and the City Vista project with 111 apartments in the Northwest Community Redevelopment Area.

The foregoing processes and various other control measures allow OHUI and the NWCRA to control the construction schedule as well as the quality, design and price point for each affordable home and prevent "house flipping" by investors. Further, since the builder must have a qualified buyer for each home, pursuant to a Promissory Note and Mortgage Deed, the City and NWCRA are assured the property will be affordable, owner-occupied for a minimum of ten (10) years. Kindly note both governmental entities have currently exhausted their supply of available single-family lots for new construction.

Finally, it's important to address the history provided in the Commission's background summary for this item regarding the County's former conveyance of these lots to the City in August 2008 and their reversion back the following year because the City failed to comply with certain deed restrictions. Specifically, the 2008 conveyance was at the height of the foreclosure crisis and also in contravention of applicable law, to wit, §197.592, Florida Statutes, because it mandated the lots be used for development of affordable housing and a Certificate of Occupancy for a single-family home on each lot be issued within 12 months thereafter. As demonstrated by Exhibit 6, the County chose the foregoing course of action two years *after* the Florida Attorney General issued AGO 2006-26 which specifically advised Broward County "the statute's plain language does not contemplate that a county may impose conditions on the conveyance of the property to the municipality in which the property is located...." The foregoing comments are in no way meant to be confrontational but rather are offered by way of further explanation only.

I trust this communication demonstrates the City and NWCRA have the greatest capacity to maximize the opportunities created by the subject lots located within our municipal boundaries and ask that you forward any further communications regarding this request to Cassandra LeMasurier, the City's Real Property Manager, who can be reached by phone (954 786-4117) or email (Cassandra.LeMasurier@copbfl.com).

Thank you for your consideration of this important matter of mutual concern. We look forward to your favorable response.

April 1, 2019

Page 4

Very truly yours,



Gregory P. Harrison

City Manager, City of Pompano Beach

Executive Director, Pompano Beach CRA

cc: Mayor, Vice-Mayor and City Commissioners, Pompano Beach
Mark E. Berman, City Attorney
Andrew J. Meyers, County Attorney
Nguyen Tran, CRA Director
Fawn Powers, Assistant City Attorney

Exhibit 1

List of Escheat Lots

CONVEY TO CITY OF POMPANO BEACH				
# on Map	Folio	Neighborhood	Address	Zoning
2	484235000640	Blanche Ely	NW 6 Street	RM-12
3	484235010542	Blanche Ely	NW 5 Avenue	RM-12
4	484233043380	Collier City	2713 NW 6 Street	RS-3
5	484233045130	Collier City	NW 4th Court	RS-3
6	484233045540	Collier City	NW 30 Avenue	RS-3
7	484233046170	Collier City	2820 NW 4 Street	RS-3
8	484233110930	Collier City	NW 7 Street	RS-3
9	484234060140	Old Collier	NW 20 Avenue	RS-3
10	484234020440	Old Collier	612 NW 16 Avenue	RS-4
11	484235420160	Blanche Ely	710 NW 5 Avenue	RS-4
12	484235670020	Blanche Ely	NW 10 Street	RS-4
13	484235670030	Blanche Ely	NW 10 Street	RS-4
14	484235670040	Blanche Ely	NW 10 Street	RS-4
A	484233022040	Old Collier	NW 2 Street	RM-12
B	484233022050	Old Collier	NW 2 Street	RM-12
C	484235390020	Blanche Ely	706 NW 6 Street	TO
D	484233045650	Collier City	3049 NW 4 Street	B-3
E	484233047620	Collier City	3012 NW 2 Street	RD-1
F	484233022010	Old Collier	2340 NW 2 Street	RM-12
G	494202031200	South Dixie	SW 8 Street	RM-20
H	494202040120	South Dixie	860 SW 6 Street	RM-20
CONVEY TO POMPANO BEACH CRA				
1	484234080060	Old Collier	NW 9 Street	RM-12
15	484235020350	Blanche Ely	NW 5 Street	TO

Exhibit 2

Affordable Housing Units Developed in the Northwest CRA

Pompano Beach								AS OF 12-31-18
Name of CRA: Pompano Beach CRA								
CRA receives TIF? (circle one)		<input checked="" type="radio"/> YES	<input type="radio"/> NO					
Creation Date / Base Year: 1989								
Source(s) of Funding Used For Units (circle which apply)			<input checked="" type="radio"/> TIF	<input type="radio"/> GENERAL FUND	<input type="radio"/> SHIP/CDBG/HOME	<input checked="" type="radio"/> OTHER		
Name / Signature of CRA Director or Designee: <i>Nguyen Tran</i> , Director								
Affordable Housing Units Constructed* Within Northwest Community Redevelopment Area								
AFFORDABLE HOUSING PROGRAM TYPE	UNIT TYPE		UNITS - PER AREA MEDIAN INCOME (AMI) FOR FAMILY OF FOUR (PER HUD)					TOTAL UNITS
	Single Family	Multi-Family	30% (EXTREMELY LOW)	50% (VERY LOW)	80% (LOW)	120% (MODERATE)	140% (WORKFORCE)	
CONSTRUCTION	656	884	30	77	1429	0	0	1,540
REHAB	41	0	0	2	39	0	0	41
TOTAL	697	884	30	79	1,468	0	0	1,581
* UNITS CONSTRUCTED OR REHABILITATED WITHIN THE BOUNDARIES OF THE NWCRA FROM THE BASE YEAR THRU 12-31-18								

Exhibit 2, cont.

Affordable Housing Units Developed by NWCRA

Pompano Beach								AS OF 12-31-18
Name of CRA:								
CRA receives TIF? (circle one)		YES	NO					
Creation Date / Base Year: 1989								
Source(s) of Funding Used For Units (circle which apply)			TIF	GENERAL FUND	SHIP/CDBG/HOME	OTHER		
Name / Signature of CRA Director or Designee								
Affordable Housing Units Constructed* Within Northwest Community Redevelopment Area								
AFFORDABLE HOUSING PROGRAM TYPE	UNIT TYPE		UNITS - PER AREA MEDIAN INCOME (AMI) FOR FAMILY OF FOUR (PER HUD)					TOTAL UNITS
	Single Family	Multi-Family	30% (EXTREMELY LOW)	50% (VERY LOW)	80% (LOW)	120% (MODERATE)	140% (WORKFORCE)	
CONSTRUCTION	17	111	30	77	17	0	0	128
REHAB	4	0	0	2	2	0	0	4
TOTAL	21	111	30	79	19	0	0	132
* UNITS CONSTRUCTED OR REHABILITATED WITHIN THE BOUNDARIES OF THE CRA FROM THE BASE YEAR THRU 12-31-18								

Affordable Housing Units Developed by OHUI

Pompano Beach								AS OF 12-31-18
Name of CRA:								
CRA receives TIF? (circle one)		YES	NO					
Creation Date / Base Year:								
Source(s) of Funding Used For Units (circle which apply)			TIF	GENERAL FUND	SHIP/CDBG/HOME	OTHER		
Name / Signature of CRA Director or Designee								
Affordable Housing Units Constructed* Within Northwest Community Redevelopment Area								
AFFORDABLE HOUSING PROGRAM TYPE	UNIT TYPE		UNITS - PER AREA MEDIAN INCOME (AMI) FOR FAMILY OF FOUR (PER HUD)					TOTAL UNITS
	Single Family	Multi-Family	30% (EXTREMELY LOW)	50% (VERY LOW)	80% (LOW)	120% (MODERATE)	140% (WORKFORCE)	
CONSTRUCTION	639	773	0	0	1412	0	0	1,412
REHAB	37	0	0	0	37	0	0	37
TOTAL	676	773	0	0	1,449	0	0	1,449
* UNITS CONSTRUCTED OR REHABILITATED WITHIN THE BOUNDARIES OF THE CRA FROM THE BASE YEAR THRU 12-31-18								

Exhibit 3

Map of Escheat Lots in Relation to City and CRA-owned Property West of I-95

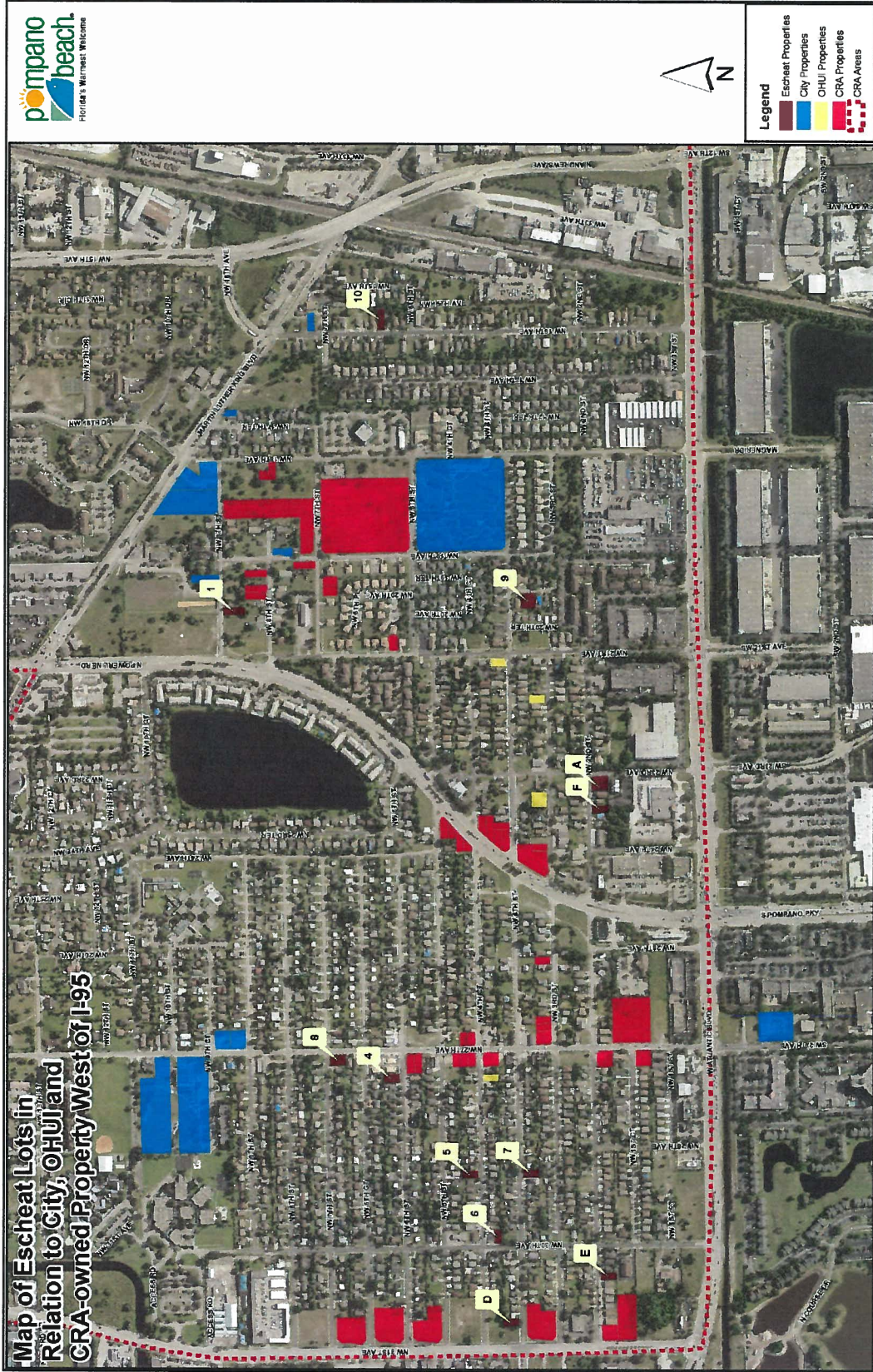
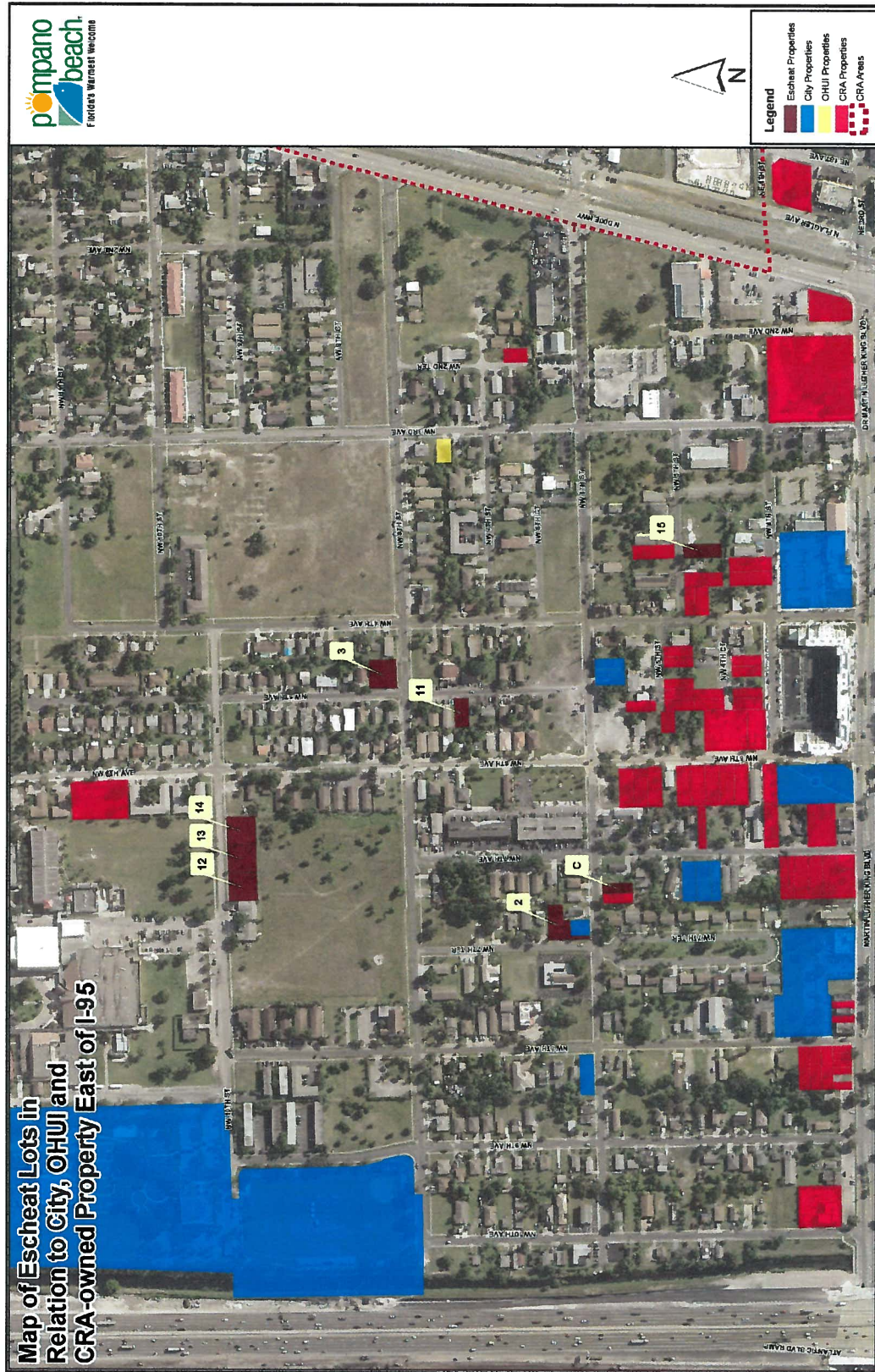


Exhibit 3, cont.
Map of Escheat Lots in Relation to City and CRA-owned Property East of I-95



**Exhibit 3, cont.
Map of Escheat Lots in Relation to City and CRA-owned Property South Dixie Highway**

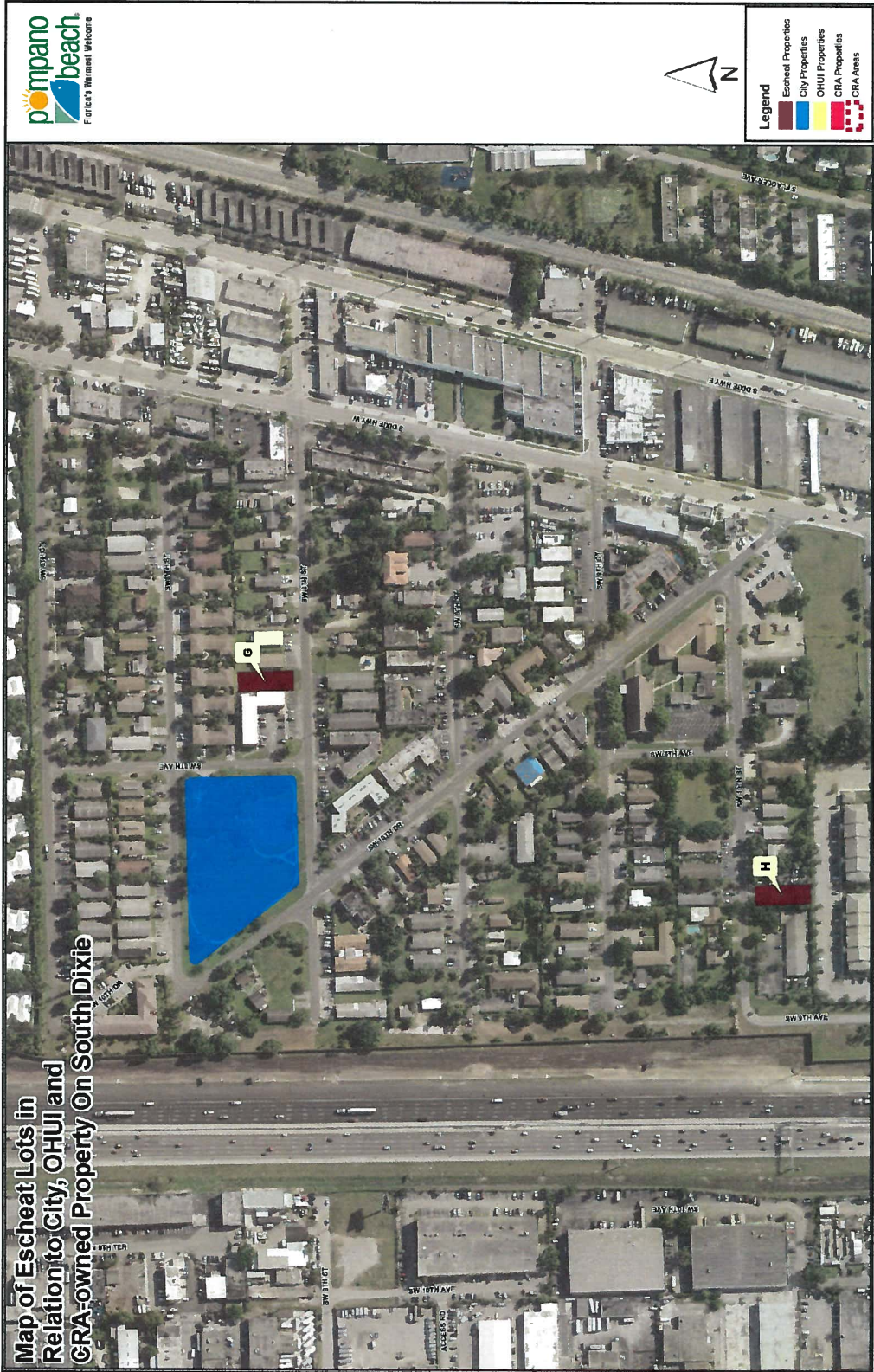


Exhibit 4

OHUI's Affordable Home Models

Winner: Best Affordable Home in the Country!

Capital Group
Green Real Estate Development

15th ANNUAL SIPA BUILDING EXCELLENCE AWARDS

Winner of Affordable Housing Category

ORGBC GREEN BUILDING

Building the "Modernista" Pompano Beach 2016

SIPA Structural Insulated Panel Association

210 WELFARE LONG LIVE HAPPY HOMES

20 YEARS



Exhibit 4, cont.
OHUI's Affordable Home Models



FOR SALE
AHT/NSP HOMES
\$260,000

Price Contingent Upon Current R/E Appraisal
At Closing
2135 NW 3rd Street, POMPANO BEACH FL



*Want To Buy
Your Own Home?
Get Up To \$40k
In Assistance*

About the Property: 2135 NW 3rd Street {3 bedrooms, 2 bath} - Brand New Construction

Single-family New Home Detach Construction with front porch - Includes: Beautiful Vinyl Plank Floors, Energy Star Central A/C System, Energy Star Kitchen Appliances, Impact Windows, Energy Efficient Water Heater, Sprinkler System with well, Carbon Monoxide & Smoke Detector System, Landscape & Shade Tree(s)

For more information contact:

City of Pompano Beach
Office of Housing & Urban Improvement at: (954) 786-4657 or (954) 786-4659
Or visit our website for additional homes at www.pompanobeachfl.gov



Exhibit 5
Pompano Beach Tradewinds Magazine April 2017

The Best Affordable **HOME IN THE U.S.A.**



The Structural Insulated Panel Association (SIPA) has awarded the City of Pompano Beach Office of Housing and Urban Development as the winner of the 2017 Building Excellence Award for Affordable Housing. The award is for Modernista, the state-of-the-art affordable home located at 4620 NE 18th Avenue. This one story 1,878 square foot home was designed with three bedrooms, two baths and a two car garage, high ceilings, impact resistant windows and doors, stainless steel appliances, granite countertops and ceramic tile in main living areas. But what makes the house stand out is it is also made with "green" construction with hurricane, fire, mold, bug, sound and water resistance capabilities. This high quality home has lower operating costs and is built to provide to low income families an unprecedented opportunity to own a home. The Modernista was built by Capital Group Green Developments and was built at a cost of only \$199,500. For more information about affordable housing, contact the Office of Housing and Urban Development at 954.786.4656.



Yorio Casirini, Miriam Carrillo, Cory Barreile, Eddy Sua and Mayor Lamar Fisher.



Exhibit 6 Attorney General Opinion 2006-26

Advisory Legal Opinion - Municipalities, infill housing

Page 1 of 4

Florida Attorney General Advisory Legal Opinion

Number: AGO 2006-26
Date: June 29, 2006
Subject: Municipalities, infill housing

Mr. Jeffrey J. Newton
Broward County Attorney
115 South Andrews Avenue
Suite 423
Fort Lauderdale, Florida 33301

RE: COUNTIES - MUNICIPALITIES - REAL PROPERTY - TAXATION - use of property acquired by county through delinquent taxes for affordable infill housing. s. 197.592, Fla. Stat.

Dear Mr. Newton:

On behalf of the Broward County Board of County Commissioners, you ask the following questions:

1. May the Broward County Board of County Commissioners retain and use land it acquires for delinquent taxes to construct affordable infill housing, in light of section 197.592(3), Florida Statutes?
2. Does the adoption of a policy and implementation of a program by Broward County for affordable infill housing satisfy the provision in section 197.592(3), Florida Statutes, that property acquired by the county for delinquent taxes is "acquired for infill housing" or "dedicated by the board of county commissioners," thereby avoiding the requirement that the county convey the subject property to the city in which it is located?

Broward County is proposing a policy to promote affordable housing through a program to build infill housing on property it has acquired for delinquent taxes. You state that the program relies upon the ability of the county to retain and use land acquired by the county through section 197.592, Florida Statutes.

Section 197.592, Florida Statutes, provides a procedure for the county to sell lands it has acquired for delinquent taxes. Initially the statute recognizes that lands acquired by a county for delinquent taxes that have not been sold previously or dedicated by the board of county commissioners may be conveyed to the record fee

Exhibit 6, cont.

simple owner of such lands as of the date the county obtained title to the lands.[1] As an alternative, subsection (3) of the statute provides:

"Lands acquired by any county of the state for delinquent taxes in accordance with law which have not been previously sold, *acquired for infill housing, or dedicated by the board of county commissioners*, which the board of county commissioners has determined are not to be conveyed to the record fee simple owner in accordance with the provisions of subsections (1) and (2), and which are located within the boundaries of an incorporated municipality of the county shall be conveyed to the governing board of the municipality in which the land is located. Such lands conveyed to the municipality shall be freely alienable to the municipality without regard to third parties. Liens of record held by the county on such parcels conveyed to a municipality shall not survive the conveyance of the property to the municipality." (e.s.)

The statute recognizes the options that a county has when it comes into possession of lands through delinquent taxes and does not appear to mandate that a county convey the property to an individual or a municipality if specified conditions are present. Nothing in the plain language of the statute, nor in the legislative history of the amendment adding the language relating to infill housing, requires the county to transfer title to the property to the municipality in which the property is located, if the property is acquired for infill housing or dedicated for a particular use by the board of county commissioners.[2]

Where the Legislature has prescribed the manner in which a county may handle property it obtains through delinquent taxes, that procedure should be followed.[3] If the county has acquired the property for infill housing or has otherwise dedicated the property to a use, there is no requirement that the property be conveyed to the record fee simple owner on the date the property was acquired or to the municipality in which the property is located.

The statute is silent as to the method by which a county may designate property for infill housing, yet it is clear that the statute requires the county to acquire the property for such purpose, if the county intends to take possession of the property and it is not previously sold or dedicated. You indicate that the policy proposed by the county would require county representatives to evaluate whether the subject property is suitable for residential housing and, if found so, the county would first offer the property to the municipality in which the property is located under the condition that the city use the property for affordable infill housing. While this would appear to fulfill the Legislature's intent to encourage the development of construction of affordable housing on infill property,[4] the statute's plain language does not

Exhibit 6, cont.

contemplate that a county may impose conditions on the conveyance of the property to the municipality in which the property is located, nor would such a policy satisfy the condition that the county must meet in order to avoid conveying the property to the municipality, *i.e.*, the municipality may not be coerced into using the conveyed property for infill housing where the statute does not impose such a condition. The statute does not limit the purposes for which a municipality may use property acquired through the procedures in section 197.592, Florida Statutes, and it is beyond the authority of this office to add words of limitation to the statute.[5] This does not mean, however, that the county and city could not enter into an arms-length agreement or joint partnership to provide infill housing, or for that matter, any other purpose for which the county might dedicate the property.

Accordingly, the county's adoption of a policy that property acquired by the county through delinquent taxes be used for infill housing would appear to fulfill the requirements of section 197.592, Florida Statutes, should the county undertake such development. However, the county may not condition conveyance of property to a municipality under section 197.592 in order to fulfill the statute's requirement that the county acquire the property for infill housing.

Sincerely,

Charlie Crist
Attorney General

CC/tls

[1] Section 197.592(1), Fla. Stat., further states that the former owner of the lands may file a verified written application showing: the description of the lands; the name and address of the former owner; the date title was acquired by the county; the price of the lands as previously fixed by resolution of the board of county commissioners, if it has been done; the use of the lands by the fee simple owner at the time of the county's acquisition; the facts and circumstances justifying the owner's request for restitution of the property; and an offer to pay all taxes, including interest and costs as provided by law.

[2] See Senate Staff Analysis and Economic Impact Statement, SB 1534 (Ch. 99-190), April 4, 1999, stating that before the amendment, "[p]roperty not sold, dedicated by the county, or conveyed to the previous owner, if located in a municipality, must be conveyed to that municipality." Section 8 of the bill amended s. 197.592(3), Fla. Stat., to provide that property acquired by the county for delinquent taxes, when "acquired for infill housing, does not have to be conveyed to a municipality even if located in the

Exhibit 6, cont.

municipality." Discussions on the amendment indicated that the language relating to infill housing was added to allow parcels of land that are inadequate in size for construction of houses to be joined with abutting parcels for such development. See Florida Senate, Committee on Comprehensive Planning, Local and Military Affairs, SB 1534, Tape 1 of 2, March 23, 1999.

[3] See *Alsop v. Pierce*, 19 So. 2d 799, 805-806 (Fla. 1944) ("When the Legislature has prescribed the mode, that mode must be observed. When the controlling law directs how a thing shall be done that is, in effect, a prohibition against its being done in any other way."); *Thayer v. State*, 335 So. 2d 815, 817 (Fla. 1976).

[4] See Meeting of Senate Committee on Comprehensive Planning, Local and Military Affairs, SB 1534, Tape 1 of 2, March 23, 1999; Senate Floor Debate, SB 1534, Tape 9 of 10, April 28, 1999; Senate Floor Debate, SB 1534, Tape 2 of 14, April 29, 1999.

[5] See Ops. Att'y Gen. Fla. 91-32 (1991) and 82-80 (1982); and see, generally, *Chaffee v. Miami Transfer Company, Inc.*, 288 So. 2d 209 (Fla. 1974) (court in construing statute cannot invoke limitation or add words to statute not placed there by the Legislature).