

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 OCT 30 PM 6:11

APPROVED AS TO FORM AND LEGALITY:


DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. 12906 C. M. S.

An Ordinance Amending Ordinance No. 12726 C.M.S., Which Authorized The Sale Of City-Owned Properties To Toler Heights Estates LLC, To Authorize A Price Reduction For 9724 And 9745 Thermal Street From \$416,000 To Eighty-Five Percent Of The Sales Price Minus The First Mortgage To Allow The Completion Of Two Market-Rate Homes

WHEREAS, on March 14, 2000 with Ordinance No. 12214 C.M.S., the City Council authorized the negotiation and execution of a Disposition and Development Agreement (the "DDA") with Black Phoenix Development Group, later succeeded by Toler Heights Estates LLC (the "Developer"), for the development of four City-owned properties; and

WHEREAS, pursuant to the terms of the DDA, on July 1, 2005, the City transferred to the Developer two of the four properties, 9724 and 9745 Thermal Street (the "Thermal Lots"); and

WHEREAS, on February 21, 2006 with Ordinance No. 12726 C.M.S., the City Council authorized a second amendment to the DDA, which removed affordability restrictions, allowed for resales at market rates, and provided for the Developer to pay the City \$810,500 for the properties, including \$416,000 for the Thermal Lots; and

WHEREAS, the Developer executed a Promissory Note and Deed of Trust to the City of Oakland for \$416,000 for the already-transferred Thermal Lots; and

WHEREAS, the Developer has completed approximately 75% of the construction of two homes on the Thermal Lots; and

WHEREAS, the Developer is now unable to proceed with construction of those homes because of major decreases in property values; and

WHEREAS, it is in the best interest of the City to reduce the sales price of the Thermal lots to enable the Developer to complete construction of the two for-sale houses, provide housing for the community, and remove a blighting condition from the neighborhood; and

WHEREAS, the construction lender for the homes on the Thermal Lots, in recognition of reduced values and in order to restart the project, has reduced the amount it is due from approximately \$860,000 to \$400,000; and

WHEREAS, the City's loan must be reduced by at least a similar percentage to allow the project to restart; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 ("CEQA"), the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City hereby amends Ordinance No. 12726 C.M.S. to reduce the price of the Thermal Lots purchased by Developer.

SECTION 2. The Council hereby authorizes amendment of the terms of transfer to the Developer for the Thermal Lots to reduce the City's price to a cash amount equal to 85% of the sales price obtained by Developer, minus the balance due on the construction loan, for sale of the Thermal Lots and homes in their current condition.

SECTION 3. The City Administrator, or his designee, is authorized to negotiate and execute documents necessary to proceed with this amendment, to make any modifications or amendments thereto, and to take all actions necessary, consistent with this Ordinance, to complete the sale of the properties.

SECTION 6. Proceeds, to the extent possible, will be deposited as follows:

First, \$75,000 to the Community Development Block Grant (CDBG) program for past maintenance: CDBG Fund (2108); Housing and Community Development Organization (88919), Sale of Land Account (48111), Vacant Housing Program Project (G08850), Housing Development (SC14).

69% of any remaining proceeds to the General Fund: Real Estate Surplus Property Fund (1010), Real Estate Services Organization (88639), Sale of Land Account (48111), Surplus Property Disposition Project (P47010), Real Estate Program (PS32).

The remaining 31%, if available, will be split equally between the General Fund: Real Estate Surplus Property Fund (1010), Real Estate Services Organization (88639), Sale of Land Account (48111), Surplus Property Disposition Project (P47010), Real Estate Program (PS32), Real Estate Surplus Property Fund (1010), Real Estate Services Organization (88639), Sale of Land Account (48111), Surplus Property Disposition Project (P47010), Real Estate Program (PS32), and the Public Works Street and Sidewalk Maintenance Program: State Gas Tax Fund (2230), Right of Way Management Org (30243), Sale of Land Account (48111), Nonproject (000000), Streets and Sidewalks Management Project (IN04).

SECTION 7. The City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines that this action complies with CEQA because this action by the City is exempt from CEQA pursuant to sections 15303

(new construction or conversion of small structures) and 15312 (surplus government property sales) of the CEQA Guidelines.

SECTION 8. The City Administrator or his designee shall cause a Notice of Exemption and an Environmental Declaration (California Fish and Game Code Section 711.4) for this action to be filed with the County of Alameda.

SECTION 9. All documents shall be approved as to form and legality by the City Attorney's Office and a copy placed on file in the Office of the City Clerk.

SECTION 10. This Ordinance shall take effect immediately upon adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 9 2008, 2008

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT DE LA FUENTE - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:



LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Introduction Date: NOV 18 2008

DATE OF ATTESTATION:

12/4/09



NOTICE AND DIGEST

An Ordinance Amending Ordinance No. 12726 C.M.S., Which Authorized The Sale Of City-Owned Properties To Toler Heights Estates LLC, To Authorize A Price Reduction For 9724 And 9745 Thermal Street From \$416,000 To Eighty-Five Percent Of The Sales Price Minus The First Mortgage To Allow The Completion Of Two Market-Rate Homes

This ordinance authorizes a price reduction for two lots sold by the City. This will allow two partly-completed homes on the lots to be finished.