

**CITY OF OAKLAND  
AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2004 JAN 15 PM 6: 37

TO: Office of the City Manager  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: January 27, 2004

RE: **A RESOLUTION TERMINATING AND REALLOCATING FUNDING FOR THE OAKLAND CITY-WIDE COMMUNITY LAND TRUST PROGRAM ESTABLISHED BY RESOLUTION NO. 02-79 C.M.S.**

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**SUMMARY**

The purpose of this report is to request that the Redevelopment Agency suspend funding for the Oakland City-Wide Community Land Trust (OCCLT) due to the infeasibility of implementing the Community Land Trust (CLT) program under current funding conditions, and utilize the unspent funds of \$4,950,000 for other affordable housing development projects.

**FISCAL IMPACT**

As of December 17, 2003, \$50,000 of the original \$5 million authorized for the program by Agency Resolution 02-79 has been spent to cover costs incurred by the OCCLT board in hiring their consultant staff and issuing a request for proposals (RFP) for development projects. This funding is not recoverable. Discontinuing funding for OCCLT returns the remaining \$4,950,000 to the Agency to fund other affordable housing developments. Another loss, more difficult to quantify, is the substantial investment of time by staff and community members and especially OCCLT's volunteer board. However, since the CLT model is believed to be impractical in the current and foreseeable funding environment, this move is expected to curtail additional losses. Of the \$250,000 allocated for operating expenses (Entity: 5 Fund: 9583 Org.: 88929 Account: 58312 Project: T240210), approximately \$200,000 remains. An additional \$4,750,000 in funding, intended for project development, remains in the main Affordable Housing Bond Development project (Entity: 5 Fund: 9583 Org.: 88929 Account: 58312 Project: P151710).

**BACKGROUND**

In June 2001, the Redevelopment Agency allocated \$5 million from Affordable Housing Bond proceeds in its FY 2001-03 budget to fund a Community Land Trust program in Oakland. Staff prepared an Informational Report to present key issues and the basic structure of the proposed homeownership program in January 2002. Based on research conducted by staff and consultants, it was determined that the formation of a single City-wide CLT would better be able to maximize the limited operating funds available to an Oakland CLT and promote organizational efficiency. With this goal in mind, in October 2002 the Agency authorized a \$5

million funding allocation from the Affordable Housing Set-Aside Bond to fund OCCLT under Agency Resolution 02-79 C.M.S.

OCCLT's interim board members, selected by an independent panel in September 2002, immediately began a year-long period of intense effort to build the organizational capacity of the land trust. However, due to difficulties in the current fundraising environment and high cost of development, the OCCLT board has come to the conclusion that the program is infeasible as structured without substantial additional operating subsidies.

Subsequent discussion between City staff and board members of the OCCLT has not yielded any viable means of resolving the issues while still using local funds efficiently. The board has suspended operations as of early December 2003.

## **OCCLT PROGRAM DESCRIPTION AND ACCOMPLISHMENTS**

### Description of Intended OCCLT Program Funding and Anticipated Unit Production

With a maximum allowable subsidy of \$120,000 per unit, it was estimated that the \$5 million investment authorized by the Agency in October 2002 would support the production of forty homeownership units and provide a portion of the operating support required to operate OCCLT. The non-profit, community-based CLT would sell improvements (i.e. houses) and provide long-term ground leases to homeowners, retaining ownership of the underlying land. OCCLT would sell units to qualified homeowners earning between 60-80% of Area Median Income (AMI) at affordable prices, and control resales to subsequent buyers at similar income levels, with sellers receiving limited returns tied to increases in area income, rather than the housing market.

A preliminary economic analysis performed by the consultants indicates that a minimum of 100 units would be necessary before the CLT could be expected to be self-sustaining. Developers had expressed an interest in this program, tentatively suggesting proposals for developing up to 36 CLT units over an 18-month period. In order to produce 100 units, additional development subsidies would need to be identified. Other potential sources of development funds identified included the Federal Home Loan Bank's AHP program and homeownership funding in a state bond issue approved by voters in November 2002.

### Interim Board Responsibilities and Operating Support

From Fall 2002 until December 2003, the OCCLT board had a substantial work program. The board was responsible for organizing the CLT, selecting and supervising staff, developing a feasible business plan, arranging for financing and conducting fundraising, developing a vibrant membership base and development planning activities in the start-up phase of the organization, and transitioning after the first year to a CLT membership-elected board that would be able to continue to develop and manage units over time through an elected board structure.

The Agency authorized a portion of OCCLT funds to be spent on operating support. An upfront operating subsidy advance of up to \$50,000, matched 1:1 by other sources, was made available. City staff were available in an advisory role, and worked with the U.S. Department of Housing

and Urban Development to secure technical assistance for the board. It was anticipated that the organization would require start-up operating subsidies until it could become self-sufficient through ground lease fees, and other sources of revenue. The Agency therefore authorized an operating grant of up to \$5,000 per completed CLT unit (up to a maximum of \$200,000) to help fund operating costs during OCCLT's initial years of operation. Thus, the release of these funds was tied to the completion of units.

#### OCCLT Board Accomplishments

OCCLT's volunteer board deserves recognition for undertaking a tremendous amount of work in the last year, especially since they only were able to bring on paid consultants this summer, nearly one year after their selection. Board Members elected officers and held meetings twice a month from October 2002 to November 2003. Board committees included a Housing Committee, Governance Committee, and Fundraising Committee. An Institute for Community Economics consultant was hired with HUD matching funds to analyze homebuyer resale restriction formulas, and advise on a wide-range of CLT-related technical issues.

With this structure in place, the board amended its bylaws to better suit the needs of the organization, developed a fundraising plan and wrote numerous grant applications. Foundations approached for funding included Haas, East Bay Community Foundation, J.P Morgan Chase, and the San Francisco Foundation. Several board members are executive directors for their own organizations, and as known quantities in the foundation world were relatively well-positioned to lobby for funds for OCCLT. Board members also made numerous fundraising inquiries in writing and by phone to banks, corporations and other potential funding sources. To facilitate the fundraising process, the board also negotiated an agreement with a fiscal sponsor, and arranged for funds to be distributed through the sponsor to OCCLT pending approval of OCCLT's request for tax exemption.

During the Summer of 2003, the board contracted with Siefel Consulting, Inc. and Roger Clay to serve as staff to the board. OCCLT then commenced negotiations related to the Agency's operating support agreement and development funding loan. The board developed alternatives to the proposed loan structure, which were discussed with City staff. With the consultants' assistance, the board issued an RFP seeking development proposals in Summer 2003, held a developers' information session with interested developers in attendance, responded to several developer inquiries and met with several developers. The board and consultants reviewed the proposals submitted in response to the RFP, and selected EBALDC to develop a 17 unit project at Sausal Creek on 26<sup>th</sup> Avenue in the San Antonio district.

The board began to develop its operating budget, noted that there would be immense difficulties in reaching self-sufficiency, and studied other possible funding venues. Throughout the year, board members responded to citizen inquiries concerning the land trust, and in Fall 2003 they began to ramp up for more active membership outreach. OCCLT secured grants from Community Capital Investment Initiatives to hire a public relations person to market land trust membership and meetings to potential homebuyers and for administrative support.

Despite all of the OCCLT board's efforts and hard work over the past year, the current funding climate presents great difficulties for the organization. After requesting funds an amount totaling \$417,000 from various funders for operating costs, the board was awarded less than \$50,000. In December, rather than continue with the CLT's development and risk disappointing an expectant membership base, the Board and staff met with City staff to discuss the funding problems faced by the organization.

## **KEY ISSUES AND IMPACTS**

A series of interrelated and mutually compounding factors led to the board's decision to suspend operations this Fall. The board's decision was based on the short and long-term operating support issue. Other operational issues were considered solvable.

OCCLT board members have kept in mind that their primary mission is to create a sustainable program to provide affordable ownership units to households earning between 60-80% AMI, as well as an on-going resource for monitoring unit re-sales and ongoing support for CLT homeowners. They believe that OCCLT would have difficulty using its limited Agency funds to efficiently provide new homeownership opportunities.

### Short-term Funding Climate and Operating Deficit

Other issues proved to be more difficult to overcome. The environment for foundation funding, anticipated to serve as a major source of operating funds for the organization, was not favorable even last Fall. Since then, the situation has only grown worse, hampering efforts by the volunteer board of the OCCLT to secure funding. Ironically, after deciding to implement a single City-wide CLT rather than multiple neighborhood CLTs, at least one major foundation has indicated that it believes that only a region-wide CLT would provide for feasible organizational economies of scale. Some foundations approached for funding also had misgivings about OCCLT's goal of promoting permanent affordability tied to AMI, instead desiring to emphasize household wealth creation with a more generous re-sale formula.

In response to the RFP issued for development projects, OCCLT received only one complete application, from East Bay Asian Local Development Corporation (EBALDC) for Sausal Creek Homes, although other developers demonstrated possible interest in applying for funds at some future date, probably once a successful project was underway. EBALDC's proposal for Sausal Creek, with 17 units and a required subsidy of \$2.3 million, appears to be a viable project. However, with an estimated two year time frame to completion, OCCLT would not receive any additional operating funds for completing the project until 2006, during which time other operating fund sources will have been exhausted. The \$85,000 available to the land trust after Sausal Creek's completion in 2006 would not really help the organization as it incurs operating and outreach costs for the CLT program between now and 2006.

### Long-Term Sustainability Issues and Efficient Use of Limited Available Operating Support

The board has had impressive success in securing grants despite the generally poor fundraising environment for new non-profits. However, several major grant applications were not funded.

City staff had previously estimated that the organization's annual operating budget would be about \$100,000-\$150,000. By the time the annual operating agreement was signed, this estimate had increased to \$185,600, increasing with inflation and as more homes added to the CLT's portfolio. Therefore, OCCLT's board estimated operating expenses of nearly \$200,000 per year over the next five years, with a major gap between the organization's operating budget and any revenue the group can reasonably expect to secure.

Problems also go beyond the organization's short term financial solvency problems. Even if forty units are built with the allocated Agency funds by 2007, OCCLT would still be approximately sixty units shy of the number required for the CLT to be self-sustaining. If development costs were lower, reaching 100 units might be viable. However, it is nearly impossible to guarantee that OCCLT would be able to secure additional funding for development, either from the City, Agency or other investors. A major source of funds for homeownership is Proposition 46, which was approved by state voters in November 2002, and dedicates over \$400 million towards homeownership efforts. However, the bulk of the subsidies available take the form of downpayment assistance for individual homebuyers, which in Oakland is unlikely to close the gap between the cost of construction and the affordable sales price of a CLT unit. In addition, funds supporting the development of new homeownership units are only available to organizations with more than two years of experience, limiting OCCLT's ability to apply for current funding rounds, and possibly not before the funds run out entirely.

OCCLT volunteer board members and their consultants are to be applauded for their dedication and hard work over the last year to try to get this program off the ground, as well as their honesty in terms of the difficulties they've encountered, and commitment to ensuring the best use of City funds for homeownership, regardless of the form of organization utilized.

### **SUSTAINABLE OPPORTUNITIES**

Staff and community members believed that the CLT model held, and at some future date and funding environment may still hold, a great deal of promise for promoting permanently affordable homeownership. Attractive features of this model include a community-oriented non-profit that helps steward development projects, qualify buyers, monitor sales and re-sales and serve as a support mechanism for first-time homebuyers that would help ensure that properties would not go into default and lose their affordability restrictions.

Unfortunately, given the current program guidelines, the OCCLT board's estimate of operating costs and the current foundation and development funding environment, the program as it stands is untenable. Even in the best case if the program built 40 units over the next four years, OCCLT would still be approximately 60 units shy of self-sufficiency.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

No impacts on accessibility to persons with disabilities and/or senior citizens are anticipated as a result of this program change. The program funds will simply be reprogrammed into other projects that will have the same requirements for accessibility, and all newly developed homeownership units are available to qualified senior first-time homebuyers.

## **RECOMMENDATIONS AND RATIONALE**

Due to the infeasibility of implementing the Community Land Trust (CLT) program under current funding conditions, staff recommends that the Redevelopment Agency suspend funding for the Oakland City-Wide Community Land Trust (OCCLT), and utilize the unspent funds of \$4,950,000 for other affordable housing development projects.

Under current and foreseeable conditions, OCCLT would require massive operating subsidies of at least \$1 million over five years and development subsidies of about \$15 million in order to become self-sustaining, beyond the scope of funds reasonably available. Although OCCLT would provide the benefits of a community-driven organization and reduce the fairly significant need for City staff time to monitor sales and resales of affordable ownership units over time, this probably does not provide \$200,000 per year or more in benefits to homeowners, and the likely effect would be to reduce the number of ownership units the City can produce.

Staff therefore recommends returning \$4,950,000 back to fund other affordable housing projects—\$5 million minus the \$50,000 spent to date on OCCLT's operating support. In a separate staff report that provides affordable housing funding recommendations, staff recommends funding the Sausal Creek homeownership development. There may be an opportunity to resurrect the CLT model with modifications at some future date, possibly if more operating support comes available, or on regional level. OCCLT board decided to refrain from actively recruiting members until it could be fairly certain that it would not have to disappoint them a few years down the line if the organization became untenable. As a result, it has not spent any of the funds awarded for marketing units and doing outreach to homebuyers, and it will return these funds to Community Capital Investment Initiatives.

## **ALTERNATIVE RECOMMENDATIONS**

The alternative of providing full operating support to the organization would likely cost \$1 million over the next five years, or 20% of the total funds available to the program. In addition, this would leave funding for the development of only 33 units, putting the organization further behind in its goal of eventual self-sufficiency.

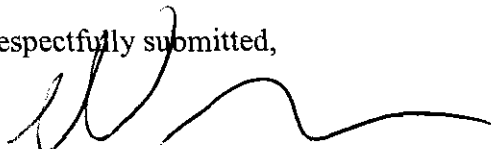
One alternative, undertaken in the city of Portland, Oregon, would be to provide a staff member on release time to OCCLT, reducing some of the costs to the organization of hiring consultants. However, the Portland efforts were commenced several years ago, while local government

coffers and staffing were relatively flush. Given recent staff layoffs and budget deficits, it is difficult to recommend this approach today, as this would require additional costs to the Agency.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the Redevelopment Agency suspend funding for the Oakland City-Wide Community Land Trust (OCCLT), and utilize the remaining funds of \$4,950,000 for other affordable housing development projects.

Respectfully submitted,



**DANIEL VANDERPRIEM**  
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APPROVED AND FORWARDED TO THE  
COMMUNITY & ECONOMIC DEVELOPMENT  
COMMITTEE:

  
OFFICE OF THE CITY MANAGER

OFFICE OF THE CITY CLERK  
APPROVED AS TO FORM AND LEGALITY:  
2004 JAN 15 2:23 PM  
Agency Counsel

## REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. \_\_\_\_\_ C.M.S.

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### A RESOLUTION TERMINATING AND REALLOCATING FUNDING FOR THE OAKLAND CITY-WIDE COMMUNITY LAND TRUST PROGRAM ESTABLISHED BY RESOLUTION NO. 02-79 C.M.S.

**WHEREAS**, on October 22, 2002, the Redevelopment Agency adopted Resolution No. 02-79 C.M.S. establishing the Oakland City-Wide Community Land Trust ("OCCLT") Program, and allocating \$5,000,000 from Affordable Housing Bond Proceeds to fund the program; and

**WHEREAS**, the program was intended to provide development loans in an amount of approximately \$4,750,000, not to exceed one-hundred twenty thousand dollars (\$120,000) per unit, disbursed to OCCLT and the homebuyer after homes are completed and ready to be purchased by qualified homebuyers; and

**WHEREAS**, it was estimated that these funds would support the development of approximately forty (40) community land trust homeownership units; and

**WHEREAS**, the Agency Administrator was authorized to provide a grant of up to five thousand dollars (\$5,000) per unit to OCCLT as units closed, up to \$200,000 in the aggregate, to support the start-up operating expenses of OCCLT until it became self-sufficient; and

**WHEREAS**, the Agency Administrator was authorized to provide an additional upfront grant to OCCLT in an amount not to exceed fifty thousand dollars (\$50,000) to provide seed money for start-up operating expenses, contingent on OCCLT's securing of a 1:1 funding match as seed money to assist the organization in its crucial initial year; and

**WHEREAS**, the Program has expended approximately fifty thousand dollars (\$50,000) in operating support funds, matched 1:1 by outside funds, under the Program; and

**WHEREAS**, OCCLT's volunteer board has, in cooperation with its consultant staff, realized that the program would require operating support and development funds of \$10,000,000 or more in excess of those committed by the Agency; and

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**WHEREAS**, there are few other sources available for these funds, particularly for the estimated \$200,000 annual operating costs; and

**WHEREAS**, the Agency and OCCLT board have a commitment to using Agency funds to promote affordable housing development in an efficient manner; now, therefore, be it

**RESOLVED:** That the Redevelopment Agency hereby rescinds Resolution No. 02-79 C.M.S. and terminates funding for the Oakland Community Land Trust Program and reallocates \$4,950,000 of unused program funds remaining in the program account to the 2000 Affordable Housing Set-Aside Bond Project Account (Fund 9583) for other affordable housing activities; and be it further

**RESOLVED:** That the Agency hereby appoints the Agency Administrator and his or her designee as agent of the Agency to take such actions as are necessary to carry out this Resolution and its basic purpose.

IN AGENCY, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2004

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND CHAIRPERSON DE LA FUENTE,

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

CEDA FLOYD  
Secretary of the Redevelopment Agency  
of the City of Oakland

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