

**POMPANO BEACH
COMMUNITY REDEVELOPMENT AGENCY**

Meeting Date: February 17, 2015

Agenda Item 1

REQUESTED CRA BOARD ACTION:

Resolution(s) Consideration Approval Other

SHORT TITLE OR MOTION: A RESOLUTION OF THE POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY, APPROVING AND AUTHORIZING THE PROPER OFFICIALS TO EXECUTE AN AGREEMENT BETWEEN THE POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY AND JOAN SHIVERS TO AMEND SPECIAL WARRANTY DEED RESTRICTIONS ON REAL PROPERTY LOCATED AT 2011 NW 6TH PLACE; PROVIDING AN EFFECTIVE DATE.

Summary of Purpose and Why:

In 2008 the CRA conveyed property located at 2011 NW 6th Place, Pompano Beach, to Joan and Woodrow Shiver. A Special Warranty Deed was recorded in the public records of Broward County November 5, 2008. Ms. Shiver has requested the CRA reduce the recoupment and recapture provisions in the Deed from 30 years to 10 years. Staff recommends approval.

QUESTIONS TO BE ANSWERED BY ORIGINATING DEPARTMENT:

- (1) Origin of request for this action: Chris Brown
- (2) Primary staff contact: _____ Ext. 7918
- (3) Expiration of contract, if applicable: _____
- (4) Fiscal impact and source of funding: _____

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	AUTHORIZED SIGNATURE OR ATTACHED MEMO NUMBER
CAO	<u>2/2/2015</u>		CAO Memo # 2015-533

CRA Executive Director
 Finance Director



ACTION PREVIOUSLY TAKEN BY CRA BOARD:

<u>Resolution</u> Results:	<u>Consideration</u> Results:	<u>Other:</u> Results:
_____	_____	_____
_____	_____	_____
_____	_____	_____



City Attorney's Communication #2015-533

February 2, 2015

TO: Margaret Gallagher, Community Redevelopment Agency
FROM: Gordon B. Linn, City Attorney
RE: Resolution – Agreement to Amend Special Warranty Deed Restrictions

As requested in your e-mail of January 29, 2015, the above-referenced Agreement has been prepared and is attached at this time along with the appropriate Resolution captioned as follows:

**A RESOLUTION OF THE POMPANO BEACH
COMMUNITY REDEVELOPMENT AGENCY,
APPROVING AND AUTHORIZING THE PROPER
OFFICIALS TO EXECUTE AN AGREEMENT BETWEEN
THE POMPANO BEACH COMMUNITY
REDEVELOPMENT AGENCY AND JOAN SHIVERS TO
AMEND SPECIAL WARRANTY DEED RESTRICTIONS
ON REAL PROPERTY LOCATED AT 2011 NW 6TH
PLACE; PROVIDING AN EFFECTIVE DATE.**

Please feel free to contact me if I may be of further assistance.



GORDON B. LINN

/jrm
l:cor/cra/2015-533

Attachments

RESOLUTION NO. _____

POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY

A RESOLUTION OF THE POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY, APPROVING AND AUTHORIZING THE PROPER OFFICIALS TO EXECUTE AN AGREEMENT BETWEEN THE POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY AND JOAN SHIVERS TO AMEND SPECIAL WARRANTY DEED RESTRICTIONS ON REAL PROPERTY LOCATED AT 2011 NW 6TH PLACE; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY:

SECTION 1. That an Agreement between the Pompano Beach Community Redevelopment Agency and Joan Shivers to Amend Special Warranty Deed Restrictions on real property located at 2011 NW 6th Place, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper officials are hereby authorized to execute said Agreement between the Pompano Beach Community Redevelopment Agency and Joan Shivers.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this ____ day of _____, 2014.

LAMAR FISHER, CHAIRPERSON

ATTEST:

MARGARET GALLAGHER, SECRETARY

THIS INSTRUMENT PREPARED BY:

Gordon B. Linn, City Attorney
P.O. Box 2083
Pompano Beach, Florida 33061

**AGREEMENT TO AMEND SPECIAL WARRANTY
DEED RESTRICTIONS**

WHEREAS, on November 5, 2008, via the Special Warranty Deed ("Deed") recorded in the Public Records of Broward County, Florida, in Official Records Book 45815, Page 193, the POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY ("CRA") conveyed to husband and wife, JOAN and WOODROW SHIVERS, the following described real property ("Property"):

Legal: Lot 104 of Pompano Springs Replat, according to the plat thereof as recorded in Plat Book 173, Pages 171 thru 175 of the Public Records of Broward County, Florida.

Address: 2011 NW 6th Place, Pompano Beach, FL 33069

Folio: 4842 34 35 1040

WHEREAS, to protect the CRA's land and cash contributions in the Property, the Deed contained certain recoupment and recapture provisions which provided that should Mortgage transfer, sell, convey or refinance the Property within 30 years of the subject conveyance, the CRA would be entitled to receive its capital contributions in the amount of Forty-Eight Thousand Dollars (\$48,000.00) in the Property; and

WHEREAS, Joan Shivers, survivor of Woodrow Shivers, has requested CRA to reduce the said recoupment and recapture provisions in the Deed from 30 years to 10 years; and.

WHEREAS, the CRA hereby agrees to amend the recoupment and recapture provisions contained in the Deed as requested; and

NOW, THEREFORE, in consideration of these presents, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the CRA and Joan Shivers do hereby agree to amend the Recoupment and Recapture of Land and Cash Contribution of CRA provision within the Deed as follows:

**RECOUPMENT AND RECAPTURE OF LAND AND CASH
CONTRIBUTIONS OF CRA**

CRA Land and Cash Contributions: Recapture Provisions. Inasmuch as it is the CRA's avowed intention that Ortanique Estates be developed and preserved as an affordable housing development and that no Homebuyer shall experience a financial windfall by virtue of the CRA's land and cash contributions to the

development ("CRA Contributions"), CRA requires that the CRA Contributions be recaptured from the proceeds of the subsequent resale of the residential dwellings in the event that such resale occurs within a period of ~~Thirty (30)~~ Ten (10) years immediately following the date that the residential dwelling is first acquired by the Pompano Beach CRA. To accomplish this goal, the CRA mandates the initial deeds of conveyance contain the following deed restrictions and recapture provisions. Said deed restrictions and recapture provisions are hereby made subordinate to the first mortgage in favor of Taylor, Bean & Whitaker Mortgage in the amount of \$217,668.00, which mortgage has been recorded simultaneously with this deed.

The Grantee agrees, as evidenced by the Grantee's acceptance of this conveyance, that the Property described herein and all improvements now and hereafter thereon ("Property") shall be subject to the following covenants and restrictions which shall run with the land for a period of ~~Thirty (30)~~ Ten (10) years effective and commencing upon the date of this Special Warranty Deed.

1. CRA Contributions. Concurrent with the transfer, refinance, sale or conveyance (voluntary and/or involuntary) of the property described in this Special Warranty Deed, the CRA Contribution of Forty-eight Thousand (\$48,000.00) dollars shall be paid to the CRA from the proceeds of such transfer, also of conveyance ("Recapture Amount") that would otherwise be payable to Grantee.

Each Owner acquiring any interest in any portion of the Property agrees through acceptance of such conveyance, that the Property shall be subject to the following covenants and restrictions, which covenants and restrictions shall be covenants running with the land for a period of ~~thirty (30)~~ Ten (10) years effective and commencing upon the date of the recording of the Declaration of Covenants and restrictions.

Upon transfer, sale, conveyance, or refinance of the Property, the Owner of Lot 104 shall pay to the City of Pompano Beach a Recapture Amount consisting of:

(A) For a period of up to ~~30~~ 10 years, \$48,000.00 the value of the land as determined at time of purchase and stated in the sales contract.

(B) (i) During year 0-7, the full difference between the original , actual purchase price (*including the value of the land*) and the resale price of the property, less the owner's down payment and any mortgage reduction that may have occurred through payment.

The conditions set forth in subsection A & B may be waived by the CITY upon certain limited conditions requiring a sale, transfer or conveyance of the Property within the first ~~thirty (30)~~ Ten (10) years of this Declaration. Such conditions include the filing of a foreclosure action by a tender with a superior interest to the CITY, death of the Owner of the Property or transfer of employment to a location outside of Broward County. If the CITY approves a request for waiver, the Property shall be sold, transferred or conveyed subject to the conditions set forth in Section (A). However, the Recapture Amount in Section (B) shall be reduced at a rate of one percent (1%) for each year that has elapsed from the effective date of this Declaration and the date of the sale, transfer or conveyance.

2 Death of Grantee. Grantee's death (or the death of all Grantees if more than one), the development and/or devise of the Property by Last Will and Testament of one or more "beneficiaries" or "heirs" as those terms are defined in Chapters 731.201(2) and (18) F.S., respectively, or in accordance with Article X, Section 4(b) of the Florida Constitution, shall not be construed as a transfer, sale or conveyance that would trigger payment of the Recapture Amount to the CRA provided, however, that the Property shall transfer to the heir(s)/beneficiary(ies) subject to the recapture provisions hereinabove enumerated and these recapture restrictions shall remain operative as if the death of the Grantee had not occurred.

(a) Unless released by the CRA as to the CRA Contributions only, or unless the Property is sold, transferred or conveyed and the CRA Contributions are paid in the manner herein provided, the restrictions, covenants, rights, and privileges granted, made, and conveyed herein shall run with the land for a period of ~~Thirty (30)~~ Ten (10) years and binding on all persons and entities acquiring title to or use of the Property or any portion thereof and all persons and entities claiming under them, until that date which occurs ~~Thirty (30)~~ Ten (10) years following the date of this Special Warranty Deed ("Termination Date").

3 Prohibited Transfer. If CRA receives a notice of sale, transfer or conveyance of the Property determined by CRA to be in violation of this Special Warranty Deed, the CRA shall give written "Notice of Prohibited Transfer" to the Grantee, specifying the nature of the violation. If the violation is not corrected to the CRA's satisfaction within fourteen (14) calendar days after the date of the "Notice of Prohibited Transfer" or within such further time as CRA determines is necessary to correct the violation, the CRA may declare a default and apply to a court of competent jurisdiction for such relief as may be appropriate.

4. Beneficiary. When using herein the term "CRA" should mean Pompano Beach Community Redevelopment Agency its successors and assigns. The term "Grantee" shall mean the person or persons or legal entity or entities acquiring interest of record to the Property or any portion of the Property. Wherever used herein the terms "Grantee" and "CRA" shall include their heirs, personal representatives, successors, agents and assigns.

(a) The CRA is the beneficiary of the covenants and restrictions set forth in the Declaration as such the CRA may enforce the covenants and restrictions noted within this deed by action of law or in equity, including without limitation, a decree of specific performance or mandatory or prohibitory injunction, against any person or persons, entity or entities, violating or attempting to violate the terms of such covenants and restrictions.

IN WITNESS WHEREOF, the CRA executes this instrument on the day and year first above written.

Signed, Sealed and Witnessed
In the Presence of:

**POMPANO BEACH COMMUNITY
REDEVELOPMENT AGENCY**

Print Name: _____

By: _____
Lamar Fisher, Chairman

Print Name: _____

ATTEST:

Margaret Gallagher, Secretary

EXECUTIVE DIRECTOR:
Redevelopment Management Associates, LLC
a Florida limited liability company

Print Name: _____

By: MetroStrategies, Inc., a Florida corporation
a managing member

By: _____
Kim Briesemeister, President

Print Name: _____

and
By: _____
Christopher J. Brown
a managing member

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2015 by LAMAR FISHER as Chairman of the Pompano Beach Community Redevelopment Agency, who is personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2015 by MARGARET GALLAGHER, Secretary of the Pompano Beach Community Redevelopment Agency, who is personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Kim Briesemeister, President of MetroStrategies, Inc., as Managing Member of Redevelopment Management Associates, LLC on behalf of the limited liability company. She is personally known to me or who has produced _____ (type of identification) as identification.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Christopher J. Brown, as Managing Member of Redevelopment Management Associates, LLC, on behalf of the limited liability company. He is personally known to me or who has produced _____ (type of identification) as identification.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

Witnesses:

Adrian Ertz

[Signature]

Joan Shivers

JOAN SHIVERS

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 3rd day of February, 2015, by JOAN SHIVERS, who is personally known to me or who has produced N/A (type of identification) as identification.

NOTARY'S SEAL:

[Signature]

NOTARY PUBLIC, STATE OF FLORIDA

MARION GALLOP

(Name of Acknowledger Typed, Printed or Stamped)

FF 06 5528

Commission Number