



# County of El Dorado

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## Legislation Details (With Text)

**File #:** 12-0045      **Version:** 5

**Type:** Agenda Item      **Status:** Approved

**File created:** 12/29/2011      **In control:** Board of Supervisors

**On agenda:** 3/20/2012      **Final action:** 3/20/2012

**Title:** Supervisor Santiago requesting the Board consider the following regarding the 40-unit affordable workforce rental housing project known as Sunset Lane Apartments, proposed by Mercy Housing California 55, a California Limited Partnership, division of Mercy Housing California:

1) Authorize the Director of the Health and Human Services Agency, or successor, to execute the Loan Agreements, Development Agreements, Promissory Notes, Regulatory Agreements, Deeds of Trust With Assignment of Rents, Subordination Agreements, escrow instructions and all other documents necessary to issue the loan to, service the loan for, and collect loan repayments from Mercy Housing California 55, subject to execution of the Repayment Guaranty by Mercy Housing Inc. as a condition precedent to the execution of the loan documents, for the development of the Sunset Lane Apartments in Shingle Springs, California up to \$483,000 from Community Development Block Grant Loan 10-STBG-6711 and up to \$3,000,000 from Home Investment Partnership Grant Loan 11-HOME-6952, pending County Counsel and Risk Management approval; and

2) Authorize the Auditor-Controller's Office to process check requests and the Treasurer-Tax Collector to process wire transfers, if needed, to disburse funds which will be offset by corresponding amounts from the above loan grants. (Refer 3/6/12, Item 20) (Est. Time: 15 Min.)

**FUNDING:** Community Development Block Grant and Home Investment Partnership Grant Loan.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 5A - Blue Route HOME and CDBG.pdf, 2. 5B - CDBG Deed of Trust.pdf, 3. 5C - HOME Development Agreement.pdf, 4. 5D - HOME Promissory Note.pdf, 5. 5E - HOME Deed of Trust.pdf, 6. 5F - HOME Regulatory Agreement.pdf, 7. 5G - Repayment Guaranty - Blue Route.pdf, 8. 5H - Repayment Guaranty (1).pdf, 9. 5I - 12-0045 - Update from CAO, 10. 4A - Staff Report, 11. 4B - Blue Route, 12. 4C - CDBG Loan Agreement, 13. 4D - Promissory Note, 14. 4E - CDBG Deed of Trust, 15. 4F - CDBG Regulatory Agreement, 16. 4G - Mercy Housing Guarantee 03-01-12.pdf, 17. 4H - 12-0045 - Repayment Guaranty (1).pdf, 18. 3A - CDBG Blue Route.pdf, 19. 3B - CDBG Loan Agreement.pdf, 20. 3C - CDBG Promissory Note.pdf, 21. 3D - CDBG Deed of Trust.pdf, 22. 3E - CDBG Regulatory Agreement.pdf, 23. 3F - HOME Blue Route.pdf, 24. 3G - HOME Development Agreement.pdf, 25. 3H - HOME Promissory Note.pdf, 26. 3I - HOME Regulatory Agreement.pdf, 27. 3J - HOME Deed of Trust.pdf, 28. 3K - Mercy Awards.pdf, 29. 3L - Mercy Funding - Lien Positions.pdf, 30. 2A-Mercy Awards.pdf, 31. 2B - Requesting Continuance 21 and 22.pdf, 32. A - Blue Route.pdf, 33. B - CDBG Loan Agreement.pdf, 34. C - CDBG Promissory Note.pdf, 35. D - CDBG Deed of Trust.pdf, 36. E - CDBG Regulatory Agreement.pdf, 37. F - HOME Development Agreement.pdf, 38. G - HOME Promissory Note.pdf, 39. H - HOME Deed of Trust.pdf, 40. I - HOME Regulatory Agreement.pdf, 41. J - Email rcvd from J.W. Conroy.pdf

Date	Ver.	Action By	Action	Result
3/20/2012	5	Board of Supervisors	Approved	Pass
3/6/2012	4	Board of Supervisors	Failed	Fail
2/7/2012	3	Board of Supervisors	Continued	Pass
1/24/2012	2	Board of Supervisors	Continued	Pass

Supervisor Santiago requesting the Board consider the following regarding the 40-unit affordable workforce rental housing project known as Sunset Lane Apartments, proposed by Mercy Housing California 55, a California Limited Partnership, division of Mercy Housing California:

- 1) Authorize the Director of the Health and Human Services Agency, or successor, to execute the Loan Agreements, Development Agreements, Promissory Notes, Regulatory Agreements, Deeds of Trust With Assignment of Rents, Subordination Agreements, escrow instructions and all other documents necessary to issue the loan to, service the loan for, and collect loan repayments from Mercy Housing California 55, subject to execution of the Repayment Guaranty by Mercy Housing Inc. as a condition precedent to the execution of the loan documents, for the development of the Sunset Lane Apartments in Shingle Springs, California up to \$483,000 from Community Development Block Grant Loan 10-STBG-6711 and up to \$3,000,000 from Home Investment Partnership Grant Loan 11-HOME-6952, pending County Counsel and Risk Management approval; and
- 2) Authorize the Auditor-Controller's Office to process check requests and the Treasurer-Tax Collector to process wire transfers, if needed, to disburse funds which will be offset by corresponding amounts from the above loan grants. (Refer 3/6/12, Item 20) (Est. Time: 15 Min.)

**FUNDING:** Community Development Block Grant and Home Investment Partnership Grant Loan.

**Fiscal Impact/Change to Net County Cost:** Funds for grant general administration and activity delivery are provided under the loan agreements. There is no match requirement associated with the award of funds under Home Investment Partnership (HOME) Standard Agreement. The required match under the Community Development Block Grant (CDBG) Public Improvements in Support of Affordable Housing New Construction (PIHNC) Standard Agreement is \$4,500 and will be met through General Fund Housing Element Implementation funds already budgeted for that purpose.

**Background:** On March 6, 2012, the Health and Human Services Agency (HHSA) brought this item before the Board to provide additional information and request direction from the Board. A motion was made by Supervisor Knight, seconded by Supervisor Briggs to approve the CalHFA HELP (Legistar 12-0037, Agenda Item 19), HOME and CDBG loans subject to the final review and approval of all loan documents and Mercy Housing, Inc.'s Repayment Guaranty. The motion failed with two "Yes" and two "No" votes. Supervisor Santiago was not in attendance at the March 6, 2012 Board meeting. Because no action was taken by the Board, this is not a question of reconsideration. Any Board member has the right under Board policy to place the matter on the agenda. Supervisor Santiago requested this agenda item return to the Board on March 20, 2012, for consideration of the loan approvals.

Previously, on February 7, 2012, HHSA, Community Services Division, brought this item before the Board for consideration of the California Housing Finance Authority Loan Agreement (CalHFA), HOME and CDBG loan documents. At the Board meeting, a motion was made by Supervisor Sweeney, seconded by Supervisor Santiago, to continue this matter off calendar to provide additional time for an ad-hoc sub-committee including Supervisor Sweeney, Supervisor Knight, and staff to obtain additional documents and assurances necessary to minimize the financial risk to the County's General Fund.

On February 13, 2012, the ad-hoc sub-committee met with representatives of Mercy Housing California (Mercy), and participated in a conference call with representatives from the Sunset Lane Apartments' other funding sources and Mercy representatives located out of the area. During the meeting, there was significant discussion regarding the financing of the development, the financial

risks to the County and the assurances that would be necessary to minimize those risks to the County's General Fund. Subsequent to the meeting, the loan documents were revised to address County concerns. A copy of the "as-built" appraisal was again requested to assist the County with the underwriting process in determining the loan-to-value ratios. The appraisal does not reflect sufficient value in the as-built project to adequately secure the County's cumulative loans.

Therefore, on February 25, 2012, Mercy provided to the County a draft Repayment Guaranty, in which Mercy Housing, Inc., the national parent organization for Mercy Housing California, will guaranty the loans. Under the terms of the Repayment Guaranty, in the event Mercy Housing California 55 (the developer) does not meet the requirements of the loan documents, and therefore an event of default would occur requiring the County to repay the loans to the State, Mercy Housing Inc. would instead repay those loans. The Repayment Guaranty will include the CalHFA, HOME and CDBG loans.

The Sunset Lane Apartments development is to be funded through a variety of private and public loans and private investments. The primary construction and permanent financing loans are to be provided by Citibank and would be in first lien position (approximately \$5,645,091 during construction and \$542,200 in permanent financing). Loans administered by the County and the Public Housing Authority fall into the following lien position order: CalHFA HELP - \$1,400,000 (construction phase only); HOME - \$3,000,000; MHSA - \$540,800; CDBG - \$483,000; and TIM Fee Offset - \$1,060,000. Investor contribution to the project does not hold a lien position.

Additional information regarding the structure of the financing and information obtained subsequent to the February 13, 2012 meeting is attached.

**Reason for Recommendation:** The Repayment Guaranty to be executed by Mercy Housing Inc. minimizes the financial risk to the County General Fund. Supporting affordable housing assists the County in meeting General Plan 2008 Housing Element Goals. The following Housing Element goal and policies are relevant to the Sunset Lane Apartments project:

Goal HO-1: To provide for housing that meets the needs of existing and future residents in all income categories.

Policy HO-1.6: The County will encourage new or substantially rehabilitated discretionary residential developments to provide for housing that is affordable to low very low, and moderate income households.

Policy HO-1.10: The County shall apply for funds from the State and federal government such as the Community Development Block Grant (CDBG), Home Investment Partnerships Program, and AB 2034 programs, and explore additional ways such funds may be used countywide to support construction of affordable housing.

Policy HO-1.12: To the extent feasible, extremely low, very low, low, and moderate income housing produced through government subsidies, incentives, and/or regulatory programs shall be distributed throughout the county and shall not be concentrated in a particular area or community.

Policy HO-1.18: The County shall develop incentive programs and partnerships to encourage private development of affordable housing.

Policy HO-1.26: The County shall ensure that public services and facilities are provided to affordable housing projects at the same level as to market-rate housing. Incentives and/or subsidies shall be considered to support the production of housing for very low, low and moderate income households.

The County has supported the development of affordable housing projects through State and federal funding applications since 1998, initially through a HOME Investment Partnerships grant award approved for submittal on October 27, 1998, by Board of Supervisors Resolution #265-98. The grant award was applied for on behalf of Mercy for the Diamond Sunrise II affordable housing project. Through subsequent HOME grant awards and CalHFA loans, the County has continued to support the development of affordable housing in the unincorporated areas of El Dorado County. Diamond Sunrise II, completed in 2002, is located in Diamond Springs and provides 16 units of affordable senior housing. The White Rock Village Apartments project, located in El Dorado Hills, completed in 2005, provides 168 units of affordable workforce housing. The Sunset Lane Apartments project will provide 39 units of affordable housing (and one resident manager unit). All projects provide for a 55-year period of affordability.

**Action to be taken following Board approval:** Should the Board approve this item and upon County Counsel and Risk Management approval, the Director of the Health and Human Services Agency, or successor, to execute Loan Agreements, Promissory Notes, Regulatory Agreements, Deeds of Trust With Assignment of Rents, Subordination Agreements, escrow instructions and all other documents necessary to issue the loan to, service the loan for, and collect loan repayments from Mercy Housing California 55 for the development of the Sunset Lane Apartments, subject to execution of the Repayment Guaranty by Mercy Housing Inc. as a condition precedent to the execution of the loan documents. Auditor-Controller's office to process check requests and the Treasurer-Tax Collector to process wire transfers, if needed, for the disbursement of funds.

Concurrences: County Counsel and Risk Management review and approval is pending.