

HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY

10400 Detrick Avenue
Kensington, Maryland 20895
(240) 627-9425

Minutes

November 3, 2021

21-10

The monthly meeting of the Housing Opportunities Commission of Montgomery County was conducted via an online platform and teleconference on Wednesday, November 3, 2021, with moderator functions occurring at 10400 Detrick Avenue, Kensington, Maryland beginning at 4:02 p.m. Those in attendance were:

Present via Teleconference

Roy Priest, Chair
Frances Kelleher, Vice Chair
Richard Y. Nelson, Jr., Chair Pro Tem
Pamela Byrd
Jeffrey Merkwowitz
Jackie Simon

Absent

Linda Croom

Also Attending via Teleconference

Kayrine Brown, Acting Executive Director
Cornelia Kent
Timothy Goetzinger
Gail Willison
Marcus Ervin
Ian-Terrell Hawkins
Bonnie Hodge
Jay Shepherd
Zachary Marks
Nathan Bovelie

Aisha Memon, General Counsel
Terri Fowler
Fred Swan
Christina Autin
Gio Kaviladze
Darcel Cox
Lynn Hayes
Jennifer Arrington
Eugenia Pascual
Claire Kim

Guest

Mandy Merchant, CliftonLarsonAllen, LLC
Karen Greiner, CliftonLarsonAllen, LLC

IT Support

Aries Cruz
Commission Support
Patrice Birdsong, Spec. Asst. to the Commission

Chair Priest opened the meeting welcoming all to the monthly meeting. There was a roll call of Commissioners participating. Commissioner Croom was necessarily absent.

I. **Information Exchange**
Community Forum

- There were no participants signed up for the Community Forum.

Executive Director's Report

- Kayrine Brown, Acting Executive Director, provided a verbal overview of the written report and addressed Commissioners' questions as she presented.

Commissioner Exchange

- Chair Priest announced that there is training available through NAHRO for Commissioners if interested.

- II. **Approval of Minutes** - The minutes were approved as submitted with a motion by Commissioner Byrd and seconded by Chair Pro Tem Nelson. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Merkowitz, and Simon. Commissioner Croom was necessarily absent and did not participate in the vote.

- A. **Approval of Minutes of October 6, 2021**
- B. **Approval of Minutes of October 6, 2021 Closed Session**
- C. **Approval of Minutes of October 25, 2021 Special Session**
- D. **Approval of Minutes of October 25, 2021 Closed Special Session**

There was an adjustment to the agenda to allow for representatives of the Audit Firm, CliftonLarsonAllen to present the Audit.

III. **ITEMS REQUIRING DELIBERATION AND/OR ACTION**

- A. **Audit:** Acceptance of HOC Fiscal Year 2021 Audit Financial Statements, Single Audit Report, and Management Letter

Mandy Merchant and Karen Greiner of CliftonLarsonAllen, LLC, were the presenters.

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Vice Chair Kelleher. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Merkowitz, and Simon. Commissioner Croom was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-110

**RE: Acceptance of HOC FY'21 Audited
Financial Statements Single Audit Report, and
Management Letter**

WHEREAS, the independent auditors, CliftonLarsonAllen LLP, presented their report for FY'21, which included the FY'21 Audited Financial Statements, Single Audit Report, and Management Letter, to the Housing Opportunities Commission of Montgomery County (the "Commission"); and

WHEREAS, at a meeting held on November 3, 2021, the Commission reviewed the FY'21 Audited Financial Statements, Single Audit Report, and Management Letter.

NOW, THEREFORE, BE IT RESOLVED that the Housing Opportunities Commission of Montgomery County accepts the FY'21 Audited Financial Statements, Single Audit Report, and Management Letter prepared by CliftonLarsonAllen LLP.

IV. COMMITTEE REPORTS and RECOMMENDATIONS FOR ACTION

A. Budget, Finance and Audit Committee – Com. Nelson, Chair

1. Calendar Year 2022 Portfolio Budget: Approval of the Calendar Year 2022 Portfolio Budgets

Cornelia Kent, Chief Financial Officer, introduced Olutomi Adebo, Assistant Budget Officer, who was the presenter.

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Vice Chair Kelleher. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Simon, and Merkowitz. Commissioner Croom was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-102
Portfolio Budget

RE: Approval of the Calendar Year 2022

WHEREAS, the Housing Opportunities Commission of Montgomery County (“HOC”) is the general partner/ultimate managing member of the following entities: (1) Alexander House Apartments Limited Partnership (Alexander House); (2) Arcola Towers RAD Limited Partnership (Arcola Towers); (3) Bauer Park Apartments, LLC; (4) Forest Oak Towers Limited Partnership; (5) HOC at Georgian Court, LLC; (6) Greenhills Apartments Limited Partnership; (7) 4913 Hampden Lane Limited Partnership (Lasko Manor); (8) HOC at Willow Manor, LLC (Manor at Cloppers Mills, Manor at Colesville and Manor at Colesville); (9) HOC at Shady Grove, LLC; (10) Spring Garden One Associates Limited Partnership (Spring Garden); (11) HOC at Stewartown Homes, LLC; (12) Tanglewood and Sligo LP (Tanglewood/Sligo); (13) 900 Thayer Limited Partnership (Fenton Silver Spring); (14) HOC at The Upton II, LLC; (15) Waverly House RAD Limited Partnership (Waverly House); (16) Wheaton Metro Limited Partnership (MetroPointe) (together, the “LP and LLC Entities”); and

WHEREAS, HOC is the managing member of CCL Multifamily LLC (“CCL”), the owner of The Lindley; and

WHEREAS, as the general partner/ultimate managing member of the LP and LLC Entities and managing member of CCL, HOC manages the businesses and is liable for the debts; and

WHEREAS, the limited partners/non-managing members in LP and LLC Entities have contributed money and share in profits, but take no part in running the businesses and incur no liability with respect to the LP and LLC Entities beyond their contributions; and

WHEREAS, since HOC has a financial obligation to cover the debts of the LP and LLC Entities and CCL, HOC has an interest in the successful performance of LP and LLC Entities and CCL and, as such, should review their performances and approve their budgets; and

WHEREAS, the Budget, Finance and Audit Committee informally reviewed the CY'22 Budgets of the LP and LLC Entities at the October 12, 2021 meeting; and

WHEREAS, the Budget, Finance and Audit Committee also informally reviewed the CY'22 Budget of CCL, which is also operated on a Calendar Year basis, at the October 12, 2021 meeting.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of each of the LP and LLC Entities, as each entities' general partner/ultimate managing member, as appropriate, that it hereby approves the CY'22 Operating Budgets for the LP and LLC Entities, as shown on the attached Exhibit A.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of CCL Multifamily LLC, as its managing member, that it hereby approves the CY'22 Operating Budget for CCL, as shown on the attached Exhibit A.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that the Acting Executive Director, or her designee, is hereby authorized and directed, without any further action on its part, to take any and all other actions necessary and proper to carry out the actions contemplated herein.

2. Fiscal Year 2023 First County Operating Budget: Authorization to Submit the County FY'23 Maximum Agency Request Ceiling ("MARC")

Olutomi Adebo, Assistant Budget Officer, was the presenter.

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Commissioner Byrd. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Merkwowitz, and Simon. Commissioner Croom was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-103

RE: Authorization to Submit the County FY'23 Maximum Agency Request Ceiling ("MARC")

WHEREAS, the Housing Opportunities Commission of Montgomery County ("HOC") wishes to submit a request for County funds for FY'23; and

WHEREAS, the County has instructed HOC to submit a Maximum Agency Request Ceiling ("MARC") for FY' 23 in an amount not to exceed \$6,895,693, which is based on the FY'22 approved MARC of \$6,895,693 that does not include the estimate for projected FY'23 increases to compensation, health and retirement benefits.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that it hereby approves submitting a MARC to the County for FY'23 in the amount of \$6,895,693.

3. Calendar Year 2021 HOC at Stewartown Homes LLC Budget: Approval of the Calendar Year 2021 Budget Amendment for HOC at Stewartown Homes LLC

Olutomi Adebo, Assistant Budget Officer, was the presenter.

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Vice Chair Kelleher. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Merkwitz, and Simon. Commissioner Croom was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-104

**Re: Approval of the Calendar Year 2021
Budget Amendment for HOC at Stewartown
Homes LLC**

WHEREAS, the Housing Opportunities Commission of Montgomery County (“HOC”) refinanced Stewartown Homes (the “Property”) using, among other financing sources, Low Income Housing Tax Credit (“LIHTC”) equity on June 30, 2021; and

WHEREAS, the Property is owned by HOC at Stewartown Homes, LLC (“Owner”), and HOC is the sole member of HOC MM Stewartown Homes, LLC (“Managing Member”), the Owner’s managing member; and

WHEREAS, HOC’s budget policy requires a budget be prepared and adopted for Owner;
And

WHEREAS, a CY’21 Budget Amendment for Owner was prepared and approved by the Commission on November 3, 2021; and

WHEREAS, the CY’21 Budget Amendment for Owner will incorporate a budget for the period of July 1 2021 through December 31 2021.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County, acting on behalf of itself and on behalf of Managing Member, acting on behalf of itself and on behalf of Owner, hereby approves the CY’21 Budget Amendment for Owner.

B. Development and Finance Committee – Com. Simon, Chair

- 1. Garnkirk Apartments:** Approval of a Predevelopment Budget and Funding of Predevelopment Expenditures for Garnkirk Apartments; Approval to Draw on the PNC Bank, N.A. Real Estate Line of Credit to Fund the Predevelopment Expenditure

Marcus Ervin, Director of Real Estate, was the presenter.

The following resolution was adopted upon a motion by Commissioner Simon and seconded by Vice Chair Kelleher. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Merkwitz, and Simon. Commissioner Croom was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-105A

**RE: Approval of a Predevelopment Budget
and Funding of Predevelopment Expenditures for
Garnkirk Apartments; Approval to Draw on the PNC
Bank, N.A. Real Estate Line of Credit to Fund the
Predevelopment Expenditures**

WHEREAS, the Housing Opportunities Commission of Montgomery County (the “Commission” or “HOC”), a public body corporate and politic duly created, organized and existing under the laws of the state of Maryland, is authorized pursuant to the Housing Authorities Law, organized under Division II of the Housing and Community Development Article of the Annotated Code of Maryland, to carry out and effectuate the purpose of providing affordable housing; and

WHEREAS, the Duffie Companies (“Duffie”), is the owner of a parcel located at Shawnee Lane and Observation Drive in Clarksburg, which is fully entitled for a 184-unit, wood frame apartment community wrapped around a 254-unit structured parking deck (“Garnkirk Farms Apartments” or the “Property”); and

WHEREAS, on December 4, 2020, Duffie submitted to HOC an unsolicited offer providing HOC the opportunity to acquire Garnkirk Farms Apartments via ground lease (“Ground Lease”); and

WHEREAS, on September 17, 2021, HOC (as the sole member of HOC at Garnkirk Farm, LLC) closed on the Ground Lease, which included as part of the consideration a right of first offer by Duffie or its affiliates to perform development and/or construction management services for Garnkirk Farms Apartments, provided the parties are able to negotiate mutually agreeable terms for such services; and

WHEREAS, at closing, Duffie assigned to HOC all of its existing design and development work product, and HOC is required to reimburse Duffie for the same at the earlier of closing on the first construction loan or January 1, 2023; and

WHEREAS, the Ground Lease allows HOC to defer rent payments until the earlier of the closing on the first lien construction loan or January 1, 2023; and

WHEREAS, the Commission desires to approve an initial predevelopment budget (“Predevelopment Budget”) and funding (“Predevelopment Funding”) in the amount of \$5,344,731 to cover the predevelopment expenditures related to development of the Property that include the costs related to finalizing the building design, paying for building permits, professional/legal fees, and payment of deferred ground lease payments prior to construction, which will be repaid at the closing of the construction financing anticipated to occur around May of 2023;

WHEREAS, the Commission may make taxable draws on the PNC Bank, N.A. Real Estate Line of Credit (the “\$150MM LOC”) with interest payable at the contract rate for the line of credit facility and outstanding interest to be paid from the General Fund and reimbursed at the closing of the construction financing; and

WHEREAS, the Commission currently intends and reasonably expects to participate in tax-exempt borrowings to finance such capital expenditures for the redevelopment of the Property in an amount not to exceed \$100,000,000, *all or a portion of which may reimburse* the Commission for the portion of such capital expenditures incurred or to be incurred subsequent to the date, which is 60 days prior to the date hereof, but before such borrowing, and the proceeds of such tax-exempt borrowing will be allocated to reimburse the Commission’s expenditures within 18 months of the later of the date of such capital expenditures or the date that the Property is placed in service (but in no event more than three years after the date of the original expenditure of such moneys); and

WHEREAS, the Commission hereby desires to declare its official intent, pursuant to Treasury Regulation §1.150-2, to reimburse the Commission for such capital expenditures with the proceeds of the Commission’s future tax-exempt borrowing for such projects named in this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that it approves a total Predevelopment Budget and Predevelopment Funding in the amount \$5,344,731 to cover the

predevelopment expenditures related to development of the Property that include the costs related to finalizing the building design, paying for building permits, professional/legal fees, and payment of deferred ground lease payments prior to construction which will be repaid at the closing of the construction financing anticipated to occur around May of 2023.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County supports the design, permitting, and development of Garnkirk Farms Apartments and authorizes a taxable draw of \$5,344,731 from the \$150MM RELOC with outstanding interest to be paid from the General Fund, both to be repaid at the closing of the construction financing anticipated to occur around the second May of 2023.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that it presently intends and reasonably expects to participate in tax-exempt borrowings of which proceeds in an amount not to exceed \$100,000,000 will be applied to reimburse the Commission for its expenditures in connection with the Property.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that the Acting Executive Director is authorized, without any further action its part, to take any and all other actions necessary and proper to carry out the transactions and actions contemplated herein, including the execution of any documents related thereto.

The following resolution was adopted upon a motion by Commissioner Simon and seconded by Chair Pro Tem Nelson. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Merkowitz, and Simon. Commissioner Croom was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-105B

RE: Approval to Draw up to \$5,344,731 on the PNC Bank, N.A. Real Estate Line of Credit to Provide Predevelopment Funding for the development of Garnkirk Apartments

WHEREAS, the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”), a public body corporate and politic duly organized under Division II of the Housing and Community Development Article of the Annotated Code of Maryland, as amended, known as the Housing Authorities Law, is authorized thereby to effectuate the purpose of providing affordable housing, including providing for the rehabilitation of rental housing properties which provide a public purpose; and

WHEREAS, HOC closed on the ninety-nine year ground lease with the Duffie Companies (“Duffie”) on September 17, 2021 to develop the fully-entitled 184-unit, wood frame apartment community wrapped around a 254-unit structure parking deck in Clarksburg (“Garnkirk Farms Apartments”); and

WHEREAS, the Commission desires to approve an initial predevelopment budget (“Predevelopment Budget”) and funding (“Predevelopment Funding”) in the amount of \$5,344,731 to cover the predevelopment expenditures related to development of the property that include the costs relating to finalizing the building design, paying for building permits, professional/legal fees, and payment of deferred ground lease payments prior to construction which will be repaid at the closing of the construction financing anticipated to occur around May of 2023; and

WHEREAS, HOC intends to fund the predevelopment expenditures by way of proceeds from a taxable draw on its PNC Bank N.A. Real Estate Line of Credit (“RELOC”) of \$5,344,731, with interest payable at the contract rate for the RELOC.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that it authorizes taxable draws on the RELOC in an amount not to exceed \$5,344,731 to fund the predevelopment expenditures for Garnkirk Farms Apartments, which will be repaid at the closing of the construction financing anticipated to occur around May of 2023.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission Montgomery County authorizes the Acting Executive Director, or her authorized designee, without any further action on its part, to take any and all other actions necessary and proper to carry out the transaction and actions contemplated herein.

2. Westside Shady Grove: Approval of a Subordinate Loan from the Housing Production Fund to HOC at Westside Shady Grove LLC

Timothy Goetzinger, Chief Development Funds Officer, was the presenter.

The following resolution was adopted upon a motion by Vice Chair Kelleher and seconded by Chair Pro Tem Nelson. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Merkwowitz, and Simon. Commissioner Croom was necessarily absent and did not participate in the vote.

RESOLUTION: 21-106

Re: Approval of a Subordinate Loan from the Housing Production Fund to HOC at Westside Shady Grove, LLC

WHEREAS, Westside Shady Grove Building D (the “Property”) is currently under construction and will be a 268-unit mixed use apartment building with 21,000 square feet of retail space and serve as the Housing Opportunities Commission of Montgomery County’s (the “Commission” or “HOC”) Up-County Customer Service Center in the Westside Shady Grove area of Rockville, MD;

WHEREAS, Westside at Shady Grove Building D is owned by HOC at Westside Shady Grove LLC (“Owner”), which is ultimately controlled by the Commission;

WHEREAS, on December 9, 2020, the Commission passed Resolution 20-86 and Resolution 20-87, which approved the Final Development Plan and Financing Plan, respectively, for the Property, including Owner’s acceptance of an approximately \$15 million loan from the Montgomery County Housing Initiative Fund (“HIF Loan”);

WHEREAS, on May 5, 2021, the Commission passed Resolution 2021-46, which approved a Revolving Housing Production Fund Program (the “Housing Production Fund”);

WHEREAS, the HIF loan was \$14.3 million and was accepted with the intention of substituting a loan from the Housing Production Fund in an equal amount when funds from the Housing Production fund became available;

WHEREAS, the loan from the Housing Production Fund will carry a maximum term of five (5) years, an interest rate of five percent (5%) and will be repaid at permanent financing, which is expected to be in February 2024.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County, on its behalf and on behalf of the Owner, as the sole member of its ultimate managing member, that it approves the Owner accepting a Housing Production Fund Loan of up to \$14.3 million and paying off the HIF Loan.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, on its behalf and on behalf of the Owner, as the sole member of its ultimate managing member, that it approves the Owner executing a Housing Production Fund Deed of Trust, Loan Agreement, Regulatory Agreement, and Promissory Note.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, acting on its behalf and on behalf of the Owner, as the sole member of its ultimate managing member, that the Acting Executive Director of HOC, or a duly appointed designee of the Acting Executive Director of HOC, is hereby authorized, without any further action on their respective parts, to execute such other documents and to take any and all other actions, in each case as necessary and proper, in the Acting Executive Director's judgment, to carry out the transaction and actions contemplated herein.

- 3. Westwood Tower:** Approval of an Emergency Procurement Pursuant to Section 5.6(ii) of HOC's Procurement Policy for the Continuation of Litigation Services for Westwood Tower Apartments

Zachary Marks, Chief Real Estate and Investment Officer, was the presenter.

The following resolution was adopted upon a motion by Commissioner Simon and seconded by Chair Pro Tem Nelson. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Merkwitz, and Simon. Commissioner Croom was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-107

RE: Approval of an Emergency Procurement Pursuant to Section 5.6(ii) of HOC's Procurement Policy for the Continuation of Litigation Services for Westwood Tower Apartments

WHEREAS, the Housing Opportunities Commission of Montgomery County ("HOC") is the owner of a multifamily building located at 5401 Westbard Avenue, Bethesda known as Westwood Tower Apartments ("Westwood Tower" or the "Property"); and

WHEREAS, in December 2019, staff solicited quotes pursuant to Section 5.2(a) of HOC's Procurement Policy ("Small Purchase Procedures") for legal consultation services for potential litigation regarding the Property; and

WHEREAS, staff received three written quotes and awarded the work to Douglas & Boykin PLLC ("Douglas"), the firm that submitted the lowest price; and

WHEREAS, on January 8, 2020, HOC entered into an agreement for services (“Agreement”) with Douglas, which included HOC’s ability to request that Douglas represent HOC in the event any litigation was filed; and

WHEREAS, on July 2, 2021, the Commission authorized the sale of Westwood Tower to a private purchaser; and

WHEREAS, on August 10, 2021, HOC was named as a defendant in a Complaint for Writ of Mandamus filed in the Circuit Court for Montgomery County, Maryland (Case No. 486734-V) by the Bethesda African Cemetery Coalition, Reverend Olusegun Adebayo, Darold Cuba, Geneva Nanette Hunter, and Montani Wallace, and shortly thereafter, staff engaged Douglas to represent HOC in the litigation; and

WHEREAS, as of October 27, 2021, the litigation still ongoing, and staff anticipates needing additional litigation services beyond the Small Purchase Procedure limit of \$150,000; and

WHEREAS, Section 5.6(ii) of HOC’s Procurement Policy (“Section 5.6(ii)”) provides for procurement by noncompetitive proposals when the award of contract is not feasible using competitive proposals and an emergency exists that threatens to cause serious injury to HOC; and

WHEREAS, given the ongoing developments in the litigation, the potentially serious legal and financial ramifications of the lawsuit, and in order to maintain continuity in HOC’s legal strategy, the Commission wishes to approve an emergency procurement pursuant to Section 5.6(ii) for the continuation of litigation services provided by Douglas; and

WHEREAS, the Commission wishes to approve the use of Westwood Tower’s existing property cash to fund future legal costs and fees associated the continuation of litigation services provided by Douglas in an amount not to exceed \$270,000.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that it authorizes an emergency procurement pursuant to Section 5.6(ii) for the continuation of litigation services for Westwood Tower provided by Douglas.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission Montgomery County authorizes the use of Westwood Tower’s existing property cash to fund future legal costs and fees associated with the continuation of litigation services provided by Douglas in an amount not to exceed \$270,000.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission Montgomery County authorizes the Acting Executive Director, or her authorized designee, without any further action on its part, to take any and all other actions necessary and proper to carry out the transaction and actions contemplated herein.

- 4. 4527 Avondale Street:** Authorization for the Acting Executive Director to Negotiate and Execute a Purchase and Sale Agreement for the Disposition of 4527 Avondale to the National Center for Children and Families, and Authorization to Complete the Sale

Zachary Marks, Chief Real Estate and Investment Officer, was the presenter.

The following resolution was adopted upon a motion by Commissioner Simon and seconded by Chair Pro Tem Nelson. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Merkowitz, and Simon. Commissioner Croom was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-108

**RE: Authorization for the Acting Executive
Director to Negotiate and Execute a Purchase
and Sale Agreement for the Disposition of 4527
Avondale Street, Bethesda to the National
Center for Children and Families, and
Authorization to Complete the Sale**

WHEREAS, the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”), a public body corporate and politic duly created, organized, and existing under the laws of the State of Maryland, is authorized pursuant to the Housing Authorities Law, organized under Division II of the Housing and Community Development Article of the Annotated Code of Maryland, to carry out and effectuate the purpose of providing affordable housing; and

WHEREAS, on April 14, 2015, the Commission acquired four (4) rental apartment buildings consisting of 25-units located at 4500-02, 4504-06, 4508-10 and 4527 Avondale Street, Bethesda, MD 20814 under the County’s Right of First Refusal Ordinance; and

WHEREAS, the Commission wishes to sell 4527 Avondale Street (“4527 Avondale” or the “Property”) to the National Center for Children and Families (“NCCF”), a Bethesda-based nonprofit dedicated to providing housing to low-income families, many who would otherwise be at risk of homelessness; and

WHEREAS, NCCF wishes to purchase 4527 Avondale for the purpose of providing housing options to households earning at or below 50% AMI in support of the needs of the diverse children, youth, and families it serves; and

WHEREAS, NCCF owns two (2) neighboring rental apartment buildings at 4519 and 4523 Avondale Street, which they use for similar purposes; and

WHEREAS, current rents at 4527 Avondale are unrestricted, but priced at levels similar to the limits of the County’s Moderately Priced Dwelling Unit program; and

WHEREAS, NCCF’s proposed use would deepen the affordability at 4527 Avondale and connect future residents of the units at 4527 Avondale to NCCF’s various supportive services programs; and

WHEREAS, NCCF is in discussions with Montgomery County’s Department of Housing and Community Affairs (“DHCA”) regarding DHCA’s contract to purchase 4531 Avondale Street (“4531 Avondale”), the neighboring rental property directly to the west of 4527 Avondale; and

WHEREAS, DHCA has indicated that it would like to transfer the 4531 Avondale to NCCF at closing, and to close on the transaction on or before December 31, 2021; and

WHEREAS, the adjacency of 4527 Avondale and 4531 Avondale to NCCF's rental apartment buildings at 4519 and 4523 Avondale allows for more expedient operations and economic deployment of services; and

WHEREAS, on October 6, 2021, the Commission authorized the Acting Executive Director to enter into a non-binding letter of intent ("LOI") with the NCCF for the purchase and sale of 4527 Avondale, for a purchase price of \$1,225,000, requiring no earnest money deposit, and with a closing date on or before the date which 4531 Avondale closes; and

WHEREAS, the sale price for 4527 Avondale is equal to, and based on, the sales price of 4531 Avondale; and

WHEREAS, staff has not conducted an appraisal, but believes the contract price of 4531 Avondale reflects the fair market value for 4527 Avondale, given the nearly identical size, vintage, condition, and location of the properties; and

WHEREAS, the Commission wishes to authorize the Acting Executive Director to negotiate and execute a Purchase and Sale Agreement ("PSA") for the disposition of 4527 Avondale, pursuant to HOC's LOI with NCCF, and to complete the sale of the Property to NCCF; and

WHEREAS, the Commission desires that the net proceeds from the sale of 4527 Avondale, in the approximate amount of \$1,210,000, which is the purchase price less closing costs in the anticipated amount of \$15,000, be used to pay down the PNC Real Estate Line Of Credit ("RELOC") draw that was used to acquire the Property.

NOW, THEREFORE, BE IT RESOLVED that the Housing Opportunities Commission of Montgomery County hereby authorizes the Acting Executive Director, or her designee, to negotiate and execute a PSA for the disposition of 4527 Avondale, pursuant to HOC's LOI with NCCF, and to complete the sale of the Property to NCCF.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission Montgomery County authorizes the net proceeds from the sale of 4527 Avondale, in the approximate amount of \$1,210,000, which is the purchase price less closing costs in the anticipated amount of \$15,000, be used to pay down the PNC RELOC draw that was used to acquire the Property.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission Montgomery County authorizes the Acting Executive Director, or her authorized designee, without any further action on its part, to take any and all other actions necessary and proper to carry out the transaction and actions contemplated herein.

Chair Priest read the Written Closing Statement. Commissioner Simon seconded the motion, with Commissioners Priest, Kelleher, Nelson, Byrd, Merkowitz, and Simon voting in approval. Commissioner Croom was necessarily absent and did not participate in the vote.

Based upon this report and there being no further business to come before this session of the Commission, the Commission adjourned the open session at 5:49 p.m. and reconvened in closed session at 5:56 p.m.

In compliance with Section 3-306(c)(2), General Provisions Article, Maryland Code, the following is a report of the Housing Opportunities Commission of Montgomery County's closed session held on November 3, 2021 at approximately 5:56 p.m. via an online platform and teleconference, with moderator functions occurring at 10400 Detrick Avenue, Kensington, MD 20895. The meeting was closed (i) under the authority of Section 3-305(b)(3) to discuss the potential purchase of a multifamily property located in Bethesda, Maryland and a multifamily property located in Lyttonsville, Maryland; and (2) under the authority of Sections 3-305(b)(7), 3-305(b)(8), and 3-305(b)(13) to discuss and obtain legal advice from counsel about ongoing litigation (pursuant to Sections 3-305(b)(7) and 3-305(b)(8)) that is subject to attorney-client privilege (pursuant to Section 3-305(b)(13)).

The meeting was closed and the closing statement dated November 3, 2021 was adopted on a motion made by Roy Priest., seconded by Jackie Simon, with Roy Priest, Frances Kelleher, Richard Y. Nelson, Jr., Pamela Byrd, Jeffrey Merkwowitz, and Jackie Simon voting in favor of the motion. Commissioner Linda Croom was necessarily absent and did not participate in the vote. The following persons were present: Roy Priest, Frances Kelleher, Richard Y. Nelson, Jr., Pamela Byrd, Jeffrey Merkwowitz, Jackie Simon, Kayrine Brown, Aisha Memon, Zachary Marks, Gail Willison, Christina Autin, Darcel Cox, Timothy Goetzinger, Jennifer Arrington, Patrick Mattingly, Marcus Ervin, Gio Kaviladze, Claire Kim, Frederick Douglas, Curtis Boykin, Ian-Terrell Hawkins, and Patrice Birdsong.

In closed session, the Commission discussed the below topics and took the following actions:

1. **Topic:** The potential purchase of a multifamily property located in Bethesda, Maryland and a multifamily property located in Lyttonsville, Maryland (pursuant to Section 3-305(b)(3)).
 - a. **Action Taken:** With a quorum present, Commissioners Kelleher, Nelson, Merkwowitz, and Simon voted in favor of staff proceeding with actions necessary to move forward with the acquisitions. Commissioner Priest opposed, Commissioner Byrd abstained, and Commissioner Croom was necessarily absent and did not participate in the vote. There was no resolution presented for approval.
2. **Topic:** Discussion with counsel about ongoing litigation impacting Westwood Tower Apartments (pursuant to Section 3-305(b)(7), 3-305(b)(8), and 3-305(b)(13)).
 - a. **Action Taken:** The Commission informally agreed to proceed as advised by counsel. No formal action was taken.

The closed session was adjourned at 7:51 p.m.

Respectfully submitted,

Kayrine Brown
Acting Secretary-Treasurer

/pmb

Approved: December 8, 2021