



Recommendation for Action

File #: 23-3327, **Agenda Item #:** 50.

11/30/2023

Posting Language

Authorize negotiation and execution of all documents and instruments necessary or desirable to release the City's liens encumbering Lot 2 of the Pecan Tillery Subdivision located at 1127 Tillery Street, Austin, Texas 78702.

Lead Department

Financial Services Department.

Fiscal Note

No Financial Impact.

For More Information:

Michael Gates, Real Estate Officer, Financial Services Department, 512-974-5639; Mandy DeMayo, Deputy Director of the Housing Department, 512-974-1091, M. Shannon Kackley, Law Department, 512-974-2317.

Additional Backup Information:

The Austin Housing Finance Corporation (AHFC) owns Lot 2 of the Pecan Tillery Subdivision and has ground leased the land to Live Make Housing Partners, LP to develop a new 66-unit multifamily rental housing development called Live Make Apartments. Live Make Housing Partners financed this rental housing development with 4% Low Income Housing tax credits, Private Activity Bonds, and a Rental Housing Development Assistance (RHDA) Loan provided by AHFC.

AHFC purchased the parcels that comprise Lot 2 over time, from 1997 to 2001, using funds provided by the City under Grant and Service Agreements between the City and AHFC. The City placed liens on these parcels to ensure that AHFC and any future developer of the parcels complied with the following statutes and requirements:

- 1) Rehabilitation Act of 1973
- 2) Americans with Disability Act
- 3) Where applicable, Architectural Barriers Act of 1968
- 4) Fair Housing Act
- 5) SMART Housing

The City's liens on Lot 2 place a cloud on the title to the land and potentially hinder the rental housing development.

Housing Department staff have reviewed the plans and specifications for Live Make Housing Partners' rental housing development and have determined that it complies with the current versions of the statutes and requirements listed above.

Moreover, Live Make Housing Partners is or will be contractually obligated to comply with affordability and access requirements under the following documents:

- 1) Ground Lease between AHFC and Live Make Housing Partners, LP (55 years)
- 2) Amended and Restated Limited Partnership Agreement for Live Make Housing Partners, LP
- 3) RHDA Loan Agreement (42 years)
- 4) RHDA Restrictive Covenant (57 years)
- 5) Affordability Unlocked Agreement (40 years)
- 6) Texas Department of Housing and Community Affairs Land Use Restriction Agreement (30 years)

Finally, AHFC owns a purchase option and right of first refusal to acquire the rental housing development. With these rights, AHFC can acquire the development, either directly or through an affiliate, to ensure that all affordability and access requirement are implemented and enforced.