

83-045

RESOLUTION NO.

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

ON DATE OF

May 31, 1983

ADOPTION OF OPERATIONAL POLICIES REGARDING
AGENCY DEVELOPMENT AND DISPOSITION PROGRAMS

BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY
OF SACRAMENTO:

Section 1. The Agency hereby approves and adopts the
Operational Policies regarding Agency Development and Disposi-
tion Programs, as set forth in the staff report dated May 5,
1983, attached hereto as Exhibit A.

R. Burnett Miller
CHAIRMAN

ATTEST:

William H. Shan
SECRETARY

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SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

May 5, 1983

Redevelopment Agency of
the City of Sacramento
Sacramento, California

CITY MANAGER'S OFFICE
RECEIVED
MAY 25 1983

Honorable Members in Session:

SUBJECT: Operational Policies Regarding Agency Development and
Disposition Programs

SUMMARY

Adoption of the attached resolution will establish clear policies governing specific operations of the Redevelopment Agency as they relate to the following:

1. Disposition of Agency owned-property;
2. Execution and Amendment of Disposition Agreements and Owner Participation Agreements;
3. Default procedures; and
4. Automatic Rescission Agreements.

BACKGROUND

In order for the Agency to operate its Redevelopment programs, it must have concise operating procedures that can be applied equitably and routinely.

The primary area of concern is the disposition and development of property in Redevelopment Project Areas and administration of Agency contracts, for it is through these mechanisms that the Agency implements its Redevelopment Plans. If Agency staff and the development community are going to work together both need to understand the parameters within which they work. Therefore, it is important to set forth the conditions under which this partnership is going to perform. Once realistic policies have been adopted they must be uniformly administered in order to effectuate development in a timely manner while protecting the City against claims of discriminatory or preferential treatment of individual developers.

It is Agency staff's position that 1) redevelopment disposition and

5-31-83
All Districts

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development policies must be flexible enough to respond to changing market circumstances so as to facilitate development while at the same time be strong enough to allow enforcement; and 2) Redevelopment disposition and development policy must be consistently enforced to ensure compliance with redevelopment law and provisions for citizens participation. Therefore, the staff presents the following policies for your consideration. It should also be understood that the Project Area Committees (PAC) will review and comment on all development activities in their respective project areas. In those cases where staff authorized to execute default notices or rescission agreements, a copy of said document will be forwarded to the PAC.

SALE OF AGENCY-OWNED PROPERTY

All Agency-owned property must initially be advertised through a Request for Proposal (R.F.P.) process. Once property has been so advertised it may then be sold subject to the legal requirements for public disclosure regarding the terms of the sale. If there is no offer to buy within twelve (12) months of the original advertising date, the property must be readvertised. All property advertisements must be run for a minimum of thirty (30) days.

In those instances when there is more than one acceptable proposal the Agency shall, at the public hearing, identify the acceptable proposal(s) and rank order them. The number one proposal shall then be granted, by the Agency, an exclusive right to negotiate the appropriate agreements with the Agency. If the developer and Agency are unable to reach agreement on the terms and conditions of the contract within (60) days the Agency may then, after a public hearing assign the developer's exclusive right to negotiate to the next interested developer on the list or at the Agency's discretion readvertise the property. This method allows the Agency to dispose of property in the most efficient and effective manner possible without jeopardizing the public hearing requirements. The contractual method of disposing of property is the Development Disposition Agreement (D.D.A.).

DEVELOPMENT DISPOSITION AGREEMENTS (D.D.A.)

A Development Disposition Agreement (D.D.A.) is a contractual agreement through which the Agency disposes of property. This contract sets forth what is to be developed, how and when it is to be developed and clearly delineates the responsibilities of the contracting parties. At a minimum every D.D.A. shall contain the following:

1. Clear identification of the contracting parties.
2. A "Scope of Development" which clearly describes the

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proposed development.

- 3. The appraised value of the property and the purchase price for the property.
- 4. A "Schedule of Performance" which designates a specific date for the performance of each step designated therein. Each step shall be a specific time from the date of execution of the agreement, and include a specific date i.e., sixty (60) days from the date of execution or January 1, 1984.
- 5. A provision that an option fee of ten percent (10%) of the appraised value to be paid to the Agency at the time of approval of the D.D.A. and refunded to the developer upon issuance, by the Agency, of a Certificate of Completion or credited to the Agency as earned should the provisions of the contract's Performance Schedule or any step therein not be adhered to. Additionally, no interest or other compensation will be credited to the developer for deposits held by the Agency.
- 6. A provision that executed D.D.A.'s will be assigned and/or Performance Schedules contained therein extended by the Agency only under the following conditions:
 - A. An independent appraisal shall be obtained and paid for by the developer to establish a current fair market value of the property. The appraiser must be acceptable to the Agency. Property which has been appraised within the last twelve (12) months need not be reappraised unless the Agency determines that market, or other conditions, warrant a reappraisal.
 - B. The purchase price shall be established as the fair market value of the property, or such lesser amount as may be satisfactorily justified to the Agency through submission by the developer of detailed breakdown of costs and revenues associated with the project.
 - C. The developer shall pay an additional fee equal to ten percent (10%) of the market value of the property, to be refunded to the developer upon

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issuance, by the Agency, of a Certificate of Completion, but credited to the Agency as earned if the Performance Schedule is not adhered to.

OWNER PARTICIPATION AGREEMENTS (O.P.A.)

Owner Participation Agreements are contractual agreements between the private owner of property within a Redevelopment Project Area and the Redevelopment Agency. An O.P.A. is the instrument through which redevelopment law provides for the redevelopment of privately owned property by the owner in accordance with adopted redevelopment plans as an alternative to Agency acquisition of the property. An O.P.A. is very similar in content to D.D.A. and shall contain as a minimum the following:

1. Clear identification of the contracting parties.
2. A "Scope of Development" which clearly describes the proposed development or redevelopment.
3. The appraised value of the property at the time of execution of the O.P.A.
4. A "Schedule of Performance" which designates a specific date for the performance of each step designated therein. Each step shall be a prescribed time from the date of execution of the O.P.A. and include a specific date.
5. Each O.P.A. shall be recorded against the property and shall be binding upon subsequent owners of the property.
6. Each O.P.A. shall allow the Agency the right to first refusal to buy the property for the appraised value as of the date of execution of the O.P.A. should the owner wish to dispose of the property. The Agency shall have sixty (60) days to accept the offer or relinquish its right to purchase the property at that time.

DEFAULT PROCEDURES

By law, both "Owner Participation Agreements" and "Development Disposition Agreements" require that that a specified time usually sixty (60) days, be allocated to "cure" a default should such condition occur. A default condition exists when one of the terms, conditions, or

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procedural steps in the Contract or "Schedule of Performance" is not completed by the specific date contained therein. However, the "cure" period does not commence until the developer/owner is notified in writing of the default. Because the notice of default only begins a process, rather than terminating one, it is essential that the notice be issued immediately after the effective date of the action which causes the default. Failure to issue the notice on a timely basis may jeopardize the Agency's ability to subsequently issue such a notice. Therefore, notices of defaults shall be issued automatically by Agency staff should a condition of default exist. In this manner the Agency's legal position will not be jeopardized nor will the Agency's ability to subsequently work with the developer. Additionally, in order to operate effectively it is recommended that the Executive Director be authorized to grant a thirty (30) day extension to "cure" the default. Agency staff recommends that the following default procedure be established by the Agency; after a meeting between the respective parties Agency management shall follow the process delineated below:

1. Written notice of default shall be issued by the Executive Director to the developer and a copy to the developer's legal counsel whenever a default condition exists, i.e., failure to perform in accordance with the approved Contract and/or Schedule of Performance.
2. At a minimum a notice of default shall contain the following:
 - A. The basis of default.
 - B. The action required to cure the default.
 - C. The required cure period.
 - D. A copy of the appropriate "Schedule of Performance".
3. Notice shall be served by certified mail-return receipt requested.
4. A copy of said notice shall be forwarded to the Commission and the Agency at their next regularly scheduled meeting.

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TERMINATION

In the event that a condition of default is not "cured" within the prescribed period Agency staff shall prepare and forward to the Agency a staff report recommending termination of the agreement(s). Forwarding of a report on termination does not, in and of itself terminate the project, it does, however, start the public hearing process. Once again final termination authority rests only with the Agency. By forwarding the report staff is merely starting a process in a timely fashion in order to maintain Agency's legal position. If upon receipt of a staff report regarding termination of a specific project, the Agency decides that the developer has demonstrated adequate progress but still requires a little more time, Agency may then continue the item for a specific period of time and thus not jeopardize its position and loose control of the project.

It is recommended that these policies will become effective upon adoption of the attached resolutuion and will apply equally to all present and future Agency projects. These regulations do not, however, amend any existing Agency contractual obligations.

AUTOMATIC RESCISSION AGREEMENTS

Due to the nature of the development process there will be those situations when the developer is making a good faith effort to perform during the "cure" period but due to circumstances, needs more than thirty (30) days to fully "cure the condition(s) of default". Under these circumstances the Executive Director is authorized to execute an Automatic Rescission Agreement. An Automatic Rescission Agreement shall contain an acknowledgement by the developer that a condition(s) of default does in fact exist and that the extension of time is sufficient to effectuate the "cure". Further the Agreement shall clearly state the period for and means by which the default may be "cured". The Executive Director shall have the authority to extend deadlines upon receipt of a signed Automatic Rescission Agreement, in the following manner:

1. Maximum of sixty (60) days for close of escrow or submittal of Preliminary Plans.
2. Maximum of ninety (90) days for submittal of Final Plans.
3. Maximum of ninety (90) days for Evidence of Finance.

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- 4. Maximum of six (6) months for the start of construction.
- 5. Maximum of six (6) months for the completion of construction.

VOTE AND RECOMMENDATION OF COMMISSION

At its regular meeting of May 16, 1983, the Sacramento Housing and Redevelopment Commission adopted a motion recommending adoption of the attached resolution. The votes were as follows:

AYES: Angelides, Hall, Luevano, Miller, Ose, Pettit,
Teramoto, Vargas, Walton

NOES: None

ABSENT: None

POLICY IMPLICATION

The adoption of the attached resolution should clarify and standardize the administration of Redevelopment Agency policy related to items 1, 2, 3, & 4.

RECOMMENDATION

The staff recommends adoption of the attached resolution which establishes clear policies regarding;

- 1. Disposition Development Agreements;
- 2. Owner Participation Agreements;
- 3. Default procedures; and
- 4. Automatic Rescission Agreements.

Respectfully submitted,

William H. Edgar

WILLIAM H. EDGAR
Executive Director

TRANSMITTAL TO COUNCIL:

Walter J. Slipe

WALTER J. SLIPE
City Manager

Contact Person: Bruce D. Pope, Chief of Redevelopment

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