



Agency Rpt.
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SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

October 5, 1981

Redevelopment Agency of the
City of Sacramento
Sacramento, California

CITY MANAGER'S OFFICE
RECEIVED
OCT 7 1981
APPROVED
SACRAMENTO REDEVELOPMENT AGENCY
CITY OF SACRAMENTO

Honorable Members in Session:

SUBJECT: Orleans Hotel, 1018 Second Street
Old Sacramento Parcel No. 48

OCT 13 1981

SUMMARY

Orleans Hotel Associates, the Redeveloper of Orleans Hotel, Old Sacramento Parcel No. 48, has proposed a joint venture with Merrill Lynch and Invest West Financial to facilitate the reconstruction of the Orleans Hotel. The proposed joint venture will require a reassignment of the parcel. If the proposal is not accepted and a reassignment approved, the Redeveloper will continue to be in default for failure to perform per the terms and conditions of his agreement and may thus be found in default by the Agency.

BACKGROUND

Orleans Hotel Associates is in default per the terms of the Contract for Sale of Land for Private Redevelopment for reason of failure to perform. The Redeveloper has not presented to the Agency the required evidence of financing.

Mr. Richard Hyde, Attorney, representing Orleans Hotel Associates, appeared before the Planning Development/Old Sacramento Committee on April 14, 1981 to show cause why the contract should not be terminated. Specifically, the items addressed were the submittal of final construction plans, evidence of financing, and purchase of the property. The Committee requested that the Redeveloper submit to the Agency by May 12, 1981 a proposal to cure. By letter dated April 23, 1981, Mr. Hyde submitted a proposed new schedule for development of this project. This schedule called for: 1) final plans to be submitted on or before June 14, 1981; 2) submittal of evidence of financing on or before November 15, 1981; 3) purchase of the property on or before December 15, 1981; and 4) commencement of construction as soon as weather permits

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in the spring of 1982. This schedule was predicated upon a proposal for financing the project requiring the formation of a corporation.

On May 7, 1981 the staff recommended to the Commission that the revised Schedule of Performance be approved subject to execution of an agreement by Orleans Hotel Associates under which they:

- 1) acknowledge the current default of the entity under the existing contract;
- 2) agree to the Agency's finding of the entity as being in default under the revised Schedule of Performance if the entity should, for any reason, fail to comply with the revised schedule;
- 3) waive any and all alleged defenses or defects which the entity could have or raise against the Agency relating to any event or condition which occurred or arose prior to the execution of the revision agreement;
- 4) designate a managing general partner with whom the Agency may deal; and
- 5) have executed by all general partners of the entity.

By letter also dated April 23, 1981 a managing general partner, Mr. John P. Obenauer, was designated. The Committee approved the proposed performance schedule subject to the stated conditions. Subsequently, the Agency was informed by Mr. Hyde that the proposed financing method would require a restructuring of the partnership necessitated by the creation of a joint venture between a proposed new limited partnership and the existing general partnership. This limited partnership was to be formed through the solicitation of funds under the regulations of the Corporation Commissioner which precluded the partnership from entering into an Automatic Termination Agreement.

By letter dated July 2, 1981 the Agency advised Mr. Hyde that staff was recommending the approval of the reassignment, subject

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to the conditions of the May 7, 1981 recommendations. Mr. Hyde notified the Agency by letter dated July 10, 1981 that Mr. Obenauer informed the partnership that he did not intend to go ahead with his proposal for the development of this project and that an assignment was not required. Mr. Hyde stated that the partnership was uncertain as to the best method to proceed for the development of this project. He further stated the partnership does intend to provide evidence of financing on or before November 15, 1981 and accordingly requested that the Agency proceed with the implementation of the staff recommendations, including the Termination Agreement. (Final construction plans were received by the Agency on June 9, 1981 and were approved, subject to corrections, by the Agency.)

On July 10, 1981, with the withdrawal of Mr. Obenauer's proposal for development of the project and the change of method for financing upon which the proposed performance schedule was based and approved, staff, by memorandum, recommended that the Agency notify Orleans Hotel Associates of its default per the original performance schedule, and that the Redeveloper be found in default by the Agency. A copy of the July 10, 1981 memorandum is attached. The Redeveloper was requested to appear before the Planning Development/Old Sacramento Committee on July 29, 1981 to show cause why the contract should not be terminated. The Committee rescheduled the hearing to August 11, 1981. On August 12, 1981 the Agency delivered the Termination Agreement to the Redeveloper. By letter dated August 21, 1981 Mr. Hyde informed the Agency that "The Orleans Hotel Associates have signed and delivered to me three copies of the Agreement for Termination..." and that "The Orleans Hotel Associates have instructed me to hold this agreement until September 22, 1981 at which time I am instructed to deliver it to you (the Agency) unless the Associates have presented to the Agency a satisfactory proposal for the development of the Orleans Hotel site. This proposal will be contingent upon reaching a satisfactory parking arrangement with the Agency and the City." Mr. Hyde's letter of August 21, 1981 was transmitted to the Planning Development/Old Sacramento Committee on August 28, 1981 with a staff recommendation that this matter be continued until receipt of the necessary documents. At its September 1, 1981 meeting the Committee agreed to continue this matter.

On September 22, 1981 the Agency received a letter dated

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September 21, 1981 from Mr. Arthur L. Haarmeyer, a partner in Orleans Hotel Associates, proposing and requesting that Orleans Hotel Associates be accorded the opportunity to form a joint venture, to include Merrill Lynch and Invest West Financial, to facilitate the reconstruction of the Orleans Hotel. The proposal apparently anticipates a firm financing commitment within sixty (60) days and a start of construction in March or April of 1982. Per Mr. Haarmeyer's letter, the details of the proposal are to be received by the Agency under separate cover. The proposed joint venture will require a reassignment of the project and produce a new Schedule of Performance. A copy of the September 21, 1981 letter from Orleans Hotel Associates is attached.

It is staff opinion that the content of this letter is insufficient and provides little information of substance upon which to base a recommendation for acceptance of the proposal and consideration of a reassignment. The Redeveloper is in default per the original performance schedule of the terms and conditions, Part II, of the Contract for Sale of Land for Private Redevelopment. Article VII, Section 703, of the Agreement provides that the Redeveloper may be found in default for nonperformance and that the Redeveloper will be afforded, notwithstanding any other conditions, sixty (60) days from the date of finding in which to cure the default. The Agency at its option may grant an additional thirty (30) days' extension. As the proposal is apparently conditioned upon the Redeveloper reaching a satisfactory agreement with the Agency and City regarding parking for the project and as the Agreement for Termination has not been rendered to the Agency and the proposal information is insufficient to warrant a staff recommendation for acceptance, an assignment or another continuance of this matter, a finding of default would provide the Redeveloper with a minimum of sixty (60) days in which to finalize the proposal, enter into agreements, and present a firm program for the financing and development of the project. If the Agency receives an acceptable proposal for cure of the default within the stipulated time period, the Agency may approve the proposal and reassignment.

FINANCIAL DATA

If the Redeveloper's proposal is accepted and a reassignment approved, the original developer will not receive any consideration for this assignment other than the retention of their

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interest in this development. Other than normal Agency staff time, there is no financial impact upon the Agency by approval of this developer's proposal and the assignment. If the proposal is not accepted and the Redeveloper is found in default and the agreement is terminated, the Agency will incur re-advertisement cost. This cost, depending upon the extent, duration or frequency of advertisement, may run in excess of \$2,000.00, plus staff time.

It is estimated that a termination of the agreement and a readvertisement will result in approximately a one-year delay beyond that of a reassignment in getting the property back on the City tax role.

VOTE AND RECOMMENDATION OF COMMISSION

At its meeting of October 5, 1981, the Sacramento Housing and Redevelopment Commission adopted a motion recommending adoption of the attached resolution. The votes were as follows:

AYES: Coleman, Knepprath, Luevano, A. Miller,
Teramoto, B. Miller

NOES: None

ABSENT: Fisher, Serna, Walton

RECOMMENDATION

Staff recommends that you adopt the attached resolution that finds Orleans Hotel Associates in default per the original Schedule of Performance and the terms and conditions, Part II, of the Contract for Sale of Land for Private Redevelopment per Article VII, Section 703.

Respectfully submitted,

William H. Edgar

WILLIAM H. EDGAR

Interim Executive Director

TRANSMITTAL TO COUNCIL:

Walter J. Slive

WALTER J. SLIVE
City Manager

Contact Person: Theodore R. Leonard

RESOLUTION NO. RA - 81-082

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO
ON DATE OF

October 13, 1981

AUTHORIZING ISSUANCE OF NOTICE OF
DEFAULT FOR ORLEANS HOTEL ASSOCIATES
AND CONDITIONAL AUTHORIZATION OF
EXECUTION OF RESCISSION AGREEMENT

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

1. The Executive Director is authorized to formally notify Orleans Hotel Associates of its default pursuant to the provisions of Section 703 of the Contract for Sale of Land for Private Development dated April 10, 1979.

2. Unless the Executive Director shall receive and approve a proposal for a revised schedule of performances, which he shall have found in his sole discretion to be acceptable, within thirty (30) days from the date hereof, the Executive Director shall be authorized to execute a Rescission Agreement with Orleans Hotel Associates which shall have the effect of terminating any interest Orleans Hotel Associates may presently have in the property and provide for the return of Orleans Hotel Associates' good faith deposit.

CHAIRMAN

ATTEST:

APPROVED
SACRAMENTO REDEVELOPMENT AGENCY
CITY OF SACRAMENTO

SECRETARY

OCT 13 1981

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

MEMORANDUM

TO: Bob Smith

FROM: Ted Leonard

SUBJECT: Reassignment, Orleans Hotel, 1018 Second Street
Old Sacramento Parcel No. 48

DATE: 7/10/81

File No.

Mr. Richard Hyde, Attorney, representing Orleans Hotel Associates, informed the Agency on July 9, 1981 by telephone that he is sending a letter to the Agency stating Orleans Hotel Associates' decision not to proceed with the reassignment but rather to proceed with the project per the schedule set out in his letter of April 23, 1981 (copy attached). This schedule is:

1. Submission of final plans and specifications on or before June 14, 1981.
2. Evidence of financing on or before November 15, 1981.
3. Purchase of the property on or before December 15, 1981.
4. Commencement of construction as soon as weather permits in the spring of 1982.

Per Mr. Hyde's letter of April 23, 1981, the November 15, 1981 date for the submission of evidence of financing results from the following schedule for obtaining funds through a public offering of between \$1,500,000 and \$4,000,000:

1. Submission of application to California Department of Corporations on or before May 15, 1981.
2. Approval of application on or before August 15, 1981.
3. Receipt of funds on or before November 15, 1981.

At its May 19, 1981 meeting, the Commission approved the schedule prepared by Orleans Hotel Associates subject to the following conditions:

That an agreement be executed by Orleans Hotel Associates under which that entity will

- 1) acknowledge the current default of the entity under the existing contract;
- 2) agree to the Agency's finding of the entity as being in

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July 10, 1981
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default under the revised Schedule of Performance if the entity should, for any reason, fail to comply with the revised schedule;

- 3) waive any and all alleged defenses or defects which the entity could have or raise against the Agency relating to any event or condition which occurred or arose prior to the execution of the revision agreement;
- 4) designate a managing general partner with which Agency may deal; and
- 5) have executed by all general partners of the entity.

Of the above requirements and per the schedule, Orleans Hotel Associates submitted final construction plans on June 9, 1981 which are approved subject to resubmittal of corrections, and by a second letter dated April 23, 1981 notified the Agency that Mr. John P. Obenauer is the managing general partner and sole spokesman for Orleans Hotel Associates.

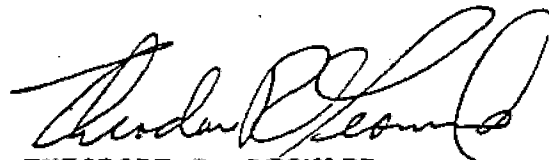
As regards the condition for the execution of an automatic termination agreement, subsequent to the May 19, 1981 Committee meeting, Mr. Hyde, by letter dated May 29, 1981, informed the Agency that the method of financing proposed and presented to the Committee would necessitate the solicitation of funds through a public offering and that this public offering would require the creation of a limited partnership which would have an undivided 84% interest in the Orleans Hotel development. The creation of this limited partnership required an assignment from the existing developer to a joint venture composed of the new limited partnership and a limited partnership composed of eight members of the existing development partnership. As a prerequisite to the solicitation of funds, the Corporation Commissioner required that the Agency approve an assignment. Further, as the Corporation Commissioner would not approve a public offering with the level of risk presented by the Agency's requirement that the Developer enter into an Automatic Termination Agreement without a substantial negative public report, Orleans Hotel Associates asked that this condition be waived as this development would go forward or fail based upon the submission of evidence of financing. Thus, Agency staff was in the process of preparing the necessary assignment agreement and recommending the necessary reassignment and the waiver of the required automatic termination provision imposed as a condition for approval of the time extension represented by the submitted performance schedule.

In his telephone call, Mr. Hyde informed me that Mr. Obenauer had decided not to proceed with the public offering and therefore an assignment and waiver of the termination agreement is not necessary. Mr. Hyde expressed

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the willingness of the Orleans Hotel Associates to now execute the Automatic Termination Agreement and to proceed upon the approved time schedule requiring that evidence of financing be submitted on or before November 15, 1981. The November 15, 1981 date for evidence of financing was conditioned upon the proposed method of financing, per Mr. Hyde's letter of April 23, 1981. As the public offering is no longer being pursued, it is the staff's opinion that the time schedule as approved is no longer applicable.

It is recommended that the Agency notice Orleans Hotel Associates of its default per the original schedule and per the Terms and Conditions, Part II of the Contract for Sale of Land for Private Redevelopment, per Article VII, Section 703.



THEODORE R. LEONARD
Agency Architect
Old Sacramento Project Manager

Attachment

ORLEANS HOTEL ASSOCIATES

September 21, 1981

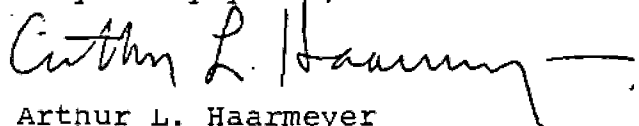
Mr. William H. Edgar
Interim Executive Director
Sacramento Housing and Redevelopment Agency
P.O. Box 1834
Sacramento, California 95809

Dear Mr. Edgar:

It is proposed and requested that Orleans Hotel Associates be accorded the opportunity to form a joint venture, to include Merrill Lynch and Invest West Financial, to facilitate the reconstruction of the Orleans Hotel, i.e., Parcel #48, Old Sacramento. Under separate cover is a true copy of the most recent correspondence, dated September 18, 1981, received from Merrill Lynch. It should be emphasized that I was advised orally by Mr. Joyce of Merrill Lynch, on September 18, 1981, that his company and Invest West have agreed in principle to a formula controlling rental structure whereby certain rental parameters have been established, e.g., basis minimum rental to be 35% of gross hotel receipts, and which will provide economic feasibility for both the above-described joint venture as well as for Invest West which shall lease and operate said premises from said joint venture.

For your information, final plans and drawings have been completed and submitted. We anticipate a firm financing commitment within sixty (60) days and project the start of construction in March or April of the coming year, weather permitting.

Very truly yours,



Arthur L. Haarmeyer

ALH/m

1107 Second Street - Suite 330
Old Sacramento, CA 95814
916-442-9091

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