



Office of

Attorney's Matters 1/24/2020

**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBraal, Deputy County Attorney
Susan J. Prado, Assistant County Attorney

MEMORANDUM

TO: Board of County Commissioners

FROM: Bill Schutt, Chief, Long Range Planning

FROM: William K. DeBraal, Deputy County Attorney

DATE: January 28, 2020

SUBJECT: Update on 4730 40th Avenue, Vero Beach, Florida
Former Gifford Gardens Apartments

The Gifford Gardens property (Property) consisted of 55 individual apartments spread over six single story and two story buildings on 3.3 acres of property zoned RM-10, residential, multi-family, up to 10 units per acre. This is the highest density that currently exists in the unincorporated County. The development was built in 1970 and operated as a rental complex successfully for approximately 30 to 35 years until the buildings became rundown and were the site of police sweeps and arrests. In 2009, neighboring property owners filed numerous complaints about the garbage, odors and rodents seen in the abandoned buildings. In 2010, Health Department Inspectors, Building Inspectors, Fire Inspectors and the Sheriff's Office conducted an in-depth inspection due to numerous complaints of vandalism, drug use and prostitution activity. The complex was in foreclosure at the time of the inspection. The inspection revealed the deteriorated condition of the units – no plumbing fixtures, exposed wiring with the electricity shut off to some buildings, missing air conditioners and wall unit heaters, together with numerous broken windows and missing doors. Following the inspection, the Building Official declared the buildings unsafe and ordered them to be repaired or demolished. The then owners conceded the cost of repairs would be more than the value of the buildings and did not contest the Building Official's demolition order. The Board ordered the buildings to be demolished in November 2010 and after public bids were received, all buildings were demolished in June 2011, at a cost of \$85,996.74, which was reduced to a lien that attached to the Property.

At this time, the following code liens are outstanding against the Property:

IRC demolition lien dated May 12, 2012	\$85,996.74
Order Conditionally Setting Fine dated April 19, 2016	<u>11,010.00</u>
TOTAL	\$97,006.74

Tax Certificate # 1093 dated 6/1/2017	\$1,924.43
Tax Certificate #1052 dated 6/1/2018	1,531.35
Tax Certificate #1111 dated 6/1/2019	1,274.45
Taxes for 2018	1,344.16
Taxes for 2019	<u>1,083.96</u>
TOTAL TAXES	\$7,158.35

In order to clear title to the Property, the taxes would have to be paid and the tax certificates would have to be redeemed. Interest on the certificates will continue to accrue until paid.

Title to the Property can be traced as follows:

- MNMB, LLC purchased the Property from H.W.P. of Vero Beach, Inc. in February 2005
- MNMB, LLC entered into an Agreement for Deed with A to Z Home Management, LLC in 2008
- A to Z Home Management via quit claim deed to Oak Arbor VB, LLC in 2011
- MNMB, A to Z Home Management and Oak Arbor VB via Tax Deed to MACWCP II Corp. November 11, 2012 for \$84,900
- MACWCP to Leonard Green via Quit Claim Deed on September 17, 2017 for \$5,900

A letter was sent to Mr. Green advising him that the Board is interested in acquiring the Property, but to date no response has been received.

Utility ERU and Lien Information.

On September 30, 2009, a Utility Lien was sent for recording. The balance owed at the time of recording was \$4,396.27. In October 2010, the water meters were pulled and the process was started to consolidate the ERUs into one account for billing purposes. Previously, each of the 55 units had their own meters. Currently, the Utility Account is in the name of Leonard Green.

The current utility bill as of December 2019 is as follows:

Base Facilities Charges and Consumption:	\$142,879.32
Interest and Penalties:	<u>\$281,451.53</u>
Utility lien balance due:	\$424,330.85

The Property was never qualified for amnesty since the Property was previously connected to the system. There are 55 water and 55 sewer Multi-Family Residential ERUs. The monthly service availability charges are \$1,206.81. The last inquiry on the account was from a real estate agent requesting payoff information in 2016.

Impact Fee Information

The Property has impact fee credits tied to it for the demolished 55 multi-family units. The dollar amount of the impact fee credits at any point in time is dependent upon the then current impact fee schedule.

Currently, the Property has the following impact fee credits:

Land Use	Total Number of Units	Current Calculated Impact Fee Credits by Impact Fee Category					
		Public Buildings	Emergency Services	Law Enforcement	Parks & Recreation	Transportation	Educational Facilities
Multi-Family	55	\$11,495	\$9,955	\$13,695	\$42,185	\$150,810	\$36,760

A few things to note with impact fees are that credits for pre-existing uses are specific to each impact fee category and cannot be transferred to a different impact fee category. Also, impact fees are tied to Property and are not transferrable to other properties.

Property Acquisition: Factors to Consider

The Property Appraiser lists the current value of the land at \$62,271.00. In establishing a value of the Property, the Board should consider that some impact fees have been “grandfathered in” and would not have to be paid by a developer, however the value of the impact fees is only realized when the owner actually builds upon the Property.

The Board should also consider the advantages to purchasing the Property at an arm’s length transaction rather than going through the foreclosure route. Any price for the Property would be based in part on existing encumbrances on the property. While purchasing the Property would obligate the County to pay the outstanding taxes and

redeem the tax certificates, the County would have title to the Property. County Attorney's office has ordered a title search of the Property to determine the existence or status of other liens on the Property. The County, as owner, could place deed restrictions on the Property to make sure its use is reserved for affordable housing. These restrictions would be binding on future owners. If the County would decide to foreclose on its lien(s), there are the costs of litigation to consider. The filing fee for the lawsuit is \$905.00. In order to clear title, it would be recommended to name the previous owners listed in the chain of title above as defendants to the foreclosure suit. Most of the previous owners are dissolved limited liability companies so their directors would have to be found and served. If the previous owners are deceased, their heirs would have to be located and named as defendants. The search and service for the additional defendants could cost between \$2,500 and \$4,000. A second problem with a foreclosure is that the County could prosecute the case and have the Property auctioned for sale only to have a 3rd party purchase the Property at the auction. The third party purchaser may have plans for the Property other than affordable housing or hold the Property as an investment for the future and the County would not be able to control the future use of the Property.

A copy of the sketch of the Gifford Gardens parent parcel is attached to this memorandum.

Funding: Funding will be provided via budget amendment from General Fund/Cash Forward Oct 1st.

Recommendation: Staff recommends that an arm's length negotiation to purchase the Property be initiated with Mr. Green, the current owner of the Property and present the Board with a contract for purchase and sale. If a contract cannot be negotiated, the Board hereby authorizes the County Attorney's Office to file a foreclosure suit against the current and former owners and keep the Board apprised of the suit's progress.

Attachments

1. Order Conditionally Setting Fine
2. Property Maintenance Lien
3. Order Imposing Fine
4. 2019 TRIM Notice
5. QuitClaim Deed
6. Tax Deed
7. Release of Mortgage
8. Utilities Department History for Property