

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date: October 17, 2022
Action Required: Approval of Resolution
Presenter: Alexander Ikefuna, Director of Community Solutions
Staff Contacts: Alexander Ikefuna, Director of Community Solutions
Title: **Dogwood Housing Loan Extension (1 reading)**

Background

By resolution approved September 7, 2007, the Charlottesville City Council approved a loan of \$850,000 to Piedmont Housing Alliance (PHA) to assist Woodard Properties LLC in the purchase of fifty-seven (57) residential rental units, commonly known as Dogwood Housing. The terms of the loan were zero interest for five years, with the original principal amount of the note due and payable if any of the units were sold, transferred, devised or otherwise disposed of during the five year period (based on a formula tied to the assessed value of each property) or by October 31, 2012. On August 20, 2012, City Council approved extension of the loan, through October 31, 2017. The terms of the loan remained the same, and the note continued to be secured by a recorded second lien Deed of Trust executed between Dogwood Properties of Charlottesville, LLC and PHA. On October 2, 2017, the City Council approved extension of the loan, through October 31, 2022, with the following amendments to the agreement:

1. All non-rent assisted tenants with household incomes between 50% - 80% of AMI shall be allowed to pay up to 35% of their household income towards their rent without risk of losing their housing.
2. After the initial household income qualification is established, Recipient will recertify all non-rent assisted tenants' household incomes at least once every 24 months.
3. For all tenants receiving assistance through the Housing Choice Voucher program or another rental assistance program, Recipient will provide the City with copies of each household's annual recertification letter.
4. Recipient shall add the amount of rental assistance received (if applicable), to the report submitted to the City each December.

Anthony Woodard, Chief Executive Officer, on behalf of Dogwood Properties of Charlottesville, LLC, is requesting the City extend the loan for another five (5) years at zero interest.

Discussion

Since the 2007 purchase of the fifty-seven (57) residential units comprising Dogwood Properties, and in accordance with the intent of the original \$850,000 loan to Woodard Properties LLC, Dogwood Properties of Charlottesville LLC has offered the above referenced units as affordable housing. Since summer of 2022, staff have had discussions with Dogwood Properties regarding the expiration of the loan agreement and interest on extension. Staff spoke Amanda Hester (property manager for Dogwood) and Anthony Woodard about the City's interest in extending the loan agreement for an additional five (5) year period, as well as a number of Dogwood Properties staff concerns related to data collection and reporting. Specifically, they requested that City staff: 1) allow them to sign one affidavit for smoke alarm with all the units listed instead of 57 different affidavits; and 2) not require that they collect and report racial information on the members of the households. The City Council has requested staff to collect data on the race for Charlottesville Affordable Housing Fund (CAHF) beneficiaries, including refugee status.

The promissory note (dated October 31, 2007) associated with the original loan outlined conditions related to the definition of affordable housing to be applied to the Dogwood Properties rental units, the rents to be charged to each household leasing units from Dogwood Properties, and the maximum amount monthly rents could be increased each year. These conditions are as follows:

Borrower covenants and agrees that the properties listed on Exhibit A shall, during the term of this Note or any extension thereof, be leased as affordable rental housing. As used herein, the term "leased as affordable rental housing" shall mean (i) leased to families with a household income no greater than eighty percent (80%) of the Charlottesville area median household income; and (ii) that the amount of rent charged to each household, or the amount of rent paid by each household that is the beneficiary of a rent subsidy, shall not increase by more than five percent (5%) of per annum.

With the August 20, 2012 extension of the loan, the terms of the promissory note were amended to more clearly define the amount of rent to be charged each household as:

(ii) that for families receiving Tenant Based Rental Assistance (TBRA) through Housing Choice vouchers or other programs, that the rent charged be based on the fair market rent values as established through the TBRA administrator; and (iii) that the amount of rent paid by all other tenant families be limited to no more than 30% of their gross annual income and that the rental rate charged for each unit, shall not increase by more than five percent (5%) per annum, up to an amount equal to 30% of the tenant's gross income.

The terms of the promissory note were further amended, via City Council resolution dated November 2, 2015. These changes were initiated at the request of Dogwood Properties and developed in partnership with City staff. The new terms further define the rent amounts to be charged to each tenant household:

2. That for families not receiving tenant based rental assistance through Housing Choice vouchers or other programs where the rent is set by other program regulations: (i) that for households with incomes at 50% AMI or less the rent charged shall comply with HUD Low HOME rent limits, as revised from time to time; and (ii) that for households with incomes greater than 50% AMI but less than 80% AMI, the rent charged shall comply with HUD High HOME rent limits, as revised from time to time; and
3. That for families receiving tenant based rental assistance through Housing Choice vouchers or other programs that the rent charged be based on the fair market rent values as established through

the rental assistance provider and relevant program regulations.

The 2015 amendments also included a two-year grace period for tenants who become income-eligible while leasing an affordable rental housing unit from Dogwood Properties. Additionally, Dogwood Properties has also agreed to a number of additional terms. These include: 1) allowing the City to inspect individual rental units associated with Dogwood Properties to ensure they meet the Department of Housing and Urban Development's (HUD) Housing Quality Standards, and 2) submitting a report, by December 31st of each year, providing the following information for each rental unit in Dogwood Properties:

- Unit Address
- Number of Bedrooms
- Current Rent
- Occupant Household Size
- Occupant Household Income
- Change of occupancy with date of change (if applicable)
- Rent at end of previous occupancy (if applicable)
- Rent at beginning of new occupancy (if applicable)
- Household size of new occupant (if applicable)
- Household income of new occupant (if applicable)
- Percent of Current Household Income to Rent Amount
- Amount of rental assistance received (if applicable)

After reviewing the current loan terms and additional conditions, staff agrees that the current loan terms should be maintained with proposed addition of data points for race and immigrant status; and rent adjustment for 306 7 ½ Street Apt. B and 407 Ridge Street Apt. A. Below is a summary of past major amendments and proposed new changes.

1. Qualifying Households

- Dogwood Properties will continue to lease units to households earning no more than 80% of Area Median Income (AMI).

2. Tenant Portion of Rent

The standard measure of housing affordability is housing that costs no more than 30% of a household's gross annual income. For household's receiving rental assistance through the federal Housing Choice Voucher (HCV) program or other rental assistance program, this level of affordability is protected through program regulations. Dogwood Properties agreed to apply, and has been applying, this housing affordability standard to all Dogwood Property tenant households throughout their tenancy. Strict adherence to this policy often results in tenants, experiencing slight (up to 5%) increases in their rent-to-income ratio, being forced to move from their Dogwood home. To help ensure lower-income families are able to enjoy housing stability, staff recommended increasing the allowable tenant share of rent (for non-rent assisted households) be raised from 30% of gross household income to 35% of gross household income. A precedent for this rent-to-income ratio

increase can be found in HUD authorized changes to HCV program regulations through the Moving to Work (MTW) demonstration program. Under this program, MTW designated housing authorities are to (with HUD approval) waive HCV and Public Housing program regulations to meet local needs. Staff recommended the following tenant rent-share terms be included in the 2017 loan terms, which was approved.

- Dogwood Properties will ensure tenants pay no more than 30% of their household income at time of initial lease-up.
- Allow all non-rent assisted tenants with household incomes between 50% - 80% of AMI to pay up to 35% of their income towards their rent.

3. *Annual Rent Increases*

This shall remain at no more than 5% per annum. However, of the 57 units under this loan terms, staff identified 2 existing households with renewal rates that increased by more than 5%. To remedy this violation Dogwood Properties is proposing the following:

- 306 7 ½ Street Apt. B – the rate increased by 5.11%. This represents \$1.05 per month additional rent.
- 407 Ridge Street Apt. A – the rate increased by 6.34%. This represents \$16.05 per month additional rent.

Dogwood Properties are proposing to limit any potential increases at these units such that they would not increase more than 4.89% and 3.66% respectively for the next term, to address this overage.

4. *Income Certifications*

- Dogwood Properties will verify household income for all new tenants to ensure they meet the income qualifications for housing, and that the appropriate rent limit is used.
- After the initial income qualification is established, Dogwood Properties will recertify all non-rent assisted tenants' household incomes at least once every 24 months.
- For all tenants receiving assistance through the Housing Choice Voucher program or another rental assistance program, Dogwood Properties will provide the City with copies of each household's annual recertification letter. Dogwood did not provide certification letters but conducts eligibility survey every year and provides the information to City staff as part of their reporting requirements.

Again, the HUD approved changes to the HCV program by MTW housing authorities provides precedent for biennial income certifications. MTW housing authorities implementing biennial recertifications do so for two primary reasons. The first is to decrease program administrative burdens. More importantly, the change to biennial recertifications acts as a means to encourage employment among program participating households by ensuring a household's share of their monthly rent does not immediately increase with modest increases in wages. These same reasons apply to the proposed changes in loan terms outlined above.

5. *Over-Income Households*

- Continue to provide a 2-year grace period for over-income households.

6. *Inspections*

- Dogwood Properties will allow the City to conduct annual inspections of all rental units not inspected annually under the Housing Choice Voucher program, or another rental assistance program. For the purpose of this loan extension request, the City Property Maintenance staff conducted inspections of the units and worked with Dogwood Properties to address the deficiencies.

7. *Reporting*

- Dogwood Properties will continue to submit a report by December 31st of each year.
- The report will include all of the information currently provided (as outlined above) with the addition of one data point:

1. Race of each member of the household
2. Refugee status of any member of the household

Since the purchase of Dogwood Housing in 2007, Dogwood Properties has continued to provide a valuable source of affordable rental housing options to the Charlottesville community. Staff believes that, with the agreed upon changes discussed above, Dogwood Housing will continue to benefit our lower-income neighbors into the future. As such, staff recommends renewing the 2007 loan – with the amended loan terms – for an additional five years ending October 31, 2027.

Alignment with City Council's Vision and Strategic Plan

This item aligns directly with Council's vision to provide Quality Housing Opportunities for All, and provisions in the Affordable Housing Plan adopted by the City Council in 2021.

Approval of this request is also supported by the following:

Strategic Plan Goals:

- Goal 1.3: Increase affordable housing options
- Goal 1.4: Enhance financial health of residents
- Goal 1.5: Intentionally address issues of race and equity

Comprehensive Plan Guiding Principles (2021):

- Equity & Opportunity – All people will be able to thrive in Charlottesville.

- Community Culture & Unity – Charlottesville’s rich and diverse culture and form will be celebrated, and the entire community will feel welcomed, valued and respected.
- (Numerous Goals in the Comprehensive Plan also support this request).

Community Engagement

There has been no public process regarding this loan.

Budgetary Impact

This item could have an impact on the CAHF in that denial of the requested loan extension would result in repayment of \$850,000 in affordable housing funds.

Recommendation

Staff recommends the loan be renewed for an additional 5 year period with the above referenced loan terms.

Suggested motion: “I move the Resolution approving an extension of the Loan Agreement with Dogwood Properties of Charlottesville, LLC, with the added reporting requirements”

Alternatives

The City Council may elect not to extend the loan agreement; however, failure to do so would result in the loss of affordable housing and negative impact on the families that are currently living in the units.

Attachments

1. Dogwood Properties - City Loan Renewal Request_08312022 (003)
2. Letter for household information 2021 - Income Verification
3. Resolution_Dogwood Properties 101722