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From: **Albaari, Tasleem** <Tasleem.Albaari@hud.gov>

Date: Thu, Jun 30, 2022 at 2:41 PM

Subject: RE: <External Message> Re: Transfer and Change in Use of Property

To: Jannice Ashley <jashley@ashevillenc.gov>

Hi Jannice,

Hope all is well. Thanks for briefing me on the new endeavor. Can we set up a call next week for discussion? I have time on:

Tues. (7/5) – 1pm – 3:30pm

Wed. (7/6) – 11am – 12pm and 1:30 – 2:30

	Tasleem Albaari
	Sr. CPD Representative



Phone: (336)851-8138

Email: Tasleem.Albaari@hud.gov

U.S. Dept. of Housing & Urban
Development

Greensboro Field Office

Asheville Building

[1500 Pincroft Rd., Suite 401](#)

[Greensboro, NC 27407](#)

[Welcome to HUD Exchange - HUD Exchange](#)

From: Jannice Ashley <jashley@ashevillenc.gov>

Sent: Tuesday, June 28, 2022 3:28 PM

To: Albaari, Tasleem <Tasleem.Albaari@hud.gov>

Subject: <External Message> Re: Transfer and Change in Use of Property

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Hi Tasleem;

Hope you are doing well. You will recall per the email below, that in Feb. 2021 you assisted

us in obtaining very helpful guidance regarding the requirements to transfer City owned property located at Asheland Ave which has a HUD restriction on the deed. The project/transaction that we were contemplating at the time fell through but we have a renewed interest in selling the property again for the purpose of developing an affordable housing development. My question to you is-does HUD require the City to have a specific project/buyer before we could submit a request for release/approval to transfer/sell? If possible we would like to get that approval ahead of any specific project. We could still commit to only selling for the purpose of affordable housing if that is a factor.

Please let me know if you'd like to discuss and I can set up a call for later this week.

Thanks,

Jannice

On Fri, Feb 26, 2021 at 7:40 AM Albaari, Tasleem <Tasleem.Albaari@hud.gov> wrote:

Hi Jannice,

I received the following guidance back from the CDBG program counsel assuming that the city does not have copies of a closeout agreement available that would more clearly spell out any continuing obligations.:

- 1. Does HUD need to approve the transfer of the property even though the restriction on the property terminated on July 1, 1993?** Likely yes. The July 1, 1993 termination date applies specifically to the restrictive covenant at Article III, Section 1(a), in which the City agrees for itself, its successors, and assigns to use the property only in accordance with the urban renewal plan until the termination date specified at Article III, Section 2. (If, for example, the City had transferred the property before July 1, 1993, the transferee would have been held to the same restriction to act in accordance with the urban renewal plan until that covenant's termination date because the restriction ran with the land.) However, the July 1, 1993 termination date does not affect the duration of other provisions of the contract, including the Article IV provision that requires HUD's express consent and approval to sell, lease or transfer the property. As such, I would say a consent to release from HUD is likely necessary.
- 2. Article IV. Sec. 2 also states that the property must be used as open space into perpetuity. Is the open space clause waived due to the termination of restrictions in Article III. Sec. 2?** No, but a formal waiver is likely unnecessary. As stated in the

answer above, the termination date in Article III, Section 2 applies specifically to the covenant at Article III, Section 1(a); it does not act as an expiration date for other provisions in the contract. As for the “open space” requirement generally, the Open Space program that HUD administered did require a jurisdiction to get approval before changing the use or conveying the property. However, it’s unclear whether this property was assisted with Open Space funding, and the use restrictions for Open Space have been repealed. As there is no authority beyond the provision of this contract that requires HUD to waive the open space clause, a formal waiver is likely unnecessary. HUD will inform the City in a letter that it can change the use of the property as it wishes, but it should comply with the requirements of the “Change in Use of Urban Renewal Property” memo:

<https://files.hudexchange.info/resources/documents/CDBG-Memorandum-Change-in-Use-of-Urban-Renewal-Property.pdf>. The memo particularly states that the requirements include: 1) the disposition of the property is not subject to the fair use value requirements; 2) any proceeds resulting from the disposition are treated as program income of the City under the provisions of 24 CFR 570.504; and 3) any proposed reconveyance of the property by the City for purposes of redevelopment shall be subject to the public disclosure requirements otherwise applicable to local public agencies in the disposition of project land to redevelopers under section 105(e) of Title I of the Housing Act of 1949, as amended.

Moving forward, the city will need to request that HUD approve the transfer of the property and allow for a change in use of the property. This should be in a written request to the Field Office. The letter can be emailed to :

Matthew.T.King@hud.gov

Tasleem.Albaari@hud.gov

The Field Office will respond with a letter approving the transfer of the property and guidance on the requirements for complying with a change in use of the urban renewal property.

Hope this helps. Please let me know if you have any additional questions.

Have a good weekend.

Tasleem Albaari

Sr. CPD Representative

U.S. Dept. of Housing and Urban Development

Community Planning and Development

Phone: (336) 851-8138

Email: Tasleem.Albaari@hud.gov

From: Albaari, Tasleem

Sent: Tuesday, February 23, 2021 4:52 PM

To: Jannice Ashley <jashley@ashevillenc.gov>

Cc: King, Matthew T <Matthew.T.King@hud.gov>; Paul D'Angelo <pdangelo@ashevillenc.gov>

Subject: RE: Here you go

Hi Jannice,

I checked in on the status of a response and was notified that the question was elevated to the CDBG Program attorneys for guidance. We hope to hear something back soon.

Tasleem Albaari

Sr. CPD Representative

U.S. Dept. of Housing and Urban Development

Community Planning and Development

Phone: (336) 851-8138

Email: Tasleem.Albaari@hud.gov

From: Jannice Ashley <jashley@ashevillenc.gov>

Sent: Thursday, February 18, 2021 4:02 PM

To: Albaari, Tasleem <Tasleem.Albaari@hud.gov>

Cc: King, Matthew T <Matthew.T.King@hud.gov>; Paul D'Angelo <pdangelo@ashevillenc.gov>

Subject: Re: Here you go

Thank you for your help! Because of these questions, not sure if the proposed sale will go to Council as scheduled but we will still need to confirm the answers so really appreciate your looking into this so quickly and get it to the right people.

Best, Jannice

On Thu, Feb 18, 2021 at 3:57 PM Albaari, Tasleem <Tasleem.Albaari@hud.gov> wrote:

Hi Jannice,

The Field Office will need to reach out to the CDBG Program office for specific guidance on this issue for confirmation if the city would still require HUD approval to transfer the property and allow it to be used for purposes other than open space based on Article IV Sec. 2. My thoughts are you will need HUD approval even though the requirement to use the property for urban renewal purposes terminated as of July 1, 1993. A request to waive the requirement at Article IV Sec. 2 would need to be a written request on city letterhead to the FO. I will need to see if HQs has to approve the waiver request.

I know you are facing a deadline. I can't guarantee a response time, but will make HQs aware that this is a time sensitive issue.

Tasleem Albaari

Sr. CPD Representative

U.S. Dept. of Housing and Urban Development

Community Planning and Development

Phone: (336) 851-8138

Email: Tasleem.Albaari@hud.gov

From: Jannice Ashley <jashley@ashevillenc.gov>

Sent: Thursday, February 18, 2021 3:42 PM

To: Albaari, Tasleem <Tasleem.Albaari@hud.gov>

Cc: King, Matthew T <Matthew.T.King@hud.gov>; Paul D'Angelo <pdangelo@ashevillenc.gov>
Subject: Re: Here you go

There is one other thing I would like clarification on please-Article IV of the Agreement (previously sent) not only states that HUD approval is required to transfer the property, it also states, that the property is to be used as open space in perpetuity unless waived by HUD. To me, this use restriction is completely contrary to the provision in Article III which states that all urban redevelopment plan restrictions on the property terminate July 1993. Can you please confirm whether such open space use requirement is waived by virtue of the termination clause? If not, we would seek such a waiver if approval to transfer the property is granted.

Thank You,

On Thu, Feb 18, 2021 at 1:48 PM Albaari, Tasleem <Tasleem.Albaari@hud.gov> wrote:

Hi Jannice,

I'm working on a response for you.

Tasleem Albaari

Sr. CPD Representative

U.S. Dept. of Housing and Urban Development

Community Planning and Development

Phone: (336) 851-8138

Email: Tasleem.Albaari@hud.gov

From: Jannice Ashley <jashley@ashevillenc.gov>

Sent: Wednesday, February 17, 2021 12:29 PM

To: King, Matthew T <Matthew.T.King@hud.gov>

Cc: Albaari, Tasleem <Tasleem.Albaari@hud.gov>; Paul D'Angelo

[<pdangelo@ashevillenc.gov>](mailto:pdangelo@ashevillenc.gov)

Subject: Fwd: Here you go

Mr. King;

I understand that Tasleem is out of the office until tomorrow, and I am hoping that you might be able to assist me in regard to this question about HUD restrictions on a property that the City is proposing to sell for affordable housing development. I could call you to discuss if that is convenient for you? The proposal to sell the property is scheduled to be heard by our City Council on 2/23, while the resolution approving the sale will make clear that the transfer is subject to obtaining any and all necessary approvals from HUD, I am trying to clarify whether or not we have may already have those approvals per my interpretation of the deed.

Thank you, Jannice

----- Forwarded message -----

From: Jannice Ashley <jashley@ashevillenc.gov>

Date: Fri, Feb 12, 2021 at 2:00 PM

Subject: Fwd: Here you go

To: Albaari, Tasleem <Tasleem.Albaari@hud.gov>

Hi Tasleem;

You have assisted me in the past regarding HUD restrictions on properties (ie 360 Hilliard) and I think I still owe you a draft Release that you were going to work with your Legal Department to grant approval-well now I have questions regarding restrictions on another property that the City acquired from the Housing Authority in 1989 (deed recorded 1991)-Asheland Ave. and that the City now wants to sell for an affordable housing development. Paul has been in touch on this property (email below) in order to get approval to sell at below market value (as it is a property that had been acquired through the urban renewal process and so funds need to go back into our CDBG Fund).

My question relates to an apparent requirement for HUD to approve transfer of the property in writing found in the attached 1989 Agreement between the Housing Authority and the City. Article III Sec. 1 & 2 of this agreement provides that the property must be used in accordance with the redevelopment plan until July 1, 1993, when such restriction terminated. Article IV Sec. 2, prohibits the assignment or transfer of the property unless HUD as approved said transfer in writing. Because of the termination of restrictions in Article III (which is also reflected in the Deed-

attached), I had initially interpreted this to mean that all restrictions on the property, including the requirement for HUD approval to transfer, had terminated, but I am not sure this is correct. Could you please confirm whether or not written approval from HUD is required in order for the City to sell this property? If such approval is required, what would you need from us in order to request this approval?

Thanks,

Jannice

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From: **Paul D'Angelo** <pdangelo@ashevillenc.gov>

Date: Fri, Feb 12, 2021 at 1:30 PM

Subject: Here you go

To: Jannice Ashley <jashley@ashevillenc.gov>

Hi Paul,

I received the following guidance:

The current regulation at 570.800 reads: The regulations governing urban renewal projects and neighborhood development programs in subpart N of this part, that were effective immediately before April 19, 1996, will continue to govern the rights and obligations of recipients and HUD with respect to such projects and programs. Therefore, the property continues to be governed by the regulations immediately in effect before the date above. An extensive electronic search did not identify any 1996 urban renewal regulations or federal register notices other than what is attached, so the guidance below is presumed to remain pertinent.

The language at 570.801(c)(2) governs the disposition of real property acquired under the authority of 570.801(c)(1). It reads: In the subsequent disposition of

project land acquired by the unit of general local government pursuant to paragraph (1) of this section, the provisions of section 110(c) (4) of Title I of the

Housing Act of 1949, as amended, regarding fair use value, shall not apply. This means that the property does not have to be disposed of at fair market value.

Any property acquired with CDBG funds or one of the preceding programs such as urban renewal may be disposed of in accordance with 570.201(b), which allows the disposition of real property by sale, lease, donation, or otherwise.

The property may be sold at the price desired by the grantee. Current guidance (not regulatory) states that when real property is disposed of for less than current fair market value or donated, the grantee must have documentation in its files how the donation or sale of the property for less than current fair market value meets the purposes of the Housing and Community Development Act of 1974. The primary objective of the Act is the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.

Tasleem Albaari

Sr. CPD Representative

U.S. Dept. of Housing and Urban Development

Community Planning and Development

Phone: (336) 851-8138

Email: Tasleem.Albaari@hud.gov

Paul D'Angelo

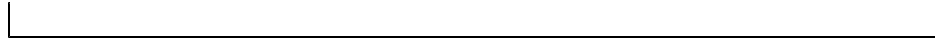
Community Development Program Director

City of Asheville NC

910.297.2749

[Community Development City of Asheville](#)

To learn more about what your Community Development Division is working on, please see the link above. To be added to our Community Development Listserv for informational emails from our Division, please let me know in your email response & I will be happy to add you to our communications!



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