



BOARD COMMUNICATION

Date: March 11, 2008

TO: Chairman and Members of the Redevelopment Agency

**FROM: Craig Whittom, Assistant City Manager/Community Development
Laura J. Simpson, Housing and Community Development Manager**

**SUBJECT: STATUS REPORT REGARDING COMPLIANCE WITH BUCHONGO
SETTLEMENT AGREEMENT BETWEEN THE VALLEJO REDEVELOPMENT
AGENCY AND LEGAL SERVICES OF NORTHERN CALIFORNIA AS OF
DECEMBER 31, 2007**

BACKGROUND AND DISCUSSION

In 1999, the Vallejo Redevelopment Agency entered into an affordable housing agreement with Legal Services of Northern California known as the "Buchongo Settlement Agreement." This Agreement was executed in order to settle a lawsuit brought against the Redevelopment Agency by Legal Services in 1996. In this Agreement, the Agency agreed to provide 425 units of affordable housing to low- and moderate-income residents within eight years, (or by August 2007). In April 2007, the Agency reached another agreement with Legal Services on a two-year extension of time to satisfy the Buchongo requirements, as allowed in the Agreement, or until August 2009.

On August 28, 2007 staff provided the Agency an annual progress report on the Agreement for Calendar Year 2006. This report updates the Agency on significant changes since August 2007, including a change in the status of a planned project known as "Graham Gardens". The completion of this project is now in doubt.

Low- and moderate-income, in this case, is defined as up to 120 percent of the median family income for the area. However, of the 425 units to be produced, 300 of them must be for very low-income persons (0 to 50 percent of the area median income). One hundred twenty-five (125) of these 300 units must be multi-family units, (of two bedrooms or more).

Since 1999, the Agency has made significant progress toward its goal of creating 425 affordable units, and has substantially met its obligations under the Buchongo Agreement. However, the Agency must still produce eight more units or two bedrooms or more, affordable to very low-income families.

The two-year extension was executed between the Agency and Legal Services on the assumption that a for-ownership, "Buchongo-eligible", affordable housing project, (Graham Gardens), would be completed by Vallejo Neighborhood Housing Services, Inc. (VNHS) by not later than August 12, 2009.

However, it is important to note that at this time, the Graham Gardens project cannot obtain sufficient financing to proceed. In addition, no other Buchongo-eligible affordable housing developments are approved by the Agency, or the City.

The production of (and credit for) housing units under this Agreement may be accomplished by either new housing construction, or the substantial rehabilitation of housing. Substantial rehabilitation is defined in the Agreement as an amount of rehabilitation of at least \$40,000 per unit, (increased for inflation during the term of the Agreement), or 25 percent of the after-rehabilitation value of the unit.

In addition, pursuant to State law, covenants of affordability of at least 45 years for owner-occupied properties, and 55 years for rental properties, must be signed and recorded for properties completed under this Agreement.

Buchongo Settlement Agreement Accomplishments

As noted above, the Agency and the City of Vallejo have taken several actions toward reaching the goals of the Buchongo Agreement. To accomplish these goals, the City and Redevelopment Agency entered into Participation Agreements with affordable housing developers to produce affordable units. The Redevelopment Agency receives "credit" for these units toward meeting the terms of the Buchongo Agreement. These "credits" have been earned through the new construction and substantial rehabilitation of multi-family and senior rental housing.

A table showing the status of the Agency's compliance with the terms of the Settlement Agreement (as of December 31, 2007) is enclosed as Attachment "A". A total of 417 of the required 425 affordable housing units (98 percent) have been completed.

Graham Gardens Project

This project is intended to develop 22 duet ownership units on a two-acre panel, located at Mini and Stanford Drives, which is currently undeveloped. Graham Gardens is an entitled project. Half of these units would be affordable to low- and moderate-income families, for 45 years. In addition, eight of the eleven affordable units would be more than two bedrooms, and owned and occupied by very low-income families. In effect, the completion of Graham Gardens would enable the Redevelopment Agency to realize full compliance with the terms of the Settlement Agreement. Graham Gardens is an entitled project.

The City has loaned \$833,123 in HOME Program funds for the development of Graham Gardens. In addition, in August 2007, the Vallejo Housing Authority approved an additional short-term loan of \$700,000. The closure of this loan is pending.

As of July 2007, the project budget for Graham Gardens was \$9.6 million. In October 2007, a revised appraisal was completed by Bank of the West, the proposed primary lender. The new appraisal showed the hypothetical market value of the 22 units at \$7.7 million. As a result, the project is now not able to obtain the funding needed to go forward.

There are approximately \$1.8 million in liens on the Graham Gardens property. This amount of \$1.8 million includes the City's \$800,000 in HOME funds. Staff continues to meet with VNHS to discuss Graham Gardens, in an effort to assist where possible. VNHS is

currently exploring partnering with another non-profit or for-profit entity to complete Graham Gardens or, if necessary, selling the project to another developer. It is possible that if sold, VNHS would not receive the entire \$1.8 million for the site.

Consultation with Legal Services of Northern California

On December 14, 2007 staff met with Legal Services to provide an update on the Agency's progress regarding Buchongo Agreement compliance, and the Graham Gardens project. A letter from Legal Services received by staff subsequent to that meeting is enclosed as Attachment "B".

Commission Review

This report was also provided to the Housing and Redevelopment Commission at its regular meeting on January 9, 2008.

Conclusion

Based on the housing units produced to date, and the fact that the Graham Gardens Project is now in doubt, the Agency is still obligated to complete eight more units of affordable housing (of the type specified above) by August 2009. There are no other Buchongo-eligible projects approved at this time. Staff will explore other opportunities to comply with the Buchongo Agreement requirements in the coming months.

Fiscal Impact

None at this time.

RECOMMENDATION

None. This is an informational item only.

ALTERNATIVES CONSIDERED

Not applicable.

ENVIRONMENTAL REVIEW

An environmental review is not required.

PROPOSED ACTION

None.

DOCUMENTS AVAILABLE FOR REVIEW

Attachment "A" - Compliance with Buchongo Requirements

Attachment "B" - Letter from Legal Services of Northern California, dated
December 19, 2007

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Legal Services of  Northern California

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City of Vallejo
Housing and Community
Development Division

December 19, 2007

DEC 20 2007

Referred to _____

Laura Simpson, Division Manager
Guy Ricca, Senior Analyst
Housing and Development Division
City of Vallejo
200 Georgia Street
Vallejo, CA 94590

Re: *Buchongo, et al. v. City of Vallejo*

Dear Ms. Simpson and Mr. Ricca:

Thank you for meeting with me last week for an update on developments in the above case. It is my understanding that it has become unlikely that the affordable units that were to be part of the Graham Gardens project will be constructed, at least within the time frame we have been discussing during the past couple years. This makes the City's compliance with the *Buchongo* order more of a challenge.

I understand that you have been talking with one or more developers about construction or substantial rehabilitation of rental units in Vallejo. I also understand that any such units developed or rehabilitated would be made affordable to very low income families for the length of time required by the settlement agreement and state law. While I am not familiar with details of these proposed projects, based on your descriptions, it appears that completion of the construction would probably satisfy the City's remaining obligations under the *Buchongo* order.

While I appreciate the efforts you continue to make to meet the obligations of the settlement, I am also concerned about your ultimate ability to comply. As you know, we originally agreed that the City's obligations would be met by July, 2007. Last year we agreed to extend the time for compliance by two years, based on our mutual understanding that the Graham Gardens units would be finished in that time. Our assumptions now appear misguided. In addition, months have passed since we extended the time with no progress toward meeting the requirements of the order.

While we certainly do not blame the City for the failed Graham Gardens development, it is unfortunate that those units will not be made available to very low income families to meet the *Buchongo* production requirements. It is our hope that you will be able to

develop an alternative method of meeting the requirements of the order in a timely manner. Further delays will force us to examine legal options to enforce the obligations of the settlement. We would, of course, prefer to spend our time working with the City to expand housing opportunities for poor families, rather than pursuing litigation.

Please keep us informed of progress you are making to meet the obligations of the *Buchongo* agreement.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. A. Stalker". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert A. Stalker
Attorney at Law