

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION 15 - Park at Bellaire

SUBJECT: An Ordinance approving and authorizing a Compromise and Settlement Agreement between the City of Houston and Leisure Life Senior Housing Ltd., its general partner Leisure Life - Chimney Rock Inc., and Charles Miller, individually, relating to the Park at Bellaire Apartments

Category # Page 1 of 1 Agenda Item #

FROM: Neal Rackleff, Director Housing and Community Development Department

Origination Date 11/9/15 Agenda Date

DIRECTOR'S SIGNATURE: [Signature]

Council District affected: J

For additional information contact: Roxanne Lawson Phone: 832-394-6282

Date and identification of prior authorizing Council action: 6/16/98 Ord. 1998-475; 5/30/01 Ord. 2001-498; 12/15/04 Ord. 2004-1279

RECOMMENDATION: Approval of an Ordinance authorizing a Compromise and Settlement Agreement between the City of Houston and Leisure Life Senior Apartment Housing Ltd., its general partner Leisure Life - Chimney Rock Inc., and Charles Miller, individually, relating to the Park at Bellaire Apartments

Amount of Funding: No funding requested Finance Budget:

SOURCE OF FUNDING [ ] General Fund [ ] Grant Fund [ ] Enterprise Fund

SPECIFIC EXPLANATION:

On June 16, 1998, City Council approved Ordinance 1998-475 authorizing a loan of CDBG funds not to exceed \$1,737,144 to Leisure Life Senior Apartment Housing Ltd. (Owner) for a portion of acquisition and rehabilitation costs of a 223-unit apartment complex for low- and very-low-income seniors. The property, Park at Bellaire, is located at 6333 Chimney Rock. On May 30, 2001, and December 15, 2004, respectively, City Council approved Ordinance No. 2001-498 and Ordinance No. 2004-1279, authorizing First and Second Amendments and Modification Agreements of the loan. The property is subject to a LURA until August 19, 2017.

On December 29, 2004, Owner executed a Deed of Trust Note with the Senior Lender for \$5,682,200, maturing on January 1, 2040. The project was completed and is now over 95% occupied.

The Owner has lost three separate lawsuits (filed in 2009, 2011 and 2015) with the current Senior Lender or its predecessor. Each time, the project has been at risk of foreclosure, which would have resulted in the City being unable to recover on its loan as well as losing its lien.

The Owner has now obtained alternative funding to repay the Senior Lender as well as the full amount owed to the City: \$1,742,273.42 as of November 6, 2015. However, Owner claims over \$400,000 in damages from alleged conduct by the City relating to the LURA (the City disputes this contention), interest charges and the City's actions in relation to the Senior Lender. The Owner also claims that the LURA has expired. Since the Owner had a short deadline to close his new financing, and in a show of good faith to resolve the dispute, the Owner tendered payment of the City's entire outstanding balance to the Title Company. Of that amount, \$1,442,273.42 was wired to the City on November 6, 2015. At the City's request, the Title Company is holding the remaining \$300,000 outstanding balance pending the opportunity for the parties to reach a Compromise and Settlement agreement with the Owner to comprehensively resolve all issues. The release of the \$300,000 back to the Owner will resolve the monetary claims asserted by the Owner and assure the Owner's compliance with the LURA through August 19, 2017.

Pertinent terms of the Compromise and Settlement Agreement (CSA) are:

- 1. Owner agrees that the Affordability Period expires on August 19, 2017 and agrees that the expiration date will be recorded in the Real Property Records.
2. Owner covenants that the property is in compliance with the LURA currently.
3. Owner, its general partner and the individual principal release all claims against the City.

This item was reviewed by the Housing and Community Affairs Committee on December 15, 2015. NR:JN:SS

cc: CSC, FIN, MYR, LGL

REQUIRED AUTHORIZATION

Finance Department: Other Authorization: Other Authorization: