



Legislation Text

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City of Alexandria, Virginia

MEMORANDUM

DATE: MARCH 7, 2023

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: JAMES F. PARAJON, CITY MANAGER /s/

FROM: HELEN S. MCILVAINE, DIRECTOR, OFFICE OF HOUSING

DOCKET TITLE:

Consideration of a Request from the Alexandria Redevelopment Housing Authority for a Retroactive Approval of Virginia Housing Development LLC, an Existing Development Entity, and for Creation of New Sub-entities to Facilitate the Samuel Madden Homes Redevelopment Project.

ISSUE: Consideration of a retroactive approval of Virginia Housing Development LLC (VHDLLC), an existing, wholly-owned, subsidiary entity created by the Alexandria Redevelopment Housing Authority (ARHA), as well as approval of a new Special Purpose Entity (SPE) to be formed to facilitate the Samuel Madden redevelopment project, including pursuant to a potential tax credit limited partnership, subject to criteria described below.

RECOMMENDATION: That City Council:

- a) Approve VHDLLC, including retroactively, pursuant to the terms of a Resolution by ARHA to Approve an Amended and Restated Operating Agreement for Virginia Housing Development LLC (Attachment 1);
- b) Approve the formation of a special purpose entity pursuant to the terms of a Resolution by VHDLLC (Attachment 2);
- c) Authorize the City Manager to review and approve the VHDLLC and SPE, organizational documents to ensure conformance with this approval; and
- d) Authorize the City Manager to execute such documents or take such further action as necessary to implement City Council's actions hereunder.

BACKGROUND: In 2010, ARHA created VHDLLC, a wholly-owned subsidiary development entity, to carry out development activities and projects on ARHA's account, and to conduct occasional third-party fee consulting services for other Virginia housing authorities interested in learning from ARHA's experiences redeveloping public housing into mixed income communities. The formation of VHDLLC was considered desirable and necessary to limit ARHA's liability in terms of its obligations as a public housing authority as proscribed by the U.S. Department of Housing and Urban Development (HUD) while expanding its role as an affordable housing developer, specifically to enable ARHA to form limited partnerships with investors and others to enable low-income housing tax-credit funded affordable housing projects.

Since its formation, VHDLLC has participated on ARHA's behalf in several successful affordable housing development projects

including Alexandria Crossing, Quaker Hill, Pendleton Park, Old Town Commons, and The Lineage. In addition to replacing all public housing units demolished through redevelopment as required by the joint City-ARHA Resolution 830 (now updated as Resolution 2876), VHDLLC has also helped create or preserve net new affordable units at several developments adding to the City's overall portfolio of committed affordable housing. In the past VHDLLC has also undertaken consulting engagements to assist other Virginia housing authorities in formulating their redevelopment strategies and plans. At all times, VHDLLC has operated as a completely subordinate, and somewhat parallel, development entity to ARHA, generating fees from its work, and pursuant to various tax credit partnership arrangements. Both the staff and board of VHDLLC report to the ARHA Board of Commissioners, which is appointed by City Council subject to Alexandria's Charter.

DISCUSSION: The City and ARHA recently discovered that when VHDLLC was formed the entity was not formally approved by City Council as required by Code of Virginia Section 36-19(12). To cure this error, ARHA has requested that City Council retroactively approve VHDLLC, including its role in those limited liability/limited partnership tax credit entities in which it participates.

ARHA has further requested that City Council approve the formation of a special purpose entity (SPE), pursuant to a tax credit limited partnership, to facilitate redevelopment of Samuel Madden Homes as a low-income housing tax credit-funded property if/when ARHA receives credits pursuant to its upcoming applications to Virginia Housing (VH) for 9% and 4% credits. In reviewing and evaluating ARHA's requests, Housing and the City Attorney's Office have consulted with legal counsel with expertise in public housing and low-income housing tax credit regulation pursuant to IRS Section 42. Staff believe that ARHA's requests are appropriate, subject to some conditions outlined below, and particularly now, given ARHA's strategic plan to "reposition" its portfolio by seeking project-based rental subsidies that will increase operating revenue to enable ARHA to leverage third party funding, and assume debt, to carry out its construction and development activities and/or maintain and improve the properties in the future. If ARHA is successful in its applications for subsidy programs that replace HUD's property support contracts known as Annual Contributions Contract (ACC) (*contract between HUD and a local housing authority for each public housing property it owns and operates*), ARHA will have the financial means to operate, maintain and sustain its affordable housing units, over time.

To help ARHA achieve these goals, while ensuring some safeguards are in place regarding the role and mission of VHDLLC and the SPE to be created, City staff suggests that the operating agreements of these entities be revised to reflect that:

- VHDLLC and any special purpose entity to be created for Samuel Madden project be wholly owned and controlled by its member ARHA or VHDLLC, with ARHA board and/or staff as their managers;
- That the entities be created for affordable housing purposes only;
- That the entities' purposes be to advance ARHA's mission and comply with housing authority enabling legislation as set out in the Virginia Code;
- That VHDLLC's activities be limited to the City of Alexandria;
- That with regard to the SPEs to be formed pursuant to City Council's action here, they be created solely for the purpose of implementing the Samuel Madden Redevelopment project;
- That the City have the right to review and approve future proposed amendments to the organizational documents of all entities, with 90 days advance notice of any proposed changes.

The City-ARHA Work Group received a presentation regarding these proposed actions at its February 16, 2023 meeting and endorsed ARHA's plan. Copies of Resolutions adopted by the ARHA Board of Commissioners on behalf of ARHA and VHDLLC at its February 27, 2023 meeting are attached. These confirm conditions to be incorporated by ARHA into the organizational documents of VHDLLC and the Samuel Madden SPE to effectuate the parameters established by the City. The City Manager or his staff designee will review the organizational documents, when revised, to ensure conformance.

FISCAL IMPACT: None.

ATTACHMENTS:

- 1) ARHA Resolution to Approve an Amended and Restated Operating Agreement for VHDLLC
- 2) VHDLLC Resolution to Approve the Formation of SPE for the Samuel Madden Homes Redevelopment
- 3) Chart of ARHA Entities

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