



Interoffice Memorandum

AGENDA ITEM

February 15, 2017

TO: Mayor Teresa Jacobs  
-AND-  
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director  
Community, Environmental and Development  
Services Department

**CONTACT PERSON: Mitchell Glasser, Manager  
Housing and Community Development Division  
407-836-5190**

SUBJECT: March 7, 2017 – Consent Item  
Subordination Agreement

Maxwell Place, LLC is the owner of Maxwell Terrace Apartments, an affordable rental housing community for homeless individuals located at 3200 W. Colonial Drive, Orlando, Florida, 32808. Maxwell Place, LLC is in the process of refinancing the project. The lender, TD Bank, N.A., is requesting Orange County subordinate its position to the new loan documents, which shall have a priority over the County Mortgage Deed and Note, dated October 29, 2010.

The refinance of the existing mortgage will not alter the affordable housing restrictions originally placed on the property, which are in effect until October 2030. The County Attorney's Office and the Housing and Community Development Division have reviewed the subordination agreement and recommend approval.

**ACTION REQUESTED: Approval and execution of Subordination Agreement by and between Maxwell Place, LLC and Orange County, Florida to refinance Maxwell Terrace Apartments. District 6**

JVW/MG

Attachments

BCC Mtg. Date: March 7, 2017

**THIS DOCUMENT PREPARED BY:**

**Michael P. Carolan, Esq.  
Winderweedle, Haines, Ward  
& Woodman, P.A.  
Post Office Box 880  
Winter Park, Florida 32790-0880**

**SUBORDINATION AGREEMENT**

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.**

THIS SUBORDINATION AGREEMENT ("Agreement") is entered into by and between MAXWELL PLACE, LLC, a Florida limited liability company ("Borrower"), and the ORANGE COUNTY, FLORIDA, A CHARTER COUNTY AND POLITICAL SUBDIVISION OF THE STATE OF FLORIDA ("County").

**RECITALS**

A. Borrower has executed that certain mortgage ("Junior Encumbrance") dated October 29, 2010 in favor of the County, covering certain real property commonly known as "Maxwell Terrace Apartments Phase IV" and more particularly described on Exhibit A attached hereto and incorporated by reference ("Property"), which Junior Encumbrance is recorded at Official Records Book 10129, Page 9154, of the Public Records of Orange County, Florida.

B. Borrower is the owner of the Property.

C. TD Bank, N.A., a national banking association ("Lender") is about to make a loan (the "Senior Loan") to Borrower evidenced by a Consolidated Renewal Mortgage Loan Note (the "Senior Note") in the amount of \$3,350,000 to be secured in part by a mortgage against the Property (the "Senior Mortgage") to be recorded concurrently herewith.

D. It is a condition precedent to the making of the Senior Loan that the Senior Mortgage shall unconditionally be and remain at all times a lien or charge upon the Property, prior and superior to the lien or charge of the Junior Encumbrance.

E. It is to the mutual benefit of the parties hereto that Lender make the Senior Loan to Borrower, and the parties hereto are willing that the Senior Mortgage shall constitute (and continue to constitute) a lien or charge upon the Property which is unconditionally prior and superior to the lien or charge of the Junior Encumbrance.

Therefore, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, it is hereby declared, understood and agreed as follows:

1. The Senior Mortgage and any renewals or extensions thereof, shall unconditionally be and remain at all times a lien or charge on the Property, prior and superior to the lien or charge of the Junior Encumbrance.

2. This Agreement shall be the whole and only agreement with regard to the subordination of the lien or charge of the Junior Encumbrance to the lien or charge of the Senior Mortgage, and shall supersede and cancel any prior agreement among the parties hereto, or any of them, to subordinate the lien or charge of the Junior Encumbrance to the Senior Mortgage.

3. Senior Lender shall cause a copy of any notice of default to Borrower to be sent to County at the following address; however, Senior Lender's failure to cause such copy to be sent shall not affect the validity of any attempted enforcement of Senior Lender's remedies under the Senior Mortgage, nor shall Senior Lender be liable for any such failure:

Orange County Housing and Community Development Division  
Attention: Manager  
525 E. South Street  
Orlando, Florida 32801

4. County and Borrower declare, agree and acknowledge that:

a. Each of them consents to and approves (i) all provisions of the Senior Note and Senior Mortgage, in favor of Lender, and (ii) all agreements, including but not limited to any loan or escrow agreements, for the disbursement of the proceeds of the Senior Loan.

b. Lender is under no obligation or duty to, nor has Lender represented that it will, see to the application of any proceeds of the Senior Loan. The terms and conditions of the Junior Encumbrance, are of no concern to Lender and Lender shall be under no duty or obligation to assure compliance with any of the respective terms or conditions thereof. No action or inaction of Lender shall defeat the subordination herein made in whole or in part and Lender shall be under no duty or obligation to take or refrain from any action because of any knowledge Lender has or may have regarding any breach by Borrower of any agreement or other obligation, including any agreement with Lender, with any other party to this Agreement, or otherwise.

c. Each party hereto other than Lender intentionally and unconditionally waives, relinquishes and subordinates the lien or charge of the Junior Encumbrance in favor of the lien or charge upon the Property of the Senior Mortgage, and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, Lender is making the Senior Loan, and, as part and parcel thereof, specific monetary and other obligations and forbearances

are being entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.

d. An endorsement has been placed upon the note secured by the Junior Encumbrance that said Junior Encumbrance has by this instrument been subordinated to the lien or charge of the Senior Mortgage.

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**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date of last execution set forth below.

**ORANGE COUNTY, FLORIDA**



By: Board of County Commissioners

By: *Teresa Jacobs*  
Teresa Jacobs  
Orange County Mayor

Date: 3.7.17

ATTEST: Phil Diamond, CPA, Orange County Comptroller  
As Clerk of the Board of County Commissioners

BY: *Katie Smith*  
Deputy Clerk

Date: MAR 07 2017

MAXWELL PLACE, LLC, Florida limited liability company

By: GRAND AVENUE ECONOMIC  
COMMUNITY DEVELOPMENT CORP., a  
Florida not-for-profit corporation, as Sole  
Member

By: *Hel M. Blum*  
Helaine M. Blum, President

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was executed before me this 21<sup>st</sup> day of February, 2017, by Helaine M. Blum, as President of GRAND AVENUE ECONOMIC COMMUNITY DEVELOPMENT CORP., a Florida not-for-profit corporation, the sole member of MAXWELL PLACE, LLC, a Florida limited liability company, ~~on behalf of the corporation~~ as the sole member of the company. She is either personally known to me or has produced \_\_\_\_\_ as identification.

(AFFIX NOTARIAL SEAL)

Commission No. FF 039775

*Elizabeth Rico*  
Notary Public  
(Name) Elizabeth Rico  
My Commission Expires: 7-25-17



**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

**COMMENCE AT THE NORTH 1/4 CORNER OF SECTION 28, TOWNSHIP 22 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA, RUN THENCE S. 00°33'00" W., 67.23 FEET; THENCE N. 89°45'46" E., 658.04 FEET TO THE POINT OF BEGINNING; RUN THENCE N. 89°45'46" E., 253.04 FEET; THENCE S. 00°02'00" W., 150.00 FEET; THENCE N. 89°45'46" E., 175.00 FEET; THENCE S. 00°02'00" W., 50.00 FEET; THENCE N. 89°45'46" E., 200.00 FEET; THENCE S. 00°02'00" W., 504.23 FEET; THENCE S. 89°42'40" W., 631.22 FEET; THENCE N. 00°17'33" E., 704.82 FEET TO THE POINT OF BEGINNING. LESS RIGHT-OF-WAY FOR STATE ROAD NO. 423 AND LESS AND EXCEPT THAT PORTION PLATTED AS MAXWELL TERRACE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 57, PAGE 11, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.**

**ALSO LESS AND EXCEPT ANY PORTION OF THE ABOVE LANDS LYING SOUTH AND WEST OF MAXWELL TERRACE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 57, PAGE 11, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.**