



Legislation Details (With Text)

File #: 10-1128 **Version:** 1 **Name:** 12/6/10 - 518, 520 and 522 Division Subordination
Type: Resolution **Status:** Passed
File created: 12/6/2010 **In control:** City Council
On agenda: 12/6/2010 **Final action:** 12/6/2010
Enactment date: 12/6/2010 **Enactment #:** R-10-441

Title: Resolution to Approve the Subordination of the City's Mortgage Lien to the Bank of Ann Arbor's Federal Home Loan Bank Mortgage on Avalon Housing's Properties at 518, 520 and 522 S. Division and to Approve an Intercreditor Agreement with Washtenaw County

Sponsors:

Indexes: Agreement, Avalon

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
12/6/2010	1	City Council	Approved	Pass

Resolution to Approve the Subordination of the City's Mortgage Lien to the Bank of Ann Arbor's Federal Home Loan Bank Mortgage on Avalon Housing's Properties at 518, 520 and 522 S. Division and to Approve an Intercreditor Agreement with Washtenaw County

On March 1, 1993 (R-87-3-93) Council approved \$405,000 in funding for Avalon to acquire and rehabilitate 518, 520 and 522 S. Division. Following are the funding sources:

\$345,000	City federal HOME funds	30 year, 1% interest
\$60,000	City federal CDBG funds	30 year, 0% interest
\$75,000	County local Housing Contingency funds	30 year, 1% interest
<u>\$90,000</u>	Federal Home Loan Bank Funds	15 year, 0% interest
\$570,000	TOTAL	

On July 2, 2007 (R-309-7-07) Council approved an amendment to the City's liens to convert them to 99-year, 0% interest, deferred payment loans. Instead of placing the City's liens on all three properties together, the balance owed on the liens were divided among the three properties in the following manner based on the taxable value of the properties:

518 S. Division	\$60,000.00 CDBG and \$108,548 HOME	99 year, 0% interest
520 S. Division	\$93,638.00 HOME	99 year, 0% interest
522 S. Division	\$112,364.98 HOME	99 year, 0% interest

The FHLB-TCF lien term has expired and the Federal Home Loan Bank has awarded Avalon \$160,000 in new funds to rehabilitate these properties. Bank of Ann Arbor is the local bank processing these loans. BOAA does not charge a fee or receive any payments from Avalon over the life of the loan. BOAA does get CRA credit and they are liable to FHLB if Avalon does not maintain the units as affordable housing for 15 years. Therefore, Bank of Ann Arbor is requesting a first lien position, which is typical for affordable housing projects with private financing. The FHLB-BOAA

funds are 0% interest, deferred payment loans, forgiven after 15 years. The County will also be converting its loan term to a 0% interest, deferred payment loan. Consequently, all of the funders will have liens on the properties that Avalon will not be making any payments on, no interest will be accruing, and the liens will be forgiven at the end of their terms.

Community Development is requesting Council approval of the following liens in order of lien position, with the County sharing a second lien position with the City:

518 S. Division

FHLB-BOAA	\$95,000
City \$60,000 CDBG and \$108,548 HOME	
County	<u>\$25,000</u>
TOTAL Liens	\$288,548
Taxable Value x 2	\$206,352

520 S. Division

FHLB-BOAA	\$15,000
City	\$93,638 HOME
County	<u>\$25,000</u>
TOTAL Liens	\$133,638
Taxable Value x 2	\$83,418

522 S. Division

FHLB-BOAA	\$50,000.00
City	\$112,364.98 HOME
County	<u>\$25,000.00</u>
TOTAL Liens	\$187,364.98
Taxable Value x 2	\$165,586.00

Even though the total value of the liens exceeds the taxable value of the properties, Community Development believes this is a low-risk investment by the City for the following reasons.

- 1) Avalon has owned and operated these properties for 17 years
- 2) The properties' cash-flow is positive and they are fully leased
- 3) The City's federal HOME and CDBG funds have met their federal affordability period requirements and the City is not obligated to pay back any of these funds if the properties no longer provide affordable housing
- 4) The City has the option of converting these funds to grants, but for policy reasons, maintains a lien on the properties to ensure that they continue to be used as affordable housing. Repayment of the funds is secondary to providing affordable housing. The City's 99 year lien is intended to give the City a mechanism to decide whether the houses should be sold at a future date at market rate or as affordable housing.
- 5) The BOAA funds will be used to make exterior improvement to the driveway and walkway, replacing part of a sewer line and interior work including adding insulation, upgrading kitchens and baths, and refinishing the floors, which will improve the quality of the existing affordable housing.
- 6) The properties have a PILOT and Avalon only pays \$14/year in taxes, therefore the properties are unlikely to be tax-foreclosed.
- 7) None of the loans require repayment unless the property is transferred and no longer houses

low-income residents, therefore the properties are unlikely to be mortgage-foreclosed.
Prepared by: Jennifer Hall, Housing Manager, Mary Jo Callan, Community Development Director
Approved by: Sumedh Bahl, Community Services Area Administrator
Whereas, Avalon Housing Inc. is refinancing and rehabilitating 518, 520 and 522 S. Division;

Whereas, In 1993, the City invested \$405,000.00 in 518, 520, and 522 S. Division along with \$75,000.00 from Washtenaw County and \$90,000.00 from the Federal Home Loan Bank through TCF Bank;

Whereas, The \$90,000.00 FHLB-TCF loan term has expired and will be discharged, and Avalon has received a new allocation from FHLB through Bank of Ann Arbor in the amount of \$160,000.00; and

Whereas, Bank of Ann Arbor is requesting that the City subordinate its current debt on the property to Bank of Ann Arbor;

RESOLVED, That the Mayor and City Council approve the subordination of its \$405,000.00 in debt at 518, 520, and 522 S. Division to the Bank of Ann Arbor's lien of \$160,000.00 in the following amounts, with the City sharing a second lien position with the County:

518 S. Division

FHLB-BOAA	\$95,000.00
City \$60,000.00 CDBG and \$108,548.00 HOME	
County	<u>\$25,000.00</u>
TOTAL Liens	\$288,548.00

520 S. Division

FHLB-BOAA	\$15,000.00
City	\$93,638.00 HOME
County	<u>\$25,000.00</u>
TOTAL Liens	\$133,638.00

522 S. Division

FHLB-BOAA	\$50,000.00
City	\$112,364.98 HOME
County	<u>\$25,000.00</u>
TOTAL Liens	\$187,364.98

RESOLVED, That the Mayor and City Clerk be hereby authorized and directed to sign an Intercreditor Agreement with Washtenaw County if necessary, consistent with this resolution, subject to approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That the City Administrator, or his designee, be authorized to take necessary administrative actions and to execute any documents necessary to complete this transaction and to implement this resolution.