FINANCING LOW-INCOME HOUSING

SUMMARY

In its report, “A Failure of Oversight”[1], the 2011-2012 Santa Barbara County Grand Jury criticized the Lompoc Housing Community Development Corporation (LHCDC), the County of Santa Barbara and the City of Lompoc for failing to protect the citizens of Santa Barbara County against mismanagement of affordable housing facilities and financial loss.

The reputations of other low-income housing providers may have suffered by association. After reviewing several complaints, the 2012-2013 Santa Barbara County Grand Jury (Jury) finds no basis for the allegations. The Jury is impressed by the dedication and good work by many of these organizations.

These complaints appear to be based on the difficulty in understanding the complex structure of these organizations. This results from the cumbersome statutory environment that has evolved over 75 years of congressional experimentation with funding of low-income housing. This activity report attempts to bring some historical perspective and a better understanding of the financing of low-income housing.

BACKGROUND

In 1937, Congress enacted the Wagner-Steagall Act (Housing Act of 1937) to encourage the states to set up local housing agencies to develop public housing funded with Federal subsidies. In California, these housing authorities are extensions of the State, similar to special districts.

The Santa Barbara County Board of Supervisors (BOS) formed the Housing Authority of the County of Santa Barbara (HACSB) in 1941. There are two other Housing Authorities in the County: the Housing Authority of the City of Santa Barbara was formed in 1969 to address city-specific issues, and in 1970 the All Mission Indian Housing Authority was

[1]See Santa Barbara County Grand Jury website (http://www.sbcgj.org), Final Reports, 2011-2012

formed to serve the Chumash Reservation. The HACSB oversees most low-income housing projects in the other areas of Santa Barbara County. Non-governmental providers include People's Self-Help Housing and Good Samaritan Services.

A seven-member Board of Commissioners, appointed by the BOS, manages the HACSB. Each supervisor appoints one commissioner, while the remaining two are selected from applications submitted by current tenants. Board independence is assured by its diverse composition. Board meetings are held monthly and are open to the public in accordance with the Brown Act (*Government Code, Section 54950*).

The process by which low-income housing development and management takes place is quite complicated. In the early 1970s, when the Federal government began to withdraw from the business of constructing subsidized housing, Congress created a series of laws to entice private enterprise to invest in the construction of low-income housing.

As an example, when a housing authority issues Requests for Proposals (RFP), respondents are often financial institutions interested in lending to or investing in the project to obtain Community Reinvestment Act (CRA) compliance. The CRA is intended to encourage banks to help meet the credit needs of the community in which they operate, including low- and moderate-income neighborhoods.

Regulations that govern tax credit financing require that a not-for-profit corporation be a general partner with the project developer. The not-for-profit corporation must manage the day-to-day operations of each project in order for it to qualify for tax credit financing. It is common for the not-for-profit to enter into an agreement with the Housing Authority for use of its staff to perform the work necessary to meet requirements for low-income housing tax credits.

The process of planning, building and occupying an individual project is subject to several hurdles, each of which requires a period of due diligence and critical review. The process has 34 major steps.

Another source of confusion is that many of the housing providers have a for-profit entity parallel to their not-for-profit partner. Although seldom used, this structure is based on the governing statutes and regulations and does not necessarily suggest any impropriety or misuse of funds.

The housing authority, the not-for-profit and the for-profit corporations are audited annually, and their audit reports are available to the public. The annual audit is necessary to validate compliance with Low-Income Housing Tax Credit requirements and HUD requirements. Additional audits are performed annually and independently for investors and lenders. Each will audit any project in which it is involved to validate compliance with IRS and California Tax Credit Allocation Committee guidelines. The reason for this is simple: non-compliance carries adverse financial consequences for investors and lenders.

CONCLUSION

After interviewing numerous low-income housing and service providers, reviewing hundreds of pages of documents as well as readily-available financial statements, the Jury finds that LHCDC was an outlier and that the dedicated employees of other low-income housing organizations in the county competently perform their functions, and do so largely outside the public limelight. The Santa Barbara County Grand Jury believes that public funding of these organizations is well invested and commends these organizations for the ongoing service they provide.