



**OFFICE OF THE COMMISSION AUDITOR
MIAMI-DADE BOARD OF COUNTY COMMISSIONERS**

**COMMISSION AUDITOR'S
INFORMATIONAL RESEARCH**

**HOUSING, SOCIAL SERVICES, & ECONOMIC
DEVELOPMENT COMMITTEE MEETING**

JUNE 8, 2020

9:30 A.M.

Virtual Meeting

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Commission Auditor

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**HSSD Meeting
June 8, 2020
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Item No. 3A
File No. 200978

Researcher: JFP Reviewer: PGE

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE A REVISED PURCHASE AND SALES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND WARD TOWERS ASSISTED LIVING ASSOCIATES, LTD., A FLORIDA LIMITED PARTNERSHIP, AND MDHA DEVELOPMENT CORPORATION, A FLORIDA NOT FOR PROFIT CORPORATION, IN THE AMOUNT OF \$200,000.00, PLUS ALL CLOSING FEES AND COSTS IN AN AMOUNT NOT TO EXCEED \$15,000.00, RELATED TO THE TRANSFER OF THE PUBLIC HOUSING DEVELOPMENT KNOWN AS WARD TOWERS ASSISTED LIVING FACILITY TO THE COUNTY, TO EXERCISE ALL PROVISIONS, INCLUDING, BUT NOT LIMITED TO, TERMINATION AND AMENDMENT PROVISIONS, CONTAINED THEREIN, AND TO EXECUTE ALL RELATED DOCUMENTS IN ACCORDANCE WITH RESOLUTION NO. R-836-19

ISSUE/REQUESTED ACTION

Whether the Board should authorize execution of a revised Purchase and Sales Agreement between the County and Ward Towers Assisted Living Associates, Ltd. (WTA), a Florida limited partnership, as well as MDHA Development Corporation (MDHADC), a Florida not-for-profit corporation, in the amount of \$200,000, plus \$15,000 in closing fees and costs, for the transfer of a public housing development, Ward Towers Assisted Living Facility, to the County.

PROCEDURAL HISTORY

Prime Sponsor: Chairwoman Audrey M. Edmonson, District 3

Department/Requester: Public Housing and Community Development (PHCD)

The original purchase and sales agreement for the subject property was approved by the BCC on July 23, 2019 via Resolution No. R-836-19.

ANALYSIS

The purpose of this item is to approve a revised Purchase and Sales Agreement of a 100-unit affordable housing development, Ward Towers Assisted Living Facility, located at 5301 NW 23rd Avenue in Commission District 3, represented by Chairwoman Audrey M. Edmonson. The item is being reconsidered by the Board due to a technical issue necessitating amendment to the Agreement prior to proceeding with closing on the sale of the property to the County.

The County initially conveyed the property to MDHADC, a not-for-profit corporation created by the County to facilitate and expedite the development of affordable housing, through a County deed on August 14, 2003. Subsequently, MDHADC entered into a ground lease with WTA, which applied for a tax credit under the Low-Income Housing Tax Credit Program for the construction of Ward Towers. The County does not own the land or the improvements but does manage the property.

According to PHCD, the County intended for the property to be transferred to it in 2008, along with the other MDHADC-owned properties, through Board adopted Resolution No. R-412-08 as part of the direction of a 2007 Audit and Management Service's audit of MDHADC. However, because there was a tax credit involved, WTA wanted to retain its interest in the property in order to take advantage of the tax credits until benefits expired in 2014. Due to a subsequent five-year investor compliance period, (expiring in December 2019), the Purchase and Sale Agreement was not brought before the Board and ultimately approved until July 2019. The approved Purchase and Sale Agreement required the County to indemnify and hold harmless all parties during the tax credit compliance period ending December 31, 2019 and required the County to obtain an indemnity bond and comply with other provisions related to the compliance period.

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A technical issue regarding the indemnity bond arose. Thus, the parties mutually agreed to wait until the end of the tax credit compliance period, December 31, 2019, to execute the sale of the property. However, due to the fact that the compliance period has ended and indemnification is no longer required, the Purchase and Sales Agreement needs to be amended to reflect such changes in its terms, and the amended Agreement needs to be approved by the Board prior to execution. The amended Agreement now before the Board removes provisions referencing the indemnity and the requirement of an indemnity bond, with the additional removal of WTA's requirement to pay 2019 real estate taxes at closing to the County, instead stipulating that the County is to receive a credit equal to WTA's pro rata share of all 2020 real estate taxes. Also causing postponement of the closing was a delay in obtaining a satisfaction of mortgage for a Housing Financing Authority loan held by Bank of America, which has been satisfied.

The cost to the County remains \$215,000, which will be paid by PHCD through the Documentary Stamp Surtax Program (Surtax Program). Through the purchase of the property, the County will assume the outstanding debt from a loan originating from the County's Surtax Program in the amount of \$6,500,000, which will be reimbursed from property cash flows.

The requested Purchase and Sales Agreement consists of the following terms, with no substantive changes other than the addition of the legal description of the property to each of the documents.

- A purchase and sales agreement among the County, Ward Towers Assisted Living Associates, Ltd. (WTA), a Florida limited partnership, and MDHA Development Corporation (MDHADC), in the amount of \$200,000 plus \$15,000 for closing fees and costs;
- Execute an Assignment and Assumption of Leases;
- Execute an Assignment and Assumption of Service Contracts, Permits, and Warranties;
- Accept a Special Warranty Deed conveying the project from MDHADC to the County, including receiving from and executing an instrument with MDHADC that assigns the Documentary Stamp Surtax program loan in the amount of \$6,500,000 to the County;
- Allocate up to \$215,000 of Documentary Stamp Surtax funds to cover the price and closing fees and costs associated with the transfer of the Project to the County; and
- Waive the provisions of Section 2-10.4.2(a) of the Code, which requires that whenever the County purchases, sells or is involved in a lease of real estate, whether as lessor or lessee, and the fee simple value of the property being bought or sold or the annual value of the property being leased is in excess of \$5,000,000, the County shall prior to consummating the purchase, sale or lease have the property appraised by two real estate appraisers holding the Member of the Appraisal Institute designation.

According to the Miami-Dade County Property Appraiser website, the assessed value of the property is \$2,627,000. The property will continue to be operated as an affordable multifamily housing facility for low-income residents and none of the residents will be displaced. While the facility was originally intended to serve as an Assisted Living Facility, WTA did not file with the State of Florida for the required license through Agency for Health Care Administration, and therefore it has never operated as such. Of the 100 units in the building, there are eight elderly individuals residing in the building and no disabled residents. The other 92 units are occupied by low-income residents.

Once this property is transferred to the County, MDHADC will be dissolved because it will no longer have any financial or ownership interest in any properties that were developed with County financing or that have County participation.

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OCA's due diligence on Ward Towers Assisted Living Associates, Ltd. is detailed below.

Awarded Firm	Corporate Registration	Tax Collector's Office	Florida DBPR	Litigation (Westlaw)
Ward Towers Assisted Living Associates, Ltd.	Florida Limited Partnership Active Principal Address: 5301 NW 23 Ave. Miami, FL 33142 Filed: January 29, 2001	No account on file.	No account on file.	No relevant cases.

ADDITIONAL INFORMATION

Miami-Dade County Documentary Stamp Surtax Program
<https://www.miamidade.gov/global/housing/surtax.page>

APPLICABLE LEGISLATION/POLICY

Section 201.02, Florida Statutes, allows a tax on deeds and other instruments relating to real property or interests in real property. Miami-Dade County has incorporated this Documentary Stamp Surtax Program in its operations for over 27 years.

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=201.02&URL=0200-0299/0201/Sections/0201.02.html

Section 2-10.4.2(a) of the Code of Miami-Dade County (Appraisers Required for Purchases, Sales and Leases) applies whenever the County purchases, sells or is involved in a lease of real estate, whether as lessor or lessee, and the fee simple value of the property being bought or sold or the annual value of the property being leased is in excess of five million dollars, the County shall prior to consummating the purchase, sale or lease have the property appraised by two real estate appraisers holding the M.A.I. designation.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-10.4.2APREPUSALE

Resolution No. R-836-19, adopted July 23, 2019, approved execution of the original Purchase and Sales Agreement between the County and Ward Towers Assisted Living Associates, Ltd., as well as MDHA Development Corporation, in the amount of \$200,000, plus \$15,000 in closing fees and costs, for the transfer of a public housing development, Ward Towers Assisted Living Facility, to the County.

<http://intra/gia/matter.asp?matter=191734&file=true&yearFolder=Y2019>

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Resolution No. R-903-00, adopted July 27, 2000, authorized the County Manager to form a Florida not-for-profit corporation to be known as the Miami-Dade Housing Agency Development Corporation as well as create subsidiaries and affiliated entities of such corporation.

<http://intra/gia/matter.asp?matter=001933&file=false&yearFolder=Y2000>

Resolution No. R-412-08, adopted April 8, 2008, approved the transitional agreement with the MDHA Development Corporation (MDHADC), which provides for the return of property and related funding for affordable housing projects to the County and relinquishment of contracts and leases by MDHADC; provides for MDHADC to retain the Ward Towers and postmaster projects and related funding.

<http://intra/gia/matter.asp?matter=080806&file=true&yearFolder=Y2008>

CONTRIBUTORS

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The Office of the Commission Auditor, Miami-Dade Board of County Commissioners

The Office of the Commission Auditor (OCA) was established in September 2002 by Ordinance 03-2 to provide support and professional analysis of the policy, service, budgetary and operational issues before the Miami-Dade Board of County Commissioners. The Commission Auditor's duties include reporting to the Board of County Commissioners on the fiscal operations of County departments, as well as whether the fiscal and legislative policy directions of the Commission are being efficiently and effectively implemented

These research notes, prepared in collaboration with the Miami Dade County departments as subject matter experts, is substantially less detailed in scope than an audit in accordance with the Generally Accepted Auditing Standards (GAAS). The OCA plans and performs the review to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on its objectives; accordingly, the OCA does not express an opinion on the data gathered by the subject matter expert(s).