



# Broward County

## Legislation Text

File #: 22-578, Version: 1

### **Broward County Commission Regular Meeting**

**Director's Name:** Leonard Vialpando

**Department:** Resilient Environment      **Division:** Urban Planning Division

### Information

#### Requested Action

MOTION TO APPROVE Subordination Agreements related to the Declarations of Restrictive Covenants for Dixie Court located south of Northwest 4th Street, between Northwest 11th Avenue and North Powerline Road, in the City of Fort Lauderdale involving the waiver of certain impact fees and to authorize County Administrator to execute same. **(Commission District 8)**

#### Why Action is Necessary

This action will meet the requirements of a new lender that the Declaration of Restrictive Covenant be subordinated to the loan.

#### What Action Accomplishes

Subordinates the Declaration of Restrictive Covenants to the loan.

#### Is this Action Goal Related

No

#### Previous Action Taken

None taken.

#### Summary Explanation/Background

THE RESILIENT ENVIRONMENT DEPARTMENT AND THE URBAN PLANNING DIVISION RECOMMEND APPROVAL.

The Dixie Court Associates, Ltd., a Florida limited partnership (“the Owner”) and the Housing Authority of the City of Fort Lauderdale (“the Lesser”) has requested to subordinate the Declarations of Restrictive Covenants for Affordable Housing recorded in Official Record Book 42928, Page 140 and 45121, page 529 in the Official Records of Broward County, Florida (Exhibit 3).

The subject property is located south of Northwest 4th Street, between Northwest 11th Avenue and North Powerline Road, in the City of Fort Lauderdale. The owners are in the process of refinancing the senior permanent loan from PNC Bank, N.A. using a Section 223(f) refinance mortgage insured through the Federal Housing Administration (“FHA”) an agency of the U.S. Department of Housing and Urban Development (“Lender”).

The Office of the County Attorney has reviewed the subordination agreements, and neither the Subordination or the Owner’s Certification and Acknowledgement would adequately

substitute for the Declaration in the event of refinance, foreclosure, or if Lessee voluntarily prepays the loan. The Board should be made aware of the following nonstandard provisions:

- In the event of foreclosure (or deed in lieu of foreclosure) the Declaration (including without limitation, any and all land use covenants/or restrictions contained herein) shall automatically terminate, to the extent applicable, or as otherwise provided by HUD.
- Prohibits the County from filing any claim against the project, mortgage loan proceeds, reserve or deposit required by HUD in connection with the mortgage or HUD regulatory agreement.
- Limits County's indemnity provision to available surplus cash and/or residual receipts of the Borrower.
- Provide that County shall not be permitted to modify, amend, change or alter the Declaration.

Please refer to the attached memorandum for further information and disclosure of the nonstandard provisions offered in the subordination agreements (Exhibit 6).

**Source of Additional Information**

Josie P. Sesodia, AICP, Director, Urban Planning Division, 954-357-6602.

**Fiscal Impact**

**Fiscal Impact/Cost Summary**

No fiscal impact.