



# Broward County

## Legislation Details (With Text)

**File #:** 22-580 **Version:** 1

**Status:** Agenda Ready

**In control:** Resilient Environment - Urban Planning Division

**On agenda:** 6/14/2022 **Final action:** 6/14/2022

**Title:** MOTION TO APPROVE Subordination Agreement related to Declarations of Restrictive Covenants for HTG Village View, LLC, located east of North Andrews Avenue, between Northeast 6 Street and Northeast 7 Street in the City of Fort Lauderdale, involving the waiver of certain impact fees and to authorize County Administrator to execute same. (Commission District 4)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit 1 - Application, 2. Exhibit 2 - Location Map, 3. Exhibit 3 - Age Restriction Declaration of Restrictive Covenant, 4. Exhibit 4 - Affordable Housing Declaration of Restrictive Covenant, 5. Exhibit 5 - Office of County Attorney Memorandum

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

### Broward County Commission Regular Meeting

**Director's Name:** Leonard Vialpando

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

### Information

#### Requested Action

MOTION TO APPROVE Subordination Agreement related to Declarations of Restrictive Covenants for HTG Village View, LLC, located east of North Andrews Avenue, between Northeast 6 Street and Northeast 7 Street in the City of Fort Lauderdale, involving the waiver of certain impact fees and to authorize County Administrator to execute same. **(Commission District 4)**

#### Why Action is Necessary

Requirement of lender that the Declaration of Restrictive Covenants be subordinate 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

#### Summary Explanation/Background

THE RESILIENT ENVIRONMENT DEPARTMENT AND THE URBAN PLANNING DIVISION RECOMMEND APPROVAL OF THE ABOVE MOTION.

HTG Village View, LLC (“Owner”) has requested to subordinate the Declarations of Restrictive Covenants for Age Restricted and Affordable Housing recorded at Instrument Nos. 116231456 and 116231455 in the Public Records of Broward County, Florida (collectively “Declarations”), see Exhibit 3 and Exhibit 4. These Declarations provided for waiver and exemption of transportation concurrency and school impact fees assessed for 100-unit senior housing community.

The subject property is located at the east of North Andrews Avenue, between Northeast 6 Street and Northeast 7 Street, in the City of Fort Lauderdale. The Owner is in the process of seeking additional refinancing from Walker and Dunlop, LLC. The Owner, in agreement with Florida Housing Finance Corporation, will restrict the development to low-income residents for a fifty (50) year period.

Also, the Office of the County Attorney has reviewed the subordination agreements, and finds them in approvable form subject to disclosure to the Board of the following nonstandard provisions:

- Provide that any transfer of the property in connection with the event of a foreclosure or deed in lieu of foreclosure will not require the County's consent.
- Obligate County to provide Lender with a concurrent copy of each material notice under or with respect to each Declaration.
- Provide that Lender shall have the right (but not be obligated) to cure any default under each Declaration.
- Provide that County shall not be permitted to modify, amend, change, or alter the Declarations without the written consent of Lender.
- Provide that in the event of foreclosure, deed in lieu of foreclosure, or similar disposition of the property by Lender, no consent will be required of the County.
- Limit County's ability to enforce the terms of the Declarations by any remedy available in law or in equity that could result in (i) the transfer of the property, (ii) collection or possession of rent generated from the property; (iii) appointment of a receiver for the property; (iv) application of insurance or condemnation proceeds other than as approved by Lender; (v) removal or replacement of the current property manager of the property; or (vi) a material adverse effect on Lender's security interest in the property.

Please refer to the attached memorandum further information and disclosure of the nonstandard provisions offered in the subordination agreements (Exhibit 5).

#### **Source of Additional Information**

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

#### **Fiscal Impact**

##### **Fiscal Impact/Cost Summary**

No fiscal impact.