

ESCAMBIA-PENSACOLA AFFORDABLE HOUSING ADVISORY COMMITTEE

DISCUSSION NOTES

September 20, 2022

The Escambia-Pensacola Affordable Housing Advisory Committee (AHAC) held a special called meeting in the Hagler-Mason Conference Room, 2nd Floor of Pensacola City Hall, 222 West Main Street, Pensacola, Florida on September 20, 2022 at 9:00 AM.

Committee members present: Pensacola City Council President Ann Hill, Deborah Mays, Paul Ritz and Crystal Scott

Committee members absent: Ed Brown, Laura Gilmore, Brenton Goodman, Patricia Mackovic, Escambia County Commissioner Lumon May, and Maya Moss

Staff members present: Timothy Evans, Escambia County Neighborhood Enterprise Division (NED); Marcie Whitaker, Director of City of Pensacola Housing Department, Tracy Pickens, City of Pensacola Housing Department

Call to Order, Welcome, and Roll Call

Chairwoman Crystal Scott called the meeting to order at 9:02 am. She asked for those present at the meeting table to introduce themselves, after which she acknowledged that there not sufficient attendance to establish a quorum. Ms. Scott stated that the meeting would proceed, as the special meeting was set to hear from the County's Legal Department, and Mr. Steve West, Senior Assistant County Attorney was present. Before the hour continued, Mr. Ritz cautioned members not to discuss issues in such a way that might run afoul of the Sunshine Law. Asking questions and seeking clarification of the issues presented were fine, but further discussion between members should be avoided.

Since the meeting was lacking a quorum Ms. Scott skipped those agenda items which generally were addressed with a vote (absences and approval of the previous meeting's minutes) and proceeded to the guest speaker.

Guest Speaker

Ms. Scott introduced the speaker, Mr. Steve West, Senior Assistant County Attorney for Escambia County. Mr. West began by recalling his previous presentation to the AHAC, when he reviewed the issues related to the Florida Sunshine Laws and Public Records issues at the meeting in January of 2022. Marcie Whitaker mentioned that his presentation in January was one of the most understandable presentations of Sunshine Law that she had heard and thanked him for his willingness to return to the AHAC to present information regarding how real property moves through ownership by tax liens, certificates, deeds and in some cases, escheatment.

Mr. West began his presentation by saying that all of the issues relate to the County's position as a taxing authority. On January first every year the County determines a set amount of tax for every privately held piece of real property in the County. This tax bill becomes due and payable in November. Taxes paid as soon as they are payable are discounted a small amount, to incentivize the public to make their payments early. The tax bill on the property can be paid any time over the next several months. The taxes become delinquent if not paid by the last day of March (the following year). At that point the tax

bill becomes a lien on the property. Property owners have two months to pay their back taxes, with a late fee attached. If the lien is not paid and released by June, the County holds a public auction whereby a high bidder (of both price lowest interest rate) and can buy a tax certificate. The property owner, if they wish to clear the lien then has to buy back the Certificate, paying the tax bill as well as the premium to the Certificate holder. If no one buys a Certificate they become County assets and accrue interest at the highest rate (18%).

Certificate holders can apply for a tax deed to the property after two years, although that is not required. However, if a Certificate holder does not exercise the option to purchase the tax deed within seven years, the Certificate becomes null and void. The Certificates held by the County go once again to a tax deed auction after two years, at which time the public again has the opportunity to purchase for the cost of accrued taxes and interest. If a Certificate/deed is not purchased it goes onto a 'land available for taxes' list maintained by the County and is available for sale for another three years. If the property stays on the list for three years and is not sold the property is escheated and then belongs to the County (Chapter 197, FL Statutes).

A question was asked about making escheated property available to affordable housing developers. Mr. West replied that the easiest way to secure such parcels to purchase the deed before the parcel is escheated to the County, when they are available to anyone. After escheatment, the County is obligated by both State statute and County ordinance to follow specified procedures to surplus, auction, sell or donate property. The County is under obligation to auction the property to the highest bidder, but may also convey property to another government entity or to a nonprofit organization if it can establish that the property will be used for 'public benefit'. Mr. West stated that he is aware of the County previously providing property to local nonprofits for affordable housing development.

Another question was posed regarding the tax deed auctions, and whether there might be a preferential consideration for affordable developers, as they often cannot compete in an open auction setting. Mr. West said that the statute is fairly set.

Another question was asked regarding the status of escheated property, and whether future owners had to pay to remove liens and encumbrances. Mr. West said that the statute says that escheated property should be 'free and clear' of any liens or claims, however many title companies will still do a title search on such properties and find anyone who may have had a claim. He encouraged that a best practice be to have that person or entity sign off that their claim had been satisfied/erased by the escheatment.

A penultimate question for Mr. West was in regard to the process by which the County lists County-owned property appropriate for affordable development. He said he was aware of the statutory requirement and recalled working with the BCC to generate such a list this past spring to comply with the statute. He continued his comments with a recommendation that affordable developers should not necessarily focus on securing escheated properties. Since by the time the County takes possession, the properties have been available to the buying public for several years, and no one saw the value of purchasing them. This alone is reason to be quite careful in buying, or even accepting such parcels as a donation. While the statute states that liens and claims are 'scrubbed', not all prior lienholders recognize such and can make a legal case out of clearing encumbrances. There also may be issues of environmental hazards or toxic cleanup requirements that make the property very expensive, even if it

was received at no cost. He said that if a developer pursues escheated parcels, they should be prepared to work through the necessary steps to have a buildable lot.

Finally, Mr. West was asked if he was aware of a section in State statute stating that property escheated to a County, but within the boundaries of another governmental entity should be transferred to the other entity. Mr. West replied that he was aware of the issue. As to compliance locally, he said it is hard to say. The statute doesn't require a County to transfer property to another unit of local government if the County has future plans for the property. He also restated his caution that escheated property frequently has somewhat hidden 'issues' that, once they become known makes the new owner wish they hadn't pursued ownership.

Ms. Scott thanked Mr. West for his time and contribution to the Committee's understanding of the tax lien and escheatment process within Escambia County.

As the hour was exhausted, Ms. Scott took the last few minutes to recommend the members of the Committee avail themselves of the AHAC training currently being presented by the Florida Housing Coalition, and available online. She stated that the FHC had 'best practices' that they were encouraging local AHACs to consider in their statutory obligation to provide input to their respective unit(s) of local government (in our case the Board of County Commissioners and the City Council).

Announcements/written communications

The next regularly scheduled meeting of the AHAC will be October 04, 2022 at 9:00 am in the Hagler Mason Conference Room of Pensacola City Hall.

Adjournment:

There being no further discussion, the meeting adjourned at 10:08 am.

Submitted by Timothy Evans