



City of Grand Island

Tuesday, May 08, 2007

Council Session

Item G8

#2007-107 - Approving Subordination Agreement for 1009 North Cherry Street (Brent Lloyd and Vicki Guadalupe Lloyd, divorced)

Staff Contact: Marsha Kaslon

Council Agenda Memo

From: Marsha Kaslon, Community Development

Council Meeting: May 8, 2007

Subject: Subordination Request for 1009 North Cherry Street (Brent Lloyd and Victoria Guadalupe Lloyd)

Item #'s: G-8

Presenter(s): Marsha Kaslon, Community Development

Background

The City of Grand Island has a Deed of Trust in the amount of \$15,000.00 filed on property owned by Brent Lloyd and Vicki Guadalupe Lloyd, now divorced, at 1009 North Cherry Street. The legal description is:

Lot Twelve (12) and the Southerly ½ of Lot Thirteen (13), Block Three (3), Pleasant Hill Addition to the City of Grand Island, Hall County, Nebraska.

The City of Grand Island had originally agreed to subordinate on April 23, 1997 and signed the document. However, the original Subordination document was never filed by the title agency and was misplaced.

The City of Grand Island has been approached by Law Offices, An Association of Separated Law Firms, to subordinate to the original conditions that were present in 1997. This firm is currently working on the foreclosure to 1009 North Cherry Street. The Subordination of 1997 is hindering the process of the Law Offices, An Association of Separated Law Firms, to finish the foreclosure on the housing unit.

Law Offices, An Association of Separated Law Firms is requesting permission to have City Council approve the Subordination Agreement once more, in which the City would be come second mortgage to the assumed first mortgage.

Discussion

The City's current Deed of Trust is junior in priority to a Deed of Trust in the amount of \$15,000.00. This was a zero percent interest loan that was due only when the homeowners sold the house.

Subordination is required at this time in order for the foreclosure to continue.

ALTERNATIVES

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the Subordination Request.
2. Deny the Subordination Request
3. Refer the issue to a Committee.
4. Postpone the issue to a later date.

RECOMMENDATION

City Administration recommends that the Council approves the Subordination Request.

Sample Motion

Motion to approve the original Subordination Agreement, placing the City in the junior position to the Deed of Trust filed in 1997.

SUBORDINATION AGREEMENT

NOTICE; THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS AGREEMENT, made this 8th day of May, 2007, by Brent Lloyd and Vicki Guadalupe Lloyd, now divorced persons, owners of the land hereinafter described and hereinafter referred to as "Owner", and The Money Store, present owner and holder of the Deed of Trust and Note first and hereinafter described and hereinafter referred to as "Beneficiary".

WITNESSETH:

THAT, WHEREAS, Brent Lloyd and Vicki Guadalupe Lloyd, now divorced persons, DID EXECUTE a Deed of Trust dated November 3, 1988 to the City of Grand Island, covering:

Lot Twelve (12) and the Southerly ½ of Lot Thirteen (13), Block Three (3), Pleasant Hill Addition to the City of Grand Island, Hall County, Nebraska.

To secure a Note in the sum of \$15,000.00 in favor of the City of Grand Island, which Deed of Trust was recorded November 23, 1988 as Document No. 88-106308 in the Official Register of Deeds Office of Hall County.

WHEREAS, Owner has executed, or are about to execute, a Deed of Trust and Note in the sum of \$15,400.00 dated on or after April 23, 1997 in favor of The Money Store, hereinafter referred to as "Beneficiary" payable with interest and upon the terms and conditions described therein, which Deed of Trust is to be recorded concurrently herewith; and

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS SUBORDINATION AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT THERETO.

WHEREAS, it is a condition precedent to obtaining said loan that said Deed of Trust last above mentioned shall unconditionally be and remain at all times a lien or charge upon the land hereinbefore described, prior and superior to the lien or charge of the Deed of Trust first above mentioned; and

WHEREAS, Beneficiary is willing to make said loan, provided the Deed of Trust securing the same is a lien or charge upon the above-described property prior and superior to the lien or charge of the Deed of Trust first above mentioned and provided that Beneficiary will specifically and unconditionally subordinate the lien or charge of the Deed of Trust first above mentioned to the lien or charge of the Deed of Trust in favor of Beneficiary; and

WHEREAS, it is to the mutual benefit of the parties hereto that Beneficiary make such loan to Owners; and Beneficiary is willing that the Deed of Trust securing the same shall, when recorded constitute a lien or charge upon said land which is unconditionally prior and superior to the lien or charge of the Deed of Trust first above mentioned.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce Beneficiary to make the loan above referred to, it is hereby declared, understood, and agreed as follows:

- 1) That said Deed of Trust securing said Note in favor of Beneficiary, and any renewals of extensions thereof shall unconditionally be and remaining all times a lien or charge on the property therein described, prior and superior to the lien or charge of the Deed of Trust first above mentioned.
- 2) That Beneficiary would not make its loan above described without this Subordination Agreement.
- 3) That this Agreement shall be the whole and only agreement with regard to the subordination of the lien or charge of the Deed of Trust first above to the lien or charge of the Deed of Trust in favor of Beneficiary above referred to and shall supersede and cancel, but only insofar as would affect the priority between the Deeds of Trust hereinbefore specifically described, any prior agreement as to such subordination including, but not limited to, those provisions, if any, contained in the Deed of Trust first above mentioned, which provide for the subordination of the lien or charge thereof to another Deed or Deeds of Trust or to another mortgage or mortgages.

Beneficiary declares, agrees and acknowledges that:

- 1) He consents to and approves (i) of all provisions of the Note and Deed of Trust in favor of Beneficiary above referred to, and (ii) all agreements, including but not limited to any loan or escrow agreements, between Owner and Beneficiary for the disbursement of the proceeds of Beneficiary's loan;
- 2) Beneficiary in making disbursements pursuant to any such agreement is under no obligation or duty to, nor has Beneficiary represented that it will, see to the application of such proceeds by the person or persons to whom Beneficiary disburses such proceeds and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination herein made in whole or in part;
- 3) He intentionally and unconditionally waives, relinquishes and subordinates the lien or charge of the Deed of Trust first above mentioned in favor of the lien or charge upon said land of the Deed of Trust in favor of Beneficiary above referred to and understands that in reliance upon, and in consideration of this waiver, relinquishment and subordination specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination; and
- 4) An endorsement has been placed upon the Note secured by the Deed of Trust first above mentioned that said Deed of Trust has by this instrument been subordinated to the lien or charge of the Deed of Trust in favor of Beneficiary above referred to.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

By: _____

STATE OF NEBRASKA)) SS
COUNTY OF HALL)

Sworn and Subscribed to before me this _____ day of _____, 2007.

Notary Public

RESOLUTION 2007-107

WHEREAS, the City of Grand Island, is the lender and secured party of a Deed of Trust in the amount of \$15,000.00, secured by property located at 1009 North Cherry Street and owned by Brent Lloyd, a single person, and Vicki Guadalupe Lloyd, a single person, said property being described as follows:

Lot Twelve (12) and the Southerly One Half (1/2) of Lot Thirteen (13), Block Three (3), Pleasant Hill Addition to the City of Grand island, Hall County, Nebraska.

WHEREAS, on April 23, 1997, the City of Grand Island signed a subordination of its lien, however, the original document was not filed by the title agency; and

WHEREAS, Law Offices, an Association of Separated Law Firms, is foreclosing on the property at 1009 North Cherry Street and is requesting that the City Council approve the Subordination Agreement of April 23, 1997; and

WHEREAS, the requested subordination of the City's lien priority is in the best interests of all parties.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to execute an agreement subordinating the lien priority of the above described real estate as set out in the original Subordination Agreement of April 23, 1997.

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Adopted by the City Council of the City of Grand Island, Nebraska, May 8, 2007.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
July 25, 2006	☐ City Attorney