



# City of Grand Island

Tuesday, May 8, 2012

Council Session

## Item G15

**#2012-121 - Approving Subordination Agreement for 917 Lambert Street**

Staff Contact: Jaye Monter

# Council Agenda Memo

**From:** Marco Floreani, Community Development

**Council Meeting:** May 8, 2012

**Subject:** Approving Subordination Agreement for 917 Lambert St.

**Item #'s:** G-15

**Presenter(s):** Jaye Monter, Finance Director

## Background

The City Of Grand Island has a Deed of Trust filed on property owned by Cuong Xuan Nguyen and Hang Ngoc Ho, now divorced, located at 917 Lambert St., in the amount of \$9,000. On May 16, 2001, Community Development Block Grant funds in the amount of \$9,000 were loaned to Cuong Xuan Nguyen and Hang Ngoc Ho, now divorced, for down payment assistance for purchase of a home. The legal description is:

Lot Three (3), Lincoln View Estates Subdivision in the City of Grand Island, Hall County, Nebraska.

The owner is requesting permission from the City to subordinate to the new mortgage amount and accept second position. The prior first and second mortgages have been paid in full. The owner is requesting \$50,000 cashout on a new loan to pay his ex-wife per their property settlement agreement and Home Federal Savings and Loan Assn. of Grand Island requests first position on the lien. The house will remain occupied and property taxes will continue to be paid. The equity in the property is in excess of the lien amounts held by both the City and the bank.

## Discussion

A new lien in the amount of \$50,000.00 with Home Federal Savings and Loan would by law be junior in priority to the City's lien; however, Home Federal Savings and Loan Assn., has asked the City to subordinate its Deed of Trust to the new Deed of Trust.

The property's assessed value is \$94,481 and is sufficient to secure the mortgage of \$50,000.00 and the City's note of \$9,000.00. This is a zero percent interest loan that is due only when the homeowners sell the house.

### **ALTERNATIVES**

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

1. Approve the Subordination Agreement
2. Refer the issue to a Committee
3. Postpone the issue to a later date
4. Take no action on the issue

### **RECOMMENDATION**

City Administration recommends that the Council approves the Subordination Agreement with Home Federal Savings and Loan placing the City in the junior position to the new Deed of Trust.

### **Sample Motion**

Move to recommend approval of the Subordination Agreement with Home Federal Savings and Loan, placing the City in the junior position to the new Deed of Trust.

Subordination Request from Cuong Xuan Nguyen

The City Of Grand Island has a Deed of Trust filed on property at 917 Lambert St. in the amount of \$9,000.00. On May 16, 2001, Community Development Block Grant funds were loaned to the first-time home buyers for down payment assistance for the purchase of a home in the Down Payment Assistance program. The address is 917 Lambert St. The legal description is:

Lot Three (3), Lincoln View Estates Subdivision in the City of Grand Island, Hall County, Nebraska

The owner is requesting permission from the City to subordinate to a new mortgage amount and accept second position to the first mortgage.

The owner's original mortgage with Commercial Federal Bank has been paid in full. By law, the new Deed of Trust would be junior in priority to the City's lien. However, the lender has asked the City to subordinate to the new Deed of Trust.

The assessed value of the property is \$94,481.00 and is sufficient to secure the new mortgage of \$50,000.00, and the City's mortgage of \$9,000.00. The City's loan is a zero percent interest loan that is due only when the homeowners sell the house.

\$ 50,000.00 New lien  
\$ 9,000.00 City's lien  
\$ 59,000.00 First and second lien total  
  
\$ 94,481.00 Assessed amount

New house payment: \$497.36

3.625% fixed interest rate for 10 yrs.

**SUBORDINATION AGREEMENT**

COMES NOW the City of Grand Island, Nebraska, secured party/beneficiary and hereby partially subordinates its trust deed/real estate lien recorded May 18, 2001 on the following described real estate:

Lot Three (3), Lincoln View Estates Subdivision in the City of Grand Island, Hall County, Nebraska, a/k/a 917 Lambert St.

It is the intent of this Agreement that the trust deed for the amount loaned by Home Federal Savings and Loan Assn of Grand Island to Cuong Xuan Nguyen (Borrower) that is about to be filed, shall be superior to the trust deed/real estate lien of the City of Grand Island, its successors and assigns recorded May 18, 2001, up to the amount of \$50,000.00 plus interest and amounts advanced to protect the collateral. Thereafter, the City of Grand Island's lien shall have priority. It is further understood that this subordination shall include all current obligations, extensions, renewals, advances or modifications made by the City of Grand Island, Nebraska to Borrowers which is secured by the trust deed/real estate lien recorded May 18, 2001 as Document Number 0200104667 in the records of the Register of Deeds of Hall County, Nebraska. Nothing in this Subordination Agreement is intended as a promise to provide financing or make advances to Borrowers by the City of Grand Island, Nebraska and it is not the intention of the City of Grand Island, Nebraska to warrant or guarantee the obligations of Borrowers but merely to partially subordinate its lien interests under the instrument recorded at Document Number 0200104667. It is understood that Home Federal Savings and Loan intends to lend funds to Borrower but that the subordinated amount is not to exceed \$50,000.00 plus interest and amounts advanced to protect the collateral.

Nothing in this instrument is intended to relieve Borrowers of their obligation to the City of Grand Island, Nebraska or to subordinate any other lien interests including, but not limited to, real estate taxes and special assessments.

Dated: \_\_\_\_\_ City of Grand Island, Nebraska

By \_\_\_\_\_  
Jay Vavricek, Mayor

STATE OF NEBRASKA     )  
  )ss.  
COUNTY OF HALL        )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2012, by Jay Vavricek, Mayor of the City of Grand Island, Nebraska.

\_\_\_\_\_  
Notary Public

RESOLUTION 2012-121

WHEREAS, the City of Grand Island, is the lender and secured party of a Deed of Trust dated May 16, 2001 and recorded on May 18, 2001, as Instrument No.0200104667, in the amount of \$9,000.00, secured by property located at 917 Lambert Street and owned by Cuong Xuan Nguyen and Hang Ngoc Ho, now divorced, said property being described as follows:

Lot Three (3), Lincoln View Estates Subdivision, in the City of Grand Island, Hall County, Nebraska.

WHEREAS, Cuong Xuan Nguyen wishes to execute a Deed of Trust and Note in the amount of \$50,000.00 with Home Federal Savings and Loan Assn., to be secured by the above-described real estate conditioned upon the City subordinating its Deed of Trust to their lien priority; and

WHEREAS, the value of the above-described real estate is sufficient to adequately secure both loans.

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

WHEREAS, the City Attorney's office has reviewed and approved the proposed agreement.

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 Deeds of Trust from Cuong Xuan Nguyen and Hang Ngoc Ho, now divorced, to the City of Grand Island, as beneficiary to that of the new loan and Deed of Trust of Home Federal Savings and Loan, Beneficiary, as more particularly set out in the subordination agreement.

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Adopted by the City Council of the City of Grand Island, Nebraska, May 8, 2012.

\_\_\_\_\_  
Jay Vavricek, Mayor

Attest:

\_\_\_\_\_  
RaNae Edwards, City Clerk

Approved as to Form	☐ _____
May 4, 2012	☐ City Attorney