



City of Grand Island

Tuesday, May 8, 2012

Council Session

Item G16

#2012-122 - Approving Subordination Agreement for 1216 Warren Lane

Staff Contact: Jaye Monter

Council Agenda Memo

From: Marco Floreani, Community Development
Council Meeting: May 8, 2012
Subject: Subordination Agreement for 1216 Warren Lane
Item #'s: G-16
Presenter(s): Jaye Monter, Finance Director

Background

The City Of Grand Island has a Deed of Trust filed on property owned by Joba Luz Mencia-Zuniga, a single person, located at 1216 Warren Lane, in the amount of \$15,308.66. On August 11, 2005, Community Development Block Grant funds in the amount of \$15,308.66 were loaned to Joba Luz Mencia-Zuniga, a single person, for down payment assistance for purchase of a home in the Community Development Block Grant program. The legal description is:

Lot Ten (10), Houghkirk 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 of \$67,451.00 and accept second position to the first mortgage. The City is in second position with the current mortgage, and Mortgage Electronic Registration Systems, Inc. ("MERS") (Solely as nominee for lender, as hereinafter defined, and lender's successors and assigns). MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, Michigan 48501-2026, telephone (888)679-MERS. Franklin American Mortgage Company, a corporation organized and existing under the laws of Tennessee, and whose address is 501 Corporate Centre Drive, Suite 400, Franklin, Tennessee 37067 ("Lender") is in senior position. The owner is refinancing the current mortgage for a better rate/term with Wells Fargo Bank N.A. and Wells Fargo N.A. requests that they have first position. 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

The City's current Deed of Trust is junior in priority to a Deed of Trust to MERS in the amount of \$73,080.00, which has a balance of \$66,428.24. A new lien in the amount of \$67,451.00 with Wells Fargo Bank, N.A. would replace the senior Deed of Trust. By law, the new Deed of Trust would be junior in priority to the City's lien; however, the Wells Fargo Bank, N.A., has asked the City to subordinate its Deed of Trust to the new Deed of Trust.

The new appraised value of the property is \$96,000.00 and is sufficient to secure the first mortgage of \$69,690.00 and the City's mortgage of \$15,308.66. This new Deed of Trust would accommodate the "Rate-Term Refinance" which would reduce the annual interest rate from 6.5% for 30 years to 3.5% for 15 years with a slight decrease in the monthly payment. The City's loan of \$15,308.66 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 Wells Fargo Bank, N.A., placing the City in the junior position to the new Deed of Trust.

Sample Motion

Move to recommend approval of the Subordination Agreement with Wells Fargo Bank, N.A., placing the City in the junior position to the new Deed of Trust.

Subordination Request from Joba Luz Mencia-Zuniga

The City Of Grand Island has a Deed of Trust filed on property at 1216 Warren Lane in the amount of \$15,308.66. On August 11, 2005, 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 1216 Warren Lane. The legal description is:

Lot Ten (10), Houghkirk Subdivision in the City of Grand Island,
Hall County, Nebraska

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

The City's current Deed of Trust is junior in priority to a Deed of Trust to Mortgage Electronic Registration Systems, Inc. ("MERS") (Solely as nominee for lender, as hereinafter defined, and lender's successors and assigns). MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, Michigan 48501-2026, telephone (888)679-MERS. Franklin American Mortgage Company, a corporation organized and existing under the laws of Tennessee, and whose address is 501 Corporate Centre Drive, Suite 400, Franklin, Tennessee 37067 ("Lender"). in the amount of \$73,080.00. 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 new appraised value of the property is \$96,000.00 and is sufficient to secure the new first mortgage of \$67,451.00, and the City's loan of \$15,308.66. The City's loan of is a zero percent interest loan that is due only when the homeowners sell the house.

\$ 67,451.00 New lien
\$ 15,308.66 City's lien
\$ 82,759.66 First and second lien total

\$ 96,000.00 Appraisal amount

Old house payment: \$735.09 6.5% fixed interest rate for 30 yrs.
New house payment: \$733.83 3.5% fixed interest rate for 15 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 August 12, 2005 on the following described real estate:

Lot Ten (10), Houghkirk Subdivision, in the City of Grand Island, Hall County, Nebraska, a/k/a 1216 Warren Lane.

It is the intent of this Agreement that the trust deed for amounts loaned by Wells Fargo Bank, N.A. to Joba Luz Mencia-Zuniga (Borrower) that has been or 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 August 12, 2005, up to the amount of \$67,451.00 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 August 12, 2005 as Document Number 0200507886 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 0200507886. It is understood that Wells Fargo Bank, N.A. intends to lend funds to Borrowers but that the subordinated amount is not to exceed \$67,451.00 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 2012-122

WHEREAS, the City of Grand Island, is the lender and secured party of a Deed of Trust dated August 11, 2005 and recorded on August 12, 2005, as Instrument No.0200507886, in the amount of \$15,308.66 secured by property located at 1216 Warren Lane and owned by Joba Luz Mencia-Zuniga, a single person, said property being described as follows:

Lot Ten (10), Houghkirk Subdivision, in the City of Grand Island, Hall County, Nebraska.

WHEREAS, Joba Luz Mencia-Zuniga wishes to execute a Deed of Trust and Note in the amount of \$67,451.00 with Wells Fargo Bank, N.A., 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 Joba Luz Mencia-Zuniga, a single person, to the City of Grand Island, as beneficiary to that of the new loan and Deed of Trust of Wells Fargo Bank, N.A., 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