

## CITY COUNCIL REGULAR SESSION

Public hearing and action on Resolution authorizing the execution of documents necessary, including the Covenant Release and Transfer Agreement, to release a restrictive covenant affecting the property located at 600 124th Avenue NE, commonly known as Residence East, which is owned by Alpha Supported Living Services (ASLS), who currently operates a group home on the property for individuals with developmental disabilities.

Toni Call, Director, 452-7863

Ira McDaniel, Real Property Manager, 452-4182

Kim Bui, Senior Real Property Agent, 452-5269

*Finance and Asset Management*

## EXECUTIVE SUMMARY

The purpose of the public hearing is to solicit input on the proposed release of a restrictive covenant affecting the property at 600 124<sup>th</sup> Avenue NE which is currently operated as a group home for individuals with developmental disabilities, commonly known as Residence East. Following the hearing, staff will request Council action on the proposed Resolution authorizing the execution of all documents necessary to release this covenant and obtain a replacement covenant.

## RECOMMENDATION

Move to adopt Resolution No. 9828.

## BACKGROUND/ANALYSIS

### Background and History

In 1972, Washington voters approved Referendum 29 authorizing a \$25.0 million bond issue for the planning, acquisition, construction and improvement of health and social services in Washington State. The City of Bellevue, acting as the "pass-through" agency, oversaw the funds to develop several facilities within Bellevue, which included Residence East, Youth Eastside Services, Merrywood/Kindering Center, and Custom Industries/ATWORK!.

Residence East is a group home located at 600 124<sup>th</sup> Avenue NE in Bellevue. An agreement was approved in 1976, between the City and Residence East that provided:

- 1) The City would lease the real property owned by Residence East for 25 years;
- 2) The City would spend Referendum 29 funds on construction of a group home on their land ("Original Building");
- 3) Residence East would occupy, operate, and maintain the Original Building for developmentally disabled persons; and
- 4) The ability for the City to transfer the Original Building following expiration of this agreement.

The Original Building was completed in 1978 and Residence East took possession, assuming responsibility for all maintenance and the operation of this site.

In 2008, Residence East merged with Alpha Supported Living Services (ASLS) which is a nonprofit

corporation that provides services for individuals with developmental disabilities. Following the merger, ASLS requested that the City approve the merger to allow ASLS to continue operation of programs and activities provided by Residence East and transfer the City's interest in the Original Building to ASLS for long term operation and maintenances. City Council passed Resolution No. 7837 approving this request.

On January 27, 2009, the interest in the Original Building was transferred from the City to ASLS via a Quit Claim Deed which was recorded under King County Recording Number 20090406001343. In accordance with State Legislature requirements for transferring real property or facilities constructed using Referendum 29 funds to a nonprofit social services provider, a restrictive covenant was included with the deed. The provisions of the restrictive covenant include the following conditions:

- 1) The use of the property is restricted to the purpose of providing limited programs as designated by the Washington State Department of Social and Health Services (DSHS) for social services, adult and juvenile correction or detention, child welfare, day care, drug abuse and alcoholism treatment, mental health, public health, developmental disabilities, and vocational rehabilitation ("Authorized Purposes");
- 2) The property (the land and building) will revert back to the City if ASLS no longer uses the property for the Authorized Purpose provided that the City would pay the fair market value of the land and the value of any improvements made to the Original Building by ASLS or formerly by Resident East; and
- 3) ASLS may sell the property but all the proceeds from the sale must be applied to the purchase of another property and the new property must be used for the Authorized Purpose. The new property must be available for use within one year of sale and ASLS must reimburse the City for the value of the grant fund if ASLS ceases to use the new property for the Authorized Purposes.

### **Current Request**

The Original Building is two stories tall and has a steep, narrow staircase in the middle of the home. The residents at this home have been there between 29 to 39 years and their average age is 57. Due to their age and medical conditions, these residents are beginning to have difficulty navigating the staircase. ASLS is requesting that the City release the restrictive covenant so they can sell the existing property and relocate the residents to another home or homes in Bellevue that would be more suitable and accessible. Per the restrictive covenant, ASLS can sell the property as long as all the proceeds go to a new property for the authorized use and a new restrictive covenant would be recorded on the new property. The City will be granted a replacement restrictive covenant once a new property is secured and prior to or concurrently with the release of the existing covenant.

Staff recommends the release of the restrictive covenant located at 600 124<sup>th</sup> Avenue NE as a replacement covenant will be provided by ASLS upon the acquisition of a new group home located in Bellevue. The next step in this process is for the Council to hold a public hearing. On September 8, the City County approved Resolution No. 9814 setting a time and place for a public hearing to consider the release of the restrictive covenant. This hearing is a public comment opportunity regarding the proposed release of the restrictive covenant affecting property located at 600 124<sup>th</sup> Avenue NE.

Following the hearing, staff requests Council action on the proposed Resolution authorizing the execution of all documents necessary to release this covenant and obtain a replacement covenant.

The City has issued a press release, posted information for this public hearing on the City's website, and advertised in the newspaper of record.

## **POLICY & FISCAL IMPACTS**

### **Policy Impact**

#### Bellevue City Code/State Law:

Under BCC 4.32.060, sales of real property including interest in property shall be submitted to the council for approval.

RCW 35A.21.410, the City must hold a public hearing upon a proposal to remove, vacate, or extinguish a restrictive covenant from property owned by the City before the action is finalized.

RCW 43.83.410, formerly RCW 43.83D.120, the "Social Services Property Transfer Act" authorized municipalities to transfer real property and/or facilities funded by Referendum 29 to certain nonprofit corporations, in exchange for the promise to continually operate services benefiting the public on the site, and provided that the nonprofit transferee use such property for the purpose of providing any of the following programs as designated by the Washington State Department of Social and Health Services ("DSHS"): facilities for social services, adult and juvenile correction or detention, child welfare, day care, drug abuse and alcoholism treatment, mental health, public health, developmental disabilities, and vocational rehabilitation (the "Authorized Purpose").

### **Fiscal Impact**

Transferring the restrictive covenant on the subject property to another property owned by the same entity has no fiscal impact to the City. The proposal would not include monetary exchange. Also, as required by RCW 43.83.410 the replacement property would be equal or greater than the current value of the subject property and all proceeds from the sale of the current location must be applied to the new property.

## **OPTIONS**

1. Hold the Public Hearing and adopt the Resolution authorizing the execution of documents necessary, including the Covenant Release and Transfer Agreement, to release a restrictive covenant affecting the property located at 600 124th Avenue NE, commonly known as Residence East, which is owned by Alpha Supported Living Services (ASLS), who currently operates a group home on the property for individuals with developmental disabilities.
2. Hold the Public Hearing, do not adopt the Resolution, and provide alternative direction to staff

## **ATTACHMENTS & AVAILABLE DOCUMENTS**

- A. Vicinity Map
  - B. 2008 Quit Claim Deed with Restrictive Covenants
- Proposed Resolution No. 9828

**AVAILABLE IN COUNCIL LIBRARY**

Proposed Covenant Release and Transfer Agreement