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May 16, 2001

NORMAN M. GLASGOW, JR.
202-419-2460

Internet Address:
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D.C. BOARD OF ZONING ADJUSTMENT
RECEIVED
2001 MAY 16 PM 3:03

D.C. Board of Zoning Adjustment
One Judiciary Square
441 Fourth Street N.W.
Washington, D.C. 20001

RE: BZA Order No. 16387
Application of Square 456 Associates
Request for Modification of the Order As It Relates To The Time Allowed For Use Of The Housing Linkage Funds

Dear Members of the Board:

On behalf of the Applicants, 575 7th Street LLC and 675 E Street LLC, successors in interest to Square 456 Associates, and at the request of Golden Rule Plaza, Inc., ("Golden Rule"), I hereby submit this request for modification of one of the terms of the Modification Order, issued by the Board of Zoning Adjustment ("BZA") on November 16, 2000, in the case of Application and Order No. 16387 ("the November 16 Modification"). The requested modification relates to an extension of time for Golden Rule's use of the housing linkage funds and a release from escrow of $250,000 of the total amount of $500,000 in escrow.

Procedural Background

The November 16 Modification included a provision granting a six-month extension of time, due to expire on June 3, 2001, for Golden Rule, the beneficiary of $500,000 in housing linkage funds provided by the Applicants, to settle on its construction financing and draw down the funds held in escrow. The linkage funds are to assist in the development of Golden Rule's 127-unit apartment building for low- and moderate-income senior citizens. The project is located on the west side of New Jersey Avenue N.W., between New York Avenue and K Street, Downtown housing priority area.

BZA
Case No. 16387
Exhibit No. 42

Board of Zoning Adjustment
District of Columbia
CASE NO.16387
EXHIBIT NO.42

The Applicants and Golden Rule now jointly request further Modification of Order No. 16387 to provide an additional six-month extension of time due to the delays Golden Rule has encountered in completing financing and transactional agreements. The Applicants and Golden Rule further request BZA approval to release $250,000 of the total amount from escrow to be made available immediately to Golden Rule for payment of pre-construction expenses.

Golden Rule, with the full support of executive branch agencies and City Council, has made substantial progress toward reaching the settlement date for its financing and breaking ground for construction to begin. Throughout this process, Golden Rule has engaged in the necessary efforts to arrange a complex financing package for the $16 million project, including grant funds from the D.C. Department of Housing and Community Development ("DHCD") through the Community Development Block Grant program; private investment from JER Hudson, an investment firm specializing in lending to properties eligible for federal tax credits for low- and moderate-income residential properties, and issuance of bonds by the D.C. Housing Finance Agency.

Also as part of the development process, Golden Rule has contracted for and received the necessary environmental studies and surveys of the project site, obtained surveys and zoning clearances, and completed the title search. Through its construction manager, JBG/TrizecHahn, Golden Rule commissioned architectural and structural designs and drawings, all of which have been prepared and reviewed by the appropriate authorities of the D.C. Department of Consumer and Regulatory Affairs ("DCRA"). All necessary reviews required by DCRA have been completed, and Golden Rule has been assured that the only impediment to the issuance of a building permit is the payment of the permit fee.

In addition, Golden Rule has entered into negotiations with the D.C. Housing Authority, which oversees public and subsidized housing in the District, for a commitment of as many as 40 project-based Section 8 subsidized housing certificates. This would enable the Golden Rule Plaza development to provide a long-term commitment of nearly one-third of its units to low-income citizens.

At present, Golden Rule expects to enter into a Land Disposition Agreement with the D.C. Government and go to closing on the property before September 2001, and will proceed from that point to complete the financing agreements and construct the building, which is scheduled to open for occupancy in late 2002.

The additional extension of time is necessary for the following reasons:

1. Golden Rule encountered unanticipated delays, beyond its ability to control, in obtaining review and approval of various provisions of the Land Disposition Agreement and Special Warranty Deed which will convey the property from the District of Columbia to Golden Rule.

2. Golden Rule encountered additional unanticipated delays, beyond its ability to control, in obtaining securing final action on the grant of $2.1 million in

Community Development Block Grant funds designated for the Golden Rule project. This process is now expected to be complete within 4-6 weeks.

3. Golden Rule, DHCD, and JER Hudson are, at this point, nearing completion of the required transactions and agreements and have resolved all matters that led to the delays. Nevertheless, there remains a possibility that the terms and conditions established by the BZA with regard to the housing linkage funds in Order No. 16387 and the November 16 Modification may not be fully satisfied on or before the expiration date of June 3, 2001.

4. Thus, it is necessary and in the best interests of the District for the BZA to grant an additional extension of time to assure that the Golden Rule project receives the benefit of the housing linkage funds, as the BZA intended.

5. We submit that it is also necessary and in the best interests of the District for the BZA to allow $250,000 of the escrowed amount to be released from escrow and made available immediately to Golden Rule in order to pay the building permit fee and other fees to the District associated with the permitting process, and to pay amounts owed for certain other pre-construction expense obligations, including legal fees, appraisals and environmental assessment work. Golden Rule has no other source of funds to make these payments until DHCD funds become available. Allowing the amount of $250,000 to be released from escrow would make it possible for Golden Rule to proceed promptly to break ground for construction.

6. Golden Rule exercised all reasonable and diligent efforts to meet the June 3, 2001, deadline established by the November 16 Modification, but is at risk of being unable to do so for reasons beyond its control.

Support Of This Request

Golden Rule representatives have shared information about this request with Advisory Neighborhood Commission 2C, which represents the area which contains the site of the Applicants' development and the Golden Rule development; Councilmember Jack Evans of Ward 2; DHCD, and the D.C. Housing Finance Agency. Copies of these support letters are attached.

Conclusion

As the BZA stated in the November 16 Modification, "The additional time will allow a significant housing project for low- and moderate-income persons to be built within the Downtown housing priority areas. The Board further finds that there is no good reason to look for an alternative use of the funds when a short extension of time will likely enable the Golden Rule project to move forward."

Although the Applicants and Golden Rule regret the necessity of seeking a second extension of time, we respectfully submit that an additional extension of time is justified on the same grounds the BZA previously stated, and that the requested release from escrow of $250,000 is also justified as a means of ensuring the success of the Golden Rule project.

Therefore, the Applicants and Golden Rule request that Order No. 16387 be modified, in the last paragraph on page 4 of the November 16 Modification, to read as follows:

> ". . . and the time for Golden Rule to settle on its construction financing and draw down the funds held in escrow is extended until December 3, 2001, and that the Applicants, within 30 days of the date of this Modification Order, are directed to release from the escrow account the amount of $250,000 to Golden Rule. The remaining escrow funds, which now constitute the entire off-site housing contribution, shall be subject to the same condition as previously ordered by this Board.".

For the reasons set forth above, we respectfully request that the BZA grant the additional extension of time and release from escrow as set forth above. We further request that the BZA place this matter on the agenda for consideration at its public meeting on June 5, pursuant to 11 DCMR § 3129.1. Applicants submit that there is no change to the approved plans and that the only amendment to the Order relates to the timing and performance of Golden Rule's proceeding with the project, and that $250,000 of the escrow funds relating to the project may be released upon issuance to the Board's Order.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: _____
Norman M. Glasgow, Jr.

Attachments

cc: Councilmember Jack Evans
Office of Planning
Department of Housing and Community Development
Housing Finance Agency
Deputy Mayor for Planning and Economic Development

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2001, a copy of Applicants' letter to the D.C. Board of Zoning Adjustment requesting an extension of time for Golden Rule Plaza, Inc., use of housing linkage funds and a release from escrow of $250,000 of the escrowed amount, was served via first-class United States mail, postage prepaid, on all Parties to the case, as follows:

Advisory Neighborhood Commission 2C
Terrell Junior High School/Shaw Terrell Community Center
First and Pierce Streets N.W.
Washington, D.C. 20001

Norman M. Glasgow, Jr.

WAS1 #957121 v2

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ADVISORY NEIGHBORHOOD COMMISSION 2C
Shaw Terrell Community Center
First & Pierce Street, N.W.
Washington, D.C. 20001
(202) 842-2037 . (202) 371-2959 Fax

Board of Zoning Adjustment
441 4th Street, NW
Room 210
Washington, DC 20001

Re: Modification to BZA Application No. 16387

Dear Members of the Board:

Please be advised that Advisory Neighborhood Commission 2C, at its regularly scheduled May 2, 2001 meeting, at which time a quorum was present, by a vote of three to one, with one abstention (the abstention being by a member of the Church which is a part of the development proposal), supports the request made on behalf of Golden Rule Plaza, Inc. for two modifications to the above-referenced Order. The first modification is for a six-month extension of time until December 3, 2001 to close on the construction financing for the Golden Rule Plaza project, which will be for approximately 127 senior citizen housing units with ANC 2C. The second request is for the release from escrow of $250,000 of the original $500,000 escrowed funds in order to pay incurred pre-development costs over the past few years in condition with the project.

After presentation by representatives of Golden Rule Plaza, Inc. as to the nature of the need and uses of the funds, including the payment of certain pre-development costs and for the payment of the building permit which is needed for closing on the construction load, the Commission finds that this is a needed and worthwhile use of the funds so as to permit the project to proceed forward. Additional financing for the project to proceed has received various District of Columbia approvals, but much of these funds are unavailable until a building permit is issued and closing takes place.

The Commission urges the Board to take action to break this stalemate so that this important project to the city and the ANC may proceed forward.

We thank you for your consideration of ANC 2C's position on this matter, which is to be accorded great weight.

Very truly yours,

"Mark" Lee Thompson
ANC 2C Vice Chair

DOWNTOWN - CHINATOWN - SHAW - BARBADOS

COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

April 24, 2001

D.C. Board of Zoning Adjustment
One Judiciary Square
441 Fourth Street N.W.
Washington, D.C. 20001

RE: Request for Modification of
BZA Order No. 16387
As It Relates to Housing Linkage Funds

Dear Members of the Board:

I have reviewed the submission to the Board of Zoning Adjustment requesting modification of BZA Order No. 16387 as it relates to the housing linkage funds designated for Golden Rule Plaza, Inc. These funds support the development of a 127-unit apartment building for low- and moderate-income senior citizens, at K Street and New Jersey Avenue N.W., within ANC 2C-05 in Ward Two.

As the Councilmember representing Ward Two, I have fully supported the Golden Rule Plaza development and continue to do so. The requested modification is a reasonable and necessary step as Golden Rule completes the final actions to secure financing and move toward ground-breaking.

I encourage the Board to approve the modification request.

Thank you for your consideration. I hope this project can move forward as smoothly as possible.

Sincerely,

Jack Evans
Councilmember, Ward Two

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

APR 30 2001

D.C. Board of Zoning Adjustment
One Judiciary Square
441 Fourth Street N.W.
Washington, D.C. 20001

RE: Request for Modification of
BZA Order No. 16387
As It Relates to Housing Linkage Funds

Dear Members of the Board:

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The District of Columbia, and specifically the Department of Housing and Community Development, fully supports the Golden Rule Plaza development and is actively involved in providing funding assistance. The development will be located on property the District is selling to Golden Rule Plaza (at the nominal cost of $1), as approved by the D.C. City Council.

Please be assured that DHCD supports the request for modification, to which this letter is attached.

Thank you for considering our views.

Sincerely,

Neal Drobenare

Neal Drobenare
Chief Operating Officer

District of Columbia Housing Finance Agency
815 Florida Avenue, NW Washington, DC 20001-3017

May 9, 2001

D.C. Board of Zoning Adjustment
One Judiciary Square
441 Fourth Street N.W.
Washington, D.C. 20001

RE: Request for Modification of BZA Order No. 16387 As It Relates to Housing Linkage Funds

Dear Members of the Board:

It is my understanding that Golden Rule Plaza Inc. has submitted to the BZA a request for modification of BZA Order No. 16387 as it relates to the housing linkage funds designated for Golden Rule Plaza, Inc. The District of Columbia Housing Finance Agency (Agency) has approved an Eligibility Resolution to provide tax-exempt bond financing for the development of a 127-unit apartment building for low- and moderate-income senior citizens, at K Street and New Jersey Avenue N.W., within ANC 2C-05.

Inasmuch as the Golden Rule Plaza development is intended for elderly low-income residents and is sponsored by a non-profit organization, the Project is a high priority for the Agency. We are very interested in closing the financing for this Project as quickly as possible since this Project has remained in our pipeline for close to two years pending various actions from the City Council and other parties. We therefore support the BZA's speedy and favorable consideration of the modification request.

Please feel free to call me if there are any questions or need for further information.

Sincerely,

Zoreana Barnes
Acting Executive Director

Phone: 202-777-1600 **Fax:** 202-986-6705 **www.dchfa.org**