

REQUEST FOR OPINION CHECKLIST

Request for Opinion

Dated: 2-8-00

Investigative File

Draft Opinion

Notification to requestor of hearing before commission:

Scheduled for _____ at _____ mi; or No _____

Commission Action: _____

Final Disposition: _____

Memo

To: Commission on Ethics and Public Trust

From: Ardyth Walker
Staff General Counsel

Date: 10/27/2006

Re: Universal Truth Community Development Corporation

BACKGROUND

Silvia Unzueta, Director of the Office of Community and Economic Development, requested an opinion regarding a proposed loan to Universal Truth Community Development Corporation (UTCDC). Pursuant to the contract between UTCDC and OCED, UTCDC is bound by the relevant portions of the Conflict of Interest and Code of Ethics ordinance. UTCDC is also subject to HUD Conflict of Interest guidelines.

FACTS

Universal Truth Community Development Corporation(UTCDC) is seeking a loan to acquire property owned by the SERA Corporation for an affordable housing development. Specifically, UTCDC is seeking to renovate and rehabilitate thirteen existing townhouses in the Vista Verde area. UTCDC will sell the rehabilitated townhouses to low and moderate homebuyers as designated under HUD guidelines. The one million dollars was originally designated to cover the costs of acquisition, housing rehabilitation and site development. UTCDC is also receiving additional funding from Local Initiatives Support Corporation (LISC) for development of the project.

During OCED's due diligence, OCED discovered that Rev. Mary Tumpkin, Pastor of Universal Truth Church, served on the boards of the SERA corporation and UTCDC. The SERA corporation is a 501(c)(2) corporation that was created by an affiliate church in Chicago, Christ Universal Temple, to hold title to the property. Universal Foundation for Better Christian Living originally purchased the property for an

unrelated project. The Universal Truth Community Development Corporation is a separate entity that is involved in various community development projects including an infrastructure project that has received CDBG funding in the past. OCED had concerns regarding whether a single individual could serve on both sides of the transaction.

Pursuant to OCED's request, Ethics Commission staff reviewed various documents related to the transaction including all files from OCED, Miami-Dade Housing Agency, LISC and additional documentation provided by Universal Truth Community Development Corporation. The Ethics Commission also met with Rev. Tumpkin, John Little, the attorney for the CDC, other UTCDC staff members, OCED and Housing staff.

During our meeting with Rev. Tumpkin, she stated that she initially approached the UTCDC board regarding the possibility of acquiring the property from the SERA corporation and developing the townhouse project. Although the LISC loan documents state that Rev. Tumpkin was involved in setting the price for acquisition of the property, Rev. Tumpkin stated that the actual proposal to the UTCDC board was drafted by Blooming Rose Mincey. Mincey is the Executive Director of UTCDC. The boards of SERA and UTCDC approved the transaction.

ARGUMENT

Rev. Tumpkin has several potential conflicts of interests in the subject transaction. The Conflict of Interest and Code of Ethics ordinance prohibits covered persons from using their position to secure special privileges or benefits for a third person or entity. Rev. Tumpkin had the opportunity to use her dual board membership to secure a higher purchase price for the property than the appraised value of the property or the price that a purchaser in an arms-length transaction might have paid for the property. Further, Section 2-11.1(h) prohibits a covered person from engaging in activity that requires the person to disclose confidential information. As a board member for SERA who was negotiating with UTCDC, Tumpkin had access to confidential information regarding SERA's financing agreements with the current lienholders, the cost of renovation and rehabilitation of the subject property and impediments to the development of the project.

Therefore, Rev. Tumpkin's dual board membership and more importantly, her negotiation and approval of the contract on both sides of the transaction, may constitute violations of the aforementioned sections of the Conflict of Interest and Code of Ethics ordinance.

CONCLUSION

The Conflict of Interest and Code of Ethics ordinance prohibits Rev. Tumpkin from serving on both sides of the transaction. Section 2-11.1(g) prohibits a covered person from using his or her official position to benefit a third person or entity and Section 2-



11.1(h) prohibits a covered person from engaging in activity that could or might cause a covered person to disclose confidential information.

Memorandum



Date: February 8, 2006

To: Ardith Walker,
Commission on Ethics and Public Trust

From: Silvia M. Unzueta, Acting Director
Office of Community and Economic Development

Subject: Request for Opinion on Potential Conflict of Interest Issue

OCED staff has been working with Universal Truth Community Development Corporation, Inc. (UTCDC) to identify all impediments prohibiting the completion of the two projects currently in process. Staff crafted a funding strategy to aid the agency to eliminate the gap in funding for the Vista Verde – Infrastructure Project. The agency is working on the completion of two projects, The Vista Verde-Infrastructure project and a thirteen housing unit rehabilitation project.

During the process of finalizing the documentation necessary to proceed with both projects, staff discovered that a possible conflict exists with the ownership of the thirteen housing units scheduled to be acquired by UTCDC through the use of HOME funding. It was discovered that the thirteen units are owned by a Florida Non Profit Corporation named SERA Housing Corporation, Inc. with the Registered Agent being Mary A Tumpkin, Officer/Director of the Corporation. Mrs. Tumpkin is the president of UTCDC. This presents a possible conflict of interest.

Article II "P" of The FY 2004 contract between Miami-Dade County and UTCDC cites the conflict of interest guidelines that apply to the HOME Program. The guidelines clearly state that no person who is in a decision-making position and is associated with a HOME funded agency may derive a financial benefit from the HOME assisted activity. OCED staff has determined that such a violation may exist in this case.

The agency was advised of the possible conflict of interest through a correspondence dated December 7, 2005. The agency responded with a letter from its attorney on December 15, 2005. Attached are copies of both letters

Please review this memorandum and the documentation attached and render a legal opinion as to the possible Conflict of Interest.

Attachments

ZA/jh



140 W. FLAGLER STREET, SUITE 1000
MIAMI, FL 33130-1581

OFFICE OF COMMUNITY AND
ECONOMIC DEVELOPMENT
Acting Director's Office
PHONE: 305-375-3422
FAX: 305-375-3428

emj@miamidade.gov
www.miamidade.gov/ced/

December 7, 2005

Mary A. Tumpkin, President
Universal Truth Community Development Corporation, Inc.
21310 North West 37th Avenue
Miami Gardens, Florida 33056

Re: Conflict of Interest Reporting Requirements (UTCDC)

Dear Ms. Tumpkin:

The Office of Community and Economic Development (OCED) has been providing technical assistance and administrative support to your agency, Universal Truth Community Development Corporation, Inc. (UTCDC) from the first year of funding FY 1999 to the present. Recently, OCED participated in four meetings beginning in August 1, 2005 to identify all impediments prohibiting the completion of the two projects currently in process. Staff crafted a funding strategy, in conjunction with South Florida LISC, and identified HOME revenue (Program Income) to eliminate the gap in funding for the Vista Verde-Infrastructure Project. LISC agreed to fund the Vista Verde-Housing Rehabilitation Project through a loan. OCED agreed to earmark its HOME funding for the acquisition of the thirteen (13) housing units to be rehabilitated.

During the process of finalizing the documentation necessary to proceed with the implementation and completion of both projects, staff discovered that a possible conflict exists with the ownership of the thirteen (13) housing units scheduled to be acquired by UTCDC through the use of Federal Home Investment Partnership Act, HOME funding. It was discovered that the thirteen housing units are owned by a Florida Non Profit Corporation named SERA Housing Corporation, Inc., with the Registered Agent being yourself. The records identify you as the Officer/Director of the Corporation.

Article II "P" of your 2004 contract with Miami-Dade County cited the conflict of interest guidelines that apply to the HOME Program. The Federal guidelines - 24 CFR Part 85.36 and CFR 92.356 - clearly state that no person who is in a decision-making position and is associated with a HOME funded agency may derive a financial benefit from the HOME assisted activity. Such persons include officers of an agency's Board of Directors. The guidelines, as well as the County's Conflict of Interest and Code of Ethics Ordinance, also prohibit the practice of hiring and paying immediate family members.

Mary A. Tumpkin, President
Conflict of interest reporting Requirements, (UTCDC)
December 7, 2005
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According to those contractual stipulations, you are obliged to immediately disclose in writing to the Office of Community and Economic Development (OCED) the circumstances regarding the ownership of the thirteen units, so that we may submit that information to the County Attorney's Office and the Commission on Ethics and Public Trust for a final determination. Failure to submit that information to our office by December 15, 2005, will be considered a contractual breach and will result in the suspension of your agreements with OCED.

Please contact Zafar Ahmed, Director of the Community Development Division, at 305-375-3408, should you have any questions about this directive.

Sincerely,



Silvia M. Unzueta
Acting Director

SMU/wp

Enclosure

Cc: Tony E. Crapp, Sr., Assistant County Manager
Shannon Summerset, Assistant County Attorney
Ardith Walker, Commission on Ethics and Public Trust