

RESOLUTION NO. SA 17-04

**RESOLUTION OF THE SUCCESSOR AGENCY OF THE COMMERCE  
COMMUNITY DEVELOPMENT COMMISSION APPROVING THE TERMINATION  
AND RELEASE OF THE COVENANT RUNNING WITH THE LAND AND GRANT LIEN  
AGREEMENT ENTERED BETWEEN THE FORMER REDEVELOPMENT AGENCY  
AND REBECCA VILLANUEVA AND FERNANDO VILLANUEVA FOR PROPERTY  
LOCATED AT 2311 AYERS AVENUE IN THE CITY OF COMMERCE**

WHEREAS, in 2008 the Community Development Commission (the "Commission") selected 20 applicants within the Ayers Residential Neighborhood to participate in the City's Environmental Rehabilitation Program. Rebecca and Fernando Villanueva were one of the twenty homeowners that were selected and were granted \$30,000 to assist with the home improvements for property located at 2311 Ayers Avenue; and

WHEREAS, the Environmental Rehabilitation Program offered a grant of up to \$30,000 to qualified low- and moderate-income residents living in an owner-occupied dwelling. The grant assisted with the rehabilitation of residential homes that experienced environmental degradation from the adverse effects of noise, lighting and air pollution. As a part of the program, the Commission entered into a 10-year residency covenant agreement with the participants prior to the disbursement of the grant. The residency covenant was recorded against the dwelling unit providing for the repayment of the grant plus 2% simple interest in the event that the subject dwelling unit was sold or converted into a rental property within 10 years of receiving the grant; and

WHEREAS, a Covenant Running with the Land and Grant of Lien was executed between the Commission and the Villanuevas and submitted to the Los Angeles County Recorder's Office on August 8, 2008; and

WHEREAS, recently, the Villanuevas contacted the City about their intent to convert their existing home loan to a reverse mortgage; they are doing so because of financial issues that they are facing. In order for the Villanuevas to complete the reverse mortgage process, their lender is requesting that the property be free of liens and have requested that the Successor Agency for the Commission terminate and release the Covenant Running with the Land and Grant of Lien that is recorded against their property. However, the recorded covenant and lien states that the term of the agreement shall remain in full force and effect until ten years from the date of the recording of the agreement, or until such earlier date as the lien and covenant agreement is released by the Commission. Therefore, the Successor Agency may only terminate and release the covenant and lien if the participant provides repayment of the grant plus 2% simple interest or until the ten year period expires; and

WHEREAS, the purpose of the lien and covenant was to provide assistance to qualified low and moderate income residents for certain environmental rehabilitation improvements. The lien and covenant were recorded to assure that the low/moderate income owner did not sell their home or convert it to a rental and therefore undermine

the intended purpose of the grant. The ten year time period for the lien and the covenant was deemed to be an adequate amount of time for the restriction to apply so that the Commission achieved its purpose, while at the same time not overburdening the property. In other words, the restriction for ten years was deemed to be a sufficient enough time to burden the property in exchange for the \$30,000 grant; and

WHEREAS, this is a unique situation in that Villanuevas are requesting a termination and release of the covenant for the purpose of converting their traditional mortgage to a reverse mortgage, not to sell or rent their home. If the Villanuevas obtain a reverse mortgage, the subject property will continue to be their primary residence; the purpose of the grant will therefore not be undermined by the transaction. The ten year covenant expires on August 8, 2018. Thus, assuming that the covenant remains in place until August 8, 2017 (Oversight Board and DOF approval and recording of the covenant release is estimated to take until close to August 8), the property will have been restricted now 9 of the 10 years required by the covenant; 90% of the covenant restriction will have been satisfied; and

WHEREAS, it appears inequitable to force the Villanuevas to repay the entire payoff amount when their property has been restricted for almost all of the required time. After discussing the matter with the City Attorney, it was determined that it would be fair to apply a *pro rata* formula that would allow the Villanuevas to repay ten percent of the current payoff amount, the percentage of time left for the covenant restriction period.

NOW, THEREFORE, THE SUCCESSOR AGENCY OF THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION DOES HEREBY DETERMINE AND RESOLVE AS FOLLOWS:

Section 1. The Covenant Running with the Land and Grant of Lien agreement entered between the Commerce Community Development Commission and Rebecca and Fernando Villanueva shall be terminated upon their repayment of ten percent of the current grant payoff amount (plus 2% simple interest) for the property located at 2311 Ayers Avenue in the City of Commerce.

PASSED, APPROVED AND ADOPTED this 18<sup>th</sup> day of July 2017.

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Oralia Y. Rebollo, Mayor

ATTEST:

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Lena Shumway, City Clerk