

NON-FLOOD PROTECTION ASSET MANAGEMENT AUTHORITY  
MINUTES OF THE COMMERCIAL REAL ESTATE COMMITTEE MEETING  
NOVEMBER 8, 2012 – 1:30 P.M.

The regular monthly meeting of the Commercial Real Estate Committee of the Non-Flood Protection Asset Management Authority was held on Thursday, November 8, 2012 at 1:30 p.m., in the Lake Vista Community Center, 2<sup>nd</sup> Floor, 6500 Spanish Fort Blvd., New Orleans, Louisiana after due legal notice of the meeting was sent to each Board member, the news media, and a copy of the call was posted.

Commissioner Heaton chaired the Commercial Real Estate Committee meeting in the absence of Chairman Trask. Commissioner Heaton called the meeting to order at 1:48 p.m. and led in the Pledge of Allegiance.

The roll was called which did not constitute a quorum so the meeting became informational only.

**PRESENT:**

Commissioner Wilma Heaton  
Commissioner Stanley Brien

**ABSENT:**

Chairman John Trask  
Commissioner Joe Hassinger

**STAFF:**

Louis Capo, Executive Director  
Sharon Martiny, Non-Flood

**ALSO PRESENT:**

Gerard Metzger – Legal Counsel  
Albert Pappalardo – Real Estate Consultant  
Jonathan Brisbe – Tides, LLC  
Ted Alcus – Boathouse Tenant

Commissioner Heaton noted that the issues on the Agenda will be taken up at the full Board meeting without recommendation. The Committee will hear each Agenda item, but cannot act on any issue due to the lack of a quorum.

**APPROVAL OF AGENDA**

Due to a lack of quorum, the Agenda could not be approved and the meeting was informational only.

**APPROVAL OF PRIOR MINUTES**

Due to a lack of quorum, the Real Estate Committee minutes from January 12, 2012, will be approved at the next scheduled Real Estate Committee meeting.

**NEW BUSINESS**

**1) Discussion by Ted Alcus regarding Boathouse W-17**

Mr. Alcus advised that he is requesting a reduction in rent on his Boathouse W-17 as he is 77 years old, on a limited income and pays rent on his boathouse and the house his wife lives in, which is hard. In previous discussions with Mr. Capo and Mr. Lupo, Mr. Alcus advised of a caveat to reduce his rent 50% without having to reduce all other tenants' rent by authorizing rent reductions to tenants that have lived in their boathouse for 50 years or more. Appraisals of all boathouses were prepared prior to Katrina and since that time the boathouse value has declined dramatically.

Commissioner Heaton clarified the request before the Authority is a 50% reduction in rent for Mr. Alcus, individually, given on the basis that any tenant renting a boathouse for 50 years would have this option. Commissioner Heaton requested Mr. Metzger research the issue and provide an opinion for the full Board.

Commissioner Heaton noted that the State Constitution requires that the Authority does not give away anything of value. It is the Authority's judiciary responsibility to get fair market value for the property as the Authority has been in a deficit for a long time. There are also constitutional and real estate issues and the Authority are only stewards of the property.

Mr. Metzger advised that the Authority is required to lease property at fair market value rate and receive consideration commensurate with the value of what is being leased. The rental rate formula was developed 12 years ago by Albert Pappalardo, Real Estate Advisor, and was upheld in Court in the Brad Adams lawsuit in which Mr. Alcus was a party. There is no jurisprudence on the issue of a 50% rent reduction after 50 years, but the door would be open regarding an equal protection argument for all 64 boathouse tenants if this issue were pursued.

Mr. Alcus stated that the boathouse was built from scratch in 1963 and in 1965 the boathouse was destroyed by Hurricane Betsy. The boathouse was rebuilt and a common roof was added that covered Mr. Alcus boathouse along with his neighbors' boathouse. When the boathouse was acquired it was approximately 100 s.f., but there have been six additions and the boathouse is now approximately 1,100 s.f. The rent is \$2,766 per quarter

Mr. Capo advised that the tenants of boatsheds W-1 and W-7 did not renew their leases upon expiration in 2006-2007. There are three boathouses in the W section that the tenants defaulted on and the Authority moved to take back those boathouses. One of the boathouses is in very good shape, but due to the tax issues the City is entitled to that boathouse. Of all 64 boathouses five are not in commerce.

Commissioner Heaton suggested this issue be brought before the full Board so Mr. Alcus knows where he stands. Whatever the issues are they need to be brought up so the full Board can hear this matter.

## **2) Discussion and recommendation of Tides, LLC proposal to lease Lot 10-E**

Mr. Capo advised that Mr. Marcello surrendered possession of Lot 10-E (Kona Café), the former site of Pontchartrain Enterprises, at lease expiration. The site was cleaned after Hurricane Isaac and turned back to the Authority. Tides, LLC, developers of the former Hong Kong site, have proposed to demolish the building using their money, clear and back hoe the site and use the site as restaurant parking. Tides, LLC is requesting a six year rent abatement for the cost of taking down and securing the site for their investment.

Mr. Brisbi advised that three bids were secured on demolition based on Tides' knowledge and what was experienced at the Hong Kong site during demolition. A structure demolition cost and a sub-surface structure demolition cost are involved. The Hong Kong was developed mainly over water and the land stopped where the parking lot was and dropped off where the piers used to be. Various underground footings and debris were found and there was a huge hole to fill. The contractor that demolished the Hong Kong ran costs on what was spent after the structure was demolished. A base bid for structure demolition was provided along with the costs that Tides incurred after demolition and what had to be done. Those numbers were backed and based on fair market value of

what this real estate would go for which is an approximate six year credit for costs to demolish, remove and do site work on the property.

Mr. Pappalardo stated that Tides was willing to lease the property for \$2.80 per s.f., the same rate as the former Hong Kong site, so this matter could be brought to the Committee and the Board. The credit Tides will receive is based on \$2.80 per s.f., which is the rent that could be collected for the site once it is developed. If Tides does not demolish the building the cost to demolish and do prep work would fall on the Authority. Tides will ultimately be working off money that was spent up-front for demolition and would benefit by getting the property immediately. The building could not be salvaged or rehabbed and it needs to be demolished.

Chairman Lupo suggested that it is prudent the Board acquire a price for comparison so the Authority knows the prices that were presented are in the same ball park. This would also be appropriate for the legislative auditors to see that the Authority did its due diligence.

Mr. Pappalardo stated that this concept works for Tides and the Authority because the Authority does not have the dollars to demolish, maintain and secure the site with no income on that property. The Authority should have an independent proposal for demolition in the event the legislative auditor checks to determine if the prices were correct. If a reputable demolition company quoted \$89,000 instead of \$99,000.00, Tides would save \$10,000. Mr. Brisbe has approximately \$2,800 included for a pre-demolition asbestos survey which is required by the DEQ and that is a separate cost. If everything falls into place staff would like to structure a lease on the 8,294 s.f. site and give Mr. Brisbe a dollar-for-dollar rent credit for the amount expended against the rental rate of \$2.80 per s.f. for five years with five 5-year options and normal escalations for CPI.

Commissioner Heaton stated that this is an expeditious way to get the building demolished, rehabbed and back in commerce. This matter should be passed to the Board, but we need to have all the information for the full Board.

Mr. Capo informed the Committee that Lighthouse Harbor Condominiums sent an e-mail requesting future plans for the site as residents have concerns of possums, raccoons and squatters taking shelter in the site. Chairman Lupo noted that demolition of the site will be good for Tides' business as the blighted building will be destroyed and Tides will have additional parking. Commissioner Heaton noted that this is also a post-Katrina quality of life issue and what that will do for the community in getting the building demolished and removing blight from the City rather than waiting longer for the Authority to have the building demolished.

Mr. Brisbi stated that the good and bad news is that Tides has gone through this process with the former Hong Kong and knows too much now or people know too little and a cross check should be done if needed. Tides will erect a fence around the area and improve the site above and beyond a strict demolition and fill as it is in Tides' best interest to do so and can get started right away.

### **3) Discussion and recommendation of Schubert's Marine request for an extension to begin construction on new restaurant**

Jordan Brimer, Schubert's Marine, stated that Scubert's is requesting an extension to begin construction for Schubert's proposed restaurant. An injunction was previously filed by the Rogers' and Schubert's has just received a release. Schubert's is looking to move forward and is requesting an extension to actually begin.

Mr. Pappalardo advised that the Resolution passed by the Board gave Schubert's one year from the day the Resolution was passed in January to protect the Authority and ensure the Board did not grant an open-ended Resolution. The Authority was also sued and received service on February 9, 2012. The lawsuit went away when Mrs. Rogers was granted the authority to sell her boathouse in early October. Staff is suggesting Schubert's be granted a 9 month extension from February 1, 2013 to October of 2013 which would give Schubert's back the 9 months lost due to the lawsuit. The Resolution would amend the former Resolution with an action date of October 31, 2013. Commissioner Heaton requested one paragraph be added stating why Schubert's needs the extension in the event five years from now someone questions why the extension was given and to protect everybody as to what is going on.

Commissioner Heaton informed that even though there can be no action taken as a Committee to recommend this we certainly are going to discuss this at the Board meeting.

**ANNOUNCEMENT OF NEXT MEETING**

Chairman Heaton announced the next Commercial Real Estate meeting is scheduled for Thursday, December 6, 2012 at 1:30 p.m.

**ADJOURNMENT**

Due to a lack of quorum no motion for Adjournment was needed. The meeting adjourned at 2:19 p.m.