

Tammy Cloud-McMinn

From: Teri Jacobs <tjacobs86@pacbell.net>
Sent: Monday, October 21, 2024 10:18 AM
To: City Clerk
Cc: Gregory Day' <Greg@gregday4carlsbad.com>; 'Lara Benusis' <ibenusis@yahoo.com>; 'Mark Packard' <marbon812@gmail.com>; 'Tracy Carmichael' <whatzuptlc@yahoo.com>; 'Teri Jacobs' <tjacobs86@pacbell.net>; 'michaelajd' <michaelajd@yahoo.com>; 'Matt Hall' <mhall4046@gmail.com>; 'Lauren Ladda' <laurenladda@gmail.com>; 'Raul Villamar' <estodoaboutme@aol.com>; 'Dee Dee Rowlett' <deedee.rowlett@gmail.com>; 'Jeffrey Yuen' <Jeffrey.Yuen@sdcounty.ca.gov>; 'Alanna Trimble' <alannalt@yahoo.com>; 'Momophd Momofphd' <momofphd; steve.puterski@gmail.com; Rachel' <Rachel.bianco@10news.com>; 'Justin Cox' <Justin.Cox@10news.com>; philip.diehl@sduniontribune.com; bakerstacey2016@gmail.com; greersleight@gmail.com; Chris@solutionsforchange.org; meameemer@gmail.com; davezulick@gmail.com; 'ann welton' <annie13035
Subject: 10/22 Agenda Item #6

Mayor, Council, and Staff,

1. On 8/25/2024 I sent an email to you regarding promises made by a former Affirmed Housing employee at the 1/28/2020 Council meeting. She clearly stated that the beauty of Windsor Pointe was that there would be 2 managers (one at each site). That was a lie. So developers are able to lie to staff, commissions, and Council with no consequences! During that same Council meeting a member of our Housing Commission got up and said "this is affordable housing done right." It was also said that the 24 units would address a quarter of our then PIT count. How wrong was that information? We know now that not one of the 24 NPLH units are housed with individuals with ties to Carlsbad. How has the facility addressed our homeless situation?
2. In the agenda packet there was mention of an open gate for an event. Days before that the Harding gate was actually broken and remained that way for days. How did security and management not see it?
3. Solari was originally listed as the management company for the facility. At some point it changed to CONAM. When and Why was this change made? Why has it taken over 2 years for Affirmed to realize there are issues? How many 911 calls, arrests, and deaths had to occur!
4. At one of the recent Council meetings it was made clear that many of the issues at Windsor Pointe are visitor related. There was quite a lengthy discussion about solutions and now we find out there is an issue relating to residents, their visitors, and privacy. So can the assumption be made that yes there is an issue and no we aren't going to seriously address it?
5. The County has a lackluster if not an incredibly slow response to the issues at Windsor pointe. Ninety days, 6 months time frames are not acceptable.
6. The work by Jason Haber, Mandy Mills, Council Members Acosta and Burkholder is appreciated regarding legislative matters but how did Affirmed, staff, commissions, and Council miss that Veteran income disqualified them in the first place. NOTE...the name of the project is Carlsbad Veteran Housing LP (oh but Veterans aren't eligible). This was a major fail on all fronts. What a slap in the face to Veterans and the community who were hoping to help those who heroically served our Country! Perhaps we will be awarded the 6 vouchers, perhaps some units will be vacated, perhaps a SMI Veteran with ties to Carlsbad will be housed who then is only required to meet ONCE a month with a case manager...Is this the fix?

7. The letter from Affirmed's Counsel is somewhat concerning as the tone is that the City approved it, we will fix a few things, but not everything. The assumption seems to be that they know what is best for Carlsbad. Safety is paramount and the cost should not be a factor. In the second to the last paragraph in the letter it states, "tenant has organized several meetings to coordinate efforts related to security, resident service needs, and neighborhood outreach." Residents exhausted all avenues from city, Council, and County to finally demand that someone listen to our concerns. Council Member Bhat-Patel made reference to community outreach meetings during one of the presentations to Council. There were never meetings prior to our demanding them! Your constituents weren't listened to when this facility was in the planning stages, our concerns were not taken seriously until Chief Calderwood saw what was going on with her own eyes. Her experience wasn't a one-off event.

Some of you were in attendance at the grand opening of Windsor Pointe. Since then, from the dais, you have voiced concerns and directed staff to do A, B, and C. Hopefully at the 10/22/24 Council Meeting you will tell us what you have done and are doing as enough is enough!

Regards,
Teri Jacobs
Carlsbad Resident; Dist 1

Sent from my iPad

CAUTION: Do not open attachments or click on links unless you recognize the sender and know the content is safe.

Tammy Cloud-McMinn

From: Council Internet Email
Sent: Monday, October 21, 2024 10:31 AM
To: City Clerk
Subject: FW: Windsor Pointe: Staff Report Snow Job

From: Denis Jensen <denis.jensen@gmail.com>

Sent: Monday, October 21, 2024 10:25 AM

To: Keith Blackburn <keith.blackburn@carlsbadca.gov>; Melanie Burkholder <melanie.burkholder@carlsbadca.gov>; Priya Bhat-Patel <priya.bhat-patel@carlsbadca.gov>; Carolyn Luna <carolyn.luna@carlsbadca.gov>; Teresa Acosta <teresa.acosta@carlsbadca.gov>; Council Internet Email <council@carlsbadca.gov>; Scott Chadwick <Scott.Chadwick@carlsbadca.gov>

Cc: Gregory Day' <Greg@gregday4carlsbad.com>; Lara Benusis <ibenusis@yahoo.com>; Mark Packard <marbon812@gmail.com>; Tracy Carmichael <whatzuptlc@yahoo.com>; Teri Jacobs <tjacobs86@pacbell.net>; michaelajd <michaelajd@yahoo.com>; Matt Hall <mhall4046@gmail.com>; Lauren Ladda <laurenladda@gmail.com>; Raul Villamar <estodoaboutme@aol.com>; Dee Dee Rowlett <deedee.rowlett@gmail.com>; Jeffrey Yuen <Jeffrey.Yuen@sdcounty.ca.gov>; Alanna Trimble <alannalt@yahoo.com>; Momophd Momofphd <momofphd@gmail.com>; Tyler Collins <tyler@collinsforcarlsbad.com>; Kevin Shin <kevinshin27@gmail.com>; Mike Curtin <mike@curtinforcarlsbad.com>; Dorian Hargrove <DHargrove1@cbs8.com>; Steve Puterski <steve.puterski@gmail.com>; Bianco, Rachel <Rachel.bianco@10news.com>; Justin Cox <Justin.Cox@10news.com>; Phil Diehl <philip.diehl@sduniontribune.com>; bakerstacey2016@gmail.com; greersleight@gmail.com; Chris@solutionsforchange.org; meameemer@gmail.com; davezulick@gmail.com; ann welton <annie13035@yahoo.com>; Carl Gehring <cwgehring78@gmail.com>; Andrea Ryon <aryon58@gmail.com>; Stacey Boyer <staceylboyer@gmail.com>; jacqueline Barnhill <lasbonitas@yahoo.com>; Kelly Kelly <kelly.leberthon12@gmail.com>; Mary Huber <marymurphyhuber@gmail.com>; Krisha Markowicz <krisha2700@yahoo.com>; Christine Smoczynski <chris_enhls@yahoo.com>; jhawks2@sbcglobal.net; George Corrales <geocorrales@gmail.com>; Ryan King <ryanbking83@gmail.com>; Mary Estrada <mary.estrada01@gmail.com>; CJohnston <carlyfjohnston@gmail.com>; Julie Christopher <juliechris77@gmail.com>; Tyler Carter <ttcarter@gmail.com>; Matt Krepelin <matt.krepelin@gmail.com>; HeatherandJustin Nash <justinandheathernash@gmail.com>; Ace Hauling & Demolition <acehauling2000@gmail.com>; Allyson P Davis <allypace@gmail.com>; Crystal Brynildsen <otbycrystal@gmail.com>; Jennifer George <jennygeorgell@gmail.com>; LUIGI P <astrojupiter.2000@gmail.com>; scott tibbets <stibbets1@gmail.com>; shari mirkin <sharimirkin@gmail.com>; Cherise Hurlburt <cheriseangelle@me.com>; Jim Ahearn <jim@jsahearn.com>; Chris Peters <chris.cpeters@gmail.com>; Mike Kalscheur <mkalscheur@mpre-inc.com>; Kristina Lima <kristinalima@yahoo.com>; Jeremiah Patton <jeremiahpatton@gmail.com>; Shannon Everett <skeverett@yahoo.com>; Frank Temple <fjtemple@gmail.com>; Austin Borders <austinsborders@gmail.com>; Brad Sivert <bradsivert@gmail.com>; Judy OConnor <crwfvoterreg@gmail.com>; Mark <mwsteffen@yahoo.com>; Bekah P <tobiasnbekah@gmail.com>; LeeAnne Scherer <leeannemcscherer@gmail.com>; Sherrie <ottergran@yahoo.com>; Roco Nasirpour <roco9@aol.com>; Khara Stevens <kharastevens@gmail.com>; Brock Maclean <brock.maclean@gmail.com>; heitchew <heitchew@aol.com>; Julia Darling <jvdarling24@gmail.com>; Lois Swagerty <loisswag@hotmail.com>; seth haller <sethhaller@gmail.com>

Subject: Windsor Pointe: Staff Report Snow Job

City of Carlsbad,

We read through Tuesday's Windsor Pointe City Council agenda and noticed that, like other Staff reports before that neglected to inform Council and the public of incidents as relevant as tenants threatening to light a pregnant woman and her unborn child on fire with gasoline, this report curiously omits that, on

July 8, a tenant died of a drug overdose and that his family attributes it to drug dealers living amongst homeless trying to get sober. This is because you continue to happily import homeless with criminal backgrounds from downtown San Diego and freely place them amongst the Windsor Pointe sober as long as their convictions are just five years old. City Staff curiously and randomly selected a date just prior to this incident as the information cutoff in the last Council report so it's odd that this incident doesn't occur in THIS report, right? Just kidding, I'll say it- they obviously wanted to bury this. So here's the tenant's family's assessment:

“My dad overdosed and died here last month. Windsor Pointe has drug dealers living here that supply drugs to the vulnerable residents that are about 90% current/former addicts with zero supervision. There are also people living with the "residents" that should never be there, drug dealers, child molesters, etc . God only knows who is really living here. -son of Daniel Joslin

So clearly, this Windsor Pointe potpourri of homeless importation is a failure for not helping Carlsbad's homeless (who remain sleeping on our park benches) but it also fails tenants. Your continued inaction to stop this madness is literally killing people. YOU, Council, are literally killing people. Community leaders contacted by tenants toured Windsor Pointe last month and were told by a one that she feels in danger there and must move. They also noted that there is no security at all on weekends. How is this place getting away with this??!!

Who Windsor Pointe does NOT fail is the developer, who the Council continues to be soft on. And now this company defies the letter of lease noncompliance? WOW. ConAm was supposed to be the premiere management company so replacing it with a different company brings no comfort to the community. Within mere weeks of Carlsbad's Chief of Police exposing unsecured doors and fabricated facility oversight, our community reported broken and open facility doors that remained open for days at a time. Why does this developer not fear the City?

Getting back the immensely bureaucratic nothing burger of the Staff Report, **we're not sold on the continued dangled carrot of helping veterans. We know that Windsor Pointe was never going to help veterans.** If veteran benefits raise veterans out of low income status and disqualifies them as tenants, then the funding of low income veteran housing was a scam. As you know, there are only 6 (supposed) veterans out of 50 apartments and it seems entirely doubtful that existing veteran assistance wasn't known in advance of building this. In fact, this veteran bait & switch is apparently a well-known homeless profiteer gift:

<https://www.instagram.com/reel/DBKSR7zSHyh/?igsh=MTc4MmM1Yml2Ng==>

Again, **the voters you work for want the facility closed or moved.** No more band-aids.

Sincerely,
Denis Jensen
Carlsbad

Tammy Cloud-McMinn

From: Council Internet Email
Sent: Monday, October 21, 2024 10:31 AM
To: City Clerk
Subject: FW: Windsor Pointe Developer Defiance
Attachments: AffirmedHousing 091824.pdf; WindsorPointeNonCompliance 091024.pdf

From: JackStephan <JackStephan77@protonmail.com>
Sent: Monday, October 21, 2024 8:54 AM
To: Matt Hall <mhall4046@gmail.com>; Jimmy Silverwood <james@affirmedhousing.com>
Cc: Jeff McDonald <jeff.mcdonald@sduniontribune.com>; Keith Blackburn <keith.blackburn@carlsbadca.gov>; Melanie Burkholder <melanie.burkholder@carlsbadca.gov>; Priya Bhat-Patel <priya.bhat-patel@carlsbadca.gov>; Carolyn Luna <carolyn.luna@carlsbadca.gov>; Teresa Acosta <teresa.acosta@carlsbadca.gov>; Council Internet Email <council@carlsbadca.gov>; Rachel.bianco@10news.com; 'Gregory Day' <Greg@gregday4carlsbad.com>; 'Lara Benusis' <ibenusis@yahoo.com>; 'Mark Packard' <marbon812@gmail.com>; 'Tracy Carmichael' <whatzuptlc@yahoo.com>; 'Teri Jacobs' <tjacobs86@pacbell.net>; 'michaelajd' <michaelajd@yahoo.com>; 'Lauren Ladda' <laurenladda@gmail.com>; 'Raul Villamar' <estodoaboutme@aol.com>; 'Jeffrey Yuen' <Jeffrey.Yuen@sdcounty.ca.gov>; 'Alanna Trimble' <alannalt@yahoo.com>; 'Momofhd Momofphd' <momofphd@gmail.com>; 'Tyler Collins' <tyler@collinsforcarlsbad.com>; kevinshin27@gmail.com; 'Dorian Hargrove' <DHargrove1@cbs8.com>; 'Steve Puterski' <steve.puterski@gmail.com>; 'Justin Cox' <Justin.Cox@10news.com>; philip.diehl@sduniontribune.com; sethaller@gmail.com; Cindie McMahan <Cindie.McMahan@carlsbadca.gov>; Scott Chadwick <Scott.Chadwick@carlsbadca.gov>
Subject: Windsor Pointe Developer Defiance

Mr. Hall,

Regarding the City of Carlsbad's letter of Windsor Pointe noncompliance, the developer, Affirmed Housing, seems to have just told the City of Carlsbad to f*ck off. See the attached. As the former Mayor of Carlsbad, would *you* say that the City had full knowledge of Windsor Pointe's intended resident population, as this letter purports? Let's chat.

It seems odd to me that Affirmed Housing (sometimes DBA "Carlsbad Veteran Housing LLP") would take such a combative approach with the City when they are in the running for a lucrative [800 unit homeless development downtown](#) at Ash Street (already a publicity magnet). It would be horrible public relations if they were to be known as bad tenants to the City AND bad neighbors to the community. I'll start asking around to see what Windsor Pointe neighbors think of them and if they feel that this developer promises one thing but delivers another, as the attached project application signage would suggest.

Also, by the "community outreach" noted in the letter, do they mean that not one of my neighbors says they've been contacted by the developer but Windsor Pointe tenants have reached out to US to help THEM, saying they feel in danger? That's also not a good look. I would think Affirmed Housing would be the type of company that would take lessons learned in a failed pilot program and improve it at a different location elsewhere.

Thanks,
Jack Stephan
Carlsbad



NOTICE

OF PROJECT APPLICATION

PROJECT NAME: CARLSBAD VETERAN HOUSING

PROJECT NUMBER: 20419205, 06

PROJECT DESCRIPTION: 26 UNIT AFFORDABLE HOUSING
PROJECT FOR VETERAN FAMILIES AND HOMELESS VETERANS

CITY OF CARLSBAD
PLANNING DIVISION
AUSTIN SILVA - CITY PLANNER
AUSTIN.SILVA@CARLSBADCA.GOV
(760) 602-4631

PROJECT APPLICANT/REPRESENTATIVE
SYDNEY CORDOVA
AFFIRMED HOUSING GROUP, INC.
13520 EVENING CREEK DRIVE N.
STE 160
SAN DIEGO, CA
(858) 679-2464



September 10, 2024

NOTICE OF NONCOMPLIANCE WITH AGREEMENTS, MAINTENANCE DEFICIENCIES AND INTENTION TO CAUSE REPLACEMENT OF MANAGEMENT AGENT AT WINDSOR POINTE

Mr. James Silverwood
 Carlsbad Veteran Housing, L.P.
 c/o Affirmed Housing Group, Inc.
 13520 Evening Creek Drive North, Suite 160
 San Diego, CA 92128

VIA CERTIFIED MAIL AND
 EMAIL TO: jim@affirmedhousing.com

Dear Mr. Silverwood:

This letter is to notify Carlsbad Veteran Housing, L.P. and Affirmed Housing Group, Inc. (collectively Affirmed Housing) that you have violated the terms of the Ground Lease, Regulatory Agreement, Loan Agreement, and Deed of Trust with the City of Carlsbad for the Windsor Pointe development (Windsor Pointe or the Property). This letter is also to notify you that Affirmed Housing's Management Agent, CONAM Management Corporation (CONAM) has failed to meet its obligations under Windsor Pointe's Management Plan and, consequently, the city intends to cause Affirmed Housing to replace CONAM.

Background

On September 5, 2023, the City of Carlsbad Police Chief sent a letter informing Affirmed Housing of a number of criminal acts that occurred at the Windsor Pointe property, including many committed by individuals who did not reside there or were trespassing on the property. The Police Chief requested Affirmed Housing implement additional security measures, including:

- Requiring visitors to check in and out of the property;
- Maintaining surveillance cameras covering all exterior locations and parking areas; and
- Providing uniformed security onsite at both locations, 24 hours a day, seven days a week.

The same day, the City of Carlsbad's Housing & Homeless Services Director sent a letter offering to assist Affirmed Housing identify and develop changes to property maintenance and operations to address the security concerns identified by the Police Chief.

The Housing & Homeless Services Director also recommended Affirmed Housing:

- Provide onsite security at both locations, seven days a week;

City Manager

City Hall 1200 Carlsbad Village Drive | Carlsbad, CA 92008 | 442-339-2821 t

Oct. 22, 2024

Item #6

Page 12 of 26

- Require visitors to check in and out of the property and to be escorted by a tenant while on the property;
- Ensure management staff is onsite 24 hours a day and accessible for after-hours emergencies; and
- Meet with Carlsbad Police Department representatives at least quarterly to discuss security concerns.

Affirmed Housing did not fully implement these recommendations. Instead, Affirmed Housing increased onsite security from three onsite rounds per night to one onsite security guard 12 hours per night covering both Windsor Pointe buildings. Affirmed Housing also increased remote video surveillance from 12 hours Monday through Friday and 24 hours on weekends to 24 hours, seven days a week.

Additionally, CONAM began meeting weekly with Carlsbad Police Department representatives. The Housing & Homeless Services Department and the Carlsbad Police Department also began conducting monthly progress review meetings with Affirmed Housing and CONAM.

Despite these efforts, security, maintenance, and operations concerns continued. At a City Council meeting on March 12, 2024, the city again requested Affirmed Housing take steps to deter criminal activity at Windsor Pointe by increasing the onsite security to at least 6 p.m. to 6 a.m. at both Windsor Pointe buildings, implementing remote video surveillance monitoring 24 hours a day, seven days a week, and requiring visitors to check in and out of the Property. In addition, the City Council directed staff to work with Affirmed Housing to amend Windsor Pointe's Management Plan to include these requirements. To help with the cost for the additional security, the City Council also directed city staff to advocate for the County of San Diego to release operating subsidiary reserve funding, which the County of San Diego did.

At a City Council meeting on April 9, 2024, city staff reported on the status of the updates to the Management Plan. The amendments, which were approved, required Affirmed Housing to have:

- A security guard onsite at each Windsor Pointe building from 6 p.m. to 6 a.m., during which time the guards would monitor issues on the Property, including noise complaints, guest entry and suspicious activity;
- Remote video surveillance 24 hours a day, seven days a week to identify criminal activity, suspicious activity, or entry by unauthorized people; and
- A procedure requiring residents to check their visitors in and out.

Continued Security, Maintenance, and Operations Deficiencies

Notwithstanding these requirements, on the morning of August 20, 2024, Police Chief Christie Calderwood went to Windsor Pointe to view the Property in preparation for a progress review on that evening's City Council meeting agenda. While she was sitting in her unmarked police vehicle, a barefoot woman passed by her and approached the security gate for Windsor Pointe's Oak Avenue building. The woman flung a bag over the gate, using the bag to engage a bar on the interior side of

the gate. Once the bar was engaged, the gate opened, allowing the woman access to the property. Although the gate had signage indicating it was alarmed, no alarm sounded.

The woman, who Chief Calderwood subsequently learned had been banned from the property, left the gate ajar and Chief Calderwood entered onto the property to locate her. Chief Calderwood went to the exterior of the building to search for the woman. Chief Calderwood climbed the building's exterior staircase and tried the entrance door for each floor. Although the doors require a keycard to enter and were lighted in a way suggesting they were locked and secure, Chief Calderwood was able to readily pull open the doors on three of the building's four floors. Chief Calderwood also noticed a mattress topper and other items in or around the staircase suggesting someone may have been camping in or around the staircase.

Chief Calderwood attempted to contact the onsite manager, but the manager was not on duty even though the manager's work hours had begun. In addition, none of the service providers who have office hours in the building were on duty.

Since onsite security went off duty at 6 a.m., Chief Calderwood called the company that is supposed to provide monitored security for the building 24 hours a day, seven days a week. The representative who fielded Chief Calderwood's call was unaware of either the woman intruder's presence in the building or of Chief Calderwood's presence in the building. Once Chief Calderwood alerted the representative to the intruder, the representative had to search through the security records to learn what occurred.

Chief Calderwood left the Oak Avenue building and went to Windsor Pointe's Harding Street building. There she spoke with Windsor Pointe's onsite maintenance technician. The maintenance technician advised that the onsite Property Manager at the Oak location would be there at approximately 11 a.m. Chief Calderwood reported the unalarmed gate and the broken security doors, to which the maintenance technician already had knowledge.

When this information was relayed to the City Council at the meeting that evening, the Affirmed Housing representative and the CONAM representative who attended the meeting were asked to address the matter. Neither provided a satisfactory explanation for why an intruder was so easily able to access the property, why the security company hired to provide monitored surveillance for the building did not notice either the intruder or the Police Chief, why the access gate and security doors had not been promptly repaired, why the mattress topper and debris were allowed to be in or around the exterior stairway, and why no property manager or substitute was on duty during work hours.

These security, maintenance and operations deficiencies violate the following provisions of Affirmed Housing's agreements with the city:

Ground Lease

Section 5.1(a) – Quality of Operations

Section 5.2 – Limitations on Use

Mr. James Silverwood
September 10, 2024
Page 4

Section 5.4 – Maintenance of Improvements

Regulatory Agreement

Section 5.1 – Management Responsibilities
Section 5.5 – Property Maintenance
Section 5.6 – Safety Conditions

Loan Agreement

Section 4.3(a) – Operation of Development as Affordable Housing
Section 4.4(a) – Maintenance

Deed of Trust

Section 2.1 – Maintenance and Modification of the Property by Trustor
Section 5.1 – Other Agreements Affecting Property
Section 5.6 – Operation of the Security

These security, maintenance and operations deficiencies also violate CONAM's obligations under the following provisions of the Management Plan:

Section 2.A. – Agent Roles and Responsibilities
Section 2.B. – Community Manager Roles and Responsibilities
Section 18.G – Guest Policy and Procedures
Section 24 – Maintenance and Security

To cure these violations, Affirmed Housing must take the following steps within 30 days from the date of this letter:

1. Secure all access gates and doors and repair any broken or malfunctioning locks or access control systems
2. Remove all hazards and debris from exterior common areas
3. Update the Management Plan to incorporate the following provisions:
 - a. Daily exterior inspections of gates, access doors, access control systems and interior and exterior common areas with any needed repairs to be made within 24 hours unless otherwise agreed to by the city.
 - b. A detailed staffing and security plan that ensures there is sufficient on-duty management and security staff to ensure: (i) entryways are controlled and visitors are screened at both locations 24 hours a day, seven days a week; and (ii) exterior and interior common areas at both locations are regularly patrolled throughout the day, but no less than once every two hours in each 24-hour period.

Additionally, as permitted by Section 5.3 of the Regulatory Agreement, the city intends to cause Affirmed Housing to replace CONAM as its management agent for failure to operate Windsor Pointe in a manner that provides decent, safe, and sanitary housing.

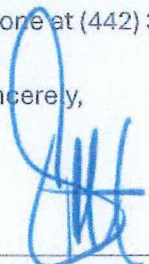
Within 15 days from the date of this letter, Affirmed Housing must meet with city staff, including the Housing & Homeless Services Director and the Police Chief, to consider methods for improving

Mr. James Silverwood
September 10, 2024
Page 5

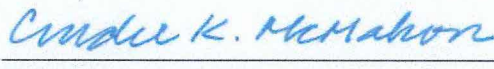
Windsor Pointe's financial and operating status. If, within 30 days of that meeting, the city determines the property is still not being appropriately managed, the city will require Affirmed Housing to replace CONAM with an experienced agent that has demonstrated an ability to operate residential projects like Windsor Pointe in a manner that will provide decent, safe, and sanitary housing.

We look forward to your prompt attention to these concerns. To schedule the meeting to discuss CONAM's replacement, please contact Mandy Mills, Housing & Homeless Services Director by phone at (442) 339-2907 or by email at mandy.mills@carlsbadca.gov.

Sincerely,



SCOTT CHADWICK
City Manager



CINDIE K. McMAHON
City Attorney

c: Mayor Keith Blackburn (via email)
Mayor Pro Tem Priya Bhat-Patel (via email)
Council Member Teresa Acosta (via email)
Council Member Melanie Burkholder (via email)
Council Member Carolyn Luna (via email)
Geoff Patnoe, Assistant City Manager (via email)
Mandy Mills, Housing & Homeless Services Director (via email)
David Cohen, Katten Muchin Rosenman LLP (via email and regular mail)
Steven J. Kropf, Raymond James Tax Credit Funds, Inc. (via facsimile and regular mail)
Kyle Arndt, Bocarsly Emden Cowan Esmail & Arndt LLP (via email and regular mail)
Joseph M. Michaels, Las Palmas Foundation (via email and regular mail)
Jason A. Hobson, Hobson Bernardino (via email and regular mail)
Community Development, County of San Diego, Housing & Community Development Services (via email and regular mail)
Executive Director, California Tax Credit Allocation Committee (via certified mail)

2121 Avenue of the Stars
Suite 1100
Los Angeles, CA 90067-5010
+1.310.788.4400 tel
katten.com

DAVID P. COHEN
david.cohen@katten.com
+1.310.788.4591 direct
+1.310.788.4471 fax

September 18, 2024

Scott Chadwick
City Manager
City Hall
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Cindie K. McMahon
City Attorney
Office of the City Attorney
City of Carlsbad
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Re: Windsor Pointe (“Project”)

Dear Mr. Chadwick and Ms. McMahon:

As you know, I am counsel to Carlsbad Veteran Housing, L.P. (“Tenant”), which is the tenant under that certain Ground Lease with the City of Carlsbad (“City”) dated September 17, 2020 (“Ground Lease”). I am writing in response to your letter dated September 10, 2024 (“Your Letter”) in which you allege that Tenant is not in compliance with the Ground Lease.

Your Letter recites a list of actions which the City recommended with respect to the Project. While Tenant has considered, in good faith, all of the City’s recommendations, and has in fact implemented several of them, the Ground Lease does not require the Tenant to implement all City recommendations nor does Tenant believe it would be prudent to do so.

Your Letter next purports to establish that Tenant has failed to comply with the Ground Lease based on the existence of a gate with a broken alarm, broken entry doors and debris in the stairwell. Tenant rejects your contention that such items constitute noncompliance. Rather, the identified issues are routine maintenance and property management items which Tenant has remedied in the normal course. Had Tenant not addressed these items, then that would be an event of noncompliance under the Ground Lease. However, the mere existence of routine maintenance items and debris at the Project, which Tenant timely remedied, does not rise to the level of noncompliance.

Notwithstanding Tenant’s position as set forth above, Tenant has been and will continue to be cooperative with the City. In that regard, you requested that Tenant meet with City staff. That meeting took place on September 11, 2024. You also asked that Tenant:

1. Repair any broken doors, locks, and access gates and control systems. This has been done.
2. Remove all hazards and debris from exterior common areas. This has been done.

Mr. Chadwick and Ms. McMahon
September 18, 2024
Page 2

3. Make certain updates to the Management Plan. Tenant is willing to update the Management Plan to provide for (i) daily inspections of access doors/gates, control systems and exterior common areas, and (ii) make any needed repairs to any such items as soon as reasonably possible. However, Tenant cannot agree to 24-hour visitor screening by onsite management and security staff due to reasons related to resident privacy, industry standards, and cost.

Your Letter conveniently fails to recognize any of the proactive steps that Tenant has taken in response to concerns previously raised by the City. Tenant has increased monitored video surveillance hours and added a second standing guard. At Tenant's request, the County increased intensive case management services hours by more than double. Furthermore, Tenant has organized several meetings to coordinate efforts related to security, resident service needs, and neighborhood outreach with all interested parties including the City's housing and police departments, County behavioral health department, private security, and property management.

Finally, we remind you that the City Council approved the Project and agreed to enter into the Ground Lease with full knowledge about the Project's resident population. Tenant therefore expects the City to respect the terms of the Ground Lease and the rights of its residents to live at the Project free from harassment.

Sincerely,



David P. Cohen

DPC:rlk

Mr. Chadwick and Ms. McMahon
September 18, 2024
Page 3

cc: James Silverwood (via email)
Jonathan Taylor (via email)
Geoff Patnoe, Assistant City Manager (via email)
Mandy Mills, Housing & Homeless Services Director (via email)
Kevin Kilbane, Raymond James Tax Credit Funds, Inc. (via email)
Kyle Arndt, Bocarsly Emden Cowan Esmail & Arndt LLP (via email)
Joseph M. Michaels, Las Palmas Foundation (via email)
Jason A. Hobson, Hobson Bernardino (via email)
Community Development, County of San Diego, Housing & Community Development
Services (via email)
Executive Director, California Tax Credit Allocation Committee (via email)



October 17, 2024

NOTICE OF CONTINUED NONCOMPLIANCE WITH AGREEMENTS

Mr. David P. Cohen
2121 Avenue of the Stars, Suite 1100
Los Angeles, CA 90067-5010

VIA REGULAR MAIL AND
EMAIL TO: david.cohen@katten.com

Mr. James Silverwood
Carlsbad Veteran Housing, L.P.
c/o Affirmed Housing Group, Inc.
13520 Evening Creek Drive North, Suite 160
San Diego, CA 92128

VIA CERTIFIED MAIL AND
EMAIL TO: jim@affirmedhousing.com

Dear Mr. Cohen:

On September 10, 2024, the City of Carlsbad sent a letter (September 10 Letter) notifying your client, Carlsbad Veteran Housing, L.P., through Affirmed Housing Group, Inc. (collectively Affirmed Housing), that it was in violation of specified terms of its Ground Lease, Regulatory Agreement, Loan Agreement, and Deed of Trust with the City of Carlsbad for the Windsor Pointe development (Windsor Pointe or the Property). The city's letter also notified Affirmed Housing that its management agent, CONAM Management Corporation (CONAM), is failing to meet its obligations under Windsor Pointe's Management Plan and, consequently, the city intended to cause Affirmed Housing to replace CONAM.

City's Requirements

The September 10 Letter included supporting factual information and required Affirmed Housing to cure the identified violations by taking the following steps within 30 days, or by October 10:

1. Secure all access gates and doors and repair any broken or malfunctioning locks or access control systems.
2. Remove all hazards and debris from exterior common areas.
3. Update the Management Plan to incorporate the following provisions:

City Attorney

City Hall 1200 Carlsbad Village Drive | Carlsbad, CA 92008 | 442-339-2891 t

Oct. 22, 2024

Item #6

Page 20 of 26

- a. Daily exterior inspections of gates, access doors, access control systems and interior and exterior common areas with any needed repairs to be made within 24 hours unless otherwise agreed to by the city.
- b. A detailed staffing and security plan that ensures there is sufficient on-duty management and security staff to ensure: (i) entryways are controlled and visitors are screened at both locations 24 hours a day, seven days a week; and (ii) exterior and interior common areas at both locations are regularly patrolled throughout the day, but no less than once every two hours in each 24-hour period.

Affirmed Housing's Response to Notice and Unwillingness to Fully Cure Deficiencies Failures as Violations

On September 18, 2024, following a meeting with Affirmed Housing and city staff on September 11, 2024, your office sent a letter to the City Manager and City Attorney asserting the security, maintenance and operation deficiencies identified in the city's letter were routine in nature and, therefore, not violations of the Ground Lease. The parties' agreements contradict this assertion.¹

The manner in which the Property is used and operated is of critical importance to the city because of the city's significant financial investment in the Property. Consequently, Affirmed Housing agreed to and is obligated to maintain a quality of character and operation of the Property consistent with and in full compliance with the Ground Lease and the parties' other agreements (Ground Lease, § 5.1(a); Loan Agreement, § 4.3(a); Deed of Trust, §§ 5.1 & 5.6).

This obligation includes operating and maintaining the Property in a manner to provide safe and sanitary housing to the tenants of the Property (Ground Lease, § 5.4). This obligation also includes maintaining all interior and exterior improvements in good condition and repair and providing security measures to prevent unlawful entry into the Property **in a manner acceptable to the city** (Regulatory Agreement, §§ 5.1, 5.5 & 5.6(c); Loan Agreement, § 4.4(a); Deed of Trust, § 2.1).

The security, operations and maintenance deficiencies identified in the September 10 Letter show the Property is not being maintained in a safe manner, in good condition and repair, and in a manner that prevents unlawful entry into the Property. Accordingly, the Property is not being secured, operated and maintained in a manner acceptable to the city.

¹ As your letter does not dispute that the identified security, maintenance and operation deficiencies violate the Regulatory Agreement, Loan Agreement, Deed of Trust and the management agent's obligations under the Management Plan, Affirmed Housing has impliedly conceded these points.

Although the parties' agreements make some allowances for reasonable wear and tear (see Deed of Trust, § 2.1), the deficiencies identified in the September 10 Letter do not fall within this category. Rather, the deficiencies evidence systemic problems requiring systemic solutions to resolve.

Cured Items

Your letter indicated Affirmed Housing has repaired the broken doors, locks, access gates and control systems. Your letter also indicated Affirmed Housing had removed all hazards and debris from exterior common areas. On October 15, 2024, Mandy Mills, the city's Housing & Homeless Services Director, inspected the property and confirmed the main doors to enter the building or elevator at each site are secure and require key fob access. Ms. Mills also confirmed that the alarm system was operational and hazards and debris had been removed from exterior common areas.

Uncured Items

However, Ms. Mills determined that the locked access points for some exterior stairwells still require additional action to cure. She also determined the gate door access at the Oak Avenue building required additional action to cure.

Regarding the required Management Plan update, your letter indicated Affirmed Housing was willing to update the plan to provide for daily inspections of access doors, gates, control systems, and exterior common areas and to require Affirmed Housing to make needed repairs to these items, but only as soon as reasonably possible and not within the time period required by city. Affirmed Housing further declined to update the plan to provide a detailed staffing and security plan with sufficient on-duty management and security staff to ensure: (i) entryways are controlled and visitors are screened at both locations 24 hours a day, seven days a week; and (ii) exterior and interior common areas at both locations are regularly patrolled throughout the day, but no less than once every two hours in each 24-hour period.

Affirmed Housing's unwillingness to amend the Management Plan as the city requested is unavailing and counterproductive. The purpose of the plan is to guide the work of Affirmed Housing's management agent to ensure that the security, operation and maintenance of the Property complies with the parties' agreements. Regardless of the contents of the plan, Affirmed Housing remains obligated to secure, operate and maintain the property in compliance with the parties' agreement **in a manner acceptable to the city**. Updating the plan to assure compliance ultimately benefits Affirmed Housing.

Moreover, as discussed below, Affirmed Housing has recently agreed to replace its current management agent. The change in management agent will necessitate an update to the

Management Plan because the current Management Plan is written for the current management agent. The update will be subject to the city's approval. Because the Management Plan must set forth Affirmed Housing's commitment and ability to operate the Property in accordance with the parties' agreements in a manner acceptable to the city, the city will not approve an update that does not adequately address the systemic security, operations and maintenance deficiencies identified by the city. Failure to obtain the city's approval of the update within 120 days from initial submission is an event of default under the Regulatory Agreement and Loan Agreement. Consequently, working with the city to update the Management Plan to address the city concerns is obligatory.

Additional Security, Maintenance, and Operations Deficiencies

Separate from the security, maintenance and operations deficiencies identified in the September 10 Letter, the city has recently received reports and photos showing the access gate at the Harding Street building was propped open for multiple days, including September 21-22 and October 5-6, 2024. Although one instance was for a planned event, the other instances were not planned or approved by the management agent. The fact the gate remained or was repeatedly propped open without management or security intervention illustrates the need for adjustments to the Property's management and security staffing plan.

Additionally, a City Council member went with a resident into the Harding Street building on October 4, 2024. While on the resident's floor, the City Council member noted a strong odor emanating from the trash chute, mold and water damage on the wall outside one of the units, and blood, feces, or some other substance rendering the only washing machine on the floor unusable. The City Council member also noted an odor of urine in the stairwell.

The resident reported to the City Council member there was a severe fruit fly infestation throughout the building. The resident also reported maintenance staff did not respond on weekends and the on-site manager was not accessible because she floats between buildings, her voicemail box is always full, and she blocks resident calls.

During Ms. Mills's inspection on October 15, 2024, she determined the mold and water damaged wall had been repaired and the laundry room had been cleaned. She did not note a fruit fly infestation throughout the building, but she did note an infestation in one unit. She did not note an odor of urine in the stairwell and determined the odor in the trash rooms were customary of trash rooms in multifamily properties. However, she noted some residents on some floors had left trash outside of the trash chute, which increases odor and pests.

Regarding access to management and maintenance staff, Ms. Mills was able to confirm onsite management staff are required to carry their phones with them at all times and that residents receive a list of phone numbers to call for service during regular hours and after hours. These

phone numbers are also posted on each floor. However, Ms. Mills was unable to confirm whether management and maintenance staff were, in fact, reachable by the residents when needed or whether phone storage or other impediments prevented residents from reaching them. This circumstance further illustrates the need for adjustments to Property's management and security staffing plan.

The uncured and additional security, maintenance and operations deficiencies violate the provisions of Affirmed Housing's agreements with the city, including:

Ground Lease

Section 5.1(a) – Quality of Operations
Section 5.2 – Limitations on Use
Section 5.4 – Maintenance of Improvements

Regulatory Agreement

Section 5.1 – Management Responsibilities
Section 5.5 – Property Maintenance
Section 5.6 – Safety Conditions

Loan Agreement

Section 4.3(a) – Operation of Development as Affordable Housing
Section 4.4(a) – Maintenance

Deed of Trust

Section 2.1 – Maintenance and Modification of Property by Trustor
Section 5.1 – Other Agreements Affecting Property
Section 5.6 – Operation of the Security

These uncured and additional security, maintenance and operations deficiencies also violate the management agent's obligations under the Management Plan, including:

Section 2.A. – Agent Roles and Responsibilities
Section 2.B. – Community Manager Roles and Responsibilities
Section 24 – Maintenance and Security

To cure these violations, Affirmed Housing must take the following steps within 30 days from the date of this letter:

1. Cure all uncured items noted in the September 10 Letter.
2. Ensure the trash rooms on each floor are checked daily and trash is properly disposed of.
3. Ensure laundry rooms are checked daily and laundry machines are clean and usable.

4. Work with the Harding Street building tenant to remedy the fruit fly infestation in the tenant's unit.
5. Update the Management Plan to incorporate the following provisions:
 - a. Daily exterior inspections of gates, access doors, access control systems and interior and exterior common areas with any needed repairs to be made within 24 hours unless otherwise agreed to by the city.
 - b. A detailed staffing and security plan providing for sufficient on-duty management and security staff to ensure: (i) entryways are controlled and visitors are screened at both locations 24 hours a day, seven days a week; (ii) exterior and interior common areas at both locations are regularly patrolled throughout the day, but no less than once every two hours in each 24-hour period; and (iii) management and maintenance staff are reasonably available to residents.

Replacement of Management Agent

As previously indicated, the September 10 Letter notified Affirmed Housing that the city intended to cause Affirmed Housing to replace CONAM as management agent for failure to operate the Property in a manner that provides decent, safe, and sanitary housing. To that end, the city required Affirmed housing to meet with city staff within 15 days. That meeting took place on September 11, 2024.

Section 5.3 of the Regulatory Agreement permits the city to require Affirmed Housing to replace its management agent if within 30 days of the meeting held on September 11, 2024, or by October 11, 2024, the city determines the property is still not being appropriately managed.

In a letter dated October 9, 2024, Affirmed Housing requested approval to change its management agent from CONAM Management Corporation to Solari Enterprises, Inc. Ms. Mills will reach out to Affirmed Housing to obtain the necessary information for the city to evaluate the requested change.

The city looks forward to your prompt attention to these concerns. To schedule a meeting to discuss curing the ongoing and additional security, operations and maintenance deficiencies and updating the Management Plan, please contact Ms. Mills by phone at (442) 339-2907 or by email at mandy.mills@carlsbadca.gov.

Sincerely,

Cindie K. McMahon

CINDIE K. McMAHON
City Attorney

- c: Mayor Keith Blackburn (via email)
- Mayor Pro Tem Priya Bhat-Patel (via email)
- Council Member Teresa Acosta (via email)
- Council Member Melanie Burkholder (via email)
- Council Member Carolyn Luna (via email)
- Scott Chadwick, City Manager (via email)
- Geoff Patnoe, Assistant City Manager (via email)
- Mandy Mills, Housing & Homeless Services Director (via email)
- Steven J. Kropf, Raymond James Tax Credit Funds, Inc. (via facsimile and regular mail)
- Kyle Arndt, Bocarsly Emden Cowan Esmail & Arndt LLP (via email and regular mail)
- Joseph M. Michaels, Las Palmas Foundation (via email and regular mail)
- Jason A. Hobson, Hobson Bernardino (via email and regular mail)
- Community Development, County of San Diego, Housing & Community Development Services (via email and regular mail)
- Executive Director, California Tax Credit Allocation Committee (via certified mail)