

CITY OF NIAGARA FALLS, NEW YORK

TO: City Council
FROM: Niagara Falls Community Development
DATE: April 25, 2019
RE: **City Council Agenda Item:**
Disposition of 424 Memorial Parkway

Council Members:

Background on 424 Memorial Parkway: This building became city-owned due to tax foreclosure. At the request of the Memorial Park Block Club, the property was pulled from the standard IN REM tax foreclosure auction in 2017. On April 9, 2017, Niagara Falls Community Development (NFCDD) advertised a Request for Proposals (RFP) for the purchase and renovation of this property and other tax foreclosed properties, with proposals due back to CD on May 26, 2017.

NFCDD received two proposals - Ryan Cali and Matthew Melcher (Proposal 1): \$1,000 and Mark, Michael and Matthew Valle (Valle Group): \$7,500 (Proposal 2).

NFCDD selected Proposal 2 based on strength of proposal and renovation background. NFCDD presented that recommendation to the Niagara Falls Planning Board on June 21, 2017. Members of the community, including representatives of the Memorial Park Block Club, residents of Memorial Parkway, and Ms. Cali all attended that meeting to advocate for Proposal 2. The main argument put forward in support of Proposal 2 was that the proposal would lead to owner-occupancy of the renovated home, while Proposal 1 planned to renovate the home as a rental property.

NFCDD prioritizes home ownership, and responds to public input. The Department's commitment to transparency and community engagement is effectively demonstrated by the RFP process that has been utilized on this and other projects. Residents of the neighborhood were advocating for Proposal 1. NFCDD stated that it had concerns about the Proposal 1 respondents' ability to complete the renovation, because of the anticipated size and scope of the project. NFCDD is very familiar with the property and with home renovations in general. The department has overseen over 450 housing renovations/first time home buyer grants since 2012. The department has also recommended and managed over 50 dispositions via the home ownership auction or RFP process since 2013. NFCDD identified the applicable experience of the respondent in Proposal 2 as a key factor in the Department's support for Proposal 2. Stating these opinions, NFCDD still tabled the Planning Board item, in response to neighborhood advocacy. More conversations were had with both respondents and residents. NFCDD honored the opinion of the community advocates, and the property was sold to the respondents in Proposal 1, via Planning Board approval and then City Council approval on July 3, 2017.

The new owners started to clean out of the property soon after the closing and began renovations. The taxes were paid. During that year it became clear that the renovation was more difficult than expected. There were also personal issues that stopped the renovation and the ability to own the property as originally proposed. Per the sales agreement with the city, the one-year period to renovate the home ended in August 2018.

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As stated above, NFCD had concerns about the renovations before the sale happen. But, the Department also takes reasonable steps to ensure the success of a project, especially when personal hardships occur. Based on what NFCD knew of the situation, and precedent described below, it did not object to the respondents in Proposal 1 when those respondents asked to contact potential buyers, as long as any purchaser identified would agree to live in the house as prime occupant, per an agreement approved by the Niagara Falls City Council. The respondents in Proposal 1 had bought the house, paid the taxes and started renovation work. NFCD knew that all of this was creating a financial hardship, and wanted to help find a solution for the renovation and the purchasers.

There is a reverter clause in RFP and home ownership auction house contracts. However, NFCD has made reasonable arrangements in the past, in the face of undue hardship, to allow for the successful completion of other projects. In the Department's opinion, the respondents in Proposal 1 were experiencing an undue hardship. If the purchaser completely abandoned the property, NFCD would have executed the reverter clause and then placed the home in the 2019 home ownership auction, as the neighborhood clearly prioritized home ownership during the planning board process. But this was a different case.

In December 2018, NFCD was contacted by Karen Mock (Proposal 3). She is a home owner who lives across the street from 424 Memorial Parkway. She informed us that she had purchased 424 Memorial Parkway. As stated above, NFCD did not object to Proposal 1 seeking out a buyer. The department did assume that it would be notified before sale, rather than after. Proposal 3 notified NFCD that the house had been purchased for \$10,000 and that her son, Noah Munoz would be the legal prime occupant. Mr. Munoz would agree to live in the house as prime occupant for five years, renovate it to occupancy standards within one year, and agree to specific preservation methods for the renovation. Proposal 3 has provided documentation that confirms the \$10,000 purchase price.

Precedent: Through the home ownership auction, NFCD has dealt with similar situations in the past. In 2016, a man bought a Ferry Avenue home at home ownership auction with his fiancé. His fiancé died unexpectedly months later. He did not live in Niagara Falls originally, and was going through understandably emotional stress. NFCD bought the house back from him to relieve the burden, and the home was resold at the 2018 home ownership auction. The City Council approved this sale when the new agreement was negotiated.

In 2016, a man purchased a Mckoon Avenue home at the home ownership auction. A year later, he was diagnosed with terminal cancer. NFCD allowed him to sell the property over to a family member, so that the renovation could be completed. He later passed away. The City Council approved this sale when the new agreement was negotiated.

NFCD also auctioned a house that was clearly advertised to have the former owner living in it, illegally. The purchaser was an employee of the City Council. The purchaser knew that an eviction would be needed. When she did not want to do this, and raised objections, she was refunded. City Council members advocated for a city buy-back. The City Council approved this purchase when the new agreement was negotiated.

In the past six years NFCD has sold over 50 houses via home ownership auction or RFP and executed over 450 home ownership renovations and first time home buyer grants. That number represents thousands of pages of sales and contractor agreements. In a total of four situations, NFCD recognized hardships that it determined were placing an undue burden on the purchasers. NFCD stand by its success rate and we stand by our willingness to help people get through stressful renovation situations, based on our knowledge of the renovation process, especially for vacant houses.

NFCD has met with all parties involved several times. At no point were any disposition guidelines violated. This sale has no involvement with United States Department of Housing and Urban

Development (HUD) guidelines. NFCD also appreciates the fact that its property dispositions are scrutinized at a higher rate than any other municipal property sales. The issue of tax foreclosure sales deserves attention. NFCD has updated the City Council on this situation both at a public meeting of the City Council, in smaller meetings and via e-mail. We respect the Memorial Block Club's concern in this matter, but no processes were violated. The department has had meetings with all parties involved on an individual basis. We have discussed three options: 1. City Council approval of the existing sale. 2. Re-purchase of the home, as done in other similar situations with non-city funds. 3. Execution of the reverter clause.

Based on precedent, and the City Council's past decisions, NFCD is proposing option 1 in this agenda item, with specific stipulations. Mr. Munoz would have to show the City of Niagara Falls proof of purchase for \$10,000 and documentation that he is the sole owner of the property and that the property is fully insured. He would need to pay the full year's taxes upon purchase and agree to live in the house as prime occupant for five years, renovate it to occupancy standards within one year, and agree to specific preservation methods for the renovation. If this option is not taken, options 2 and 3 will need to be examined, as NFCD has stated in the past. The department explored option 2 in the past month, but a consensus was not formed. Mr. Munoz has also agreed to renegotiate a sale price. It is important to note that the City Council has also approved of sale revisions in the past.

With the City Council vote to approval the sale of 424 Memorial Parkway from Ryan Cali and Matthew Melcher to Noah Munoz and authorize the Mayor to execute any documents necessary to effectuate the same?

Respectfully submitted,

Paul A. Dyster, Mayor

Nicholas Melson, City Administrator

Seth A. Piccirillo
Director of Community Development