

EXECUTIVE SUMMARY

TO: James K. Scholl, City Manager
FROM: Shawn D. Smith, City Attorney
DATE: June 14, 2016
RE: Release of City Deed Restrictions for Peary Court

TITLE ISSUE:

By Resolution 16-159 The City of Key West has recommended the Monroe County Comprehensive Plan Land Authority the expenditure of Twelve Million Five Hundred Thousand (\$12,500,000.00) Dollars to acquire affordable housing deed restrictions encumbering all of the property known as Peary Court which includes the street addresses of 400 White Street and 541 White Street. The City is the current beneficiary of certain affordable housing deed restrictions as recorded in Official Records Book 2648 page 182 as amended in the Amended Restrictions recorded in Official Records Book 2657 page 648, referred to as the "CITY'S RESTRICTIONS".

In order to satisfy the title requirements of Berkadia Commercial Mortgage, LLC, the lender for the proposed sale and purchase of Peary Court, the CITY'S RESTRICTIONS need to be released so that new restrictions which will encumber 100% of the property as affordable housing enforceable by the Monroe County Comprehensive Plan Land Authority and the Housing Authority of the City of Key West. The replacement deed restrictions will be recorded in a superior position to any loan documents such that the restrictions will survive any possible future foreclosure of the loan documents.

OPTIONS:

Authorize the execution of the Release.

Don't authorize the execution of the Release.

ADVANTAGES:

The project will go forward insuring the entire parcel known as Peary Court will be deed restricted affordable in perpetuity.

DISADVANTAGES:

The project will not go forward and the City will retain its restrictions limited to 48 units located at Peary Court.

RECOMMENDATION:

Authorize the City Manager to sign the release of the CITY'S RESTRICTIONS with the understanding that the City Attorney shall verify that the replacement restrictions be recorded superior to any loan documents which may be recorded for the purpose of the sale and purchase of Peary Court.

GBW

Exec.sum-Peary Court Release