

Item Title: Partial Loan Payoff to Wake County and Partial Release of Interest held in Real Property located at 1105 Tingen Road, Apex

Specific Action Requested:
That the Board of Commissioners:

- 1. Accepts funds from the sale of James M. Hooker's (now deceased) ½ undivided interest in real property located at 1105 Tingen Road for the partial payoff (50%) of the Wake County Rehabilitation Loan encumbering said property; and**
- 2. Authorizes the Board Chair to execute a partial release as to the ½ undivided interest held by the James M. Hooker heirs in the subject property upon receipt of funds totaling 50% of the loan payoff (calculated and to be paid as of the date of closing), subject to terms and conditions acceptable to the County Attorney.**

Item Summary:

Purpose: That the Board of Commissioners approves all real estate transactions.

Background: On or about October 30, 2002, James M. Hooker was awarded a Wake County rehabilitation loan ("Loan") in the amount of \$51,371 for property he jointly owned at 1105 Tingen Road, Apex, North Carolina with his brother, Walter E. Hooker. In exchange for the Loan, James M. Hooker and Walter E. Hooker executed a deed of trust to E. Richard Jones, Jr., Trustee for County of Wake and its Human Services Department in the amount of \$51,371, encumbering the real estate located at 1105 Tingen Rd. Said Deed of Trust is recorded in Book 9722, page 931, Wake County Registry.

The Loan was deferred; no payment was due to the County so long as James M. Hooker resided at the property, was not deceased and did not sell or transfer the property. On or about February 7, 2018, James M. Hooker died, leaving nine heirs, one of whom is Regina H. Carrington ("Administrator"), who has been appointed administrator of his estate. On or about August 5, 2018, Walter E. Hooker died. Upon information and belief, Walter E. Hooker did not have any lineal descendants, but leaves as his heirs the same nine individuals who are heirs of James M. Hooker and additional unknown heirs.

Board Goal: This action supports routine County operations.

Fiscal Impact: Funds will be collected from the proposed sale of James M. Hooker's ½ interest will be applied as a partial payoff of the outstanding loan balance. The remaining Loan balance will be paid from funds derived from a partition sale initiated by the buyer of the ½ interest owned by James M. Hooker.

Additional Information:

Pursuant to the terms of the Deed of Trust, if any part of the property or any interest therein is sold or transferred without the prior consent of the Board of Commissioners, the County can declare all sums secured by the Deed of Trust immediately due and payable. Notwithstanding the above, the indebtedness to the County is now due as a result of James M. Hooker's death. As of January 14, 2019, the Loan balance was \$50,451.67.

In communication with the Housing and Community Revitalization Department, the Administrator has indicated the heirs desire to sell the subject property to satisfy the Wake County loan. Because the heirs of Walter E. Hooker are unknown, Walter E. Hooker's ½ ownership interest will have to be sold by judicial sale.

On December 7, 2018 Buyer and Regina Carrington signed a contract, pending her appointment as Administrator. On January 2, 2019, she was appointed Administrator and filed a petition to seek ½ interest. The contract calls for closing with 25 days after the Clerk of Court approval. Attorney for the Buyer estimates a closing by end of March 2019. The proceeds are expected to generate enough money to pay off ½ of the Wake County Loan balance. The prospective buyer, by and through Wake County legal counsel, has indicated that immediately upon acquisition of James M. Hooker's ½ interest in the subject property, he will file a Petition to Partition action to clear title and acquire the remaining ½ undivided interest held by the Heirs of Walter E. Hooker. The sale of Walter E. Hooker's ½ undivided interest is subject to approval by the Clerk of Superior Court. Wake County would be joined as a party in the partition action given its lienholder status.

The heirs of the respective Estates and the prospective buyer are requesting that Wake County: 1) accept ½ of the loan payoff amount generated from the sale of James M. Hooker's interest in the property and 2) refrain from instituting a foreclosure action for the collection of the remaining Loan balance during the pendency of the partition action. The buyer has committed to bidding at the partition sale in an amount at or to exceed the remaining Loan balance for complete satisfaction of the Wake County Loan.

Staff recommends that in lieu of instituting a foreclosure action at this time, that the Board accept a partial loan payoff from the James M. Hooker heirs and pursue final payoff of the Loan by and through the proposed partition action. The Deed of Trust will not be marked satisfied and Wake County will retain its lien on the subject property until said loan is paid in full. This process should result in an overall cost savings to the County if the foreclosure action can be avoided.

If the partition action is not pursued or denied, Wake County retains its right to foreclose on the remaining interest in the real property. Further, this action will not affect or alter

any other liens or interests held by Wake County, including, but not limited to liens associated with ad valorem taxes and assessments.

Attachments:

1. Correspondence from the Estate of James M. Hooker