

WITHDRAWN
by PETTINER
7/11/79

RESOLUTION 79-18

To Approve the Henderson Court Project

WHEREAS, a shortage of decent, safe and sanitary housing for persons and families of low income exists in Bloomington, Indiana (the "Locality"); and

WHEREAS, it is proposed that a multifamily housing project, designated as "Henderson Court", be constructed in the Locality (the "Project") to consist of approximately 150 dwelling units intended for occupancy by persons and families of low income; and

WHEREAS, Henderson Housing, Inc. (the "Corporation") a nonprofit corporation, has been created to provide construction and permanent mortgage financing for the Project by the issuance of its notes and bonds; and

WHEREAS, Section 11(b) of the United State Housing Act of 1937, as amended, provides for financial assistance with respect to housing for persons and families of low income by authorizing an exemption from federal income taxation for interest paid on notes and bonds issued by certain entities, such as the Corporation, to assist in the financing of such housing; and

WHEREAS, in order to obtain such assistance of the federal government, it is necessary for the Bloomington Housing Authority (the "Authority"), to make certain determinations and enter into certain agreements with respect to the Project and the Corporation; and

WHEREAS, in order for the Authority to make such determinations and enter into such agreements, it is necessary for the governing body that activated the Authority to approve the Project;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION I. The Bloomington Common Council hereby approves the Henderson Court Project.

SECTION II. This resolution shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this day of July, 1979.

Tomilea Allison, President
Bloomington Common Council

SIGNED and APPROVED by me upon this day of July, 1979.

Francis X. McCloskey, Mayor
City of Bloomington

SYNOPSIS

Henderson Housing, Inc. was created to assist in providing a multifamily housing project for elderly persons of low income near the corner of Winslow Road and Henderson Street, to be known as "Henderson Court". Federal law authorizes exemptions from federal income taxation for such corporations to assist in financing housing, but the Common Council must approve the project and the Housing Authority must make certain determinations and enter into certain agreements. This resolution represents the Council's approval of the project so that the corporation can proceed with the other steps necessary to obtain financial assistance.

SUMMARY OF PROPOSED
HOUSING ASSISTANCE PROGRAM OF
HENDERSON HOUSING, INC.

Henderson Housing, Inc. (the "Issuer") proposes to provide construction financing and permanent financing for a multifamily housing project (the "Project"), to be known as "Henderson Court" being constructed in Bloomington, Indiana and owned by Henderson Court Associates, an Indiana limited partnership (the "Owner"). Such financing will be secured by a mortgage (the "Mortgage") on the Project. The Mortgage is insured by the Federal Housing Administration (the "FHA") under Section 221(d)(4) of the National Housing Act of 1934. The Project will consist of approximately 150 dwelling units intended for occupancy by elderly persons of low income. The Owner and the United States Department of Housing and Urban Development ("HUD") have entered into an agreement which provides for the execution of a housing assistance payments contract (the "HAP Contract") under Section 8 of the United States Housing Act of 1937 (the "Act") upon completion of the construction of the Project and acceptance of it by HUD.

The Issuer proposes to provide interim financing by the issuance of its First Mortgage Construction Notes

(the "Notes") and permanent financing by the issuance of its First Mortgage Revenue Bonds and Subordinated Revenue Bonds (the "Bonds"). The Owner and the Issuer will enter into an owner's assignment and agreement under which the Owner, among other things, will pledge to the Issuer the Owner's right to receive payments under the HAP Contract and will make certain covenants with regard to the Project and the Mortgage. The Notes will be issued under and secured by a pledge under a Trust Indenture to be entered into by the Issuer, the Owner and a corporate trustee (the "Note Indenture"). The Bonds will also be issued under and secured by a pledge under a Trust Indenture to be entered into by the Issuer and a corporate trustee (the "Bond Indenture") which will provide, among other things, for a debt service reserve fund in an amount that equals or exceeds the greatest amount of principal and interest coming due in any one year (except the last) on the Bonds and a mortgage reserve fund which will be available under certain circumstances specified in the Bond Indenture for operation, maintenance and improvement of the Project.

The Notes and the Bonds will be special obligations of the Issuer payable solely from the revenues and assets pledged under the Note Indenture and the Bond Indenture. The Notes and the Bonds will not be a debt of the State of Indiana or any political subdivision or public body

thereof (including the Bloomington Housing Authority ("the Authority")) and neither the State of Indiana nor any political subdivision or public body thereof (including the Authority) shall be liable thereon. As a private non-profit corporation, the Issuer will not have any taxing power. Upon execution of the HAP Contract, HUD will be obligated only to make housing assistance payments in accordance with the HAP Contract and will not be obligated to pay any of such portion of the rents that are the responsibility of tenants. HUD will not undertake any obligation to pay interest on or principal of the Notes or the Bonds.

The principal amount of the Notes will equal the principal amount of the Mortgage, approximately \$ _____ plus a portion of the costs of issuance of the Notes and the Bonds. Proceeds of the sale of Notes will be disbursed to cover costs of issuance and costs of construction as incurred. The Notes will be redeemed with the proceeds of the Bonds upon completion of construction and final endorsement for insurance of the Mortgage by the FHA.

The principal amount of the Bonds will equal the principal amount of the Mortgage and the amount of the deposit into the debt service reserve fund, plus a portion of the costs of issuance of the Notes and the Bonds (the latter represented by the Subordinated Bonds).

After payment of the costs of issuance, proceeds of the sale of Bonds will be held and invested by the Trustee until final endorsement of the Mortgage by the FHA, whereupon such proceeds (other than the Debt Service Reserve Fund) and net investment income thereon will be used to redeem the Notes. If such final endorsement shall not occur by a specified date approximately six (6) months following the issue date, the Bonds will be called for redemption at par.

Expenses of the Issuer, consisting of Trustee fees, audit fees and the like, will be paid from net investment income on funds on deposit under the Note Indenture and the Bond Indenture; and any deficiency will be paid by the Owner.

It is intended that interest on the Notes and Bonds will be exempt from federal income taxation pursuant to Section 11(b) of the Act. Said section and the regulations thereunder require that the Issuer be designated by the Authority as its instrumentality for the purpose of carrying out the program herein described.

RESOLUTION FOR ADOPTION BY THE CITY OF BLOOMINGTON
METROPOLITAN HOUSING AUTHORITY

WHEREAS, a shortage of decent, safe and sanitary housing for persons and families of low income exists in the City of Bloomington, Indiana (the "Locality");

WHEREAS, Henderson Housing, Inc. (the "Corporation") has been created to assist in providing a multifamily housing project in the Locality, designated as "Henderson Court" (the "Project") and to consist of approximately 150 dwelling units intended for occupancy by persons and families of low income;

WHEREAS, by providing decent, safe and sanitary living accommodations for persons and families of low income, the Project meets the definition of "housing project" appearing in the Housing Authorities Act, constituting Chapter 11 of Article 7 of Title 18 of the Indiana Code (the "Act");

WHEREAS, Section 11(b) of the United States Housing Act of 1937 provides for financial assistance with respect to housing for persons and families of low income by authorizing an exemption from federal income taxation for interest paid on notes and bonds issued by certain entities, such as the Corporation, to assist in the financing of such housing,

and Section 11(b) further authorizes an exemption from such taxation for the income derived by such entities from such housing;

WHEREAS, further financial assistance is available from the federal government under Section 8 of the United States Housing Act of 1937 in the form of housing assistance payments to be made by the federal government on behalf of eligible tenants occupying dwelling accommodations in the Project;

WHEREAS, in order to obtain the assistance of the federal government, it is necessary for the City of Bloomington Housing Authority (the "Housing Authority") to make certain determinations and enter into certain agreements;

WHEREAS, the Act authorizes the Housing Authority to arrange or contract for the construction of a housing project and to comply with any conditions the federal government may have attached to its financial aid of a housing project;

WHEREAS, the Housing Authority is further empowered to accept financial assistance from the federal government for or in aid of any housing project;

WHEREAS, the Act expressly authorizes the Housing Authority to do any and all things necessary or desirable to secure the financial assistance of the federal government

for or in aid of any housing project within its territorial limits; and

WHEREAS, the Corporation has presented to the Housing Authority a written summary of the proposed housing assistance program of the Corporation;

NOW THEREFORE BE IT RESOLVED as follows:

Section 1. The Housing Authority hereby designates the Corporation as an entity to be utilized in accordance with 24 Code of Federal Regulations Sections 811.101 to 811.111, inclusive, for the purpose of financing the Project; provided that such utilization shall not be interpreted to create or authorize the creation of any agency relationship under the law of the State of Indiana, nor shall there be created any indebtedness or liability of the Housing Authority, nor any obligation of the Housing Authority except as may be specifically agreed to by the Housing Authority.

Section 2. It is hereby found and determined that the Project and the proposed housing assistance program of the Corporation described in the summary presented to this meeting are consistent with the provision of decent, safe and sanitary housing in the Locality for persons and families of low income, and accordingly the Project and the proposed housing assistance program of the Corporation are hereby approved.

Section 3. The Chairman, Vice Chairman, Secretary and Assistant Secretary, or any one or more of them, are hereby authorized and directed to submit the written summary presented to this meeting of the proposed housing assistance program of the Corporation to the Common Council of the City of Bloomington, the governing body which activated the Authority, for its approval of the Project, with the recommendation of the Authority that the Project be so approved.

Section 4. This resolution shall take effect immediately.

ADOPTED BY THE BOARD OF DIRECTORS OF THE CITY OF BLOOMINGTON HOUSING AUTHORITY AT A MEETING OF THE BOARD DULY CALLED AND HELD AT THE OFFICE OF SAID BOARD ON THE 3rd DAY OF July, 1979.

Ernest D. Butler
President of the Board

ATTEST: A. Gene Stokes
Secretary to the Board

WITNESS: A. Gene Stokes
Executive Director, City
of Bloomington Housing
Authority

BUNGER, HARRELL & ROBERTSON

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July 11, 1979

City Council
City of Bloomington
Bloomington, Indiana

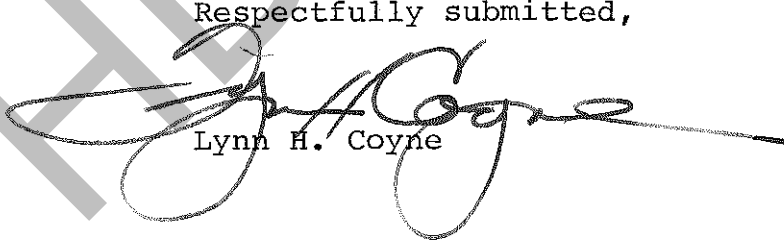
Re: Henderson Housing, Inc.
Resolution 79-18

Ladies and Gentlemen:

Earlier today I was advised that the United States Department of Housing and Urban Development had refused to grant approval for the alternative method of financing as represented by this proposed bond issue. At this point it is not anticipated that HUD will change its decision.

I am requesting, therefore, that Resolution 79-18 be withdrawn from consideration. In the unlikely event that HUD should alter its position the resolution would be re-introduced. I would like to thank you and your staff for your consideration and cooperation and would like to call to your attention the kindness shown by the Housing Authority of the City of Bloomington in adopting the preliminary resolution.

Respectfully submitted,



Lynn H. Coyne

LHC:kgm