

# **HEBER PUBLIC UTILITY DISTRICT REPORT TO THE BOARD OF DIRECTORS**

**MEETING DATE:** July 17, 2014

**FROM:** Laura Fischer, General Manager

**SUBJECT:** Information Only Regarding Community Facilities District No. 2005-1 (Heber Meadows)

## **INFORMATION AND DISCUSSION ONLY:**

### **BACKGROUND:**

Attached please find a status report/payoff calculation worksheet as of June 30, 2014 for pre-judgment properties and another one for post-judgment properties within the Heber Meadows community facilities district (CFD). These properties represent the parcels for which HPUD removed or "stripped" certain fiscal year delinquencies from the County tax roll to facilitate direct collection by HPUD, in furtherance of the foreclosure covenant in the Bond Indenture.

The pre-judgment worksheet reflects the outstanding delinquency claim on the Jauregui property (APN 054-602-028), which is currently being paid through monthly installments made by the Jaureguis to the Chapter 13 trustee in their bankruptcy case.

The other outstanding delinquency shown on the pre-judgment worksheet (APN 054-605-030) represents a fiscal year 2007-08 delinquency for which collection has been stayed since June 2009 due to the bankruptcy filed by Accredited Home Lenders, which provided the first and second mortgages to the current property owner and has secured interests in the property. The Accredited Home Lenders bankruptcy case is still pending. As long as Accredited Home Lenders still holds an interest in the property and its bankruptcy case is still pending, HPUD is stayed by federal bankruptcy law from taking any actions to collect the delinquent 2007-08 CFD taxes. We will continue to monitor the lender's bankruptcy case.

### **UPDATE:**

As to the post-judgment worksheet, the single outstanding judgment is for APN 054-601-001. As you know, the HPUD Board recently directed that staff work with our bond counsel to attempt another bondowner consent mailing for the purpose of obtaining the majority consent required to amend the Bond Indenture to allow the new owner, RSG Capital, LLC, to cure the delinquency and satisfy the judgment by paying a cure amount of \$2,942.39, as proposed by RSG's principal, Mr. Jay Goyal. Broadridge has determined that as of June 16, 2014, there were 59 different bondowners, and the consent voting materials were mailed by Broadridge last week. The voting cutoff date is July 31, 2014.

As to Fiscal Year 2013-14, the delinquencies are low and do not require HPUD to commence a judicial foreclosure action by October 1. Neither test in the foreclosure covenant in the Bond Indenture (Section 5.2(c)) is met for FY 2013-14. Alan Kapanicas obtained the paid/unpaid reports as of May 16, 2014 from Imperial County.

- According to these reports, \$2,648.50 in 2013-14 special taxes were delinquent out of the total fiscal year 2013-14 special tax levy of \$203,029.00, with delinquencies comprising approximately 1.3% of the total fiscal year 2013-14 special tax levy. Because CFD-wide delinquencies for FY 2013-14 are less than 5%, the overall delinquency rate does not trigger foreclosure.
- Also, no single parcel is delinquent in more than \$10,000 as of today's date, so the per-parcel delinquency rates do not trigger foreclosure either.

I will keep you updated after the votes have been received and counted. We should have additional information for you at your September meeting.

Respectfully Submitted,

Laura Fischer  
General Manager.