

**goldfarb
lipman
attorneys**

1300 Clay Street, Ninth Floor
Oakland, California 94612
510 836-6336

M David Kroot May 30, 2008

Lee C. Rosenthal

John T. Nagle

Polly V. Marshall

Lynn Hutchins

Karen M. Tiedemann

Thomas H. Webber

John T. Haygood

Dianne Jackson McLean

Michelle D. Brewer

Jennifer K. Bell

Robert C. Mills

Isabel L. Brown

James T. Diamond, Jr.

Margaret F. Jung

Heather J. Gould

William F. DiCamillo

Juliet E. Cox

Erica Williams Orcharton

Amy DeVaudreuil

Barbara E. Kautz

Luis A. Rodriguez

Xochitl Marquez

Rafael Yaquian

Facsimile

510 836-1035

San Francisco

415 788-6336

Los Angeles

213 627-6336

San Diego

619 239-6336

Goldfarb & Lipman LLP

via e-mail and hand delivery

Jeanne MacLeamy, President, and Board Members
Novato Financing Authority
c/o Mary Kay Neilan, Deputy City Manager
City of Novato
75 Rowland Way, #200
Novato, CA 94945

Re: Extension and Modification of Exclusive Negotiating Rights Agreement with Marin Valley Senior Community, Inc.

Dear President MacLeamy and Members of the Novato Financing Authority:

On behalf of Marin Valley Senior Community, Inc. ("MVSC"), we request that the Novato Financing Authority (the "NFA") act to extend the Exclusive Negotiating Rights Agreement (the "ENRA") between the NFA and MVSC for six (6) months. In conjunction with the extension, MVSC proposes that a new section be added to Article 2 of the ENRA that states that, as one of the negotiating tasks, a committee will be established that includes two NFA board members, two MVSC board members and two other persons selected by the NFA (Park residents) that will explore alternative transfer options or structures.

Under the ENRA, the NFA has an explicit duty to negotiate diligently and in good faith with MVSC. California courts have recognized the enforceability of such duty in the context of agreements to negotiate even where the duty was not as explicit as the NFA's duty under the ENRA. E.g., Copeland v. Baskin Robbins, 96 Cal. App. 4th 1251 (2002) (finding parties to agreement to negotiate had duty to negotiate in good faith even where agreement did not provide for such covenant); The Original San Francisco Toymakers, Inc. v. Trendmasters, Inc., 2003 U.S. Dist. LEXIS 18557 (N. Dist. Cal. No. C 01-3658 MJJ) (granting reliance damages to plaintiff enforcing oral contract to negotiate). The courts have found that failure to negotiate in good faith is an actionable breach of contract. We are concerned that to date, the NFA has not negotiated with MVSC diligently and in good faith.

It became apparent that the NFA did not negotiate with MVSC diligently and in good faith, as required by the ENRA, at the last meeting of the NFA. The NFA, at MVSC's request, considered a one (1)-year extension of the ENRA at its meeting on May 22, 2008. During Board comment on the issue, at least three members of the NFA Board

indicated that they did not believe that transfer of the Park to a 501(c)(3) organization was in the best interests of the residents of the Park. Further, one NFA Board member stated that he believed the function of the NFA was to work towards a transfer of the Park to the residents. Two other Board members concurred with his remarks. Finally, the NFA Board voted 4-1 not to extend the ENRA.

If the NFA Board did not believe that a transfer of the Park to a 501(c)(3) organization was in the best interests of the residents, then it did not enter into the ENRA in good faith. When the NFA and MVSC entered into the ENRA, MVSC had obtained 501(c)(3) status from the IRS. Transfer to a 501(c)(3) organization is not a transfer "to the residents" because the corporation would own the Park, not the residents. The NFA Board, therefore, could not possibly have negotiated with MVSC, a 501(c)(3) organization, in good faith if it desired the Park to be transferred to the residents personally rather than to a corporation that the residents control.

Furthermore, during the term of the ENRA, the NFA has not negotiated with MVSC diligently and in good faith. Instead, the NFA has been nonresponsive and elusive in dealing with MVSC. Prior to entering into the ENRA, MVSC had presented the NFA with proposed terms and conditions for transfer, to which the NFA never responded. During the ENRA term, MVSC provided the NFA with revised terms and conditions of transfer and requested a formal written reply to the proposal by November 15, 2007, "indicating which of these terms and conditions are acceptable to the NFA and for any terms and conditions that are not acceptable, a counter-proposal." The NFA did not provide a reply to MVSC's proposal. At the January 22, 2008, NFA meeting, MVSC again requested a response from the NFA to the proposed terms and conditions of transfer. MVSC has never received a response to its proposed terms and conditions of transfer or a counter-proposal from the NFA.

In contrast, MVSC has done everything the NFA has requested, including (i) obtaining a \$2 million loan commitment to pay off the subordinate bonds, relieving the RDA of its pledge; (ii) contacting the bond insurer, FSA; (iii) hiring two financial consultants to analyze the feasibility of the transfer and the financial impact to the residents; (iv) applying for additional financing to fund the transaction costs of the transfer; (v) commissioning an appraisal; and (vi) conducting a physical needs assessment. Every time the NFA has raised an issue or requested something of MVSC, MVSC has responded and provided the NFA with information and analysis.

The NFA never – not during the two (2) years of knowing that the PAC was exploring ways to transfer the Park – and, moreover, not during the one (1)-year term of the ENRA – gave any indication that it did not want to transfer the Park to a 501(c)(3) organization and instead wanted to transfer the Park to the residents personally. In reliance on the NFA's representation that it was negotiating in good faith, MVSC spent countless hours forming a corporation, holding informational meetings, hiring consultants, and applying for financing. For example, during the term of the ENRA,

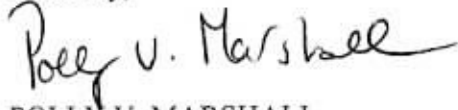
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MVSC has expended approximately \$50,000 to secure a \$2 million loan from the State Department of Housing and Community Development. MVSC applied for this loan in direct response to the NFA's request that it find a way to pay off the subordinate bonds and fund the costs of the transfer. Now, if the NFA does not extend the ENRA, MVSC will lose the \$2 million loan commitment.

The Park residents, under the leadership of the PAC, have operated and maintained the Park for over eleven (11) years in a financially prudent manner without the necessity of a calling upon the redevelopment agency pledge, have maintained the property in a beautiful and sound condition, and have established a strong working relationship with the professional property manager. We are confident that the members of the City Council who were involved in 1997 and the members of the NFA Board of Directors today are well aware that the collective residents, today, just as was the case in 1997, desire that title to the Park be transferred to a resident-controlled organization. MVSC is such organization.

We urge you to reconsider your decision not to extend the ENRA and to approve the proposal described above. We are confident that if real negotiations begin, that we can come to a mutually beneficial agreement regarding transfer.

Sincerely,



POLLY V. MARSHALL



AMY DeVAUDREUIL

cc: City Council Members
Veronica Nebb, NFA legal counsel