



FORT ORD REUSE AUTHORITY

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MEDIA RELEASE

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Fort Ord Reuse Authority (FORA) Moves to Retain Ownership of Preston Park Apartments in City of Marina (Marina)

The Preston Park Apartment Complex (Preston Park) is a 352-unit townhouse-style, multi-family housing community located at the intersection of Reservation Road and Imjin Road in Marina. Preston Park was built in 1989 by the U.S. Army and housed military families until the Fort Ord closure in 1991. FORA began its oversight of the complex in 1997 under a lease with the U.S. Army and acquired Preston Park from the U.S. Government in June 2000. Since that time, FORA has shared Preston Park rental revenue 50/50 with Marina. The complex provides 51 affordable rental units and 301 market or slightly below market rental units.

Since 2002, Marina and FORA have worked together to use Preston Park and its revenue as the collateral basis to obtain financing to fund vital FORA projects, many of which directly benefit Marina. This includes Revenue Bonds issued in 2002, a 2004 loan from Community Bank for FORA's Pollution Legal Liability Insurance Policy premium payment, a 2006 line of credit from Rabobank to fund building removal, and a 2010 loan to fund General Jim Moore Boulevard and consolidate or retire previous indebtedness. Marina's representatives on the FORA Board approved or encouraged each of these financing efforts.

For years, both Marina and FORA shared the understanding that Marina would be required to "buy-out" FORA's interest in Preston Park, if Marina wanted to hold title to the property. In 2007, Marina paid FORA \$7.7 million, which was the appraised value of FORA's 50% interest in the legally indistinguishable Abram's B property. In the spring of 2010, Marina and FORA entered into similar negotiations for Marina to purchase FORA's interest in Preston Park.

Ultimately, those negotiations failed, and on July 10, 2012, Marina filed a lawsuit against FORA, entitled *City of Marina v. Fort Ord Reuse Authority, et al* (Monterey County Superior Court, Case No. M118566). In that pending lawsuit, Marina alleges that it is entitled to a "no cost conveyance" of the Preston Park property. FORA disputes that contention.

FORA's 2010 \$18 million Preston Park loan is due to be paid in June 2014, or if extended, in December 2014. FORA has no ability to pay the loan without liquidating its interest in Preston Park. As the ongoing litigation prohibits sale, Marina's lawsuit may result in foreclosure of the property. Foreclosure would potentially erase millions of dollars of value held in this public asset and burden all underlying FORA jurisdictions, including Marina, with the costs of blight removal and infrastructure improvements that would have otherwise been funded from revenue received from

the sale of the property.

FORA is required by statute to plan, finance, and implement Fort Ord's transition from military to civilian use (Govt. Code §67651). FORA's mission is to effect the "transfer and reuse of. . .Fort Ord with all practical speed," and the Legislature declared that mission to be "the policy of the State of California" (Govt. Code §67651). Under the Fort Ord Reuse Act, FORA's "board may sell, lease, or otherwise dispose of. . .property at full market value or at less than full market value in order to facilitate the rapid and successful transition of the base to civilian use" (Govt. Code § 67678(a)). FORA also has a legal obligation under the California Environmental Quality Act to mitigate the environmental impacts of the Fort Ord base reuse, which includes impacts created by Preston Park that the project is liable for.

The City of Marina's refusal to purchase FORA's 50% interest in the Preston Park Property and the loss of redevelopment funding has resulted in a significant loss of funding to FORA, which it needs to: 1) comply with its legal obligations to finance and implement Fort Ord's transition from military to civilian use, and 2) fund the projects necessary to mitigate environmental impacts of base reuse.

For all of these reasons, on May 30, 2014, the FORA Board will consider whether FORA should "retain" the Preston Park property under the authority granted to the FORA Board under Government Code §67678(b)(4), which provides:

Notwithstanding any other paragraph of this subdivision, the board may retain real or personal property received pursuant to this section as long as both of the following occur:

- i. The board determines that retention of the property is necessary or convenient to carrying out the authority's responsibilities pursuant to law.*
- ii. The board determines that its retention of the property will not cause significant financial hardship to the city or county with jurisdiction over the property*

FORA Authority Counsel Jon Giffen stated, "I believe that, if this resolution passes, FORA should be legally entitled to retain and ultimately sell Preston Park, which would prevent foreclosure and allow FORA to fund vital Capital Improvement Projects. Of course, because litigation is pending, FORA will seek the approval of the Monterey County Superior Court as to that issue."

FORA Chair/Mayor Jerry Edelen also commented that, "Retaining FORA's ownership of Preston Park is of vital importance to all communities affected by the closure of Fort Ord. It would be a failure of the public trust if Marina were to continue to tie FORA's hands through their pending lawsuit and allow this public asset to go into foreclosure."