

## **Appendices/Attachments:**

## IRS liens threaten housing program

*It owes \$167,000; home-building halts*

**By Manuel Torres**

West Bank bureau

Jefferson Parish officials have halted a home-building program for low-income residents with the troubled Jefferson Housing Foundation after the IRS placed liens on the foundation's property to recover \$167,000 remaining in unpaid payroll taxes, interest and penalties.

The foundation's balance with the Internal Revenue Service had reached \$432,000 in payroll taxes accrued between 1996 and 2000. The foundation began making payments last year and had paid \$265,000 of its debt when the IRS filed the liens in April and May.

Parish officials are delaying the foundation's construction of new homes in East and West Jefferson, until the tax situation is resolved.

The debt casts another cloud on the foundation, which came under fire in the late 1990s for poor record-keeping and questionable spending.

Foundation officials said the liens, which prevent the group from selling any of its assets, including the houses it builds, could threaten its future if no

See **PROGRAM**, A-5

# ENOUGH ALI

## Three straight days of soaking rain threatens homes and sets n



Aubrey Brown and James Darby help ferry people across the 3 feet of water that clogged Gen. de Ga  
eled roads such as Lafayette Street and Manhattan and Lapalco boulevards were impassable part of  
Parkway in less than two hours.

debate

Meeting is recessed  
before action taken

By Stephanie Grace  
Staff writer

The Sewerage & Water Board on Wednesday began slogging through hundreds of comments, suggestions and criticisms over its plan to privatize the city's water and sewer systems. Although the board was scheduled to evaluate the public input, adjust the proposed specifications and adopt a final version during the meeting, it recessed without putting to rest any of the major points of contention.

The draft "Request for Qualifications/Request for Proposals" had come under severe criticism by the nonpartisan Bureau of Governmental Research and others. While BGR does not oppose the "managed competition" process, in which private

See MEETING, B-2



## LIENS

Richard-M. Brown has started mounting a \$4 million, 112-unit apartment complex under former Thomas Jr. In said operating the created a \$23,000 deficit for 20 months. Withdrawal of the liens allows the foundation to resume its operations and

# Jeff gets break on home program

## IRS withdraws liens on agency's property

By Manuel Torres  
West Bank bureau

Jefferson Parish officials may reactivate a home-building program with the Jefferson Housing Foundation after the Internal Revenue Service on Tuesday withdrew liens it had placed on the foundation's property to recover \$167,000 in unpaid payroll taxes, interest and penalties.

The program, which builds

housing for low-income buyers, could resume as soon as today, but parish officials first want to ensure that the IRS will keep its oversight of the foundation until the tax issue is resolved.

"We just don't want a repeat of this," said Brenda Richard-Montgomery, director of Community Development, the parish's agency that oversees the home-building program.

The foundation's tax problems had been brewing for years as the organization accumulated a debt of \$432,000, including interest and penalties, for taxes unpaid between 1996 and 2000. The foundation started negotiating with the

IRS last year, and had paid \$265,000 of its debt when the IRS filed the liens in May, publicly exposing the tax default.

The liens halted the sale of at least six homes the foundation had built, and froze most of the foundation's operations. The parish quickly suspended planned construction of nine homes.

Foundation director Emanuel Brown said the IRS agreed to withdraw the liens in exchange for an immediate payment of part of the pending tax debt. Brown did not say how much the foundation was able to pay now.

"Bottom line is that a certain

amount of money was paid on the pending taxes and the interest. Most of the money (owed) now is penalties," Brown said.

IRS spokeswoman Emma Moore said the tax code permits the withdrawal of a lien when a payment agreement is reached or to facilitate collection of the tax debt, among other reasons. Brown did not discuss what kind of arrangement the foundation made to pay the remaining debt, but said they will try to resolve it by October.

"The agreement with the IRS is that at least until then, the liens are withheld," Brown said.

See LIENS, B-2

Age to 1

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an be reached at ayune.com or (985)

**DEVELOPMENT AGREEMENT**  
**by and between**  
**JEFFERSON HOUSING FOUNDATION, INC.**  
**and**  
**OPAL HOMES, L.L.C.**

AGREEMENT made effective as of January \_\_\_\_, 2001 by and between JEFFERSON HOUSING FOUNDATION, INC., a Louisiana non-profit corporation (referred to as the "Owner") and OPAL HOMES, L.L.C., a Louisiana Limited Liability Company (referred to as the "Developer").

**Recitals**

1. The Owner desires to acquire, construct and develop affordable, single-family homes initially located in the Bridge City community in Jefferson Parish all in the name of and on behalf of Jefferson Housing Foundation, Inc. (the "Project"). The homes will serve the civic purpose of benefiting the said communities and the Parish of Jefferson by stimulating the revitalization of deteriorated residential neighborhoods with new homes.
2. In order to fund these civic goals, the Owner has received HOME funds from the Parish of Jefferson which shall unconditionally be dedicated to the purchase and construction of up to eleven (11) homes to be constructed in conformance with the Home Investment Partnership Program contractual agreement with The Parish of Jefferson, Department of Community Development Programs and Jefferson Housing Foundation, Inc. dated February 25, 1998 and any amendments thereto.
3. The Owner may pledge the properties it acquires for the purposes set forth herein to any lender as collateral for construction loans and mortgages necessary to carry out the Agreement and complete the Project.
5. The Developer is staffed and experienced to assist Owner in the Project and Owner desires Developer to assist it in the Project and Developer will provide certain services with respect to the Project during the development and construction thereof.
6. In consideration for such services, the Owner has agreed to compensate to the Developer certain fees computed in the manner stated herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### **Section 1. Defined Terms**

Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings specified below:

"Construction Contract" means the contract by and between the Developer and Warren Construction Company dated January \_\_\_\_, 2001.

"Designated Proceeds" means the HOME funds received by the Owner which shall be dedicated to the Project.

"Development Costs" means all costs incurred to (i) complete the construction of the Improvements, (ii) cause the same to be completed in a good and workmanlike manner, free and clear of all mechanics', materialmen's or similar liens, and equip the Improvements or cause the same to be equipped, all in accordance with the drawings and specifications forming a part of the Construction Contract, (iii) arrive at each closing in conformity with this Agreement, (iv) discharge all liabilities and obligations arising out of any casualty giving rise to the receipt of insurance proceeds, and (v) pay or provide for all other payments, expenses, escrows or reserves required by any lender, agency or creditor to be made, incurred or funded through each closing.

"Improvements" means the homes constructed on property acquired by or on behalf of the Owner for the purposes under this Agreement.

### **Section 2. Development Services**

(a) The Developer shall perform certain services relating to the development and construction of the Project, and shall perform the services and carry out the responsibilities with respect to the Project as are set forth herein, and such additional duties and responsibilities as are reasonably within the general scope of such services and responsibilities.

(b) The Developer's services shall be performed in the name and on behalf of the Owner and shall consist of the duties set forth in the following subparagraphs of this Section 2(c) and as provided elsewhere in this Agreement; provided, however, that if the performance of any duty of the Developer set forth in this Agreement is beyond the reasonable control of the Developer, the Developer shall nonetheless be obligated to (i) use its best efforts to perform such duty and (ii) promptly notify the Owner that the performance of such duty is beyond its reasonable control.

(c) The Developer shall have full, exclusive and complete discretion, power, and authority, subject in all cases to the other provisions of this Agreement to manage, control,

administer, and operate the business and affairs of the Owner for the purposes herein stated, and to make all decisions affecting such business and affairs, including, without limitation, for the Owner's purposes, the power to:

- (i) acquire by purchase, lease, or otherwise, any property, whether movable or immovable, corporeal or incorporeal, all on behalf of Jefferson Housing Foundation, Inc. in accordance with this Agreement;

- (ii) construct, operate, maintain, finance, and improve, and to own, mortgage, or lease any property, whether movable or immovable, corporeal or incorporeal. It is understood and agreed that the Developer intends to contract with Warren Construction Company, Inc., a Louisiana corporation solely owned and managed by Mr. V. Ray Rose for the construction of all of the homes to be constructed by the Developer which relationship shall be considered an advantage to the Owner and Developer and not a conflict of interest.

- (iii) sell, dispose, trade, or exchange assets in the ordinary course of the business;

- (iv) enter into agreements and contracts and to give receipts, releases and discharges;

- (v) purchase liability and other insurance to protect the Owner's properties and business;

- (vi) borrow money for and on behalf of the Owner, and, in connection therewith, execute and deliver instruments including mortgages, pledges, and other security instruments containing the usual and customary Louisiana security clauses including confession of judgment, the right to executory process, waiver of appraisal and the pact de non alienando;

- (vii) execute or modify leases with respect to any part or all of the assets of the Owner contributed, pledged or purchased hereunder for the purposes herein and related to the Project;

- (viii) prepay, in whole or in part, refinance, amend, modify, or extend any mortgages (including mortgages containing the usual and customary Louisiana security clauses such as confession of judgment, the right to executory process, waiver of appraisal and the pact de non alienando) or deeds of trust which may affect any asset of the Owner contributed, pledged or purchased hereunder for the purposes herein and related to the Project, and in connection therewith to execute for and on behalf of the Owner any extensions, renewals, or modifications of such mortgages or deeds of trust;

- (ix) execute any and all other instruments and documents which may be necessary or, in the opinion of the Developer, desirable to carry out the intent and purpose of this Agreement;

(x) make any and all expenditures which the Developer, in its sole discretion, deems necessary or appropriate in connection with the management of the affairs of the Project and the carrying out of its obligations and responsibilities under this Agreement;

(xi) enter into any kind of activity necessary to, in connection with, or incidental to, the accomplishment of the purposes of this Agreement; and

(xii) Owner shall execute an irrevocable Power of Attorney designating the Developer its agent for purposes of obtaining, mortgaging and selling property for development on its behalf.

### **Section 3. Obligation to Complete Construction and to Pay Development Costs**

The Developer shall complete the construction of the Improvements or cause the same to be completed in a good and workmanlike manner, free and clear of all mechanics', materialmen's or similar liens, and shall equip the Improvements or cause the same to be equipped with all necessary and appropriate fixtures, equipment and articles of personal property, including refrigerators and ranges, all in accordance with the drawings and specifications forming a part of the Construction Contract. The Owner shall advance to the Developer the Designated Proceeds immediately upon receipt from the Parish of Jefferson, Department of Community Development Programs. The Developer shall pay all Development Costs.

### **Section 4. Limitations and Restrictions**

Notwithstanding any provisions of this Agreement, the Developer shall not take any action, expend any sum, make any decision, give any consent, approval or authorization, or incur any obligation with respect to any of the following matters unless and until the same has been approved in writing by the Owner:

(a) Any transaction substantially beyond the purposes of this Agreement; or

(b) Expending substantially more than what the Developer in good faith believes to be the fair and reasonable market value at the time and place of contracting for any goods purchased or leased or services engaged on behalf of the Owner or otherwise in connection with the Project.

### **Section 5. Accounts and Records**

(a) The Developer, on behalf of the Owner, shall keep such books of account and other records as may be required by the Owner. The Developer shall keep vouchers, statements, receipted bills and invoices and all other records, in the form approved by the Owner, covering all

collections, if any, disbursements and other data in connection with the Project prior to final completion of construction. All accounts and records relating to the Project, including all correspondence, shall be surrendered to the Owner upon demand without charge therefor.

(b) The Developer shall cooperate with the Management Agent to facilitate the timely preparation by the Management Agent of such reports and financial statements as the Management Agent is required to furnish pursuant to the Management Agreement.

(c) All books and records prepared or maintained by the Developer shall be available for and subject to audit, inspection and copying by the Owner or any representative or auditor therefor or supervisory or regulatory authority, at the times and in the manner deemed reasonable by the parties hereto.

#### **Section 6. Compensation**

(a) Amount. For its services in connection with the development of the Project and the supervision of the construction of the Improvements, and as reimbursement for Development Costs, the Developer shall be entitled to receive a fee in the amount of twelve (12%) per cent of the net proceeds of the act of sale of each house constructed and sold for its services (the "Development Fee").

(b) Payment. The balance of the Development Fee will be payable simultaneously with each act of sale.

#### **Section 7. Applicable Law**

This Agreement, and the application or interpretation hereof, shall be governed by and construed in accordance with the laws of the State of Louisiana.

#### **Section 8. Binding Agreement**

This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.

#### **Section 9. Headings**

All section headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any section.

#### **Section 10. Terminology**



All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa as the context may require.

**Section 11. Benefit of Agreement**

The obligations and undertakings of the Developer set forth in this Agreement are made for the benefit of the Owner and shall not inure to the benefit of any creditor of the Owner, notwithstanding any pledge or assignment by the Owner of this Agreement or any rights hereunder.

**Section 12. Curative Period and Dissolution of Agreement**

In the event that the Owner alleges any defects and/or deficiencies by the Developer under this agreement, the Owner shall notify the Developer in writing. Such written notice shall outline in specific detail any alleged defects and/or deficiencies and be sent by U.S. Certified Mail, Return Receipt Requested. The Developer shall have thirty (30) days from the date written notice is received from the Owner, to cure any alleged defects and/or deficiencies under this agreement.

In the event that the Developer fails to cure any defects and/or deficiencies within the Curative Period provided in this Section 12, the Owner shall have the right to cancel this Agreement on the condition that it compensates the Developer for all costs and expenses incurred hereunder to date and pays the Developer the net proceeds from the eventual sales of all homes under construction at the time of the dissolution of the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed effective of the date first written above.

WITNESSES:

\_\_\_\_\_  
  
\_\_\_\_\_

OWNER:

**JEFFERSON HOUSING FOUNDATION, INC.**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

DEVELOPER:

**OPAL HOMES, L.L.C.**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

## OPERATING AGREEMENT FOR OPAL HOMES, LLC

By this Operating Agreement (the "Agreement") made and entered into as of the 6 day of March 2001, the undersigned parties, being all of the Members of Opal Homes, LLC (the "Company"), represent and agree as follows:

### 1

#### Formation, Name, and General Purposes

**1.1 Formation.** Pursuant to Title 12 of the Louisiana Revised Statutes (the "Act"), the parties have formed a Louisiana Limited Liability Company effective upon the filing of the Articles of Organization of the Company with the Louisiana Secretary of State.

**1.2 Name.** The name of the Company shall be Opal Homes, LLC.

**1.3 General Purposes.** The Company has been formed as a Louisiana limited liability company to acquire, construct and develop affordable, single-family homes initially located in the Bridge City community in Jefferson Parish all in the name of and on behalf of Jefferson Housing Foundation, Inc. The homes will serve the civic purpose of benefiting the said communities and the Parish of Jefferson by stimulating the revitalization of deteriorated residential neighborhoods with new homes. The Company will perform outreach, marketing, screening and financial counseling for potentially qualified home purchasers.

**1.4 Term.** The Company shall commence upon the filing of its Articles of Organization and shall continue until such time as it shall be terminated under the provisions of this Agreement.

**1.5 Expenses.** The initial organizational expenses of the Company shall be advanced by Mr. V. Ray Rose.

#### 1.6 Capital.

**1.6.1** Capital shall be contributed by Jefferson Housing Foundation, Inc. in accordance with the Development Agreement by and between the Company and Jefferson Housing Foundation, Inc. dated March 6, 2001.

**1.6.2** Additional capital shall be by borrowed or earned funds.

**1.7 Agent for Service of Process.** The agent for service of process for the Company shall be Mr. V. Ray Rose, 5303 St. Charles Avenue, New Orleans, LA 70115.

**2**

**Management**

**2.1 Management.** All business and affairs of the Company shall be managed by its Co-managing Members, Mr. V. Ray Rose and Jefferson Housing Foundation, Inc.

**3**

**Limited Liability of Members and Manager**

**3.1 Limitation of Liability.** Each Member's liability shall be limited as set forth in the Act and herein. No Member or Manager shall be personally liable for any debts or losses of the Company. The Company shall and does hereby indemnify and hold each Member and Manager harmless for any liability of the Company or act or action taken by a Member or Manager unless the act or action is taken or not taken by gross negligence or in bad faith.

**4**

**Restrictions on Transferability**

**4.1** No Member or Manager shall have the right to retire or withdraw voluntarily from the Company. The interest of the Member and Manager shall not be transferable in whole or in part.

**5**

**Members**

**5.1 Members.** The Company's Members shall be Mr. V. Ray Rose, 5303 St Charles Avenue, New Orleans, La. 70115 and the Jefferson Housing Foundation, Inc., a non-profit corporation located at 2418 Westbank Expressway, Harvey, Louisiana.

**5.2 Other Members.** The Company shall have no other members without the express written consent of both of its Members.

**6**

**Duties of Members**

**6.1 Co-managing Members.** The Members of the Company shall act as Co-managing Members.

**6.1.1 Duties of V. Ray Rose.** V. Ray Rose shall be responsible for the day-to-day business affairs of the Company consistent with the General Purposes set forth above. He shall be solely responsible for the duties of: (a) securing adequate and appropriate sites and the purchase of the properties in the name of and on behalf of Jefferson Housing Foundation, Inc. in accordance with the Development Agreement by and between the Company and Jefferson

Housing Foundation, Inc. dated March 6, 2001, (b) securing the necessary funds for the Company's activities from public grants, commercial financing or use of the Company's capital, (c) contracting for and causing the construction of the affordable homes, (d) assisting in securing the necessary permanent financing for the ultimate home purchasers, and the marketing and sales of each home.

**6.1.2 Duties of Jefferson Housing Foundation, Inc.** Jefferson Housing Foundation, Inc.'s duties and responsibilities shall be and include: (a) obtaining valid legal title or long term (99 year minimum) leasehold interests in property to be developed, (b) providing advice and assistance to V. Ray Rose in the Company's operations in the design and marketing of the homes and obtaining public grants and Company funding, (c) acting as facilitator of community meetings to receive input from area residents and public officials, (d) causing a program that will permit up to \$20,000.00 to be available in second mortgage money for the home purchasers, (e) securing of advance commitments for and obtaining first mortgage permanent financing from the Jefferson Parish Home Mortgage Authority and/or assistance grants for the purchasers, (f) arranging and handling all aspects of the necessary community relations, ownership training and outreach programs, and (g) at all times, lending assistance and working with the grant agencies involved and the Jefferson Parish Department of Community Development and any other public or private body that requires attention in order to carry out the Company's purposes.

7

**Authority of Members**

**7.1** The Co-managing Members shall have all authority necessary to carrying out the Development Services required of it by the Development Agreement dated March 6, 2001 by and between Jefferson Housing Foundation, Inc. and Opal Homes, L.L.C. and the duties specified in Section 6 above, including but not limited to the following:

**7.1.1** execute any and all instruments and documents which may be necessary, including, but not limited to, documents whose operation and effect extend beyond the term of the Company;

**7.1.2** make any and all expenditures, including, without limitation, all legal, accounting, and other related expenses incurred in connection with the organization and financing and operation of the Company; and

**7.1.3** invest and reinvest Company reserves in short-term instruments or money market funds.

**7.2 Extraordinary Transactions.** Notwithstanding anything to the contrary in this Agreement, the General Manager shall not undertake any of the following without the approval of all Members:

7.2.1 any transaction substantially beyond the purposes of the Company;

7.2.2 the Company's lending more than \$50,000.00 of its money on any one occasion;

7.2.3 the admission of additional Members to the Company; and

7.2.4 the Company's engaging in business in any jurisdiction which does not provide for the registration of limited liability companies.

## 8

### Compensation of the Members

**8.1 Compensation of V. Ray Rose.** The Company shall pay V. Ray Rose a fee in the amount of twelve (12%) per cent of the development cost of each house constructed and sold for his management services.

**8.2 Compensation of Jefferson Housing Foundation, Inc.**

8.2.1 V. Ray Rose shall pay Jefferson Housing Foundation, Inc. \$3,500.00 per house sold out of the fee received by him according to Section 8.1 above. The fee will be earned and due simultaneously with each act of sale.

8.2.2 The Company will pay Jefferson Housing Foundation, Inc. \$18,000.00 during the construction period in the following manner. Continuous monthly payments in the amount of \$1,500.00 shall be paid beginning thirty (30) days after the construction of the first home is begun. If at the end of the fourth month, the Company has not begun the tenth home, then the payments shall be suspended until thirty (30) days after the construction of the tenth home has begun. Thence monthly payments shall resume at \$1,500.00 each. A second review shall be had at the time that the sixth payment should be due. If at the end of that month, the Company has not begun the sixteenth home, then the payments shall be suspended until thirty (30) days after the construction of the sixteenth home has begun. Thence monthly payments shall resume at \$1,500.00 each until the total payment of \$18,000.00 has been made.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed effective of the date first written above.

WITNESSES:

Rubekah McKee

Scaris B. Thomas

MEMBERS:

JEFFERSON HOUSING FOUNDATION, INC.

By: Emmanuel J. Brown

Its: Executive Director

V. Ray Rose  
V. RAY ROSE