

Hamilton County, Ohio

- The entire set-aside will go to one activity, which was spearheaded by residents of the existing development
- 86 homes, predominantly rental, will be constructed in three redevelopment phases
- 13 NSP-funded rental units will be constructed in Phase I and reserved for very low-income seniors 55 and older
- Ownership of the new homes will go to a resident cooperative after 15 years

Introduction

Hamilton County received an NSP grant of about \$7.97 million.²⁸² Hamilton County's entire NSP low-income set-aside, \$1,992,623, fit neatly into a local redevelopment project that had been taking shape for years.²⁸³ The property, Valley Homes Housing Cooperative, is located in Lincoln Heights, a Cincinnati suburb founded, governed, and near-exclusively occupied by African-American residents.²⁸⁴ The project will demolish the extremely deteriorated housing and rebuild in three phases.²⁸⁵ A new housing development, Villas of the Valley, will result.

Location History

To understand the public process involved in bringing about this NSP activity, a general grasp of the property's unique history is essential. Valley Homes was 1940s-era housing,²⁸⁶ made up of 50 buildings in townhouses with four to eight units each, for a total of about 300 homes.²⁸⁷ It was constructed

as temporary shelter for African-American workers at the Wrights Aeronautical Plant during World War II.²⁸⁸ When built, the housing was intended to remain in use for only six years.²⁸⁹ In 1953, 10 residents formed the cooperative Valley Homes Mutual Housing Corporation (VHMHC) to purchase Valley Homes from the federal government.²⁹⁰ The federal government sold the complex to the cooperative for approximately double its appraised value, an act somewhat ameliorated when, in the late 1970s, the remaining debt was cancelled.²⁹¹

VHMHC consisted of members who possessed perpetual use rights in their individual housing units.²⁹² Over the years member-owners moved out, but their perpetual use rights were not alienable, so the vacated units came to be occupied by tenants of the cooperative, creating a separate class of non-owner residents.²⁹³ Property management by the member-owners did not go well.²⁹⁴ Utilities were master metered and high cost, but the cooperative board repeatedly voted to maintain owner dues at a level too low to cover their share of utility costs.²⁹⁵ Tenants paid more, but tenant rents and the lower member dues combined were not always enough to pay utilities and left little for ongoing maintenance and operating reserves.²⁹⁶ In fall 2005, the cooperative owed more than \$200,000 in utility bills, many units were in disrepair, and the complex's garbage service had been cut off for nonpayment.²⁹⁷ The remaining cooperative members could not solve the crisis, and the tenants, represented by the Legal Aid Society of Greater Cincinnati, sought receivership for the property.²⁹⁸

The receiver who took over management of the property in early 2006, Maureen Wood, was a well-respected affordable housing developer local to the area.²⁹⁹ In addition to her duties as receiver, she organized thousands of hours of volunteer services

²⁸² Hamilton County, Action Plan, Grant B-08-UN-39-0004, Hamilton County, Nov. 26, 2008, <http://www.hamiltoncountyohio.gov/commdev/NSP/> [hereinafter Hamilton County Action Plan].

²⁸³ *Id.* See appendices A and D for Hamilton County AMI figures and 30% rent figures. Appendix E categorizes Hamilton County's NSP set-aside development by housing type.

²⁸⁴ Telephone Interview with Steve Smith, CEO, Model Group (July 12, 2010).

²⁸⁵ *Id.*

²⁸⁶ Maureen F. Wood, Fortieth and Final Report of the Receiver, *Winters v. Valley Homes Mutual Hous. Corp.*, A0500757, Hamilton County Ct. of Common Pleas (Oct. 21, 2009).

²⁸⁷ Telephone Interview with Steve Smith, *supra* note 284.

²⁸⁸ Wood, *supra* note 286.

²⁸⁹ *Id.*

²⁹⁰ *Id.*

²⁹¹ Telephone Interview with Noel Morgan, Senior Attorney, Legal Aid Society of Greater Cincinnati (June 9, 2010).

²⁹² Wood, *supra* note 286.

²⁹³ Telephone Interview with Noel Morgan, *supra* note 291.

²⁹⁴ *Id.*

²⁹⁵ *Id.*

²⁹⁶ *Id.*

²⁹⁷ *Id.*

²⁹⁸ *Id.*

²⁹⁹ Wood, *supra* note 286.

and raised over \$70,000 in contributions.³⁰⁰ She also raised funds for her own receiver fee, as it was not possible to pay the fee from operating the property.³⁰¹ Though the property lacked an operating reserve, the receiver reinstated liability insurance, arranged a property appraisal that resulted in the reduction of the property's real estate tax assessment by over 90%, and performed emergency apartment and roof maintenance.³⁰² Because a previous redevelopment plan had been scrapped at the last minute due to resident distrust, the receiver arranged for members of the cooperative's redevelopment task force to attend housing conferences that would acquaint them with what to expect from the redevelopment process.³⁰³ The receiver was also instrumental in arranging a meeting with the developer the cooperative eventually chose to rebuild their community.³⁰⁴

The judge overseeing the receivership also went beyond the traditional requirements of her role, adopting the unusual policy of turning receivership court hearings into public meetings.³⁰⁵ At those meetings the judge would step down and allow the cooperative board, cooperative members, and tenants to air their concerns about how Valley Homes was being preserved.³⁰⁶ The judge also presided over two board elections in an attempt to standardize the cooperative's operations sufficiently to support its redevelopment commitments.³⁰⁷

Despite efforts to slow the decline, Valley Homes' occupancy steadily decreased during the receivership. Due to low rents and lack of maintenance reserve, funds were not available to do anything beyond keeping the utilities on and performing the most urgent emergency repairs.³⁰⁸ Valley Homes suffered ongoing vandalism, including damage to both vacant and occupied units, dumpster fires, and theft of pipes, interior fixtures, gutters, and downspouts.³⁰⁹ The site received illegal late-night dumping from non-residents, who abandoned

automobiles, construction debris, and household furnishings.³¹⁰ Due to poorly insulated walls and water leaks, utility costs from the common meters rose substantially higher than costs in similar housing complexes.³¹¹ As of September 2009, only 109 of the units were occupied.³¹² In 2009, the local health inspector condemned every unit in Valley Homes and issued a vacate order for March 1, 2010.³¹³ The order was abated because of pending development, but the housing remained severely substandard.³¹⁴

Developer Background

With the aid of NSP funds, developer Model Group will completely demolish Valley Homes and rebuild it as Villas of the Valley.³¹⁵ Model is experienced in federally funded and historic redevelopment projects. It has completed \$150 million in real estate development since 2001 and is engaged in several NSP2 development projects, as well as an NSP project with the city of Cincinnati.³¹⁶ The developer was chosen through a selection process initiated by the residents of Valley Homes, who, under the guidance of the property's receiver, formed a redevelopment task force and issued a request for proposals for developers to engage in comprehensive redevelopment.³¹⁷ Model was chosen for its eligibility to receive tax credits and because it met the task force priority of addressing senior housing in the first phase of redevelopment.³¹⁸

Model was recruited by the receiver, who requested that it submit a bid on the redevelopment.³¹⁹ Model's CEO declined based on the costs and limited sources of funding, but on the strength of the receiver's reputation in the affordable housing community, he agreed to meet with the cooperative's redevelopment task force and explain why the numbers could not work.³²⁰ Once he met the

³⁰⁰ *Id.*

³⁰¹ Telephone Interview with Noel Morgan, *supra* note 291.

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ *Id.*

³⁰⁵ *Id.*

³⁰⁶ *Id.*

³⁰⁷ *Id.*

³⁰⁸ *Id.*

³⁰⁹ Wood, *supra* note 286.

³¹⁰ *Id.*

³¹¹ *Id.*

³¹² *Id.*

³¹³ Telephone Interview with Noel Morgan, *supra* note 291.

³¹⁴ *Id.*

³¹⁵ Telephone Interview with Susan Walsh, Director, Hamilton County Office of Community Development (June 2, 2010).

³¹⁶ Telephone Interview with Steve Smith, *supra* note 284.

³¹⁷ Wood, *supra* note 286.

³¹⁸ *Id.*

³¹⁹ Telephone Interview with Steve Smith, *supra* note 284.

³²⁰ Telephone Interview with Steve Smith, *supra* note 284.

women of the task force, the CEO found he could not refuse them, and in late 2007, Model submitted a bid and began the process of assembling funding.³²¹ According to Model's CEO, the Valley Homes redevelopment has been the most difficult project he has been involved in, but also the most meaningful, because it offered a chance to come in at a time of crisis and help the residents win back their homes.³²²

Costs and Funding Sources

In addition to the county's nearly \$2 million low-income set-aside, funding sources for Phase I development of Villas of the Valley include LIHTC equity, state housing funds, and deferred developer fees, for a total budget of \$9.76 million.³²³ Prior to the inclusion of NSP funds, project financing suffered a setback when tax credits yielded less than expected.³²⁴ An initial award of 9% LIHTCs seemed to fund the project, but in the course of assembling the development deal, the tax credit market significantly declined, creating a huge funding gap.³²⁵ NSP funds filled that gap and saved the deal.³²⁶ As Model's CEO puts it "I was actually procrastinating on calling to let them know the deal was dead when the county called up out of the blue with \$2 million."³²⁷ The NSP funds were offered in the form of a zero-interest loan, deferred for 20 years and then forgiven.³²⁸

The extremely distressed condition of the property created difficulties for redevelopment.³²⁹ To begin, Model had to pay off utility and tax arrearages accumulated prior to receivership.³³⁰ The total arrearage was approximately \$500,000, but Model arranged to pay it in stages, prorated to the phased development.³³¹ In addition, the 50 buildings were

riddled with asbestos, so demolition required an expensive remediation process.³³²

The initial cost of the property was to be \$1 rent for a long-term lease from the cooperative. However, when Model obtained additional financing, it offered to pay more for the lease in an amount sufficient to pay off outstanding tax and utility debts.³³³ Model acknowledges that the developer fee and HUD-allowed construction fees may not make up for the three years Model worked on the deal without any fees.³³⁴ However, affordable housing is an important component of Model's overall goal as a developer, which is to revitalize struggling communities and increase quality of life.³³⁵

Redevelopment Process

Prior to redevelopment, tenants and member-owners had already experienced the upheaval of relocation whenever their units were overly compromised by floods, fires, roofing decay, or failing infrastructure.³³⁶ The redevelopment strategy calls for assisting tenants in relocating from the portions of the project under construction to the best of the vacant units.³³⁷

When Phase I is complete, Villas of the Valley will consist of 42 two-bedroom cottages for seniors 55 years and older.³³⁸ Each will be a single-family detached unit with its own porch.³³⁹ The 13 NSP-funded cottages will be reserved for very low-income households,³⁴⁰ and will be rented at affordable rates.³⁴¹ A portion of the tax credit equity payments will fund an operating reserve equal to one year of operating expenses.³⁴² As of mid-July, most of the Phase I infrastructure and street construction had

³²¹ Telephone Interview with Steve Smith, *supra* note 284.

³²² Telephone Interview with Steve Smith, *supra* note 284.

³²³ Email from Scott Puffer, Project Manager, Model Group, to Nikolena Moysich, Public Interest Fellow, National Housing Law Project (July 21, 2010) (on file with NHLP).

³²⁴ Telephone Interview with Susan Walsh, *supra* note 315.

³²⁵ Telephone Interview with Steve Smith, *supra* note 284.

³²⁶ Telephone Interview with Susan Walsh, *supra* note 315.

³²⁷ Telephone Interview with Steve Smith, *supra* note 284.

³²⁸ Hamilton County Action Plan, *supra* note 282.

³²⁹ Telephone Interview with Susan Walsh, *supra* note 315.

³³⁰ Telephone Interview with Steve Smith, *supra* note 284.

³³¹ Email from Scott Puffer, Project Manager, Model Group, to Nikolena Moysich, Public Interest Fellow, National Housing Law Project (Aug. 9, 2010) (on file with NHLP).

³³² Telephone Interview with Susan Walsh, *supra* note 315.

³³³ Telephone Interview with Steve Smith, *supra* note 284.

³³⁴ *Id.*

³³⁵ *Id.*

³³⁶ Wood, *supra* note 286.

³³⁷ Telephone Interview with Susan Walsh, *supra* note 315.

³³⁸ Telephone Interview with Steve Smith, *supra* note 284.

³³⁹ Telephone Interview with Susan Walsh, *supra* note 315.

³⁴⁰ Hamilton County, January 1, 2010 thru March 31, 2010 Performance Report, Grant B-08-UN-39-0004, NSP Resource Exchange, <http://hudnshelp.info>.

³⁴¹ Telephone Interview with Steve Smith, *supra* note 284.

"Affordable" was not strictly defined in negotiations between the developer and the cooperative. *Id.*

³⁴² *Id.*

been completed.³⁴³ Eight new houses stood framed, roofed, ready for interior painting, and soon to be occupied by existing Valley Homes residents.³⁴⁴ By the end of 2010 it is expected that all 42 of the Phase I homes will be complete and ready for occupancy.³⁴⁵ In Phase II of the redevelopment, 35 townhome-style attached residences will be built, most for rent to very low-income households, though without an age restriction.³⁴⁶ Phase II of the project will be funded in part through an NSP2 grant, and is expected to be complete by September 2011.³⁴⁷ A final development phase will build five multifamily units and 3-4 single-family homes for purchase.³⁴⁸

The first priority for occupancy of the new units will go to the cooperative's member-owners, then to the tenants.³⁴⁹ Despite a reduction in the total number of units, there will likely be sufficient housing for all remaining residents in good standing who qualify on the basis of the income and age restrictions.³⁵⁰

The original plan for Villas of the Valley Homes called for much more dense development, including 65 accessible senior cottages during Phase I.³⁵¹ The design was drawn up in response to requests from the redevelopment task force that the new homes be single-family homes rather than townhomes or duplexes.³⁵² A high density single-family layout required approval of a Planned Use Development, but approval was delayed by the zoning commission, two of whose seven members refused to convene for the necessary review meetings.³⁵³ With LIHTC deadlines pressing, the developer went forward with a reduced plan of 42 accessible homes, a less efficient use of the land which did not require the same approval process.³⁵⁴

³⁴³ *Id.*

³⁴⁴ *Id.*

³⁴⁵ *Id.*

³⁴⁶ Email from Scott Puffer, *supra* note 323.

³⁴⁷ Email from Scott Puffer, Project Manager, Model Group, to Nikolena Moysich, Public Interest Fellow, National Housing Law Project (Aug. 4, 2010) (on file with NHLP).

³⁴⁸ *Id.*

³⁴⁹ Telephone Interview with Susan Walsh, *supra* note 315.

³⁵⁰ *Id.*; Email from Scott Puffer, *supra* note 331.

³⁵¹ Wood, *supra* note 286.

³⁵² Telephone Interview with Noel Morgan, *supra* note 291.

³⁵³ Telephone Interview with Susan Walsh, *supra* note 315.

³⁵⁴ *Id.*

Rents and Affordability Periods

The finished apartment rents may not exceed HOME rents, but the developer has agreed with the cooperative that it will set rents as low as possible while maintaining the complex and funding an operating reserve.³⁵⁵ Initial unit rents will be \$508-\$548 for a two-bedroom unit, well under HOME rent standards but somewhat higher than what tenants had paid previously.³⁵⁶ The area rental market is depressed, and Valley Homes rents had been low for the area.³⁵⁷ The project pro forma calls for a 3% annual rent increase to incrementally phase-in the higher rents.³⁵⁸

The affordability period for the 13 NSP-funded units will last 20 years, meeting requirements of the NSP loan.³⁵⁹ The affordability period for the other Phase I units will be 15 years, as required by tax credit funding.³⁶⁰

Unusual Project Style

Hamilton County's use of NSP funds is distinct from others surveyed in this report in that the impetus came largely from the property's residents and other interested parties in the community, who were working to set up a deal with the developer well before NSP funding was authorized.³⁶¹ The deal itself is also unusual. The cooperative continues as owner of the land under the emerging Villas of the Valley, but the developer's long-term lease on the property grants it the right to operate the newly constructed dwellings and to receive rent from them.³⁶² Ownership of all units on the property will revert to the cooperative when the lease expires, which will occur in stages, 50 years from completion of each development phase.³⁶³ The cooperative will have an option to purchase the units after 15 years by paying

³⁵⁵ Telephone Interview with Steve Smith, *supra* note 284.

³⁵⁶ Email from Scott Puffer, *supra* note 323.

³⁵⁷ Telephone Interview with Steve Smith, *supra* note 284.

³⁵⁸ *Id.*

³⁵⁹ Hamilton County Action Plan, *supra* note 282.

³⁶⁰ *Id.*

³⁶¹ Telephone Interview with Steve Smith, *supra* note 284.

³⁶² *Id.*

³⁶³ Villas of the Valley: Frequently Asked Questions, Model Group, June 1, 2010, <http://www.modelgroup.net/files/documents/VVI%20FAQS.pdf>

all outstanding debt, and Model has committed to seek grants and financing that will leave little or no debt remaining after 15 years.³⁶⁴

The developer found it a great challenge to use a brand new source of federal funding and to layer it with a half dozen other funding sources under tight deadlines.³⁶⁵ The situation was complicated by the novelty of dealing with a cooperative property owner.³⁶⁶ The developer's solution to the difficulty was to fund a separate attorney, representing only the cooperative, who could make sure the cooperative was in compliance with its own bylaws and able to make authorized decisions.³⁶⁷

Public Reaction to Redevelopment

In addition to the difficulties with site plan approval from the town zoning board, a minority of cooperative members felt Valley Homes should be rehabilitated rather than demolished, regardless of the buildings' deterioration.³⁶⁸ Despite the fact that their homes were literally falling down around them, a few members wanted to preserve their perpetual use rights to their own units.³⁶⁹ Others understood that those rights were only a memory, having disappeared when the units became unlivable.³⁷⁰

To address community concerns, Model engaged in substantial public process around the redevelopment plans, including many meetings with the VHMHC redevelopment task force, the larger Valley Homes community of residents, and interested members of the public.³⁷¹ As noted above, Model funded an attorney to independently represent the VHMHC in their negotiations and to help them review and update their operating procedures and bylaws. In the course of this process, VHMHC held a vote to authorize the Villas of the Valley plans.³⁷² The vote drew 64 Valley Homes residents, including tenants who cast an advisory ballot.³⁷³ The residents

voted overwhelmingly to approve the plans.³⁷⁴ From that point on, the developer saw a continual improvement in community relations.³⁷⁵

Local Hiring / Section 3 Compliance

Model views local hiring as integral to building trust in the community.³⁷⁶ The cooperative's decision to work with the developer hinged in part on Model's commitment to do everything possible to hire local workers. Model made promises in city council meetings and to members of the cooperative task force that if the development went forward, Model would hire locally.³⁷⁷

Part of Model's efforts to hire locally included meeting its Section 3 obligations. Section 3 is a hiring requirement that flows with federal housing funds, including NSP.³⁷⁸ Section 3 obligates recipients of NSP funds to, at a minimum, comply with numerical safe harbors demonstrating the recipients' best efforts to hire and contract to local, low-income residents and businesses. The recipient must fill 30% of new or vacant positions by hiring low-income locals referred to as Section 3 residents.³⁷⁹ The recipient is also required to settle 10% of its development-related contracts on Section 3 business concerns.³⁸⁰ Model Group has worked with city, county, and public housing agency representatives to collaboratively develop Section 3 procedures and forms.³⁸¹

Even without numbers on hand to show percentages of local hires, the developer believes local participation to be extraordinarily high.³⁸² This is in large part due to the outreach efforts of the developer's hiring team.³⁸³ The developer's system for making sure it hired locally was to partner with

³⁷⁴ *Id.*

³⁷⁵ Telephone Interview with Steve Smith, *supra* note 284.

³⁷⁶ *Id.*

³⁷⁷ *Id.*

³⁷⁸ HUD NSP1 Notice, *supra* note 5, at 58343; 12 U.S.C.A. § 1701u (Westlaw Sept. 22, 2006).

³⁷⁹ 24 C.F.R. § 135.30(b)(1) (2003), 24 C.F.R. § 135.5 (1996).

³⁸⁰ 24 C.F.R. § 135.30(b)(2). Section 3 business concerns are businesses that are majority owned by Section 3 residents, employ at least 30% Section 3 residents, or direct more than 25% of subcontracts to Section 3 business concerns. 24 C.F.R. § 135.5.

³⁸¹ Telephone Interview with Steve Smith, *supra* note 284.

³⁸² *Id.*

³⁸³ *Id.*

³⁶⁴ *Id.*

³⁶⁵ Telephone Interview with Steve Smith, *supra* note 284.

³⁶⁶ *Id.*

³⁶⁷ *Id.*

³⁶⁸ Telephone Interview with Susan Walsh, *supra* note 315.

³⁶⁹ Telephone Interview with Steve Smith, *supra* note 284.

³⁷⁰ *Id.*

³⁷¹ Telephone Interview with Susan Walsh, *supra* note 315.

³⁷² Telephone Interview with Noel Morgan, *supra* note 291.

³⁷³ *Id.*

minority contractors whenever possible, letting them know up front that whenever a new position was open, they must try to hire from within Hamilton County first.³⁸⁴ To facilitate that process, Model contracted with a temporary agency equipped to process paperwork for many local construction applicants.³⁸⁵ Model requested applications significantly in advance of development.³⁸⁶ In the first week they sought applications, 300 people applied.³⁸⁷ The pool of applicants became a ready referral source for subcontractors looking to hire.³⁸⁸ Model provides new hires with OSHA certifications and other 10-hour-type certification training free of charge.³⁸⁹

The innovations that made the local hiring process effective were implemented by Model's newly hired director of economic inclusion, who is himself a business owner local to the Cincinnati area.³⁹⁰ Model's director of economic inclusion also formed a Section 3 committee and shepherded the draft forms and procedures through approval.³⁹¹

Summary

This unusual redevelopment project came about through the collaboration of many members of the community, particularly the residents of the housing. An accomplished developer came to the project on the strength of personal relationships, despite a seemingly impossible financial situation. Negative public opinion hampered the project from developing the full number of rental units that had been planned, but the developer has built trust by honoring its commitments and rigorously pursuing local hiring. Although it might have been preferable to create more affordable rental homes on the property, the continued use of this historic site as resident-owned community housing may preserve an important part of the town's identity.

³⁸⁴ *Id.*

³⁸⁵ *Id.*

³⁸⁶ *Id.*

³⁸⁷ *Id.*

³⁸⁸ *Id.*

³⁸⁹ *Id.*

³⁹⁰ *Id.*

³⁹¹ *Id.*