

ISLAND WALK SITUATION REPORT

Submitted by Supervisor Martha Pennino

March 4, 1985

Island Walk, a 102 unit federally assisted housing development in Reston, was notified March 2, 1985 by First Virginia Bank that Island Walk is in default under its Deed of Trust. This default is due to Island Walk's continued failure to satisfactorily correct deteriorating physical conditions in the development. The Fairfax County Redevelopment and Housing Authority and I support this action by First Virginia Bank.

In addition, a high rate of delinquent accounts and vacant units at Island Walk is diminishing the financial ability of Island Walk to correct its problems. Island Walk has terminated its current management contract effective the end of this month. This termination will detrimentally affect Island Walk's ability to correct its serious financial and physical problems. Through the Bank's efforts, with the support of the Authority and County, the physical and financial problems of Island Walk can be corrected to provide a quality living environment for the residents.

CURRENT CONDITIONS AT ISLAND WALK

It has largely been the continued failure of Island Walk to carry out a property improvement plan that has resulted in Island Walk's current difficulties. In 1982 an independent architectural analysis was conducted and HUD was consulted concerning certain physical conditions of the development. To correct identified problems, HUD in April 1983 directed Island Walk to provide and implement a property improvement plan. Additionally, a Fairfax County Department of Environmental Management (DEM) inspection was conducted in 1984. In its report dated August 15, 1984, DEM concluded:

"In summary, it is our conclusion that the buildings at the Island Walk project are structurally sound. There was no indication of structural inadequacy in any of the buildings. This conclusion is based on previous inspections, reports, and recent observations. The structural soundness of the buildings, however, in no way minimizes the seriousness of the need to correct the building and site-related deficiencies noted above. These deficiencies are the result of marginal materials and poor workmanship and installation practices. Although the deficiencies at the project do not pose a structural problem at this time, it should be noted that the present conditions could contribute to future structural problems if corrective action is not taken."

The Authority, HUD, and First Virginia Bank over the past years have notified Island Walk of problems with conditions of buildings. HUD and the Authority have both recommended a property improvement program to be implemented by Island Walk. In response to Island Walk's delays in carrying out the improvement plan, the Authority in September 1984 established a time table of work items to be completed by the Cooperative. However, implementation of the property improvement program continues to be behind schedule.

The high turnover in management with 3 management companies since 1983 at Island Walk has seriously undermined the cooperative's ability to maintain financial records and procedures. Inconsistent enforcement of collection policies has resulted in a high rate of delinquent accounts. Additionally, the vacancy rate is too high, with over 10% of the units vacant. As of January 31, 1985, the total carrying charges owed by delinquent members was over \$24,000 or more than 30% of the monthly gross potential carrying charges.

There is approximately \$190,000 in available funds in Island Walk's budget for the property improvements. However, these funds will be rapidly diminished if the current vacancy and delinquency rates persist. Furthermore, the Authority has approximately \$100,000 available for the property improvement program, and if necessary can loan additional funds to complete the work.

The Authority retained an independent CPA firm to prepare a management audit report on Island Walk. The audit firm in its April 1984, report identified several concerns. Problems relating to implementation of financial and management procedures remain.

DEVELOPMENT OF ISLAND WALK

Island Walk is cooperatively owned by its low and moderate income residents. Since the development is assisted under the federal Section 8 Program, residents pay no more than 30% of their monthly income for total housing costs. Its resident members elect their own Board of Directors; the Board makes policies and decisions regarding the total management and operations of the development.

The Authority purchased the land for Island Walk in 1975. In its role as sponsor/developer, the Authority was responsible for the planning, financing, and the establishment of the cooperative corporation. The Authority initially issued federally-insured tax-exempt notes for the construction of Island Walk, and in 1980, the Authority provided federally insured \$4.6 million tax-exempt permanent financing.

Construction of the development began in September 1977. The original contractor was dismissed in late 1978 for material default under its construction contract when construction was approximately 80% complete. A settlement agreement approved by HUD was subsequently entered into. The construction work was satisfactorily completed by another contractor in 1980. Island Walk received all necessary approvals from its inspecting architect, from Fairfax County, and the U.S. Department of Housing and Urban Development (HUD).

When the development was occupied in August 1980, responsibility for the Cooperative was transferred from the Authority's representatives to its resident members. The Authority retains an on-going interest in the Cooperative through a regulatory agreement and other documents. The Authority's election of one of the five directors to the Island Walk Board of Directors enables it to work directly with the Cooperative.

ACTION TO CORRECT THE PROBLEMS

First Virginia Bank as well as the Authority has on many occasions expressed its concern to Island Walk regarding property and management conditions. The Cooperative has had ample opportunity to remedy the problems. The Authority has provided technical assistance and there is funding available for the property improvement program.

As mortgagee and as trustee on the financing of Island Walk, First Virginia Bank has a direct interest in the physical and financial well-being of Island Walk. As the attached letter shows, First Virginia Bank is now seeking to remedy the problems of Island Walk through serving as a mortgagee in possession of the cooperative. Both the Authority and the County, as a result of this action, will be working closely with First Virginia to improve the physical conditions and quality of life at Island Walk for the benefit of its low and moderate income residents.



FIRST VIRGINIA BANK

SERVING NORTHERN VIRGINIA

TRUST DEPARTMENT
6400 ARLINGTON BOULEVARD
FALLS CHURCH, VIRGINIA 22046-0088

March 1, 1985

WRITERS DIRECT NUMBER

703/241-4641

Ms. Brenda C. Hines, President
Board of Directors
Island Walk Cooperative
1701 Torrey Pines Court
Reston, Virginia 22090

Re: Fairfax County Redevelopment and
Housing Authority - Island Walk
Project

Dear Ms. Hines:

This is to notify the Island Walk Board of Directors that First Virginia Bank, Trustee, as mortgagee, has determined that Island Walk is in default for failure to keep one or more covenants contained in the Deeds of Trust for the Island Walk property, dated September 1, 1977 and June 25, 1980 (Supplemental Deed of Trust), as outlined below.

Paragraph 12 of the Deed of Trust contains a covenant by the mortgagor "That it will keep the mortgaged premises in good order and repair and will not commit or permit any waste of the said premises, reasonable wear and tear excepted". It is our determination that Island Walk has breached said covenant in the following respects:

- A. Exterior walls - board and batten siding and fascia -
The condition of the exterior walls, including boards, batten and fascia is in a state of significant deterioration. Generally, battens are missing or not fastened securely. Siding is loose and delaminating and exterior fascia is warped and loose.
- B. Water penetration damage to dwelling units - water proofing and drainage deficiencies -
This condition has caused damage to the floors and walls of dwelling units.
- C. These conditions and the need for corrective action have been known to Island Walk since at least 1982 and to date no practical, effective corrective action has taken place. These conditions significantly affect the

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use and liveability of the dwelling units and have a serious adverse impact on the health, safety, and well-being of the residents and on the economic viabilities of Island Walk.

The recent action of the Island Walk Board to remove the current on-site manager can only further delay the carrying out of the property improvement plan to remedy the above problems and protect the property and the interest of the residents of Island Walk.

In accordance with outstanding procedures of the U. S. Department of Housing and Urban Development (HUD), insurer of said mortgage, the aforementioned default must be cured within thirty days from the date of this letter. If said default is not cured within the thirty-day grace period, the Bank, as mortgagee, must notify HUD in writing of such default within thirty days thereafter.

While we are not at this time accelerating the debt, we direct your attention to paragraph 2.b of HUD handbook 4350.1, Chapter 5, Section 2, which provides that "HUD has the right to require the mortgagee to accelerate the debt if there is a non-monetary breach of mortgage covenant". A direct consequence of such HUD requirement would be assignment of the mortgage to HUD by the Bank as mortgagee which would activate outstanding HUD policy published in October 1984 that, upon assignment of a mortgage, HUD will immediately begin foreclosure proceedings after the assignment is recorded.

We regret this serious step, but it is one we do not take lightly. As an indication of our regard for the Island Walk Cooperative project, we point out that paragraph 5 of the Deed of Trust contains a provision that "upon default hereunder the holder of the note shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom". Since the step of assignment to HUD would precipitate the extreme measure of foreclosure and the resulting loss of cooperative status, it is our wish and intention to attempt to resolve the matters in default by means of a mortgagee-in-possession (MIP) status. We, therefore, request that you voluntarily permit the Bank as mortgagee to assume MIP

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status for the purpose of taking action necessary, to preserve, protect, and improve the property and thus remedy the conditions that have caused the breach of mortgage covenant. We believe, in the long run, voluntary MIP status would permit a prompt resolution of the problems and obviate the necessity of further legal action and related expenses.

Please be advised of our concern and interest in protecting the property and the residents and we would be pleased to hear from you concerning these matters.

Sincerely,



Linda P. Golden
Vice President
Trust Services

LPG:nba

cc: Walter Webdale, Fairfax County
Redevelopment and Housing Authority
I. Margaret White, U. S. Department
of Housing & Urban Development
Martha Pennino, Fairfax County Supervisor
Diana Hasuly, RHA Commissioner
John Parsons, Aetna Casualty & Surety
Jeff Kidwell, Fairfax County Redevelopment
and Housing Authority
Brian O'Connor, Esquire
Donald Tuttle, Esquire
William S. Corish, Arlington Mortgage Company