

## TIMELINE OF MIDTOWN PROJECT

- 2007-2008 Original plan by LCDC and The Housing Company (THC), a wholly owned and controlled subsidiary of Idaho Housing & Finance Association (IHFA). Owner-occupied condominiums. Pride of ownership. Prospective occupants must get a mortgage, and so must have employment satisfactory to bank. Actual “workforce housing.” Neighborhood generally approves.
- 2009-2010 Financial crisis. Project on hold.
- Fall 2011 Project revived, still with THC, but plan changed from owner-occupied condominiums to rental apartments. Financing through federal tax credit program. No info provided about nature of tax credit program, its implications for tenant incomes and rents, THC tenant selection policies, etc.
- 2011-2015 For next 3 ½ years, LCDC and THC repeatedly mislead the public about the project. The truth:
- It uses “low income housing” tax credits (“LIHTC”) under section 42 of the Internal Revenue Code (titled “low income housing credits”). Housing must be rent-controlled apartments for low income tenants. Tenants are not required to have a job or to “earn” any money. People without a job and on public assistance are preferred. Income limit is a ceiling – zero income always qualifies.
  - It is “subsidized” housing. The federal government annually foregoes \$75+ billion in income taxes it would otherwise collect due to the tax credits created by the program. The sale of the tax credits to private investors (who use them to reduce their taxes) generates the funds used to build the housing. Plainly an “indirect subsidy” of the housing by the federal government.
  - The low-income restrictions on tenants and rent controls remain in place for at least 30 (and as many as 40) years. The project would not convert to condominiums after 15 years.
  - LCDC and THC falsely call the project “workforce housing” and deny that it is “subsidized” housing; in fact, it is a low income, subsidized housing project, with no requirement that tenants have a job. They falsely claim the project will convert to condominiums after 15 years; in fact, it will remain low income, rent-controlled apartments for at least 30 (and as many as 40) years.
  - LCDC failed to perform any due diligence investigation of what it was getting into, but instead relied entirely on what it was told by THC. THC, however, was being given (by LCDC) close to \$1 million worth of taxpayer land and cash in the deal, and so was wildly biased and motivated to mislead. Like relying blindly on everything a used car dealer tells you.
  - If LCDC knew its public statements were false, it was committing a fraud on the public. If it did not know they were false, but was merely ignorant, it negligently failed to perform its due diligence obligation to investigate what it was doing before giving away taxpayer land and money.
  - Given THC’s decades of experience with these types of housing projects, it had to know the various claims were false, but used sharp and misleading language to deceive the public.
- 1-2/2012 At 1/18/12 meeting, LCDC Board approves the LIHTC project with THC, contingent upon THC’s successful application (to IHFA, its corporate parent) for the tax credits. The tax credit application is submitted in early February, 2012.

- 1-2/2012 Before voting at its 1/18/12 meeting, LCDC never requests or sees THC's tax credit application materials, which commit to terms dramatically different from what the public has been told. Unknown to LCDC (until 2/24/15 meeting with Midtown neighbors – see below), THC's application agrees to the following:
- Of the 38 units, 11 units must have tenant with income less than 50% of area median, 2 units less than 45%, 3 units less than 40%, and rest less than 60%. Percentages are a ceiling – zero income always qualifies.
  - No requirement that tenants have a job, any “earned” income, or any income at all. Income can be solely from unemployment benefits, public assistance, workers compensation, alimony, child support, lottery winnings, insurance settlements, disability benefits, or no income at all.
  - Absolute preference for all units given to those on public assistance and public housing waiting list. They go to head of line and must get unit before anyone else does.
  - Low-income restrictions and accompanying rent controls last 40 years.
  - Units will not convert to condos after 15 years, but will remain low income, rent-controlled apartments for 40 years.
  - LIHTC program is “subsidized” housing – “indirect subsidy” by federal government.
- 1-4/2012 Widespread protest by Midtown residents and business owners. Heavily attended public meeting on 3/14/12 with City Council members.
- “There was a lot of emotions there that night [3/14/12 public meeting]. The people in midtown care about their neighborhood, they're fighting for their neighborhood, they care about it and I understand that.” LCDC Board member Brad Jordan, quoted in CdA Press 3/22/12 article (*Group will wait before next Midtown move*).
- See also CdA Press articles on 3/13/12 (*Midtown neighbors worry about project*) and 3/15/12 (*Midtown concerns heard*).
- 4/18//2012 Mayor Bloem sends letter, on behalf of herself and City Council, to THC and LCDC asking them to withdraw the tax credit application and to stop work on the project – “please do not move forward with the project as it is currently planned.” THC withdraws the application before it is decided upon.
- “[Y]ou don't want to build where you don't have the community's support.” Douglas Peterson (Exec. Director of The Housing Company), quoted in CdA Press 4/27/12 article (*Midtown project pulled – Housing Company says community support is needed*).
- See also CdA Press article on 4/10/12 (*Mulling over Midtown – CdA asks for project to be put on hold*).
- 2012-2013 Widespread public belief project is dead.
- Mid-2014 LCDC mailer to public and 6/13/14 CdA Press article about revived project. One-sided propaganda and continued misrepresentations by LCDC and THC. Midtown residents and business owners form Midtown Neighborhood Association.

9/17/2014 LCDC monthly meeting

Presentation by Gregg Johnson, head of Midtown Neighborhood Association (LCDC video of 9/17/14 meeting at 2:00-14:45 and 27:30-47:25). Key points:

- Positive and cooperative. Requests genuine collaboration, interactive dialogue between LCDC and neighborhood over what to do with the site.
- Current project not the right fit for neighborhood – both structure and tenants.
- Most of the neighbors oppose current project. Petition by 150+ residents and business owners.
- No need for more “affordable housing,” already adequate supply. No economic benefit, significant economic and social risk (crime, property values).
- Slides, discussion of desirable neighborhood developments in Spokane, Sandpoint.
- Proposes informal “walk and talk” of the neighborhood by LCDC members and neighbors.
- Requests real participation by neighborhood, including (i) committee of LCDC members and neighbors, (ii) meeting(s) setting goals, tasks, timeframes, (iii) review of results with full LCDC Board and Midtown neighbors, and (iv) produce consensual plan for the site.

Public comment by seven Midtown residents and business owners (LCDC video of 9/17/14 meeting at 14:45-27:30). No to current project. Not right fit. Original owner-occupied condos above retail much better. Pride of ownership. Low income, subsidized housing, whatever you call it, not good for neighborhood.

“I don’t want to see anything forced on Midtown that they don’t want. . . . Low income, subsidized housing -- that’s not what any of us envision for Midtown.” Brad Jordan, LCDC Board member (LCDC video of 9/17/14 meeting at 29:00-29:20)

“My vision was not of low income, subsidized housing – whether L.A. or Chicago. . . . I don’t want to see anything forced on the neighborhood.” Brad Jordan, LCDC Board member (LCDC video of 9/17/14 meeting at 32:45-33:05)

“We do want to make it fit. It’s not something we want to cram in there.” Scott Hoskins, LCDC Board member (LCDC video of 9/17/14 meeting at 41:20-41:25)

“The vision you [Midtown neighbors] present is nothing any of us would disagree with. It would be terrific.” Denny Davis, LCDC Board chairman (LCDC video of 9/17/14 meeting at 44:45-44:50)

“I don’t want to see anything forced on the neighborhood,” Board member Brad Jordan said, adding that his vision was never a low-income subsidized housing project.” CdA Press 9/18/14 article (*Midtown neighbors address development: Association prefers owner-occupied condos over rentals*)

10/8/14 LCDC-City Council “workshop” with public, in response to 9/17/14 presentation. Instead of genuine dialogue and collaboration, it is top down diktat, continued misrepresentations about project, LCDC and THC working together to shove their plan down neighborhood’s throat.

Renata McLeod (City of CdA), per meeting minutes, falsely tells audience that “tenants who would qualify to rent apartments in the proposed Midtown project would need to have a job.”

Douglas Peterson (The Housing Company), per meeting minutes, fails to correct McLeod’s falsehood and then falsely tells audience himself:

- “[Q]ualifying tenants would need to *earn* between \$16,000-\$40,000 a year.” In fact, tenants can be unemployed, on public assistance, etc.; income limit is a ceiling; zero income is allowed and always qualifies.
- There are “no rent subsidies associated with the project.” Skillful parsing of language, misleading public about “indirect subsidy” of LIHTC housing program.
- Project “will be converted to home ownership” after 15 years. Legally impossible under LIHTC program. Income limitations and rent controls will remain for 30-40 years.

Highly formal setting. “Planted” speaker(s) favorable to project allowed to stand and speak as long as want. Opponents required to sit and severely time limited. “Going through the motions” charade of dialogue. No response to other 9/17/14 proposals for real neighborhood participation (joint committee; meetings re goals, tasks, timeframes; report results to full Board and neighbors; joint development of consensus plan).

10/15/14 LCDC monthly meeting. Motion and vote to affirm support of project with THC as planned. Motion and Board discussion falsely call it “workforce housing” project.

Tony Berns (LCDC Exec. Director) falsely calls it “workforce housing” but admits:

- LCDC would make “gift” of vacant land (813-821 N. 4<sup>th</sup> St.) to THC as “donation” and would “recoup nothing” for it.
- Cost to acquire that land was \$520,000+. Fair market value of it not even known, because LCDC/THC not had any appraisal done.
- In addition, LCDC will be “giving” cash to THC. Amount uncertain, at least \$200,000 to \$300,000. (In February, 2012 deal THC requested \$450,000 in addition to the free land.)
- LCDC would have no ownership of the project. THC would own it.
- Berns falsely describes ownership of 823 N. 4<sup>th</sup> St. lot (Paris Flea Market), attributing that contribution (\$330,000) to THC when, in fact, LCDC owns it outright.
- Both sides (THC and LCDC) could sell the land they each own and walk away

LCDC Board members’ discussion exhibits extraordinary solicitousness for concerns of THC, showing fundamental misunderstanding of to whom LCDC’s duty(s) is owed – it’s owed to the people of CdA. Davis and Patzer repeat false claim by Peterson (THC) at 10/8/14 “workshop” that units “will convert” to condos after 15 years. Goodlander: “Put up or shut up.”

Public comment by Gregg Johnson and Susie Snedaker (LCDC video of 10/15/14 meeting at 1:54:50-2:05:05). No dialogue, exchange, etc. at 10/8/14 “workshop.” No response to other requests for collaboration, participation. Renews request for joint “walk and talk” of neighborhood. Invites LCDC members to weekly Neighborhood Association meeting(s).

- 11/18/14 City Council meeting. Five Midtown residents/business owners describe abusive treatment by LCDC and ask for City Council's help. See CdA Press 11/19/14 article (*Midtown residents speak against development*).
- 11/19/14 LCDC monthly meeting.
- Public comments, and questioning by Board, of Gregg Johnson and Amy Lyons (LCDC video of 11/19/14 meeting at 6:40-18:50). Key points:
- Davis, Armon and Berns indicate that at its December meeting the Board is planning to go ahead with a vote on approval of the project with THC as planned, subject only to THC's successful application for LIHTC tax credits. In effect, LCDC has completely ignored neighbors' requests for collaboration and participation in decision making.
  - Private developer willing to pay \$400,000--\$450,000 (more than fair market value) for property THC owns (Fray at 811 N. 4<sup>th</sup> St.), but THC's demand "keeps going up" and is \$800,000.
  - Berns, Davis, and other Board members fail to disclose that THC's \$800,000 figure includes \$350,000 it paid to acquire 823 N. 4<sup>th</sup> St. (Paris Flea Market), which it subsequently conveyed to LCDC and LCDC now owns outright. Also includes THC's transaction costs, and THC overpaid originally. Thus, \$400,000--\$450,000 more than fair market value for 811 N. 4<sup>th</sup> St. property.
  - Neighbors willing to compromise and work with LCDC. Don't have obligation to come up with development options on own. Neighbors work, have family obligations, etc., but doing best they can. THC and LCDC are full time operations in this business.
  - No reason for deadline. False sense of urgency. Extreme solicitousness of THC's concerns while abusing neighbors.
  - Will go ahead with "walk and talk" LCDC scheduled for next day (Thursday), although a Saturday would have been better since on weekdays neighbors have jobs, kids going to school, etc.
- 11/20/14 "Walk and talk" of neighborhood by four Board members. "Going through the motions" charade of listening, but no intent to change plans to go ahead with project as planned. Afterwards, Berns and Goodlander exchange sarcastic e-mails about it.
- 12/2/14 LCDC-City Council "workshop." Continuation of top down diktat, misrepresentations about project, LCDC and THC working together to shove their plan down neighborhood's throat.
- Almberg (THC) makes series of knowingly false statements to the audience:
- In response to a question by Gregg Johnson about HUD section 8 housing, Almberg told him and the audience that HUD section 8 housing "no longer exists" and "will play no part in" the proposed Midtown project, which stopped his line of discussion on that point.
  - The meeting was not videotaped, but even according to its minutes (self-servingly drafted by Tony Berns and approved by the LCDC Board at its next meeting), "Ms. Almberg explained that Section 8 housing program ended in the late 1970s so there is no way this project could be converted to that program."

- Further, according to the Berns-drafted and Board-approved minutes of the meeting, “She [Almberg] explained that this development is part of the Section 42 workforce housing program that would benefit citizens with incomes between \$15,500 and \$34,000.”
- All those statements are flat out lies. LIHTC is not “workforce housing.” Tenants are not, and cannot be, required to have a job or any income, earned or otherwise. ”Section 42” of the Internal Revenue Code, the statutory basis for the LIHTC program, is titled “low income housing credits.”

12/3-9/14

Amy Lyons e-mail to Berns (LCDC) and Almberg (THC), objecting to Almberg’s false statements that HUD section 8 housing “no longer exists” and “will play no part in” the project. E-mail points to the THC/IHFA website’s numerous references to its active involvement in “section 8” housing. Almberg replies evasively by double talking about project-based vs. tenant-based (portable vouchers), even though both are section 8 and both are described as section 8 on the website.

In fact, THC/IHFA’s website proudly proclaims that it “administers [HUD’s] section 8 housing choice voucher program in 34 of the 44 counties in Idaho,” and provides links to section 8 rental assistance applications, brochures, videos, FAQ’s for both tenants and landlords. THC/IHFA assists people in applying for section 8, and gives preference to them as prospective tenants in its projects, including 100% preference in its February, 2012 Midtown tax credit application. Nationally, more than 2.1 million households hold section 8 rental vouchers.

12/17/14

LCDC monthly meeting. Goodlander (Housing Committee) “has no report” and “assumes the Idaho agency [doesn’t know name] is moving along.” No explanation of why there is no motion or vote on the project, as Board members said at the November meeting there would be.

Public comments, and questioning by Board of, Gregg Johnson and Amy Lyons (LCDC video of 12/17/14 meeting at 56:55-1:22:55). Key points:

- 12/2/14 “workshop” was hastily called, inadequate notice, lack of due process. Neighbors cross-examined. Slant, omissions in “minutes” (prepared by LCDC).
- Suggestion (at 12/2/14 meeting) of THC and LCDC selling their properties, and another developer coming in and developing property, would be welcomed by many neighbors
- Original owner-occupied condos plan also acceptable to neighbors
- Neighbors open to “compromise” but LCDC has not presented any alternatives, offered any real participation in decision making process
- Will restart petition, contact elected representatives. How much more do neighbors have to do to get different options from LCDC?
- LCDC either ignorant of, or not telling public about, LIHTC housing. Low income, rent-controlled apartments. Irrevocable for 30 (up to 40) years. Put into written agreement which is then recorded. Conversion to condos at 15 years “a fantasy.”
- Studies show subsidized housing reinforces existing poverty, “problems” develop at 15 years. LCDC (Lake District) will be gone in 6 years.

1/6/15 City Council meeting. Council members Gookin and Adams vote against third term for Denny Davis on LCDC Board, speak against lack of turnover on LCDC Board and its abusive treatment of Midtown residents/business owners opposing the project. See CdA Press 1/19/15 article (*LCDC Board same ol-same ol – Councilmen question lack of turnover*) and 1/11/15 editorial (*The LCDC Enigma*).

1/8/15 Telephone call between LCDC Finance Committee and THC. Not known until disclosed at 1/21/15 LCDC meeting.

1/21/15 LCDC monthly meeting. Minutes repeatedly call project “workforce housing.”

Finance Committee discloses 1/8/15 telephone call between itself (Colwell, Patzer, Armon and Davis) and THC (Peterson and Almberg).

- THC seeking from LCDC, in addition to the free land, significantly increased amount of cash: (a) \$332,000 related to commercial space, plus (b) \$80-120,000 for “other things.”
- Purportedly due to change in how contributed land is counted (fair market value instead of acquisition cost) under LIHTC program, but Board discussion reveals fundamental misunderstandings of how LIHTC program works.
- Board discussion also reveals that appraised (fair market) value of both LCDC and THC properties is well below their acquisition costs. That is, both of them substantially overpaid and are now “under water” on the properties.
- Because “the numbers were moving” and LCDC felt “rushed” by THC’s February deadline, LCDC decided to examine further, target September deadline

Public comments by Gregg Johnson and David Lyons (LCDC video of 1/21/15 meeting at 10:20-16:00). Key points:

- THC is the adverse party in this transaction. It stands to get close to \$1 million worth of land and cash from LCDC for free. As such, THC has an irreconcilable conflict-of-interest vis-à-vis LCDC in this transaction.
- Despite that, THC has been LCDC’s only source of information about the nature and consequences of LIHTC tax credits. LCDC has done no investigation itself, and has received no advice from anyone else, about LIHTC.
- As a result, many, maybe all, Board members have fundamental misunderstandings (that is, have been misled) about the nature of LIHTC tax credits and their consequences for the proposed project.
- Neighbors can provide a summary of those misunderstandings today, or we can have an informal discussion at a mutually convenient time. Board members opt for the “informal discussion” choice (it’s not public and not videotaped).
- Involvement of Finance Committee is positive. This should be the first in a series of ongoing discussions between LCDC and the Midtown neighbors about the project.

2/24/15 Meeting of Midtown neighbors with LCDC Board members Colwell, Patzer, Jordan, and Goodlander.

Neighbors give each of them a 3 page memo, attaching excerpts from THC's (i) February, 2012 tax credit application, (ii) Resident Selection Plan for the project, (iii) Housing Management Agreement for the project, (iv) LIHTC Compliance Manual, and (v) rental application, as well as various e-mails and letters. The Board members had not previously seen the attached materials. Memo and discussion detail and document:

- Almborg's knowingly false statements at the 12/2/14 "workshop," her subsequent evasion and double talk, and the facts establishing her statements' falsehood.
- THC's housing proposal is not "workforce housing." To the contrary, requiring that tenants have a job would violate LIHTC's "general public use requirement," would violate the Fair Housing Act's prohibition of "disability" discrimination, and would violate THC's established practices and policies. THC actually sought the complete opposite of "workforce housing" in its February, 2012 tax credit application.
- The project will remain low income, rent controlled apartments for at least 30 to 40 years, and will not become owner occupied condominiums after 15 years.
- THC has used its ownership of land in the footprint of the proposed project to block private development of the land, thereby making itself the only development option available to LCDC.
- LCDC fundamentally failed to perform any due diligence of the LIHTC program or THC's proposed project, and didn't know what it was getting into, instead relying entirely on THC, the adverse party that stood to receive close to a million dollars' worth of land and cash for free.
- Under Idaho's LIHTC program, the applicant (THC) makes a variety of choices (for various points), which determine the nature of the project and its tenants. Those choices are reduced to a written agreement, which is recorded with the county recorder. As such, it binds and burdens the land (no matter who owns it) for the next 30-40 years.
- LCDC never saw, or even requested, a copy of THC's LIHTC tax credit application, or any of THC's resident selection, management, etc. documents. The LCDC Board had no idea of the reality of what it voted on at its 1/18/12 meeting. LCDC is now planning to go ahead with THC's project just as ignorant as it was then.
- Follow up meeting to be held in a month.

3/18/15 LCDC monthly meeting. "No report" by the Housing Committee (Goodlander). No mention of 2/24/15 meeting with neighbors or memo.

3/18/15 Mayor Widmyer sends letter to LCDC Board members, Berns, and City Council members. Mayor's letter says:

"I write you today in reference to the proposed Midtown Affordable Housing Project. . . . I have come to the conclusion that, despite our best efforts, this project does not fit the long term interests of Midtown. . . . I would propose that LCDC buy out The Housing Company's interest in this property and work with The Housing Company to find an alternative site to provide their proposed housing project. I would commit my office's support to assisting LCDC in this transition and in finding additional resources to assist the financial aspects of this effort."

- 3/24/15 Meeting of Midtown neighborhoods with LCDC Board members Patzer, Jordan, and Goodlander. Neighbors willing to discuss variety of alternatives, but zero change in position by LCDC. LCDC does not disclose to neighbors the fact or contents of Mayor's 3/18/15 letter (neighbors find out about it a week later), and lie to neighbors about ownership of 800 block of N. 4<sup>th</sup> St. properties, status of discussions with THC, etc.
- 3-4/2015 "No report" by Housing Committee. No mention of Mayor's 3/18/15 letter or meeting with neighbors. Newsletters continue to call the project "workforce housing," although LCDC has been shown that "workforce housing" is a falsehood.
- 5-9/15 LCDC still has not publicly acknowledged the existence of Mayor's 3/18/15 letter, has not responded to it, and has not done anything or made any plans to do what it proposes. Apparently just ignoring it, although it is a highly significant (indeed, dispositive) event regarding the *only* initiative the Housing Committee has going.

At May, June and July LCDC monthly meetings, Gregg Johnson asks about status of Midtown project with THC and is repeatedly told only that it is "in limbo" and "stalled." Materials subsequently obtained through public records requests show that, contrary to what LCDC told Johnson:

- On 6/16/15 Executive Director Berns prepared and circulated a memo on "*divestiture*" of the Midtown properties, listing five options, at least three of which are illegal, sweetheart deals for The Housing Company.
- According to an internal 7/20/15 e-mail from Douglas Peterson to Gerald Hunter (two senior executives at The Housing Company):  
"Remember that the 4<sup>th</sup> Street LCDC property comes up at the Board's meeting next month. *At that point Tony [LCDC Executive Director Berns] wants to move quickly to have IHFA take over ownership.*"