

MINUTES
County of Oswego Industrial Development Agency
Audit Committee
September 9, 2011
County of Oswego IDA Office

PRESENT: Kunzwiler, Rush, Schick and Toth

Absent: None

Also Present: Kevin C. Caraccioli, L. Michael Treadwell, Arthur W. Ospelt and Morris Sorbello

Chair Toth called the meeting to order at 8:45 a.m. at the offices of the County of Oswego IDA in Oswego, NY.

Delinquent Loan Policy

Mr. Caraccioli reviewed a revised draft of the Delinquent Loan Policy to update the policy and to amend the policy relative to the use of outside firms for collections. Following a discussion, on a motion by Mr. Kunzwiler, seconded by Mr. Schick, the revised draft, as amended, was approved to recommend to the IDA Board for adoption. A copy of the policy as amended is attached and made an official part of the minutes.

ADJOURNMENT

On a motion by Mr. Schick, seconded by Mr. Kunzwiler, the meeting was adjourned at 9:05 a.m.

Respectfully Submitted,



L. Michael Treadwell
CEO

County of Oswego Industrial Development Agency

Delinquent Loan Policy

Revised: September 9, 2011

Purpose

In an effort to maintain control over the loans provided by the County of Oswego Industrial Development Agency and to ensure proper monitoring and compliance with loan terms and conditions, the IDA establishes this delinquent loan policy. This policy is intended to provide the IDA staff with a protocol for the collection of past due amounts but also provide a certain degree of flexibility as individual circumstances may dictate.

Procedure

Should a loan fall behind, the following protocol will be followed by the administrative staff of the IDA:

A. List of Delinquent Loans

The Administrative Secretary will provide the Chief Financial Officer (CFO) with a list of all loans that are thirty (30) days past due, indicating the date the last payment was received. This procedure will be completed as soon after the first of each month as possible. A copy of this list will also be provided to the Administrative Coordinator.

B. 30 Days Past Due

The CFO will attempt to contact the borrower by phone after receiving notice of the delinquent loan payment(s). The phone call will be followed by the First Letter from the CFO. (Attached)

C. 60 Days Past Due

In the event no payment(s) have been received in response to the First Letter, the Second Letter from the CFO will be sent. (Attached). Prior to sending the Second Letter, the CFO will attempt to contact the Borrower by phone in an effort to resolve the delinquency. The Second Letter will be copied to IDA legal counsel and to the CEO of the IDA.

D. 90 Day Past Due

Should 90 days pass without a payment or other arrangement worked out to the satisfaction of IDA staff, the Administrative Coordinator will notify IDA legal counsel who in turn will provide the borrower with the Third Letter. (Attached). It is hereby the policy of the IDA Board to authorize legal counsel to notify the borrower of legal action in the event repayment arrangements are not offered by the borrower.

E. Legal Action

(i). After consultation with the IDA staff and legal counsel, the IDA Board will be presented with recommendations regarding the use of legal action to enforce the loan terms. Such action could range from continued communications with the borrower to declaring the loan in default and commencing an action to recover the loan amount (i.e. foreclosure, order of attachment, etc...) The IDA Board will adopt a resolution directing the appropriate action under the circumstances presented.

(ii). In the event legal action is authorized, it is the policy of the IDA Board to seek settlement with a delinquent Borrower or a judgment against the Borrower that includes the past due amounts, together with interest, as well as the costs of litigation including, but not limited to, filing fees, service fees, and other related costs, as well as attorneys fees.

F. Collection/Enforcement of Judgment

It is the policy of the IDA Board to obtain a money judgment against all delinquent Borrowers when settlement of the loan default cannot be achieved. In that event, the IDA Board shall review each judgment and thereafter make a determination to retain outside legal counsel to pursue collection against a judgment debtor, including any available enforcement actions. The fees to pay outside legal counsel will be paid from the amounts collected against the judgment debtor and in accordance with any engagement letter offered by the outside legal counsel.

Reviewed and Approved:
September 9, 2011
County of Oswego IDA
Audit Committee
IDA Board

NOTICE

DATE

CLIENT

RE: TYPE OF LOAN AND LOAN NUMBER

Dear CLIENT:

This is a follow-up to my phone call today. [I attempted to reach you by phone today].

Our records indicate that your loan is delinquent. Payments that have not been received include the following:

PAYMENT(S) NOT RECEIVED

Please make arrangements to pay the amount due immediately. If you have any questions or concerns, please contact me.

Sincerely,

David S. Dano
CFO

DSD/tw

cc: L. Michael Treadwell, CEO
Kevin C. Caraccioli, Esq.

2ND NOTICE

DATE

CLIENT

RE: TYPE OF LOAN AND LOAN NUMBER

Dear CLIENT:

This is a follow-up to my letter dated DATE. We have not received payment on the above-referenced loan.

The total due as of DATE is AMOUNT.

Please send in the overdue amount or contact me to make arrangements to bring this loan up to date. If I do not hear from you by DATE, I will recommend to the IDA Board that they start legal proceedings.

Sincerely,

David S. Dano
CFO

DSD/tw

cc: Kevin C. Caraccioli, Esq.
L. Michael Treadwell, CEO

IDA COUNSEL LETTER

DATE

CLIENT

RE: TYPE OF LOAN AND LOAN NUMBER

Dear CLIENT:

Please be advised that I represent the County of Oswego Industrial Development Agency. Recently, it was reported to the IDA Board that your **TYPE OF LOAN** in the original sum of \$ _____ has been delinquent for quite some time. In fact, the records presented for my review indicate that no payment has been made on this loan since **DATE**. The outstanding balance due is \$ _____, plus interest.

Demand is hereby made to make arrangements to repay the amount due immediately. The IDA Board has authorized this firm to commence legal action against you for further recovery of all amounts due, together with costs of such a legal action, including attorney's fees. It is my hope that such an action is not necessary. However, be advised that your failure to make arrangements to repay the amount due by **DATE** will leave me no other choice but to pursue legal action against you.

Thank you.

Sincerely,

Kevin C. Caraccioli

KCC/dnp

Cc: L. Michael Treadwell, CEO
David S. Dano, CFO

**THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION
PROVIDED WILL BE USED FOR THAT PURPOSE.**