

Miriam Lens

From: Fran David
Sent: Tuesday, October 28, 2014 10:14 AM
To: Al Mendall; Barbara Halliday; Elisa Marquez; Francisco Zermeno; Greg Jones; Marvin Peixoto; Sara Lamnin
Cc: Angel Groves; Colleen Kamai; Kelly McAdoo; Alex Ameri; Michael Lawson; Miriam Lens
Subject: City Council Questions - Agenda item 3
Importance: High

A Councilmember had questions on Agenda item #3 that may be of interest to the whole Council – see staff responses below.

1. What protections exist to prevent predatory practices by PACE programs?

There is no specific oversight body that investigates PACE practices. However, some protections do exist. When a governmental entity authorizes a PACE district, it must approve a detailed report that outlines program terms. Listed below are some of the terms in the Figtree Program Report that are intended to protect commercial property owners. In addition, banks tend to pay close attention to the assessments that are being placed on properties ahead of their first trust deeds. They often review the transaction to ensure everything is above board and the property owner is capable of making the payments.

- Figtree has established standards that contractors must meet in order to participate in the commercial PACE program. All contractors must register prior to financing property projects. In order for a contractor to be eligible they must have at least 3 years of experience in the state of California, an active contractor's license, and meet minimum insurance requirements. In addition, all contractors must sign a code of conduct and attend a training session.
- Figtree requires a minimum of \$500,000 in general liability insurance.
- Figtree reviews all bids prior to funding in order to provide another layer of contractor oversight. During this review costs of improvements are compared against prior transactions and vetted for accuracy. Figtree may request the property owner get multiple proposals if the costs for the improvements are not in alignment with prior projects.
- Figtree provides full disclosure of all interest rates, APR, and fees online and provides an project cash flow calculator to enable property owners to evaluate the financial impacts of proposed projects.
- Figtree secures lender consent on every transaction where a mortgage is present.

2. Is there a mechanism to revoke a PACE program's participation in Hayward if they're practices are not as advertised or other issues arise?

Yes. If the City wants to revoke a PACE provider's ability to operate in Hayward, Council can pass resolutions to terminate its members in the JPA and opt out of the financing district.

3. Was there a review of the HERO program?

Staff considered the Figtree program in depth because there was interest from the community. Staff is not aware of community interest in the HERO program. Staff briefly reviewed the HERO

program in January of this year and recommended that the Sustainability Committee not consider it at this time due to concerns about the FHFA's position on residential PACE programs. Unlike Figtree, California HERO is available to all single-family residential properties and does not require lender consent.

4. Do the multi-family units included in the proposed agreement include HOA's or similar or are they just for properties with private/single ownership (rentals)

Figtree can finance multi-family residential properties with 5 or more units as these properties are financing using commercial rather than residential mortgage properties. According to Figtree, HOA properties are difficult to finance due to their fractional ownership structure. Common area property often has an extremely low property value, in some cases close to zero. Per Figtree's underwriting criteria, a project cannot exceed 20% of a property value, which means HOA projects usually don't pencil out.

5. Is there something that Figtree offers that was not available in the current PACE program for the business owner who is advocating for Figtree?

The financial products offered by Figtree and CaliforniaFIRST are similar, but there are some differences in their terms and services. Approving Figtree to operate in Hayward would allow for more customer choice and some competition among the providers.

6. Lastly, what is the current access mechanism for these programs? When I tried to review the earlier sustainability programs for our home, the process was overwhelming and, if I recall correctly, participation was low (although somewhat stronger on the commercial side). At the League conference, I talked briefly with folks from the Benicia Business Resource Incentive Program (a Putnam winner) that centralized program enrollment and eligibility evaluation. Do we have such a City system already in place?

There is no centralized system in Hayward. The City has chosen not to run its own PACE program, which would be staff intensive. Both CaliforniaFIRST and Figtree are administered entirely by the PACE provider, thus the City is not involved once the program is approved. If Council approves Figtree, staff will make information about the program available on the City's website along with other financing options. I will lookup Benicia's program to see how that city administers its program.