

**RESOLUTION 2009-222**

**RESOLUTION OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY APPROVING THE APPLICATION AND THE FINANCIAL AGREEMENT WITH WHISPERING HILLS APARTMENTS, LLC FOR A TAX-EXEMPTION PURSUANT TO THE NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY LAW, N.J.S.A. 55:14K-1. ET SEQ. FOR THE CONSTRUCTION OF CERTAIN AFFORDABLE UNITS WITHIN THE WHISPERING HILLS PROJECT**

WHEREAS, Whispering Hills Apartments, LLC, a limited liability company of the State of New Jersey , having its principal office at 500 Barnegat Boulevard North, Building 100, Barnegat, New Jersey 08005 (hereinafter the "Sponsor") (hereinafter referred to as the "Sponsor") proposes to construct a housing project consisting of 52 units of multifamily affordable housing arranged as six (6) two-story buildings with eight (8) units each and one (1) one-story building with four (4) units, (hereinafter referred to as the "Project") pursuant to the provisions of the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended (N.J.S.A. 55:14K-1 et seq.), the rules promulgated thereunder at N.J.A.C. 5:80-1 et seq., and all applicable guidelines (the foregoing hereinafter referred to as the "HMFA Requirements") within the municipality of Barnegat Township (hereinafter referred to as the "Municipality") on a site described as Block 144.08, Lot 1 as shown on the Official Assessment Map of the Township of Barnegat , Ocean County and commonly known as 345 Hawthorne Lane, Barnegat, New Jersey; and

WHEREAS, the Project will be subject to the HMFA Requirements and the mortgage and other loan documents executed between the Sponsor and the New Jersey Housing and Mortgage Finance Agency (hereinafter referred to as the "Agency"); and

WHEREAS, pursuant to the HMFA Requirements, the governing body of the Municipality hereby determines that there is a need for this housing project in the Municipality; and

WHEREAS, the Sponsor has presented to the Township Committee a revenue projection for the Project which sets forth the anticipated revenue to be received by the Sponsor from the operation of the Project as estimated by the Sponsor and the Agency, a copy of which is attached hereto and made a part hereof as Exhibit A; and

WHEREAS, by Resolution 2004-154 dated February 5, 2007, the Township Committee previously granted a tax exemption for the Project pursuant to the HMFA requirements to Whispering Hills Apartments, LLC, on a site described as Block 144.01, Lots 7, 7.01, 15, 16, 17, 18, 19, 20, 21, 22 and 23, as shown on the Official Assessment Map of the Municipality. Whispering Hills Apartments, LLC, is the sole member of the Sponsor. The Project is going to be constructed by the Sponsor on a site now described as Block 144.08, Lot 1, as shown on the Official Assessment Map of the Township of Barnegat, Ocean County and commonly known as 345 Hawthorne Lane, Barnegat, New Jersey; and

WHEREAS, all of the units in the Project will qualify as low or moderate income units under the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., the regulations of the Council on Affordable Housing ("COAH"), N.J.A.C. 5:94 et seq. and N.J.A.C. 5:95 et seq. and the Uniform Housing

Affordability Controls, N.J.A.C. 5:94 et seq.; and the Township of Barnegat has included the Project in its fair share plan and has petitioned COAH for substantive certificate; and

WHEREAS, the Sponsor has presented to the Township Committee a revenue projection for the Project which sets forth the anticipated revenue to be received by the Sponsor from the operation of the Project as estimated by the Sponsor and the Agency, a copy of which is attached hereto and made a part hereof as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Committee of the Township of Barnegat (the "Township Committee") that:

- (1) The Township Committee finds and determines that the proposed Project will meet or meets an existing housing need;
- (2) The Township Committee does hereby adopt the within Resolution and makes the determination and findings herein contained by virtue of, pursuant to, and in the conformity with the provisions of the HMFA Requirements with the intent and purpose that the Agency shall rely thereon in making a mortgage loan to the Sponsor, which shall construct, own and operate the Project; and
- (3) The Township Committee does hereby adopt the within Resolution with the further intent and purpose that from the date of execution of the Agency mortgage, the proposed Project, including both the land and improvements thereon, will be exempt from real property taxation as provided in the HMFA Requirements, provided that payments in lieu of taxes for municipal services supplied to the Project are made to the municipality in such amounts and manner set forth in the Agreement for Payments in Lieu of Taxes attached hereto as Exhibit "B"; and
- (4) The Township Committee hereby commits to address its third round fair share obligation *by* including the Project in a newly adopted housing element and fair share plan, in accordance with N.J.A.C. 5:94 et seq. and N.J.A.C. 5:95 et seq., that the Township of Barnegat has submitted to the New Jersey Council on Affordable Housing ("COAH") as a petition for substantive certification toward meeting its COAH obligation.
- (5) The Township Committee hereby authorizes and directs the Mayor of the Township of Barnegat to execute, on behalf of the municipality, the Agreement for Payments in Lieu of Taxes in substantially the form annexed hereto as Exhibit "B"; and
- (6) The Township Committee understands and agrees that the revenue projections set forth in Exhibit "A" are estimates and that the actual payments in lieu of taxes to be paid by the Sponsor to the municipality shall be determined pursuant to the Agreement for Payments in Lieu of Taxes executed between the Sponsor and municipality.

- (7) The tax exemption granted to Whispering Hills Apartments, LLC by Resolution 2007-154 dated February 5, 2007, is hereby cancelled and terminated.

I, Kathleen T. West, Township Clerk of the Township of Barnegat, Ocean County, New Jersey do hereby certify the foregoing being a true and exact copy of a resolution of the Mayor and Township Committee of the Township which was adopted by the Township Committee at a meeting held on the 16<sup>th</sup> day of March, 2009 certified by me this 17<sup>th</sup> day of March, 2009.

Township Clerk

Revised 2-23-04