

RESOLUTION NO. 2010-441

RESOLUTION OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY, DECLARING A DEFAULT IN THE CONSTRUCTION OF SITE IMPROVEMENTS AND THE ASSOCIATED PERFORMANCE BOND REQUIREMENTS FOR BLUE CLAW ESTATES, BARNEGAT TOWNSHIP, NEW JERSEY

WHEREAS, the Township of Barnegat, County of Ocean, State of New Jersey (hereinafter referred to as the “Township”), has previously granted approvals, in conjunction with the Barnegat Township Planning Board, to Home Mark Homes, Inc. (the “Developer”) for construction of a residential subdivision known as “Blue Claw Estates; and

WHEREAS, in conjunction with the approvals, the Developer is required to install both onsite and offsite site improvements as mandated by the Barnegat Township Planning Board and other governmental agencies; and

WHEREAS, the construction of the site improvements is guaranteed by a performance bond issued by Kemper Casualty Insurance Company/Universal Bonding Company (collectively referred to as the “Bonding Company”); and

WHEREAS, numerous site deficiencies exist at the development which have been brought to the attention of the Developer and the Bonding Company; and

WHEREAS, both the Bonding Company and the Developer have failed to properly respond to the requirement to complete and as appropriate, correct the required site improvements; and

**DASTI, MURPHY
McGUCKIN, ULAKY,
CHERKOS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

WHEREAS, the Township has advised both the Developer and the Bonding Company that it will need to declare a default in the performance bond and the Developer's obligations, because of the failure of both the Developer and the Bonding Company to adequately respond to the numerous demands made by the Township.

NOW, THEREFORE, BE IT RESOLVED, this day of October, 2010, by the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, as follows:

1. The Township accepts the recommendations of its professional staff and hereby declares a default by the Developer, Home Mark Homes, Inc. and the Bonding Company, Kemper Casualty Insurance Company/Universal Bonding Company, because of the failure of both the Developer and the Bonding Company to properly complete the site improvements at Blue Claw Estates, Barnegat Township, New Jersey.

2. The Township authorizes and directs its professional staff to take any and all necessary actions, including litigation if necessary, to remedy the outstanding deficiencies which are the responsibility of both the Developer and the Bonding Company.

3. The Township authorizes and directs the Mayor, Township Clerk and Township Administrator to execute any and all necessary documents in order to implement the intent of this resolution.

4. A certified copy of this resolution shall be forwarded by the Township Clerk to the following:

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McGUCKIN, ULAKY,
CHERKOS & CONNORS

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- (a) Honorable Jeffrey Melchiondo, Mayor;
- (b) David Breeden, Administrator;
- (c) Jerry J. Dasti, Esq;
- (d) John Hess, P.E.;
- (e) Cynthia Rahn, Planning Board Administrator;
- (f) Home Mark Homes, Inc.; and
- (g) Kemper Casualty Insurance Company

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Township of Barnegat at a meeting held on October 18, 2010, a quorum being present and voting in the majority.

**Kathleen T. West, RMC
Municipal Clerk**

Prepared by:

DASTI, MURPHY, McGUCKIN, ULAKY,
CHERKOS & CONNORS
Forked River, New Jersey 08731

JJD:faw[Barnegat Resolutions 2010-GL#18725]

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