

37280

DATE: December 4, 2013

TO: Board of Acquisition and Contract

FROM: Edward Buroughs
Commissioner of Planning

SUBJECT: Resolution authorizing the County of Westchester to amend the agreements with Drum Hill Associates, L.P. to release any rights in the property located at 90 Ringgold Street, Peekskill, New York (the "Property") deemed necessary to subordinate the Initial and Subsequent HOME Mortgages (defined below), as well as the Initial and Subsequent CDBG Mortgages on the real property comprising the Drum Hill Senior Living Housing Development (the "Development"), and modify the terms of the promissory notes secured by said mortgages.

On December 11, 1997, your Honorable Board approved a resolution authorizing an agreement between the County of Westchester and Drum Hill Associates, L.P. known as Drum Hill Senior Living Housing Development (the "Developer"), to provide a low interest loan in HOME funds in the amount of \$500,000 to subsidize the development of 11 affordable rental units in a 120 unit senior citizen mixed income rental complex in the City of Peekskill (the "City")

On November 12, 1998, your Honorable Board approved a resolution authorizing an agreement between the County of Westchester and Drum Hill Associates, L.P., to provide a low interest loan in CDBG funds in the amount of \$200,000 for design, legal and related costs associated with the development of 11 affordable rental units in the City of Peekskill.

On May 25, 2000, your Honorable Board approved a resolution authorizing an amendment to the agreement between the County of Westchester and Drum Hill Associates, L.P., to increase the total of the agreement from \$200,000 to \$280,000, an increase of \$80,000, increase the scope of work and change the term of the agreement.

On May 25, 2000, your Honorable Board approved a resolution authorizing an amendment to the agreement between the County of Westchester and Drum Hill Associates, L.P., to increase the total of the agreement from \$500,000 to \$600,000, a subsequent loan of \$100,000, increase the scope of work and change the term of the agreement.

On December 11, 2003, your Honorable Board approved a resolution authorizing the modification of two HOME mortgages of \$500,000 and \$100,000 and to change the repayment schedule to begin January 1, 2011.

The attached resolution authorizes the County to release any rights in the real property located at 90 Ringgold Street in the City of Peekskill to subordinate the aforementioned HOME and CDBG mortgages held by the County, to modify the appropriate mortgage and promissory note documents to include a bi-annual payment and to condition the Developer's obligation to make payments based on cash flow. Such action will allow for favorable refinancing terms for the Development.

The refinancing of the current first mortgage (the "IDA First Mortgage") will maintain the Development's long term financial viability. Accordingly, in addition to subordinating the initial HOME Mortgage, the subsequent HOME Mortgage, the Initial CDBG Mortgage and the Subsequent CDBG Mortgage, Planning requests approval to modify the terms of said mortgages and the related promissory notes, to permit subordination to a new first mortgage provided by TriState Capital Bank (the "New First Mortgage") and to comply with the U.S. Department of Housing and Urban Development's ("HUD") requirements, including without limitation, to condition the Developer's obligation to make mortgage payments on available cash flow, as delineated by HUD, after payment of other monthly expenses including the New First Mortgage, noting that such mortgage payments may now be paid monthly or on a semi-annual basis, as may be required by TriState Capital Bank.

The refinance and subordination will not affect the Development's Affordability Requirements as defined in the Declaration of Restrictive Covenants, but has, as a result of the ten year payment deferral also extended the affordability period through the current loan period which will end on December 31, 2040. The current Declaration of Restrictive Covenants provides for an affordability period of 30 years, which will expire in 2030. The Developer will be required to file an amended Declaration of Restrictive Covenants, which will commence as of the closing on the new first mortgage. It is expected that this term will continue until December 31, 2040, thereby providing an additional 10 years of affordability for the 11 HOME and CDBG benefited units. It should also be noted that the Declaration requires that the Development's units be rented or occupied only by households with incomes at or below 60% of the Westchester County Adjusted Median Income ("AMI") as established by HUD.

The goal and objective of subordinating the Initial HOME Mortgage, the Subsequent HOME Mortgage, the Initial CDBG mortgage and subsequent CDBG Mortgage to the New First Mortgage and to allow for the Development's long term viability and the new financing will be used to retire the IDA First Mortgage; purchase an emergency generator, necessary to assure vital systems remain powered to maintain the safety and comfort of the senior residents; and provide for capitalization of a capital reserve account that can be tapped to upgrade or replace components of the building which have out lived their useful life, such as community room furnishings, carpeting and doors and major systems such as the HVAC control panel. The Department of Planning staff will monitor compliance with the affordability requirements.

It is recognized and understood that an Act of the Westchester County Board of Legislators to authorize the County of Westchester release any rights in the property located at 90 Ringgold Street, Peekskill, New York (the "Property") deemed necessary to subordinate the initial and subsequent HOME mortgages as well as the initial and subsequent CDBG mortgages on the real property comprising the Development, and modify the terms of the promissory notes secured by said mortgages. Legislation for this purpose was pending before the Board of Legislators at the time this resolution was submitted and is expected to be acted upon at the Board's regular meeting on December 9, 2013. If the legislation is not approved, this resolution will be withdrawn.

I recommend approval of this amendment.

EB/cp
Attachment

RESOLUTION

UPON A COMMUNICATION FROM THE COMMISSIONER OF PLANNING, BE IT HEREBY

RESOLVED, that the County of Westchester is authorized to amend the agreements with Drum Hill Associates, L.P. to release any rights in real property located at 90 Ringgold Street in the City of Peekskill deemed necessary to subordinate the Initial and Subsequent HOME mortgages, as well as the initial and subsequent CDBG Mortgages on said real property comprising the Drum Hill Senior Living Housing Development, and modify the terms of the promissory notes secured by said mortgages, and it is further

RESOLVED: that the County Executive or his duly authorized designee is authorized to execute any documents and take any actions necessary to effectuate purposes hereof.

	<u>HOME</u>	<u>CDBG</u>
Original Agreement	\$500,000.00	\$200,000.00
First Amendment	\$100,000.00	\$80,000.00
This Amendment	\$0.00	\$0.00
 TOTAL	 \$600,000.00	 \$280,000.00
 AGREEMENT NUMBES	 <u>C-HOME-97-35 & C-67-98-G69</u>	

Account to be Charged/Credited

		Major Program, Program & Phase	Object/ Sub Object	Trust Account	Dollars
Fund	Dept	Or Unit			
263	19	6098	8000	T067	\$0.00
263	19	602K	8000	T067	\$0.00
263	19	6095	8000	T173	\$0.00
263	19	6096	8000	T173	\$0.00

Budget Funding Year(s) (must match resolution)	<u>FY 1995 & 1996 HOME</u>	Start Date	<u>December 1, 1998</u>	End Date	<u>December 31, 2000</u>
	<u>FY 1998 & 2000 CDBG</u>	Start Date	<u>November 16, 1998</u>	End Date	<u>December 31, 2000</u>

Funding Source

Tax Dollars _____

State Aid _____

\$0.00
(must match resolution)

Federal Aid \$0.00 – U.S. Department of Housing and Urban Development

Other _____