

ULSTER TOWN BOARD WORKSHOP
DECEMBER 4, 2008 AT 7:00 PM

CALLED TO ORDER BY SUPERVISOR WOERNER, CHAIRMAN

SALUTE TO THE FLAG

ROLL CALL BY CLERK

TOWN COUNCILMAN DAVID BRINK
TOWN COUNCILMAN JOEL B. BRINK
TOWN COUNCILMAN ERIC KITCHEN
TOWN COUNCILMAN ROCCO SECRETO
SUPERVISOR NICKY B. WOERNER

Supervisor Woerner noted that the town has a new bench that was constructed for the Justice Court and was paid for by a Grant from the Office of Court Administration.

Supervisor Woerner opened the public hearing for the Town Fee Schedule at 7:09 PM

Robert Barton inquired what the water rates were.
A water rate schedule was given to him.

The public hearing will remain open until the December 18, 2008 meeting to add to and make any changes needed to the fee schedule.

Robert Barton initiated a discussion about the online tax service and the confidentiality of his information. He further inquired about the Chambers PILOT program. A proposed resolution was presented to him.

Joseph R. Pisani read a letter into the record (see Exhibit B).

Audrey Albright spoke in favor of approving the Chambers PILOT project.

Stephanie Kovarnik inquired about the fee schedule for the township.
Supervisor Woerner stated a new fee schedule would be drawn up for comment and be made available.

Barbara Monroe, Vincent Organtini, Ellen Jackhart, Alice Houghtaling, a lady from the audience named Joan, Mr. Tiano, Shirley Gaffney, Crane Gillis, Frances Fatum, Mrs. Ellsworth, Cindy Corel, Mrs. Cheek, and Bob Corney, spoke in favor of approving the Chambers PILOT project and the need for this type of project in the town.

A petition was submitted to the Town Board in favor of the Chambers Housing Project PILOT agreement

Tony Pumilia feels that the PILOT difference, the tax break, should come from the state and not the town as the people cannot afford their taxes.

Regarding upcoming vacancies on various Town Advisory Boards

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Supervisor Woerner advised that various positions in the Town will be open for appointments and he requested that people submit their letters of interest by December 19, 2008.

Regarding the Town of Ulster Building Department

Councilman David Brink moved to appoint the Town Supervisor as the interim department head until a full-time building inspector is hired.

2nd by Councilman Joel B. Brink

All Ayes

Regarding a Town Heating Policy

A discussion occurred between Councilman Joel B. Brink and Supervisor Woerner. A resolution is not needed for adopting a heating policy. They will meet later to implement a policy.

Online Tax Bill Viewing and Payment Service through Munitrax

Town Attorney Andrew Zweben gave an overview of his research into this matter. Global Payments is a company that has a state contract to handle credit card transactions. Just like private businesses, the town gets its money immediately, and his only concern is the website set up. He suggested an approval can be given, pending an agreeable contract for the Township.

Supervisor Woerner motioned to enter into an agreement with Munitrax Online tax services pending the sign off by the Town Attorney and all conditions of the New York State Comptroller are met.

2nd by Councilman Secreto

A Roll Call Vote was taken – All Ayes

Lou Lane – Aerial Waver for 421 Park Road

Supervisor Woerner reported that Lou Lane requested an Aerial Waver for 421 Park Road. Councilman Kitchen, David Brink and Town Attorney Zweben will visit the location for a visual inspection of the property.

Christmas Tree Lighting

Supervisor Woerner announced the Christmas Tree Lighting December 6, 2008. He thanked Wal-Mart for donating the lights for the Tree lighting. This year's service is dedicated to the memory of Joseph F. Riccio Jr.. The Town of Ulster Recreation Department, the Ulster PBA, the Salvation Army, the Bruderhof and Ulster Hose will participate.

Awarding Police Fleet Maintenance Contract for 2009

A discussion occurred about the police bid contract requirements. A company had placed a bid, which was the lowest, and was not located within the township as listed in the bid requirements. Town Attorney Zweben stated that this requirement is unlawful.

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Councilman Kitchen motioned to go back out to bid for service.
No second.
Motioned failed.

Councilman Secreto motioned to award Begnal Motor Co. Inc, as the lowest qualified bidder, to service the Town of Ulster Police Fleet with the prices as submitted.
2nd Councilman David Brink
A Roll Call Vote was taken – 4 Ayes – 1 Nay by Councilman Kitchen

Authorizing a State Supplemental Grant for the Kingston-Ulster Airport

Councilman Joel B. Brink motioned to approve a negative declaration for SEQRA for the Kingston- Ulster Airport
2nd by Councilman Secreto
All Ayes

Councilman Secreto motioned to approve the following:

MUNICIPAL ENDORSEMENT

WHEREAS, Kingston-Ulster Airport, Inc. received a grant from the Federal Aviation Administration to pay 95% of the allowable costs incurred in accomplishing the following project at Kingston-Ulster Airport:

"Obstructions Removal at Runway 33 End - Engineering Design Only"

WHEREAS, the New York State Department of Transportation is offering a matching grant to the Federal grant for 50% of the non-Federal share of eligible costs, and

WHEREAS, the New York State Department of Transportation, under Section 14h of the State Transportation Law, requires privately owned reliever facilities to obtain local municipal support to receive New York State funding;

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Ulster endorses the above described project for the purpose of making the project eligible for State funding;

RESOLVED, that the adoption of this Resolution shall be solely for the purposes stated herein and in no way binds the Town Board, the Planning Board and/or the Zoning Board of Appeals of the Town of Ulster to any approvals, permits and/or licenses which may be required by the applicant for future projects or work related to Kingston- Ulster Airport;

RESOLVED, it has heretofore been determined by the Town Board, under Part 617 of the State Environmental Quality Review Act (SEQR) of the State of New York that the aforesaid project, including basic data collection, research and engineering studies constitutes a Type II Action

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which will not have a significant impact upon the environment. The Supervisor of the Town of Ulster is hereby authorized to sign and date the State Environmental Quality Review form, as attached herewith; and, be it

FURTHER RESOLVED, that this Resolution shall take effect immediately.

2nd by Councilman Joel B. Brink
All Ayes

Payment in Lieu of Taxes Agreement for the Birches at Chambers (Phase 2)

Supervisor Woerner turned the chair over to Deputy Supervisor Craig Artist at 8:21 PM
Supervisor Woerner and Town Attorney Zweben excused themselves from the meeting.

Councilman Joel B. Brink motioned to enter into executive session at 8:22 PM to discuss negotiations with Special Council Rod Futerfas and Town Assessor James Maloney regarding a Payment in Lieu of Taxes Agreement for the Birches at Chambers (Phase 2)

William J. Kemble noted an objection as negotiations are not a proper cause for an executive session. Special Council Futerfas disagreed.

2nd by Councilman Secreto
No vote was called.

The Town Board and noted guests entered executive session at 8:24 PM.

Deputy Supervisor Artist left executive session at 9:05 PM and returned back at 9:10 PM.

Executive session ended at 9:16 PM and the meeting was resumed with Deputy Supervisor Artist as chair.

Town Clerk Cosenza read the proposed PILOT resolution.

Councilman David Brink moved to approve the following resolution:

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF ULSTER

Resolution approving a partial exemption from real property taxes for a certain portion of an 11.7 acre lot located in the Town identified as tax map number 48.49-1-20.110 on the Official Tax Map of Ulster County, as more particularly set forth in a site plan approved by the Town of Ulster on December 4, 2006, pursuant to Section 577 of the Private Housing Finance Law of the State of New York.

WHEREAS, Birches at Chambers Housing Development Fund Company, Inc., a housing development fund company formed pursuant to Article XI of the Private Housing Finance Law of the State of New York (the "HDFC") will hold legal title to a leasehold interest in a certain portion of an 11.7 acre lot located in the Town identified as tax map number 48.49-1-20.110 on

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the Official Tax Map of Ulster County, as more particularly set forth in a site plan approved by the Town of Ulster on December 4, 2006 (the “Property”); and

WHEREAS, Birches at Chambers Senior Housing, L.P., a New York limited partnership (the “Partnership”) will hold beneficial and equitable leasehold title to the Property for the purpose of operating thereon a “housing project”, as such term is defined in Section 572 of the Private Housing Finance Law of the State of New York; and

WHEREAS, Birchez Associates, LLC, as sponsor of the HDFC and affiliate of the Partnership, has requested on behalf of the HDFC and the Partnership that the Town Board of the Town of Ulster (the “Town Board”) take the following action regarding the Property:

Approve a partial exemption of the Property from real property taxes pursuant to Section 577 of the Private Housing Finance Law of the State of New York (the “Tax Exemption”); and

WHEREAS, the Town Board has considered the financial implications of this request and finds that it is desirable and in the public interest for the Town of Ulster to grant such Tax Exemption to encourage a sufficient supply of adequate, safe, and affordable housing for senior citizens in the Town of Ulster; and

WHEREAS, the proposed action is consistent with the Town of Ulster Zoning Code and the density provisions relating to low to moderate income senior housing as set forth in the Town of Ulster Zoning Code, Sections 190-251 and 190-25F(1), specifically:

The proposed “housing project” to be developed on the Property, when combined with the existing low to moderate income housing units on the 11.7 acre lot, constitutes more than the permitted number of market rate units for the site area;

Pursuant to Section 190-25 F (1), The Town Board may approve a greater density where the additional units are for low to moderate income housing purposes;

All of the units proposed (and all of the existing units) are intended for this under-served population; and

WHEREAS, pursuant to a resolution duly adopted by vote of the Town Board on December 4, 2006, the Town Board exercised its authority to approve a greater density for the site area in accordance with Section 190-25F(1) of the Town of Ulster Zoning Code;

WHEREAS, annexed hereto as Exhibit A is a proposed form of agreement between the Town of Ulster and the HDFC (the “Agreement”) providing for exemption of the Property from local and municipal taxes and for payments by the Partnership in lieu of such taxes, in the amounts and on the terms set forth therein; and

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NOW, THEREFORE BE IT HEREBY RESOLVED, that the Town Board hereby grants an exemption from real property taxes to the Property as follows:

an exemption is granted from local and municipal taxes, other than special district taxes and assessments for local improvements, of 100% of the value of the Property, including land and improvements, commencing upon the date the HDFC acquires legal title to the Property (the "Effective Date") and terminating on the last day of the calendar year in which the Property's permanent mortgage financing provided by the New York State Housing Finance Agency matures (the "Expiration Date"), which mortgage financing includes a construction period of up to two (2) years followed by a thirty (30) year permanent term; and

commencing upon the Effective Date and during each year thereafter until and including the Expiration Date, the Partnership, as beneficial and equitable owner of the Property, shall make payments in lieu of such local and municipal taxes in the annual amount of One Hundred Dollars (\$100.00) per dwelling unit of the housing project located thereon, with an annual increase in an amount equal to two percent (2%) of any increase in annual rental income for such unit over the preceding year; and be it further

RESOLVED, that the Town Board hereby approves the terms and conditions of the Agreement, in substantially the form annexed hereto as Exhibit A; and be it further

RESOLVED, that the Deputy Supervisor of the Town of Ulster is hereby authorized and directed to execute and deliver an agreement on behalf of the Town of Ulster, and the Deputy Supervisor and Assessor of the Town of Ulster are authorized and directed to take any and all actions necessary and/or required to effectuate such Tax Exemption.

2nd by Councilman Secreto

Councilman Kitchen feels that numerous issues were resolved except that, by creating a lease hold agreement, the town is creating a sub-division.

Special Council Futerfas noted for the record that in the executive session many legal concerns were addressed and that the attorney client privilege applies to that meeting as well.

A Roll Call Vote was taken – Three Ayes – 1 Nay by Councilman Kitchen – Supervisor Woerner was absent

Supervisor Woerner assumed the chair from Deputy Supervisor Artist at 9:30 PM.

Mr. William J. Kemble noted that the attorney client privilege does not apply to an executive session and that it was not declared when entering the session.

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Shirley Gaffney, Mrs. Houghtaling, Alice Tipp, and Frances Fatum thanked the Town Board for approving the PILOT.

Edward Fox thanked Councilman Kitchen for his vote against the PILOT.

Councilman Secreto motioned to adjourn the meeting at 9:35 PM
2nd by Councilman Joel B. Brink
All Ayes

Respectfully Submitted by
Jason Cosenza, RMC FHCO
Ulster Town Clerk

EXHIBIT A

Form of Agreement

TAX ABATEMENT AGREEMENT

THIS TAX ABATEMENT AGREEMENT (the "Agreement") is dated as of December 4, 2008, by and among the **Town of Ulster**, a municipal corporation existing and organized under the laws of the State of New York having an office at 1 Town Hall Road, Lake Katrine, New York (the "Town"), **Birches at Chambers Housing Development Fund Company, Inc.**, a housing development fund company formed pursuant to Article XI of the Private Housing Finance Law of the State of New York (the "PHFL") having an office at 104 Smith Avenue, Kingston, New York 12401 (the "HDFC"), and **Birches at Chambers Senior Housing, L.P.**, a New York limited partnership having an office at 104 Smith Avenue, Kingston, New York 12401 (the "Partnership").

WHEREAS, the Town desires to encourage a sufficient supply of adequate, safe and affordable dwelling accommodations for senior citizens in the Town of Ulster, County of Ulster, State of New York; and

WHEREAS, Birchez Associates, LLC, a New York limited liability company ("Birchez LLC") has caused the HDFC to be formed with the approval the Commissioner of the New York State Division of Housing and Community Renewal, for the purpose of providing residential rental accommodations for persons and families of low-income; and

WHEREAS, Birchez LLC has also caused the Partnership to be formed for the purpose of providing residential rental accommodations for persons and families of low-income; and

WHEREAS, the HDFC shall hold bare legal, or record, title to a leasehold interest in a certain portion of an 11.7-acre lot located in the Town identified as tax map number 48.49-1-20.110 on the Official Tax Map of Ulster County, as more particularly set forth in a site plan approved by the Town of Ulster on December 4, 2006 (the "Property"); and

WHEREAS, the Partnership shall hold beneficial and equitable title to a leasehold interest in the Property in accordance with a certain declaration of interest and nominee agreement by and between the HDFC and the Partnership; and

WHEREAS, the HDFC and the Partnership plan to use the Property for the development and operation of a 67-unit rental housing development for low income senior citizens (the "Project"), which use constitutes a "housing project" as such term is defined in PHFL Section 572; and

WHEREAS, pursuant to PHFL Section 577, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed Project; and

WHEREAS, the Town Board of the Town of Ulster has determined that the development

and operation of the Project as affordable housing for senior citizens is beneficial to and in the best interests of the public; and

WHEREAS, the Town Board of the Town of Ulster approved and authorized the execution of this Agreement by Resolution, dated December 4, 2008;

NOW THEREFORE, it is hereby agreed by the parties as follows:

1. Definitions. As used this Agreement, the words or phrases listed below shall have the meanings indicated:

- (a) "Effective Date" shall mean the date the HDFC acquires fee title to the Property.
- (b) "Expiration Date" shall mean the last day of the calendar year in which the Property's permanent mortgage financing provided by the New York State Housing Finance Agency matures, which mortgage financing includes a construction period of up to two (2) years followed by a thirty (30) year permanent term, or such earlier date in accord with paragraph 3 hereof.
- (c) "Local and Municipal Taxes" shall mean any and all taxes levied by Ulster County, the Town of Ulster, the school district in which the Property is located, but shall not include special assessments for local improvements or taxes levied by any special district in which the Property is located.

2. Payments in Lieu of Taxes.

- (a) Except as otherwise set forth herein, commencing upon the Effective Date and terminating on the Expiration Date (the "Term"), the Town hereby exempts from all Local and Municipal Taxes one hundred percent (100%) of the value of the Property and the Project, including both land and improvements. The Partnership shall make payments in lieu of Local and Municipal Taxes in an annual amount equal to One Hundred and 00/100 Dollars (\$100.00) plus any increase due pursuant to Section 2(c) below.
- (b) Commencing upon initial lease-up of the Project, the Partnership shall make the annual payments described above directly to the Town tax collector. Each annual payment shall be computed on a calendar year basis and shall be due and payable on the first day of March for the preceding tax year.
- (c) The Partnership shall provide to the Town, on or before February 15th of each year of the Term, a statement from the chief financial officer or other officer of Partnership's general partner, confirming any increase in aggregate annual gross rental income over the aggregate annual gross

rental income described on the initial statement of aggregate annual gross rental income delivered to the Town following initial lease-up of the Project (the "Initial Rent Roll"). Any such increase shall result in an additional payment in lieu of Local and Municipal Taxes equal to two percent (2%) of such increase. A Project unit leased for the first time upon completion of such unit shall be included in the aggregate annual gross rental income described on the Initial Rent Roll for purposes of measuring any subsequent increase in aggregate annual gross rental income for subsequent tax years during the Term.

3. Termination. The tax exemption provided by this Agreement will continue throughout the Term provided that: (a) the Property continues to be used as housing facilities for persons and households of low income; and (b) either (i) the HDFC and the Partnership operate the Property in conformance with PHFL Article XI or (ii) the HDFC assumes sole legal (leasehold or fee) and beneficial ownership of the Property and operates the Property in conformance with PHFL Article XI.

4. Default. Any payment due hereunder which is not made on or before March 1st of any year during the Term will be enforced as if such payment was unpaid, delinquent real property taxes pursuant to Article Eleven of the Real Property Tax Law of the State of New York (the "RPTL") and shall have the same priority over all other taxes, liens and other interests in the premises as real property tax liens have, including governmental tax liens in a bankruptcy proceeding, however, upon default in payment and failure to cure upon thirty days notice, the Treasurer of the Town may commence a foreclosure proceeding by service of an in rem proceeding pursuant to Section 1125 of the RPTL. Filing of a list of delinquent taxes pursuant to Section 1122 of the RPTL is hereby waived, and publication and posting pursuant to Section 1124 of the RPTL is also waived. The HDFC Partnership each represent that they are the only parties that the Town needs serve in compliance of Section 1125 of the RPTL and makes this representation knowing that the tax districts are relying upon it. Modifications to this list can be made only prior to a default and only in writing. A foreclosure pursuant to the RPTL will automatically terminate this Agreement. Notwithstanding the foregoing provisions contained in this paragraph, HDFC and Partnership shall have the right to appear in any action brought against it seeking payment as aforesaid, to the extent that HDFC and Partnership shall always have the right to raise as a defense any or all of the following defenses: the illegality of the tax or taxes imposed.

5. Special District Taxes. Any special district taxes levied by any special district with respect to the Property for any year during the Term shall be based upon the assessed value of the Property determined in accordance with the income approach set forth in Section 581-a of the RPTL or any successor provision thereto. The Partnership shall deliver to the Town Tax Assessor before March 1st of each year during the Term the Partnership's most recent financial statement, independent auditor's report and rent roll, as required pursuant to Section 581-a of the RPTL and regulations promulgated thereunder.

6. Change in Assessment. The HDFC and Partnership shall receive advance notice

in the same manner as any other taxpayer for any change in assessment relating to the Property, and the HDFC and Partnership shall be entitled to protest, administratively and judicially any assessment placed on the Property irrespective of its exempt status. The HDFC and Partnership shall in all respects have the same administrative and legal rights and remedies with respect to the amounts it hereby obligates itself to pay in lieu of taxes, including judicial appeal thereof, as if it were a property owner not exempt from taxation.

7. Notices. All notices and other communications hereunder shall be in writing and shall be sufficiently given when delivered to the applicable address stated above (or such other address as the party to whom notice is given shall have specified to the party giving notice) by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery.

8. Binding on Successors. This Agreement shall inure to the benefit of and shall be binding upon the Town, the Partnership and the HDFC and their respective successors and assigns, including the successors in interest of the Partnership and the HDFC.

9. Severability. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

10. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all the signing parties had signed the same document. All counterparts shall be construed together and shall constitute the same instrument.


11. Representations and Warranties. Each of the parties hereto individually represents and warrants that the execution, delivery and performance of this Agreement, (i) has been duly authorized and does not require any other consent or approval, (ii) does not violate any article, bylaw or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound and (iii) will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. The Town represents that its execution of this Agreement shall constitute the legal, valid and binding agreement of the Town.

12. Entire Agreement. This Agreement constitutes the entire agreement of the parties relating to payments in lieu of taxes with respect to the above-described Property and supercedes all prior contracts, or agreements, whether oral or written, with respect thereto.

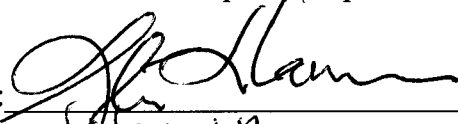
Remainder of page intentionally left blank.

IN WITNESS WHEREOF, the Town has caused this Agreement to be duly executed in its name and behalf of the Deputy Town Supervisor and its seal is to be hereunto duly affixed and attested; the HDFC has caused this Agreement to be duly executed in its name by its President on the Effective Date; and the Partnership has caused this Agreement to be duly executed in its name and behalf by the managing member of its General Partner on and as of the day first written above.

TOWN OF ULSTER,
a New York municipal corporation

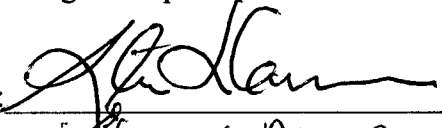
By: 
Name: Craig Artist
Title: Deputy Town Supervisor

BIRCHES AT CHAMBERS HOUSING
DEVELOPMENT FUND COMPANY, INC.,
a New York not-for-profit corporation

By: 
Name: Steven L. Acron
Title: President

BIRCHES AT CHAMBERS SENIOR HOUSING, L.P.,
a New York limited partnership

By: Birches at Chambers LLC,
its general partner

By: 
Name: Steven L. Acron
Title: managing member

STATE OF NEW YORK)
) SS.:
COUNTY OF Ulster)

On the 5th day of December, 2008, before me the undersigned, a Notary Public in and for the State of New York, personally appeared Craig Artist, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/her capacity and that by his/~~her~~ signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Jason Cosenza
Notary Public State of New York
No. 01CO6008297
Qualified in Ulster County
Commission Expires June 8, 2010

Jason Cosenza
Notary Public

STATE OF NEW YORK)
) SS.:
COUNTY OF Ulster)

On the 5th day of December, 2008, before me the undersigned, a Notary Public in and for the State of New York, personally appeared Steven L. Aaron, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/her capacity and that by his/~~her~~ signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Jason Cosenza
Notary Public State of New York
No. 01CO6008297
Qualified in Ulster County
Commission Expires June 8, 2010

Jason Cosenza
Notary Public

STATE OF NEW YORK)
) SS.:
COUNTY OF Ulster)

On the 5th day of December, 2008, before me the undersigned, a Notary Public in and for the State of New York, personally appeared Steven L. Aaron, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/her capacity and that by his/~~her~~ signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Jason Cosenza
Notary Public State of New York
No. 01CO6008297
Qualified in Ulster County
Commission Expires June 8, 2010

Jason Cosenza
Notary Public

**Remarks of Joseph R. Pisani, Esq to the Town Board, Town of Ulster at
a Town Board Meeting, December 3rd, 2008**

1. On December 4, 2006, the Town Board adopted a Resolution providing for the Issuance of Special Permit and Site Plan Approval for Chambers Phase II. Therein reference was made that the subdivision action “has since been withdrawn,” and the Town utilized a “combined usage of Chambers I and Chambers II which falls within the permitted density requirements of the Town Code.” Now, after a combined usage was used for purposes of satisfy the Town’s density requirements, it appears that the proposed Phase II land will be leased and somehow a separate tax map number will be assigned without a Planning Board approval of the same or legally subdivided lot. The December 4, 2006, Resolution also provided that “this Approval shall be deemed to authorize only the particular site use and improvements specified herein, *and shall be null and void without further written notice, if revised Site Plans are not signed as final within six (6) months as required above, or a Building Permit is not obtained and work initiated thereto pursuant thereto within one (1) year ...*” Was a Building Permit ever issued by December 4, 2007? If not, the existing Special Permit and Site Plan Approval has expired. Moreover, an extension of these time

period *“may only be amended or extended by the Town Board, ad request made in writing a minimum of forty-five (45) days prior to the expiration date.”* *Was an extension ever granted by the Town Board.* If not, the Special Permit and Site Plan Approval has expired and needs to go back to the Town Planning Board.

2. If the Town desires to carve out a new Phase II from the existing Project, that constitutes a “Project Change” requiring Planning Board Approval or *super majority Town Board approval* under Article V of Private Housing Finance Law (Section 115). This is the substances of the Second Cause of Action for the pending Article 78 Petition filed by Quigley upon which a decision is expected soon.

3. If Phase II land will be conveyed, leased or transferred from the existing Project then this requires Town Board approval under Article V of the PHFL (Section 122). This is the substance of the Fifth Cause of Action for the pending Article 78 Petition filed by Quigley upon which a decision is expected soon.

4. The proposed Town Board Resolution for Phase II HDFC PILOT under Article XI of the PHFL should be conditioned upon the consent of NYS DHCR to create the entity and due formation with New York Department of State.

5. The proposed PILOT for Phase II provides \$100 per unit; Town/Village of Warwick, for example, signed a PILOT (HDFC) during October 2008 for an affordable senior housing project under Article XI of the PHFL for \$275 per unit. *Why is the Town of Ulster accepting \$175 less per unit (or 173% less per unit in comparison)? Has the Town even researched what the going rate is for PILOT payments from developers other than Steven Aaron in other local municipalities in New York State? If so, which projects and where are they located? How does the Town of Ulster know whether it is getting a fair deal for its taxpayers?*

6. Section 4 of proposed PILOT for Phase II is problematic for the Town of Ulster. If the HDFC does not pay PILOT payments, Town should have right to treat them as delinquent taxes and lien the project. Section 4 forces the Town to sue the developer and get a judgment lien, not a tax lien. This is highly unusual and highly favorable to the developer. Also, Section 4 gives

the authority to demand payment to the Supervisor (not Town Board). Why is the Supervisor alone given this authority and not the Town Board?

7. Section 5 of the proposed PILOT should not tie the Town's hands. The Project must first qualify for Section 581-a treatment of the Real Property Tax Law. The Town should not be required to use a 581-a analysis if the Project does not qualify and does not provide the required financial statements, etc.