

**TOWN OF WEST NEW YORK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE #1/17

AN ORDINANCE OF THE TOWN OF WEST NEW YORK, COUNTY OF HUDSON NEW JERSEY APPROVING APPLICATION AND AUTHORIZING THE MAYOR AND TOWN CLERK TO EXECUTE A FINANCIAL AGREEMENT BY AND BETWEEN THE TOWN OF WEST NEW YORK AND RIVERWALK C URBAN RENEWAL, L.L.C. PURSUANT TO N.J.S.A. 40A:20-1 ET SEQ. FOR PROPERTY LOCATED ON LOT 7.07 IN BLOCK 168.01, AS SHOWN ON THE OFFICIAL TAX MAP OF THE TOWN OF WEST NEW YORK, LOCATED IN A REDEVELOPMENT AREA

BE IT ORDAINED by the Board of Commissioners of the Town of West New York that:

Section 1. On the basis of a preliminary investigation and recommendation of the Planning Board of the Town pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., the Board of Commissioners of the Town determined that certain property known as waterfront property and more particularly described, at that time, on the Tax Maps as Block 168, Lots 3, 3.01, 4, 4.01, 5, 6, 6.01, 7, 7.01 and all air rights and riparian rights attached or associated with these parcels should be classified as a redevelopment area in accordance with N.J.S.A. 40A:12A-5 (the “Redevelopment Area”).

Section 2. On April 17, 1996, the Board of Commissioners passed Ordinance 16/96, adopting the redevelopment plan of the Town of West New York for the Redevelopment Area (the “Redevelopment Plan”).

Section 3. The Redevelopment Plan calls for the Redevelopment Area to be developed as a mixed residential community consisting of approximately 4,060 apartment and condominium units, 100,000 square feet of neighborhood retail space, and associated uses, including roadways, parking facilities, walkways, parks and other recreational amenities (collectively, the “Improvements”).

Section 4. The Board of Commissioners designated Roseland/Port Imperial, L.L.C. (“RPI”) as the redeveloper of the Redevelopment Area and has entered into the Redeveloper Agreement dated September 19, 1996 with RPI, setting forth the terms and conditions by which RPI will construct the Improvements within the Redevelopment Area (the “Redeveloper Agreement”).

Section 5. The rights and obligations of RPI under the Redeveloper Agreement have been assigned to and assumed by its affiliate Roseland/Port Imperial Partners, L.P. (“Roseland”) in accordance with the Redeveloper Agreement and Roseland acquired title to the lands within the Redevelopment Area.

Section 6. Upon obtaining the Town’s consent, as required by the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-9, and Article VI of the Redeveloper Agreement, that portion of the Redevelopment Area now described on the Tax Maps as Lot 7.07 in Block 168.01 (the “Project Area”) was conveyed to the Riverwalk C Urban Renewal, L.L.C. (the “Entity”).

Section 7. The Entity and the Town entered into that certain Financial Agreement made as of October 8, 2003 (the “Original Financial Agreement”) for the construction of approximately 332 residential apartment units and approximately 45,700 square feet of retail space, along with associated roadways and recreational facilities.

Section 8. With the Town’s consent, the Project Area and the Original Financial Agreement were transferred and assigned to K. Hovnanian At Port Imperial Urban Renewal IV, L.L.C. (“KHov”).

Section 9. KHov obtained Amended Site Plan Approval for the Project Area by Planning Board Resolution adopted on November 9, 2005 and memorialized on December 14, 2005 and obtained Amended Final Site Plan Approval for the Project Area (and Lots 7.08 and 7.09) by Planning Board Resolution adopted and memorialized on September 27, 2006.

Section 10. With the Town's consent, the Project Area and the Original Financial Agreement were transferred back to the Entity by KHov.

Section 11. The Entity now proposes to construct approximately 360 residential apartment units and approximately 26,000 square feet of retail space, along with associated roadways and recreational facilities (the "Project") in the Project Area.

Section 12. Pursuant to and in accordance with the provisions of the Long Term Tax Exemption Law, constituting Chapter 431 of the Pamphlet Laws of 1991 of the State, and the acts amendatory thereof and supplement thereto (the "Long Term Tax Exemption Law", as codified in N.J.S.A. 40A:20-1 et seq.), the Town is authorized to provide for tax abatement within a redevelopment area and for payments in lieu of taxes.

Section 13. The Entity has submitted an application for the approval of a Project, as such term is used in the Long Term Tax Exemption Law, all in accordance with N.J.S.A. 40A:20-8 (the "Exemption Application", a copy of which is attached hereto as Exhibit A).

Section 13. The Exemption Application requests a 30-year term for a financial agreement and an annual service charge based on 10% of annual gross revenues from the Project.

Section 14. The Town and the Entity desire to terminate the Original Financial Agreement, effective automatically as of the date a new financial agreement has been executed and delivered, and to replace the Original Financial Agreement, in its entirety, with the new financial agreement.

Section 15. The Town and the Redeveloper have reached agreement with respect to, among other things, the terms and conditions relating to the Annual Service Charges and desire to execute a new financial agreement.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Commissioners of the Town of West New York, County of Hudson, New Jersey, as follows:

Section 1. The Town acknowledges that Riverwalk C Urban Renewal, L.L.C., by effectuating the redevelopment, will provide significant and long-term benefits to the Town.

Section 2. The Town makes the following findings:

- A. Relative benefits of the Project when compared to the costs:
 1. The projected Annual Service Charge will generate average revenue to the Town of approximately \$1,872,191 annually over the term.
 2. It is estimated that the Project will create a significant number of jobs during construction and permanent jobs for management and maintenance of the residential building and retail uses.
 3. The Project should stabilize and contribute to the economic growth of existing local business and to the creation of new business, which will serve the new residents and attract additional people to the Town.
 4. The Project will further the redevelopment objectives of the Redevelopment Plan for the Redevelopment Area; and

5. The Town has determined that the benefits of the Project significantly outweigh the costs to the Town.

B. Assessment of the importance of the Tax Exemption defined in obtaining development of the Project and influencing the locational decisions of probable occupants:

1. The relative stability and predictability of the Annual Service Charge will make the Project more attractive to investors and lenders needed to finance the Project; and

2. The relative stability and predictability of the Annual Service Charge will allow stabilization of the Project operating budget, allowing a high level of urban design, aesthetics and amenities as well as the use of high quality materials which will maintain the appearance of the buildings over the life of the Project, which will insure the likelihood of the success of the Project and insure that it will have a positive impact on the surrounding area.

Section 3. The Exemption Application is hereby accepted and approved.

Section 4. The Financial Agreement shall be for a 25-year term with an annual service charge based on twelve (12%) percent for each of years 1-9, thirteen (13%) percent for each of years 10-18 and fourteen (14%) percent for each of years 19-25 of annual gross revenues from the Project in accordance with the Long Term Tax Exemption Law.

Section 5. The Financial Agreement shall also include prepayments of annual service charges by the Entity in the total amount of \$1,800,000 and the Entity shall receive a credit in this amount against future annual service charges for six (6) consecutive years, commencing with year 5 and continuing through and including year 10.

Section 6. The Financial Agreement is hereby authorized to be executed and delivered on behalf of the Town by the Mayor in substantially the form attached hereto as Exhibit B. The Town Clerk is hereby authorized and directed to attest to the execution of the Financial Agreement by the Mayor and to affix the corporate seal of the Town to the Financial Agreement. Upon execution of the Financial Agreement, the Town Clerk shall submit a copy of the Financial Agreement to the State Department of Community Affairs and the County of Hudson.

Section 7. This ordinance shall take effect upon final passage and publication as required by law.

Introduced: 1/19/2017

Adopted: 2/16/2017

Statement

The foregoing ordinance having been previously adopted for first reading and published was further considered by the Mayor and Board of Commissioners of the Town of West New York on **February 16, 2017** and at said date was duly and finally adopted after public hearing thereon.

Carmela Riccio, RMC
Town Clerk

Commissioner Cosmo A. Cirillo

Commissioner Susan M. Colacurcio

Commissioner Margarita Guzman

Commissioner Gabriel Rodriguez

Mayor Felix E. Roque
BOARD OF COMMISSIONERS

Attest: _____
Carmela Riccio, RMC
Town Clerk

EXHIBIT A

EXEMPTION APPLICATION

EXHIBIT B

FORM OF FINANCIAL AGREEMENT