

Town Board Meeting, Wednesday, March 8, 2023

A special meeting of the Victor Town Board was held on March 8, 2023, starting at 4:00 PM in the Supervisor's Conference Room of the Victor Town Hall.

**PRESENT:** Supervisor Marren  
Councilman Condon  
Councilman Guinan

**ABSENT:** Councilman Cusimano Councilman Kahovec

**ALSO PRESENT:** Karen Bodine - Town Clerk; Emma Powlin - Attorney for Harris Beach

Supervisor Marren called to order the Special Meeting of the Town Board @ 4:03PM

**BUSINESS:**

**AUTHORIZING RESOLUTION**

(Framark Place Apartments' — Authorizing Transfer and PILOT Agreement)

A regular meeting of the Town Board of the Town of Victor was convened on March 8, 2023.

Resolution No. 90

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF VICTOR (THE "TOWN") AUTHORIZING (i) THE TRANSFER OF A CERTAIN AFFORDABLE HOUSING FACILITY (AS FURTHER DEFINED HEREIN) FROM FRAMARK PLACE APARTMENTS, L.P. (HEREIN, THE "OWNER") TO PROVIDENCE FRAMARK HOUSING DEVELOPMENT FUND COMPANY, INC; (ii) THE DISSOLUTION OF THE OWNER IN ACCORDANCE WITH ARTICLE V OF THE PRIVATE HOUSING FINANCE LAW ("PHFL"), (iii) THE PROVISION OF A REAL PROPERTY TAX EXEMPTION AND RELATED PAYMENT IN LIEU OF TAX AGREEMENT ("PILOT AGREEMENT") FOR THE BENEFIT OF THE BUYER IN ACCORDANCE WITH ARTICLE XI OF THE PHFL; AND (iv) THE EXECUTION AND DELIVERY OF THE PILOT AGREEMENT, ALONG WITH RELATED DOCUMENTS.

WHEREAS, by a certain resolution adopted February 25, 2002, and amended by resolution adopted February 10, 2003 (collectively, the "Prior Exemption Resolution"), the Town of Victor (the "Town"), as Supervisory Agency pursuant to Article V of the Private Housing Finance Law ("PHFL"), authorized a partial real property tax exemption (the "Prior Exemption") for the benefit of Framark Place Apartments, L.P. (the "Owner"), a New York limited partnership and redevelopment company established pursuant to Article V of the PHFL and relating to the development of a certain affordable senior housing project (herein the "Project") consisting of 50 affordable living apartments, along with related improvements, collectively known as "Framark Place Apartments" and located at 4 Framark Drive in the Village of Victor, Ontario County, New York (the "Property", which is more particularly described as Tax Map No. 28.05-1-50.217); and

WHEREAS, in accordance with the Prior Exemption Resolution and pursuant to Section 125 of the PHFL, the Town and Owner entered into a certain Redevelopment Company Agreement, dated as of June 20, 2003 (herein, the "Owner PILOT Agreement"), wherein the Owner is required to make certain payments to the Town in lieu of real property taxes equal to 10% of the Owner's annual

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"shelter rent" (as defined therein) for a term of twenty-five (25) years through the assessment year 2029, unless terminated sooner; and

WHEREAS, the Owner has entered into a certain purchase and sale agreement, dated as of December 13, 2021, with Providence Framark Housing Development Fund Company, Inc. (the "Company" or "HDFC") relating to the acquisition of the Property by the HDFC from the Owner (the "Transfer"), with such Transfer being subject to the approval of the Town pursuant to Section 122 of the PHFL and

WHEREAS, the HDFC has been established as a "housing development fund company" and upon acquisition, the Company's ownership of the Property shall constitute a "housing project" as such terms are defined within Section 572 of the PHFL; and

WHEREAS, the HDFC and Framark Place Partners LLC, a New York limited liability company (the "Beneficial Owner") intend to enter into a certain Declaration on Interest and Nominee Agreement (herein, the "Nominee Agreement"), whereby the HDFC shall hold legal title to the Property solely as nominee for and on behalf of the Beneficial Owner, with the Beneficial Owner retaining all of the equitable and beneficial ownership of the Project and Property, which in all events shall be owned by the Beneficial Owner and operated by the Beneficial Owner as an affordable housing project pursuant to and in accordance with the Nominee Agreement and that certain Regulatory Agreement entered into by the Owner and the New York State Housing Finance Agency, dated as of July 1, 2004, amended August 15, 2005, and to be assigned to the Company (collectively, the "Regulatory Agreement"); and

WHEREAS, in furtherance of the Transfer, the Town, the HDFC and the Beneficial Owner have negotiated a certain successor Payment in-lieu-of Taxes Agreement (the "PILOT Agreement") pursuant to Section 577 of the PHFL, whereby the HDFC will make (or cause to be made by the Beneficial Owner pursuant to the Nominee Agreement) certain PILOT Payments for the benefit of the affected taxing jurisdictions including the Town, Village of Victor, County of Ontario and Victor Central School District; and

WHEREAS, pursuant to PHFL Section 123(4), the Transfer will require the voluntary dissolution of the Owner subject to the consent of the Town (the "Dissolution Approval"); and

WHEREAS, pursuant to PHFL Section 123(3), the Dissolution Approval requires that provisions be made for payment in full of the remaining balance of principal and interest due or unpaid upon any mortgage upon Property; and

WHEREAS, pursuant to PHFL Section 123(2), and upon termination of the Prior Exemption, the Owner is required to pay over to the Town any surplus funds held by Former Owner (the "Surplus Payment"), after payment by the Owner to applicable shareholders, partners, members or beneficiaries, and as the case may be, income debenture certificate holders, of no more than the par value of their shares or amount of their capital and the face value of their income debenture certificates with accrued and unpaid distributions or interest in respect of such capital and income debenture certificates; and

WHEREAS, pursuant to PHFL Section 123(1), if the Prior Exemption is terminated for any reason, the Town may require payment by the Owner of all or portions of the total of all accrued taxes for which the Prior Exemption was granted (the "Tax Payment"); and

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WHEREAS, subject to the conditions set forth herein, including payment by the Owner of the Surplus Payment and Tax Payment, the Town desires to (i) authorize the Transfer; (ii) provide the Dissolution Approval for the Owner; (iii) provide the Company with an exemption from real property taxes pursuant to Section 125 of the PHFL; and (iv) authorize the execution and delivery of the PILOT Agreement with the Company, along with related documents.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF VICTOR AS FOLLOWS:

Section 1. Pursuant to PHFL Sections 122 and 123(4), the Town as Supervisory Agency hereby authorizes and consents to the Transfer and hereby provides the Dissolution Approval, subject to the following conditions:

(a) Prior to the date of Transfer, Owner and the Company shall certify to the Town, acting by and through the Supervisor of the Town (the "Supervisor") and Town Attorney, that as of the date of Transfer, provisions shall be made for payment in full of the remaining balance of principal and interest due or unpaid upon any mortgage upon the Property;

(b) In furtherance of the Property remaining an affordable housing project pursuant to Article XI of the PHFL, the Town hereby waives any applicable Tax Payment that would otherwise be due in connection with the termination of the Owner PILOT Agreement;

(c) Prior to the date of Transfer, the Owner shall certify to the Town, acting by and through the Supervisor and Town Attorney, the amount of Surplus Payment, such certification to be accompanied with audited financial statements, and as of the date of Transfer, Owner shall pay all applicable amounts of Surplus Payment to the Town, plus all outstanding fees of the Town accrued in connection with reviewing and approving the matters outlined herein;

(d) On or before the date of Transfer, the Company shall provide the Town with confirmation of the assumption of the Regulatory Agreement relating to the Project and Property;

(e) On or before the date of Transfer, Owner and Company shall confirm title transfer with the Town, including the provision of the applicable deed, closing statement, mortgage discharge(s) and related documents; and

(f) On or as of the date of Transfer, the Company shall execute and deliver the PILOT Agreement, along with related documents, and pay or cause to be paid all outstanding and accrued fees of the Town incurred through and including the date of Transfer.

Section 2. Subject to the completion of the Transfer through acquisition of the Property by the Company in accordance with the terms contained herein, and pursuant to and in accordance with Section 577 of the PHFL, the Town hereby authorizes and approves an exemption from real estate taxes for the Property for the benefit of the HDFC and Property, subject to the Company's execution of the PILOT Agreement.

Section 3. The Town hereby authorizes the Supervisor to execute and deliver (i) documents and certificates necessary in connection with the Dissolution of the Owner; and (ii) the PILOT Agreement, in substantially the form attached hereto as Exhibit A, with such changes as may be authorized by the Supervisor and Town Attorney.

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Section 4. The officers, employees and agents of the Town are hereby authorized and directed for and in the name and on behalf of the Town to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Town with all of the terms, covenants and provisions of the documents executed for and on behalf of the Town.

Section 5. These Resolutions shall take effect immediately.

On Motion by Councilman Condon, seconded by Councilman Guinan the following resolution was adopted and duly put to a roll call vote:

	Yea		Absent	Abstain
Jack Marren	X			
David Condon	X			
Michael Guinan	X			
Ed Kahovec			X	
Drew Cusimano			X	

as thereupon duly adopted.

**AUTHORIZING RESOLUTION**

(Victor Senior Apartments Authorizing Transfer and PILOT Agreement)

A regular meeting of the Town Board of the Town of Victor was convened on March 8, 2023.  
Resolution No. 91

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF VICTOR (THE "TOWN") AUTHORIZING (i) THE TRANSFER OF A CERTAIN AFFORDABLE HOUSING FACILITY (AS FURTHER DEFINED HEREIN) FROM VICTOR SENIOR APARTMENTS, LP (HEREIN, THE "OWNER") TO PROVIDENCE VILLAGE HOUSING DEVELOPMENT FUND COMPANY, INC; (ii) THE DISSOLUTION OF THE OWNER IN ACCORDANCE WITH ARTICLE V OF THE PRIVATE HOUSING FINANCE LAW ("PHFL"); (iii) THE PROVISION OF A REAL PROPERTY TAX EXEMPTION AND RELATED PAYMENT IN LIEU OF TAX AGREEMENT ("PILOT AGREEMENT") FOR THE BENEFIT OF THE BUYER IN ACCORDANCE WITH ARTICLE XI OF THE PHFL; AND (iv) THE EXECUTION AND DELIVERY OF THE PILOT AGREEMENT, ALONG WITH RELATED DOCUMENTS.

WHEREAS, by a certain resolution adopted November 9, 1998 (the "Prior Exemption Resolution"), the Town of Victor (the "Town"), as Supervisory Agency pursuant to Article V of the Private Housing Finance Law ("PHFL"), authorized a partial real property tax exemption (the "Prior Exemption") for the benefit of Victor Senior Apartments, LP (the "Owner"), a New York limited

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partnership and redevelopment company established pursuant to Article V of the PI-IFL and relating to the development of a certain affordable senior housing project (herein the "Project") consisting of 24 affordable living apartments, along with related improvements, collectively known as "Victor Senior Apartments" and located at 2 Framark Drive in the Village of Victor, Ontario County, New York (the "Property", which is more particularly described as Tax Map No. 28.05-1-50.211); and

WHEREAS, in accordance with the Prior Exemption Resolution and pursuant to Section 125 of the PHFL, the Town and Owner entered into a certain Redevelopment Company Agreement, dated as of November 19, 1998 (herein, the "Owner PILOT Agreement"), wherein the Owner is required to make certain payments to the Town in lieu of real property taxes equal to 10% of the Owner's annual "shelter rent" (as defined therein) for a term of twenty-five (25) years through the assessment year 2024, unless terminated sooner; and

WHEREAS, the Owner has entered into a certain purchase and sale agreement, dated as of December 13, 2021, with Providence Village Housing Development Fund Company, Inc. (the "Company" or "HDFC") relating to the acquisition of the Property by the HDFC from the Owner (the "Transfer"), with such Transfer being subject to the approval of the Town pursuant to Section 122 of the PHFL; and

WHEREAS, the HDFC has been established as a "housing development fund company" and upon acquisition, the Company's ownership of the Property shall constitute a "housing project" as such terms are defined within Section 572 of the PHFL; and

WHEREAS, the HDFC and Village Place LLC, a New York limited liability company (the "Beneficial Owner") intend to enter into a certain Declaration on Interest and Nominee Agreement (herein, the "Nominee Agreement"), whereby the HDFC shall hold legal title to the Property solely as nominee for and on behalf of the Beneficial Owner, with the Beneficial Owner retaining all of the equitable and beneficial ownership of the Project and Property, which in all events shall be owned by the Beneficial Owner and operated by the Beneficial Owner as an affordable housing project pursuant to and in accordance with the Nominee Agreement and that certain Regulatory Agreement entered into by the Owner and the Housing Trust Fund Corporation, dated as of August 25, 1999 and the New York State Division of Housing and Community Renewal, dated as of September 16, 1999, and to be assigned to the Company and further amended as of the Commencement Date (collectively, the "Regulatory Agreement"); and

WHEREAS, in furtherance of the Transfer, the Town, the HDFC and the Beneficial Owner have negotiated a certain successor Payment in-lieu-of Taxes Agreement (the "PILOT Agreement") pursuant to Section 577 of the PHFL, whereby the HDFC will make (or cause to be made by the Beneficial Owner pursuant to the Nominee Agreement) certain PILOT Payments for the benefit of the affected taxing jurisdictions including the Town,, Village of Victor, County of Ontario and Victor Central School District; and

WHEREAS, pursuant to PHFL Section 123(4), the Transfer will require the voluntary dissolution of the Owner subject to the consent of the Town (the "Dissolution Approval"); and

WHEREAS, pursuant to PHFL Section 123(3), the Dissolution Approval requires that provisions be made for payment in full of the remaining balance of principal and interest due or unpaid upon any mortgage upon Property; and

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WHEREAS, pursuant to PHFL Section 123(2), and upon termination of the Prior Exemption, the Owner is required to pay over to the Town any surplus funds held by Former Owner (the "Surplus Payment"), after payment by the Owner to applicable shareholders, partners, members or beneficiaries, and as the case may be, income debenture certificate holders, of no more than the par value of their shares or amount of their capital and the face value of their income debenture certificates with accrued and unpaid distributions or interest in respect of such capital and income debenture certificates; and

WHEREAS, pursuant to PHFL Section 123(1), if the Prior Exemption is terminated for any reason, the Town may require payment by the Owner of all or portions of the total of all accrued taxes for which the Prior Exemption was granted (the "Tax Payment"); and

WHEREAS, subject to the conditions set forth herein, including payment by the Owner of the Surplus Payment and Tax Payment, the Town desires to (i) authorize the Transfer; (ii) provide the Dissolution Approval for the Owner; (iii) provide the Company with an exemption from real property taxes pursuant to Section 125 of the PHFL; and (iv) authorize the execution and delivery of the PILOT Agreement with the Company, along with related documents.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF VICTOR AS FOLLOWS:

Section 1. Pursuant to PHFL Sections 122 and 123(4), the Town as Supervisory Agency hereby authorizes and consents to the Transfer and hereby provides the Dissolution Approval, subject to the following conditions:

(a) Prior to the date of Transfer, Owner and the Company shall certify to the Town, acting by and through the Supervisor of the Town (the "Supervisor") and Town Attorney, that as of the date of Transfer, provisions shall be made for payment in full of the remaining balance of principal and interest due or unpaid upon any mortgage upon the Property;

(b) In furtherance of the Property remaining an affordable housing project pursuant to Article XI of the PHFL, the Town hereby waives any applicable Tax Payment that would otherwise be due in connection with the termination of the Owner PILOT Agreement;

(c) Prior to the date of Transfer, the Owner shall certify to the Town, acting by and through the Supervisor and Town Attorney, the amount of Surplus Payment, such certification to be accompanied with audited financial statements, and as of the date of Transfer, Owner shall pay all applicable amounts of Surplus Payment to the Town, plus all outstanding fees of the Town accrued in connection with reviewing and approving the matters outlined herein;

(d) On or before the date of Transfer, the Company shall provide the Town with confirmation of the assumption of the Regulatory Agreement relating to the Project and Property;

(e) On or before the date of Transfer, Owner and Company shall confirm title transfer with the Town, including the provision of the applicable deed, closing statement, mortgage discharge(s) and related documents; and

(f) On or as of the date of Transfer, the Company shall execute and deliver the PILOT Agreement, along with related documents, and pay or cause to be paid all outstanding and accrued fees of the Town incurred through and including the date of Transfer.

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Section 2. Subject to the completion of the Transfer through acquisition of the Property by the Company in accordance with the terms contained herein, and pursuant to and in accordance with Section 577 of the PHFL, the Town hereby authorizes and approves an exemption from real estate taxes for the Property for the benefit of the HDFC and Property, subject to the Company's execution of the PILOT Agreement.

Section 3. The Town hereby authorizes the Supervisor to execute and deliver (i) documents and certificates necessary in connection with the Dissolution of the Owner; and (ii) the PILOT Agreement, in substantially the form attached hereto as Exhibit A, with such changes as may be authorized by the Supervisor and Town Attorney.

Section 4. The officers, employees and agents of the Town are hereby authorized and directed for and in the name and on behalf of the Town to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Town with all of the terms, covenants and provisions of the documents executed for and on behalf of the Town.

Section 5. These Resolutions shall take effect immediately.

On Motion by Supervisor Marren, seconded by Councilman Condon the following resolution was adopted and duly put to a roll call vote:

	Yea		Absent	Abstain
Jack Marren	X			
David Condon	X			
Michael Guinan	X			
Ed Kahovec			X	
Drew Cusimano			X	

The Resolution was thereupon duly adopted.

**ADJOURNMENT**

With no further business to come before the Board, motion was made by Councilman Guinan, seconded by Councilman Condon to adjourn the Special Town Board meeting at 4:09 PM.

Respectfully submitted,

Karen C. Bodine- Town Clerk