

Introduced by Presiding Officer, on request of the County Executive and Legislator Gregory

**RESOLUTION NO. 486 -2009, AUTHORIZING THE SALE OF COUNTY-OWNED REAL PROPERTY PURSUANT TO SECTION 72-H OF THE GENERAL MUNICIPAL LAW TO THE TOWN OF BABYLON FOR AFFORDABLE HOUSING PURPOSES**

**WHEREAS**, the County of Suffolk is the fee owner of the following described parcels: **(SCTM No. 0100-058.00-04.00-029.000)**

**ALL**, that certain plot, piece or parcel of land, with any buildings and improvements thereon erected, situate, lying and being in the Town of Babylon, County of Suffolk, and State of New York, described on the Tax Map of the Suffolk County Real Property Tax Service Agency as District 0100, Section 058.00, Block 04.00, Lot 029.000, and acquired by tax deed on July 12, 2001, from Joseph Sawicki, Jr., as the Chief Deputy County Treasurer of Suffolk County, New York, and recorded on July 13, 2001, in Liber 12129, CP 657 and otherwise known as and by Town of Babylon, known and designated as Lot 82 in Block 33 on a certain map entitled "Map of Colonial Springs, Section 1", and filed in the Office of the Clerk of the County of Suffolk on March 16, 1926 as Map No. 223; and

**(SCTM No. 0100-058.00-04.00-030.000)**

**ALL**, that certain plot, piece or parcel of land, with any buildings and improvements thereon erected, situate, lying and being in the Town of Babylon, County of Suffolk, and State of New York, described on the Tax Map of the Suffolk County Real Property Tax Service Agency as District 0100, Section 058.00, Block 04.00, Lot 030.000, and acquired by tax deed on July 12, 2001, from Joseph Sawicki, Jr., as the Chief Deputy County Treasurer of Suffolk County, New York, and recorded on July 13, 2001, in Liber 12129, CP 657 and otherwise known as and by Town of Babylon, known and designated as Lots 83 and 84 in Block 33 on a certain map entitled "Map of Colonial Springs, Section 1", and filed in the Office of the Clerk of the County of Suffolk on March 16, 1926 as Map No. 223; and

**WHEREAS**, said parcels are surplus to the needs of the County of Suffolk; and

**WHEREAS**, Section 72-h of the General Municipal Law permits the sale of real property between Municipal Corporations; and

**WHEREAS**, the Town of Babylon, Suffolk County, New York, has requested the County of Suffolk convey the above-described parcel to it see annexed Resolution hereto marked as Exhibit "A"; and

**WHEREAS**, the transfer of these parcels are pursuant to and in accordance with Local Law Nos. 13-2000, 2-2002 and 17-2004 which established and modified the Affordable Housing Opportunities Program; and

**WHEREAS**, the Suffolk County Department of Economic Development and Workforce Housing has approved the use of these parcels for the purposes stated above; now, therefore be it

**1<sup>st</sup>**           **RESOLVED**, the subject parcels shall be conveyed to the Town of Babylon, Suffolk County, New York for affordable housing use, together with the following restrictive covenants that will run with the land so conveyed and, additionally, if any one or more of the following occurs, the subject premises shall revert to the grantor as herein provided and as provided in any deed evidencing the transfer of the subject premises from the grantor to the grantee:

1.     If the grantee is not restricted in its use of the subject premises solely and exclusively for affordable housing purposes; with all right, title, and interest reverting to the grantor, at the sole option of the grantor, in the event that the housing purposes, in accordance with the approved plan submitted by the grantee. Such reverter clauses contained herein shall apply to the grantee, or any transferee from the grantee undertaking the construction, reconstruction or rehabilitation of affordable housing on the subject premises;
2.     If the grantee fails to construct or complete construction of affordable housing unit or units on said property within three (3) years from the date of transfer unless an extension of time is granted in writing, for good cause shown, by the Suffolk County Director of Affordable Housing or any successor thereto. Such extension shall not exceed two two year extensions unless approved by duly enacted resolution of the grantor;
3.     If the income, at initial occupancy, of the occupant should exceed 80% of the HUD established median income for the Nassau-Suffolk PMSA based on family size;
4.     If the subsidized purchase price of home should exceed 60% of median sales price for Suffolk County based upon the State of New York Mortgage Agency Guidelines;
5.     If the rent should exceed HUD established fair market rent for Nassau-Suffolk PMSA based upon bedroom size;
6.     If the affordable housing unit or units are owner-occupied, and the unit or units fail(s) to remain the principal residence of the owner for a period of five (5) consecutive years. If the affordable housing unit or units are tenant-occupied, and the unit or units fail(s) to remain affordable for ten (10) consecutive years;
7.     If the grantee fails to certify to the Suffolk County Director of Affordable Housing prior to closing of the title with any affordable housing grantee:
  - a. the dates of completion and occupancy for any affordable housing unit or units constructed or rehabilitated on said property; and
  - b. the total household income, from all sources, of the purchaser or purchasers of the property and his or her family; and

- c. the total purchase or rental price of the affordable housing unit or units sold or otherwise transferred; and
  - d. the affordable housing unit or units meet local building and zoning codes;
8. If the grantee shall fail to provide the Suffolk County Director of Affordable Housing with an annual written report, no later than December 31 of each year commencing 2009, on the subject premises, including, but not limited to, the exact and precise use to which the subject premises has been put to along with the net proceeds generated by the initial purchase of the subject premises; or
  9. If any subsequent grantee fails to comply with all applicable state, federal, and local regulations pertaining to price, income eligibility and marketing standards for affordable housing programs;

and be it further

**2<sup>nd</sup>** **RESOLVED**, the grantee will be restricted in its use of the subject parcels and will use said parcels solely and exclusively for affordable housing with all right title and interest reverting to the County of Suffolk in the event that the grantee at any time, uses or attempts to use said subject parcels for other than affordable housing or attempts to sell, transfer or otherwise dispose of or does, in fact, sell transfer or otherwise dispose of said subject parcels with said parcels being used thereafter for other than affordable housing; and be it further

**3<sup>rd</sup>** **RESOLVED**, that neither grantee nor any subsequent grantee shall bill or charge back to grantor any cost incurred or projected to be incurred for the cleaning up, removal and disposal of any debris, waste and/or contamination on said properties. In the event that such charge back or bill is rendered to the grantor the transfer shall be void ab initio and the realty shall revert to the grantor; and be it further

**4<sup>th</sup>** **RESOLVED**, that it is intended and agreed that the agreements and covenants contained in the deed evidencing transfer of subject premises shall be covenants running with the land and that they shall be, in any event , and without regard to technical classification of designation, legal or otherwise, and except only by law, binding for the benefit and in favor of, and enforceable by, the grantor, it being further understood that such agreements and covenants shall be binding only upon the grantee, if it be a municipality or any assignee of the grantee, undertaking the construction, reconstruction or rehabilitation of affordable housing, only for such period as they shall have title to or an interest in or possession of the property or part thereof; and be it further

**5<sup>th</sup>** **RESOLVED**, the conveyance of the parcel described to the Town of Babylon for the purposes described herein shall be for the sum of One Dollar, and, upon payment of such sum, all subsequent grantees of such subject premises shall comply with all applicable state, federal, and local regulations pertaining to the price, income eligibility and marketing standards for affordable housing programs; and be it further

**6<sup>th</sup>** **RESOLVED**, that the Director of Real Property Acquisition and Management, or his designee, be and hereby is authorized to execute and acknowledge a quitclaim deed to

transfer the interest of Suffolk County in the above-described properties upon the above-described terms and conditions; and be it further

7<sup>th</sup> **RESOLVED**, that this Legislature, being the State Environmental Quality Review Act (SEQRA) Lead Agency hereby finds and determines that the adoption of this resolution is a Type II Action, constituting a Legislative decision in connection with routine or continuing agency administration and management, not including new programs or a major re-ordering of priorities (NYCRR Section 617.5(c)(20) and (27)). As a Type II Action, the Legislature has no further responsibilities under SEQRA (6 NYCRR Section 617.5(a)).

DATED: June 9, 2009

APPROVED BY:

  
County Executive of Suffolk County

Date: 6/18/09

EXhibit "A"

1428

**RESOLUTION NO. (304) APRIL 29, 2008  
AMENDING RESOLUTION NO. 259 OF APRIL 9, 2008  
REQUESTING THE CONVEYANCE OF PARCELS TO THE TOWN OF BABYLON  
FOR DOWNTOWN REVITALIZATION AS PART OF WYANDANCH RISING  
(SECTION 72-h, GENERAL MUNICIPAL LAW)**

The following resolution was offered by Councilman Henry  
and seconded by Councilwoman McVeety:

WHEREAS, Resolution No. 259 of April 9, 2008 authorized the conveyance of  
parcels to the Town of Babylon for Downtown Revitalization as part of Wyandanch Rising;  
and

WHEREAS, the Suffolk County Tax Map referenced within the resolution was  
inaccurate and needs to be amended,

NOW, THEREFORE, be it

RESOLVED, by the Town Board of the Town of Babylon that the Suffolk  
County Tax Map for the conveyance of parcels to the Town of Babylon for Downtown  
Revitalization as part of Wyandanch Rising is hereby amended to SCTM #0100-058.00-04.00-  
029.000 & 030.000.

of New York }  
1 of Babylon } ss:  
ity of Suffolk }

omnise J. Miller, Deputy Town Clerk, DO HEREBY CERTIFY  
I have compare the preceding with the original thereof and that  
ame is a true and correct copy.

ESTIMONY WHEREOF, I have hereunto set my hand and  
ed the seal of said Town

9<sup>th</sup> day of May 20 08

  
Denise J. Miller, Deputy Town Clerk

1428

**RESOLUTION NO. 119 FEBRUARY 25, 2009  
AMENDING RESOLUTION NO. 304 OF APRIL 29, 2008  
AND RESOLUTION NO. 259 OF APRIL 9, 2008  
REQUESTING THE CONVEYANCE OF PARCELS TO THE TOWN OF BABYLON  
FOR AFFORDABLE HOUSING (SECTION 72-h, GENERAL MUNICIPAL LAW)**

The following resolution was offered by Councilman Martinez  
and seconded by Councilwoman Gordon:

WHEREAS, Resolution No. 259 of April 9, 2008 and Resolution No. 304 of  
April 29, 2008 authorized the conveyance of parcels to the Town of Babylon for Downtown  
Revitalization as part of Wyandanch Rising; and

WHEREAS, the stated purpose for the transfer of parcels within the resolution  
was inaccurate and needs to be amended,

NOW, THEREFORE, be it

RESOLVED, by the Town Board of the Town of Babylon that the purpose of the  
conveyance of parcels to the Town of Babylon is hereby amended to reflect the stated purpose  
to be affordable housing.

State Of New York )  
Town of Babylon ) ss:  
County of Suffolk )

I, Johanna Gudat, Acting Deputy Town Clerk, DO HEREBY CERTIFY  
That I have compared the preceding with the original thereof  
and that the same is a true and correct copy.

IN TESTIMONY WHEREOF, I have hereunto set my hand and  
Affixed the seal of said Town

this 27 day of Feb. 20 09

Johanna Gudat  
Johanna Gudat, Acting Deputy Town Clerk

Domain Procedure Law; such settlements, compromises and adjustment to be made in open sessions of the court having jurisdiction thereof.

DATED:

APPROVED BY:

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County Executive of Suffolk County

Date of Approval:

SUFFOLK COUNTY  
County Legislature  
RIVERHEAD, NY



*This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on June 9, 2009 and that the same is a true and correct transcript of said resolution and of the whole thereof.*

*In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.*

A handwritten signature in cursive script that reads "Tim Laube".

Clerk of the Legislature

Intro. Res. 1428 Res. No. 486

June 9, 2009

**Motion:**  
 Romaine, Schneiderman, Browning, Beedenbender, Losquadro,  
 Eddington, Montano, Alden, Lindsay, Vilorio-Fisher, Barraga,  
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amato, Cooper

**Co-Sponsors:**  
 Romaine, Schneiderman, Browning, Beedenbender, Losquadro,  
 Eddington, Montano, Alden, Lindsay, Vilorio-Fisher, Barraga,  
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amato, Cooper

**Second:**  
 Romaine, Schneiderman, Browning, Beedenbender, Losquadro,  
 Eddington, Montano, Alden, Lindsay, Vilorio-Fisher, Barraga,  
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amato, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE					
2	Jay H. SCHNEIDERMAN					
3	Kate M. BROWNING					
4	Brian BEEDENBENDER					
6	Daniel P. LOSQUADRO					
7	Jack EDDINGTON					
9	Ricardo MONTANO					
10	Cameron ALDEN					
11	Thomas F. BARRAGA					
12	John M. KENNEDY, JR.					
13	Lynne C. NOWICK					
14	Wayne R. HORSLEY					
15	DuWayne GREGORY					
16	Steven H. STERN					
17	Lou D'AMARO					
18	Jon COOPER					
5	Vivian VILORIA-FISHER, D.P.O.					
8	William J. LINDSAY, P.O.					
	Totals	18				

**MOTION**

Approve

Table: \_\_\_\_\_

Send To Committee

Table Subject To Call

Lay On The Table

Discharge

Take Out of Order

Reconsider

Waive Rule \_\_\_\_\_

Override Veto

Close

Recess

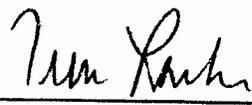
APPROVED  FAILED \_\_\_\_\_

No Motion \_\_\_\_\_ No Second \_\_\_\_\_

**RESOLUTION DECLARED**

ADOPTED

NOT ADOPTED

  
 \_\_\_\_\_  
 Tim Laube, Clerk of the Legislature

Roll Call \_\_\_\_\_ Voice Vote