

Introduced by Presiding Officer, on request of the County Executive and Legislators Browning, Muratore

**RESOLUTION NO. 419 -2010, AUTHORIZING THE SALE OF COUNTY-OWNED REAL PROPERTY PURSUANT TO SECTION 72-H OF THE GENERAL MUNICIPAL LAW TO THE TOWN OF BROOKHAVEN FOR AFFORDABLE HOUSING PURPOSES (SCTM NO. 0200-478.00-01.00-020.000)**

**WHEREAS**, the County of Suffolk is the fee owner of the following described parcel:

**ALL**, that certain plot, piece or parcel of land, with any buildings and improvements thereon erected, situate, lying and being in the Town of Brookhaven, County of Suffolk, and State of New York, described on the Tax Map of the Suffolk County Real Property Tax Service Agency as District 0200, Section 478.00, Block 01.00, Lot 020.000, and acquired by tax deed on October 18, 2007, from Angie M. Carpenter, the County Treasurer of Suffolk County, New York, and recorded on October 30, 2007, in Liber 12528, CP 281, known and designated as Lot 136 on a certain map entitled "Map of Gordon Heights, Section Sixteen", and filed in the Office of the Clerk of the County of Suffolk on April 22, 1953 as Map No. 2052.

**WHEREAS**, said parcel is 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 Brookhaven, 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 this parcel is 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 this parcel for the purposes stated above; now, therefore be it

**1<sup>st</sup> RESOLVED**, the subject parcel shall be conveyed to the Town of Brookhaven, 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 grantee, at any time uses or attempts to use said subject premises for other than affordable 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 December 31, 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 parcel and will use said parcel 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 parcel 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 parcel with said parcel 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 property. 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 Brookhaven 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 property 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: May 11, 2010

APPROVED BY:

/s/ Steve Levy  
County Executive of Suffolk County

Date: May 26, 2010