

Agenda No. R-12

P-17-022
(Pier View)

MUNICIPAL COUNCIL OF THE CITY OF BAYONNE

P-20-001
(Parkview)

RESOLUTION NO. 22-07-20- 054

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BAYONNE, COUNTY OF HUDSON, NEW JERSEY, CORRECTING RESOLUTION NO. 02-16-22-088 FOR THE TRANSFER OF A FINANCIAL AGREEMENT AND A REDEVELOPMENT AGREEMENT FROM PIER VIEW LOFTS URBAN RENEWAL, LLC TO PARKVIEW REALTY URBAN RENEWAL III, LLC AND REAUTHORIZING THE TRANSFER OF THE FINANCIAL AGREEMENT AND THE PROPERTY, PROJECT, REDEVELOPER DESIGNATION, AND REDEVELOPMENT AGREEMENT FOR PROPERTY HAVING A STREET ADDRESS OF 676-684 AVENUE E, WHICH IS DESIGNATED AS BLOCK 402, LOT 4.01 ON THE CITY OF BAYONNE TAX RECORDS

WHEREAS, the City of Bayonne (“City”) and Pier View Lofts Urban Renewal, LLC (“Original Redeveloper”) entered into a Financial Agreement dated January 16, 2018 (the “Financial Agreement”), pursuant to the Long Term Tax Exemption Law, N.J.S.A. 40A:12A-1, et seq. (the “LTTE Law”) for a payment in lieu of taxes in connection with the redevelopment of Block 402 Lot 4.01 in the City of Bayonne (the “Property”) with an approximately five (5) story residential building with seventy-one (71) residential units, one (1) commercial unit and seventy-one (71) on-site parking spaces with related site improvements in accordance with the Redevelopment Plan, as that term is defined in the Financial Agreement (the “Project”); and

WHEREAS, on January 19, 2022, the Municipal Council of the City of Bayonne (“Council”) adopted a resolution designating Original Redeveloper as the Project Redeveloper and authorizing the execution of a Redevelopment Agreement, which included provision of several Declarations of Covenants and Restrictions, one of which restricted the transfer of the Property without authorization from the City before the issuance of a Certificate of Completion and Compliance for the Project; and

WHEREAS, on May 26, 2022, the Original Redeveloper executed the Redevelopment Agreement and the Declaration of Covenants and Restrictions (the “Redevelopment Agreement”); and

WHEREAS, in January 2022, Parkview Realty Urban Renewal III, LLC (New Redeveloper”) made a written application requesting a transfer of the Financial Agreement and Project/Redeveloper Designation/Redevelopment Agreement from Original Redeveloper to New Redeveloper; and

WHEREAS, on February 16, 2022, the Council approved the Financial Agreement transfer by Resolution No. 22-02-16-088 (the “Financial Agreement Resolution”); and

WHEREAS, the Financial Agreement Resolution required the transfer of title to the Property from the Original Redeveloper to the New Redeveloper and also required that the Closing of title occur within ninety (90) days of the adoption of the Financial Agreement Resolution; and

WHEREAS, on June 15, 2022, the Council adopted Resolution No. R-22-06-15-053, which authorized the transfer of the Redeveloper Designation and Redevelopment Agreement from the Original Redeveloper to the New Redeveloper (the “Redevelopment Agreement Resolution”); and

WHEREAS, the Redevelopment Agreement Resolution required the transfer of title to the Property from the Original Redeveloper to the New Redeveloper and also required that the Closing of title occur within ninety (90) days of the adoption of the Redevelopment Agreement Resolution; and

WHEREAS, Section 7 of Redevelopment Agreement Resolution also erroneously rescinded the Financial Agreement Resolution (R-22-02-16-088) when it should have rescinded Resolution No. R-22-02-16-082 consistent with Resolution No. R-22-04-20-097; and

WHEREAS, the Closing of title did not occur within 90 days as required above; and

WHEREAS, on June 29, 2022, the City signed the Certificate of Completion and Compliance for the Project, which removed the restriction on transfer set forth in the Redevelopment Agreement and Declaration of Covenants and Restrictions; and

WHEREAS, title to the Property has not and will not transfer to the New Redeveloper, but rather has transferred or will transfer to the following entities as tenants-in-common: Pier View to Legacy Lofts CG LLC, Legacy Lofts AW LLC, and Legacy Lofts Owner LLC (“TIC”); and which will subsequently lease Property to New Redeveloper; and

WHEREAS, the Financial Agreement, the Project, Redeveloper Designation, and Redevelopment Agreement will be or has been transferred to the New Redeveloper, as a long-term lessee of the Project; and

WHEREAS, this Resolution intends to (i) eliminate any deadline for the Closing of title set forth in the Financial Agreement Resolution and the Redevelopment Agreement Resolution; (ii) correct the understanding set forth in the Financial Agreement Resolution and the Redevelopment Agreement Resolution to reflect that title to the Property will not transfer to the New Redeveloper, but rather, will transfer to the TIC, which transfer no longer requires City approval, consent, or notice after the signature of the Certificate of Completion and Compliance for the Project; (iii) correct the understanding set forth in the Redevelopment Agreement Resolution to reflect that the Project, Redeveloper Designation, Redevelopment Agreement have been transferred to the New Redeveloper, as a long-term lessee, and that such transfers are Permitted Transfers requiring no approval or consent from the City or notice to the City; (iv) confirm the Financial Agreement will transfer to the New Redeveloper, as a long-term lessee, and that such transfer is permitted and that the New Redeveloper has met all transfer requirements set forth in the Financial Agreement; and (v) correct the erroneous rescission of the Financial Agreement Resolution; and

WHEREAS, title to the Property shall be transferred to the TIC, but only after the issuance of the Certificate of Completion and Compliance, which is required to be executed in order to lift the restrictions against transfer of the Property pursuant to the Financial Agreement; and

NOW THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF BAYONNE, NEW JERSEY AS FOLLOWS:

Section 1. Pursuant to the provision of the Financial Agreement and the LTTE Law, the City hereby authorizes the transfer of title to the Property from the Original Redeveloper to the TIC and confirms/re-authorizes the transfer of the Financial Agreement from the Original Redeveloper to the New Redeveloper, as a long-term lessee of the Project. The transfer of the Financial Agreement to the New Redeveloper is permitted and deemed to be effective upon Closing of title to transfer the Property to the TIC. The City specifically finds that the New Redeveloper has met all of the conditions of transfer required by the Financial Agreement and the LTTE and also hereby corrects its erroneous rescission of the Financial Agreement Resolution.

Section 2. Pursuant to the Redevelopment Agreement and the Local Redevelopment and Housing Law, the City acknowledges the transfer of title to the Property from the New Redeveloper to the TIC, which transfer did not require approval or consent of the City or notice to the City after the City signed the Certificate of Completion and Compliance for the Project.

Section 3. Pursuant to the Redevelopment Agreement and the Local Redevelopment and Housing Law, the City hereby acknowledges the transfers of the Project, Redeveloper Designation, and Redevelopment Agreement from the Original Redeveloper to the New Redeveloper, which are Permitted Transfers and did not require approval or consent from the City or notice to the City to become effective.

Section 4. There is no restriction on when the Closing of title to the Property must occur for any transfer referenced herein, and no defaults have occurred or will occur as the result of any of the transfers referenced herein.

Section 5. The Financial Agreement Resolution (No. R-22-02-16-088) is hereby reinstated and Resolution No. R-22-02-16-082 is hereby rescinded.

Section 6. This Resolution shall supersede all prior Resolutions regarding the transfers of the Financial Agreement, Redeveloper Designation, Redevelopment Agreement, Project, Property and/or the rescission of any resolutions associated with same, including but not limited to the Financial Agreement Resolution, the Redevelopment Agreement Resolution, and Resolution No. R-22-04-20-97. **All transfers and transactions referenced herein are deemed to be effective from the date of Closing of title to the Property.**

Section 7. The Mayor and Clerk of the City of Bayonne, and any other officials of the City, as may be applicable, are hereby each authorized to execute and deliver any documents necessary or convenient for the Original Redeveloper, New Redeveloper, and any lender for the Project to effectuate any of the transfers referenced herein, together with any additional documents as are

necessary to implement and carry out the intent of this Resolution and to confirm that no party referenced in this Resolution is in default of the Financial Agreement and/or the Redevelopment Agreement.

Section 8. This Resolution shall take effect immediately.

A TRUE COPY

Maddalene C. Medina
CITY CLERK