

**MINUTES OF THE 38<sup>th</sup> MEETING OF THE  
NEW YORK STATE HOUSING FINANCE AGENCY'S  
FINANCE AND PROGRAM COMMITTEE  
HELD ON SEPTEMBER 11, 2014 AT 8:40 A.M  
AT ITS OFFICES AT 641 LEXINGTON AVENUE**

**MEMBERS AND DESIGNEES**

**PRESENT**

William J. Mulrow	Chairman
Darryl C. Towns	Member
Renee Nowicki	Division of the Budget, representing Robert Megna, Member ((via video conference)

Chairman William J. Mulrow opened and chaired the meeting.

Mr. C. Jason Kim, Senior Vice President and Counsel to the Agencies, acted as Secretary. He noted that Ms. Renee Nowicki participated in the meeting via video conference from the New York State Division of Budget conference center at the Capitol Building, Room 131, in Albany. A public notice was given of the time and location of the venue in accordance with the New York State Open Meetings Law.

Mr. C. Jason Kim asked for a motion and a second to call the meeting to order of the New York State Housing Finance Agency Finance and Program Committee meeting. Commissioner Towns made a motion to call the HFA Finance and Program Committee meeting to order; Chairman Mulrow seconded the motion. These motions and seconds would be used, unless specific items called for a different vote, or unless any Committee Member wished to record his or her vote differently.

Mr. Nestor M. Davidson, and Ms. Joyce Miller and Steven J. Weiss, all HFA Members attended this meeting as guests.

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**The first item on the agenda was the adoption of the minutes of the 36<sup>th</sup> HFA Finance and Program Committee held on July 10, 2014.** There being no objections or corrections from the Members, the minutes were deemed approved.

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The next item on the agenda was a resolution recommending financing approval in an amount not-to-exceed \$14,000,000 for Stuyupark Apartments, located at 77 New York Avenue, Kings County. Bret Garwood, Senior Vice President, Multifamily Housing provided the relevant background information with regard to this request. He reported that this investment funds the acquisition and rehabilitation of one 11-story building containing 103 units located in the Crown Heights section of Brooklyn. He reported that as part of the Rental Assistance Demonstration Program, it is anticipated that the project will receive a 20-year HAP contract for 101 of the project's 102 revenue units.

Mr. Garwood said that management seeks authorization to issue \$14 million in fixed-rate tax-exempt bonds and a mortgage. He said the tax credits will be purchased by SONYMA. He stated that the project's total development cost is approximately \$26.6 Million. He also stated that the site lies in very close proximity to The Brooklyn Museum and Botanical Gardens, Prospect Park; the Long Island Railroad also has a station two blocks away.

Mr. Garwood reported that the proposed scope of rehabilitative work includes full replacement of the existing electric heating system with a gas-fired boiler and hot water heating system, full kitchen and bathroom renovations include replacement of all plumbing fixtures. He said the total rehabilitation hard costs are \$6,720,480 (approximately \$65,000 per unit). He noted that the property is being acquired by the Borrower from a related entity for \$11 Million; the acquisition price includes the repayment to HFA of the outstanding mortgage balance of approximately \$1,310,000 from the project's original mortgage, repayment of the outstanding HFA Subsidy Loan of \$875,000 and a Seller's Note of approximately \$8,720,000.

HFA Member, Mr. Davidson inquired about the relocation plan, and was told that the plan was in place and would permit for the work to be done with minimal impact

Considering the first and second motions previously entered, the motions were carried, and the following resolution was adopted unanimously:

**A RESOLUTION OF THE FINANCE COMMITTEE OF THE NEW YORK STATE HOUSING FINANCE AGENCY RECOMMENDING THE ISSUANCE OF CERTAIN BONDS.**

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The next item on the agenda was a resolution recommending financing approval in an amount not-to-exceed \$11,000,000 for Hudson Art House Lofts, 621-623 River Street, City of Troy, Rensselaer County. Mr. Garwood provided the relevant background information with regard to this request and noted that he had an opportunity to actually visit the site. He reported that this project includes the acquisition, rehabilitation and conversion of a historic 5-story former industrial building. He reported that the building will be converted into 80 residential units; 90% of the revenue generating units will be set aside for households whose incomes are at or below 60% of the Area Median

Income ("AMI") and the remaining 10% of the revenue units will be set aside for households whose incomes are at or below 90% of the AMI adjusted for family size. He said that two investment recommendations is \$544,549 estimated annual allocation of 4% "as of right" Federal Low Income Housing Tax Credits ("LIHTC") and \$608,228 estimated annual allocation of New York State Low Income Housing tax Credits ("SLIHC").

Mr. Garwood stated that the project is being undertaken by the Vecino Group; Arco Management Corporation will be the property manager. He said the Group has reportedly "done quite a bit of work." He said that during the construction period, JP Morgan Chase Bank, N.A. will provide the Letter of Credit. He also stated that the conversion will create 30 one-bedroom 45 two bedroom and five three-bedroom units in the Waterfront District of the City of Troy, Rensselaer County. He said the project's total development cost is estimated to be approximately \$19.2 Million.

Considering the first and second motions previously entered, the motions were carried, and the following resolution was adopted unanimously:

**A RESOLUTION OF THE FINANCE COMMITTEE OF THE NEW YORK STATE HOUSING FINANCE AGENCY RECOMMENDING THE ISSUANCE OF CERTAIN BONDS.**

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**The next item on the agenda was a resolution recommending financing approval in an amount not-to-exceed \$10,230,000 for Michelsen and Mills III Apartments located at 1832 Avenue D and 281-295 Mill Street, City of Rochester, Monroe County.** Mr. Garwood provided the relevant background information with regard to this request. He reported that this project is interesting in a number of ways. He said that it is part of the downtown historic district of Rochester. He stated that this investment funds the acquisition and conversion of two former industrial buildings into fifty-nine (59) units of housing to be known as Michelsen (located in one of the Regional Council's Opportunity Agenda areas) and Mills III Apartments. He also stated that Michelsen is in a targeted area of investment by the City of Rochester including significant public and private investment. Mills III is the third phase of the Mills at High Falls; the first two phases, financed by HFA Bonds and DHCR 9% LIHTCs respectively, have created 88 units of mix income housing in the High Falls neighborhood stimulating the revitalization of this area.

Mr. Garwood reported that the project's total development cost is approximately \$19.2 Million. During the construction period, Chase will provide the Letter of Credit. He reported that the project will benefit from an estimated \$900,000 HFA Subsidy Loan. He also said the City of Rochester is actually making a substantial contribution in the form of a HOME Subsidy Loan in the estimated amount of \$1,850,000.

Considering the first and second motions previously entered, the motions were carried, and the following resolution was adopted unanimously:

**A RESOLUTION OF THE FINANCE COMMITTEE OF THE NEW YORK STATE HOUSING FINANCE AGENCY RECOMMENDING THE ISSUANCE OF CERTAIN BONDS.**

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The next item on the agenda was a resolution authorizing financing approval in an amount not to exceed \$407,000,000 for 625 West 57<sup>th</sup> Street Apartments located at 625 West 57<sup>th</sup> Street, New York County. Ms. Zucker provided the relevant background information with regard to this request. She reported that this investment funds the new construction of 709 multifamily rental units in a 31-story building to be located on West 57<sup>th</sup> Street between 11<sup>th</sup> and 12<sup>th</sup> Avenues. She said the investment recommendation is an estimated \$407 Million in maximum variable rate tax-exempt and/or taxable bonds. The Bonds will be secured by the Bank of New York Mellon.

Ms. Zucker also reported that of the 65 units in the 600 West 58<sup>th</sup> Street building, at least thirteen (13) units will be set aside for households whose incomes are at or below 50% of the AMI. She said that these 13 units will be subject to the Agency's Regulatory Agreement compliance period.

Ms. Zucker provided additional background information by noting that the developer for the project is the Durst Organization (Durst Pyramid LLC) which has considerable experience with 80/20 projects and/or high complex mixed-use development projects. She said they are going to partner with Common Ground who will be the administrative and leasing agent for the affordable units.

Ms. Zucker responded to a number of questions from Board members Miller and Davidson regarding the relationship between the two buildings being financed, and asked Mr. Gary Rosenberg, the attorney representing the developer, to respond on these issues. Mr. Rosenberg first addressed a question posed by Ms. Miller as to whether the project's affordability period could be expanded to become permanent. Mr. Rosenberg explained that permanent affordability on a 99-year ground lease would require new negotiations to take place with the ground lessor as it is a party to a restrictive declaration encumbering the site and that such negotiations would be extremely difficult. He noted that the owner is required to keep housing affordable for a specific period of time (35 years).

Ms. Miller had questions regarding the Environmental Impact Statement, and water treatment facilities, given the challenges posed by the project's location being on the West Side of Manhattan. It was explained that recycling of water is the process that will be used to address those issues. She asked for further explanation on the "green" features. It was explained that any opportunity to incorporate "green" elements will be used, i.e. LED lighting, central air-conditioning system. Regarding the question about energy generation on the site, it was explained that it is impossible given the requirements of Con Edison.

Mr. Kim then summarized for the Board certain recent events that have come to the Agency's attention concerning the fact that the Durst Organization ("Durst") has been subject to an action by the U. S. Attorney's office in New York.. Mr. Kim noted that

the Agency received a copy of the complaint only yesterday, and that as a result the Board materials in connection with this item did not address the issue. Mr. Kim noted that the complaint is alleging that buildings built and to be built by Durst, including these proposed buildings, are not in compliance with the Americans with Disabilities Act.

Mr. Rosenberg indicated that the dispute is whether or not the New York City law complies with the Federal Law, and that every project in New York City is impacted by this action. He further explained that Durst, along with many of the other largest developers in the city, have built their buildings in compliance with what is known as Local Law 58, a 1987 city law that preceded the Americans with Disabilities Act of 1990 and was thought to be, by many in the New York real estate community, more stringent than Federal law, particularly after it was updated to meet new guidelines in 2008.

Mr. Rosenberg added, however, that the federal government has taken the position that developments built to meet the requirements set out by Local Law 58 are inaccessible to people with disabilities and that buildings' kitchens and bathrooms must be renovated to better accommodate wheelchairs.

Mr. Rosenberg noted that his client has resolved not to settle this action, as it believes that developments built to the city code satisfy the guidelines set out by the Fair Housing Act and Department of Housing and Urban Development. In response to a question from Mr. Davidson as to materiality, Mr. Rosenberg represented that even if Durst were to lose the case, the biggest issue would concern minor adjustments to be made to bathroom doors in the project, which would have no material economic impact on the project. Mr. Davidson expressed reservations about the fact that this issue, coming up so late in the approval process, had not led staff to consider postponing action on this item.

Considering the first and second motions previously entered, the motions were carried, and the following resolutions were adopted unanimously:

**A RESOLUTION OF THE FINANCE COMMITTEE OF THE NEW YORK STATE HOUSING FINANCE AGENCY RECOMMENDING THE ISSUANCE OF CERTAIN BONDS.**

**The next item on the agenda was a resolution recommending financing approval in amount not to exceed \$33,000,000 for La Porte Apartments, 203 Gramatan Avenue, Mt. Vernon, Westchester County.** Ms. Zucker provided the relevant background information with regard to this request. Ms. Zucker reported that this project is the new construction of 159 units of affordable housing and the total development costs are \$57.7 Million. She reported that the Managing member of the Borrower will be Blue Rio Kenwood, LLC which is controlled by Peter Fine (Principal of To Better Days Management, LLC and Knickerbocker Management LLC) and Ken Knuckles.

Ms. Zucker reported that during the construction period and lease-up period, the Bonds will be secured by an irrevocable, unconditional direct pay Letter of Credit from

M&T Bank, N.A. She said that management is seeking authorization up to a maximum amount of approximately \$3.7 million in an HFA subsidy loan.

Ms. Zucker noted that this is another project receiving substantial local support but is complex in terms of its structure. She reported that the 14-story, mixed-use building will consist of 20 studios, 99 one-bedrooms and 39 two-bedroom units. She said the building will consist of 158 revenue generating residential units and one superintendent's unit. She said that the top floor will contain over 5,000 square feet of amenity space for the building's residents. She said the second floor will contain a municipal parking garage which will replace the surface parking lot currently on the site. Ms. Zucker stated that the project site is adjacent to the park.

Considering the first and second motions previously entered, the motions were carried, and the following resolution was adopted unanimously:

**A RESOLUTION OF THE FINANCE COMMITTEE OF THE NEW YORK STATE HOUSING FINANCE AGENCY RECOMMENDING THE ISSUANCE OF CERTAIN BONDS.**

**The next item on the agenda was a resolution recommending the authorization of a \$260,000,000 unrated, private placement financing for the 160 West 62nd Street Project, City of New York, New York County).** Ms. Zucker provided the relevant background information with regard to this request. She reported that in 2011, the project received financing authorization for the issuance of variable rate tax-exempt bonds and taxable rate bonds in an amount not-to-exceed \$260,000,000 with an allocation of 4% as of right low-income housing tax credits. She said that subsequently, the Agency issued bonds for an aggregate amount of \$260,000,000 of tax-exempt bonds and taxable bonds, all of which remain outstanding. She said that additionally, the owner of the project has requested the Agency's approval to amend and restate the existing bond resolution to include an unrated private placement bond option and other refinements as seen in other projects. Ms. Zucker explained that once the bond resolution is amended, the outstanding bonds will be purchased by Wells Fargo who will deposit the bonds.

Considering the first and second motions previously entered, the motions were carried, and the following resolution was adopted unanimously:

**A RESOLUTION OF THE FINANCE COMMITTEE OF THE NEW YORK STATE HOUSING FINANCE AGENCY RECOMMENDING THE ISSUANCE OF CERTAIN BONDS.**

**The next item on the agenda was a resolution recommending the authorization of additional financing approval in an amount not to exceed \$22,505,000 for Brighton Towers, located at 821 East Brighton Avenue, City of Syracuse, Onondaga County.** Ms. Zucker provided the relevant background information with regard to this request. She explained that the project was previously approved in July 2014 wherein the Members approved resolutions authorizing the partial financing of the project through the issuance

of bonds in an amount not-to-exceed \$19,795,000. She noted that this request for authorization shall supersede and replace the resolutions approved at the July 10, 2014 meeting, and the request to increase financing is due to several factors, i.e. an increase in the project's acquisition costs.

Considering the first and second motions previously entered, the motions were carried, and the following resolution was adopted unanimously:

**A RESOLUTION OF THE FINANCE COMMITTEE OF THE NEW YORK STATE HOUSING FINANCE AGENCY RECOMMENDING THE ISSUANCE OF CERTAIN BONDS.**

**The next item on the agenda was a Presentation on the Agencies' Policies relating to Independent Registered Municipal Advisors and the SEC MCDC initiative.** Ms. Zucker, President, Finance and Development briefed the Members on this item. Ms. Zucker highlighted certain information contained in the materials provided to the Members in connection with this item, which is incorporated herein by reference.

She reported that as a result of the significant changes in The Dodd-Frank Act, the Agencies have been impacted by the Municipal Advisor Rule ("MA Rule"). She explained that The MA Rule (effective July 1, 2014) defines the role and responsibilities of a "municipal advisor" as an entity that provides municipal advisory services to their municipal clients and that has a fiduciary duty to each client. Ms. Zucker noted that in order for the Agencies' bond underwriters not to be considered "municipal advisors" (triggering registration requirements) the Agencies would have to publicly announce the designation of certain firms that would serve as independent registered municipal advisors (IRMAs) to the Agency. Any conversations with investment bankers that may include advice must be shared with by the Agencies with the appointed IRMAs if the Agencies wish to further pursue the ideas. In this way, the bond underwriters can continue to provide us with ideas, and not lose their exemption from registration, and the Agencies can rely on the expertise of the appointed IRMAs in reviewing proposed ideas.

Chairman Mulrow questioned what is meant by the IRMA having a fiduciary duty to each client. Ms. Zucker explained that the entities appointed by the Agencies as their IRMAs are required to put the interests of the Agencies above their interests and have a fiduciary responsibility to make sure the Agencies' interests are protected. This is in contrast with the position of the bond underwriters who, although hired by the Agencies to market our bonds, do not have a fiduciary responsibility to the Agencies. It is in order to protect the Agencies in this context, that the IRMAs are now required.

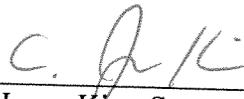
Ms. Zucker also commented on a related SEC initiative: the Municipalities Continuing Disclosure Cooperation Initiative ("MCDC").

Ms. Zucker noted that the Agencies had reviewed all their past Continuing Disclosure Agreements and Official Statements to ensure that no misstatements or omissions existed which would lead the Agencies to self-report under the MCDC. She said the Agencies also

touched base with all the underwriters that have participated in Agency financings to see if as a result of their review on Agency activity they had concluded that there were items to self-report. She noted that no underwriter had reported on the need to self-report. Ms. Zucker thanked Alex Valella, Helen Pennock, Gloria Boyd and Sheila Robinson and her team for their assistance.

HFA Vice-Chairman, Mr. Weiss inquired about the Agencies obtaining possible exemptions to these municipal advisor rules given the level of expertise possessed by staff, which calls into question the need and expense of hiring IRMAs. Ms. Zucker said that that exemptions don't apply to the Agencies and this impact is industry wide.

There being no further business, Chairman Mulrow asked for a motion and a second to adjourn the New York State Housing Finance Agency's Finance and Program Committee meeting. Ms. Nowicki moved to adjourn; Commissioner Towns seconded the motion, and the meeting was adjourned at 10:40 a.m.

  
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C. Jason Kim, Secretary