

Minutes of a Special Meeting of the Town Board of the Town of Riverhead, held in the Town Hall, Riverhead, New York, on Tuesday, May 26, 1981, at 3:00 P.M.

Present: Joseph F. Janoski, Supervisor
Francis E. Menendez, Councilman
Antone Regula, Councilman
Victor Prusinowski, Councilman
Kevin Duffy, Town Attorney
Robert Scheiner-Community Development Project
Supervisor
Eric Berger, News Review
Seward & Kissel, Halandia Representatives

Absent: John Lombardi, Councilman

WAIVER OF NOTICE AND CONSENT OF SPECIAL MEETING

We, the undersigned, being all members of the Town Board of the Town of Riverhead, Suffolk County and State of New York, do hereby waive notice of the time, place, date and purpose of a meeting of the Town Board of the Town of Riverhead, to be held at the Town Hall, Riverhead, New York, at 3:00 P.M. on the 26th day of May, 1981, and do consent to the holding of such meeting for the purpose of adopting resolutions approving the By-Laws of Riverhead Multi-Family Housing Corp. and granting special permit to Halandia Associates for multi-housing application, and any other matters that may come before the Board.

DATED: May 26, 1981

TOWN BOARD MEMBERS
TOWN OF RIVERHEAD, NEW YORK

Joseph F. Janoski
Supervisor

Francis E. Menendez
Councilman

John Lombardi
Councilman

Antone J. Regula
Councilman

Victor J. Prusinowski
Councilman

RESOLUTIONS

- #255 APPROVING THE ISSUANCE BY RIVERHEAD MULTI-FAMILY HOUSING CORPORATION OF ITS FHA INSURED MORTGAGE REVENUE NOTES (DOCTORS PATH APARTMENTS PROJECT), 1981 SERIES A IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,923,000 AND ITS FHA INSURED MORTGAGE REVENUE BONDS (DOCTORS PATH APARTMENTS PROJECT), 1981 SERIES A IN THE AGGREGATE PRINCIPAL AMOUNT OF \$2,037,715 AND RELATED DOCUMENTS

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Councilman Prusinowski offered the following resolution which was seconded by Councilman Menendez.

WHEREAS, the Town of Riverhead, New York (the "Town") is a public housing agency under the provisions of the United States Housing Act of 1937, as amended, and the applicable regulation promulgated by the United States Department of Housing and Urban Development ("HUD") thereunder (collectively, the "Act"); and

WHEREAS, Riverhead Multi-Family Housing Corporation (the "Issuer") is a not-for-profit corporation duly incorporated under the Not-For-Profit Corporation Law of the State for the purposes of carrying out or assisting in carrying out one or more low-income housing projects within the meaning of the Act (including assisting by borrowing and lending funds) in the Town of Riverhead, New York, and approved by the Town; and

WHEREAS, the Town heretofore has designated and approved the Issuer as an instrumentality of the Town for certain purposes under the Act and HUD has approved or is expected to approve the Issuer as an instrumentality of the Town and as a public housing agency within the meaning of the Act; and

WHEREAS, the Issuer has approved the construction and acquisition by Halandia Associates-Riverhead, a limited partnership duly organized and existing under the Laws of the State (the "Owner") of a certain multi-family housing project to be located in the Town of Riverhead, New York, in order to provide 40 rental dwelling units for persons of lower income and certain appurtenant facilities (the "Project"); and

WHEREAS, the Issuer has determined that the interim financing during the construction period and the permanent financing of the Project will be facilitated by the issuance of tax-exempt obligations by the Issuer, as a designated instrumentality of the Town and in accordance with the Act; and

WHEREAS, there has been submitted to this meeting a description of the projected program of the Issuer with respect to the construction, financing, operation and management of the Project (the "Program"); and

WHEREAS, there has been submitted to this meeting the listing of the projected expenditures of the Issuer in connection with the construction, financing and initial year of operation of the Project (the "Projected Expenditures"); and

WHEREAS, there have been submitted to this meeting the proposed forms of the following documents (collectively, the "Financing Documents"):

(a) Trust Indenture, dated as of June 1, 1981 (the "Note Indenture"), between the Issuer and Long Island Trust Co., as trustee (the "Note Trustee") providing for the issuance of the Issuer's FHA Insured Mortgage Revenue Notes (Doctors Path Apartments Project), 1981 Series A in the aggregate principal amount of \$1,923,000 (the "Notes"),

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(b) Trust Indenture, dated as of June 1, 1981 (the "Bond Indenture") between the Issuer and Long Island Trust Co., as trustee (The "Bond Trustee"), providing for the issuance of the Issuer's FHA Insured Mortgage Revenue Bonds (Doctors Path Apartments Project), 1981 Series A in the aggregate principal amount of \$2,037,715 (the "Bonds"),

(c) Assignment of Housing Assistance Payments from the Owner to the Note Trustee during the Construction Period, as defined therein, and thereafter to the Bond Trustee, each as FHA approved mortgagee, with the consent thereto of HUD, conditionally assigning certain subsidies under the Act with respect to the Project and its qualifying occupants,

(d) Official Statement of the Issuer relating to the Notes, and

(e) Private Placement Memorandum of the Issuer relating to the Bonds.

WHEREAS, the approval by the Authority of the issuance of the Notes and the Bonds is required by the Act not more than sixty (60) days prior to the date of their issue.

NOW, THEREFORE, be it resolved by the Town Board of the Town of Riverhead, New York, as follows:

Section 1. The Town hereby approves

(a) the Program;

(b) the Project;

(c) the Projected Expenditures; and

(d) the form and substance, execution and delivery of the Financing Documents (in substantially the forms submitted to this meeting) and of the Notes in substantially the form included in the Note Indenture and of the Bonds in substantially the form included in the Bond Indenture.

Section 2. The Town hereby approves the issuance by the Issuer of the Notes in the principal amount of \$1,923,000 and the execution and delivery of the Note Indenture and such other of the Financing Documents as relate thereto, provided that:

(a) the Notes approved pursuant to this Section 2 shall (i) be issued, executed, sold and delivered not more than sixty (60) days subsequent to the date hereof and (ii) bear interest at the rates, be subject to redemption prior to maturity and be issued in such manner and on such conditions as are set forth in the Note Indenture,

(b) the Notes shall be issued solely for the purposes (i) of providing interim financing for the Project and (ii) otherwise as set forth in Article II of the Note Indenture,

(c) the Notes and the interest thereon are not and shall not be a debt of the Town, the State or any political subdivision thereof, or the United States of America or any agency or department thereof and shall not be guaranteed thereby, and neither the Town, the State or any

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political subdivision thereof, nor the United States of America or any agency or department thereof, shall be liable thereon.

(d) HUD shall advise, prior to the issuance of the Notes, that the interest thereon shall be exempt from Federal income taxation pursuant to Section 11 (b) of the Act.

Section 3. The Town hereby approves the issuance by the Issuer of the Bonds in the aggregate principal amount of \$2,037,715 and the execution and delivery of the Bond Indenture and such other of the Financing Documents as relate thereto, provided that:

(a) the Bonds approved pursuant to this Section 3 shall (i) be issued, executed, sold and delivered not more than sixty (60) days subsequent to the date hereof and (ii) bear interest at the rates, be subject to redemption prior to maturity and be issued in such manner and on such conditions as are set forth in the Bond Indenture,

(b) the Bonds shall be issued solely for the purposes (i) of providing permanent financing for the Project and (ii) otherwise set forth in Article II of the Bond Indenture,

(c) the Bonds and interest thereon are not and shall not be a debt of the Town, the State or any political subdivision thereof, or the United States of America or any agency or department thereof and shall not be guaranteed thereby, and neither the Town, the State or any political subdivision thereof, nor the United States of America or any agency or department thereof shall be liable thereon, and

(d) HUD shall advise, prior to the issuance of the Bonds, that the interest thereon shall be exempt from Federal income taxation pursuant to Section 11(b) of the Act.

Section 4. The Town Supervisor is hereby authorized, empowered and directed to execute and deliver and accept, in the name and on behalf of the Town, all documents, certificates and instruments and to do all acts and things required or provided for by the Financing Documents or, in the reasonable discretion of the person acting, desirable and proper to effect the purposes of this Resolution.

Section 5. This Resolution shall take effect immediately,

RESOLVED, FURTHER, that the Town hereby approves the By-Laws of the Issuer in the form as filed in the Town Clerk's Office as Exhibit A, provided that any amendment of the By-Laws shall be subject to approval by the Town and HUD.

RESOLVED, FURTHER, that the Town Supervisor is hereby authorized to execute and deliver the Tax Exemption Agreement relating to the Project between the Town and the Owner, in the form attached hereto as Exhibit B.

EXHIBIT B

TAX EXEMPTION AGREEMENT

AGREEMENT, made on or as of the 26th day of May, 1981, by and among the Town Board of the Town of Riverhead (hereinafter called

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"Town Board"), a municipal corporation of the State of New York (hereinafter called "Town") having its principal office at 200 Howell Avenue, Riverhead, New York; and Halandia Associates-Riverhead, a redevelopment company organized pursuant to Article V of the Private Housing Finance Law of the State of New York, as amended (hereinafter called "Redeveloper"), having an office for the transaction of business at 3115 Long Beach Road, Oceanside, New York.

WITNESSETH:

WHEREAS, the Town has agreed to sell the Redeveloper the property described on Schedule A annexed hereto (hereinafter called "Property") located on Doctors Path, Riverhead, New York, for the purposes of constructing a housing project containing 40 dwelling units for lower income families to be assisted by a subsidy from the United States Department of Housing and Urban Development ("HUD") under Section 8 of the United States Housing Act of 1937, as amended (the "Act"), and to be financed by obligations determined by HUD to be exempt from Federal income taxation pursuant to Section 11 (b) of the Act (the "Housing Project"): and

WHEREAS, the Redeveloper has advised the Town that the Federal Housing Commissioner has determined that in order for the Housing Project to be feasible, the Redeveloper cannot pay annual taxes and/or payments in lieu thereof to the County, the School District, the Fire District, and the Town, other than assessments for local improvement for any year during the term of this agreement, which exceed the amounts set forth on Schedule B annexed hereto;

WHEREAS, in connection with the Housing Project, the Redeveloper has applied to the Town Board for a one hundred percent (100%) exemption from Town taxes pursuant to Section 125 of Article V of the Private Housing Finance Law of the State of New York, as amended, upon the terms and conditions provided herein; and

WHEREAS, the Town Board, by resolution adopted May 26, 1981, approved and authorized the execution of this Agreement.

NOW, THEREFORE, it is agreed as follows:

1. The Town hereby grants to the Redeveloper or any successor or transferee housing company an exemption from all Town taxes, other than assessments for local improvements, of one hundred percent (100%) of the value of the Property together with the improvements to be constructed thereon which represents an increase over the assessed valuation of the Property, both land and improvements, at the time of conveyance of the Property to the Redeveloper, such tax exemption to operate for so long as the Redeveloper's "federally-aided mortgage" (as said term is defined in Section 102 of Article V of the Private Housing Finance Law of the State of New York, as amended) on the Housing Project is outstanding, but in no event for a period of more than forty (40) years from the Commencement Date as such term is defined in Section 3 hereof. The Town hereby represents to the Redeveloper that it acts on behalf of the County of Suffolk, the School District in which the Property is located and the

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Fire District in which the Property is located in assessing real property for the purpose of taxation and recognizes and acknowledges that the aforesaid agreement to grant such exemption shall have the effect of similarly exempting such property from all County, School District and Fire District taxes, other than assessments for local improvements, by virtue of Section 125 (1) (c) of the Private Housing Finance Law of the State of New York.

2. So long as the exemptions provided for hereunder shall continue in force and effect, the Redeveloper shall pay taxes for the Property the amounts of which shall be determined and fixed solely on the basis of the Town assessed valuations of the Property, both land and improvements, at the time of conveyance of the Property to the Redeveloper.

3. In addition to the taxes payable under Section 2 hereof, so long as the exemptions provided for hereunder shall remain in force and effect and commencing for the fiscal year immediately following the completion of the Housing Project and the execution of a "Housing Assistance Payments Contract" (as defined in the Act) with respect thereto ("Commencement Date"), the Redeveloper shall pay to the Town, in lieu of all taxes, other than taxes payable under Section 2 hereof and assessments for local improvements, annual amounts to be determined and paid in the manner hereinafter provided:

(a) The Redeveloper shall pay to the Town, in the manner hereinafter provided in subsection (f) of this Section 3, an annual amount equal to 28.68% of the annual amount set forth on Schedule B annexed hereto for the fiscal year following the Commencement Date referred to therein, less an amount equal to the annual Town taxes which were paid or due and payable under Section 2 above, except as provided in subsection (e) of this Section 3.

(b) The Redeveloper shall pay to the Town, for the benefit of the School District in which the Property is located, in the manner hereinafter provided in subsection (f) of this Section 3, an annual amount equal to 60.45% of the annual amount set forth on Schedule B annexed hereto for the fiscal year following the Commencement Date referred to therein, less an amount equal to the annual School District taxes which were paid or due and payable under Section 2 above, except as provided in subsection (e) of this Section 3.

(c) The Redeveloper shall pay to the Town, for the benefit of the County, in the manner hereinafter provided in subsection (f) of this Section 3, an annual amount equal to 8.73% of the annual amount set forth on Schedule B annexed hereto for the fiscal year following the Commencement Date referred to therein, less an amount equal to the annual County taxes which were paid or due and payable under Section 2 above, except as provided in subsection (e) of this Section 3.

(d) The Redeveloper shall pay to the Town, for the benefit of the Fire District in which the Property is located, in the manner hereinafter provided in subsection (f) of this Section

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3, an annual amount equal to 2.14% of the annual amount set forth on Schedule B annexed hereto for the fiscal year following the Commencement Date referred to therein, less an amount equal to the annual Fire District taxes which were paid or due payable under Section 2 above, except as provided in subsection (e) of this Section 3.

(e) Notwithstanding anything to the contrary provided in this Agreement, in no event shall the Redeveloper make annual payments under Sections 2 and 3 hereof to or for the benefit of any taxing jurisdiction in excess of the annual amounts it would otherwise have had to pay to or for the benefit of such taxing jurisdictions if it had not been granted the tax exemption provided herein.

(f) Any amounts due and payable under subsections (a), (b), (c) and (d) of this Section 3 shall be due and payable on the date or dates that the taxes under Section 2 hereof are due and payable. The failure to make payment of taxes under Section 2 hereof and of the amounts under Section 3 hereof when the same shall be due and payable, shall be treated for all purposes as a failure to make payment of taxes and shall be governed by the same provisions of law as shall apply to the failure to make payment of taxes.

4. Nothing contained in this Agreement, except the representation contained in the final sentence of Paragraph 1 hereof with respect to the Town's assessing real property for the purpose of taxation, shall constitute a representation, warranty or covenant, either express or implied, by the Town or the Town Board with respect to the exemption of taxation of the Property from County, School District or Fire District taxes, it being expressly understood and agreed by the parties hereto that such exemption is by virtue of Section 125 (1) (c) of the Private Housing Finance Law of the State of New York and that, with respect to such exemption, the Town and the Town Board are acting in reliance upon such Section and as required by such Section. By executing this Agreement, Halandia Associates-Riverhead expressly releases the Town and the Town Board from any liabilities with respect to such exemption.

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<u>Fiscal Year Following Commencement Date</u>	<u>Amount</u>	<u>Fiscal Year Following Commencement Date</u>	<u>Amount</u>
1	\$7,000	21	\$17,000
2	7,000	22	20,000
3	7,000	23	20,000
4	8,000	24	20,000
5	8,000	25	23,500
6	8,000	26	23,500
7	9,000	27	23,500
8	9,000	28	28,000
9	9,000	29	28,000
10	10,500	30	28,000
11	10,500	31	33,000
12	10,500	32	33,000
13	12,500	33	33,000
14	12,500	34	36,000
15	12,500	35	36,000
16	14,500	36	36,000
17	14,500	37	36,000
18	14,500	38	36,000
19	17,000	39	36,000
20	17,000	40	36,000

The vote, Prusinowski, Yes, Regula, Yes, Lombardi, absent, Menendez, Yes, and Janoski, Yes.

The resolution was thereupon declared duly adopted.

RESOLUTION#256 APPROVES SPECIAL PERMIT OF THE HALANDIA GROUP

Councilman Menendez offered the following resolution which was seconded by Councilman Regula.

WHEREAS, the Town of Riverhead established a Re-Development Community District in Resolution #585 on November 18, 1980, and

WHEREAS, the Halandia Group of 3115 Long Beach Road, Oceanside, New York, applied for a special permit to develop and construct 40 dwelling units on Doctors Path, and

WHEREAS, a public hearing was held on December 2, 1980, before the Town Board where all those wishing to be heard were heard, and

WHEREAS, the Environmental Quality Review Board recommended to the Town Board that this action did not require an environmental impact statement and the Planning Board concurred, and

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WHEREAS, the Town Board referred this application to the Planning Board and said Board recommended that the application should be approved subject to the condition that there be a planting buffer and windbreak along the northerly and westerly property lines,

NOW, THEREFORE, BE IT

RESOLVED, that the special permit application of the Halandia Group to develop and construct 40 dwelling units on Doctors Path be approved subject to any requirements, restrictions, and/or limitations as detailed in the Riverhead Town Code, Chapter 108, and the following condition that there be a planting buffer and windbreak along the northerly and westerly property lines.

The vote, Prusinowski, Yes, Regula, Yes, Lombardi, absent, Menendez, Yes, and Janoski, Yes.

The resolution was thereupon declared duly adopted.

There being no further business on motion and vote, the meeting adjourned at 3:31 P.M.

Respectively Submitted

Irene J. Pendzick

Irene J. Pendzick

IJP:bg