



Lake County Illinois

Legislation Details (With Text)

File #: 18-1363 **Version:** 1 **Name:** Emerald Pointe Regulatory Agreement Release
Type: resolution **Status:** Passed
File created: 10/29/2018 **In control:** Financial & Administrative Committee
On agenda: **Final action:** 11/13/2018
Title: Resolution authorizing a release of Regulatory Agreement and Declaration of Restrictive Covenants by and among the County of Lake, Illinois; Emerald Pointe Limited Partnership; and Bank of New York (BNY) Midwest Trust Company, as Trustee, dated December 1, 2001, recorded January 4, 2002 and amended by First Amendment, recorded December 1, 2011.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Emerald Pointe Agreement, 2. Banner-Emerald Pointe - Certificate re Section 8 Contract, 3. Banner-Emerald Pointe - Release of Regulatory Agreement

Date	Ver.	Action By	Action	Result
11/13/2018	1	Lake County Board	adopted	Pass
11/7/2018	1	Financial & Administrative Committee	recommended for adoption to the consent agenda	Pass

Resolution authorizing a release of Regulatory Agreement and Declaration of Restrictive Covenants by and among the County of Lake, Illinois; Emerald Pointe Limited Partnership; and Bank of New York (BNY) Midwest Trust Company, as Trustee, dated December 1, 2001, recorded January 4, 2002 and amended by First Amendment, recorded December 1, 2011.

- In 2001, the County issued \$7,260,000 in conduit revenue bonds to enable the purchase, renovation and equipping of the multifamily housing project known as Emerald Pointe Apartments.
- As part of obtaining tax exempt status for the interest on the bonds, the developer was required to make certain covenants to meet affordable housing standards required by the federal government.
- The First Amendment passed by the County Board on November 8, 2011, allowed for the borrower to refinance the amounts outstanding with a private mortgage; however, the covenants in the Regulatory Agreement did not terminate with the payment of the balance of the bonds.
- The Borrower has opted out of the Section 8 program, pursuant to written notice to BNY Mellon, dated October 18, 2017. The Project Based Units in the Property are now all Market Rate Units. Therefore, all conditions to termination referenced in Section 1(d) of the Regulatory Agreement and Declaration of Restrictive Covenants dated December 1, 2001, and thereafter amended, have been satisfied.
- BNY Midwest Trust Company, as trustee, has signed the release of the Regulatory Agreement and staff recommend that the County release as well.

RESOLUTION

WHEREAS, in 2001, the County issued \$7,260,000 in conduit revenue bonds to enable the purchase, renovation and equipping of the multifamily housing project known as Emerald Pointe Apartments; and

WHEREAS, as part of obtaining tax-exempt status for the interest on the bonds, the developer was

required to make certain covenants to meet affordable housing standards required by the federal government, and as issuer of the bonds, the County was required to agree to those covenants as well; and

WHEREAS, the Borrower has subsequently gotten private financing but the covenants in the Regulatory Agreement did not terminate with the payment of the balance of the bonds; and

WHEREAS, the Borrower has opted out of the Section 8 program and all Project Based Units are now all Market Rate Units and Borrower has certified that it has complied with all conditions to termination of the occupancy restrictions, such that all conditions to termination referenced in Section 1(d) of the Regulatory Agreement and Declaration of Restrictive Covenants dated December 1, 2001, and thereafter amended, have been satisfied.

NOW, THEREFORE, BE IT RESOLVED, by this County Board of Lake County, Illinois, that this resolution authorizing the execution of a Release of Regulatory Agreement and Declaration of Restrictive Covenants By and Among The County of Lake, Illinois; Emerald Pointe Limited Partnership; and BNY Midwest Trust Company as Trustee, dated December 1, 2001, and amended by First Amendment recorded December 1, 2011, be approved.

DATED at Waukegan, Illinois, on November 13, 2018.