

**Approving Changes Of A Subordination Mortgage To A Restrictive Covenant – Silver Gardens Senior Housing Development – ARPA - Department Of Finance, Division Of Recovery And Resilience**

Referred to: The American Rescue Plan Act Special Committee (Chairman Criswell and Legislators Corcoran, Levine, Lopez, and Sperry), The Health, Human Services and Housing Committee (Chairman Uchitelle and Legislators Corcoran, Erner, Lopez, Nolan, Petit, and Stewart), The Public Works, Capital Projects and Transportation Committee (Chairwoman Petit and Legislators Erner, Fabiano, Litts, and Nolan), and The Ways and Means Committee (Chairman Gavaris and Legislators Cahill, Criswell, Roberts, and Ronk)

Chairman of the ARPA Special Committee, Peter J. Criswell, and Deputy Chair Thomas Corcoran, Jr. offer the following:

WHEREAS, this resolution has been submitted at the request of the County Executive on behalf of the Department of Finance, Division of Recovery and Resilience; and

WHEREAS, the County Legislature previously authorized \$600,0000 of American Rescue Plan Act, State and Local Fiscal Recovery Fund (ARPA-SLFRF) funding for Capital Project 631, in Resolution No. 163 of 2022, to the subrecipient RUPCO, Inc., to aid in the cost of constructing a geothermal ground source system for the purposes of heating and cooling and providing hot water to a proposed affordable housing development in the Town of Lloyd; and

WHEREAS, Resolution No. 163 of 2022 resolved that the funding be subject to and contingent upon the execution of a subordination mortgage agreement which was annexed to the resolution; and

WHEREAS, the purpose of the subordination mortgage was to provide a legal mechanism where the County could enforce and ensure the affordable housing development maintained specific affordability levels for thirty years in return for the ARPA-SLFRF funding from the County; and

WHEREAS, this subordination mortgage has gone through further review and discussion between the County Attorney, RUPCO, Inc., and County staff; and

WHEREAS, a revised and updated recapture document, based on the document approved by Resolution No. 163 of 2022, has been filed with the Clerk of the Legislature, for the review and the approval of the Legislature (the “Recapture Document”); and

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WHEREAS, the Recapture Document utilizes the legal mechanism of a restrictive covenant to ensure enforceability of a thirty-year retention period on the specific affordability levels of the development, which period shall commence on the date of completion of the development; now, therefore, be it

RESOLVED, that the Ulster County Legislature has examined the Recapture Document, and hereby approves the Recapture Document in the form as filed with the Clerk of the Legislature, or as modified with the approval of the County Attorney and Legislative Counsel,

and move its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: 20                      NOES: 1  
(Noes: Legislator Maloney)  
(1 Abstention: Legislator Roberts)  
(Absent: Legislator Bowen)

Passed Committee: American Rescue Plan Act on August 30, 2023

Passed Committee: Health, Human Services and Housing on September 6, 2023

Passed Committee: Public Works, Capital Projects and Transportation on September 15, 2023

Passed Committee: Ways and Means on September 19, 2023

FINANCIAL IMPACT:  
NONE

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STATE OF NEW YORK

ss:

COUNTY OF ULSTER

I, the undersigned Clerk of the Legislature of the County of Ulster, hereby certify that the foregoing resolution is the original resolution adopted by the Ulster County Legislature on the 19<sup>th</sup> Day of September in the year Two Thousand Twenty-Three, and said resolution shall remain on file in the office of said clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 22<sup>nd</sup> Day of September in the year Two Thousand Twenty-Three.

[s] Victoria A. Fabella  
Victoria A. Fabella, Clerk  
Ulster County Legislature

Submitted to the County Executive this  
22<sup>nd</sup> Day of September 2023.

Approved by the County Executive this  
29th Day of September 2023.

[s] Victoria A. Fabella  
Victoria A. Fabella, Clerk  
Ulster County Legislature

[s] Jen Metzger  
Jen Metzger, County Executive