

MEMORANDUM

AUGUST 15, 2013

TO: BOSTON REDEVELOPMENT AUTHORITY AND
PETER MEADE, DIRECTOR

FROM: KEVIN MORRISON, GENERAL COUNSEL
JANET CARLSON, FIRST ASSISTANT GENERAL COUNSEL

SUBJECT: CHARLESVIEW APARTMENTS CHAPTER 121A PROJECT,
CERTIFICATE OF PROJECT TERMINATION

SUMMARY: This Memorandum requests the termination of the Charlesview Apartments Chapter 121A Project which consists of eight (8) buildings containing approximately two hundred (200) dwelling units of low and moderate income housing with appurtenant facilities, including a community area, landscaping, walkways, driveway, commercial space and on-site parking facilities. Specifically, a request is hereby made for the following: (1) a determination and finding that Charlesview, Inc. has carried out the obligations and performed the duties imposed on it by Chapter 121A; and (2) the authorization for the Director to execute and deliver a Certificate of Project Termination with a termination date of April 10, 2009, and to terminate any other agreements with or restrictions held by the BRA with respect to the Chapter 121A Project.

PROJECT BACKGROUND

On March 20, 1969, the Boston Redevelopment Authority (the "Authority") by vote adopted a Report and Decision on an application, originally dated February 26, 1969 and as amended on March 14, 1969 (the "Original Application") (the "Report and Decision"), on a project known as Charlesview Apartments (the "Project"), located in the Allston neighborhood of the City of Boston. Such vote was approved by the then Mayor of the City of Boston (the "Mayor") on April 8, 1969 and the vote as so approved was filed with the Clerk of the City of Boston (the "City Clerk") on April 10, 1969 (the "Original Approval Date"). The Project, as more particularly described in the Report and Decision and the Original Application upon which it was based, consists of the construction of Parcel R-1 ("Parcel R-1") of the North Harvard Urban Renewal Project Area (Project No. Mass. R-54) of 8 buildings containing approximately 200 dwelling units of low and moderate income housing with appurtenant facilities, including a community area, landscaping, walkways, driveway, commercial space and on-site parking facilities. The Chapter 121A entity designated in the Report and Decision to

own, operate and manage the Project was Charlesview, Inc., a corporation organized under and subject to Massachusetts General Laws Chapters 121A and 156 (as set forth in Chapter 121A, Section 3). Such Report and Decision was amended by amendments adopted by votes of the Authority on respectively August 28, 1969 and October 12, 2000. All of the foregoing votes and amendments adopted thereby were approved by the Mayor and filed with the City Clerk, as required by Chapter 652. The Report and Decision, as so amended, is hereinafter referred to as the "Amended Report and Decision."

A certain undated contract, under Massachusetts General Laws Chapter 121A, Sections 6A and 14, was entered into by Charlesview, Inc. and the City (the "Original 6A Contract"). On February 21, 2001 Charlesview, Inc. entered into a contract with the City of Boston pursuant to Chapter 121A, section 6A, which replaced in its entirety the Original 6A Contract (the "New 6A Contract").

On March 14, 2001 Charlesview, Inc. entered into a Regulatory Agreement with the Authority pursuant to section 18C of Chapter 121A.

CERTIFICATE OF PROJECT TERMINATION

The Project had a term of 40 years from the Original Approval Date; that is, from April 10, 1969 to April 10, 2009. Since 2009 Charlesview, Inc. has been paying Chapter 59 Real Estate Taxes. For reasons of certainty in property taxation, the parties request a Certificate of Termination ("Certificate") to confirm the termination date of the Project as April 10, 2009.

Chapter 121A, section 18C provides as follows with emphasis added:

"If the persons or organizations described in this section have carried out their obligations and performed their duties as imposed by this chapter for a period of forty years from the date of approval of a project to the satisfaction . . . of the Boston Redevelopment Authority, as evidenced by a certificate issued . . . by said authority . . . , they shall thereafter no longer be subject to the obligations of this chapter nor enjoy the rights and privileges hereby granted."

Thus, after the termination date specified in the Certificate, Charlesview, Inc., as the Chapter 121A entity, shall no longer be subject to, except for any outstanding liabilities or contractual obligations, nor will it enjoy the rights and privileges of Chapter 121A and Chapter 652.

RECOMMENDATION

Staff is not aware of any defaults or violations by Charlesview, Inc. of the terms of the Regulatory Agreement or New 6A Contract, or other applicable provisions of Chapters 121A and 652.

It is recommended that a determination and finding be made that Charlesview, Inc. has satisfied all of the applicable obligations and duties imposed on it under Chapter 121A and therefore a Certificate of Project Termination should be issued. When issued, counterparts of the certificate will be sent to or filed with Charlesview, Inc., the City of Boston, respectively, the City Clerk, the Collector-Treasurer, Treasury Department and the Commissioner of Assessing, Assessing Department, and also with the Commonwealth of Massachusetts Department of Revenue.

Appropriate votes follow:

VOTED: That the Boston Redevelopment Authority (the “Authority”) in accordance with G.L. c. 121A, §18C, hereby determines and finds with regard to the Charlesview Apartments Chapter 121A Project, as follows: (1) that Charlesview, Inc. has carried out its obligations and performed the duties as imposed by M.G.L. c. 121A and the St. 1960, c. 652, as amended and applicable (collectively, hereinafter “C. 121A”); and (2) that the Charlesview Apartments Chapter 121A Project is terminated as of April 10, 2009, and thereafter the property which constitutes the Charlesview Apartments Chapter 121A Project and Charlesview, Inc. shall no longer be subject to the obligations, except for any outstanding liabilities incurred, nor shall they enjoy the rights, benefits, exemptions and privileges conferred or imposed by C. 121A; and

FURTHER

VOTED: That the Director of the Boston Redevelopment Authority be, and hereby is, authorized to execute on behalf of the Authority, a Certificate of Project Termination with regard to the Charlesview Apartments Chapter 121A Project, and a termination of any other agreements with or restrictions held by the BRA with respect to the Chapter 121A Project. Such Certificate of Project Termination shall be delivered to Charlesview, Inc., the Department of Revenue of the Commonwealth of Massachusetts and the City of Boston, respectively, the City Clerk, the Commissioner of Assessing, the Assessing Department and the Collector-Treasurer of the Treasury Department.