



OFFICE OF THE CITY CLERK

Rosaria Salerno
City Clerk

Room 601, Boston City Hall, Boston, Massachusetts 02201, 617-635-4600, Fax: 617-635-4658

March 22, 2010

To the City Council

Dear Councilors:

In compliance with the order passed by your Honorable Body December 6, 1976, this is to inform you that the following was filed by the Boston Redevelopment Authority with the City Clerk on March 22, 2010.

“First Report and Decision Amendment on the Boston Rehabilitation Associates 1 Chapter 121A Project”.

Respectfully,

Rosaria Salerno
City Clerk

RS/pf

Boston Redevelopment Authority

Boston's Planning & Economic
Development Office

Thomas M. Menino, *Mayor*
Clarence J. Jones, *Chairman*
John F. Palmieri, *Director*

One City Hall Square
Boston, MA 02201-1007
Tel 617-722-4300
Fax 617-248-1937

RECEIVED
CITY CLERK'S OFFICE

March 22, 2010
2010 MAR 22 P 3:34

BOSTON, MA

Ms. Rosaria Salerno, City Clerk, City of Boston
One City Hall Square, Room 601
Boston, MA 02201

RE: FIRST REPORT AND DECISION AMENDMENT ON THE BOSTON
REHABILITATION ASSOCIATES I CHAPTER 121A PROJECT

Dear Ms. Salerno:

Pursuant to Section 13, Chapter 652 of the Acts of 1960, I hereby file with the Office of the City Clerk the following material attested by the undersigned as Secretary.

A Certificate of Vote of the Authority adopted on March 16, 2010, approving and adopting the "FIRST REPORT AND DECISION AMENDMENT ON THE BOSTON REHABILITATION ASSOCIATES I CHAPTER 121A PROJECT FOR THE RECOGNITION AND APPROVAL, PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 121A AND THE ACTS OF 1960, CHAPTER 652, BOTH AS AMENDED, OF A SECOND AMENDMENT TO THE SECTION 6A CONTRACT WITH THE CITY OF BOSTON", vote of the Authority approving said Application and an executed copy of the Approval by His Honor, Mayor Menino dated March 21, 2010, of the foregoing vote.

Attached to the above-mentioned Certificate of Vote and Approval thereof by His Honor, Mayor Menino, is a copy of the aforementioned "FIRST REPORT AND DECISION AMENDMENT...".

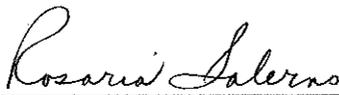
Please acknowledge the filing of the foregoing on the copy of this letter and return the same to the undersigned.

Receipt of the aforementioned is hereby
acknowledged:

Very truly yours,



Brian P. Golden
Secretary



City Clerk



Date

MEMORANDUM

MARCH 16, 2010

TO: BOSTON REDEVELOPMENT AUTHORITY AND
JOHN F. PALMIERI, DIRECTOR

FROM: BRENDA MCKENZIE, DIRECTOR OF ECONOMIC DEVELOPMENT
HEATHER CAMPISANO, DEPUTY DIRECTOR OF DEVELOPMENT
REVIEW
JAY ROURKE, SENIOR PROJECT MANAGER

SUBJECT: FIRST REPORT AND DECISION AMENDMENT ON THE BOSTON
REHABILITATION ASSOCIATES I CHAPTER 121A PROJECT

SUMMARY: This Memorandum requests adoption of a First Report and Decision Amendment to the Boston Rehabilitation Associates I Chapter 121A Project (the "Project"), which recognizes and approves a Second Amendment to the 6A Contract by and between Boston Rehabilitation Associates I Limited Partnership and the City of Boston.

PROJECT BACKGROUND

The Boston Rehabilitation Associates I LP Chapter 121A Project consists of four (4) parcels, containing 38,147 square feet of land located at 66 The Fenway, 94-98 Chester Street, 1391-1395 Commonwealth Avenue and 15 Royce Road (the "Project Site"). The Project Site is improved with six (6) buildings from three to five stories in height containing 129 units of housing for low and moderate income persons and families. Sixty-eight (68) units are one-bedroom units and sixty-one (61) units are two-bedroom units (the "Project"). All 129 units receive rental assistance under the Section 8 program from the United States Department of Housing and Urban Development ("Section 8").

PROJECT BACKGROUND

Boston Rehabilitation Associates I, a Massachusetts Limited Partnership (the "Owner") filed an "Application for Authorization and Approval of a Project under Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960 and for Consent to the Formation of a Limited Partnership Organized Under the Provisions of Section 18C of Chapter 121A and Chapter 109 of the General Laws" dated August 7, 1978 (the "Application") with the Boston Redevelopment Authority ("Authority"). On March 29, 1979, the Owner filed a First Amendment to the Application dated March 29, 1979 which deleted 181 Parson Street from the Application. On April 12, 1979, the Authority

voted to adopt a Report and Decision and First Amendment on the Project (the "Report and Decision"). Such vote was approved by the Mayor of the City of Boston (the "Mayor") on April 30, 1979, and the vote, as so approved, was filed with the Clerk of the City of Boston (the "City Clerk") on April 30, 1979.

The total original cost of construction of the Project was approximately \$4,200,000.00 which was principally financed with a mortgage from Consumers Savings Bank of Worcester. Additionally, the Project was assisted by rental assistance under Section 8 for 100% of the units.

PROJECT TEAM

The development team consists of Parsons Street Housing and Paul B. Clayton as general partners of the Owner and Henry Kara as their attorney.

FIRST REPORT AND DECISION AMENDMENT

The Owner of the Project, through legal counsel, has requested an amendment to the Report and Decision for the Project to acknowledge certain amendments which have been made to the 6A Contract with the City of Boston required by Section 6A of Chapter 121A of Massachusetts General Laws (the "6A Contract"), which was entered into on June 1, 1979. A First Amendment to the 6A Contract was entered into on May 24, 1996 which expires with the filing of the calendar 2009 Urban Redevelopment Excise Tax Return. The Owner of the Project has negotiated with the Assessing Department, including the Commissioner and the Board of Review, for an extension of the 6A Contract through 2019. A copy of the Second Amendment to Contract Required by Section 6A of Chapter 121A of the General Laws is attached. This First Report and Decision Amendment is requested for the limited purpose of recognizing the Second Amendment to the 6A Contract with the City of Boston.

FUNDAMENTAL CHANGE DETERMINATION AND RECOMMENDATION

The General Counsel has determined that the changes requested herein do not collectively constitute a "fundamental change" in accordance with the Acts of 1960, Chapter 652, Sections 13 or 13A, as amended, and a public hearing is therefore not required. Adoption of the First Report and Decision Amendment is recommended.

Appropriate votes follow:

VOTED: That the document presented at this meeting entitled, "FIRST REPORT AND DECISION AMENDMENT ON THE BOSTON REHABILITATION ASSOCIATES I CHAPTER 121A PROJECT FOR THE RECOGNITION AND APPROVAL, PURSUANT TO MASSACHUSETTS GENERAL

LAWS CHAPTER 121A AND THE ACTS OF 1960, CHAPTER 652, BOTH AS AMENDED, OF A SECOND AMENDMENT TO THE SECTION 6A CONTRACT WITH THE CITY OF BOSTON" be and hereby is, approved and adopted in all respects; and

**FURTHER
VOTED:**

That the Director be, and hereby is, authorized to execute any and all agreements, instruments, documents or letters he deems necessary and appropriate, in his sole discretion, and in the best interest of the Boston Redevelopment Authority, regarding the First Amendment to the Boston Rehabilitation Associates I Chapter 121A Project.

APPROVED:

Including, without limiting the generality of the foregoing, the "FIRST REPORT AND DECISION AMENDMENT ON THE REHABILITATION ASSOCIATES I CHAPTER 121A PROJECT" and the March 16, 2010 vote of the Authority approving said Report and Decision Application.



Mayor of the City of Boston

7-21-10

Date

Attest:



City Clerk
City of Boston



Secretary
Boston Redevelopment Authority

MARCH 16, 2010

FIRST REPORT AND DECISION AMENDMENT
ON THE BOSTON REHABILITATION ASSOCIATES I CHAPTER 121A PROJECT
FOR THE RECOGNITION AND APPROVAL, PURSUANT TO MASSACHUSETTS
GENERAL LAWS CHAPTER 121A AND THE ACTS OF 1960, CHAPTER 652,
BOTH AS AMENDED, OF A SECOND AMENDMENT TO THE SECTION 6A
CONTRACT WITH THE CITY OF BOSTON

A. The Project.

The Boston Rehabilitation Associates I Chapter 121A Project consists of four (4) parcels, containing 38,147 square feet of land located at 66 The Fenway, 94-98 Chester Street, 1391-1395 Commonwealth Avenue and 15 Royce Road (the "Project Site"). The Project Site is improved with six (6) buildings from three to five stories in height containing 129 units of housing for low and moderate income persons and families. Sixty-eight (68) units are one-bedroom units and sixty-one (61) units are two-bedroom units (the "Project"). All 129 units receive rental assistance under the Section 8 program from the United States Department of Housing and Urban Development ("Section 8").

B. Prior Proceedings and Actions. Reference is made to the following:

1. On April 12, 1979, the Boston Redevelopment Authority ("Authority") voted to adopt a Report and Decision and First Amendment on the Project ("Report and Decision"). Such vote was approved by the Mayor of the City of Boston (the "Mayor") on April 30, 1979, and the vote as so approved was filed with the Clerk of the City of Boston (the "City Clerk") on April 30, 1979. Boston Rehabilitation Associates I, Limited Partnership (the "Owner") was designated as the Chapter 121A entity to own, operate and manage the Project.

2. The Owner and the Authority entered into a Regulatory Agreement, under Chapter 121A, §18C, for the Project on January 6, 1980.

3. The Owner and the City of Boston entered into a 6A Contract for the Project on June 1, 1979.

4. On May 24, 1996, the Owner and the City of Boston entered into a First Amendment to the 6A Contract.

C. First Report and Decision Amendment Request. The Owner is seeking approval of a First Report and Decision Amendment to approve and recognize a Second Amendment to Contract Required by Section 6A of Chapter 121A of the General Laws by and between the Owner and the City of Boston ("Second Amendment to 6A Contract").

D. Authority Action. The Authority is acting hereunder pursuant to Massachusetts General Laws, Chapter 121A, as amended ("Chapter 121A"), Sections 11 and 18C, and the Acts of 1960, Chapter 652, as amended ("Chapter 652"), Section 13A, and all other applicable sections or provisions of Chapters 121A and 652, and the Authority's "Rules and Regulations Governing Chapter 121A Projects in the City of Boston", as amended and/or revised. Further, the Authority, in acting hereunder, has considered the Application and all documents or exhibits filed therewith or attached thereto, and all documents or other materials presented at the Authority's meeting on March 16, 2010, sufficient in the Authority's judgment to enable it to act as hereinafter set forth.

E. Decision. The Authority hereby acts as follows:

1. Approval. The Second Amendment to 6A Contract is hereby approved and recognized and the Report and Decision is hereby further amended only to the extent specifically set forth herein.

2. General Findings and Determinations. The Authority hereby finds and determines that : (a) the Second Amendment to 6A Contract, attached hereto, is approved; (b) that such change in ownership structure does not constitute a "fundamental change" in accordance with Chapter 652, Section 13A; (c) except to the extent inconsistent with or contrary to the provisions of this First Amendment, all of the findings, determinations, approvals and consents contained in the Report and Decision, are hereby ratified and confirmed in all respects; and (d) any procedural or other requirements of applicable statutes, rules and regulations which may not have been complied with in the Authority's proceedings in connection therewith are hereby waived.

3. Continued Affordability/ Use Restrictions. The Authority confirms the continued use of the Project as affordable housing under the Section 8 program and obligates the Owner to seek and accept all renewals of assistance available under Section 8.

F. Execution of Documents: Estoppel Certificates. The Authority's Director is hereby authorized to execute or provide to lenders, governmental bodies or other interested persons or entities, Estoppel Certificates or like instruments at his discretion, which confirm matters covered by this First Amendment.

G. Severability. In the event any provision of this First Amendment shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

Second Amendment to Contract Required by
Section 6A of Chapter 121A of the General Laws

AMENDED AGREEMENT (the "Amendment") made this 5th day of ~~February~~ ^{March}, 2010 by and between Boston Rehabilitation Associates I, a Limited Partnership organized pursuant to Massachusetts General Laws, Chapter 109 (the "Owner") and the City of Boston, a municipal corporation of the Commonwealth of Massachusetts (the "City"); acting under Massachusetts General Laws, Chapter 121A, Section 6A and every other power and authority. Collectively, the Owner and the City are hereinafter referred to as the "Parties".

WITNESSETH THAT;

On April 12, 1979, the Boston Redevelopment Authority (the "Authority") approved an application of the Owner pursuant to the provisions of Massachusetts General Laws Chapter 121A as amended and Chapter 652 of the Acts of 1960 to rehabilitate 129 units of housing for low income elderly and families (the "Project"); and

WHEREAS, the Mayor of the City of Boston approved the aforementioned vote on April 30, 1979; and,

WHEREAS, the Certificate of Vote of the Authority and approval of the Mayor of the City of Boston were filed with the office of the City Clerk on April 30, 1979; and,

WHEREAS, a contract by and between the Owner and the City pursuant to Massachusetts General Laws c. 121A, Section 6A, as amended, was executed on June 1, 1979 (the "Contract"); and,

WHEREAS, the Owner and the City are in agreement that certain sections of the Contract should be amended to reflect current economic conditions;

NOW THEREFORE, the Parties agree to amend the Contract as follows:

A. By inserting on Page 2 of the Contract in Section l(d)(iii) after the words "(15%) percent of gross residential income", the phrase "through calendar year 1994".

B. By deleting the first two (2) paragraphs of Section l(d)(iv) of the Contract on Page 3 and inserting in their place:

"The City agrees that commencing with the filing of the Urban Redevelopment Excise Tax Return covering the period ending December 31, 2010 and through the filing of the Urban Redevelopment Excise Tax Return covering the period ending May 31, 2019, the percentage of the gross residential income shall be as set forth below:

TAX YEAR	PERCENTAGE
2010	7%
2011	7%
2012	7%
2013	7 ½%
2014	7 ½%

2015	7 ½%
2016	8%
2017	8%
2018	8%
2019	8%

C. By inserting on Page 3 of the Contract in Section 1(d)(iv) after the full paragraph that begins with words "Any payments which may become due to the City ..." the following paragraph:

"Upon termination of this Agreement, the Owner shall pay or cause to be paid a gap payment to cover the time period between the termination date and the date the Project becomes taxable pursuant to General Laws, Chapter 59. The gap payment shall be equal to the payment that would have been made for such period if the Project had remained subject to this contract. The gap payment shall be paid within six (6) months following the month in which the Project terminates" and said gap payment shall be based on 8% of gross residential income so the intent of the parties is clear.

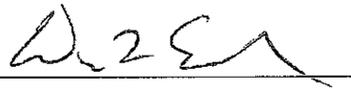
In consideration of the foregoing reduction, the Owner agrees to provide the City on or before March 15 of each calendar year evidence reasonably satisfactory to the City that the Owner has expended on an annual basis the difference between the amount of tax which would have been calculated under the First Amendment written on May 24, 1996 and the amount of tax payable in any given year under the terms of this Agreement as amended. Any shortfall in such amount shall be paid to the City as additional excise taxes on or before April 15 of each calendar year."

EXECUTED as a sealed instrument the day and year first above written.

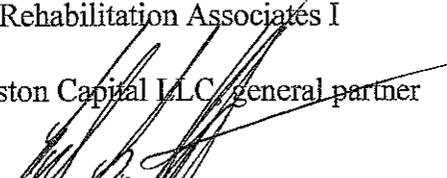
ASSENTED TO:

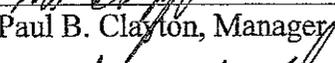
By: 
 Ronald W. Rakow
 Commissioner of Assessing

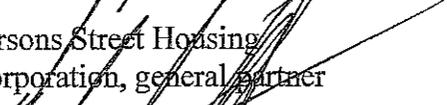
APPROVED AS TO FORM

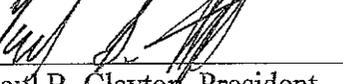

 Corporation Counsel *ANC*

Boston Rehabilitation Associates I

By:  general partner

By: 
 Paul B. Clayton, Manager

By: 
 Parsons Street Housing Corporation, general partner

By: 
 Paul B. Clayton, President and Treasurer

CITY OF BOSTON

By: 
 Thomas M. Menino, Mayor

March 18, 2010

Honorable Thomas M. Menino
Mayor of Boston
One City Hall Square
Boston, Massachusetts 02201

SUBJECT: FIRST REPORT AND DECISION AMENDMENT ON THE BOSTON
REHABILITATION ASSOCIATES I CHAPTER 121A PROJECT

Dear Mayor Menino:

At the regular meeting of March 16, 2010, the Boston Redevelopment Authority (the "Authority") approved and adopted a document entitled "FIRST REPORT AND DECISION AMENDMENT ON THE BOSTON REHABILITATION ASSOCIATES I CHAPTER 121A PROJECT FOR THE RECOGNITION AND APPROVAL, PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 121A AND THE ACTS OF 1960, CHAPTER 652, BOTH AS AMENDED, OF A SECOND AMENDMENT TO THE SECTION 6A CONTRACT WITH THE CITY OF BOSTON". The adoption of this document constitutes approval by the Authority.

Enclosed herewith for your review are four copies of the "FIRST REPORT AND DECISION AMENDMENT...". Attached to each copy of the Application is a Certificate of Vote executed by the Secretary.

Section 12 of Chapter 652 of the Acts of 1960 provides as follows: "...provided, however, that no vote of the Authority approving a project or any change therein, or making or amending any rule, regulation or standard therefor, shall be in force until approved by the Mayor of said City." Your approval pursuant to Section 12 is respectfully requested.

The Approval Form, which is attached to each set of the aforementioned documents, is in the form previously approved by the City of Boston Law Department.

If the vote of the Authority approving the "FIRST REPORT AND DECISION AMENDMENT..." meets with your approval, please sign all four copies of the Approval Certificate, one copy of which I am required as Secretary to file with the City Clerk pursuant to Chapter 652 of the Acts of 1960.

Very truly yours,



Brian P. Golden

Executive Director/Secretary

Attachment