



**BOROUGH OF WOODCLIFF LAKE  
MAYOR AND COUNCIL SPECIAL MEETING AGENDA  
DECEMBER 6, 2022  
WOODCLIFF LAKE, NEW JERSEY  
7:00 PM**

**CALL TO ORDER**

Notice of this meeting, in accordance with the "Open Public Meetings Law, 1975, C. "231", has been posted and two newspapers, The Record and The Ridgewood News, have been notified.

**ROLL CALL**

Mayor Carlos Rendo  
Councilman Stephen Falanga  
Council President Jacqueline Gadaleta  
Councilwoman Angela Hayes  
Councilwoman Josephine Higgins  
Councilwoman Jennifer Margolis  
Councilman Richard Schnoll

**PLEDGE OF ALLEGIANCE**

**DISCUSSION OF SETTLEMENTS**, led by Jeffrey Zenn, Esq.

**PUBLIC COMMENTS**

(limited to 3 minutes per speaker)

**ORDINANCE**

Introduction Ordinance No. 22-15  
Ordinance Authorizing Ground Lease Agreement with BCUW/Madeline Housing Partners, LLC for the Development of Affordable Housing Site

**RESOLUTIONS**

Resolution No. 22-272 Resolution Approving an Amend Settlement with the Fair Share Housing Center and Scheduling a Fairness Hearing  
Resolution No. 22-273 Resolution to Enter into Memorandum of Understanding with 188 Broadway, LP To Resolve Outstanding Litigation

**ADJOURNMENT**

**\*\*\*\*Disclaimer\*\*\*\***

**Subject to Additions and/or Deletions**

**SUMMARY OF AMENDED SETTLEMENT AGREEMENT**  
**WITH FAIR SHARE HOUSING**

1. This is an Amended Settlement Agreement that amends the Settlement Agreement between the Borough and FSHC from November, 2017. Only changes will be highlighted.
2. The Borough will enter into an agreement with 188 Broadway Partners, LP resolving all the litigation with 188 Broadway allowing development of 46 units. In turn, the eight affordable units required to be constructed as part of the 188 Broadway project will be placed on the North Broadway site. The North Broadway site is to be developed with 24 total residential units which shall contain twenty family rental apartment units and four supportive units. Previously, North Broadway was to be a 16 family unit affordable housing development.
3. The Borough to adopt zoning for both developments by January 31, 2023.
4. The North Broadway site must pull permits for construction by June 1, 2024.
5. Construction of the North Broadway site to be completed by December 31, 2025.
6. The Developer of 188 North Broadway will make a payment to the Borough's affordable housing trust fund of \$300,000. One-half due upon receiving its first building permit and the remainder due upon its application for its CO.
7. The Borough will need to amend its affordable housing set aside ordinance to provide a 20% set aside for all developments, whether for sale or for rent.
8. In connection with the VFW site, the Borough will enter into an agreement to provide for a due diligence by a third party to establish how many affordable units can be constructed on the site. It is currently designated for twelve affordable family housing units but the parties recognize that that may not be feasible. The Borough is only required to pay for the initial investigation as to what can be built there.
9. Upon approval of the Fair Share Amended Settlement, the Court will hold a Fairness Hearing to approve the settlement that is tentatively scheduled for January 20, 2023.

**SUMMARY OF TERMS OF MEMORANDUM OF UNDERSTANDING  
BETWEEN BOROUGH OF WOODCLIFF LAKE AND  
188 BROADWAY, L.P.**

1. This would resolve all outstanding litigation between the Borough of Woodcliff Lake and 188 Broadway, L.P. which involves the following:
  - a. State court suit against the ZBA for the denial in 2019.
  - b. Federal court litigation resulting from the ZBA denial in 2021.
  - c. Real estate tax appeals for several years relating to the property.
2. Borough of re-zone pursuant to a redevelopment plan to allow 46 total residential units on the 188 Broadway property consisting of 37 rental units in the existing building and 9 townhouse units behind that. The developer will not be required to construct any affordable units at the 188 Broadway site. Instead, the Borough will include the eight units that 188 Broadway was required to provide on the North Broadway site.
3. The developer and Borough will negotiate a redevelopment agreement which will have a long-term PILOT tax exemption for the 37 rental units and a five year abatement on the 9 townhouse units. That will generate more tax dollars than are currently being generated by the property.
4. The developer will make an in-lieu payment to the Borough of \$300,000 to be paid one-half upon issuance of building permits and the balance upon delivery of any certificate of occupancy.
5. The developer to implement reasonable streetscape improvements along the frontage of 188 Broadway as may be requested in addition to anything that may be contained in the redevelopment plan itself.
6. All litigation pending between Borough and 188 Broadway shall be dismissed with prejudice upon approval of site approval for the 188 Broadway property.
7. Developer to contribute \$50,000 for open space and recreation improvements within the Borough.

**SUMMARY OF GROUND LEASE AGREEMENT BETWEEN BOROUGH  
OF WOODCLIFF LAKE AND BCUW/MADELINE HOUSING  
PARTNERS**

1. Borough will lease the North Broadway site (Block 2602, Lots 1, 2 and 9) to BCUW on a long-term basis in order to develop, finance, construct, operate and maintain 20 affordable family housing units and 4 supportive housing units on the property. They are to take care of all development, construction, financing, operating and maintaining the project.
2. The term is for 45 years and the lease consideration is \$1.00.
3. The BCUW is required to file a site plan application by June 30, 2023 and to start construction by June 1, 2024, but no later than September 30, 2024. Completion of construction is required by December 31, 2025.
4. All pre-development costs and expenses including the environmental due diligence and remediation are to be paid by the Borough. That includes all expenses to obtain the approvals including architectural drawings, engineering plans, land use applications and reasonable legal fees.
5. BCUW's obligations are contingent upon its securing financing by June, 2024. If BCUW cannot secure financing, then the Borough is required to obtain and provide for the funding. This obligation arises from the settlement with Fair Share Housing. It is a continuation of the 2017 agreement that the Borough is ultimately responsible for getting the North Broadway site financed and constructed.
6. The BCUW agrees to work with Borough professionals including the Borough engineer and planner, on the architectural and design elements of the project. Once constructed, BCUW will operate it at its expense and maintain the affordability requirements.
7. At the end of the lease term, BCUW surrenders the lease and gives back the property in its then condition to the Borough.

Council Member	Motion	Second	Yea	Nay	Abstain	Absent
Falanga						
Hayes						
Higgins						
Margolis						
Schnoll						
Gadaleta						
Mayor Rendo						

**RESOLUTION APPROVING AN AMEND SETTLEMENT WITH THE FAIR SHARE HOUSING CENTER  
AND SCHEDULING A FAIRNESS HEARING**

**RESOLUTION NO. 22-272  
DECEMBER 6, 2022**

**WHEREAS**, the Borough filed an action in the Superior Court of New Jersey (“Court”), entitled In the Matter of the Application of the Borough of Woodcliff Lake, County of Bergen, Docket No. BER-L-6221-15 in response to the New Jersey Supreme Court’s decision In Re-Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) seeking a Judgment of Compliance and Repose approving its Affordable Housing Plan (as defined herein), in addition to related relief (hereinafter “DJ Action”); and

**WHEREAS**, on or about November 6, 2017, the Borough entered into an agreement with the Fair Share Housing Center (hereinafter “FSHC”) for the purposes of obtaining judicial confirmation in the DJ Action that its proposed affordable housing compliance plan properly addressed the Borough’s constitutional obligation to provide its fair share of the regional need for low and moderate cost housing (hereinafter the “FSHC Settlement”); and

**WHEREAS**, the FSHC Settlement was approved by the Court at a Fairness Hearing on or about December 13, 2017; and

**WHEREAS**, a developer designated by the Borough for the development of an all-affordable property located on North Broadway backed out and as a result of attempting to settle several litigations with the owner of 188 Broadway, the Borough and FSHC have agreed to amend the FSHC Settlement per the terms of an amended agreement dated December \_\_, 2022 (the “Amended FSHC Settlement”) which will enable the Borough to meet its constitutional

obligations and resolve various other litigations that the Borough has with the owner of 188 Broadway; and

**WHEREAS**, the Amended FSHC Settlement will need to be approved by the Court at a properly noticed Fairness Hearing; and

**WHEREAS**, the Mayor and Council of the Borough of Woodcliff Lake deem it in the best interest of the Borough to execute the Amended FSHC Settlement.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Woodcliff Lake that the Borough is hereby authorized and directed to execute the Amended FSHC Settlement in substantially the same form as provided to the Mayor and Council.

**CERTIFICATION**

I, Deborah Dakin, Municipal Clerk of the Borough of Woodcliff Lake in the County of Bergen, and the State of New Jersey, do hereby certify that the foregoing resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting of December 6, 2022.

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**DEBORAH DAKIN, RMC, CMR**  
**BOROUGH CLERK**

Council Member	Motion	Second	Yea	Nay	Abstain	Absent
Falanga						
Hayes						
Higgins						
Margolis						
Schnoll						
Gadaleta						
Mayor Rendo						

**RESOLUTION TO ENTER INTO MEMORANDUM OF UNDERSTANDING WITH 188 BROADWAY,  
LP TO RESOLVE OUTSTANDING LITIGATION**

**RESOLUTION NO. 22-273  
DECEMBER 6, 2022**

**WHEREAS**, 188 Broadway, LP (“Developer”) is the owner of certain property containing approximately 3.544 acres of land located at 188 Broadway, Woodcliff Lake, New Jersey, also known and designated as Lot 3 in Block 2701 (the “188 Property”); and

**WHEREAS**, the Developer filed an application with the Woodcliff Lake Zoning Board of Adjustment (the “ZBA”) for a use variance, site plan and certain other variances for the construction of 60 residential units on the 188 Property which was denied by resolution of the ZBA dated August 27, 2019; and

**WHEREAS**, Developer filed suit against the ZBA in the Superior Court of New Jersey bearing docket number BER-L-6450-19 appealing the denial (the “188 State Court Litigation”) which remains pending; and

**WHEREAS**, the Developer subsequently filed an application with the ZBA for use variance, site plan and other variances to permit the construction of 53 apartment units on the 188 Property and was denied by resolution of the ZBA dated August 24, 2021 (the “ZBA 2021 Resolution”); and

**WHEREAS**, Developer filed suit against the ZBA, the Borough and other defendants in the United States District Court of New Jersey bearing case number 2:21-CV-16417-JSA in connection with the denial of its application memorialized by the ZBA 2021 Resolution alleging taking property without just compensation, violation of due process, legal malpractice and in lieu of

prerogative writs (the "188 Federal Court Litigation"); and

**WHEREAS**, the Developer has filed suit against the Borough challenging the real estate tax assessments on the 188 Property for the years 2018, 2020 and 2021 (the "RE Tax Litigation"); and

**WHEREAS**, the Borough has come to an agreement with the Developer to allow for the development on the 188 Property of 37 rental units in the existing building and 9 for sale townhouse units in the rear of the property provided the required affordable units would be constructed on the North Broadway project by the Borough and all litigation be dismissed, all as more particularly set forth in that certain Memorandum of Understanding ("MOU") attached hereto.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Woodcliff Lake that the Borough is hereby authorized and directed to execute the MOU with the Developer substantially in the form attached hereto to provide for the settlement and resolution of all existing litigation matters with the Developer and the Borough.

**CERTIFICATION**

I, Deborah Dakin, Municipal Clerk of the Borough of Woodcliff Lake in the County of Bergen, and the State of New Jersey, do hereby certify that the foregoing resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting of December 6, 2022.

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**DEBORAH DAKIN, RMC, CMR**  
**BOROUGH CLERK**