

ACT 168 - 2025

HONORABLE BOARD OF LEGISLATORS THE COUNTY OF WESTCHESTER

Your Committee is in receipt of a communication from the County Executive recommending the adoption of an Act which, if approved by your Honorable Board, would authorize the County of Westchester (the "County") to approve the transfer of real property located at 100 College Avenue in the Village of Sleepy Hollow and amend that certain Declaration of Restrictive Covenants ("DRC") dated October 8, 2008, in order to extend affordability period and remove the Right of First Refusal ("RFR") clause contained therein.

Your Committee is advised that on August 11, 2008, your Honorable Board enacted legislation in connection with "Capital Project BPL10 - New Homes Land Acquisition" to provide acquisition funding in support of the purchase and subsequent conveyance of approximately 2.4 acres of real property located at 100 College Avenue in the Village of Sleepy Hollow (the "Property"). The Property is improved by a building with one-hundred sixty-three (163) affordable rental units that affirmatively further fair housing (the "Affordable AFFH Units"), plus one superintendent unit, as well as parking and recreational areas ("Improvements" and together with the Property, and the Affordable Housing Units, collectively, the "Development"). All one-hundred sixty-three (163) Affordable AFFH Units are available to eligible households that earn at or below sixty percent (60%) of the Westchester County area median income ("AMI").

In particular, your Honorable Board approved Bond Act No. 133-2008 which authorized the issuance of bonds of the County in an amount not-to-exceed \$1,712,000 as part of Capital Project BPL10 to finance the acquisition and Act No. 132-2008 which authorized the County to acquire and subsequently convey the Development to SH Affordable Housing Development Fund Company, Inc. as nominee for SH Housing Associates, LLC ("SH Housing").

Your Committee is advised that in addition to the County funds, the Development was financed through the award of tax exempt bonds, an allocation of 4% Low Income Housing Tax Credits from New York State Homes and Community Renewal ("HCR") along with subsidy funding from HCR, and financial contributions made by SH Housing.

Pursuant to the DRC, the Development is to remain affordable for a period of not less than fifty (50) years (the "Period of Affordability"). Presently, the Development is roughly 40% through

the Period of Affordability. The DRC also contains a Right of First Refusal (“RFR”) clause that grants your Honorable Board, at the time of a proposed conveyance, the right to purchase the Development or direct the sale of the Development to an affordable housing entity as the Board deems advisable for a consideration of \$1.00.

The Department of Planning (“Planning”) has advised that SH Housing now desires to convey the Development to Foundation for Affordable Housing, Inc. (“FFAH”) and, in accordance with terms contained within the DRC, has requested the County’s approval to permit such conveyance. FFAH is a 501(c)3 organization with over 25 years of experience, owning in excess of 25,000 affordable housing units in over 200 communities throughout the United States. Upon acquisition of the Development, FFAH will complete various improvements to the Development costing approximately \$78,000 per unit. These improvements will include accessibility upgrades and upgrades to the current property amenities to better serve the residents.

Planning has further advised that SH Housing and FFAH have also requested that the DRC be amended, contemporaneously with the conveyance of the Development to FFAH, in order to remove the RFR clause contained therein. At the time this Development closed in 2008, the County placed RFR clauses on a few developments before the realization the RFR clause created issues for the developments to seeking financing. Most lenders will not permit the existence of an RFR clause because of the significant risk it poses to their lien in the event the County seeks to enforce it. In the case of this Development, the RFR clause is impairing FFAH’s ability to secure the financing necessary to complete the acquisition of the Development and the improvements.

Your Committee is advised that in consideration for amending the DRC, FFAH will agree to restart the Period of Affordability on the Development. The restarted Period of Affordability will commence on the day FFAH takes ownership of the Development and will continue for a period of not less than 50 years.

Therefore, Planning has requested that your Honorable Board authorize an amendment to the DRC in order to reflect the aforementioned extension of the Period of Affordability and to remove the RFR clause. Except as expressly specified herein, all other terms and conditions of the DRC will remain unchanged.

Your Committee is also advised that on April 1, 2008, the Westchester County Planning

Board (the "Planning Board") adopted Resolution No. 2008-009 (the "Planning Board Resolution") to recommend funding to finance the acquisition and conveyance of the Development. Because no material change to the Development is contemplated by the proposed transfer and the amendment to the DRC, the Planning Board Resolution remains in full force and effect. However, it should be noted that the Planning Board was apprised of the proposed amendment as an information item at its February 4, 2025 meeting. The Planning Board Resolution and information item are annexed hereto for your Honorable Board's review.

As your Honorable Board is aware, no action may be taken with regard to the proposed legislation until the requirements of the State Environmental Quality Review Act ("SEQRA") have been met. Planning has advised that since the County's action merely involves the amendment of the DRC to remove the RFR clause and to facilitate the extension of the Period of Affordability for the existing Affordable AFFH Units, then with respect to SEQRA, this does not constitute an action as defined in section 617.2(b) of 6NYCRR Part 617. As such, no environmental review is required.

After careful review, your Committee believes that the Act is in the best interest of the County and therefore recommends its adoption, noting that it requires no more than an affirmative vote of the majority of your Honorable Board.

Dated: **July 28th**, 2025
White Plains, New York

Handwritten signatures:
James J. Zeller John J.
Mark
Sgt
Maurice
Vedat J. Ali

COMMITTEE ON
c/sc/7/11/25

Handwritten signatures:
[Signature]
[Signature]
James J. Zeller John J.
Vedat J. Ali

Handwritten signatures:
Sgt
Swick
James J. Zeller John J.
Vedat J. Ali

Budget & Appropriations

Housing & Planning

Public Works & Transportation

FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: BPL10

☒ NO FISCAL IMPACT PROJECTED

SECTION A - CAPITAL BUDGET IMPACT

To Be Completed by Budget

☐ GENERAL FUND

☐ AIRPORT FUND

☐ SPECIAL DISTRICTS FUND

Source of County Funds (check one):

☐ Current Appropriations

☐ Capital Budget Amendment

100 College Ave, V of SH; approve real property transfer and remove right of first refusal

SECTION B - BONDING AUTHORIZATIONS

To Be Completed by Finance

Total Principal

PPU

Anticipated Interest Rate

Anticipated Annual Cost (Principal and Interest):

Total Debt Service (Annual Cost x Term):

\$ -

Finance Department:

SECTION C - IMPACT ON OPERATING BUDGET (exclusive of debt service)

To Be Completed by Submitting Department and Reviewed by Budget

Potential Related Expenses (Annual): \$ -

Potential Related Revenues (Annual): \$ -

Anticipated savings to County and/or impact of department operations
(describe in detail for current and next four years):

SECTION D - EMPLOYMENT

As per federal guidelines, each \$92,000 of appropriation funds one FTE Job

Number of Full Time Equivalent (FTE) Jobs Funded:

Prepared by: Dianne Vanadia

Title: Associate Budget Director

Department: Budget

Date: 7/15/25


Reviewed By: 

07/15/25

Budget Director

Date: 7/16/25

TO: Leonard Gruenfeld, Program Director
Division of Housing and Community Development

FROM: David S. Kvinge, AICP, RLA, CFM 
Assistant Commissioner

DATE: March 19, 2025

SUBJECT: **SEQR DOCUMENTATION FOR OWNERSHIP TRANSFER AND COUNTY
RIGHT OF FIRST REFUSAL RELEASE- COLLEGE ARMS APARTMENTS,
VILLAGE OF SLEEPY HOLLOW**

Pursuant to your request for an environmental review of the above referenced action, the Planning Department has determined that no environmental review is necessary.

College Arms Apartments was constructed in 1969 and currently provides 164 units of affordable housing. It was rehabilitated in 2008 with financial assistance from multiple sources, including the County's New Homes Land Acquisition Fund. Under the County funding agreement, the units would remain affordable for a period of 50 years and the County had the right of first refusal if the property was ever transferred to another owner.

At this time, a new owner is proposed to take over the property, who intends to retain the units as affordable housing and provide some needed renovations. In order to secure financing for the purchase and renovations, the new owner has expressed the need for the County to relinquish its right of first refusal. The new owner will commit to extending the affordability period for 50 years from the current date.

Since the County's action merely involves the amendment of the Declaration of Restrictive Covenants to remove the right of first refusal clause with no change in use, with respect to the State Environmental Quality Review (SEQR) Act, this does not constitute an action as defined in section 617.2(b) of 6NYCRR Part 617 and no environmental review is required.

DSK/cnm

cc: Blanca P. Lopez, Commissioner
Claudia Maxwell, Principal Environmental Planner

To: Honorable Members of the Westchester County Planning Board

From: Blanca P. Lopez
Commissioner
Department of Planning

Leonard Gruenfeld
Program Director— Community Development
Department of Planning

Re: **No-Action Item to the Planning Board –
College Arms Apartments
100 College Avenue
Village of Sleepy Hollow**

Date: January 22, 2025

College Arms Apartments (the “Development”) in the Village of Sleepy Hollow was assisted by the County of Westchester (“County”) through the New Homes Land Acquisition (“NHLA”) and currently provides 164 units of affordable housing for families at or below 60% of the Westchester County Area Median Income (“AMI”) including one unit for an employee. The Development was originally constructed in 1969 and rehabilitated in 2008 and includes 49 one-bedroom, 85 two-bedroom and 30 three-bedroom units in one ten-story building with parking and amenities.

The Development has approached the County seeking the approval by the County to permit the transfer of the development from an entity of Marathon Development to the Foundation for Affordable Housing (“FFAH”). FFAH, is a 501(c)3 organization in existence for over 25 years and owns in excess of 25,000 affordable housing units in over 200 communities throughout the United States. Simultaneously, at the time of the transfer they are also seeking a release of the County’s Right of First refusal (“RFR”) clause in the recorded Declaration of Restrictive Covenants (“DRC”).

Upon acquisition of the Development by FFAH, approximately \$78,000 per unit in improvements to the Development will be completed. These improvements include accessibility upgrades, kitchen cabinets, kitchen counters, doors, appliances, bathroom fixtures, flooring, painting, façade repairs, roof, solar panels, windows, boilers and outdoor improvements including a bike storage, dog park, outdoor fitness and children’s play area.

At the time when this Development closed in 2008, the County included a RFR clause in the recorded DRC. In the event of a transfer of the Development, the Development must first be offered to the County for a consideration of \$1. In addition, the property must be offered to the County for purchase for a consideration of \$1 at the end of the affordability period. FFAH is requesting that this language be removed from the DRC as it inhibits their ability to seek

financing. This clause could potentially result in the Development being owned by the County and may pose significant risk to lenders who could see their liens disappear should the County enforce the RFR clause.

The County will proceed seeking the Board of Legislators approval of the transfer of the Development to FFAH from the current owner and to amend the existing DRC to remove the RFR clause so that the new ownership can seek financing. In return for the approvals, FFAH has offered to restart the County's 50-year affordability period on the day FFAH becomes the owner.

RESOLUTION 08- 009
WESTCHESTER COUNTY PLANNING BOARD

New Homes Land Acquisition Funding Request
100 College Avenue, College Arms Apartments
Village of Sleepy Hollow, New York 10591

WHEREAS, the County of Westchester has established a New Homes Land Acquisition ("NHLA") Program to assist in the acquisition of property associated with the development of affordable housing; and

WHEREAS, SH Housing Associates LLC, (the "Applicant") its successors or assigns, desires to purchase approximately 2.4 acres of land located at 100 College Avenue in the Village of Sleepy Hollow, identified on the tax maps as Section 115.15, Block: 2, Lots: 90 & 90.1 (the "Land"), which have been improved by 163 affordable rental units plus one superintendent unit built in 1972 (the "Improvements"). The Land and Improvements to be collectively known as the "Premises"; and

WHEREAS, the acquisition price for the Premises is \$7,320,000; and

WHEREAS, the Applicant has requested that the County pay an amount not to exceed \$2,040,000 from the NHLA Program to underwrite the cost of the Land in exchange for establishing a new period of long term affordability for the Premises; and

WHEREAS, the County's financial assistance will facilitate the rehabilitation of one hundred sixty three (163) affordable rental units which will be rented to households with annual incomes at or below 60% of the county's area median income plus one superintendent unit; and

WHEREAS, it is proposed that the County will acquire the Land and subsequently convey fee title to the Westchester Housing Land Trust, Inc. or to the Applicant, its successors or assigns for \$1.00; and

WHEREAS, the units will remain affordable for a minimum period of 50 years or, if the Land is conveyed to the Westchester Housing Land Trust, Inc. which will subsequently grant a leasehold interest in the Land to the Applicant its successors or assigns, affordability will be in perpetuity as approved by the Board of Legislators; and

WHEREAS, the County will pay an amount not to exceed \$2,040,000 for the Land from the current owner and the County expects to incur an additional \$204,000 for soft costs related to the acquisition of the land, resulting in a total cost not to exceed \$2,244,000; and


WHEREAS, this project remains consistent with and reinforces several of the goals of *Patterns*, by encouraging the development of "a range of housing types" affordable to all income levels and channeling development to centers where infrastructure can support growth and where public transportation can be provided; and

WHEREAS, the proposed development includes green technology that will aid in the reduction of CO₂ emissions into the environment such as energy efficient windows, roofing, high efficiency lighting design, heating, ventilation and air conditioning, exterior design features, energy star appliances, easily accessible recycling trash separation rooms; and

WHEREAS, the staff of the County Planning Department has reviewed the proposal and recommends funding the acquisition of the land pending all applicable approvals by the Village of Sleepy Hollow; now, therefore, be it

RESOLVED, that the Westchester County Planning Board supports the request to provide financial assistance to Applicant, its successors or assigns by utilizing NHLA Program funding, at a total cost not to exceed \$2,244,000, to underwrite the cost of the Land in exchange for establishing a new period of long term affordability for the Premises all in the furtherance of preserving affordable housing which will remain affordable for a minimum of 50 years.

Adopted this 1st day of April, 2008.


Cheryl Winter Lewy, Chair

ACT NO. 168 - 2025

AN ACT authorizing the County of Westchester to approve the transfer of real property located at 100 College Avenue in the Village of Sleepy Hollow and enter into an amendment to the County Declaration of Restrictive Covenants for one hundred sixty-three affordable rental units located thereon, in order to delete the right of first refusal clause and extend the affordability period.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. The County of Westchester (the "County") is hereby authorized to approve the transfer of real property located at 100 College Avenue in the Village of Sleepy Hollow, from SH Affordable Housing Development Fund Company, Inc. as nominee for SH Housing Associates, LLC to Foundation for Affordable Housing, Inc.

§2. The County is hereby further authorized to enter into an amendment to a County Declaration of Restrictive Covenants (the "DRC"), dated October 8, 2008, and previously authorized on August 11, 2008, by Acts No. 132-2008 and 133-2008, in order to reflect the extension of the period of affordability for an additional fifty (50) year period, and to delete the Right of First Refusal clause contained in the DRC.

§3. All of the remaining terms and conditions of the DRC, except as amended and ratified herein, shall remain in full force and effect.

§4. The County Executive or his duly authorized designee is hereby authorized and empowered to execute all instruments and to take all action necessary and appropriate to effectuate the purposes hereof.

§5. This Act shall take effect immediately.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 168 - 2025, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on August 4, 2025, and approved by the County Executive on August 4, 2025.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 4th day of August, 2025.

Malika Vanderberg

Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

