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County Executive

Office of the County Attorney

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County Attorney

March 23, 2022

Westchester County Board of Legislators  
800 Michaelian Office Building  
148 Martine Avenue, 8<sup>th</sup> Floor  
White Plains, New York 10601

Dear Honorable Members of the Board:

I respectfully request that your Honorable Board adopt the attached Act entitled "AN ACT to Authorize Litigation Relating to Affordable Housing to be Located at 98 Washington Ave in the Village of Pleasantville."

In 2016, the County entered into contracts with MIGI Asset Acquisition, LLC ("the Developer") to develop fourteen units of affordable housing located at 98 Washington Avenue, in the Village of Pleasantville. Through those contracts, the County subsidized the price of the development by: (1) purchasing the property for \$1.8 million and reselling it to the Developer for \$1; and (2) making available \$993,000 in construction funds, to be paid out on a reimbursement basis. The Developer agreed to complete the construction of the units by December 1, 2018. At the Developer's request, the County extended the time to complete the construction from December 1, 2018 until June 30, 2020. No other extensions were requested or granted.

To date, construction of the units is not complete. Further, the Developer has breached its contract in multiple additional ways, including failing to pay property taxes and utility bills, and allowing the building permit to expire without having completed construction. During the past year, the County, through the Planning Department and this Office, has made repeated efforts to work with the Developer and the Village to get work restarted on the development; these efforts have not come to fruition.

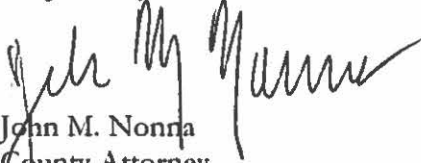
At this juncture, the Developer has essentially abandoned the project, and has made no efforts over the last year to complete its obligations. The condition of the building has deteriorated which only serves to increase the costs of completion. The County has also now paid out \$788,533.12 of the construction funds, and yet the development may now need work well in excess of the funds available as a result of the Developer's malfeasance.

As such, I now respectfully request authorization to commence litigation against the Developer in order to recoup the subsidy payment, to obtain completion of the development through an order of specific performance, and to seek other legal remedies that may be available to

the County, including an order requiring the Developer to return the property to the County free of liens and encumbrances.

Thank you for your consideration of this Act.

Respectfully submitted,



John M. Nonna  
County Attorney

Enclos.

BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee is in receipt of “AN ACT to Authorize Litigation Relating to Affordable Housing to be Located at 98 Washington Ave in the Village of Pleasantville.”

Your Committee is informed that, in 2016, the County entered into contracts with MIGI Asset Acquisition, LLC (“the Developer”) to develop fourteen units of affordable housing located at 98 Washington Avenue, in the Village of Pleasantville. Through those contracts, the County subsidized the price of the development by: (1) purchasing the property for \$1.8 million and reselling it to the Developer for \$1; and (2) making available \$993,000 in construction funds, to be paid out on a reimbursement basis. The Developer agreed to complete the construction of the units by December 1, 2018.

Your Committee is further informed that, at the Developer’s request, the County extended the time to complete the construction from December 1, 2018 until June 30, 2020. No other extensions were requested or granted.

Your Committee is informed that, to date, construction of the units is not complete. Further, the Developer has breached its contract in multiple additional ways, including failing to pay property taxes and utility bills, and allowing the building permit to expire without having completed construction.

The County Attorney has noted that, despite repeated efforts by the County to advance the completion of these units, the Developer has essentially abandoned the project, and has made no

efforts over the last year to complete its obligations. The condition of the building has deteriorated which only serves to increase the costs of completion.

Your Committee is further informed that the County has paid out \$788,533.12 of the subsidy funds, and yet the development may now need work well in excess of the funds available as a result of the Developer's malfeasance. The County Attorney now seeks authorization to commence litigation against the Developer in order to recoup the subsidy payment and to obtain completion of the development through an order of specific performance.

In light of the aforementioned, your Committee recommends the adoption of the proposed Act.

Dated: \_\_\_\_\_, 2022  
White Plains, New York

COMMITTEE ON

ACT NO. – 2022

AN ACT to Authorize Litigation  
Relating to Affordable Housing to be  
Located at 98 Washington Ave in the  
Village of Pleasantville.

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

**Section 1.** The County Attorney is hereby authorized, on behalf of the County of Westchester, to commence legal action, including litigation, against MIGI Asset Acquisition, LLC (“MIGI”), and any other party or entity that may have legal liability, and any other necessary or appropriate parties, relating to the agreements between the County and MIGI to develop affordable housing located at 98 Washington Avenue, in the Village of Pleasantville, County of Westchester, State of New York. The County Attorney is authorized to pursue any theories and relief he believes proper and available.

**Section 2.** The County Attorney is hereby authorized and empowered to undertake such legal proceedings and prepare all documents necessary or desirable to accomplish the purpose of this Act.

**Section 3.** This Act shall take effect immediately.