

BOROUGH OF CRESSKILL

ORDINANCE NO. 22-02-1584

ORDINANCE OF THE BOROUGH OF CRESSKILL AUTHORIZING THE SALE OF UNUSED MUNICIPAL PROPERTY TO UNITED WAY OF BERGEN COUNTY, A RECOGNIZED IRS §501 (C)(3) CORPORATION

WHEREAS, the Borough of Cresskill (“Borough”) is the record owner of Block 83, Lots 90-109 inclusive located on Madison Avenue in the Borough (“Property”);

WHEREAS, the Bergen County United Way (“BCUW”) is an IRS recognized Section 501 (c) (3) charitable corporation; and

WHEREAS, the Property is not needed for public use, and is encumbered with a NJDEP Restrictive Area Restriction fully noted in Deed Book 8089, Page 154; and

WHEREAS, the Borough Engineer, Paul Azzolina, PE, of Azzolina & Feury, has obtained the necessary waiver from the NJDEP, which authorizes the construction in areas in and about the “Transition Areas”; and

WHEREAS, the Borough is mandated by Statute and Case Law to provide low- and moderate-income housing; and

WHEREAS, the Borough and Bergen County have numerous residents who are affected with Developmental Disabilities; and

WHEREAS, the Borough has retained the services of Acari Iovino Architects who have designed a mixed-use residential structure, intended to house low- and moderate-income families and persons with developmental disabilities; and

WHEREAS, the Council has accepted the Arcari Iovino design dated March 8, 2021, and is of the opinion that the construction of this structure would significantly benefit the residents of the Borough and Bergen County; and

WHEREAS, the Borough Council is of the opinion that it will be in the Public’s best interest if BCUW owns the property and manages the specialized units constructed thereon; and

WHEREAS, the deed of conveyance to BCUW shall include, without limitation, that the property in perpetuity is to be used to be used for affordable housing for qualified families and developmentally handicapped residents. If the restriction is violated by BCUW or their successors and/or assignors, the property, by operation of law, without entry or re-entry, will revert in title to the Borough; and

WHEREAS, the Deed will convey fee simple title to the property for the sum of one (\$1.00) dollar, subject to the restrictions, performance and warranties hereinafter contained; and

WHEREAS, the Deed shall also contain a deed restriction guaranteeing the residential affordability controls as currently established pursuant to the New Jersey Fair Housing Act, or any other statute or relevant case law, as may hereafter be amended. These rental restrictions shall also benefit the units for persons with Developmental Disabilities; and

WHEREAS, the deed of conveyance shall also restrict in perpetuity, the fee owner from encumbering or mortgaging the property for any reason whatsoever; The title shall be deemed “free and clean” of all mortgages excepting the deed restrictions noted herein; and

WHEREAS, the deed of conveyance shall be transferred to the BCUW upon the issuance of the Certificate of Occupancy for the Building which will be constructed thereon; and

WHEREAS, this Ordinance also directs the Borough Counsel and all other Municipal Professionals to prepare any and all documents necessary to enact the conditions of this Ordinance and the Council grants authority to Mayor Benedict Romeo or his designee to sign any and all documents as may be required to perfect the completion of the construction of the building;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Borough of Cresskill the following:

1. The Borough shall convey the property known as Block 83, Lots 108 and 109, inclusive to the Bergen County United Way for the consideration of one (\$1.00) dollar; and
2. The BCUW shall construct upon the property a mixed residential structure as further described in architectural plans prepared by Acari Iovino; and
3. The conveyed property shall be used in perpetuity for affordable housing for qualified families and developmentally handicapped residents; and
4. If the deed restriction contained is violated by BCUW or their successors or assignors, the property, by operation of law, with or without entry or re-entry, shall automatically revert in title to the Borough; and
5. The deed restrictions shall also guarantee residential affordability controls as currently established by the new Jersey Fair Housing Act, or any other statute or relevant case law, as may be amended. The rental affordability restriction shall also benefit the units for persons with developmental disabilities; and
6. The Grantees and subsequent fee owners shall be restricted in perpetuity for encumbering or mortgaging the property for any reason whatsoever. The Property title shall be deemed "Free and Clear" of all mortgages and encumbrances except as noted herein;
7. The Borough shall not convey title to BCUW until an unconditional Certificate of Occupancy is issued for the building; and

SEVERABILITY. If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid in whole or in part or as applied to any particular circumstance or individual by a court of competent jurisdiction, such order of judgment shall not effect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or clause of this ordinance.

REPEALER. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistencies only.

EFFECTIVE DATE. This ordinance shall take effect immediately upon final passage and publication as required by law.