#### Attorney-Client privileged MEMORANDUM

TO: HON. GILBERT J. PIAQUADIO, SUPERVISOR TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN P: 845.562.9100 F: 845.562.9126 SETTLEMENT OF TAX CERTIORARI (2017, 2018, 2019); RE: ORCHARD HILLS LANDINGS LLC (NS OAK STREET) New Windsor, NY 12553 OUR FILE NO. 800.24

JULY 9, 2020 DATE:

ATTORNEYS David L. Rider Charles E. Frankel Michael J. Matsler Mark C. Taylor Deborah Weisman-Estis M. Justin Rider Dooga M. Badura

655 Little Britain Road

P.O. 8ox 2280 Newburgh, NY 12550

M. J. Rider (1906-1968) Elliott M. Weiner (1915-1990)

COUNSEL Stephen P. Duggan, III John K. McGuirk (1942-2018)

OF COUNSEL Craig F. Simon Irene V. Villacci

Enclosed are copies of a letter from Cathy Drobny, Esq. of E. Stewart Jones, Hacker Murphy, the Town's special counsel for tax certiorari matters, regarding the above referenced proposed real property tax appeal settlement, a proposed Stipulation and Order of Settlement, which has been recently revised from the one which originally was enclosed by Ms. Drobny to incorporate refund repayment terms negotiated by and for the Marlboro School District and charts showing the claimed refund liability and the approximate refunds that will be due from the taxing jurisdictions under the proposed settlement. Also enclosed is a map showing the location of the tax parcel containing an apartment complex off NYS Route 9W and NS Oak Street which is the subject of the proceedings.

The settlement provides for a reduction in the assessed value for 2017 by \$2,385,300 from \$13,320,000 to \$10,934,700, a reduction in the assessed value for 2018 by \$2,525,000 from \$13,320,000 to \$10,795,000, a reduction in the 2019 assessed value by \$2,012,500 from \$12,236,000 (note the assessed value had been reduced that year from the previous year's) to \$10,223,500. Additionally, the 2020 assessed value will be reduced by either action of the BAR or pursuant to the Order by \$2,726,875 from \$12,236,000 to \$9,509,125. The 2020 reduction will not result in refund liability for the taxing jurisdictions. The Stipulation and Order specifies that the provisions of RPTL Section 727 apply, holding the Assessed Value at \$9,509,125 for the 2021, 2022 and 2023 assessment rolls, subject to the statutory exceptions.

The charts indicate that the refund liability for the Town (including Highway but not including special districts and the Fire District) for the reductions in 2017, 2018 and 2019 Assessed Value will be approximately \$103,589 under the settlement.

Also attached is a proposed resolution which would authorize the Settlement.

Joseph P. Pedi, Town Clerk cc: Lori Coady, Assessor (via e-mail) Deborah Smith, Receiver of Taxes (via e-mail) Ronald Clum, Town Accountant (via e-mail) Cathy L. Drobny, Esq. (via e-mail) WWW.RIDERWEINER.COM

# JONES Hacker Murphy LLP

May 5, 2020

VIA E-MAIL - <u>mtaylor@riderweiner.com</u> Mark C. Taylor, Esq. Rider, Weiner & Frankel, P.C. P.O. Box 2280 Newburgh, New York 12550

Re: Orchard Hills Landing LLC v. Town of Newburgh Index Nos. 2017-EF005557, 2018-EF007884, 2019-EF005775 Our File No. 5018.082

Dear Mr. Taylor:

Attached please find the proposed Stipulation & Order of Settlement relative to the abovereferenced proceedings. There are currently three (3) years pending.

The subject property is Orchard Hills Landings Apartment and Townhouse Complex, a 260unit complex located at 1 Kayla Court, a/k/a 819 NS Oak Street (Tax Map No. 9-1-45.2). The FMV of the property is \$38,675,958 in 2017, \$39,176,471 in 2018, \$38,000,000 in 2019<sup>3</sup>, and \$40,854,800 in 2020.<sup>2</sup> Trial-ready appraisals were exchanged, and a trial date was to be set by the Court at the next conference. Our appraisal came in at a FMV of \$34,000,000; petitioner's appraisal report came in at a FMV of \$29,500,000. The main differences between the two appraisals was the cap rate that each appraiser applied and the income and expenses. After reviewing the appraisal reports and the cost of a trial, the parties agreed to a proposed settlement of a FMV of \$31,750,000 which is the difference between the two appraised values. The 2020 assessed value will be reduced to \$9,509,125 and as reduced will be held for 2021, 2022 and 2023 pursuant to RPTL§727, subject to the usual exceptions. We feel that this is a good settlement.

I have attached for your review a copy of the refund liability charts, which show the potential liability versus the proposed settlement refund liability. We recommend that the Town Board authorize us to enter into this settlement as proposed. Please place this matter on the agenda for the next Town Board meeting for approval. Once the Resolution passes, please let me know and I will sign the Stipulation of Settlement.

By

Please do not hesitate to contact me if you have any questions.

Very truly yours,

E. STEWART JONES HACKER MURPHY LLP Pothy & Dubuy

CLD:kah Attachments cc: Lori Coady, Assessor Gilbert Piaquadio, Supervisor Cathy L. Drobny <u>cdrobny@ioneshacker.com</u> Direct Dial: (518) 213-0116

<sup>1</sup>We lowered the assessment slightly in 2019 to reduce some of the Town's exposure.

<sup>2</sup> Tentative assessment at 2020 eq. rate.

28 SECONO STREET TROY, NY 12180 PHONE: (518) 274-5820 FAX: (518) 274-5875

7 AIRPORT PARK BOULEVARD LATHAM, NY 12110 PHONE: (518) 783-3843 FAX: (518) 783-8101

511 BROADWAY SARATOGA SPRINGS, NY 12866 PHONE: (518) 584-8886

www.joneshacker.com

PLEASE REPLY TO:

Latham

SUPREME COURT	ORANGE COUNTY	
In the Matter of the Application of		
ORCHARD HILLS LANDINGS L	LC,	STIPULATION &
	Petitioner,	ORDER OF SETTLEMENT
-against-		Index Nos.: EF005557-
BOARD OF ASSESSMENT REV THE TOWN OF NEWBURGH NEWBURGH,		2017, EF007129-2018, EF005372-2019 & EF003227-2020
	Respondents.	Assigned Judge: Hon. Catherine M. Bartlett,
For the review of the assessment for t of certain real property in the said T	he years 2017, 2018 and 2019 OWN OF NEWBURGH.	J.S.C.
The above named Petitioner	having duly brought these Rea	l Property Tax Law ("RPTL")
Article 7 proceedings to review the t	ax assessments made against p	roperty owned by the Orchard
Hills Landings LLC located at 819 N	IS Oak Street (SBL No. 9-1-45.	21) in the Town of Newburgh,
Orange County, New York State (the	Property"), for the years 201	7, 2018 and 2019 and being the
real property mentioned and more fu	Illy described in the petitions m	ade and filed herein, and issue
having been duly joined herein, and	the Petitioner having appeared	by Goldman Attorneys PLLC,
Paul J. Goldman, Esq., the Responde	nts having appeared by E. Stew	art Jones Hacker Murphy LLP,
Cathy L. Drobny, Esq. (collectively	the "Parties");	
WHEREAS, the Parties hav	ing entered into and consent	to this Stipulation & Order of

Н

STATE OF NEW YORK

Settlement which resolves these proceedings in their entirety;

NOW, on motion of Goldman Attorneys PLLC, attorneys for Petitioner, it is hereby,

1. ORDERED, ADJUDGED and DECREED, that the 2017 assessments of the Property

in the Town of Newburgh, County of Orange, State of New York on the assessment rolls of the

M: Data\4109\18242\Stip Order of Settlement(v2Executionversion)

1

Town of Newburgh (the "Town") for the tax years 2017/2018 shall be reduced and corrected as follows:

Property	Original	Corrected	Reduction in
	Assessed Value	Assessed Value	Assessed Value
819 NS Oak Street (SBL No.: 9-1-45.21)	\$13,320,000	\$10,934,700	\$2,385,300

, and

2. ORDERED, ADJUDGED and DECREED, that the 2018 assessments of the Property in the Town of Newburgh, County of Orange, State of New York on the assessment rolls of the Town of Newburgh (the "Town") for the tax years 2018/2019 shall be reduced and corrected as follows:

Property	Original Assessed Value	Corrected Assessed Value	Reduction in Assessed Value
819 NS Oak Street (SBL No.: 9-1-45.21)	\$13,320,000	\$10,795,000	\$2,525,300
, and			
3. ORDERED, ADJUE	GED and DECREEI	D, that the 2019 assess	ments of the Property
in the Town of Newburgh, County	of Orange, State of	New York on the as	sessment rolls of the

Town of Newburgh (the "Town") for the years 2019/2020 shall bereduced and corrected as follows:

Property	Original Assessed Value	Corrected Assessed Value	<u>Reduction in</u> Assessed Value
819 NS Oak Street (SBL No.: 9-1-45.21)	\$12,236,000	\$10,223,500	\$2,012,500
, and			
4. ORDERED, ADJU	DGED and DECREE	D, that the 2020 assess	ments of the Property

in the Town of Newburgh, County of Orange, State of New York on the assessment rolls of the

2

M: Data14109/18242/Stip Order of Settlement(v2Executionversion)

Town of Newburgh (the "Town") for the tax years 2020/2021 shall be reduced and corrected as follows:

Property	<u>Original</u>	Corrected	<u>Reduction in</u>
	Assessed Value	Assessed Value	Assessed Value
819 NS Oak Street (SBL No.: 9-1-45.21)	\$12,236,000	\$9,509,125	\$3,810,875

Upon the full execution and delivery of this Stipulation & Order of Settlement (the "Order") by the Town and the Petitioner, the Town shall present this Order and the Form RP 524 Part VI signed by the Petitioner for the 2020 grievance application for the Property to the Board of Assessment and Review of the Town (the "BAR") to correct the 2020 assessment for the Property in accordance with this Fourth Decretal Paragraph of the Order. In the event that the BAR is not able to effect the change to the 2020 assessment roll for the Property as previously set forth, then upon the receipt of this Order duly signed by the Supreme Court, the School District shall cause to be issued a corrected 2020-2021 School tax bill for the Property utilizing the Corrected Assessed Value set forth in this Fourth Decretal Paragraph (the "Corrected 2020-21 Tax Bill"). The Petitioner shall have the later of: (a) thirty (30) days from the date of the issuance of the Corrected 2020-21 Tax Bill; or (b) September 30, 2020 to pay the Corrected 2020-21 Tax Bill without interest and/or penalty. The School District shall send a copy of the Correct 2020-21 Tax Bill to counsel to the Petitioner.

5. ORDERED, ADJUDGED and DECREED, subject to the terms, covenants and conditions set forth herein, the provisions of RPTL §727 shall be applicable to the corrected assessed value set forth in paragraph 4 for the 2021, 2022 and 2023 assessment rolls; and it is further,

6. ORDERED, ADJUDGED and DECREED, that the County of Orange (the "County") or the Town, if refundable by the Town, shall refund any excess Town, Town Highway, other Town taxes and special district charges paid on account of the reductions set forth above to the 2017, 2018

M: Data\4109\18242\Stip Order of Settlement(v2Executionversion)

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and 2019 assessments of the Property for the 2017, 2018 and 2019 assessment rolls used to generate 2018, 2019 and 2020 Town, Town Highway, other Town taxes and special district charges on the Property, without interest or costs, provided any such refunds are made within sixty (60) days of the service of this Order with notice of entry thereof; and it is further,

7. ORDERED, ADJUDGED and DECREED, that the County of Orange (the "County") shall refund any excess County, County Highway, water, sewer and all special district taxes paid on account of the reductions set forth above to the 2017, 2018 and 2019 assessments of the Property on account of the 2017, 2018 and 2019 assessment rolls used to generate the 2018, 2019 and 2020 County, County Highway, water, sewer and all special district taxes on the Property, without interest or costs, provided any such refunds are made within sixty (60) days of the service of this Order with notice of entry thereof; and it is further,

8. ORDERED, ADJUDGED and DECREED, that the Marlboro Central School District (the "School District") shall refund any excess School District taxes (including the library taxes) paid on account of the reductions set forth above to the 2017, 2018 and 2019 assessments of the Property on account of the 2017, 2018 and 2019 assessment rolls used to generate the 2017-2018, 2018-2019 and 2019-2020 School District taxes (including the library taxes) on the Property, which refund of School District excess taxes shall be payable in two installments as follows: (a) one-half on or before September 30, 2020 (the "First SD Payment Date"); and (b) the other remaining half on or before September 15, 2021 (the "Second SD Payment Date"). The refund of School District excess taxes due under this Eighth Decretal Paragraph of this Order shall be without interest or costs, provided that such refunds of excess taxes due under this Eighth Decretal Paragraph of this Order are made on or before the First SD Payment Date and Second SD Payment Date, and it is further,

4

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		e Petitioner, 255 Washington Avenue Extens	ion, oute
108, Albany	, New York 12205.		
Dated:	, 2020		
Gos	hen, New York		
		Hon. Catherine M. Bartlett Justice, Supreme Court	
		M; Data\4109\18242\Stip Order of Settlement(v2E	xecutionversic
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	ST	IPULATION	-
The Attorneys for the r Settlement.	espective Parties	do hereby consent to this Stipulation & Order of	·
Dated: July <u>4</u> , 2020	GOLDMAN By:	ATTORNEYS PLLA Paul J. Goldman, Esq. Erika C.Browne, Esq. Attorneys for Petitioner Orchard Hills Landings LLC 255 Washington Avenue Extension, Suite 108 Albany, New York 12205 (518) 431-0941	
Dated: July _, 2020	E. STEWAR	T JONES HACKER MURPHY LLP	
	Ву:	Cathy L. Drobny, Esq. Attorneys for Respondents Town of Newburgh 7 Airport Park Boulevard Latham, New York 12110 (518) 274-5820	

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Property Details - Image Mate Online



## ASDG Image Mate Online

Municipality of Newburgh

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Commercial
Property Info
Owner/Sales
Inventory
Improvements
Tax Info
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Comparables
Download Grievance Application (NYS RP-524)

Com. Sites

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### Special Districts for 2020

Description	Units	Percent	Туре	Value
FD025-Middlehope fire	0	0%		0
SW871-Roseton Hills Swr	0	0%		0
WD001-Consol wtr 1	0	0%		0
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Land Types

propertydata.orangecountygov.com/propdetail.aspx?swis=334600&printkay=0090000010452100000



#### Pictometry Connect

Documents No documents found for this parcel

 Maps
View Tax Map
Pin Property on GIS Map
 View in Google Maps
View in Bing Maps
Map Disclaimer



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Navigation GIS Map Tax Maps | DTF Links

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Download Grievance Application	Sale Information					
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DRAFT	
	At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the h day of July, 2020 at 7:00 o'clock p.m.
PRESENT:	
Gilbert J. Piaquadio, Supervisor	
Elizabeth J. Greene, Councilwoman	RESOLUTION OF TOWN BOARD AUTHORIZING SETTLEMENT OF
Paul I. Ruggiero, Councilman	PROCEEDINGS UNDER ARTICLE 7 OF THE REAL PROPERTY
James E. Manley, Councilman	TAX LAW: SBL #9-1- 45.21
, Councilman	ORCHARD HILLS LANDINGS LLC (819 NS OAK STREET) INDEX NUMBERS EF005557-2017; EF007129-2018 and EF005372-2019

Councilman/woman \_\_\_\_\_ presented the following resolution which was seconded by Councilman/woman \_\_\_\_\_\_.

WHEREAS, Orchard Hills Landings LLC (the "Petitioner") has instituted proceedings under Article 7 of the Real Property Tax Law by which Petitioner seeks to obtain judicial review and reduction of the assessment of real property in the Town of Newburgh, Orange County, New York, consisting of an apartment complex and related improvements located on a parcel of land on NS Oak Street (Section 9-Block 1-Lot 45.21) on the tax assessment roll for the tax years 2017, 2018 and 2019; and

WHEREAS, special counsel to the Town, E. Stewart Jones Hacker Murphy, LLP, has negotiated a settlement of the proceeding with the Petitioner, the terms of which are embodied in a proposed Stipulation and Order of Settlement annexed hereto and recommended that the Town Board authorize the settlement; and

WHEREAS, after review and discussion, the Town Board has determined it to be in the best interests of the Town to authorize the settlement.

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby authorizes and directs E. Stewart Jones Hacker Murphy, LLP to execute and deliver the Stipulation and Order of Settlement on behalf of the Town; and

BE IT FURTHER RESOLVED, that E. Stewart Jones Hacker Murphy, LLP, the Supervisor, the Attorney for the Town, the Town's Assessor and other officers of the Town are hereby authorized to take such actions and to make, execute and deliver, or cause to be made, executed and delivered, in the name of and on behalf of the Town, all such certificates, documents, papers and payments as may be necessary to effectuate and carry out the settlement; and

## $BE\ IT\ FURTHER\ RESOLVED$ that the aforesaid resolutions shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

Elizabeth J. Greene, Councilwoman	voting
Paul I. Ruggiero, Councilman	voting
Scott M. Manley, Councilman	voting
, Councilman	voting
Gilbert J. Piaquadio, Supervisor	voting

The resolution was thereupon declared duly adopted.