

AGREEMENT REGARDING PAYMENT IN LIEU OF TAXES

May 10, 2010

Agreement made this ___ day of May, 2010 by and between the Town of Needham, a municipal corporation located in Norfolk County, Massachusetts, acting through its Board of Selectmen (hereinafter referred to as "Needham") and NHP Properties Business Trust, a Massachusetts business trust, having a principal place of business at 610 Newport Center Drive, Suite 1150, Newport Beach, California 92660 (hereinafter referred to as "NHP"). NHP is the owner of 589 Highland Avenue, Needham, Massachusetts 02494 (also known as Needham Assessor's Map 77, Parcel 1). For title see Norfolk Registry District of the Land Court Certificate of Title No. 176986.

BACKGROUND

A. NHP is seeking the rezoning of approximately seven (7) acres of land comprised of Needham Assessor's Map 77, Parcels 1, 25 and 56. NHP currently owns the Wingate at Needham nursing home which is presently located on Map 77 Parcel 1 (also known as 589 Highland Avenue) and is considering an acquisition of the parcels identified as Needham Assessor's Map 77, Parcels 25 and 56, in the Town of Needham (collectively referred to herein as the "Property"), to create an Elder Services Zoning District.

B. The primary purpose of the rezoning is to allow the creation of independent apartments, assisted living and Alzheimer's/memory loss facilities, and an expansion of the existing skilled nursing facility ("Elder Services Uses").

C. Needham is supportive of the proposed rezoning.

D. Needham will provide continuing services to the Property as are generally provided in the Town of Needham, whether it is owned by NHP, its successors or assigns, regardless of whether said owner is an entity exempt from the payment of real estate taxes under the laws of the Commonwealth of Massachusetts. Such services include, but are not limited to, ongoing police service, fire protection, emergency medical services, building inspections, water service, inspection services and access to public ways for utilities and municipal services.

E. Needham needs to protect its fiscal base by insuring tax payments from the Property in the event the Property is sold to an entity or organization that is or may be exempt from paying local property taxes.

AGREEMENT

NOW, THEREFORE, for the good and valuable consideration, the receipt of which is hereby acknowledged, Needham and NHP hereby agree as follows:

1) If NHP or any successor(s) in interest to NHP (or an affiliate of NHP) as an owner of the Property or any part thereof, regardless of the manner, method or form by which such owner received or acquired its ownership interest of the Property or any part thereof, is exempt from the payment of real estate taxes and personal property excise taxes under Massachusetts Laws Chapter 59, NHP or such successor, as the case may be, shall make payments in lieu of taxes of not less than the amount that would otherwise be due to the Town in property taxes and personal property excise taxes under M.G.L. Chapter 59, for as long as the entity continues to be exempt from such property or excise taxation. The restrictions set forth in this paragraph shall apply to any lease by an owner of property within the Elder Services Zoning District to a tax-exempt entity if the legal effect of such lease would otherwise be to exempt the owner or lessee of the leased property from the payment of real estate taxes. No owner of the Property or any party thereof shall have any liability for payments in lieu of taxes with respect to any period after the date of transfer of its ownership interest.

2) If, and to the extent that, any such owner makes payments in lieu of taxation to Needham pursuant to this Agreement, such owner shall have the right to seek an abatement or reduction in such payment and/or in the valuation upon which the payment is based for any reason as set forth in Chapter 59 of the Massachusetts General Laws (other than by claim of exemption), provided, however, that if such abatement or reduction is denied by Needham, such owner or lessee shall have all rights of appeal provided by Massachusetts law. In the event that the Massachusetts Appellate Tax Board, or other governmental entity, declines jurisdiction of said appeal by virtue of the tax-exempt status of such owner or lessee, such owner or lessee shall have the right to submit such claim to arbitration before the American Arbitration Association. Needham and such owner or lessee agrees to be bound by the determination of the arbitrator.

3) The foregoing obligations shall run with the land comprising the Property, as more particularly described in Exhibit A attached hereto, and shall automatically terminate on the date upon which the Property or any part thereof is no longer used for Elder Services Uses (but with respect to such part only), but shall automatically become reinstated if the Property, or any part thereof that ceased to be used for Elder Services Uses, re-commences to be used for Elder Services Uses (but with respect to such part only). Any of the owners of the Property governed thereby shall acknowledge in writing its obligations hereunder and provide such acknowledgement to Needham prior to or upon the transfer to it of ownership of any real property which is part of the Property.

4) In the event that NHP, or its nominee, proceeds to purchase additional property within the area to be rezoned (i.e. Needham Assessors Map 77, Parcels 25 and 56) this Agreement shall be applicable to all such property, in addition to the property presently owned by NHP.

5) In the event of the purchase of additional property as described in paragraph 4 above, NHP and NHP's nominee (if applicable) shall re-execute this Agreement and deliver same to Needham for signature and recording at the Norfolk

County Registry of Deeds to insure that all such property owned by NHP or its nominee located in the area to be rezoned shall be subject to this Agreement.

6. NHP, for itself and its successors and assigns, covenant and agree that the restrictions set out in this Agreement (i) touch and concern the Property, (ii) are for the purpose of facilitating orderly and harmonious development of property to be located in the Elder Services Zoning District, (iii) are held in gross by Needham as a restriction held by a governmental body under M.G.L. Chapter 184, §26 and not for the benefit of any land in the Town, (iv) are now and shall continue to be of actual and substantial benefit to the Town, (v) do not impede the reasonable use of the Property for which it is most suitable, and (vi) are enforceable in perpetuity or for the longest term permitted by law and in any event for one hundred years. NHP further covenants that, as an "other restriction held by a governmental body" as that term is used in M.G.L. Chapter 184, §26, such restrictions are not subject to the limitations on the enforceability of restriction in M.G.L. Chapter 184, §§26 - 30. Nevertheless, if recording of a notice is ever needed to extend the time period for enforceability of such restrictions, NHP hereby appoints the Board of Selectmen of Needham as NHP's agent to execute and record such notice and agrees that NHP shall execute and record such notice upon request.

7. This Agreement shall become effective only upon the issuance of a building permit for Elder Services Uses in the Elder Services Zoning District. This Agreement shall remain in effect so long as the Property, or any portion thereof, is utilized for Elder Services Uses, regardless of whether the Elder Services Zoning District, and the zoning provisions pertaining thereto, are amended or eliminated.

WITNESS the execution hereof under seal as of the date here above written.

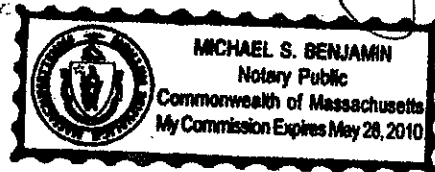
TOWN OF NEEDHAM

NHP PROPERTIES BUSINESS TRUST

By: _____
Selectman

By: *Abdo H. Kibria*
Its Duly Authorized *ABDO H. KIBRIA, EXECUTIVE VICE PRESIDENT*

Selectman



Selectman

Selectman

Selectman

COMMONWEALTH OF MASSACHUSETTS

County of _____

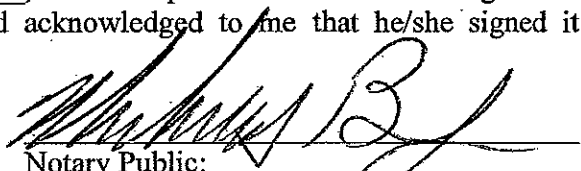
On this ___ day of _____, 2010, before me, the undersigned notary public, personally appeared _____, as a Selectman of the Town of Needham, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

County of NORFOLK

On this 10 day of MAY, 2010, before me, the undersigned notary public, personally appeared ABDO KHOURY, as EVP of NHP Properties Business Trust, proved to me through satisfactory evidence of identification, which was PERSONAL KNOWLEDGE, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.



Notary Public:
My Commission Expires:

Approved as to Form

David Tobin, Town Counsel

EXHIBIT A

That land situated in Needham in the County of Norfolk and the Commonwealth of Massachusetts, described as follows:

Lot G4 on Land Court Plan No. 18430F filed with Certificate No. 34056, Book 171.

Also another certain parcel of land situated in said Needham, described as follows:

Said parcel comprises a parcel on Land Court Plan No. 37006A filed with Certificate No. 94115, Book 471 (excepting fee in Gould Street and Highland Avenue); and a parcel shown on Land Court Plan No. 37007A filed with Certificate No. 94129, Book 471 (excepting fee in Highland Avenue).

For Grantor's title see Certificate of Title No. 176986.