

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2019, Legislative Day No. 35

Bill No. 67-19

Introduced by Mr. Pruski, Chairman  
(by request of the County Executive)

By the County Council, September 3, 2019

Introduced and first read on September 3, 2019  
Public Hearing set for and held on October 7, 2019  
Bill AMENDED on October 7, 2019  
Bill Expires December 7, 2019

By Order: JoAnne Gray, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Payment in Lieu of Taxes – Homes on the Glen,  
2 Annapolis, Maryland

3  
4 FOR the purpose of approving exemptions from County real property taxes for a certain  
5 property located in the City of Annapolis, Anne Arundel County; authorizing the  
6 County Executive to enter into a certain agreement for an exemption and a payment in  
7 lieu of County real property taxes for a certain property located in the City of  
8 Annapolis, Anne Arundel County; providing for the time and terms under which the  
9 payment in lieu of taxes and exemptions will take effect; and providing for the  
10 retroactive application of this Ordinance.

11  
12 WHEREAS, the County Council recognizes there is a significant need for quality  
13 multifamily housing communities in Anne Arundel County for households of  
14 limited income; and

15  
16 WHEREAS, exemptions from County real property taxes for certain properties that  
17 provide rental housing for persons with limited incomes is authorized by § 7-506.1  
18 of the Tax-Property Article of the State Code, provided the County and the property  
19 owner enter into an agreement for the payment of a negotiated amount in lieu of  
20 the County real property tax; now, therefore,

21  
22 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*  
23 That, in accordance with § 7-506.1 of the Tax-Property Article of the State Code, there is  
24 an exemption from County real property taxes for certain units of the real property known

1 as Homes on the Glen, which is located at Juliana Circle East in Annapolis, Maryland  
2 ("Property").

3  
4 SECTION 2. *And be it further enacted*, That the County Executive is hereby authorized  
5 to enter into the payment in lieu of taxes ("PILOT") Agreement between Anne Arundel  
6 County and Homes on the Glen Limited Partnership, the owner of the Property, for a  
7 payment in lieu of real property taxes for certain units of the Property, as more fully  
8 described in the PILOT agreement, a copy of the PILOT Agreement between Anne  
9 Arundel County and Homes on the Glen Limited Partnership being appended to this  
10 Ordinance as ~~Exhibit A~~ Exhibit A-1 and incorporated by reference as if fully set forth in  
11 this Ordinance.

12  
13 SECTION 3. *And be it further enacted*, That these exemptions and payment in lieu of  
14 taxes may not take effect until the requirements of § 7-506.1(a) of the Tax-Property Article  
15 of the State Code are met, and shall take effect in accordance with the terms of the PILOT  
16 Agreement between Anne Arundel County and Homes on the Glen Limited Partnership.

17  
18 SECTION 4. *And be it further enacted*, That this Ordinance and the PILOT Agreement  
19 shall be construed to be retroactive to July 1, 2019.

20  
21 SECTION 5. *And be it further enacted*, That this Ordinance shall take effect 45 days  
22 from the date it becomes law.

AMENDMENT ADOPTED: October 7, 2019

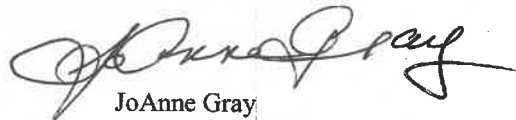
READ AND PASSED this 7<sup>th</sup> day of October 2019

By Order:



JoAnne Gray  
Administrative Officer

PRESENTED to the County Executive for his approval this 8<sup>th</sup> day of October, 2019



JoAnne Gray  
Administrative Officer

APPROVED AND ENACTED this 17<sup>th</sup> day of October, 2019



Steuart Pittman  
County Executive

EFFECTIVE DATE:

**DEC 1 2019**

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.  
67-19. THE ORIGINAL OF WHICH IS RETAINED IN THE FILES  
OF THE COUNTY COUNCIL.

A handwritten signature in cursive script, appearing to read "JoAnne Gray".

JoAnne Gray  
Administrative Officer

**AGREEMENT BETWEEN  
HOMES ON THE GLEN LIMITED PARTNERSHIP  
AND ANNE ARUNDEL COUNTY, MARYLAND**

**THIS AGREEMENT**, Made this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between **Anne Arundel County, Maryland**, a body corporate and politic (hereinafter referred to as the “County”), and Homes on the Glen Limited Partnership, a limited partnership formed in the State of Maryland (hereinafter referred to as the “Owner”).

**WHEREAS**, the Owner is the owner of 50 units of rental housing located at Juliana Circle East in Annapolis, Maryland, and currently identified under Tax Account Numbers 06-702-90099161 through 06-702-90099172; 06-702-90099174 through 06-702-90099179; 06-702-90099181 through 06-702-90099183; 06-702-90099185 through 06-702-90099190; 06-702-90099192 through 06-702-90099195; and 06-702-90099198 through 06-702-90099216 (the “Property”), for the purposes of providing rental housing to low income households (the “Project”); and

**WHEREAS**, the parties are party to an Agreement dated December 3, 2001, under which Owner was obligated to make certain payments in lieu of taxes, such Agreement having expired on June 30, 2018; and

**WHEREAS**, Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland, as amended, provides, among other things, that real property in the County may be exempt from County property tax if:

(i) the real property is owned by a person engaged in constructing or operating housing structures or projects; and

(ii) the real property is used for a housing structure or project that is constructed or substantially rehabilitated under a federal, state or local government program that:

(1) funds construction, or insures its financing in whole or in part, or

(2) provides interest subsidy, rent subsidy or rent supplements; and

(iii) the owner and the governing body of the county enter into an agreement for the

payment of a negotiated sum in lieu of applicable County property taxes on the Property,  
and

(iv) the owner:

(1) agrees to continue to maintain the real property as rental housing for lower income persons under the requirements of the government programs and to renew any annual contributions contract or other agreement for rental subsidy or supplement; or

(2) enters into an agreement with the County to allow the property or the portion of the property which was maintained for lower income persons to remain as housing for lower income persons for a term of at least five (5) years; and

**WHEREAS**, the Owner operates the Project as rental housing for low income households and intends to comply with Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland; and

**WHEREAS**, the Owner offers tenants of the Project the opportunity to purchase their units at the end of a 15 year mandatory rental period as required by the Low Income Housing Tax Credit that finances the Project (such units to be further defined in paragraph 2, and hereinafter referred to as the “released units”); and

**WHEREAS**, the Owner has demonstrated to the County that an agreement for payments in lieu of taxes is necessary; and

**WHEREAS**, pursuant to Anne Arundel County Council Bill No. \_\_\_\_\_, adopted \_\_\_\_\_, the County Council of Anne Arundel County, Maryland, approved the terms and conditions for payments in lieu of taxes for the Project, and authorized the County Executive to enter into this Agreement.

**NOW, THEREFORE, THIS AGREEMENT, WITNESSETH:** In consideration of the mutual covenants, terms, and agreements hereof and pursuant to the power and authority of Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland, it is agreed as follows:

1. The Owner agrees: (1) that it will operate the Project, except for the released units, as

rental housing for low income households and will limit rents pursuant to the Extended Low Income Housing Covenant for Low Income Housing Tax Credits between the Owner and the Maryland Department of Housing and Community Development (herein the “Extended Use Covenant”); (2) that, with Payment in Lieu of Taxes (PILOT), it will make all 50 units, except for the released units, available to households having incomes of no more than 50 percent of the area median income; and (3) that the Project, except for the released units, qualifies and will continue to qualify in all respects under the provisions of said Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland.

2. Upon title transfer by Deed of any unit to a tenant, the unit shall be considered a “released unit”. A released unit shall no longer be subject to this Agreement or a PILOT, and the new owner of the released unit shall be fully liable for all real property taxes due and owing for any released unit. The Owner shall notify the County in writing within 15 days of any title transfer by Deed of any released unit. The County may independently audit the release of units and in the event that the Owner fails to give notification to the County of a released unit or the County otherwise becomes aware of a released unit, the County may impose taxes on any released unit, retroactive to the date the Deed is filed in the Land Records.

3. This Agreement shall construed to be retroactive to July 1, 2019, and beginning *July 1, 2019 (Fiscal Year 2020)*, the Property, except for any released units, shall be exempt from ordinary County real property taxes. The payments to be made hereunder by the Owner to the County with respect to the Project, except for any released units, shall be in lieu of all ordinary County taxes on real property under the Tax-Property Article of the Annotated Code of Maryland. The payments to be made hereunder by the Owner to the County shall be made by the Owner first and accepted by the County through the Fiscal Year 2034.

4. This Agreement shall be in effect through *Fiscal Year 2034, ending June 30, 2034*, or until one of the following occurs: (a) the Project, except for the released units, is not owned or used for the provision of rental housing and related facilities to low income households at limited rents, pursuant to the Extended Use Covenant; (b) the Project, except for the released units, does

not comply with Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland, as amended; (c) the payment in lieu of taxes exceeds the amount of County real property taxes otherwise due for the Property, except for the released units; (d) the payment in lieu of taxes is not necessary for the continued financial feasibility of the Project, as solely determined by the County pursuant to Paragraph 9 of this Agreement; or (e) the Owner no longer owns 29 or more units within the Project.

5. For the *Fiscal Year 2020 (July 1, 2019, through June 30, 2020)*, the Owner's annual payment in lieu of taxes shall be equal to \$15,733. For *Fiscal Year 2021 through Fiscal Year 2034*, the annual payment in lieu of taxes shall be equal to the previous year's fiscal payment plus an annual adjustment factor of *four percent (4%) per annum*. The amount of the payment in lieu of taxes due under this Agreement shall not be adjusted upon the sale of any released units.

6. By July 30<sup>th</sup> of each year, the County shall bill the Owner for the payment which is due by September 30<sup>th</sup> of that year, as set forth in this Agreement.

7. Payments due hereunder will be considered delinquent after the due date of the bill sent to the Owner. Interest and penalties at the rate as set forth in the County Code for overdue property taxes per month shall be charged and collected by the County on all amounts remaining unpaid after the due date.

8. If the Owner is in default for one hundred eighty (180) days for any payments required under any of the provisions of this Agreement, the County may, at its option, declare a default by providing written notice of the default to the Owner and to the holders of all mortgages or deeds of trust. If within thirty (30) days of such notice, the payments have not been brought current, then the County may, at its option, declare all amounts due as follows: a sum equal to the total real property taxes which would have been due from the Owner in the absence of this Agreement, plus all interest, if any, less all amounts actually paid under this Agreement. To enforce its rights under this Paragraph, the County may renegotiate this Agreement, foreclose, or seek any other remedy available at law or in equity. Notwithstanding anything to the contrary

which is or might be contained in this Agreement, payments due under this Paragraph shall be considered a first lien against the Property and superior to any other liens placed upon the Property.

9. From the effective date of this Agreement and for each successive five (5) year period from that date throughout the term of this Agreement, the Owner shall submit to the County Office of Finance complete audited financial reports for the Project for the previous five (5) years and a projection of Project's income and expenses for the next five (5) year period. If based on a review of the audited financial reports and the projections for the Project, the County determines that the Project may have net cash from the operation of the Project after payment of all expenses (including, but not limited to, reimbursement of all certified development and construction costs, management fees, investor servicing fees, debt service and anticipated costs to meet the needs of the Project) and an eight percent (8%) return on the tax credit equity investment, calculated on a cumulative basis, then the County may decide that a PILOT is no longer needed and may choose to discontinue its obligations under this Agreement and shall give written notice to Owner.

10. The Owner shall not make any transfer or exchange of the Property which would change its use as a residential rental property during the period of the PILOT.

11. This Agreement may be assigned to a holder of a mortgage or deed of trust in the event of a foreclosure, provided that the assignee shall be subject to the terms and conditions of this Agreement.

12. For the purposes of this Agreement, all notices shall be hand-delivered or mailed by first class mail or certified mail, return receipt requested. Notices shall be given to the parties as follows:

TO COUNTY:           Office of Finance  
                          Anne Arundel County, Maryland  
                          MS 1103  
                          44 Calvert Street  
                          Annapolis, Maryland 21401



With a copy to: Anne Arundel County  
Office of Law  
2660 Riva Road, 4<sup>th</sup> Floor  
Annapolis, Maryland 21401

TO OWNER: Homes on the Glen Limited Partnership  
c/o Homes for America  
318 Sixth Street, Suite 2  
Annapolis, MD 21403

Each notice that is sent by one party to the other party at the listed address shall be presumed to have been received three (3) days after the date of mailing; except when prior written notice is given by one party to the other that a party or an address has changed. Notwithstanding any provision to the contrary contained in this Agreement, any person or party not listed in this paragraph shall not be entitled to notice as may be required by this Agreement, unless one party notifies the other party that additional notice shall also be sent to such person or party.

13. This Agreement shall inure to the parties hereto and their respective successors, assigns, and /or legal representatives, except that this Agreement shall not survive a sale or transfer of the Property or the sale or transfer of the partnership interest of the Owner in lieu of the sale of the Property.

14. It is understood and agreed by the execution of this Agreement that the County does not waive any rights of governmental immunity which it may have in any damage suits against it, and that the County reserves the right to plead governmental immunity in such suit in law or in equity or such pleading as is appropriate notwithstanding the execution of this Agreement.

15. This Agreement shall be governed by Maryland law and any actions between the parties hereto shall be brought in and vest jurisdiction and venue solely in the Circuit Court for Anne Arundel County.

IN WITNESS WHEREOF, the County has caused this Agreement to be signed in its name by the County Executive, to be attested to by the Secretary of the County Executive, and to

have the County Seal affixed hereto; and the Owner has caused this Agreement to be signed in its name by its President, duly attested to by its Secretary.

ATTEST: HOMES ON THE GLEN LIMITED PARTNERSHIP

By: HDC-HDI Annapolis, LLC  
By: Homes Development Corporation  
its Managing Member

\_\_\_\_\_  
By: \_\_\_\_\_ (Seal)  
Kathy Ebner  
President

ATTEST: ANNE ARUNDEL COUNTY, MARYLAND

\_\_\_\_\_  
By: \_\_\_\_\_ (Seal)  
Benjamin J. Birge  
Chief Administrative Officer

APPROVED FOR FORM AND LEGAL SUFFICIENCY  
ANNE ARUNDEL COUNTY, MARYLAND  
GREGORY J. SWAIN, COUNTY ATTORNEY

By: \_\_\_\_\_  
Date

APPROVED:

\_\_\_\_\_  
Controller Date