

RESOLUTION
of the
HARDYSTON TOWNSHIP MUNICIPAL UTILITIES AUTHORITY (“HTMUA”)
regarding
REVOCATION OF RESERVED SEWERAGE CAPACITY ALLOCATION

WHEREAS, Beaver Run Shopping Center, L.L.C. and/or High Ridge Properties, L.L.C. (hereinafter referred to as the “Developer”) has an obligation to the HTMUA for payment for the reservation of 9,650 gallons per day of sewerage capacity allocation through the Sussex County Municipal Utilities Authority (“SCMUA”); and

WHEREAS, the Developer is now overdue for more than 30 days on its last two quarterly payments to the HTMUA for said sewer capacity allocation; and

WHEREAS, the Developer owes a sum for said contractually-obligated quarterly payment obligations in excess of \$8,578.09, which is the total sum due to the HTMUA, including interest, calculated through May 31, 2013.

WHEREAS, the Developer’s failure to make quarterly payments to the HTMUA constitutes a default under the terms of the developer’s agreement between the parties and the judicially-recognized contractual obligation of the Developer; and

WHEREAS, advance written notice of a public discussion and hearing regarding possible revocation of said sewerage capacity allocation was provided to the Developer and to the Developer’s bank, which had been paying quarterly payments to the HTMUA for said sewerage capacity allocation; and

WHEREAS, at its regularly scheduled monthly meeting of June 3, 2013, the HTMUA publicly discussed the issue of revocation of said sewerage capacity allocation due to non-payment; and

WHEREAS, the HTMUA opened said discussion to the public for comment and Mr. Grant, a representative of the Developer, appeared and offered the following comments to the HTMUA:

- The Developer has been attempting to the develop the subject property since 2001;
- The Developer’s project has suffered from a terrible real estate market;
- Lakeland Bank had been making quarterly payments for sewerage capacity allocation;
- There is renewed activity and the Developer is attempting to “get the project on its feet”;
- Developer is doing its best;
- Developer cannot offer any money at present to pay for the quarterly payments;
- Developer will contact Lakeland Bank and request payment; and

WHEREAS, no other public comment was offered; and

WHEREAS, the HTMUA Commissioners discussed: the HTMUA’s contractual obligation to

pay the SCMUA for the sewerage capacity allocation; the unfairness resulting from payment of this obligation for the benefit of the Developer at the expense of other HTMUA ratepayers; and the past practice of revoking sewerage capacity allocation from another developer for similar non-payment of quarterly charges; and

WHEREAS, the HTMUA Commissioners discussed proper procedures for revoking sewerage capacity allocation due to nonpayment and the disposition of said allocation after revocation, including the extension of an additional opportunity to the Developer to make payment and avoid revocation of sewerage capacity allocation;

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the HTMUA as follows:

1. Sewerage capacity allocation in the volume of 9,650 gallons per day, which had been reserved for the benefit of the Developer and related to land in Hardyston Township and subject to contractual and judicially-recognized obligations for payment by the Developer to the HTMUA and by the HTMUA to the SCMUA, is revoked from the Developer by the HTMUA due to nonpayment of quarterly charges.
2. Said revocation of sewerage capacity allocation shall be effective at 4:30 p.m. on Tuesday, June 18, 2013.
3. In the event that payment in full for the overdue amount of quarterly payments, plus interest, in the amount of \$8,578.09, is received by the HTMUA on or before 4:30 p.m. on Tuesday, June 18, 2013, then said revocation shall not occur at said time.

Certified as a true copy of the Resolution
adopted by the Hardyston Township
Municipal Utilities Authority at its
regular meeting held on June 3, 2013

Approving:	3
Opposing:	0
Abstaining:	0
Recusing:	0

Gail C. Hensal, Secretary