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January 2016

Ralph Ekstrand, Mayor
Members of the Board of Trustees
Village of Farmingdale
361 Main Street
Farmingdale, NY 11735

Report Number: P7-15-58

Dear Mayor Ekstrand and Members of the Board of Trustees:

A top priority of the Office of the State Comptroller is to help local government officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support local government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of eight local governments throughout Nassau and Suffolk Counties. The objective of our audit was to determine whether local governments complied with the Long Island Workforce Housing Act (Act) when approving qualifying residential units. We included the Village of Farmingdale (Village) in this audit. Within the scope of this audit, we examined the policies and procedures of the Village and reviewed the site plans for residential developments comprising five or more units for the period January 1, 2009 through December 31, 2014. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This report of examination letter contains our findings specific to the Village. We discussed the results of our audit with Village officials and considered their comments in preparing this report. Village officials were given the opportunity to respond in writing to our findings, but they did not respond. At the completion of our audit of the eight local governments, we prepared a global report that summarizes the significant issues we identified at all of the local municipalities audited.

Summary of Findings

The Village complied with the Act when approving applications for qualifying residential developments. The developers for all six housing projects approved during our audit period have set aside or have agreed to set aside a combined total of 10 percent of all units built as affordable workforce housing.

Background and Methodology

The Village is located in Nassau County and has approximately 8,200 residents. The Village is governed by an elected five-member Board of Trustees (Board), which includes the Mayor. The Mayor is the chief executive officer and is responsible for the Village's day-to-day operations. The Board is responsible for approving multi-unit residential housing projects. The Village's 2014 general fund expenditures totaled approximately \$5.6 million.

The New York State Legislature implemented the Act in 2008 for the purpose of making homeownership more affordable for the workforce in Nassau and Suffolk Counties. Housing affordability is a function of both housing prices and household incomes. While "affordable housing" is often thought to target lower-income residents (usually those below the median income), the term "workforce" generally includes those who are not typically the target of, or eligible for, affordable housing programs (such as those at or above the median income). This usually includes essential workers in a community, such as firemen, nurses and medical personnel. However, under the Act, the term "affordable workforce housing" is defined as housing for individuals and families at or below 130 percent of the median income for the Nassau-Suffolk primary statistical area¹ (commonly called the area median income or AMI), which averaged \$105,000 for 2009 through 2014.

Under the Act,² generally, when a developer makes an application to a local government in Nassau or Suffolk County to build five or more residential units, the local government, in exchange for providing the developer with a "density bonus" that authorizes them to exceed the local residential density maximum by at least 10 percent, must require one of the following:

- The set aside by the developer of at least 10 percent of the proposed units for affordable workforce housing on site, or
- The provision by the developer of other land within the same local government and the construction of the required affordable workforce housing units on other the land, or
- The payment of a fee by the developer for each affordable unit that the developer would have been required to construct. The Act generally sets this fee at the lesser of two times the AMI for a family of four or the appraised value of the building lot(s).

The local government is then responsible for ensuring that all affordable units created under the Act remain affordable. When a developer elects to pay a fee in lieu of building affordable units, the local government, among other things, may establish a trust fund in which these fees are

¹ As defined by the United States Department of Housing and Urban Development

² Effective January 1, 2009

deposited, separate and apart from all other moneys of the local government, for the specific purpose of constructing affordable workforce housing, acquiring land for the purpose of providing affordable workforce housing or rehabilitating structures for the purpose of providing affordable workforce housing. Within six months of establishing the trust fund, the local government must issue guidelines and policies governing the expenditure of trust fund moneys. Any moneys not expended three years from the date they are collected must be paid into a single trust fund controlled by the Long Island Housing Partnership.³

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). Such standards require that we plan and conduct our audit to adequately assess those operations within our audit scope. Further, those standards require that we understand the management controls and those laws, rules and regulations that are relevant to the operations included in our scope. We believe that our audit provides a reasonable basis for the findings and conclusions contained in this report. More information on such standards and the methodology used in performing this audit are included in Appendix A of this report.

Audit Results

The Village received applications for six housing projects comprising five or more units between January 1, 2009 and December 31, 2014. The Village complied with the Act when approving these applications for qualifying residential developments.

In an effort to foster growth and revitalize its downtown area, the Village has established a building zone called the Downtown Mixed Use (D-MU) zone. The development of a multi-family building within this zone is granted only by a special permit which allows for multi-family housing to be erected in existing business zones throughout the Village. The D-MU zoning laws explicitly require a developer to designate not less than 10 percent of all multi-family or mixed-use units in the D-MU zone as workforce or affordable housing, targeting households with incomes less than 80 percent of the AMI. The D-MU zoning requirements also require that a developer comply with affordable workforce housing requirements at the time of site plan approval with respect to unit occupancy and continued affordability over time. The Board documents the compliance requirements in each Board resolution approving a housing project. Housing eligibility in the Village is currently being managed by a third-party company and Village officials have established recourse against the developer in its building approvals, should the affordability of units not be maintained.

The developers for all six housing projects⁴ have designated a combined total of 26 units, or 10 percent of all units built, as affordable workforce housing. The Bartone Phase II housing project has been completed and is occupied. The Village maintains documentation for this housing project that verifies that affordable units were set aside by the developer and that eligibility requirements were enforced for applicants.

³ The Long Island Housing Partnership is a not-for-profit organization that was created to address the need for and to provide affordable housing opportunities on Long Island for those who are unable to afford homes through development, technical assistance, mortgage counseling, homebuyer education and lending programs. It also provides technical assistance to private developers, municipalities and other not-for-profit organizations who are providing affordable housing on Long Island.

⁴ The six housing projects are Bartone Phase I, Bartone Phase II, Robbie Lee – Route 109, Sam Glass, Staller – Eastern Parkway and Staller – Main Street.

We commend Village officials for their work in establishing policies and procedures relative to the Act. We encourage officials to continue monitoring building projects approved within the Village to ensure that they remain affordable in accordance with the Act.

We thank the officials and staff at the Village of Farmingdale for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo
Deputy Comptroller

APPENDIX A

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to evaluate whether the Village was complying with the Act when approving qualifying residential units. To accomplish our audit objective and obtain valid audit evidence, our procedures included the following:

- We interviewed Village officials and employees to gain an understanding of the process for approving residential developments of five or more units from January 1, 2009 through December 31, 2014 and to determine whether applications and plan approvals addressed workforce housing requirements, fees were required of developers not designating units as affordable, how eligibility was determined for the newly created affordable units and how the Village ensures that the units remain affordable.
- We reviewed the Act and applicable sections of Village Code to gain an understanding of the applicable statutory requirements regarding affordable workforce housing and residential density restrictions.
- We determined whether the Village has established an affordable housing trust fund and whether it complied with the Act's requirements.
- We surveyed Village officials to identify all developments of five or more units that had to comply with the Act and were approved between January 1, 2009 and December 31, 2014. We then examined the planning documents for these developments to determine the percentage of units designated as affordable workforce housing.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.