

The BLACKMAN CHARTER TOWNSHIP Board adopted the following Ordinance at their regularly scheduled Board Meeting held on Monday, July 17<sup>th</sup>, 2017 at 6:00 P.M.

BLACKMAN CHARTER TOWNSHIP

ORDINANCE NO. 127

**TAX EXEMPTION ORDINANCE**

An Ordinance to provide for a service charge in lieu of taxes for a housing project for low income persons and families to be financed with a federally-aided Mortgage Loan pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, *et seq*) (the "Act").

BLACKMAN CHARTER TOWNSHIP ORDAINS:

**SECTION 1.** This Ordinance shall be known and cited as the "Blackman Charter Township Tax Exemption Ordinance - Ashton Ridge Apartments Affordable Housing Project".

**SECTION 2.** Preamble.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The Township is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for low income persons and families is a public necessity, and as the Township will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the continuing economic viability of Ashton Ridge Apartments (the "housing project") and for a determination of the economic feasibility of the housing project in connection with the anticipated sale of the housing project and its rehabilitation with financing extended in reliance on such tax exemption.

The Township acknowledges that the Sponsor (as defined below) has offered, subject to receipt of an allocation under the LIHTC Program by the Michigan

State Housing Development Authority, to acquire, rehabilitate, own and operate the housing project which is located on Ashton Ridge Drive (see attached Exhibit A for Legal Description) in the Township of Blackman which serves low income persons and families, and that the Current Owner (as defined below) and the Sponsor have offered to pay the Township on account of the housing project an annual service charge for public services in lieu of all *ad valorem* property taxes.

**SECTION 3.        Definitions.**

- A.     Authority means the Michigan State Housing Development Authority.
- B.     Annual Shelter Rent means the total collections during an agreed annual period from or paid on behalf of all occupants of the housing project representing rent or occupancy charges, exclusive of Utilities.
- C.     Current Owner means Ashton Ridge Limited Dividend Housing Association Limited Partnership, a Michigan limited partnership.
- D.     LIHTC Program means the Low Income Housing Tax Credit program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.
- E.     Low Income Persons and Families means persons and families eligible to move into a housing project under Section 42 of the Internal Revenue Code of 1986, as amended.
- F.     Mortgage Loan means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the rehabilitation, acquisition and/or permanent financing of the housing project, and secured by a mortgage on the housing project.
- G.     Sponsor means EPD Ashton Ridge Limited Dividend Housing Association, LP, a Michigan limited partnership, its successors and assigns, and any entity which may own the housing project and which receives or assumes a Mortgage Loan.
- H.     Utilities means charges for gas, electric, water, sanitary sewer, trash and other utilities furnished to the occupants that are paid by the owner of the housing project.

**SECTION 4.        Class of Housing Projects.**

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan. It is further determined that Ashton Ridge Apartments now owned by the Current Owner and which might be owned by the Sponsor is of this class

**SECTION 5.           Establishment of Annual Service Charge.**

The housing project identified as Ashton Ridge Apartments and the property on which it is located shall be exempt from all *ad valorem* property taxes from and after the enactment of this Ordinance. The Township acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the housing project for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in recognition of the on-going qualification of the Current Owner and the housing project for exemption from *ad valorem* property taxes and in consideration of the Sponsor's offer to acquire and/or rehabilitate and operate the housing project, the Township agrees to accept payment of an annual service charge for public services in lieu of all *ad valorem* property taxes. The annual service charge shall be equal to Four percent (4.0%) of the Annual Shelter Rents actually collected by the owner of the housing project during each operating year.

**SECTION 6.           Contractual Effect of Ordinance.**

Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the Township, the Current Owner and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

**SECTION 7.           Limitation on the Payment of Annual Service Charge.**

Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt but which is occupied by other than Low Income Persons and Families shall be equal to the full amount of the taxes which would be paid on that portion of the housing project as if the housing project were not tax exempt.

**SECTION 8.           Payment of Service Charge.**

The annual service charge in lieu of taxes as determined under this Ordinance shall be payable in the same manner as general property taxes are payable to the Township and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before August 15th of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq*).

**SECTION 9.           Duration.**

This Ordinance shall remain in effect and shall not terminate so long as a Mortgage Loan remains outstanding and unpaid, or, if repaid, such Mortgage Loan is replaced by a new Mortgage Loan and the occupants of the housing project remain Low Income Persons and Families.

**SECTION 10. Severability.**

The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision so declared to be unconstitutional or invalid.

**SECTION 11. Inconsistent Ordinances.**

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict. This ordinance replaces Ordinance 89, dated March 11, 1989.

**Section 12. Effective Date.**

This Ordinance shall become effective on August 24, 2017, as provided in the Township Charter.

BLACKMAN CHARTER TOWNSHIP

MEMBERS

PRESENT: Mike Ambs, Pete Jancek, Shelly Sercombe, Phil Preston, Mike Thomas and  
Scott Pack

MEMBER(S) ABSENT: Brandon Williams

AYES: 6

NAYS: 0

Adopted: July 17, 2017

Effective: August 24, 2017

Pete Jancek, Supervisor

Shelly Sercombe, Clerk