BILL NO. R-12-11-27

RESOLUTION NO. R-________

**A RESOLUTION approving a Waiver of Noncompliance for a Late-Filed Application for the Economic Revitalization Area Deduction on Real Property Improvements (Form 322/RE) for Renaissance Pointe Community, LP and Ideal Suburban Homes, Inc.**

**WHEREAS,** Common Council has previously approved policies in regards to Residentially Distressed Areas (Resolution Number R-42-03) under Sections 153.02 of the Municipal Code of the City of Fort Wayne, Indiana, and I.C. 6-1.1-12.1; and

**WHEREAS,** Renaissance Pointe Community, LP began construction of 66 single-family residential homes in 2011 with completion in September 2012; and

**WHEREAS,** Renaissance Pointe Community, LP's development provides affordable housing to families at or below 60% of area median income; and

**WHEREAS,** Renaissance Pointe Community, LP's development is located in a residentially distressed area; and

**WHEREAS,** a property owner is entitled to receive a deduction on the assessed value of improvements to the property for no more than five years in residentially distressed areas; and

**WHEREAS,** representatives of Renaissance Pointe Community, LP have informed the City of Fort Wayne that their application for deduction from assessed valuation of structures in economic revitalization areas (Form 322/RE) was not filed in a timely manner; and

**WHEREAS,** this oversight was an unusual occurrence for Renaissance Pointe Community, LP which has made diligent efforts in good faith to make all required Indiana property tax filings on a timely basis; and

**WHEREAS,** the Common Council acknowledges that Renaissance Pointe Community, LP has requested a waiver of non compliance which the Common Council has the power and authority to approve, under I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3; and

**WHEREAS,** the Common Council intends that Renaissance Pointe Community, LP receive the real property tax deduction benefits to which they would have been entitled had no non compliance event occurred, so long as the waiver of non compliance and the granting of those benefits does not prejudice the City of Fort Wayne; and

**WHEREAS,** the Common Council has concluded that granting of the real property tax deduction for the 2012 payable 2013 tax year would not create a strain on the City of Fort Wayne's fiscal budget; and

**WHEREAS,** I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3 permit real property tax deduction non-compliance events such as the untimely filing of deduction application paperwork to be waived; and

**WHEREAS,** the noncompliance event has been corrected and a public hearing of the Common Council has been held on the waiver.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** That, Common Council hereby waives all clerical and technical errors and nonconformities that can be waived under State and local law, including without limitation those errors and nonconformities described in I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3.

**SECTION 2.** As authorized by I.C. 6-1.1-12.1-9.5(d), the Common Council will permit Renaissance Pointe Community, LP and Ideal Suburban Homes, Inc. to receive the lost real property tax deduction amount in accordance with the following schedule with each parcel's deduction amount noted in EXHIBIT A:

| Tax Year | Real Property Tax Deduction Amount |
|---|---|
| 2012 pay 2013 | $3,620,200.00 |
| TOTAL | $3,620,200.00 |

The foregoing numbers represent deductions from assessed valuation of real property, not tax liability. The total deduction amounts set forth in the preceding table represent deductions Renaissance Pointe Community, LP and Ideal Suburban Homes, Inc. will lose in 2012 payable 2013. The Allen County Auditor and Allen County Assessor shall be supplied with a copy of this Resolution, upon passage, and instructed to apply the deduction amounts in accordance with this schedule.

**SECTION 3.** That, this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Member of Council

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney

[redacted]

# EXHIBIT A

| | Address | Parcel Number | Structures New Assessment | Eligible Amount (lesser of $74,880) |
|---|---|---|---|---|
| 1 | 2301 John Street | 02-12-12-378-001.000-074 | 24,000.00 | 24,000.00 |
| 2 | 2302 John Street | 02-12-12-377-044.000-074 | 99,200.00 | 74,880.00 |
| 3 | 2324 John Street | 02-12-12-377-051.000-074 | 98,200.00 | 74,880.00 |
| 4 | 2326 John Street | 02-12-12-377-052.000-074 | 98,200.00 | 74,880.00 |
| 5 | 2415 John Street | 02-12-12-378-012.001-074 | 102,000.00 | 74,880.00 |
| 6 | 2421 John Street | 02-12-12-378-013.000-074 | 98,200.00 | 74,880.00 |
| 7 | 2424 John Street | 02-12-12-377-062.001-074 | 94,300.00 | 74,880.00 |
| 8 | 2432 John Street | 02-12-12-377-064.000-074 | 93,500.00 | 74,880.00 |
| 9 | 2438 John Street | 02-12-12-377-065.000-074 | 97,900.00 | 74,880.00 |
| 10 | 2441 John Street | 02-12-12-378-019.002-074 | 102,800.00 | 74,880.00 |
| 11 | 2442 John Street | 02-12-12-377-066.000-074 | 93,500.00 | 74,880.00 |
| 12 | 2503 John Street | 02-12-12-378-021.000-074 | 93,500.00 | 74,880.00 |
| 13 | 2512 John Street | 02-12-12-377-071.000-074 | 102,800.00 | 74,880.00 |
| 14 | 2513 John Street | 02-12-12-378-024.001-074 | 56,000.00 | 56,000.00 |
| 15 | 2519 John Street | 02-12-12-378-024.000-074 | 57,900.00 | 57,900.00 |
| 16 | 2522 John Street | 02-12-12-377-073.000-074 | 89,400.00 | 74,880.00 |
| 17 | 2523 John Street | 02-12-12-378-025.000-074 | 90,300.00 | 74,880.00 |
| 18 | 2525 John Street | 02-12-12-378-026.000-074 | 86,400.00 | 74,880.00 |
| 19 | 2537 John Street | 02-12-12-378-029.000-074 | 94,300.00 | 74,880.00 |
| 20 | 2301 Gay Street | 02-12-12-379-001.000-074 | 83,300.00 | 74,880.00 |
| 21 | 2317 Gay Street | 02-12-12-379-005.000-074 | 0.00 | 0.00 |
| 22 | 2318 Gay Street | 02-12-12-378-039.000-074 | 97,900.00 | 74,880.00 |
| 23 | 2325 Gay Street | 02-12-12-379-007.000-074 | 77,700.00 | 74,880.00 |
| 24 | 2328 Gay Street | 02-12-12-378-041.000-074 | 95,900.00 | 74,880.00 |
| 25 | 2332 Gay Street | 02-12-12-378-044.000-074 | 91,800.00 | 74,880.00 |
| 26 | 2337 Gay Street | 02-12-12-379-009.000-074 | 59,000.00 | 59,000.00 |
| 27 | 2345 Gay Street | 02-12-12-379-012.000-074 | 78,500.00 | 74,880.00 |
| 28 | 2408 Gay Street | 02-12-12-378-052.000-074 | 86,000.00 | 74,880.00 |
| 29 | 2417 Gay Street | 02-12-12-380-003.000-074 | 72,100.00 | 72,100.00 |
| 30 | 2418 Gay Street | 02-12-12-378-054.000-074 | 0.00 | 0.00 |
| 31 | 2421 Gay Street | 02-12-12-380-005.000-074 | 81,600.00 | 74,880.00 |
| 32 | 2422 Gay Street | 02-12-12-378-056.000-074 | 70,300.00 | 70,300.00 |
| 33 | 2430 Gay Street | 02-12-12-378-057.000-074 | 77,400.00 | 74,880.00 |
| 34 | 2434 Gay Street | 02-12-12-378-058.000-074 | 63,800.00 | 63,800.00 |
| 35 | 2435 Gay Street | 02-12-12-380-007.000-074 | 70,400.00 | 70,400.00 |
| 36 | 2446 Gay Street | 02-12-12-378-061.000-074 | 66,300.00 | 66,300.00 |
| 37 | 2447 Gay Street | 02-12-12-380-010.000-074 | 73,000.00 | 73,000.00 |
| 38 | 2448 Gay Street | 02-12-12-378-062.000-074 | 71,000.00 | 71,000.00 |
| 39 | 2449 Gay Street | 02-12-12-380-011.000-074 | 62,200.00 | 62,200.00 |
| 40 | 2452 Gay Street | 02-12-12-378-063.000-074 | 66,800.00 | 66,800.00 |
| 41 | 2502 Gay Street | 02-12-12-378-065.000-074 | 58,200.00 | 58,200.00 |
| 42 | 2510 Gay Street | 02-12-12-378-067.000-074 | 68,400.00 | 68,400.00 |
| 43 | 2511 Gay Street | 02-12-12-381-002.000-074 | 67,900.00 | 67,900.00 |
| 44 | 2515 Gay Street | 02-12-12-381-004.000-074 | 59,600.00 | 59,600.00 |
| 45 | 2518 Gay Street | 02-12-12-378-069.000-074 | 71,000.00 | 71,000.00 |
| 46 | 2519 Gay Street | 02-12-12-381-006.000-074 | 63,200.00 | 63,200.00 |
| 47 | 2520 Gay Street | 02-12-12-378-070.000-074 | 61,700.00 | 61,700.00 |
| 48 | 2523 Gay Street | 02-12-12-381-008.000-074 | 52,000.00 | 52,000.00 |
| 49 | 2133 Weisser Park Avenue | 02-12-12-327-010.000-074 | 14,000.00 | 14,000.00 |
| 50 | 2127 Weisser Park Avenue | 02-12-12-327-008.000-074 | 0.00 | 0.00 |
| 51 | 2137 Weisser Park Avenue | 02-12-12-327-012.000-074 | 15,300.00 | 15,300.00 |
| 52 | 2143 Weisser Park Avenue | 02-12-12-327-014.000-074 | 15,400.00 | 15,400.00 |
| 53 | 2149 Weisser Park Avenue | 02-12-12-327-016.000-074 | 13,900.00 | 13,900.00 |
| 54 | 2205 Weisser Park Avenue | 02-12-12-327-017.000-074 | 0.00 | 0.00 |
| 55 | 2209 Weisser Park Avenue | 02-12-12-327-019.002-074 | 0.00 | 0.00 |

EXHIBIT A

| | Address | Parcel Number | Structures New Assessment | Eligible Amount (lesser of $74,880) |
|---|---|---|---|---|
| 56 | 2215 Weisser Park Avenue | 02-12-12-327-019.003-074 | 0.00 | 0.00 |
| 57 | 2313 Weisser Park Avenue | 02-12-12-377-004.000-074 | 47,200.00 | 47,200.00 |
| 58 | 2319 Weisser Park Avenue | 02-12-12-377-006.000-074 | 49,000.00 | 49,000.00 |
| 59 | 2333 Weisser Park Avenue | 02-12-12-377-010.001-074 | 58,500.00 | 58,500.00 |
| 60 | 2401 Weisser Park Avenue | 02-12-12-377-011.000-074 | 60,200.00 | 60,200.00 |
| 61 | 2421 Weisser Park Avenue | 02-12-12-377-017.000-074 | 32,400.00 | 32,400.00 |
| 62 | 2427 Weisser Park Avenue | 02-12-12-377-018.000-074 | 15,300.00 | 15,300.00 |
| 63 | 2429 Weisser Park Avenue | 02-12-12-377-019.000-074 | 35,700.00 | 35,700.00 |
| 64 | 2439 Weisser Park Avenue | 02-12-12-377-021.000-074 | 45,900.00 | 45,900.00 |
| 65 | 2514 Weisser Park Avenue | 02-12-12-376-042.000-074 | 15,300.00 | 15,300.00 |
| 66 | 2534 Weisser Park Avenue | 02-12-12-376-047.000-074 | 15,300.00 | 15,300.00 |
| | | | 4,052,800.00 | 3,620,200.00 |
| 67 | 2319 John Street<br>(Owned by Ideal Suburban Homes, Inc.) | 02-12-12-378-005.000-074 | 70,800.00 | 70,800.00 |

Admn. Appr.____________

DIGEST SHEET

TITLE OF RESOLUTION: **Resolution Approving a Waiver of Noncompliance for a Late-Filed Application for the Economic Revitalization Area Deduction on Real Property Improvements (Form 322/RE) for Renaissance Pointe Community, LP and Ideal Surburban Homes, Inc.**

DEPARTMENT REQUESTING RESOLUTION: **Community Development Division**

SYNOPSIS OF RESOLUTION: **This is to approve a waiver of noncompliance for late-filed real property deduction forms for Renaissance Pointe Community, LP and Ideal Suburban Homes, Inc. on real property improvements in the Renaissance Pointe area which is in a city designated residentially distressed area. Fort Wayne Common Council designated and approved policies for residentially distressed areas in 2003.**

EFFECT OF PASSAGE: **Approval of this resolution and granting of a waiver of noncompliance will allow Renaissance Pointe Community, LP and Ideal Suburban Homes, Inc. to recoup one year of the residentially distressed area deduction that it may lose due to late filed deduction forms.**

EFFECT OF NON-PASSAGE: **Potential loss of future development by Renaissance Pointe Community, LP and Ideal Suburban Homes, Inc.**

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): **No expenditures of public funds required.**

ASSIGNED TO COMMITTEE (CO-CHAIRS): **John Shoaff and Mitch Harper**

# Memo

**Date:** November 19, 2012

**To:** Fort Wayne Common Council

**From:** Elissa McGauley, Economic Development Specialist, COMMUNITY DEVELOPMENT DIVISION EMC

**CC:** Greg Leatherman, Deputy Director Development, and Heather Presley, Deputy Director Housing and Neighborhood Services, COMMUNITY DEVELOPMENT DIVISION

**RE:** Waiver of Noncompliance

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Community Development Division staff has submitted a resolution that requests the granting of a waiver of noncompliance for late-filed real property tax deduction forms for Renaissance Pointe Community, LP. Approval of this resolution and the granting of a waiver of noncompliance will allow the company to receive the real property deductions that it will lose due to the late filed deduction paperwork. Following is an overview of the filing requirements for the residentially distressed area deduction and the granting of waivers of noncompliance as well as the background and issues for this company.

ECONOMIC REVITALIZATION AREA FILING REQUIREMENTS

As prescribed in I.C. 6-1.1-12.1-2; I.C. 6-1.1-12.1-3; I.C. 6-1.1-12.1-4.1, and I.C. 6-1.1-12.1-15, property owners of family dwellings between one and four units in size within residentially distressed areas are eligible to receive a deduction for five years on rehabilitation or redevelopment of the property that increases the assessed valuation. The amount of the deduction that a property owner is entitled to receive for a particular year equals the lesser of the assessed value of the improvement to the property after the rehabilitation or redevelopment has occurred or a set amount based on the size of the family dwelling unit. The property owner has to file paperwork with the auditor's office to claim the deduction. The deduction form (Form 322/RE) is due to the county auditor no later than 30 days from the date on the notice of new assessment (Form 11).

WAIVER OF NONCOMPLIANCE BACKGROUND

Fort Wayne Common Council has granted waivers of noncompliance previously but it has been limited to economic revitalization area (tax abatement) issues. Council has granted waivers of noncompliance when property owners have initiated their economic development project through the filing of a permit or installation of equipment prior to filing the economic revitalization area designation application with the community development division.

Waivers of noncompliance correct issues with late-filed paperwork including economic revitalization area designation applications and statement of benefits forms. A waiver of noncompliance may also be granted to correct clerical errors on designation applications and statement of benefits forms. Prior to 2006, the waiver of noncompliance was limited to initiation of development and clerical problems. In 2006, the waiver of noncompliance was expanded to include late-filed deduction paperwork including those deductions granted by council for tax abatement as well as for deductions for projects in residentially distressed areas.

As with previous waivers of noncompliance granted to property owners requesting economic revitalization area designation on their investment for tax abatement, the procedural or clerical error must be corrected before council approves a resolution adopting a waiver of noncompliance. Indiana Code also requires that council conduct a public hearing on the waiver on noncompliance. Indiana Code also allows council to consider whether the waiver of noncompliance granted would result in a delay in the issuance of tax bills, require the recalculation of tax rates or tax levies for a particular year or other wise cause a hardship or burden on the taxing unit.

Community Development Division staff has never received a request to approve a waiver of noncompliance for a project within a residentially distressed area. Community Development Division staff have been working with the Allen County Auditor's office to resolve the late real property deduction paperwork (Form 322/RE) for Renaissance Pointe Community, LP. The auditor's office has agreed that upon approval of the waiver that it will allow the deduction for 2012 payable 2013.

RENAISSANCE POINTE COMMUNITY, LP BACKGROUND

Renaissance Pointe Community, LP began construction of 66 single-family residential homes in the area known as Renaissance Pointe in 2011. The last of the units were completed in September 2012. The development project is located in the city's residentially distressed area and eligible for the residentially distressed area deduction provided for in Indiana Code 6-1.1-12.1-4.1.

RENAISSANCE POINTE COMMUNITY, LP ISSUE

Representatives with Renaissance Pointe Community, LP emailed City of Fort Wayne Community Development staff on August 23, 2012, inquiring about tax abatement on the homes constructed. I instructed that even though they are in a residentially distressed area, they still needed to file for the deduction with the county. Notices of New Assessment (Form 11) were sent on July 6, 2012. In order for the deduction forms to be filed on time they would have had to be submitted by August 6, 2012. I informed Renaissance Pointe Community, LP representatives that they would be able to request a waiver of noncompliance from Fort Wayne Common Council to allow them to file for the deduction. A copy of the letter from Renaissance Pointe Community, LP requesting the waiver of noncompliance was delivered to the city. A copy of the letter is attached to this memo. Further, I asked Renaissance Pointe Community, LP to file the deduction paperwork with the Allen County Auditor's Office.

# RENAISSANCE POINTE COMMUNITY, LP
## 522 SOUTH 13TH STREET
## DECATUR, IN 46733

**Tele: 260.724.9131**
**Fax: 260.724.6403**


October 12, 2012

Fort Wayne Common Council
c/o Legislative Affairs Administrator
Citizens Square
Fort Wayne, IN 46802

Re: Request for Waiver of Non-Compliance
IC 6-1.1-12.1-4.1

Dear Members of the Common Council:

Please allow this letter to serve as a request to the Fort Wayne Common Council to waive Renaissance Pointe Community, LP's (the "Owner") failure to timely file an Application for Deduction from Assessment on Rehabilitated Property (the "Application") under IC 6-1.1-12.1-4.1. The Owner first learned of the existence of the filing deadline on August 27, 2012 – approximately two and one-half weeks after the filing deadline. On-going discussions between the Owner and the Fort Wayne Community Development Division concerning this issue have resulted in this request for a Waiver of Non-Compliance.

Owner's failure to file the Application within the designated time frame is due solely to Owner's erroneous belief that the deduction was automatic and did not require any affirmative action on Owner's behalf. By way of explanation, and not justification, the Owner would show the Common Council the following:

1. The Renaissance Pointe Community project (the "RPC Project") consists of 66 single-family residential homes constructed on Gay Street, John Street and Weisser Park in the area known as Renaissance Pointe. The financing for these homes consisted of a combination of federal low income housing tax credits ("LIHTC") awarded by Indiana Housing and Community Development Authority ("IHCDA") and Community Development Block Grant ("CDGB") and Neighborhood Stabilization Program ("NSP") funds provided by the City of Fort Wayne.
2. The RPC Project is a lease/purchase development under Section 42 of the Internal Revenue Code and it provides "affordable" housing to families at or below 60% of Area Medium Income. Construction of the homes began in 2011 and was completed in September of this year.
3. From the inception of the idea to pursue the RPC Project, the need for some type of tax abatement for the homes was actively discussed between the developer and representatives of the City, including the Office of

Housing and Neighborhood Services and the Fort Wayne Development Division. For clarification, these were discussions only about the RPC Project's need for tax abatement (from the standpoint of its pro forma operational budget) and the types of abatement that might be available.

4. From these discussions, the Owner was made aware of the existence of the real estate tax deduction provided to economically distressed areas (like Renaissance Pointe) by the terms of IC 6-1.1-12.1-4.1. That statute sets forth "the amount of the deduction that a property owner is **entitled** to receive" for improvements made in an economically distressed area (emphasis added). From this language, Owner developed the erroneous belief that the deduction was automatic and that nothing further was required.

5. The deduction established by IC 6-1.1-12.1-4.1 provided the real estate tax relief that Owner needed to secure the investments required for the RPC Project. The concept of real estate tax relief was set out in the budget pro formas submitted to both IHCDA in the application for the award of LIHTC as well as the applications made to the City of Fort Wayne for the CDGB and NSP funds. As such, a waiver of Owner's non-compliance with the application deadline will not create tax relief that was unexpected by the City of Fort Wayne.

6. In the event that Owner is unable to obtain the real estate tax deduction otherwise provided by IC 6-1.1-12.1-4.1, the RPC Project will be significantly impacted by a tax burden that it does not have the operational cash flow to support. RPC Project is still in its lease-up period and as of the date of this letter it is approximately 75% leased. Given the requirement of providing "affordable" housing at rental rates that are set by the terms of the LIHTC program, the RPC Project does not have the ability to raise rents to cover unexpected real estate taxes.

Although not specifically related to the real estate tax deduction matter, Owner believes that the Common Council should know that Ideal Suburban Homes ("Ideal") is affiliated with the RPC project and it shares a common owner/principal. This is important to know in that Ideal has been a part of the Renaissance Pointe development efforts by the City of Fort Wayne from the beginning. It was one of the initial three builder/partners who participated in building a number of speculative for-sale homes in Renaissance Point starting in 2007. Ideal supported the City through many years of its efforts to promote "for sale" homes in the area and has provided advice and guidance as and when requested by the Office of Housing and Neighborhood Services ("OHNS") about the Renaissance Pointe area. It was through this cooperative effort that Ideal approached OHNS with the concept of the RPC Project in 2010 as a way to reinvigorate the City's efforts in that area. With the project now complete, the Owner is proud to say that the results speak for themselves. The RPC Project has truly created the nucleus of a family community within a formerly blighted area.

For all of the foregoing reasons, the Owner respectfully requests that the Fort Wayne Common Council grant its request for a waiver of its non-compliance and grant it additional time to file the Application for Deduction From Assessment on Rehabilitated Property. Thank you.

**RENAISSANCE POINTE COMMUNITY, LP**
By: Renaissance Pointe Community GP, LLC
Its: General Partner

By: ______________________________
Kevan Biggs, Authorized Member