

RESOLUTION REGARDING “FIRST SALE”

RESOLVED, that in order to obtain certain funds for East Midtown Plaza Housing Company, Inc. (the “Cooperative”) to perform certain capital projects as the same are necessary or desirable for the health, safety, convenience and well-being of the Cooperative and its residents, and subject to the approval of New York City Department of Housing Preservation and Development (“HPD”) and subject to such modifications, if any, to this Resolution as HPD and/or United States Department of Housing and Urban Development (“HUD”) may require in accordance with applicable requirements, a Capital Assessment (as herein defined) shall be assessed to the shareholders of the Cooperative, which Capital Assessment shall be computed and shall be due and payable, as follows:

A. Definitions.

1. The “Capital Assessment”, as used herein, is the amount equal to one hundred (100%) percent of the Equity.

2. The “Equity”, as used herein, is the amount a selling shareholder (“Seller”) is entitled to receive for the shares of the Cooperative’s stock allocated to the Seller’s apartment (the “Shares”) from a Purchaser on the First Sale of the Seller’s Shares as shown on the books and records of the Cooperative, including mortgage amortization and any prior paid-in capital assessments and equity increases, but not including the Capital Assessment. The amount of the Equity shall be conclusively determined by the Cooperative.

3. The “First Sale”, as used herein, is the first sale made from and after the Effective Date by a Seller of the Seller’s Shares to a Purchaser. There shall be only one First Sale of the Shares of each apartment and, once a First Sale has been made of the Shares of an apartment, no subsequent sale of said Shares shall constitute or be deemed a First Sale of said Shares and the terms and conditions of this Resolution shall not apply to any subsequent sale of said Shares. The date on which a First Sale is made or closed for the purpose of this Resolution shall be conclusively determined by the Cooperative. Neither a Succession Transfer nor a Move-Down Transfer shall constitute a First Sale, provided, however, that the first subsequent transfer of those Shares which is neither a Succession Transfer nor a Move-Down Transfer, as conclusively determined by the Cooperative, shall constitute a First Sale subject to the terms and conditions of this Resolution.

4. The “Purchaser,” as used herein, means someone purchasing the Shares from the Cooperative’s external or internal waiting list after the Effective Date.

5. The “Effective Date,” as used herein, is the date which is thirty (30) days after the date on which this Resolution is approved by the shareholders of the Cooperative.

6. (a) A “Succession Transfer” is a transfer of the Shares without consideration made pursuant to and in compliance with the succession rules set forth in the Mitchell-Lama Rules of HPD, 28 RCNY § 3-02(p), as the same may be amended from time to time.

(b) A “Move-Down Transfer” is a sale of the Shares by a shareholder of the Cooperative and the simultaneous purchase by said seller of shares of the Cooperative allocated to an apartment with fewer rooms than the seller’s apartment whose shares are being sold.

B. Payment of the Capital Assessment.

1. At the time of the First Sale of the Shares made by a Seller after the Effective Date, (a) the Purchaser shall pay to the Seller, as the purchase price for the Shares, an amount equal to the Equity plus the Capital Assessment, (b) the Seller shall pay to the Cooperative, without any offset or deduction whatsoever, the full amount of the Capital Assessment, which sum shall be owned, retained and used by the Cooperative as herein provided, and (c) the Seller shall pay to the Cooperative, from the Equity, any sums due from the Seller to the Cooperative, such as for unpaid carrying charges, assessments and other sums, apartment restoration costs and the like.

2. The Capital Assessment shall be used by the Cooperative only for approved capital projects subject to the approval of HUD if and to the extent such approval is required.

3. The Capital Assessment paid by a Purchaser shall be added to and become part of the amount the Purchaser is entitled to receive for the Purchaser’s Shares when they are sold by the Purchaser (less any and all sums due the Cooperative).

4. (a) In the case of a Succession Transfer (i) the Capital Assessment shall not apply to those Shares and that transaction, and the transaction shall not constitute or be deemed to be a First Sale of those Shares; and (ii) the first subsequent transfer of those Shares which is neither a Succession Transfer nor a Move-Down Transfer, as conclusively determined by the Cooperative, shall constitute a First Sale subject to the terms and conditions of this Resolution.

(b) In the case of a Move-Down Transfer (i) the Capital Assessment shall not apply to those Shares of the move-down unit and that transaction, and the transaction shall not constitute or be deemed to be a First Sale of those Shares; and (ii) the first subsequent transfer of those Shares which is neither a Move-Down Transfer nor a Succession Transfer, as conclusively determined by the Cooperative, shall constitute a First Sale subject to the terms and conditions of this Resolution.

5. The Capital Assessment shall apply only in the case of the First Sale of the Shares with respect to each apartment made after the Effective Date and not to any subsequent sales thereof. The Capital Assessment shall remain in effect until the earlier of (a) the date on which a First Sale of Shares after the Effective Date has been made with respect to all the apartments in the Cooperative, or (b) the date on which the Cooperative is no longer subject to the regulatory jurisdiction of the New York City Department of Housing Preservation and Development.

6. The foregoing is illustrated as follows (which is provided solely for illustrative purposes): If the books and records of the Cooperative show the Equity for the Shares allocated to Apartment X to be \$10,000.00 on the date of the First Sale of said Shares, then on the date of such First Sale (i.e., the first time after the Effective Date that the Shares are sold by the Seller owning the Shares to a Purchaser from the Cooperative's external or internal waiting list), the Purchaser shall pay \$20,000.00 for the Shares, \$10,000.00 of which shall constitute Equity to be retained by the Seller, less such sums as are due the Cooperative (such as unpaid carrying charges and assessments and restoration charges), and \$10,000.00 of which shall be paid by the Seller to the Cooperative (without any offset or deduction) as a Capital Assessment. Upon the subsequent sale of the Shares by the said First Purchaser, the amount to be paid to the Seller (i.e., the First Sale Purchaser) for the Shares by the person purchasing the Shares shall be \$20,000.00 plus such other amounts as are shown on the Cooperative's books and records (such as increased mortgage amortization and any other capital assessments or equity increases paid by the Purchaser) and less such sums as are due the Cooperative.