

BOROUGH OF MOUNT ARLINGTON
Resolution No. 2010 - 126

**RESOLUTION APPROVING SETTLEMENT OF BANKRUPTCY CLAIM AND
AUTHORIZING COUNSEL TO EXECUTE CONSENT ORDER**

WHEREAS, on or about October 5, 2006, Kara Homes, Inc., and certain affiliated and/or related entities (collectively “Kara Homes” unless identified otherwise or separately) filed petitions for relief under Title 11, Chapter 11, United States Code, in the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”), said cases being administered under the case entitled In re Kara Homes, being assigned case number 06-19626 (MBK); and

WHEREAS within the bankruptcy cases the Borough timely filed three separate proofs of claim:

- i. The Borough filed a claim against Kara Homes on February 13, 2007 (the “February 13 Claim”), in the amount of \$4870.06, reflecting unpaid real property taxes due;
- ii. The Borough filed an amended proof of claim against Kara Homes on May 11, 2007 (the “May 11 Claim”). This specifically amended the February 13 Claim. It asserted i) real property tax claims totaling \$15,745.93 due, and ii) unpaid meter installation fees in the amount of \$67,200.00.
- iii. The Borough filed a claim against debtor Kara at Lakeshore Harbor, LLC on June 22, 2007 (the “June 22 Claim”) for \$2207.58. This claim reflects unpaid real property taxes for a property located at Block 39, Lot 84 (“Lot 84”) within the Borough; and

WHEREAS on or about April 27, 2009, Kara Homes challenged and/or sought to void Mount Arlington’s February 13 Claim, May 11 Claim, and June 22 Claim, through the filing of a motion (the “Motion”), said Motion being filed in the Bankruptcy Court by the Reorganized Debtors, by and through their counsel Becker Meisel, LLC, together with Bernard A. Katz,

Liquidating Trustee (the "Liquidating Trustee") for the Kara Homes, Inc. Liquidation Trust and the Kara at Mount Arlington I, LLC Liquidation Trust (the "Trusts"), by and through his counsel Cole Schotz Meisel Forman & Leonard, P.A. (collectively "Movants"); and

WHEREAS Mount Arlington, by and through its counsel Scarinci & Hollenbeck, LLC, opposed the Motion; and

WHEREAS of the property taxes referenced in the May 11 and June 22 Claims, all taxes, except for Lot 84, have been paid subsequent to the claims' filings (with the exception of *de minimis* sums due on block 123, lot 68 and block 31, lot 7 totaling less than \$200 as of June 30, 2010); and

WHEREAS Mount Arlington retains any and all municipal liens on Lot 84, and may sell one or more tax certificates to recover sums due and owing thereon; and

WHEREAS Kara Homes and Movants will recognize and agree to allow an unsecured claim by Mount Arlington in the Bankruptcy in the amount of \$67,200.00, reflecting unpaid meter fees, said claim to be paid only and to the greatest extent allowed by law; and

WHEREAS, the Governing Body notes that the Movants have agreed to the terms of a Consent Order ("Consent Order"), a copy of which is appended in blank to this Resolution, and which will resolve the Borough's claims and Kara's objections thereto; and

WHEREAS, the Borough Council is also desirous of ratifying the execution of the Consent Order.


NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Mount Arlington, as follows:

- 1) The Borough of Mount Arlington hereby approves the terms of the Consent Order and directs its counsel in the bankruptcy In re Kara Homes, Scarinci & Hollenbeck,

LLC, and its attorneys, to execute the Consent Order and to bind the Borough of Mount Arlington to the terms of same.

- 2) The Borough Council hereby ratifies the terms of the Consent Order and hereby authorizes and directs the Mayor and all other applicable Borough employees, agents, representatives, attorneys, and independent contractors, including counsel Scarinci & Hollenbeck, LLC, to take such ministerial actions as are necessary to effectuate the terms of this Resolution and the Consent Order, including but not executing the Consent Order.
- 3) This Resolution shall take effect immediately.

I hereby certify this to be an accurate and true resolution as approved by the Mayor and Borough Council at a Meeting held on 11/09/10


Linda DeSantis, RMC
Borough. Clerk