



## Legislation Text

File #: 21-0122, Version: 1

**Dept/ Agency:** Law

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Purpose:** Settlement of Civil Litigation

**Docket No.:** ESX-L-5119-18

**Claimant:** 125 Doremus Avenue, LLC

**Claimant's Attorney:** Randy T. Pearce, Esq.

**Settlement Amount:** N/A

**Funding Source:** N/A

**Additional Comments:**

To amend the Designation of the Area in Need of Redevelopment removing the property of 87-125 Doremus Avenue, and designated as Block 5010, Lot 7.

**WHEREAS**, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. ("Redevelopment Law" or "LRHL"), authorizes municipalities to determine whether certain parcels of land located therein constitute areas in need of redevelopment; and

**WHEREAS**, the Municipal Council adopted Resolution 7R2-a on January 19, 2017, authorizing and directing the Newark Central Planning Board (the "Central Planning Board") to undertake a preliminary investigation to determine if certain properties (the "Study Area") should be declared as one or more "Condemnation Redevelopment Areas" pursuant to N.J.S.A. 40A:12A-5; and

**WHEREAS**, 125 Doremus, LLC ("125 Doremus") is the owner of real property known as 87-125 Doremus Avenue, and designated as Block 5010, Lot 7 on the Official Tax Map of the City of Newark (the "Property"); and

**WHEREAS**, the Property was included within the Study Area; and

**WHEREAS**, Topology NJ, LLC, ("Topology") in cooperation with the City of Newark (the "City") and the Newark Community Economic Development Corporation, conducted a preliminary investigation to determine whether the designation of the Study Area as an area in need of redevelopment is appropriate and in conformance with the statutory criteria set forth in N.J.S.A. 40A:12A-5; and

**WHEREAS**, the report, prepared by Topology, dated October 6, 2017, and entitled, "Doremus Avenue Area in Need of Redevelopment Investigation Report" concluded that, based upon the Property's inclusion in the Industrial River Urban Renewal Project Area (Project NJR-121), (the "Industrial River Area"), and the Municipal Council's prior designation of the Property as blighted by Resolution adopted on November 6, 1963 (the "1963 Resolution"), the prior designation of the Property by the 1963 Resolution remained valid and no further action was necessary; and

**WHEREAS**, on October 16, 2017, and continuing on November 20, 2017, November 27, 2017, December 18, 2017, January 8, 2018, January 22, 2018, January 29, 2018, February 5, 2018, and March 5, 2018, the Central Planning Board conducted Public Hearings; and

**WHEREAS**, on March 5, 2018, the Central Planning Board voted to recommend that the Study Area be designated by the Municipal Council as an “area in need of redevelopment” with condemnation rights; and

**WHEREAS**, by Resolution dated March 26, 2018, the Central Planning Board memorialized its decision to recommend that the Study Area be designated as an “Condemnation Redevelopment Area”; and

**WHEREAS**, by Resolution dated April 23, 2018, the Central Planning Board amended its March 26, 2018, resolution designating certain other properties as Condemnation Redevelopment Area; and

**WHEREAS**, on June 7, 2018, the Municipal Council adopted Resolution 7R2-d(S), as amended, determining that the Property, among others, qualifies as a “Condemnation Redevelopment Area” pursuant to the LRHL; and

**WHEREAS**, upon further review of Resolution 7R2-d(S), on January 23, 2019, the Municipal Council adopted Resolution 7R2-a, as amended, determining that the Property, among others, qualifies as a Condemnation Redevelopment Area” pursuant to the LRHL; and

**WHEREAS**, on July 23, 2018, 125 Doremus filed a Complaint Action in Lieu of Prerogative Writs in the Superior Court of New Jersey, Law Division, entitled 125 Doremus, LLC, Jans Realty Urban Renewal, LLC, and Quality Carriers, Inc. v. City of Newark, Central Planning Board of City of Newark, and City of Newark Municipal Council, Docket No. ESX-L-5119-18, challenging the Central Planning Board’s recommendation and the Municipal Council’s subsequent determination that the Property qualified as a Condemnation Redevelopment Area, pursuant to the LRHL (“125 Doremus litigation”); and

**WHEREAS**, 125 Doremus and the City Defendants (collectively the “Parties”) have now reached a settlement of this dispute in order to avoid costly litigation expenses and wish to memorialize the terms of their settlement; and

**WHEREAS**, the City and its Corporation Counsel have determined that it is in the best interests of the taxpayers to settle and avoid the cost, expense, delay and uncertainty of litigation; and

**WHEREAS**, the terms of the settlement are set forth in the Settlement Agreement and does not include any monetary payment on the part of the City to 125 Doremus; and

**WHEREAS**, pursuant to the Settlement Agreement, the City agreed to de-designate the Property and remove it from the Condemnation Redevelopment Area as set forth in Resolution 7R2-

a, as amended, on January 23, 2019; and

**WHEREAS**, pursuant to the Settlement Agreement, the City also agreed to amend Resolution 7R2-a, as amended, on January 23, 2019, to remove the Property from the designation as an area in need of redevelopment under the LRHL.

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Mayor and/or his designee, the Corporation Counsel, is authorized, on behalf of the City of Newark to negotiate and execute a Settlement Agreement, and any other documents, sufficient in form and content to the Corporation Counsel, and to take whatever actions are necessary to resolve the matter entitled 125 Doremus, LLC, Jans Realty Urban Renewal, LLC, and Quality Carriers, Inc. v. City of Newark, Central Planning Board of City of Newark, and City of Newark Municipal Council, Docket No. ESX-L-5119-18, and to effectuate the terms of the settlement of this matter pursuant to the terms contained in the within resolution.
2. Resolution 7R2-a, adopted on January 23, 2019, is amended to de-designate the real property known as 87-125 Doremus Avenue, and designated as Block 5010, Lot 7 on the Official Tax Map of the City of Newark and remove said property from the Condemnation Redevelopment Area as set forth in Resolution 7R2-a, as amended, adopted on January 23, 2019.
3. Within seven (7) calendar days of 125 Doremus's receipt of a certified copy of this adopted resolution, 125 Doremus will dismiss the 125 Doremus Litigation, without prejudice and without costs, by filing a Stipulation of Dismissal without Prejudice.
4. Upon the passage of forty-five (45) days after the adoption of this resolution, and assuming no legal challenges are filed with the court contesting the legality of said resolution within that forty-five (45) day period, 125 Doremus will dismiss the 125 Doremus Litigation, with prejudice and without costs, by filing a Stipulation of Dismissal with Prejudice within seven (7) calendar days of the expiration of the forty-five (45) day period.
5. The settlement and resolution does not admit nor should it be construed as an admission of liability or violation of any law, statute or regulation or a breach of any duty by the City of Newark, its agents, officers and/or employees whatsoever and is entered into based upon recommendations of the Corporation Counsel and to eliminate all risks and future litigation costs.
6. The Corporation Counsel shall file a fully executed copy of the Settlement Agreement in the Office of the City Clerk.
7. This resolution shall take effect immediately.

## **STATEMENT**

This resolution de-designates and removes the real property known as 87-125 Doremus Avenue, and designated as Block 5010, Lot 7 on the Official Tax Map of the City of Newark, from the Condemnation Redevelopment Area as set forth in Resolution 7R2-a, as amended, adopted on January 23, 2019. This resolution also authorizes the Mayor and/or his designee, the Corporation Counsel to negotiate and execute a Settlement Agreement, and any other documents, sufficient in form and content to the Corporation Counsel, and to take whatever actions are necessary to resolve the matter entitled 125 Doremus, LLC, Jans Realty Urban Renewal, LLC, and Quality Carriers, Inc. v. City of Newark, Central Planning Board of City of Newark, and City of Newark Municipal Council, Docket No. ESX-L-5119-18, and to effectuate the terms of the settlement of this matter pursuant to the terms contained in the within resolution.