

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE (the “Agreement”), dated this _____ day of _____, 2023 is made by and between EXETER TOWNSHIP (“Township”) and SUNSET MANOR INVESTMENTS, LLC (“Sunset Manor”). Township and Sunset Manor are also collectively referred to in this Agreement as the “Parties.”

BACKGROUND

A. Sunset Manor owns real property located at 6590 Sunset Manor Drive in the Township which it leased to a third-party tenant to park trucks and truck trailers.

B. Township took the position that such use was not permitted under the Township Zoning Ordinance. The Township’s zoning officer issued a Notice of Violation to Sunset Manor dated March 30, 2022. Sunset Manor attempted to work out a resolution with the Township zoning officer but did not appeal the Notice of Violation to the Township Zoning Hearing Board.

C. On October 25, 2022, Township filed a complaint in Magisterial District Court #23-2-03 with respect to the Notice of Violation (“DJ Complaint”).

D. On January 20, 2023, the Honorable District Justice Sandra Fegley held a hearing on the DJ Complaint. On January 23, 2023 District Justice Fegley issued an order granting judgment for the Township and against Sunset Manor and imposed fines and costs on Sunset Manor in the amount of \$12,209.00.

E. On February 17, 2023, Sunset Manor filed a Notice of Appeal of the judgment with the Berks County Court of Common Pleas to Docket #2023-1677. Township filed its complaint in response to the appeal in the Common Pleas Court on or about March 10, 2023, seeking judgment against Sunset Manor seeking total fines in the amount of \$381,000 plus costs and attorney’s fees (“Civil Action”).

F. Following discussion, the Parties now have come to a mutually agreeable settlement with respect to the Civil Action and the total amount of fines and costs payable by Sunset Manor to Township.

NOW THEREFORE, in consideration of the mutual promises set forth in this Agreement, and for other good and valuable consideration, the receipt of which and the legal sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties hereto agree as follows:

1. **Incorporation of Background.** The Background set forth above is incorporated into this Agreement and each of the Parties confirms the accuracy of the statements set forth in the Background.

2. **Payment to Township.** For and in consideration of settlement of the Civil Action, Sunset Manor will pay fines and costs totaling \$12,209.00, payable in three (3) installments as follows: \$4,209.00 at the time of its execution of this Agreement; \$4,000.00 on or before the 30th day after the date of execution of this Agreement; and \$4,000.00 on or before the 60th day after the date of execution of this Agreement.

3. **Withdrawal and Discontinuance of the Common Pleas Complaint.** For and in consideration of Sunset Manor's agreement to enter into and become bound by this Agreement, the payment in full of the agreed-upon fines and costs, and for other good and valuable consideration, Township agrees to withdraw and discontinue the Civil Action against Sunset Manor with prejudice. Within five (5) days from Sunset Manor's payment of the third settlement installment, Township will file the necessary documents to have the Civil Action marked settled, discontinued, and ended with prejudice as to Sunset Manor.

4. **Mutual Release.** The Parties, on behalf of any and all past and present affiliates, subsidiaries, officials, agents, representatives, employees (current and former), owners, officers, directors, members, beneficiaries, attorneys, sureties, and their respective successors, heirs and assigns, and all other persons or entities claiming by or through them, both known and unknown, hereby release, remise and forever discharge all each other, their respective affiliates, subsidiaries, officials, agents, employees, owners, officers, directors, members, beneficiaries, attorneys, sureties and their respective successors, heirs and assigns, and all other persons or entities claiming by or through them, (collectively "Released Parties"), from any and all claims, causes of actions, agreements, suits, liabilities, judgments, damages, attorneys fees, expenses and demands whatsoever and of every kind, character or description, known or unknown to them, in law or equity, which the Parties ever had, now have, or hereafter can, shall, or may have, for or by reason of any cause, matter, or thing whatsoever, from the beginning of time to the date of this instrument, including but not limited to, claims arising from the Notice of Violation and the Civil Action.

5. **Settlement Not An Admission of Liability.** This Agreement reflects a compromise of disputed claims and defenses and shall not be deemed or construed as an admission of liability or fault of the part of any of the Parties.

6. **Representations and Warranties.** The Parties hereto represent and warrant that:

(a) Each is legally entitled and authorized to enter into this Agreement or otherwise act on its own behalf or on the behalf of or bind any party for which it is acting;

(b) Each has made no assignment or other transfer of any interest that each has in the actions, causes of action, claims and other matters being agreed to and/or released pursuant to this Agreement;

(c) Each has read and fully understands the provisions of this Agreement, and its effect;

(d) The Parties will bear all their own attorney's fees and costs in connection with the Notice of Violation, DJ Complaint, the Civil Action, and the preparation of this Agreement.

7. **Entire Agreement.** This Agreement contains the entire agreement between the Parties with respect to the subject matter of this Agreement, and this Agreement may not be amended or modified or any provision waived except by instrument in writing, signed by both Parties.

8. **Governing Law and Forum Selection.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to conflict of law principles. The Parties agree that the Berks County Court of Common Pleas, Pennsylvania shall be the exclusive forum for any such dispute arising from this Release.

9. **Successors in Interest.** This Agreement is binding upon and shall inure to the benefit of and be enforceable by the Parties' successors, assigns, heirs and personal representatives by operation of law.

10. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which is considered an original but all of which taken together shall constitute one and the same instrument. A photocopy of a fully executed original of this Agreement is considered an original for all purposes.

11. **Joint Draft.** This Agreement was drafted jointly by the Parties, and, therefore, the terms in this Agreement shall not be construed against either of the Parties.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have signed and executed this Agreement effective as of the date and year first above written.

EXETER TOWNSHIP

SUNSET MANOR INVESTMENTS, LLC

By: _____
Name/Title: _____

By: _____
Kevin Orman, Sole Member