

NEW YORK STATE DEPARTMENT OF LAW  
REAL ESTATE FINANCE BUREAU  
120 BROADWAY, 23<sup>RD</sup> FLOOR  
NEW YORK, NY 10271

SIMPLIFIED PROCEDURE  
FOR HOMEOWNERS ASSOCIATIONS  
WITH A DE MINIMIS COOPERATIVE INTEREST

COOPERATIVE POLICY STATEMENT No. 7  
WITH REQUIRED FORMS

Effective: January 8, 2014<sup>1</sup>

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<sup>1</sup> Supersedes previous version dated August 1, 2000.

**COOPERATIVE POLICY STATEMENT**  
**(CPS-7)**

**Applicability:** The New York State Department of Law ("Department of Law") has determined that when sponsors wish to offer homes or lots together with a de minimis cooperative interest, as defined more fully below, such transactions may be substantially exempt from meeting all of the requirements of Part 22 of Title 13 of the New York Codes, Rules and Regulations ("NYCRR"), insofar as those rules and regulations are not necessary to effectuate the purposes of General Business Law ("GBL") Article 23-A or to protect the public interest in such circumstances. However, such offerings do involve the public offering or sale of securities and, as such, require the filing of an offering statement or prospectus pursuant to GBL § 352-e(1).

Consequently, pursuant to 13 NYCRR § 22.1(i), the Department of Law shall accept for filing an application pursuant to this Cooperative Policy Statement No. 7 ("CPS-7") and exempt the sponsor from compliance with 13 NYCRR Part 22 in part if the application complies with the disclosure requirements set forth in this Cooperative Policy Statement.

**Definitions:** For purposes of this CPS-7, all terms used herein are to be ascribed the meanings set forth below:

- (1) A "homeowners association" ("HOA") includes, but is not limited to, developments consisting of individual homes or lots deeded in fee simple where a declaration of covenants, restrictions, easements and liens or equivalent documents or restrictions contained in individual deeds or any other mechanism or covenant or local law or ordinance requires that homeowners or lot owners contribute cooperatively to the ownership and/or maintenance of property used in common. Units that are part of a condominium or cooperative corporation or that are vertically, rather than horizontally situated are specifically excluded. An HOA also includes a development of individual homes or lots deeded to individual purchasers in fee simple associated with an organization that owns or maintains property for the common benefit of all the homeowners or lot owners where the homeowners or lot owners are required to contribute to the upkeep of the common property. Such organization may be incorporated but incorporation is not required for purposes of this application.
- (2) An HOA with a "de minimis cooperative interest" is a development that owns or maintains limited property or limited recreational facilities with amenities that require either limited or no maintenance. The number of homes or lots in the development is not relevant. Such developments include amenities or maintenance obligations limited to:
  - (a) open space areas requiring no landscaping;
  - (b) private roads and/or driveways and parking spaces;
  - (c) private sewers or sewer systems (but excluding sewage treatment plants);
  - (d) private water distribution lines, but excluding water treatment facilities;
  - (e) statues, gates, monuments, walls, fences, ponds, drainage areas, etc.;

- (f) private walkways;
  - (g) street lighting;
  - (h) recreational facilities that require no or minimal maintenance, such as basketball courts or playgrounds;
  - (i) utility lines;
  - (j) party walls involving no HOA maintenance obligations;
  - (k) vendors or contractors retained to perform occasional services such as snow removal or landscaping services, which shall exclude labor directly employed by the HOA; or
  - (l) any combination of the above.
- (3) An HOA with a "de minimis cooperative interest" specifically excludes the following:
- (a) homes with shared exterior maintenance obligations;
  - (b) party walls with HOA maintenance obligations;
  - (c) labor directly employed by the HOA;
  - (d) shared major mechanical systems, i.e., HVAC;
  - (e) major recreational facilities requiring maintenance such as swimming pools; and
  - (f) property such as clubhouses, or any other commonly-owned property that requires substantial maintenance obligations.

**Procedure:**

(1) Sponsor shall submit an application for CPS-7 treatment to the Real Estate Finance Bureau, New York State Department of Law, 120 Broadway, 23<sup>rd</sup> floor, New York, New York 10271.

(2) Such application shall include the following:

- (a) Certification by sponsor. A certification subscribed and sworn to by sponsor and its principals in the following form must be included in the submission:

"We are the sponsor and the principals of the sponsor of the homeowners association ('HOA') for the captioned property.

We understand that we have primary responsibility for compliance with the provisions of Article 23-A of the General Business Law, the regulations promulgated by the Department of Law in Part 22, and such other laws and regulations as may be applicable, including this application pursuant to CPS-7.

We have read the entire CPS-7 application, including sponsor's affidavit. We have investigated the facts set forth in the application and the underlying facts.

We have exercised due diligence to form a basis for this certification. We jointly and severally certify that the application gives full disclosure as to the amenities

included in the HOA, provides full disclosure as to the condition of the property, identity of the parties involved and any lawsuits, administrative proceedings, litigation or other proceedings the outcome of that may materially affect the offering, the property, or sponsor's capacity to perform all of its obligations to the HOA or the operation of the HOA, and complies with the Attorney General's requirements for granting a CPS-7 application.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made.

We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law."

- (b) An affidavit signed and sworn to by sponsor and its principals that states:
- (i) The name, address and legal status (corporation, limited liability company, partnership, individual, etc.) of sponsor and its principals, and the relationship of the sponsor to the property that is the subject of the offering;
  - (ii) Whether any of the homes or lots subject to this application are currently owned or under contract by any party other than sponsor;
  - (iii) Whether sponsor will transfer or sell lots to one or more third-party builders who shall both construct and offer homes for sale to purchasers. If so, sponsor must represent and warrant that the transfer of a home by the third-party builder will include full membership rights in the HOA and include such obligation in a contract between sponsor and the builder. Third-party builders offering three or more homes for sale to the public will be deemed additional sponsors and must register as broker-dealers. Sponsor's contract with such third-party builder must include these obligations;
  - (iv) The condition of the property and any lawsuits, administrative proceedings, litigation, foreclosures, bankruptcies, or other proceedings the outcome of which may materially affect the offering, the property, the rights of home or lot owners, or sponsor's capacity to perform all its obligations stated in this application or in the HOA documents;
  - (v) A description of the property to be cooperatively owned and/or maintained by the HOA or the homeowners ("HOA property"), and how the proposed development complies with the Attorney General's requirements for CPS-7 treatment;

- (vi) The status of construction of any HOA common property, the projected date of completion of such HOA property, and whether any bond has been posted to secure sponsor's obligation to complete construction;
- (vii) A description of the proposed transaction, including the number of homes or lots being offered or anticipated to be offered in conjunction with membership in the HOA. State whether the initial offering is for the first phase of a multi-phase development. Also indicate the anticipated maximum number of homes or lots to be offered in each later phase and the anticipated timing of offering of such subsequent phases;
- (viii) That sponsor will comply with the escrow and trust fund provisions of GBL §§ 352-e(2-b) and 352-h and the regulations adopted by the Attorney General in 13 NYCRR § 22.3(k)(2-7), and will hold down payments for purchase of the property in trust for the benefit of the purchasers and that such funds will not be commingled with the moneys of sponsor until actually employed in connection with the consummation of the transaction;
- (ix) That sponsor agrees to furnish each offeree with a complete copy of the filed application for CPS-7 treatment and a copy of the letter granting such treatment prior to accepting any down payment.
- (x) Whether sponsor and/or any of its principals own, in whole or in part, or has an option or right to acquire in whole or in part, any adjoining areas that are not fully developed. If so, disclose such facts and the present intention of sponsor and/or any principals with respect to the development of such areas.
- (xi) Whether the purchase price of the home(s) or lot(s) includes the cost of membership, if any, in the HOA;
- (xii) That sponsor is obligated to pay assessments on unsold homes/lots, pursuant to 13 NYCRR § 22.3(p)(3), and such assessments shall not exceed the lesser of the amount calculated for: (1) HOA charges including supplemental charges on all unsold homes or lots; or (2) the difference between the actual expenses, including reserves applicable to completed improvements as provided for in the HOA's budget, and the HOA charges levied on owners who have closed title to their homes or lots as projected in the budget, which shall be paid to the HOA on a monthly or annual basis.
- (xiii) The initial date when assessments will be levied against owners, how assessments and delinquent charges will be collected, whether unpaid charges bear interest and, if applicable, the interest rate, whether unpaid charges will be a lien on a member's property, whether members will be

assessed with late charges and/or attorney's fees for collecting unpaid charges, whether the lien for unpaid charges will be subordinate to a first mortgage, and whether a member with unpaid charges can use cooperatively owned or maintained property other than property for ingress and egress from his or her home.

- (xiv) A statement that any mortgages or liens that remain on the property after closing on the first home or lot shall be subordinate to the declaration.
- (xv) That sponsor will provide to each offeree the following information:
  - (a) [if applicable] a copy of any mortgage or ground lease that will remain on the HOA property after it is transferred to the HOA;
  - (b) [if applicable] a copy of any contract between sponsor and the HOA;
  - (c) [if applicable] a copy of the recorded deed to the HOA property from sponsor to the HOA, or, if the deed has not yet been recorded, the proposed form of deed;
  - (d) [if applicable] the estimated monthly or annual assessment and the proposed budget prepared in compliance with the requirements set forth in 13 NYCRR § 22.3(g), including back-up documentation for all budget items associated with maintenance of the common amenities. [If the project is to be built in phases, include an alternative budget projection showing how the income and expenses will change as the size of the membership increases, or as the development progresses into subsequent phases.] As an alternative to including back-up documentation for each item in the budget, a certification of the adequacy of budget in conformity with the requirements set out in 13 NYCRR § 22.4(d) may be provided;
  - (e) Disclosure of the escrow account as required by 13 NYCRR § 22.3(k)(2); and
  - (f) Such other information as the Department of Law may require to be presented to each offeree.
- (xvi) The status of construction of any roads to be owned and/or maintained by the HOA. If the roads are subject to an offer of dedication, state such fact and represent that sponsor will comply with all conditions of dedication. The statement should also describe who will bear the costs of maintaining and completing the roads if dedication is not accepted, or is delayed and

who will bear the cost of maintaining and completing the roads if sponsor does not complete construction.

- (xvii) If the roads are not subject to an offer of dedication or do not qualify for dedication, state such fact and describe the construction/engineering standards that the roads will meet including whether the roads meet applicable local government standards for public roads. The statement should also reflect who will bear the costs of maintaining and completing the roads if construction is not completed prior to the first closing. The budget must also reflect the cost of road maintenance.
- (xviii) If any of the homes to be built will share party walls, state that owners of adjoining homes may have shared obligations to maintain those walls.
- (xix) That sponsor shall not amend the application to change the de minimis nature of the cooperatively owned or HOA property.
- (xx) That sponsor must promptly amend the application in accordance with the Amendment Procedure contained in CPS-7 if the changes in facts or circumstances meet the criteria set forth therein. If the changes are material and adverse to purchasers, the sponsor must grant purchasers a right of rescission and a reasonable period of time not less than fifteen (15) days to exercise such right. Amendments must be served on all purchasers and the HOA Board. Sponsor may also be required to obtain consent of the affected members of the HOA to such changes prior to amending the application, the fact of which shall be disclosed in such amendment.
- (c) A copy of the site plan indicating the property that is to be commonly owned and/or maintained by the HOA.
- (d) A copy of the subdivision approval or other equivalent approval for the development from the local government.
- (e) A copy of the declaration of covenants, restrictions, easements and liens, a road maintenance agreement, or restrictions contained in deeds or other documents that establish the obligations of the home or lot owners with respect to commonly owned or maintained property, if applicable.
- (f) A transmittal letter addressed to the Department of Law that is signed and affirmed under penalty of perjury by the individual attorney who prepared the CPS-7 application. It shall contain the following unqualified statements and must be submitted with the application at the time the application is submitted.

"I am the attorney who prepared the CPS-7 application for the captioned property. I affirm as follows:

Enclosed for filing is an application for CPS-7 treatment for the captioned property submitted under the simplified procedure for homeowners associations (HOAs) with a de minimis cooperative interest.

I am fully familiar with the provisions of Article 23-A of the General Business Law, the regulations promulgated by the Attorney General in Part 22, and Cooperative Policy Statement No. 7.

I have prepared the application based on information from the sponsor. I expressly disclaim any responsibility to have made an independent inspection of the property or investigation of the information furnished to me by the sponsor.

I have no actual knowledge of any violation of Article 23-A of the General Business Law or Part 22 of the regulations promulgated by the Department of Law, nor do I have actual knowledge of any material fact omitted or any untrue statement of a material fact included in the application."

- (g) A budget of projected income and expenses for the first year of HOA operation; if the roads are subject to an offer of dedication, provide alternative calculations showing the effect on expenses if the road is ultimately not dedicated.
- (h) A Certification of Adequacy of Budget pursuant to 13 NYCRR § 22.4(d), or written estimates for each of the projected expenses in the budget.
- (i) A Broker-Dealer Statement (Form M-10) for the sponsor accompanied by a check in the amount required by GBL § 359-e(5).
- (j) A statistical information card available from the Department of Law.
- (k) A copy of the recorded deed to the property by which sponsor derived title or a copy of the contract of sale between the owner and sponsor, if sponsor is the contract vendee, and a copy of the current owner's deed to the property.
- (l) If the roads are subject to an offer of dedication, provide a letter or other documentation from the local government demonstrating the willingness to accept such dedication and conditions related to such dedication.
- (m) A form RI-1 signed by the sponsor and its principals.
- (n) Such other documents and information as the Department of Law may specify.
- (o) The minimum filing fee for offering statements or prospectuses, as required by GBL § 352-e(7).



**Criteria for the Granting of CPS-7 Treatment:**

- (1) The granting of CPS-7 treatment is based solely on the information provided in the application. Any material misstatement or omission of a material fact may render the letter granting the CPS-7 void ab initio.
- (2) The granting of CPS-7 treatment shall not be construed to be a waiver of or limitation on the Attorney General's authority to take enforcement action pursuant to Article 23-A of the General Business Law and other applicable provisions of law except as expressly stated in the letter granting CPS-7 treatment.
- (3) The granting of CPS-7 treatment by the Department of Law shall have no value as precedent and may not be relied upon in the submission of any other application for such letter.
- (4) The Department of Law will complete its review of the application for CPS-7 treatment within 30 days of its receipt of the complete application, by either issuing a letter indicating that CPS-7 treatment has been granted or listing deficiencies in the submission.

**Amendment Procedure:**

- (1) Requirements for filing amendments. Amendments to the original application are required when:
  - (a) The identity of sponsor or any of its principals changes, including the addition of other sponsors or principals or the removal of an existing sponsor or principal;
  - (b) There are any lawsuits, administrative proceedings, litigation, foreclosures, bankruptcies, or other proceedings concerning sponsor, its principals, the HOA, or the HOA property, the outcome of which may materially affect the offering, the HOA property, the rights of home or lot owners, sponsor's capacity to perform all its obligations under the CPS-7 application, the HOA or the operation of the HOA;
  - (c) There is a material and adverse change to the facts or circumstances contained in the originally filed CPS-7 application;
  - (d) The number of homes or lots will exceed the maximum number of homes or lots disclosed in the CPS-7 application as amended to date or will be decreased from the number disclosed in the CPS-7 application as amended to date; if additional property will be included, provide a deed and title report for such

property and an updated or amended site plan, subdivision application or approval, and declaration of covenants, restrictions, easements, and liens, road maintenance agreement, or other deed restriction; see Sections 2 (c, d, e, and k) of the Procedure section of this CPS-7, above.

- (2) Right of rescission. If there is a material amendment to the CPS-7 application that adversely affects the purchasers, sponsor must grant purchasers a right of rescission and a reasonable period of time that is not less than fifteen (15) days after the date of presentation of the amendment to exercise the right. Sponsor must return any deposit or down payment to purchasers who rescind. If purchasers have closed, sponsor may also be required to obtain consent of the affected owners to such changes.
- (3) Submission procedures. Amendments must be submitted to the New York State Department of Law, Real Estate Finance Bureau, 120 Broadway, 23<sup>rd</sup> Floor, New York, N.Y. 10271. Include the following when submitting an amendment:
  - (a) a transmittal letter signed by the attorney for sponsor. See Section (2)(f) of the Procedure section of this CPS-7, above, concerning transmittal letters. In addition to that information, the transmittal letter must:
    - (i) State the date the CPS-7 application was granted;
    - (ii) Identify the amendment in numerical order and note the reason(s) for the amendment;
    - (iii) If any prior amendments have been filed, identify the attorney in the Department of Law who reviewed the most recent amendment and provide a copy of it;
    - (iv) State that no prior amendments have been submitted to but not yet accepted for filing with the Department of Law; and
    - (v) Note if sponsor or its principals are aware of any investigation currently pending by the Department of Law of sponsor, a principal of sponsor, or of the HOA.

Please see the attached form transmittal letter for amendments to CPS-7 applications.

(b) a sponsor affidavit subscribed and sworn to by sponsors and principals of sponsor under penalty of perjury disclosing all facts required under section (1), above. The affidavit shall also include the following information:

- (i) A heading stating "Amendment No. \_\_\_\_" and the name, address and file number of the CPS-7;
- (ii) A statement as to the total number of homes/lots currently included in the HOA and the number that remain unsold. Attach as an exhibit to the affidavit a list of all of the unsold homes/lots that also includes projected closing dates for homes/lots in contract that have not yet closed;
- (iii) A description of the purpose of the amendment, i.e., a change in sponsor principals, a disclosure of litigation, a change in the number of homes/lots, etc.;
- (iv) Where the affidavit reports a material event adversely affecting purchasers, as described in paragraph 2, above, sponsor must state that all purchasers in contract will be offered a right of rescission and a reasonable period of time that is not less than fifteen (15) days after the date of presentation of the amendment to exercise the right, and that sponsor must return any deposit or down payment to purchasers who rescind; and
- (v) Note if sponsor or its principals are aware of any investigation currently pending by the Department of Law of sponsor, a principal of sponsor, or of the proposed HOA.

(c) A filing fee in the amount required for amendments to offering statements or prospectuses under GBL § 352-e(7);

(d) A copy of the original CPS-7 application and any previously filed amendments;  
and

(e) A Form RS-2 executed by sponsor and sworn to before a notary public.

Please see the attached form for sponsor affidavits submitted in connection with amendments to CPS-7 applications.

- (4) Distribution of filed amendments. The filed amendment must be served on all purchasers and the HOA board. Filed amendments must be attached to the existing CPS-7 application before the amended application plan is distributed to the new purchasers.

**Effective Date:** This revised CPS-7 applies to applications submitted on or after January 8, 2014. The amendment section of this revised CPS-7 applies to all offerings pursuant to CPS-7 where a sponsor continues to own unsold homes/lots.



[If any of the homes or lots are currently owned or under contract by other parties, so state and provide the home or lot identifications and dates of sale; see also the definition of sponsor found in CPS-7.]

4. Sponsor shall not transfer or sell lots to any third-party builders to both construct and offer homes for sale to purchasers.

[If sponsor will transfer or sell lots to any third-party builders to both construct and offer homes for sale to purchasers, represent and warrant that the transfer of a home by the third-party builder(s) will include full membership rights in the HOA and include such obligation in a contract between sponsor and the builder. State that third-party builders offering three or more homes for sale to the public will be deemed co-sponsors and must register as broker-dealers. State that sponsor's contract with such third-party builder will include these obligations.]

5. [In this space describe the condition of the property and any lawsuits, administrative proceedings, litigation or other proceedings the outcome of which may materially affect the offering, the property, or sponsor's capacity to perform all of its obligations to the HOA or the operation of the HOA.]

6. The property that is to be cooperatively owned and/or maintained by the \_\_\_\_\_ (“HOA property”) consists of [describe in detail].  
(HOA/homeowners)

This development and the amenities contained in the property to be cooperatively owned or maintained by the HOA complies with the Department of Law's requirements for CPS-7 treatment in that the foregoing amenities represent a de minimis cooperative interest, as defined in CPS-7, and neither the HOA nor the foregoing amenities are excluded from CPS-7 treatment under paragraph 3 of CPS-7 under the Definition Section.

7. [In this space describe the status of construction of the HOA property, the projected date of completion of the HOA property, and whether any bond has been posted to secure sponsor's obligation to complete construction.]

8. The number of homes or lots being offered [or anticipated to be offered] in conjunction with membership in the HOA is \_\_\_\_\_.

[If the initial offering is for the first phase of a multi-phase development, so state. Also indicate the anticipated maximum number of homes or lots to be offered in each later phase and the anticipated timing of offering of such subsequent phases.]

9. Sponsor shall comply with the escrow and trust fund provisions of New York General Business Law §§ 352-e(2-b) and 352-h and of the regulations adopted by the Attorney General in 13 NYCRR § 22.3(k)(2-7), and shall hold down payments for the purchase of the property in trust for the benefit of the purchasers. Such funds shall not be commingled with the personal moneys of sponsor, and shall not be released from escrow until actually employed in connection with the consummation of the transaction.

10. Sponsor shall furnish each offeree a complete copy of the filed application for CPS-7 treatment and a copy of the letter granting such treatment prior to accepting any down payment.

11. Sponsor and/or any of its principals neither own, in whole or in part, nor have an option or right to acquire, in whole or in part, any adjoining areas that are not fully developed.

[If sponsor and/or any of its principals do own, in whole or in part, or do have an option or right to acquire, in whole or in part, any adjoining areas which are not fully developed, disclose such facts and the present intention of sponsor and/or principals with respect to the development of such areas,]

12. The purchase price of the home(s) or lot(s) includes the cost of membership [if any] in the HOA.

13. Sponsor is obligated to pay assessments on unsold homes/lots, pursuant to 13 NYCRR § 22.3(p)(3). Such payments shall not exceed the lesser of the amount calculated for: (1) HOA charges, including supplemental charges on all unsold homes or lots; or (2) the difference between the actual expenses, including reserves applicable to completed improvements as provided for in the HOA's budget, and the HOA charges levied on owners who have closed title to their homes or lots as projected in the budget, that shall be paid to the HOA on a monthly or annual basis.

14. [In this space, state when assessments will first be levied against owners; how assessments and delinquent charges will be collected; whether unpaid charges bear interest and the interest rate; whether unpaid charges will be a lien on a member's property; whether members will be assessed with late charges and/or attorney's fees for collecting unpaid charges; whether the lien for unpaid charges will be subordinate to a first mortgage; and whether a member with unpaid charges can use cooperatively owned or maintained property other than property for ingress and egress from his or her home].

15. Any mortgages or liens which remain on the property after closing on the first home or lot shall be subordinate to the declaration.

16. Sponsor shall also provide to each offeree the following:

- (a) [if applicable] a copy of any mortgage or ground lease that will remain on HOA property after it is transferred to the HOA;
- (b) [if applicable] a copy of any contract between sponsor and the HOA;
- (c) [if applicable] a copy of the recorded deed to the HOA property from sponsor to the HOA, or, if the deed has not yet been recorded, the proposed form of deed;
- (d) [if applicable] the estimated monthly or annual assessment and the proposed budget prepared in compliance with the requirements set forth in 13 NYCRR § 22.3(g) including back-up documentation for all budget items



associated with maintenance of the common amenities. [If the project is built in phases, include alternative budget projections showing how the income and expenses will change as the size of the membership increases, or as the development progresses into subsequent phases.] As an alternative to including back-up documentation for each item in the budget, a certification of the adequacy of the budget in conformity with the requirements set forth in 13 NYCRR § 22.4(d), may be provided;

- (e) Disclosure of the escrow account as required by 13 NYCRR § 22.3(k)(2); and
- (f) Such other information as the Department of Law may require to be presented to each offeree.

17. [In this space disclose the status of construction of any roads to be owned and/or maintained by the HOA.]

18. [If the roads are subject to an offer of dedication, include the following]:

The roads are subject to an offer of dedication, and sponsor shall substantially comply with all conditions of dedication.

[In this space, describe who will bear the costs of maintaining and completing the roads if dedication is not accepted, or not timely accepted, and who will bear the costs of maintaining and completing the roads if the sponsor does not complete construction.]

[If the roads are not subject to an offer of dedication, include the following]:

The roads are not subject to an offer of dedication or do not qualify for dedication.

[In this space describe the construction/engineering standards that the roads will meet including whether the roads meet applicable local government standards for public roads. The statement should also reflect who will bear the costs of maintaining and completing the roads if construction is not completed prior to the first closing. The budget must also reflect the cost of road maintenance.]

19. [If any of the homes to be built will share party walls, include the following]:

Owners of adjoining homes shall have shared obligations to maintain party walls.

20. Sponsor shall not amend the application in a manner that causes the HOA property to be more than de minimis, as defined in CPS-7.

21. Sponsor shall promptly amend the application in accordance with the CPS-7 Amendment Procedure if the changes in facts or circumstances described in those instructions exist. If the changes are material and adverse to purchasers, sponsor shall grant purchasers a right of rescission and a reasonable period of time not less than fifteen (15) days to exercise such right.

22. Sponsor shall provide filed amendments to purchasers and the HOA board.

23. Accompanying this affidavit are:

- (a) A transmittal letter addressed to the Department of Law that is signed and affirmed under penalty of perjury by the individual attorney who prepared the CPS-7 application, and that complies with the applicable provisions of CPS-7.
- (b) A copy of the site plan indicating the property which is to be commonly owned and/or maintained by the HOA.
- (c) A copy of the subdivision approval or other equivalent approval for the development from the local government.
- (e) A copy of the declaration of covenants, restrictions, easements and liens, a road maintenance agreement, or restrictions contained in deeds or other documents which establish the obligations of the home or lot owners with respect to commonly owned or maintained property, if applicable.
- (f) A budget of projected income and expenses for the first year of HOA operation; if the roads are subject to an offer of dedication, provide alternative calculations showing the effect on expenses if the road is ultimately not dedicated.
- (g) A Certification of Adequacy of Budget pursuant to 13 NYCRR § 22.4(d), or written estimates for each of the projected expenses in the budget.
- (h) A Broker-Dealer Statement (Form M-10) for sponsor accompanied by a check in the amount required by GBL § 359-e(5).

- (i) A statistical information card available from the Department of Law.
- (j) Copy of the recorded deed to the property by which sponsor derived title or a copy of the contract of sales between the owner and sponsor, if sponsor is the contract vendee, and a copy of the current owner's deed to the property.
- (k) [If the roads are subject to an offer of dedication] A letter or other documentation from the local government that is to accept the dedication stating the conditions for dedication if such documentation is issued by the local government.
- (l) A form R1-1 signed by sponsor and its principals.
- (m) Such other documents and information as the Department of Law may specify.
- (n) The minimum filing fee for offering statements or prospectuses, as required by GBL § 352-e(7).

[Insert signature of sponsor and all principals, in their individual capacities]

[Insert notary stamp or seal and signature of notary for each signature above]



3. The Application has previously been amended \_\_\_ times. The \_\_\_ [immediately previous amendment] was accepted for filing by the New York State Department of Law on **[insert date]**.
4. The HOA currently includes \_\_\_ homes/lots. [This number has not changed since [the Attorney General granted sponsor's Application/ the [insert number of immediately previous amendment] was filed.] Of those homes/lots, \_\_\_ remain unsold.] Attached as Exhibit A to this affidavit is a list of all of the unsold homes/lots, including projected closing dates for homes/lots in contract that have not yet closed.
5. [include here a description of the purpose of the amendment, i.e., a change in sponsor principals, a disclosure of litigation, a change in the number of homes/lots, etc. This may be done in multiple paragraphs]
6. [if the amendment discloses a material change adverse to purchasers] Because of the foregoing Sponsor hereby offers a right of rescission to all prospective purchasers who have signed purchase agreements or contracts of sale but have not yet closed on those agreements or contracts. Purchasers shall have fifteen (15) days of presentation of this amendment, i.e., until **[insert date]**, within which to exercise this right. Purchasers wishing to exercise this right must do so in writing. The written document exercising this right must be postmarked by the date indicated in this paragraph.
7. Sponsor shall return any deposit or down payment to purchasers who exercise this right in timely fashion.
8. [include here a description of any investigation currently pending by the Department of Law of sponsor, a principal of sponsor, or of the proposed HOA, of which sponsor or its principals is aware]
9. Accompanying this affidavit are:
  - a. A filing fee in the amount required for amendments to offering statements or prospectuses under GBL § 352-e(7);

- b. A copy of the original CPS-7 application and any previously filed amendments; and
- c. A Form RS-2, executed by sponsor and sworn to before a notary public.

[insert signature of sponsor and all principals, in their individual capacities]

[insert notary stamp or seal and signature of notary for each signature above]