

June 1, 2022

**By E-mail**

[selectmen2013Q1web@middleborough.com](mailto:selectmen2013Q1web@middleborough.com)

Middleborough Board of Selectmen  
Town Hall  
10 Nickerson Avenue, 1st Floor  
Middleborough, MA 02346

Re: *Hometown America / Oak Point  
Update on Hometown's Rent Rate Adjustments, Rent Credits, and Refunds*

Dear Members of the Middleborough Board of Selectmen:

In anticipation of the Board's June 7, 2022 meeting, I am writing with an update on Hometown's implementation of its Oak Point rent adjustment, credit, and refund plan, which the Board unanimously approved on March 7, 2022. As you know, the goal and effect of that plan is to undo the financial impacts of the historical inclusion of the \$12 monthly municipal fee in the calculation of annual rent adjustments according to the Consumer Price Index (CPI) at Oak Point. The following discussion addresses: (1) the rent adjustments and rent credits that have now been provided to current tenants; (2) the community feedback received by Hometown to date; (3) Hometown's ongoing outreach efforts to locate former tenants eligible for reimbursements; and (4) the anticipated next steps.

## **1. Rent Adjustments and Rent Credits for Current Oak Point Tenants.**

All current Oak Point tenants have received rent adjustments, which took effect on April 1, 2022, based on individualized calculations that were shared with each of them in writing. In addition, all current Oak Point tenants have received their promised backward-facing rent credits, with interest, as calculated by Hometown. The rent credits were applied as a credit against the adjusted monthly payments due on April 1, 2022, and, where the amount of the credit exceeded the tenants' adjusted April payment obligation, the remaining balance of the credit was then applied as a credit against the tenant's May payment obligation.

The total amount of the rent credits provided to Hometown's current tenants, inclusive of interest, was \$283,489.49. Of that total, the largest individual credit amounted to \$849.02, and the smallest individual credit amounted to \$1.97. Only one (1) tenant requested reimbursement by check in lieu of a rent credit, and that tenant later withdrew that request, after being advised that the reimbursement by check option was available only for the balance of the reimbursement amount that remained due after the April 1<sup>st</sup> rent offset. Accordingly, this tenant was fully reimbursed through rent credits applied in April and May.

## **2. Community Feedback To Date.**

The response of the Oak Point community to Hometown's efforts to date has been overwhelmingly positive, with few exceptions. Tenants at only four (4) out of a total of 979 Oak Point home sites have presented challenges to Hometown's calculations of their rent adjustments and/or rent credits, and the status of each of the disputes is as follows:

- Tenant at Home Site #1 – The tenant at this home site sent an e-mail on March 31, 2021, disputing Hometown's rent adjustment calculations and providing her own alternative calculations. On April 1, 2022, Hometown's Regional Manager, Kyle Howieson, confirmed that he would forward the message for the appropriate internal review. On May 2, 2022, Mr. Howieson provided a substantive response, which articulated the methodology used by Hometown in making its calculations, explained Hometown's reasons for using that methodology, and confirmed that Hometown continues to believe that its calculations are appropriate and provide an accurate basis on which to proceed. Hometown has heard nothing further from this tenant, so it appears that Mr. Howieson's explanation was sufficient to resolve this tenant's concern.
- Tenants at Home Site #2 – The tenants at this home site have publicly identified themselves by bringing their issues to the attention of the Board directly, and they have repeatedly disputed the calculation of the rent credit due to them based on the methodology used by Hometown. In particular, these tenants complained that Hometown "added and then rounded," instead of "rounding and then adding" the monthly line item figures in its Excel file for each resident. On April 8, 2022, Mr. Howieson advised these tenants of Hometown's conclusion that the methodology it utilized on a uniform basis for these calculations is fair and reasonable, that Hometown's methodology provides a larger refund in the aggregate (by approximately \$50.00) than these tenants' suggested methodology would produce, that about half of the Oak Point residents would receive a nominally larger refund and half of the residents would receive a nominally smaller refund if the these tenants' suggested methodology was used, and that Hometown would not make the requested change in its methodology.

These tenants did not respond further to Hometown, but they unilaterally withheld \$0.10 (ten cents) from their adjusted monthly payment on April 1<sup>st</sup>. On May 17, 2022, these tenants also sent a letter to the Board (which we anticipate will be included in the meeting packet for the Board's June 7, 2022 meeting, together with this correspondence). These tenants' May 17<sup>th</sup> letter alleged that Hometown's rounding conventions and calculations do not conform to established norms, and demanding a series of responsive actions by the Board. Hometown then notified the Board Chair, Town Manager, and Town Counsel by telephone that: (a) Hometown continues to believe that the calculation methodology it has used is reasonable and produces appropriately accurate results; (b) Hometown's methodology has already been fairly described to the community; (c) most residents who have communicated with Hometown have expressed their acceptance and appreciation of Hometown's handling of the matter; (d) a single methodology must be applied

uniformly for all residents, without exception; (e) the use of the methodology urged by these tenants would produce only a nominal aggregate impact to the pertinent calculations, as it would nominally increase the previously-stated credits for certain residents while also nominally reducing the previously-stated credits to others; and (f) Hometown perceives no good reason to alter its chosen methodology in response to these tenants' complaints. Accordingly, Hometown does not believe any action by the Board is necessary in response to these tenants' May 17, 2022 letter to the Board.

- Tenant at Home Site #3 – This tenant visited the Community Manager in his office on April 1, 2022, and explained that he was working on a spreadsheet that showed a discrepancy in the amount of the rent credit due to him. The tenant submitted his calculations to Hometown for review in late May. Upon review, Hometown determined that the spreadsheet created by this tenant misstated two CPI indexes and contained a formula error. This tenant also raised an issue with Hometown's use of the quoted BLS percent change in the CPI (which is rounded to the tenth percent) instead of the unrounded percent change. Hometown determined that, even when using the unrounded figures, as suggested by the tenant, when the corrections noted above were made to the tenant's rent credit calculation, this tenant would have actually received \$1.70 *less* than he received based on Hometown's methodology. Again, Hometown wants its refund calculations to be uniform in application across the universe of Oak Point tenants, and Hometown intends to honor the higher refund calculation based on its uniform methodology, using the rounded CPI figures, for this tenant. Hometown communicated this information to the tenant, together with the corrected calculations, on May 31, 2022. Hometown will continue to work with this tenant if he has any further questions.
- Tenants at Home Site #4 – The tenants at this home site were satisfied with the rent adjustment and rent credit they received with respect to their current tenancy, but raised the point that they are also entitled to reimbursement as “former tenants” of another home site. Hometown confirmed that these individuals were tenants at a different home site between 2000 and 2013, when they moved into their newly-constructed home at their current home site. Accordingly, the Oak Point Community Manager confirmed to these tenants that the appropriate further reimbursement pertaining to their former tenancy will be calculated and paid via check when reimbursement checks are issued to other former tenants. The tenants were satisfied with this resolution.

- **Outreach Efforts and Timing of Rent Reimbursements to Former Oak Point Tenants.**

Hometown has identified 491 former Oak Point tenancies for which the former tenants are eligible for refunds. Hometown has made diligent efforts to identify and locate all of these eligible former tenants and to obtain the facts necessary to reliably confirm the exact amounts due to each of them. This work has entailed the use of multiple outreach methods, including text messages, voice messages, e-mails, and the establishment of a special website. The undertaking has proved to be more time-consuming than we originally anticipated. Hometown now expects to be able to issue refund checks to the former tenants by the end of August, 2022. Accordingly, Hometown intends to calculate and add interest through August 2022 on all of the refund checks it will issue at that time.

Hometown currently believes that the total amount of the refunds for which its former tenants will be eligible, inclusive of interest calculated through August 2022, is \$105,898.47 (consisting of \$83,536.19 in refunds, plus \$22,362.27 in interest). Of that total, the largest individual refund is anticipated to be \$808.55 (a \$671.72 refund plus \$136.83 in interest), and some former tenants will receive no refunds at all (where their tenancy began and ended within a matter of months, before any rent increase was imposed). The average refund for former tenants is anticipated to be \$227.25 (a \$179.26 refund plus \$47.99 in interest).

Hometown's efforts to locate all eligible former Oak Point tenants for purposes of issuing refund checks are described below.

- A. Website. In April, Hometown developed and set up a special new website for the purpose of facilitating public dissemination of information about the available rent refunds, the gathering of contact information for the eligible former tenants, and the confirmation of the pertinent periods of residency at Oak Point. The address for that website is <https://opmunicipalfeesettlement.com>. A printout of the information that appears on that website is attached to this letter as **Attachment A**. The website address has been publicized by Hometown as described below.
  
- B. Text Messages and Voice Messages to Former Tenants. Hometown had a phone number on file for 483 (all but 8) of the 491 eligible former tenants (though it cannot verify whether any particular number remains current or was correct as originally given). In April, Hometown sent both a text message and a voice message to all of those eligible former tenants. In May, Hometown sent a second text message to those individuals. The content of all of those messages stated as follows:

“You may be a former resident of the Oak Point community. Former residents who paid rent after November 2011 may be eligible for a small rent refund, subject to verification of residency. Please visit [opmunicipalfeesettlement.com](https://opmunicipalfeesettlement.com) to provide information to determine qualification.”
  
- C. Email Messages to Former Tenants. Hometown had an e-mail address on file for 143 of the 491 eligible former tenants (though it cannot verify whether any particular e-mail address remains current or was correct as originally given). In April, Hometown sent its first e-mail to all of those eligible former tenants. A copy of that initial e-mail message, which provided a simple summary of its rent refund program, directed former tenants to the website, requested information to verify residency, and provided information about the timeframe for further communications, is attached to this letter as **Attachment B**. A follow-up e-mail was sent the following day, to assist former tenants who reported problems in accessing the

referenced website.<sup>1</sup> A third email was sent on May 6, 2022, the text of which duplicated the content of the original message, except that (1) this time the specified website address included the “https//” prefix, and (2) the message concluded with the following new paragraph:

“If you do not wish to visit the website, you can also contact our community general manager, Eric Hurt, by phone at 508-947-3535 and he will process the data entry for you. Also, if you have already visited the site and supplied your information you may ignore this notice.”

- D. Outreach Notice to Current Tenants. Because many current Oak Point residents maintain active friendships with their former neighbors who no longer reside in the community, Hometown has asked current Oak Point residents to assist in its efforts to locate former tenants eligible for rent refunds. This was done by means of a notice that was sent to current Oak Point residents via e-mail on May 3, 2022. A copy of that notice is attached to this letter as **Attachment C**.
- E. Newspaper Publication. Hometown posted a public notice about the availability of rent refunds for former Oak Point tenants in the Brockton Enterprise. The notice ran in the publication from May 19 through May 26, 2022 and then again on May 26 through June 2, 2022. See **Attachment D**.<sup>2</sup>

### **3. Next Steps and Plan for Dispute Resolution.**

With the benefit of the results of its above-described outreach efforts, Hometown expects to confirm its individualized calculations for all eligible former tenants who have been located as of August. At that time, Hometown plans to issue individual refund checks to these former tenants, along with written statements that detail the calculations of the pertinent refund amount, including interest as calculated through the end of August.

In the event that any former tenants dispute Hometown’s calculations, Hometown will respond to them individually. Based on experience to date, Hometown anticipates very few, if any, disputes, and it will work to resolve any that may arise. Thereafter, if any former tenant chooses to bring a dispute to the Board’s attention, and if the Board deems it necessary, Hometown can provide the Board with a copy of

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<sup>1</sup> The follow-up e-mail stated as follows: “Dear Oak Point Former Residents: It has been brought to our attention that some have experienced problems accessing the website link in our previous sent email and letter. If this was the case for you please try the below link to enter your information. <https://opmunicipalfeesettlement.com>.”

<sup>2</sup> At a prior meeting, one Board member suggested that Hometown might use the Google search engine to locate former tenants. After due consideration, however, Hometown has concluded that this would not be a reasonably efficient or sufficiently reliable way to proceed, given the number of former tenants and Hometown’s practical inability to assess the accuracy of personal identifications made on the basis of internet name searches. Hometown believes that its above-described outreach and notice efforts are appropriately robust and will enable it to locate most, if not all, of the eligible former tenants.

**Sugarman, Rogers, Barshak & Cohen, P.C.**

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its refund statement for the particular tenant and a summary of its dispute resolution communications, and address any associated concerns at that time.

Hometown sees no need at this time to establish any formally-structured dispute resolution program in connection with the rent adjustment, rent credit and refund calculations. Rather, Hometown proposes to proceed in the ordinary course, by using good-faith efforts to resolve any dispute that may arise, with the understanding that any resident who remains dissatisfied with Hometown's final response to any issue of concern shall be free to present the matter to the Board for its consideration.

Finally, with respect to former tenants who cannot be found, Hometown will continue to honor their refunds in the future, and maintain the sums necessary in the event contact is made with such "missing" former tenants. Hometown does not intend to establish and enforce a specific deadline by which such former tenants must come forward in order to receive their refund. Rather, in recognition of the possibility that inquiries from former tenants may continue to come in for some period of time, Hometown will make funds available to cover any future refunds that it deems to be warranted, as a matter of fairness.

In sum, Hometown has to date worked diligently and in good faith to implement the Board-approved rent adjustment and rent credit and refund program, and it will continue to do so.

Sincerely,



Lisa C. Goodheart

LCG/kt

Attachments A-D

cc: Colleen Lieb, Executive Assistant to the Board, [clieb@middleborough.com](mailto:clieb@middleborough.com)  
Robert G. Nunes, Town Manager, [rnunes@middleborough.com](mailto:rnunes@middleborough.com)  
Gregg J. Corbo, Town Counsel, [gcorbo@k-plaw.com](mailto:gcorbo@k-plaw.com)  
Kyle Howieson, Hometown America, [khowieson@hometownamerica.com](mailto:khowieson@hometownamerica.com)

4863-0534-9399, v. 5

# ATTACHMENT A

# Oak Point Former Resident Contact Information Request

The following information is requested for any person that paid rent at Oak Point located in Middleborough, MA at any time after November 2011 and who is no longer a current resident of Oak Point.

When Hometown Oak Point I, L.L.C. and Hometown Oak Point II, L.L.C. (together “Hometown”) acquired the Oak Point community in 2011, it continued the prior owner’s system of calculating annual CPI adjustments to rent rates. Historically, the Town of Middleborough’s \$12 monthly municipal licensing fee was not separated from the remainder of the annual base rent before applying the CPI adjustment to rents at Oak Point. Recently, a current Oak Point resident challenged this long-established practice, and in response and with the approval of the Town’s Rent Control Board, Hometown has elected to provide a rent credit (together with interest) to all former tenants who paid rent at Oak Point at any time during the period of Hometown’s ownership for the amount that Hometown collected during its period of ownership over and above the \$12 monthly municipal licensing fee as a consequence of the historical inclusion of the municipal licensing fee in past calculations of annual CPI adjustments of rent rates.

Hometown is in the process of gathering information on all former residents. Please provide the following information only if you previously paid rent at Oak Point at any time after November 2011 and are no longer a current resident of Oak Point. A Hometown representative will contact you within 90 days following receipt of the information.

\* Required

First Name\*:

Last Name\*:

Email\*:

Phone:

eg. 480-278-5261

Current Address:

Current City:

Current State:

-- Select a State --

Current Zip:

Oak Point Address/Site Number\*:

Oak Point Approximate Move In Date\*:

eg. 1/30/2022

Oak Point Approximate Move Out Date\*:

eg. 1/30/2022

If you would like to provide any documentation relating to your prior residency at Oak Point, please upload using the link below:

Filename:  No file chosen

PDF, JPG, DOCX

# ATTACHMENT B

Notification from: **Oak Point Former Residents**

April 29, 2022

Former Oak Point Residents

Re: Former Oak Point Residents/Rent Credit

As you may be aware, on March 7, 2022, the Town of Middleborough Board of Selectmen, acting as the Rent Control Board, approved a plan for implementing, among other things, a process for reimbursing former residents of the Oak Point community for certain overpayments that may have been made with respect to rental payments.

When Hometown Oak Point I, L.L.C. and Hometown Oak Point II, L.L.C. (together "Hometown") acquired the Oak Point community in 2011, it inherited the then existing lease agreements drafted by the prior owners. Hometown continued the prior owner's system of calculating annual CPI adjustments to rent rates. Historically, the Town of Middleborough's \$12 monthly municipal licensing fee was not separated from the remainder of the annual base rent before applying the CPI adjustment to rents at Oak Point. Recently, a resident challenged this long-established practice, and in response and with the approval of the Town's Rent Control Board, Hometown has elected to provide a rent credit (together with interest) to all former tenants who paid rent at Oak Point at any time during the period of Hometown's ownership for the amount that Hometown collected during its period of ownership over and above the \$12 monthly municipal licensing fee as a consequence of the historical inclusion of the municipal licensing fee in past calculations of annual CPI adjustments of rent rates.

If you were in fact a resident of Oak Point at any time during the period commencing on November 1, 2011, and ending on March 31, 2022, we ask that you please visit **[opmunicipalfeesettlement.com](http://opmunicipalfeesettlement.com)** where you will be asked to provide a few pieces of information to verify your residency

We are in the process of gathering information on all our former residents. You should expect to hear from us within 90 days following receipt of information requested on **[opmunicipalfeesettlement.com](http://opmunicipalfeesettlement.com)**. At that time, we will provide you further detail on the amount and process for payment of any reimbursement to which you may be entitled.

Sincerely,

Kyle Howieson

Regional Manager

# ATTACHMENT C

**[Sent to all current residents on May 3, 2022]**

Oak Point Residents

Re: Former Oak Point Residents/Rent Credit

We are in the process of gathering information on all former residents of Oak Point who moved out of the community after November 2011. We have taken steps to communicate directly with our former tenants by using data readily available to us through phone, email and text messaging. However, we know that many of you may still have friends and acquaintances that you are in communication with. We ask that if you do have contact information with any former residents please forward or share the below link to a website where they can learn more about the rent credits and enter their information into our system.

Thanks in advance for your cooperation.

Oak Point Municipal Fee Settlement Website: <https://opmunicipalfeesettlement.com>.

Sincerely,

Kyle Howieson

# ATTACHMENT D

# Order Confirmation

Not an Invoice

<b>Account Number:</b>	757086
<b>Customer Name:</b>	Oak Point Middleborough
<b>Customer Address:</b>	Oak Point Middleborough 200 Oak Point DR Middleborough MA 02346-1325
<b>Contact Name:</b>	Mr. Eric Hurt
<b>Contact Phone:</b>	5089473535
<b>Contact Email:</b>	ehurt@hometownamerica.net
<b>PO Number:</b>	Hurt, Eric

<b>Date:</b>	05/17/2022
<b>Order Number:</b>	7305897
<b>Prepayment Amount:</b>	\$ 0.00

<b>Column Count:</b>	1.0000
<b>Line Count:</b>	1.0000
<b>Height in Inches:</b>	0.0000

**Print**

Product	#Insertions	Start - End	Category
NEO wickedlocal.com	2	05/19/2022 - 05/26/2022	Public Notices
NEO BRC The Enterprise	2	05/19/2022 - 05/26/2022	Public Notices

<b>Total Order Confirmation</b>	<b>\$366.32</b>
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## Ad Preview

### FEE SETTLEMENT LEGAL NOTICE

If you were a resident of Oak Point Manufactured Home Community, located in Middleborough, Massachusetts, at any time during the period commencing on November 1, 2011 and ending on March 31, 2022, you may be entitled to a refund for certain overpayments that may have been made with respect to rental payments during your period of residency. We ask that you please visit [opmunicipalfeesettlement.com](http://opmunicipalfeesettlement.com), where you will be asked to provide a few pieces of information to verify your residency and current contact information. Within 90 days following receipt of the information requested on the website, you should be contacted by an Oak Point representative with further detail on the amount and process for payment of any reimbursement to which you may be entitled. *If you have any questions, please call (508) 947-3535.*

AD# 7305897  
BE 05/19 & 05/26/2022