

Date: August 22, 2023

At a meeting of the Town of Hempstead Industrial Development Agency (the “Agency”), held at Town Hall Old Courtroom, 1 Washington Street, Hempstead, New York 11550, on the 22nd day of August, 2023, at 9:00 a.m., the following members of the Agency were present:

Present: Florestano Girardi, Chairman
Thomas J. Grech, Vice Chairman
Rev. Dr. Eric C. Mallette, Treasurer
Robert Bedford, Member
Jerry Kornbluth, Member
Jill Ann Mollitor, Member
Robert T. Kennedy, Village Member
Vilma Lancaster, Village Member
LaDonna Taylor, Village Member

Excused: Jack Majkut, Secretary
Mark Davella, Village Member

Also Present: Frederick E. Parola, Chief Executive Officer
Michael Lodato, Deputy Executive Director
Lorraine Rhoads, Agency Administrator
Laura Tomeo, Deputy Agency Administrator
Arlyn Eames, Deputy Financial Officer
John Ryan, Esq., Agency Counsel
Paul V. O’Brien, Esq., Transaction Counsel

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition of a leasehold interest in or title to a certain industrial development facility more particularly described herein (The Gardens at Buffalo LLC 2023 Facility), and the leasing of the Facility to The Gardens at Buffalo LLC. The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

<u>Voting Aye</u>	<u>Voting Nay</u>	<u>Abstaining</u>
F. Girardi		
T. Grech		
E. Mallette		
R. Bedford		
J. Kornbluth		
J. Mollitor		
R. Kennedy		
V. Lancaster		
L. Taylor		

RESOLUTION OF THE TOWN OF HEMPSTEAD
INDUSTRIAL DEVELOPMENT AGENCY TAKING
OFFICIAL ACTION TOWARD APPOINTING THE
GARDENS AT BUFFALO LLC, A NEW YORK LIMITED
LIABILTiy COMPANY, ON BEHALF OF ITSELF AND/OR
THE PRINCIPALS OF THE GARDENS AT BUFFALO LLC
AND/OR AN ENTITY FORMED OR TO BE FORMED ON
BEHALF OF ANY OF THE FOREGOING AS AGENT OF
THE AGENCY FOR THE PURPOSE OF ACQUIRING,
CONSTRUCTING, RENOVATING, INSTALLING AND
EQUIPPING AN INDUSTRIAL DEVELOPMENT FACILITY
AND MAKING CERTAIN FINDINGS AND
DETERMINATIONS WITH RESPECT TO THE FACILITY

WHEREAS, THE GARDENS AT BUFFALO LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of The Gardens at Buffalo LLC, and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”), submitted an application for financial assistance (the “**Application**”) to the Town of Hempstead Industrial Development Agency (the “**Agency**”) to enter into a transaction in which the Company has requested that the Agency assist in the acquisition of an interest in an approximately 2.5355 acre parcel of land located at 80-84 Albany Avenue and 17-33 Buffalo Avenue, Village of Freeport, Town of Hempstead, Nassau County, New York (together, the “**Land**”), the demolition of an existing approximately 11,451 square foot structure and certain other improvements on the Land, the renovation of an existing approximately 85,932 square foot building on the Land and the construction of an approximately 80,004 square foot addition to such building and related improvements on the Land (collectively, the “**Improvements**”), and the acquisition of certain fixtures, equipment and personal property necessary for the completion thereof (the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), which Facility would be subleased by the Agency to the Company and further sub-subleased by the Company to future tenants for use as a multifamily rental housing facility consisting of approximately 10 studio units, 100 one-bedroom units, 70 two-bedroom units and 20 three-bedroom units, at least 10% of which units shall be workforce housing units (the “**Project**”); and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements and title to the Equipment and will sublease the Land and the Improvements and lease the Equipment to the Company all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 529 of the Laws of 1971 of the State of New York, as the same may be amended from time to time (collectively, the “**Act**”); and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in connection with the Facility, in the form of exemptions from mortgage recording taxes, exemptions from sales and use taxes and abatement of real property taxes, all to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to any closing of the transaction described herein; and

WHEREAS, as of the date of this resolution, no determination for financial assistance has been made; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, prior to any closing of the transaction described herein, a public hearing (the “**Hearing**”) will be held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency or the location or nature of the Facility can be heard; and

WHEREAS, notice of the Hearing will be given prior to any closing of the transaction described herein, and such notice (together with proof of publication) will be substantially in the form annexed hereto as Exhibit A; and

WHEREAS, the minutes of the Hearing will be annexed hereto as Exhibit B; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the proposed financial assistance is either an inducement to the Company to construct, renovate, install and equip the Facility in the Town of Hempstead or is necessary to maintain the competitive position of the Company in its industry; and

WHEREAS, the Agency has required the Company to provide to the Agency a feasibility report (the “**Feasibility Study**” and, together with the other below listed items, collectively, the “**Requisite Materials**”), to enable the Agency to make findings and determinations that the Facility qualifies as a “project” under the Act and that the Facility satisfies all other requirements of the Act, and such Requisite Materials are listed below and attached as Exhibit C hereof:

1. Feasibility Study dated August 21, 2023 prepared by National Development Council;
2. Economic and Fiscal Impact Analysis dated August 14, 2023 prepared by Camoin Associates;
3. New York Law Journal Article dated March 22, 2017 on Eligibility of Residential Developments for IDA Benefits by Anthony Guardino, Esq.; and
4. Ryan et al. v. Town of Hempstead Industrial Development Agency et al.; and

WHEREAS, the Agency’s Uniform Tax Exemption Policy and Guidelines, as amended to date (the “**UTEP**”), which UTEP is annexed hereto as Exhibit D, provides for the granting of financial assistance by the Agency for certain housing projects pursuant to Section I.A.(II), and the Agency contemplates that the proposed financial assistance with respect the granting of an abatement of real property taxes, if approved, would constitute a deviation from the UTEP; and

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (“NYSDEC”), being 6 N.Y.C.R.R. Part 617, et. seq., as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, the Agency has reviewed the list of activities that constitute Type I actions in Section 617.4 of the Regulations and the list of activities that constitute Type II Actions in Section 617.5 of the Regulations; and

WHEREAS, based upon the Application and Part 1 of a Full Environmental Assessment Form dated April 14, 2023, the Agency has determined that the Project should be treated as a Type I action for purposes of SEQRA because the Project involves the construction of more than 50 residential units in the Village of Freeport and the Land is substantially contiguous to a publically owned recreation space used as a baseball field and surrounding open space; and

WHEREAS, in conjunction with its intention to act as lead agency to complete a coordinated review of the Project, the Agency, on June 15, 2023, caused to be delivered to all potentially interested and involved agencies (“Potentially Involved Agencies”) copies of the Application and EAF, together with notice of the Agency’s intent to act as lead agency for review of the Project pursuant to SEQRA; and

WHEREAS, none of the Potentially Involved Agencies contested lead agency status, and the time period for the Potentially Involved Agencies to object has expired; and

WHEREAS, the Agency has therefore been properly established as lead agency; and

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether the Project may have a significant adverse impact upon the environment, the Agency has completed, received and/or reviewed: (1) Part 1 of a Full Environmental Assessment Form (“EAF”), including the EAF Supplement; (2) NYSDEC’s Environmental Resource Mapper (“NYSDEC Mapper”); (3) the Application; (4) photographs of the present conditions of the Land (“Site Photograph”); (5) the Village of Freeport Building Zone Map; (6) the July 6, 2023 Letter from the Nassau County Department of Health (“DOH”); and (7) other relevant environmental information (collectively, (1)-(7) shall be referred to as the “**Environmental Information**”); and

WHEREAS, prior to making a recommendation about the potential environmental significance of the Project, the Agency has reviewed the Environmental Information, consulted various information sources, and considered the list of activities that are Type I Actions outlined in Section 617.4 of the Regulations, the list of activities that are Type II Actions outlined in Section 617.5 of the Regulations and the criteria for determining significance outlined in Section 617.7 of the Regulations; and

WHEREAS, a hard look by the Agency at the potential environmental impacts and a thorough analysis by the Agency of the Environmental Information and potential environmental impacts associated with the Project reveals that the Project will not have any potentially significant adverse environmental impacts; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the transfer of leasehold title to the Facility.

NOW, THEREFORE, BE IT RESOLVED by the Town of Hempstead Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

Section 1. Based upon the Agency's review of the Environmental Information and investigations of the potential environmental impacts associated with the Project, considering both the magnitude and importance of each potential environmental impact indicated, and upon the Agency's knowledge of the Land and surrounding area and such further investigations of the Project and its environmental effects as the Agency has deemed appropriate, the Agency has made the following findings:

- (a) The Project is a Type I Action pursuant to 6 N.Y.C.R.R. 617.4(b)(5)(iii) and 617.4(b)(10), as the Project involves the construction of more than 50 residential units in the Village of Freeport and the Land is substantially contiguous to a publically owned recreation space used as a baseball field and surrounding open space; and
- (b) The Agency has undertaken a coordinated review of the Project in accordance with the requirements of SEQRA.
- (c) No potentially significant adverse impacts on the environment are noted in the Environmental Information and none are known to the Agency and, therefore, the Project will not have a significant adverse impact upon the environment. The reasons supporting this determination are attached as Exhibit E.
- (d) Since the Project will not have a significant adverse impact on the environment, a negative declaration (the "**Negative Declaration**") pursuant to SEQRA is hereby issued. This Negative Declaration has been prepared pursuant to and in accordance with the requirements of SEQRA. This Resolution shall serve as the Negative Declaration (as defined in 6 N.Y.C.R.R. 617.2(y)) for the Project, and is issued by the Agency, pursuant to and in accordance with SEQRA in an coordinated environmental impact review, and shall take effect immediately.

Section 2. In connection with the acquisition, construction, renovation, installation and equipping of the Facility the Agency hereby makes the following determinations and findings based upon the Agency's review of the information provided by the Company with respect to the Facility, including, the Application, the Requisite Materials and other public information:

- (a) There is a lack of safe, clean and modern rental housing in the Village of Freeport and the Town of Hempstead, Nassau County, including workforce housing and "Housing for Older Persons" (as such term is used in the Fair Housing Act);
- (b) Such lack of rental housing has resulted in individuals leaving the Village of Freeport and the Town of Hempstead and therefore adversely affecting employers, businesses, retailers, banks, financial institutions, insurance companies, health and legal services providers and other merchants in the Village of Freeport and the Town of Hempstead and otherwise adversely impacting the economic health and well-being of the residents of the Village of Freeport and the Town of Hempstead, employers, and the tax base of the Village of Freeport and the Town of Hempstead;
- (c) The Facility, by providing such rental housing will enable persons to remain in the Village of Freeport and the Town of Hempstead and thereby to support the businesses, retailers, banks, and other financial institutions, insurance companies, health care and legal services providers and other merchants in the Village of Freeport and the Town of Hempstead which will increase the economic health and well-being of the residents of the Village of Freeport and the Town of Hempstead, help preserve and increase permanent private sector jobs in furtherance of the Agency's public purposes as set forth in the Act, and therefore the Agency finds and determines that the Facility is a commercial project within the meaning of Section 854(4) of the Act; and
- (d) The Facility will provide services, i.e., workforce housing and "Housing for Older Persons", which but for the Facility, would not otherwise be reasonably accessible to the residents of the Village of Freeport and the Town of Hempstead.

Section 3. The acquisition, construction, renovation, installation and equipping of the Facility by the Agency, the subleasing of the Land and the Improvements to the Company, the leasing of the Equipment to the Company and the provision of financial assistance pursuant to the Act will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town of Hempstead and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act, and subject to the provisions of this resolution, the same is, therefore, approved.

Section 4. Subject to the provisions of this resolution, the Agency shall (i) acquire, construct, renovate, install and equip the Facility; and (ii) lease and sublease the Facility to the Company.

Section 5. The Company is hereby notified that it will be required to comply with Section 875 of the Act. The Company shall be required to agree to the terms of Section 875 pursuant to the Lease and Project Agreement, dated a date to be determined (the "**Lease Agreement**"), by and between the Company and the Agency. The Company is further notified that the tax exemptions and abatements provided pursuant to the Act and the appointment of

the Company as agent of the Agency pursuant to this resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Lease Agreement.

Section 6. Counsel to the Agency is authorized and directed to work with Transaction Counsel (Phillips Lytle LLP) to prepare, for submission to the Agency, all documents necessary to affect the transfer of the real estate and personal property described in the foregoing resolution.

Section 7. Notwithstanding the foregoing provisions hereof, this resolution is subject to the Company obtaining any necessary building permits for the acquiring, constructing, renovating, installing, equipping and operation of the Facility.

Section 8. The Chairman, the Chief Executive Officer, the Deputy Executive Director and all members of the Agency are hereby authorized and directed (i) to distribute copies of this resolution to the Company and to such other parties as may be required by applicable laws and regulations, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 9. Any expenses incurred by the Agency and Transaction Counsel with respect to the Facility shall be paid by the Company. The Company agrees to pay such expenses and further agree to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Facility.

Section 10. The Agency may publish and issue notices of a public hearing and conduct such public hearing with respect to the location and nature of the Project and the financial assistance, if any, to be granted by the Agency to the Company, in accordance with the provisions of Sections 857 and 859-a of the Act.

Section 11. This resolution shall take effect immediately.

ADOPTED: August 22, 2023

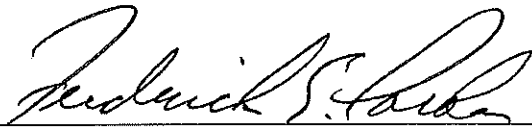
STATE OF NEW YORK)
 : SS.:
COUNTY OF NASSAU)

We, the undersigned Chief Executive Officer and Chairman of the Town of Hempstead Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY:

That we have compared the annexed extract of the minutes of the meeting of the Agency, including the resolutions contained therein, held on August 22, 2023, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

WE FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), (ii) public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held and was open to the general public, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, we have hereunto set our hands as of the 22nd day of August, 2023.

By: 
Frederick E. Parola
Chief Executive Officer

By: 
Florestano Girardi
Chairman

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Title 1 of Article 18-A of the New York State General Municipal Law (the “**Hearing**”) will be held by the Town of Hempstead Industrial Development Agency (the “**Agency**”) on the ____ day of _____, 2023, at ____ a.m., local time, at _____, Village of Freeport, Town of Hempstead, New York, in connection with the following matters:

THE GARDENS AT BUFFALO LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of The Gardens at Buffalo LLC, and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”), submitted an application for financial assistance (the “**Application**”) to the Town of Hempstead Industrial Development Agency (the “**Agency**”) to enter into a transaction in which the Company has requested that the Agency assist in the acquisition of an interest in an approximately 2.5355 acre parcel of land located at 80-84 Albany Avenue and 17-33 Buffalo Avenue, Village of Freeport, Town of Hempstead, Nassau County, New York (together, the “**Land**”), the demolition of an existing approximately 11,451 square foot structure and certain other improvements on the Land, the renovation of an existing approximately 85,932 square foot building on the Land and the construction of an approximately 80,004 square foot addition to such building and related improvements on the Land (collectively, the “**Improvements**”), and the acquisition of certain fixtures, equipment and personal property necessary for the completion thereof (the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), which Facility would be subleased by the Agency to the Company and further sub-subleased by the Company to future tenants for use as a multifamily rental housing facility consisting of approximately 10 studio units, 100 one-bedroom units, 70 two-bedroom units and 20 three-bedroom units, at least 10% of which units shall be workforce housing units (the “**Project**”).

The Agency contemplates that it would provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes and abatement of real property taxes.

The Company has requested that the Agency provide financial assistance to the Company in the form of an abatement of real property taxes for a term of up to twenty-five (25) years (the “**PILOT Benefit**”). The proposed PILOT Benefit deviates from the Agency’s Uniform Tax Exemption Policy and Guidelines, as amended to date (the “**Policy**”), because the proposed PILOT Benefit would be for a term of up to twenty-five (25) years instead of ten (10) years. Copies of the proposed PILOT payment schedule are available on the Agency’s website at www.tohida.org. The Agency is considering the proposed deviation from the Policy due to the current nature of the property and because the Company would not undertake the Project and the Project would not be economically viable without a PILOT Benefit for a term of up to twenty-five (25) years.

A representative of the Agency will, at the above-stated time and place, hear and accept oral comments from all persons with views in favor of or opposed to either the Project or the

financial assistance requested by the Company. Comments may also be submitted to the Agency in writing or electronically prior to or during the Hearing by e-mailing them to [_____]. Minutes of the Hearing will be transcribed and posted on the Agency's website.

Members of the public have the opportunity to review the application for financial assistance filed by the Company with the Agency and an analysis of the costs and benefits of the proposed Project, which can be found on the Agency's website at www.tohida.org.

To the extent practicable, the Hearing will be streamed on the Agency's website in real-time in accordance with Section 857 of the New York State General Municipal Law. A video recording of the Hearing will be posted on the Agency's website, all in accordance with Section 857 of the New York State General Municipal Law.

The Agency anticipates that the members of the Agency will consider a resolution to approve the Project and the financial assistance requested by the Company, including the proposed twenty-five (25) year PILOT Benefit, at the Agency's Board Meeting (the "**Board Meeting**") to be held on [_____], 2023, at 9:00 a.m. local time, at Town of Hempstead Town Hall, Town Hall Courtroom, 350 Front Street, Hempstead, New York 11550.

Dated: _____, 2023

TOWN OF HEMPSTEAD INDUSTRIAL
DEVELOPMENT AGENCY

By: Frederick E. Parola
Title: Chief Executive Officer

EXHIBIT B

Minutes of the Public Hearing
on File With the Agency

To be attached

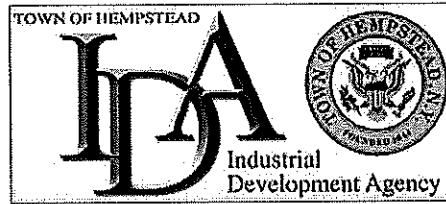
EXHIBIT C

Requisite Materials

1. Feasibility Study dated August 21, 2023 prepared by National Development Council (Exhibit C-1);
2. Economic and Fiscal Impact Analysis dated August 14, 2023 prepared by Camoin Associates (Exhibit C-2);
3. New York Law Journal Article, dated March 22, 2017 on Eligibility of Residential Developments for IDA Benefits by Anthony Guardino, Esq. (Exhibit C-3); and
4. Ryan et al. v. Town of Hempstead Industrial Development Agency et al. (Exhibit C-4).

Feasibility Study dated August 21, 2023 prepared by National Development Council

SUBSTANTIATION OF NEED FOR TOWN OF HEMPSTEAD IDA FINANCIAL ASSISTANCE



Rendering of Proposed Development

PROJECT NAME AND DEVELOPER

The Gardens at Buffalo, LLC

LOCATION

80 – 84 Albany Avenue 17-33 Buffalo Avenue | Freeport, NY 11520

PROJECT DESCRIPTION

Rehabilitation and New Construction
200-Unit Mixed-Income Development

REQUESTED FINANCIAL ASSISTANCE

Payment in Lieu of Taxes (25-Year Schedule)
Exemption on Sales Tax of Building Materials
Exemption on Mortgage Recording Tax

August 21, 2023

A. ASSIGNMENT

The National Development Council (NDC) is a national not-for-profit economic development organization that provides development finance advisory services to municipalities and public benefit agencies throughout the country. NDC is routinely requested to analyze financial structures of proposed developments and determine the appropriateness of financial assistance or incentives. The Town of Hempstead Industrial Development Agency (IDA) requested that the applicant and its counsel arrange for the completion of a feasibility report that demonstrates that the tax assistance package requested of the IDA is necessary for the proposed project to be financially feasible. The purpose of this memo is to describe NDC's project understanding, and findings of the mixed-income project referred to as "The Gardens at Buffalo" in the Village of Freeport.

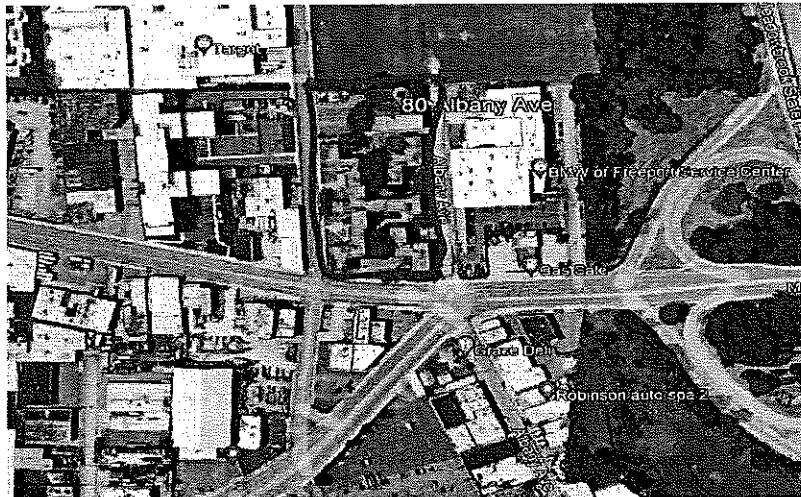
B. PROJECT DESCRIPTION

The subject site encompasses 2.54± acres north of East Merrick Road to the south, Buffalo Avenue to the west, and Albany Avenue to the East, and a municipal park to the north.

The site currently contains three (3) three-story 27,932 square feet vacant residential buildings, a vacant 2,136 square foot office building and a 11,451 square foot underutilized industrial building. The residential buildings were formerly owned by the Freeport Housing Authority and have been vacant for several years.

The proposed redevelopment will be a mixed-income development within the heart of the Village of Freeport and walkable to nearby shopping and public transportation options. The three existing residential buildings and the small commercial office will be rehabilitated, and two new residential buildings will be constructed on the portion of the site on which the industrial building is located.

Upon completion, the establishment will contain 166,000± gross square feet of space and two hundred (200) units, a mix of studio, one-bedroom, two-bedroom, and three-bedroom units.



Aerial Photo of Site

Ten percent (10%) of the units (20 units of 200 count) will be set aside as "workforce" units. They will be made available and priced affordably to veterans (10 units) and seniors (10 units) earning less than 80% of area median income (AMI). Up to sixty (60) of the market units will also be reserved for veterans (30 units) and seniors (30 units). The residential unit mix and rents are summarized below.

RENT ROLL							
<i>Market Unit Description</i> <i>Including Seniors (30) and Veterans (30)</i>	<i>%</i>	<i>Units</i>	<i>NSF*</i>	<i>Total NSF</i>	<i>Mo Rent</i>	<i>Rent/SF</i>	<i>Annual Rent</i>
Studio	5%	10	450	4,500	\$1,400	\$3.11	\$168,000
1 Bedroom	45%	90	650	58,500	\$1,800	\$2.77	\$1,944,000
2 Bedroom	33%	65	750	48,750	\$2,100	\$2.80	\$1,638,000
3 Bedroom	8%	15	1,021	15,315	\$2,700	\$2.64	\$486,000
Total / Average	90%	180	718	127,065	\$2,000	\$2.83	\$4,236,000

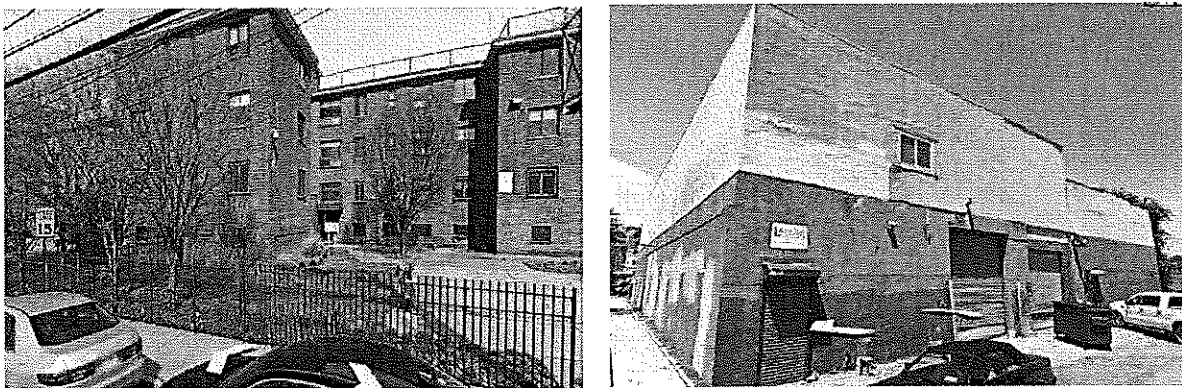
**Averaged NSF for each unit type (sizes vary)*

<i>Affordable Unit Description</i> <i>Including Seniors (10) and Veterans (10)</i>	<i>%</i>	<i>Units</i>	<i>NSF*</i>	<i>Total NSF</i>	<i>Mo Rent</i>	<i>Rent/SF</i>	<i>Annual Rent</i>
Studio	0%	0	450	0	\$1,030	\$2.29	\$0
1 Bedroom	5%	10	650	6,500	\$1,494	\$2.30	\$179,220
2 Bedroom	3%	6	750	4,500	\$1,803	\$2.40	\$129,780
3 Bedroom	2%	4	1,021	4,084	\$2,163	\$2.12	\$103,824
Total / Average	10%	20	718	15,084	\$1,622	\$2.28	\$412,824

TOTAL	200	142,149	\$3,622	\$4,648,824
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The project will also contain multiple amenities including a gym, a billiards room, rooftop gardens, a lounge, and improved courtyard spaces. The development will be supported by on-site surface parking spaces.

The applicant is an affiliated single-asset entity of BOSFA Properties, <https://bosfaproperties.com>, an accomplished family-owned and Town of Hempstead-based developer that has undertaken several residential and mixed-use developments of distressed assets in Nassau County and the metro NY area.



Current Use of the Project Site

The following sections summarize relevant information necessary to determine the need for and sizing of the financial package:

Section C	Review of Sources and Uses
Section D	Review of IDA Incentive Package
Section E	Summary of NDC Financial Analysis
Section F	Summary of Impact on Schools
Section G	Summary of Project and Public Benefits



C. SOURCES & USES

The \$49.3 million development will be financed with conventional debt (62% of cost) and equity (38% of cost), a typical capital structure for comparable residential developments.

USES OF FUNDS	\$	Per Unit	Per GSF	%
Acquisition	\$17,500,000	\$97,222	\$105	35%
Demolition	\$800,000	\$4,444	\$5	2%
New Construction	\$11,750,000	\$65,278	\$71	24%
Rehab of Current Buildings	\$8,420,000	\$46,778	\$51	17%
Machinery, Equipment & Fixtures	\$6,065,000	\$33,694	\$37	12%
Soft Costs & Professional Fees	\$4,775,119	\$26,528	\$29	10%
Total	\$49,310,119	\$273,945	\$297	100%

SOURCES OF FUNDS	\$	Per Unit	%
Loan(s)	\$30,586,495	\$169,925	62%
Equity	\$18,723,624	\$104,020	38%
Total	\$49,310,119	\$273,945	100%

The development cost is equivalent to \$273,945 per unit and \$297 per gross square foot. While on the low side for a new residential development in Nassau County, the lower cost per unit is partly attributable to the fact that most of the units do not involve new construction. The rehabilitated units will be brought online for a lower cost than the newly constructed units.

D. SUMMARIZED IDA INCENTIVE PACKAGE

The Applicant requests a payment in lieu of taxes (PILOT), an exemption on its mortgage recording tax, and an exemption on its sales tax on building materials.

IDA TAX BENEFIT SUMMARY				
IDA RELATED PROPERTY TAXES			SALES TAX EXEMPTION	
Current Taxes	\$108,996	\$606 per unit	Construction Cost	\$20,170,000
As Complete Full Taxes	\$708,887	\$3,938 per unit	Value of Building Materials	60% \$12,015,000
Multiplier	6.50 x		Sales Tax	8.630%
PILOT schedule	25-year phase-in		Value of Exemption	<u>\$1,036,895</u>
PILOT over 25 Years	\$13,336,988			
Savings over 25 Years	(\$6,341,898)			
Increment over Savings	<u>\$6,995,090</u>			

MORTGAGE RECORDING TAX		FINANCIAL ASSISTANCE SUMMARY	
Mortgage	\$30,586,495	Real Estate Tax Savings Over PILOT Term	\$6,341,898
Mortgage Recording Tax	1.05%	Mortgage Recording Tax Savings	\$229,399
Transit District Exclusion	-0.30%	Sales Tax Exemption	\$1,036,895
Mortgage Recording Tax Savings	0.75%	IDA Financial incentive Package	<u>\$7,608,192</u>
Value of Exemption	<u>\$229,399</u>		

Total Project Cost	\$49,310,119
IDA Financial Package as a % of Cost	15%
Private Leverage	\$6.48 X



Based upon the 25-year PILOT schedule, the project savings from aggregate IDA assistance is \$7,608,192, approximately 15% of the \$49,310,119 project cost. NDC typically sees project savings from IDA assistance fall anywhere between 10-30% of total project costs. The assistance for this development is reasonable and within range of assistance of standard IDA packages. The private investment into the project is a 6.48X multiplier of the savings offered through IDA assistance.

NDC determined that the project is not financially feasible with taxes at full assessment and that the 25-year PILOT is best suited for achieving financial feasibility. Even with the 25-year PILOT, the financial metrics required by financial stakeholders are marginal. This is further supported in the following section.

E. SUMMARY OF NDC ANALYSIS

NDC based its analysis on the revenue, expense and costs assumptions provided by the Developer in the IDA application. For consistency with other IDA reviews, NDC used the following assumptions in its analysis:

- Permanent loan assumptions that are in line with the current market for similar projects
 - 30-year amortization
 - Interest rate of 6.50%
- Revenue growth to 4.0% annually for market rate units
- Adjusting revenue growth to 2.00% annually for workforce housing income
- Adjusting expense growth to 3.00% annually (from approximately 4% in Developer's pro forma)
- Adjusting stabilized vacancy rate to 5% after higher vacancies (40% and 25%) in first two years
- Projecting terminal value of project using a 5.5% capitalization rate.

The initial monthly rents range from \$1,400 for the smallest studio units to \$2,700 for the three-bedroom units. These rents are on the low side for Nassau County, but the units are not considered luxury scale and Village of Freeport rents tend to be lower than apartment buildings in other parts of the County. The workforce rents are priced affordable to veterans and seniors earning less than 80% area median income (AMI).

Cronin Haris and Associates (CHA), Attorneys at Law, was contracted by the applicant to complete a tax opinion letter to the Hempstead IDA. CHA estimated as complete taxes at \$708,887 through an income approach using the rents provided by the applicant.

"CURRENT" AND "AS COMPLETE" TAX ESTIMATE FROM TAX OPINION LETTER		
Current Taxes	\$108,996	
County, Town, School Tax	\$551,082	\$2,755 per unit
Village Tax	\$157,805	\$789 per unit
Total "As Complete" Taxes	<u>\$708,887</u>	<u>\$3,544 per unit</u>

If the property had to absorb full taxes without any partial abatement through a payment of lieu of taxes (PILOT), the development would be financially challenged, and the applicant would have difficulty in assembling a capital structure to complete the project.



25-Year PILOT Analysis

The applicant requested a 25-year schedule in its application and CHA proposed the PILOT schedule that includes PILOT payment that are included **Exhibit 1 on page 9**. The 25-year schedule includes three years of construction.

The properties are currently owned by the Village of Freeport and tax-exempt. If the properties were to be on the tax rolls on an as-is basis, the current estimated taxes would be \$108,996. The property will pay current base taxes (\$108,996) during the first three years of construction. The phase in schedule during PILOT years 4 -25 and Operating Years 1 – 22 is seen in **Exhibit 1 on page 9**.

The worksheet below illustrates the need for the proposed PILOT. The stabilized pro forma projected through cash flow in the **stabilized third year of operations** is presented under three scenarios with respect to the real estate taxes and PILOT:

1. paying full real estate taxes (\$723,065 or \$4,037 per unit)
2. paying the actual PILOT in the stabilized year (\$350,000 or \$1,883 per unit)
3. paying the average PILOT over the term (\$533,480 or \$2,667 per unit)

With “as complete” full taxes without the PILOT, the debt coverage ratio (DCR) is inadequate, and all investor metrics fall short of requirements. When the 25-year PILOT is factored, whether it be under #2 with the third year PILOT being applied or under #3 with the average PILOT paid during the term being applied, the financial metrics are marginal and just barely meeting the expectations of both lenders and investors.

STABILIZED OPERATING PRO FORMA (Assumed to be 3rd Year of Operations After New Construction)							
		(1) WITHOUT PILOT		(2) WITH 3rd Year 25-YR PILOT		(3) With PILOT Avg over 25-Yr Term	
		\$	Per Unit	\$	Per Unit	\$	Per Unit
Market Rent	180	\$4,581,658	\$2,121 per month				
Workforce Rent	20	\$429,502	\$1,790 per month				
Other Income		\$0	\$ per month				
Gross Income		\$5,011,160					
Vacancy		(\$250,558)	5.00% vacancy				
Effective Gross Income		\$4,760,602		\$4,760,602		\$4,760,602	
Operating Expenses Excl Taxes		(\$1,460,180)	\$7,301	(\$1,460,180)	\$7,301	(\$1,460,180)	\$7,301
RE Taxes / PILOT		(\$723,065)	\$4,017 3rd year	(\$330,000)	\$1,833 3rd year	(\$533,480)	\$2,667 3rd year
Total Expenses		(\$2,183,245)	\$11,318	(\$1,790,180)	\$9,134	(\$1,993,660)	\$11,076
Net Operating Income		\$2,577,356		\$2,970,421		\$2,766,942	
Debt Service		(\$2,319,929)		(\$2,319,929)		(\$2,319,929)	
Cash Flow		\$257,427		\$650,492		\$447,012	
METRICS							
Debt Coverage Ratio		1.11		1.28		1.19	>1.20
Yield to Cost Return		5.23%		6.02%		5.61%	>6.5%
Leveraged Pre-Tax IRR Over Term		7%		10%		10%	>10%
							Typical in Market



The requested IDA assistance with the proposed 25-year PILOT would not constitute providing an undue enrichment to the Applicant. **“But for”** the proposed IDA financial incentive package, the development is not considered financially feasible.

F. IMPACT ON SCHOOLS

The Real Estate Institute (REI) at Stony Brook University conducted a study in 2019 that evaluated the impact of residential development on local school districts. REI evaluated fourteen (14) residential developments and surveyed the development residents and local school districts to determine new net students to the school districts. On average, one (1) student per eleven (11) units, or 9.09%, was identified as the impact on public school enrollment from the multi-family projects surveyed.

As it related to the subject 200-unit development, if both the senior (no assumed children) and studio units (single person composition) are factored out from the residential count, the 9.09% multiplier against the 150 net units results in an estimated fourteen (14) new students being added to the Freeport school district from the development, as follows.

SCHOOL IMPACT	
Units	200
Less Studios (single occupancy)	(10)
Less Senior Units	(40)
Adjusted Unit Count	150
Multiplier (1 student for every 11 units) *	9.09%
Estimated Number of Net New Students	14

** Impact of Market Rate Apartments on School District Enrollment, per
Real Estate Institute at Stony Brook University*

G. COST / BENEFIT ANALYSIS

While the project will realize \$7.6 million in savings from the proposed IDA benefits package, the aggregate public benefits are significant at \$14.7 million. The public benefits include aggregate PILOT payments over 25 years, twenty (20) workforce housing units, and IDA fees. There is a net public benefit of approximately \$7 million.

PUBLIC BENEFIT VS PROJECT SAVINGS	
Full IDA Taxes (PILOT) over Term	\$13,336,988
Value of Affordable Housing	\$1,156,853
IDA Fee	\$174,310
PUBLIC BENEFIT	\$14,668,151
Real Estate Tax Savings Over Term	\$6,341,898
Mortgage Recording Tax Savings	\$229,399
Sales Tax Exemption	\$1,036,895
TOTAL PROJECT BENEFIT	\$7,608,192
NET PUBLIC BENEFIT	\$7,059,960



The average annual PILOT paid during the 25-year term is \$533,480, or \$2,667 per unit annually. **The \$533,480 average PILOT over the term is more than a 5X multiplier of current taxes (\$108,996).** Given the Village's ownership of the site, the increment is substantial from the \$0 annual tax levy in recent years.

In addition to the above benefits, the applicant expects one hundred (100) temporary construction jobs and four (4) full-time equivalent permanent jobs for the development. This mixed-income residential project eliminates a blighted, vacant, and tax-exempt property and replaces it with needed market and workforce rental units in a well-designed transit-oriented development complex. There will be considerable disposable income, estimated to be between \$4 and \$5 million annually, from the residential base to be added to the Village market to strengthen retail trade in Freeport.



EXHIBIT 1: PILOT Schedule (25Years, 3 Years of construction ad 22 years of operating)

BuffaloA21400 Gardens At Freeport									
Owned by Village of Freeport. Tax-Exempt.									
As-Is.									
Current Taxes \$0									
Current Taxes (post property sale)									
Improvement Taxes \$108,996									
"As Improved" (Full) Taxes \$599,891									
Proposed Units \$708,887									
Estimated Taxes/Unit 200									
Annual Escalator \$3,544									
2.00%									
PILOT Year	Operation Year	Base Taxes	Improvement Taxes	"As Improved" Full Taxes	Abatement	Savings	PILOT	Per Unit	
1	Construction	\$108,996	\$0	\$108,996	0	\$0	\$108,996	\$545	\$545
2	Construction	\$108,996	\$0	\$108,996	0	\$0	\$108,996	\$545	\$545
3	Construction	\$108,996	\$0	\$108,996	0	\$0	\$108,996	\$545	\$545
4	1	\$111,176	\$597,711	\$708,887	58%	(\$408,887)	\$300,000	\$1,500	\$1,500
5	2	\$113,399	\$609,665	\$723,065	56%	(\$408,065)	\$315,000	\$1,500	\$1,500
6	3	\$115,667	\$621,859	\$737,526	55%	(\$407,526)	\$330,000	\$1,575	\$1,575
7	4	\$117,981	\$634,296	\$752,277	53%	(\$402,277)	\$350,000	\$1,650	\$1,650
8	5	\$120,340	\$646,982	\$767,322	51%	(\$392,322)	\$375,000	\$1,750	\$1,750
9	6	\$122,747	\$659,921	\$782,669	50%	(\$392,669)	\$390,000	\$1,875	\$1,875
10	7	\$125,202	\$673,120	\$798,322	47%	(\$378,322)	\$420,000	\$1,950	\$1,950
11	8	\$127,706	\$686,582	\$814,288	45%	(\$364,288)	\$450,000	\$2,100	\$2,100
12	9	\$130,260	\$700,314	\$830,574	43%	(\$360,574)	\$470,000	\$2,250	\$2,250
13	10	\$132,866	\$714,320	\$847,186	42%	(\$352,186)	\$495,000	\$2,350	\$2,350
14	11	\$135,523	\$728,607	\$864,129	39%	(\$339,129)	\$525,000	\$2,475	\$2,475
15	12	\$138,233	\$743,179	\$881,412	38%	(\$331,412)	\$550,000	\$2,625	\$2,625
16	13	\$140,998	\$758,042	\$899,040	33%	(\$299,040)	\$600,000	\$2,750	\$2,750
17	14	\$143,818	\$773,203	\$917,021	30%	(\$277,021)	\$640,000	\$3,000	\$3,000
18	15	\$146,694	\$788,667	\$935,362	27%	(\$255,362)	\$680,000	\$3,200	\$3,200
19	16	\$149,628	\$804,441	\$954,069	25%	(\$234,069)	\$720,000	\$3,400	\$3,400
20	17	\$152,621	\$820,529	\$973,150	22%	(\$218,150)	\$755,000	\$3,600	\$3,600
21	18	\$155,673	\$836,940	\$992,613	20%	(\$202,613)	\$790,000	\$3,775	\$3,775
22	19	\$158,787	\$853,679	\$1,012,465	17%	(\$172,465)	\$840,000	\$3,950	\$3,950
23	20	\$161,962	\$870,752	\$1,032,715	13%	(\$132,715)	\$900,000	\$4,200	\$4,200
24	21	\$165,202	\$888,167	\$1,053,369	7%	(\$78,369)	\$975,000	\$4,500	\$4,500
25	22	\$168,506	\$905,931	\$1,074,436	-6%	\$65,564	\$1,140,000	\$4,875	\$4,875
TOTAL		\$3,361,978	\$16,316,909	\$19,678,886		(\$6,341,898)	\$13,336,988	\$2,499	\$2,499
(Operating Years)									
						32% of full taxes	68% of full taxes		
								\$533,480 annual avg.	\$533,480 annual avg.
								\$2,667 annual avg. per unit	\$2,667 annual avg. per unit



EXHIBIT 2: 22-YEAR PRO FORMA

		22-YEAR PRO FORMA																					
		2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
Vacancy	4.0%	40%	25%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%
Market Rent	4.0%	4,235,000	4,405,440	4,581,658	4,764,924	4,955,521	5,153,742	5,359,851	5,574,287	5,797,258	6,029,749	6,270,315	6,521,127	6,784,972	7,063,251	7,355,381	7,662,997	7,993,949	8,351,306	8,734,559	9,144,613	9,581,598	9,652,862
Workforce Rents	2.0%	412,824	421,080	429,502	438,092	446,854	455,791	464,907	474,205	483,689	493,363	503,230	513,295	523,561	534,032	544,713	555,607	566,719	578,053	589,614	601,407	613,455	625,703
Other Income	2.0%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Gross Income		4,648,824	4,826,520	5,011,160	5,203,016	5,402,375	5,609,533	5,824,758	6,048,492	6,280,948	6,522,512	6,773,545	7,034,422	7,305,533	7,587,283	7,880,094	8,184,403	8,500,667	8,829,360	9,170,973	9,526,020	9,895,032	10,278,565
Vacancy		(1,859,530)	(1,206,620)	(250,559)	(260,151)	(270,119)	(280,477)	(291,240)	(302,425)	(314,047)	(326,126)	(338,677)	(351,721)	(365,277)	(379,364)	(394,005)	(409,220)	(425,033)	(441,468)	(458,549)	(476,301)	(494,752)	(513,928)
Effective Gross Income		2,789,294	3,619,899	4,760,602	4,942,865	5,132,256	5,329,056	5,533,558	5,746,067	5,966,900	6,196,386	6,434,868	6,682,701	6,940,256	7,207,919	7,485,089	7,775,183	8,075,634	8,387,892	8,712,024	9,049,719	9,400,281	9,764,637
Operating Expenses Excl Taxes	3.0%	(1,376,360)	(1,417,651)	(1,460,180)	(1,503,986)	(1,549,105)	(1,595,578)	(1,643,446)	(1,692,749)	(1,743,532)	(1,795,838)	(1,849,713)	(1,905,204)	(1,962,360)	(2,021,231)	(2,081,868)	(2,144,324)	(2,208,654)	(2,274,913)	(2,343,161)	(2,413,456)	(2,485,859)	(2,560,435)
PILOT		(300,000)	(315,000)	(330,000)	(350,000)	(375,000)	(390,000)	(400,000)	(450,000)	(470,000)	(495,000)	(525,000)	(550,000)	(600,000)	(640,000)	(680,000)	(720,000)	(755,000)	(790,000)	(840,000)	(900,000)	(975,000)	(1,140,000)
Community Hosting Agreement		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net Operating Income		1,112,934	1,887,240	2,970,421	3,088,879	3,208,151	3,343,478	3,470,113	3,603,318	3,753,369	3,905,549	4,080,155	4,277,497	4,377,896	4,566,688	4,774,221	4,910,859	5,111,980	5,320,978	5,529,364	5,736,263	5,939,422	6,064,202
Debt Service		(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)	(2,319,929)
Cash Flow		(1,206,995)	(432,690)	650,492	768,950	888,221	1,023,548	1,150,183	1,283,389	1,433,439	1,585,619	1,740,225	1,907,567	2,057,967	2,226,759	2,404,292	2,590,930	2,792,051	3,003,049	3,209,334	3,416,334	3,619,492	3,744,272
Debt Coverage Ratio		0.48	0.81	1.28	1.33	1.38	1.44	1.50	1.55	1.62	1.68	1.75	1.82	1.89	1.96	2.04	2.12	2.20	2.29	2.38	2.47	2.56	2.61
Cash on Cash Rate of Return		-6.45%	-2.31%	3.47%	4.11%	4.74%	5.47%	6.14%	6.85%	7.56%	8.47%	9.29%	10.15%	10.99%	11.89%	12.84%	13.84%	14.91%	16.04%	17.14%	18.25%	19.33%	20.00%
Yield to Cost		2.6%	3.8%	6.02%	6.68%	6.51%	6.78%	7.04%	7.31%	7.61%	7.92%	8.23%	8.57%	8.88%	9.22%	9.58%	9.96%	10.37%	10.79%	11.21%	11.65%	12.05%	12.30%
Benefit Stream		(518,723,624)	(1,206,995)	(432,690)	650,492	768,950	888,221	1,023,548	1,150,183	1,283,389	1,433,439	1,585,619	1,740,225	1,907,567	2,057,967	2,226,759	2,404,292	2,590,930	2,792,051	3,003,049	3,209,334	3,416,334	3,619,492
Pre-Tax Levered IRR (not factoring redl)	10%																						



STANDARD DISCLOSURE

Standard disclaimer regarding NDC's compliance with Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") and amended Section 15B of the Securities and Exchange Act of 1934 ("Exchange Act"):

The National Development Council is not a Registered Municipal Advisor as defined in Dodd-Frank and the Exchange Act and therefore cannot provide advice to a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including structure, timing, terms, or other similar matters concerning such financial products or issues.

The general information contained in this document is factual in nature and consistent with current market conditions and does not contain or express subjective assumptions, opinions, or views, or constitute a recommendation, either express or implied, upon which a municipal entity or obligated person may rely with respect to municipal products or the issuance of municipal securities.

Economic and Fiscal Impact Analysis dated August 14, 2023 prepared by Camoin Associates

PREPARED FOR:

Town of Hempstead Industrial Development Agency
350 Front Street, Room 234-A
Hempstead, NY 11550

Economic and Fiscal Impact

THE GARDENS AT BUFFALO

Town of Hempstead
Industrial Development Agency

AUGUST 14, 2023

PREPARED BY:



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CAMOIN ASSOCIATES

ABOUT THE STUDY

Camoin Associates was retained by the Town of Hempstead Industrial Development Agency to measure the potential economic and fiscal impacts of a project proposed by The Gardens at Buffalo LLC. The proposed project involves the renovation and construction of 200-total-unit residential apartment buildings at 80 & 84 Albany Ave, Freeport NY 11520 & 17-33 Buffalo Ave, Freeport NY 11520. The goal of this analysis is to provide a complete assessment of the total economic, employment, and tax impact of the project on the Town of Hempstead and Village of Freeport that result from the new household spending and on-site operations.

The primary tool used in this analysis is the input-output model developed by Lightcast. Primary data used in this study was obtained from the developer's application for financial assistance to the Town of Hempstead Industrial Development Agency and included the following data points: on-site jobs, exemptions, and PILOT schedule. Secondary data was collected by Camoin Associates and used to estimate spending by new households.

The economic impacts are presented in four categories: direct impact, indirect impact, induced impact, and total impact. The indirect and induced impacts are commonly referred to as the "multiplier effect." Note that previous impact reports commissioned by the Town of Hempstead Industrial Development Agency were presented in only three categories: direct impact, indirect impact, and total impact. Prior to 2020, Camoin Associates included both the indirect and induced impacts in the "indirect impact" category. Beginning in 2020, the indirect and induced impacts will be reported separately to allow for more accurate interpretation of results.

STUDY INFORMATION

Data Source:

The Gardens at Buffalo LLC
Application for Assistance and the
Town of Hempstead Industrial
Development Agency

Geography:

Town of Hempstead
Village of Freeport

Study Period:

2023

Modeling Tool:

Lightcast

DIRECT IMPACTS

This initial round of impacts is generated as a result of spending on operations and new household spending at town businesses.

INDIRECT IMPACTS

The direct impacts have ripple effects through business-to-business spending. This spending results from the increase in demand for goods and services in industry sectors that supply both the facility and the businesses receiving the new household spending.

INDUCED IMPACTS

Impacts that result from spending by facility employees, employees of town businesses, and employees of suppliers. Earnings of these employees enter the economy as employees spend their paychecks in the town on food, clothing, and other goods and services.

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EXECUTIVE SUMMARY

The Town of Hempstead Industrial Development Agency (the "Agency") received an application for financial assistance from The Gardens at Buffalo, LLC (the "Applicant") for the renovation and construction of three 3-story and two five-story buildings totaling 200-units (the "Project") at 80 & 84 Albany Ave, Freeport, NY 11520 & 17-33 Buffalo Ave, Freeport, NY 11520 (the "Site"). The development will consist of 10 studio units, 100 1-bedroom units, 70 2-bedroom units, and 20 3-bedroom units along with on-site parking. Among the units, at least 10% will be reserved for workforce pursuant to the Long Island Workforce Housing Units. The Applicant is seeking a sales tax exemption, mortgage recording tax exemption, and a 25-year PILOT from the Agency. The Agency commissioned Camoin Associates to conduct an economic and limited fiscal impact analysis of the Project on the Town of Hempstead (the Town) and the Village of Freeport (the Village).

Camoin Associates conducted a market analysis and determined 79% of the market rate units (or 142 units) would be considered as providing "net new" households to the town as they allow households to exist in the town that would otherwise locate elsewhere. Among the workforce units, 100% (or 20 units) would be considered "net new" households. We then computed the total spending associated with these households to derive job creation resulting from the Project. The following is a summary of our findings from this study, with details below and in the following sections.

Table 1

Summary of Benefits to Town

Total Jobs	52
Direct Jobs	37
Total Earnings	\$ 2,900,631
Direct Earnings	\$ 1,908,213
Annual Sales Tax Revenue to County	\$ 91,872
Annual Sales Tax Revenue to Town	\$ 8,106
Average Annual PILOT Payment	\$ 533,479
Average Annual PILOT Payment to Town	\$ 1,487
Average Annual PILOT Benefit	\$ 533,479
Average Annual PILOT Benefit to Town	\$ 1,487
Average Annual Net Benefit to Town	\$ 9,594

Table 2

Summary of Benefits to Village

Total Jobs	20
Direct Jobs	18
Total Earnings	\$ 1,028,090
Direct Earnings	\$ 907,214
Average Annual PILOT Payment	\$ 533,479
Average Annual PILOT Payment to Village	\$ 382,427
Average Annual PILOT Benefit	\$ 533,479
Average Annual PILOT Benefit to Village	\$ 382,427
Average Annual Net Benefit to Village	\$ 382,427

CAMOIN ASSOCIATES

- ♦ The Project supports 52 net new jobs in the town and 20 net new jobs in the village, with over \$2.9 million and \$1.0 million in associated earnings, respectfully. These figures include net new jobs resulting from both maintenance and operation of the facility as well as economic activity that results from new household spending.
- ♦ The Applicant has negotiated terms of a proposed PILOT agreement for a term of 25 years with the Agency, where the Applicant would pay an average of \$533,479 each year, of which \$1,487 are estimated to be allocated to the Town and \$382,427 are estimated to be allocated to the village. All of the pilot payments represent a benefit to the jurisdiction as prior to the project, no taxes were collected on the site.
- ♦ Through negotiations with the Agency the Applicant could have access to a sales tax exemption valued at up to \$1,036,294 and a mortgage recording tax exemption valued at up to \$229,399. However, if we assume that the Project would not occur absent IDA benefits, this is not actually a "cost" to the state and county since no future revenue stream would exist without the exemptions.

Table 3

Summary of Costs to Affected Jurisdictions

	State and County	
Sales Tax Exemption	\$	1,036,294
Mortgage Tax Exemption	\$	229,399

Source: Applicant, Camoin Associates

CAMOIN ASSOCIATES

ECONOMIC IMPACT ANALYSIS

The estimates of direct economic activity generated by facility operation and new resident spending as provided by the Applicant were used as the direct inputs for the economic impact model. Camoin Associates uses the input-output model designed by Lightcast (formerly Emsi) to calculate total economic impacts. Lightcast allows the analyst to input the amount of new direct economic activity (spending or jobs) occurring within the town and uses the direct inputs to estimate the spillover effects that the net new spending or jobs have as these new dollars circulate through the region's economy. This is captured in the indirect and induced impacts and is commonly referred to as the "multiplier effect." See Attachment A for more information on economic impact analysis.

The Project would have economic impacts upon the Town of Hempstead and the Village of Freeport as a result of Project operation, new permanent jobs, and spending by new tenant households.

CONSTRUCTION PHASE IMPACTS

The Applicant estimates that private sector investment in the construction of the Project would cost approximately \$31.2 million¹, of which 70%² is assumed to be sourced from within the town. This means that there will be nearly \$21.8 million in net new spending in the town associated with the construction phase of the Project.

Table 4

Construction Phase Spending - Town

Total Construction Cost	\$ 31,210,825
Percent Sourced from Town	70%
Net New Constuction Spending	\$ 21,847,578

Source: Applicant, Camoin Associates

Based on over \$21.8 million worth of net new direct spending associated with the construction phase of the Project, Camoin Associates determined that there would be over \$27.9 million in total one-time construction related spending supporting 112 total jobs and an associated over \$10.6 million in earnings over the construction period throughout the town. Table 5 outlines the economic impacts of construction.

¹ Includes project costs as provided by the Applicant, excluding acquisition, legal charges, and financial charges.

² According to Lightcast, approximately 70% of construction industry demand is met within the town.

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Table 5

Town Economic Impact - Construction Phase

	Jobs	Earnings	Sales
Direct	83 \$	8,547,056 \$	21,847,578
Indirect	14 \$	1,004,848 \$	3,251,277
Induced	15 \$	1,075,180 \$	2,791,133
Total	112 \$	10,627,084 \$	27,889,988

Source: Lightcast, Camoin Associates

Of the total construction cost, 30%³ is assumed to be sourced from within the village. This means that there will be over \$9.3 million in net new spending in the village associated with the construction phase of the Project.

Table 6

Construction Phase Spending - Village

Total Construction Cost	\$ 31,210,825
Percent Sourced from Village	30%
Net New Constuction Spending	\$ 9,363,248

Source: Applicant, Camoin Associates

Based on over \$9.3 million worth of net new direct spending associated with the construction phase of the Project, Camoin Associates determined that there would be nearly \$9.8 million in total one-time construction related spending supporting 78 jobs and an associated nearly \$3.8 million in earnings over the construction period throughout the village. Table 7 **Error! Reference source not found.** outlines the economic impacts of construction.

Table 7

Village Economic Impact - Construction Phase

	Jobs	Earnings	Sales
Direct	76 \$	3,663,024 \$	9,363,248
Indirect	1 \$	97,475 \$	349,584
Induced	1 \$	48,960 \$	140,254
Total	78 \$	3,809,460 \$	9,853,086

Source: Lightcast, Camoin Associates

³ According to Emsi, approximately 30% of construction industry demand is met within the village.

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IMPACTS OF NEW HOUSEHOLD SPENDING

To determine the annual economic impact of the Project on the town and village, the first step is to calculate the number of households that can be considered "net new" to the economy. In other words, the number of households that, but for the Project, would not exist in the Town of Hempstead. With respect to this Project, net new households consist of those who are able to live in the jurisdictions as a result of the Project and would otherwise choose to live elsewhere. See Attachment B for more information on this methodology.

The Applicant proposes to construct 200 market rate units. Camoin Associates conducted a rental demand analysis for the Project site and found that 81% of the units, or 162 units, are net new to the town (Table). This is based on a review of the data and an understanding of the proposed Project as detailed above.

Table 8

Net New Households

	Total Households	Percent Net New	Net New Households
Market Rate Units	180	79%	142
Workforce Units	20	100%	20
Total	200	81%	162

Source: Esri, Camoin Associates

SPENDING BY NEW TENANTS

These residents make purchases in the town, thereby adding new dollars to the Town of Hempstead's economy. For this analysis, we researched spending patterns by household income to determine the spending by tenants.

The 142 net new market rate units, which are typically affordable to households making at least 150% of the area median income. The Town of Hempstead AMI is \$122,805. Therefore, we will consider spending for tenants to be in the \$150,000 to \$199,999 spending basket, per the Bureau of Labor Statistics' 2020 Consumer Expenditure Survey.

The 20 net new workforce units, which are slated to be affordable to households making at least 130% of the area median income⁴, are considered to be affordable for households in the \$100,000 to \$149,999 spending basket, per the Bureau of Labor Statistics' 2020 Consumer Expenditure Survey.

Using a spending basket for the region which details household spending in individual consumer categories by income level, we analyzed likely tenant spending. According to the 2020 Consumer Expenditure Survey, households in workforce units have annual expenditures (excluding housing and utility costs) of \$44,188. While households in the market rate units have annual expenditures (excluding housing and utility costs) of \$49,665.

It is assumed that 60%⁵ of total expenditures would occur within the Town of Hempstead and, therefore, have an impact on the town's economy and that 25% of expenditures would occur within the village⁶. The total net new spending columns show the total amount spent in the town and village, based on the number of net new units.

⁴ In Compliance with the Long Island Workforce Housing Act

⁵ According to Lightcast, 60% of demand for industries in a typical household spending basket is met within the Town of Hempstead.

⁶ According to Lightcast, 25% of demand for industries in a typical household spending basket is met within the Village of Freeport.

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Table 9

Tenant Town Spending Basket

Category	Workforce Units \$100,000 to \$149,999 Annual Household Income			Total Net New Town Spending (20 net new units)
	Annual per Unit Spending Basket	Amount Spent in Town (60%)		
Food	\$ 9,901	\$ 5,941	\$	118,812
Household furnishings and equipment	\$ 2,909	\$ 1,745	\$	34,908
Apparel and services	\$ 2,037	\$ 1,222	\$	24,444
Transportation	\$ 14,888	\$ 8,933	\$	178,656
Health care	\$ 6,508	\$ 3,905	\$	78,096
Entertainment	\$ 4,331	\$ 2,599	\$	51,972
Personal care products and services	\$ 934	\$ 560	\$	11,208
Education	\$ 1,494	\$ 896	\$	17,928
Miscellaneous	\$ 1,186	\$ 712	\$	14,232
Subtotal	\$ 44,188	\$ 26,513	\$	530,256
Category	Market Rate Units \$150,000 to \$199,999 Annual Household Income			Total Net New Town Spending (142 net new units)
	Annual per Unit Spending Basket	Amount Spent in Town (60%)		
Food	\$ 11,002	\$ 6,601	\$	937,370
Household furnishings and equipment	\$ 4,042	\$ 2,425	\$	344,378
Apparel and services	\$ 2,276	\$ 1,366	\$	193,915
Transportation	\$ 14,404	\$ 8,642	\$	1,227,221
Health care	\$ 7,662	\$ 4,597	\$	652,802
Entertainment	\$ 5,236	\$ 3,142	\$	446,107
Personal care products and services	\$ 961	\$ 577	\$	81,877
Education	\$ 2,426	\$ 1,456	\$	206,695
Miscellaneous	\$ 1,656	\$ 994	\$	141,091
Subtotal	\$ 49,665	\$ 29,799	\$	4,231,458
Total Tenant Spending			\$	4,761,714

Source: 2020 Consumer Expenditure Survey, Bureau of Labor Statistics

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Table 10

Tenant Village Spending Basket

Category	Workforce Units \$100,000 to \$149,999 Annual Household Income			Total Net New Village Spending (20 net new units)
	Annual per Unit Spending Basket	Amount Spent In Village (25%)		
Food	\$ 9,901	\$ 2,475	\$	49,505
Household furnishings and equipment	\$ 2,909	\$ 727	\$	14,545
Apparel and services	\$ 2,037	\$ 509	\$	10,185
Transportation	\$ 14,888	\$ 3,722	\$	74,440
Health care	\$ 6,508	\$ 1,627	\$	32,540
Entertainment	\$ 4,331	\$ 1,083	\$	21,655
Personal care products and services	\$ 934	\$ 234	\$	4,670
Education	\$ 1,494	\$ 374	\$	7,470
Miscellaneous	\$ 1,186	\$ 297	\$	5,930
Subtotal	\$ 44,188	\$ 11,047	\$	220,940
Category	Market Rate Units \$150,000 to \$199,999 Annual Household Income			Total Net New Village Spending (142 net new units)
	Annual per Unit Spending Basket	Amount Spent In Village (25%)		
Food	\$ 11,002	\$ 2,751	\$	390,571
Household furnishings and equipment	\$ 4,042	\$ 1,011	\$	143,491
Apparel and services	\$ 2,276	\$ 569	\$	80,798
Transportation	\$ 14,404	\$ 3,601	\$	511,342
Health care	\$ 7,662	\$ 1,916	\$	272,001
Entertainment	\$ 5,236	\$ 1,309	\$	185,878
Personal care products and services	\$ 961	\$ 240	\$	34,116
Education	\$ 2,426	\$ 607	\$	86,123
Miscellaneous	\$ 1,656	\$ 414	\$	58,788
Subtotal	\$ 49,665	\$ 12,416	\$	1,763,108
Total Tenant Spending			\$	1,984,048

Source: 2020 Consumer Expenditure Survey, Bureau of Labor Statistics

The total net new spending in the town and the village was calculated by multiplying the amount spent in each region by the number of net new units. As shown in the table above, spending in the town by all new households would total nearly \$4.7 million per year of which \$1.9 million would occur within the village. We used the above spending basket amounts to calculate the direct, indirect, and total impact of the Project on the town and the village.

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Using \$4.7 million as the new sales input, Camoin Associates employed Lightcast to determine the indirect, induced, and total impact of the Project on the Town of Hempstead.⁷ Table 11 outlines the findings of this analysis.

Table 11

Town Economic Impact - Household Spending

	Jobs	Earnings	Sales
Direct	33 \$	1,696,161 \$	4,761,714
Indirect	7 \$	417,316 \$	1,152,000
Induced	5 \$	419,239 \$	1,077,283
Total	45 \$	2,532,716 \$	6,990,996

Source: Lightcast, Camoin Associates

The following table outlines the impact of the Project on the Village of Freeport using the \$1.9 million as the new sales input.

Table 12

Village Economic Impact - Household Spending

	Jobs	Earnings	Sales
Direct	14 \$	706,734 \$	1,984,048
Indirect	1 \$	31,909 \$	84,348
Induced	0 \$	49,239 \$	159,317
Total	15 \$	787,883 \$	2,227,714

Source: Lightcast, Camoin Associates

IMPACTS OF ON-SITE EMPLOYMENT

The Applicant anticipates that 5 total jobs will be on-site within two years following Project completion. Since 81% of the housing units are considered net new to the town, 81% of the jobs are considered to be net new. The table below detail the impact that these 4 net new jobs will have on the Town of Hempstead (Table 13).

Table 13

Town Economic Impact - On-Site Operations

	Jobs	Earnings	Sales
Direct	4 \$	212,052 \$	724,560
Indirect	2 \$	109,683 \$	316,786
Induced	1 \$	46,179 \$	119,210
Total	7 \$	367,915 \$	1,160,557

Source: Lightcast, Camoin Associates

⁷ Analysis uses the 34 zip codes that are predominantly located within the Town of Hempstead (see Attachment C).

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The following table shows the impact on the village from the four on-site jobs.

Table 14

Village Economic Impact - On-Site Operations

	Jobs	Earnings	Sales
Direct	4 \$	200,479 \$	685,017
Indirect	1 \$	32,702 \$	83,837
Induced	0 \$	7,027 \$	22,399
Total	5 \$	240,208 \$	791,253

Source: Lightcast, Camoin Associates

TOTAL ANNUAL ECONOMIC IMPACT

The complete economic impact of both new household spending as well as on-site operation and maintenance of the Project on the Town of Hempstead in Table.

Table 15

Town Total Annual Economic Impact

	Jobs	Earnings	Sales
Direct	37 \$	1,908,213 \$	5,486,274
Indirect	9 \$	526,999 \$	1,468,785
Induced	5 \$	465,419 \$	1,196,493
Total	52 \$	2,900,631 \$	8,151,553

Source: Lightcast, Camoin Associates

Table 16 shows the complete annual economic impact of the Project on the Village of Freeport.

Table 16

Village Total Annual Economic Impact

	Jobs	Earnings	Sales
Direct	18 \$	907,214 \$	2,669,065
Indirect	2 \$	64,611 \$	168,185
Induced	0 \$	56,266 \$	181,716
Total	20 \$	1,028,090 \$	3,018,966

Source: Lightcast, Camoin Associates

Note that town impacts are inclusive of village impacts. Town and village impacts should not be added together.

CAMOIN ASSOCIATES

FISCAL IMPACT ANALYSIS

In addition to the economic impact of the Project on the local economies (outlined above), there would also be a fiscal impact in terms of annual property tax and sales tax generation. The following section of the analysis outlines the impact of the completion of the Project on the local taxing jurisdictions in terms of the cost and/or benefit to municipal budgets.

PAYMENT IN LIEU OF TAXES (PILOT)

The Applicant has applied to the Agency for a Payment In Lieu of Taxes (PILOT) agreement. The Applicant has proposed a PILOT (25 years) payment schedule based on the current tax rate, taxable value, and assessed value of the Project. Based on the terms of the PILOT as proposed, Camoin Associates calculated the potential impact on the Town of Hempstead and other applicable jurisdictions.⁸

Table 17

Tax Payments with PILOT

Year	Total		Portion of Payment by Jurisdiction			
	PILOT	Payments	Town	County	School District	Village
1	\$	108,996	\$ 304	\$ 912	\$ 29,646	\$ 78,134
2	\$	108,996	\$ 304	\$ 912	\$ 29,646	\$ 78,134
3	\$	108,996	\$ 304	\$ 912	\$ 29,646	\$ 78,134
4	\$	300,000	\$ 836	\$ 2,509	\$ 81,598	\$ 215,056
5	\$	315,000	\$ 878	\$ 2,635	\$ 85,678	\$ 225,809
6	\$	330,000	\$ 920	\$ 2,760	\$ 89,758	\$ 236,562
7	\$	350,000	\$ 976	\$ 2,927	\$ 95,198	\$ 250,899
8	\$	375,000	\$ 1,045	\$ 3,136	\$ 101,998	\$ 268,820
9	\$	390,000	\$ 1,087	\$ 3,262	\$ 106,078	\$ 279,573
10	\$	420,000	\$ 1,171	\$ 3,513	\$ 114,237	\$ 301,079
11	\$	450,000	\$ 1,255	\$ 3,764	\$ 122,397	\$ 322,584
12	\$	470,000	\$ 1,310	\$ 3,931	\$ 127,837	\$ 336,922
13	\$	495,000	\$ 1,380	\$ 4,140	\$ 134,637	\$ 354,843
14	\$	525,000	\$ 1,464	\$ 4,391	\$ 142,797	\$ 376,349
15	\$	550,000	\$ 1,533	\$ 4,600	\$ 149,597	\$ 394,270
16	\$	600,000	\$ 1,673	\$ 5,018	\$ 163,196	\$ 430,113
17	\$	640,000	\$ 1,784	\$ 5,353	\$ 174,076	\$ 458,787
18	\$	680,000	\$ 1,896	\$ 5,687	\$ 184,956	\$ 487,461
19	\$	720,000	\$ 2,007	\$ 6,022	\$ 195,836	\$ 516,135
20	\$	755,000	\$ 2,105	\$ 6,315	\$ 205,355	\$ 541,225
21	\$	790,000	\$ 2,202	\$ 6,607	\$ 214,875	\$ 566,315
22	\$	840,000	\$ 2,342	\$ 7,026	\$ 228,475	\$ 602,158
23	\$	900,000	\$ 2,509	\$ 7,527	\$ 244,794	\$ 645,169
24	\$	975,000	\$ 2,718	\$ 8,155	\$ 265,194	\$ 698,933
25	\$	1,140,000	\$ 3,178	\$ 9,535	\$ 310,073	\$ 817,214
Total	\$	13,336,987	\$ 37,183	\$ 111,549	\$ 3,627,578	\$ 9,560,677
Average	\$	533,479	\$ 1,487	\$ 4,462	\$ 145,103	\$ 382,427

Source: Town of Hempstead IDA, Camoin Associates

⁸ It is assumed that the jurisdictions will continue to receive the same portion of the PILOT payments as they do from the property's full tax bill.

CAMOIN ASSOCIATES

TAX POLICY COMPARISON

Without the Agency's preliminary inducement to provide financial assistance, Camoin Associates assumes the Applicant would not have acquired the Property and would not undertake the Project. Prior to the inducement the site was owned by the Village of Freeport and no taxes were collected at the site meaning any taxes collected through the pilot represent a new benefit to the jurisdiction.

Table 28 calculates the benefit to the affected taxing jurisdictions as the difference between the PILOT payments associated with the Project and the lack of property tax payments without the Project. The total benefit would be \$13.3 million over the 25-year period.

Table 28

Tax Policy Comparison (All Jurisdictions)

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ -	\$ 108,996	\$ 108,996
2	\$ -	\$ 108,996	\$ 108,996
3	\$ -	\$ 108,996	\$ 108,996
4	\$ -	\$ 300,000	\$ 300,000
5	\$ -	\$ 315,000	\$ 315,000
6	\$ -	\$ 330,000	\$ 330,000
7	\$ -	\$ 350,000	\$ 350,000
8	\$ -	\$ 375,000	\$ 375,000
9	\$ -	\$ 390,000	\$ 390,000
10	\$ -	\$ 420,000	\$ 420,000
11	\$ -	\$ 450,000	\$ 450,000
12	\$ -	\$ 470,000	\$ 470,000
13	\$ -	\$ 495,000	\$ 495,000
14	\$ -	\$ 525,000	\$ 525,000
15	\$ -	\$ 550,000	\$ 550,000
16	\$ -	\$ 600,000	\$ 600,000
17	\$ -	\$ 640,000	\$ 640,000
18	\$ -	\$ 680,000	\$ 680,000
19	\$ -	\$ 720,000	\$ 720,000
20	\$ -	\$ 755,000	\$ 755,000
21	\$ -	\$ 790,000	\$ 790,000
22	\$ -	\$ 840,000	\$ 840,000
23	\$ -	\$ 900,000	\$ 900,000
24	\$ -	\$ 975,000	\$ 975,000
25	\$ -	\$ 1,140,000	\$ 1,140,000
Total	\$ -	\$ 13,336,987	\$ 13,336,987
Average	\$ -	\$ 533,479	\$ 533,479

Source: Town of Hempstead IDA, Camoin Associates

CAMOIN ASSOCIATES

TOWN

Table 39 calculates the benefit to the Town. The Town would receive approximately \$1,487 more in PILOT revenue annually than it would without the Project. The total benefit to the Town would be over \$37,183 over the 25-year period.

Table 39

Tax Policy Comparison for Town

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ -	\$ 304	\$ 304
2	\$ -	\$ 304	\$ 304
3	\$ -	\$ 304	\$ 304
4	\$ -	\$ 836	\$ 836
5	\$ -	\$ 878	\$ 878
6	\$ -	\$ 920	\$ 920
7	\$ -	\$ 976	\$ 976
8	\$ -	\$ 1,045	\$ 1,045
9	\$ -	\$ 1,087	\$ 1,087
10	\$ -	\$ 1,171	\$ 1,171
11	\$ -	\$ 1,255	\$ 1,255
12	\$ -	\$ 1,310	\$ 1,310
13	\$ -	\$ 1,380	\$ 1,380
14	\$ -	\$ 1,464	\$ 1,464
15	\$ -	\$ 1,533	\$ 1,533
16	\$ -	\$ 1,673	\$ 1,673
17	\$ -	\$ 1,784	\$ 1,784
18	\$ -	\$ 1,896	\$ 1,896
19	\$ -	\$ 2,007	\$ 2,007
20	\$ -	\$ 2,105	\$ 2,105
21	\$ -	\$ 2,202	\$ 2,202
22	\$ -	\$ 2,342	\$ 2,342
23	\$ -	\$ 2,509	\$ 2,509
24	\$ -	\$ 2,718	\$ 2,718
25	\$ -	\$ 3,178	\$ 3,178
Total	\$ -	\$ 37,183	\$ 37,183
Average	\$ -	\$ 1,487	\$ 1,487

Source: Town of Hempstead IDA, Camoin Associates

CAMOIN ASSOCIATES

COUNTY

Table 320 calculates the benefit to the County. The County would receive approximately \$4,462 more in PILOT revenue annually than it would without the Project. The total benefit to the County would be over \$111,549 over the 25-year period.

Table 20

Tax Policy Comparison for County

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ -	\$ 912	\$ 912
2	\$ -	\$ 912	\$ 912
3	\$ -	\$ 912	\$ 912
4	\$ -	\$ 2,509	\$ 2,509
5	\$ -	\$ 2,635	\$ 2,635
6	\$ -	\$ 2,760	\$ 2,760
7	\$ -	\$ 2,927	\$ 2,927
8	\$ -	\$ 3,136	\$ 3,136
9	\$ -	\$ 3,262	\$ 3,262
10	\$ -	\$ 3,513	\$ 3,513
11	\$ -	\$ 3,764	\$ 3,764
12	\$ -	\$ 3,931	\$ 3,931
13	\$ -	\$ 4,140	\$ 4,140
14	\$ -	\$ 4,391	\$ 4,391
15	\$ -	\$ 4,600	\$ 4,600
16	\$ -	\$ 5,018	\$ 5,018
17	\$ -	\$ 5,353	\$ 5,353
18	\$ -	\$ 5,687	\$ 5,687
19	\$ -	\$ 6,022	\$ 6,022
20	\$ -	\$ 6,315	\$ 6,315
21	\$ -	\$ 6,607	\$ 6,607
22	\$ -	\$ 7,026	\$ 7,026
23	\$ -	\$ 7,527	\$ 7,527
24	\$ -	\$ 8,155	\$ 8,155
25	\$ -	\$ 9,535	\$ 9,535
Total	\$ -	\$ 111,549	\$ 111,549
Average	\$ -	\$ 4,462	\$ 4,462

Source: Town of Hempstead IDA, Camoin Associates

CAMOIN ASSOCIATES

SCHOOL DISTRICT

Table 321 calculates the benefit to the School District. The School District would receive approximately \$145,103 more in PILOT revenue annually than it would without the Project. The total benefit to the School District would be over \$3.6 million over the 25-year period.

Table 21

Tax Policy Comparison for School District

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ -	\$ 29,646	\$ 29,646
2	\$ -	\$ 29,646	\$ 29,646
3	\$ -	\$ 29,646	\$ 29,646
4	\$ -	\$ 81,598	\$ 81,598
5	\$ -	\$ 85,678	\$ 85,678
6	\$ -	\$ 89,758	\$ 89,758
7	\$ -	\$ 95,198	\$ 95,198
8	\$ -	\$ 101,998	\$ 101,998
9	\$ -	\$ 106,078	\$ 106,078
10	\$ -	\$ 114,237	\$ 114,237
11	\$ -	\$ 122,397	\$ 122,397
12	\$ -	\$ 127,837	\$ 127,837
13	\$ -	\$ 134,637	\$ 134,637
14	\$ -	\$ 142,797	\$ 142,797
15	\$ -	\$ 149,597	\$ 149,597
16	\$ -	\$ 163,196	\$ 163,196
17	\$ -	\$ 174,076	\$ 174,076
18	\$ -	\$ 184,956	\$ 184,956
19	\$ -	\$ 195,836	\$ 195,836
20	\$ -	\$ 205,355	\$ 205,355
21	\$ -	\$ 214,875	\$ 214,875
22	\$ -	\$ 228,475	\$ 228,475
23	\$ -	\$ 244,794	\$ 244,794
24	\$ -	\$ 265,194	\$ 265,194
25	\$ -	\$ 310,073	\$ 310,073
Total	\$ -	\$ 3,627,578	\$ 3,627,578
Average	\$ -	\$ 145,103	\$ 145,103

Source: Town of Hempstead IDA, Camoin Associates

CAMOIN ASSOCIATES

VILLAGE

Table 322 calculates the benefit to the Village. The Village would receive approximately \$382,427 more in PILOT revenue annually than it would without the Project. The total benefit to the Village would be over \$9.5 million over the 25-year period.

Table 22

Tax Policy Comparison for Village

Year	Property Tax Payment Without Project	PILOT Payment	Benefit (Cost) of Project
1	\$ -	\$ 78,134	\$ 78,134
2	\$ -	\$ 78,134	\$ 78,134
3	\$ -	\$ 78,134	\$ 78,134
4	\$ -	\$ 215,056	\$ 215,056
5	\$ -	\$ 225,809	\$ 225,809
6	\$ -	\$ 236,562	\$ 236,562
7	\$ -	\$ 250,899	\$ 250,899
8	\$ -	\$ 268,820	\$ 268,820
9	\$ -	\$ 279,573	\$ 279,573
10	\$ -	\$ 301,079	\$ 301,079
11	\$ -	\$ 322,584	\$ 322,584
12	\$ -	\$ 336,922	\$ 336,922
13	\$ -	\$ 354,843	\$ 354,843
14	\$ -	\$ 376,349	\$ 376,349
15	\$ -	\$ 394,270	\$ 394,270
16	\$ -	\$ 430,113	\$ 430,113
17	\$ -	\$ 458,787	\$ 458,787
18	\$ -	\$ 487,461	\$ 487,461
19	\$ -	\$ 516,135	\$ 516,135
20	\$ -	\$ 541,225	\$ 541,225
21	\$ -	\$ 566,315	\$ 566,315
22	\$ -	\$ 602,158	\$ 602,158
23	\$ -	\$ 645,169	\$ 645,169
24	\$ -	\$ 698,933	\$ 698,933
25	\$ -	\$ 817,214	\$ 817,214
Total	\$ -	\$ 9,560,677	\$ 9,560,677
Average	\$ -	\$ 382,427	\$ 382,427

Source: Town of Hempstead IDA, Camoin Associates

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OTHER EXEMPTIONS

There are additional benefits to working with the Agency including a one-time sales tax exemption on renovation materials and furniture, fixtures, and equipment as well as a mortgage recording tax exemption. Tax exemptions are for the state and county taxes and are not applicable to the town.

Table 23

Summary of Costs to Affected Jurisdictions

	State and County	
Sales Tax Exemption	\$	1,036,294
Mortgage Tax Exemption	\$	229,399

Source: Applicant, Camoin Associates

The additional incentives offered by the Agency will benefit the Applicant but will not negatively affect the taxing jurisdictions because, without the Project, the Town by definition would not be receiving any associated sales tax or mortgage tax revenue.

SALES TAX REVENUE**SALES TAX REVENUE – CONSTRUCTION PHASE**

The one-time construction phase earnings described by the total economic impact of the construction work (described in the above section) would lead to additional sales tax revenue for the Town. It is assumed that 70%⁹ of the construction phase earnings would be spent within the county and that 25% of those purchases would be taxable.

Table 24

One-Time Sales Tax Revenue, Construction Phase

Total New Earnings	\$	10,627,084
Amount Spent in County (70%)	\$	7,438,959
Amount Taxable (25%)	\$	1,859,740
Nassau County Sales Tax Revenue (4.25%)	\$	79,039
New Town Sales Tax Revenue Portion*		0.375%
New Town Sales Tax Revenue	\$	6,974

Source: Town of Hempstead IDA, Camoin Associates

***Note:** Nassau County's sales tax rate is 4.25%, of which 0.75% is allocated to the towns and cities within the county. For this analysis we assume half of the 0.75% is allocated to the Town of Hempstead.

⁹ According to Lightcast, 70% demand for industries in a typical household spending basket is met within Nassau County.

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SALES TAX REVENUE – NEW HOUSEHOLD SPENDING

As a result of the Project, the Town would receive sales tax revenue from the purchases made by the households. Table 25 displays the new sales tax revenue that the Town of Hempstead would receive annually based on in-town spending by new households.

Table 25

Annual Sales Tax Revenue, Household Spending

Total New Spending	\$ 6,990,996
Amount Taxable (30%)	\$ 2,097,299
Nassau County Sales Tax Revenue (4.25%)	\$ 89,135
New Town Sales Tax Revenue Portion*	0.375%
New Town Tax Revenue	\$ 7,865

Source: Town of Hempstead IDA, Camoin Associates

***Note:** Nassau County's sales tax rate is 4.25%, of which 0.75% is allocated to the towns and cities within the county. For this analysis we assume half of the 0.75% is allocated to the Town of Hempstead.

Note that the household spending figure has already been adjusted to account for 60% of total spending occurring within the town (see table entitled "Tenant Spending Baskets"). It is assumed that 30% of purchases will be taxable, based on the spending baskets of tenants and the understanding that certain non-taxable items (related to housing expenses) have been removed from the total spending line, this increasing the remaining portion taxable.

SALES TAX REVENUE – EMPLOYEE EARNINGS

The earnings generated by on-site jobs that will occur as a result of building operation at the Project (described under Impacts of On-Site Employment) would lead to additional annual sales tax revenue for the town. It is assumed that 70% of the earnings would be spent within Nassau County and that 25% of those purchases will be taxable. Table 46 displays the annual tax revenue that the Town will receive.

Table 46

Annual Sales Tax Revenue, On-Site Operations

Total New Earnings	\$ 367,915
Amount Spent in County (70%)	\$ 257,541
Amount Taxable (25%)	\$ 64,385
Nassau County Sales Tax Revenue (4.25%)	\$ 2,736
New Town Sales Tax Revenue Portion*	0.375%
New Town Tax Revenue	\$ 241

Source: Town of Hempstead IDA, Camoin Associates

***Note:** Nassau County's sales tax rate is 4.25%, of which 0.75% is allocated to the towns and cities within the county. For this analysis we assume half of the 0.75% is allocated to the Town of Hempstead.

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TOTAL ANNUAL SALES TAX REVENUE

The total annual sales tax revenue that the Town will receive is summarized in Table 57.

*Table 57***Total Annual Sales Tax Revenue**

Household Spending	\$	7,865
On-Site Operations	\$	241
New Town Tax Revenue	\$	8,106

Source: Town of Hempstead IDA, Camoin Associates

ATTACHMENT A: WHAT IS ECONOMIC IMPACT ANALYSIS?

The purpose of conducting an economic impact study is to ascertain the total cumulative changes in employment, earnings and output in a given economy due to some initial "change in final demand". To understand the meaning of "change in final demand", consider the installation of a new widget manufacturer in Anytown, USA. The widget manufacturer sells \$1 million worth of its widgets per year exclusively to consumers in Canada. Therefore, the annual change in final demand in the United States is \$1 million because dollars are flowing in from outside the United States and are therefore "new" dollars in the economy.

This change in final demand translates into the first round of buying and selling that occurs in an economy. For example, the widget manufacturer must buy its inputs of production (electricity, steel, etc.), must lease or purchase property and pay its workers. This first round is commonly referred to as the "Direct Effects" of the change in final demand and is the basis of additional rounds of buying and selling described below.

To continue this example, the widget manufacturer's vendors (the supplier of electricity and the supplier of steel) will enjoy additional output (i.e. sales) that will sustain their businesses and cause them to make additional purchases in the economy. The steel producer will need more pig iron and the electric company will purchase additional power from generation entities. In this second round, some of those additional purchases will be made in the US economy and some will "leak out". What remains will cause a third round (with leakage) and a fourth (and so on) in ever-diminishing rounds of industry-to-industry purchases. Finally, the widget manufacturer has employees who will naturally spend their wages. Again, those wages spent will either be for local goods and services or will "leak" out of the economy. The purchases of local goods and services will then stimulate other local economic activity. Together, these effects are referred to as the "Indirect Effects" of the change in final demand.

Therefore, the total economic impact resulting from the new widget manufacturer is the initial \$1 million of new money (i.e. Direct Effects) flowing in the US economy, plus the Indirect Effects. The ratio of Total Effects to Direct Effects is called the "multiplier effect" and is often reported as a dollar-of-impact per dollar-of-change. Therefore, a multiplier of 2.4 means that for every dollar (\$1) of change in final demand, an additional \$1.40 of indirect economic activity occurs for a total of \$2.40.

Key information for the reader to retain is that this type of analysis requires rigorous and careful consideration of the geography selected (i.e. how the "local economy" is defined) and the implications of the geography on the computation of the change in final demand. If this analysis wanted to consider the impact of the widget manufacturer on the entire North American continent, it would have to conclude that the change in final demand is zero and therefore the economic impact is zero. This is because the \$1 million of widgets being purchased by Canadians is not causing total North American demand to increase by \$1 million. Presumably, those Canadian purchasers will have \$1 million less to spend on other items and the effects of additional widget production will be cancelled out by a commensurate reduction in the purchases of other goods and services.

Changes in final demand, and therefore Direct Effects, can occur in a number of circumstances. The above example is easiest to understand: the effect of a manufacturer producing locally but selling globally. If, however, 100% of domestic demand for a good is being met by foreign suppliers (say, DVD players being imported into the US from Korea and Japan), locating a manufacturer of DVD players in the US will cause a change in final demand because all of those dollars currently leaving the US economy will instead remain. A situation can be envisioned whereby a producer is serving both local and foreign demand, and an impact analysis would have to be careful in calculating how many "new" dollars the producer would be causing to occur domestically.

ATTACHMENT B: CALCULATING NET NEW HOUSEHOLDS

"Net new" households that move into a geography because of the availability of desired housing contribute to that geography's economy in measurable ways. Estimating the number of net new households, the households that would not otherwise live in the geography, is therefore a critical task for an economic and fiscal impact analysis for a project that includes housing.

Our housing market research indicates that housing is heavily affected by demand, with households in different demographic groups seeking diverse housing price points and amenities. Our estimates of net new households take into consideration demographic and economic differences among renters, and price points among units offered, identifying the existence and size of a housing gap (where more units are demanded than are available) or surplus (where there is oversupply) in the market segment to be served by the proposed project. Generally, where there is a significant housing gap outside the geography but within a reasonable distance for relocation, a project will draw a larger proportion of net new households into that geography. Each project may therefore have a different expectation for net new households, depending on price point, age restriction if any, and location.

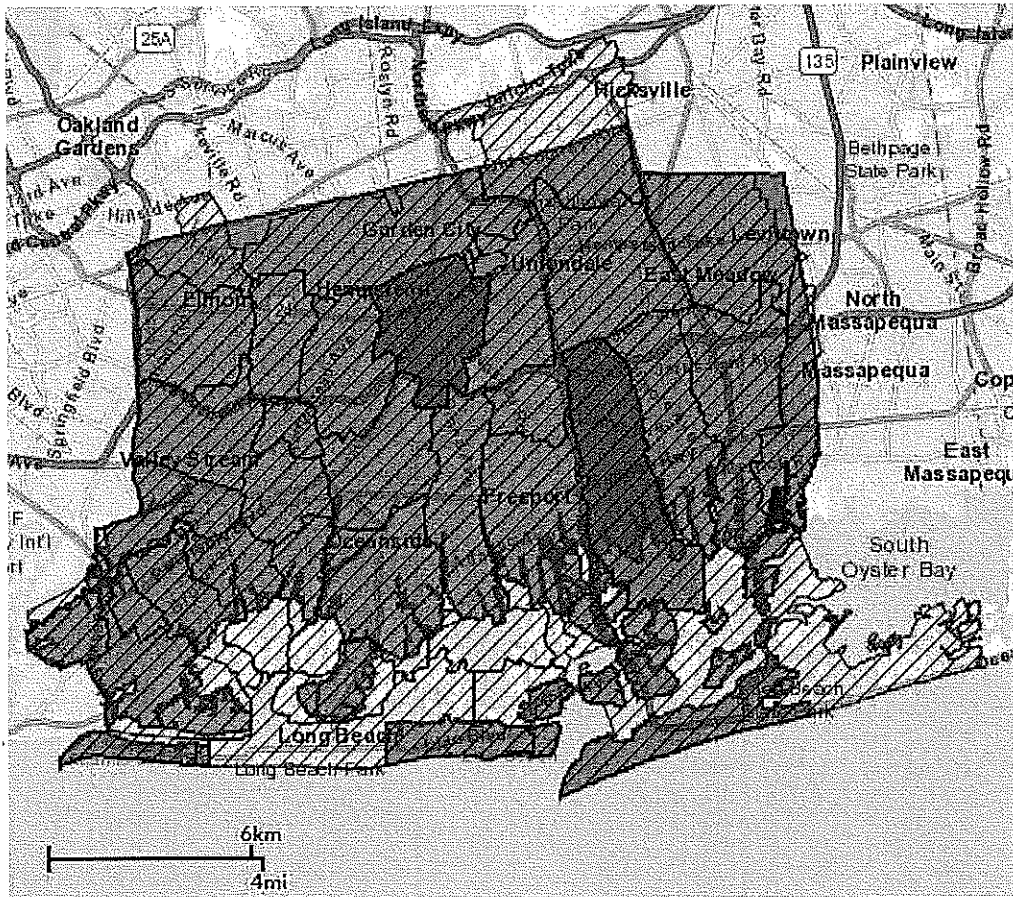
The following steps outline our process for calculating net new households. All data is drawn from Esri Business Analyst.

1. Identify where households are likely to come from. We expect that renters for a new project would consider housing within a reasonable driving time from their current location, creating a "renter-shed" for a new project. Households that are within the drive time but outside of the study area are net new.
2. Identify the existing rental housing supply at different price points. Using data from Esri, we identify rental housing units in the study area by price point and calculate the minimum household income expected to be necessary to afford rent by price range.
3. Identify the number of households at different income levels. We analyze households by income group and rental behavior to estimate an "implied number renting" for different income groups.
4. Calculate net housing surplus or gap by price point. Rental housing supply and rental housing demand is compared to calculate a "net gap," indicating excess demand for the project, or a "net surplus." To estimate net new households for a project, the net gap in the study area is compared to the net gap in the drive time.

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ATTACHMENT C: STUDY AREAS

Town of Hempstead (Green) and Zip Code Region (Red outline with dashes)



CAMOIN ASSOCIATES

ABOUT CAMOIN ASSOCIATES

Camoin Associates has provided economic development consulting services to municipalities, economic development agencies, and private enterprises since 1999. Through the services offered, Camoin Associates has had the opportunity to serve EDOs and local and state governments from Maine to California; corporations and organizations that include Lowes Home Improvement, FedEx, Amazon, Volvo (Nova Bus) and the New York Islanders; as well as private developers proposing projects in excess of \$6 billion. Our reputation for detailed, place-specific, and accurate analysis has led to projects in 43 states and garnered attention from national media outlets including Marketplace (NPR), Crain's New York Business, Forbes magazine, The New York Times, and The Wall Street Journal. Additionally, our marketing strategies have helped our clients gain both national and local media coverage for their projects in order to build public support and leverage additional funding. We are based in Saratoga Springs, NY, with regional offices in Portland, ME; Boston, MA; Richmond, VA and Brattleboro, VT. To learn more about our experience and projects in all of our service lines, please visit our website at www.camoinassociates.com. You can also find us on Twitter [@camoinassociate](https://twitter.com/camoinassociate) and on [Facebook](https://www.facebook.com/camoinassociates).

THE PROJECT TEAM

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New York Law Journal Article, dated March 22, 2017 on Eligibility of Residential Developments for IDA Benefits by Anthony Guardino, Esq



Eligibility of Residential Developments for IDA Benefits

March 22, 2017

A court decision upholds what has long been understood to be the rule: Residential developments are eligible to receive IDA benefits.

It has been nearly 50 years since the New York State Legislature enacted legislation authorizing industrial development agencies ("IDAs") for the purpose of promoting economic development. Now, towns, cities, and counties throughout the state have created their own IDAs under General Municipal Law ("GML") Article 18-A (the "IDA Act") and use them to encourage – and to financially assist – a wide variety of real estate developments, often to great success.

In many instances, however, an IDA's efforts are met with objections, both in and out of court. Recently, for example, tax benefits afforded by a town's IDA to the Green Acres Mall on Long Island aroused community criticism, and led New York State Comptroller Thomas P. DiNapoli to announce that he would audit the IDA to determine its compliance with policies and procedures related to its approval of the project.

There also continue to be disputes over the scope of projects that may receive IDA benefits. Last August, the Supreme Court, Seneca County, rejected a challenge to a decision by the Seneca County IDA to provide tax benefits for a casino being built in the county. *Nearpass v. Seneca County Industrial Development Agency*, 53 Misc. 3d 737 (Sup.Ct.

Seneca Co. 2016). The petitioners argued that the casino was not a project defined in the IDA Act and, therefore, that it was ineligible for IDA benefits. They pointed out, among other things, that when the IDA Act first was enacted, casinos were prohibited in New York, and after casinos were allowed by amendment to the New York Constitution, the IDA Act was not amended to include casinos as a project entitled to IDA benefits.

The court was not persuaded and decided, instead, that the casino facility was a commercial project under the IDA Act and, in particular, that it also was a recreation facility within the purview of GML Section 854(9).

Perhaps more surprising than a dispute over the eligibility of a casino to receive IDA benefits was a recent court case that asked whether a residential development could qualify for IDA benefits – an issue of statewide significance. In *Matter of Ryan v. Town of Hempstead Industrial Development Agency*, Index No. 5324/16 (Sup.Ct. Nassau Co. Jan. 27, 2017), the Supreme Court, Nassau County, held that a residential apartment building project fell within the definition of a project for which IDA benefits may be granted.

After first providing background on the IDA Act, this column will discuss the court's decision in *Matter of Ryan* and its implications.

The IDA Act

When the legislation governing the governing the creation, organization, and powers of IDAs in New York State was enacted in 1969, it provided that its general purpose was "to promote the economic welfare of [the state's] inhabitants and to actively promote, attract, encourage and develop economically sound commerce and industry through governmental action for the purpose of preventing

unemployment and economic deterioration." This intent was further evidenced by the original provision of GML Section 858, which provided that:

The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the state of New York and to improve their standard of living.

In approving the bill, then-Governor Nelson Rockefeller noted that "industrial development agencies provide one means for communities to attract new industry, encourage plant modernization and create new job opportunities." McKinney's 1969 Session Laws, Vol. 2, p. 2572.

The original legislation has been amended a number of times since 1969 to broaden the scope of permissible IDA activities. For example, the definition of project was expanded to specifically include construction of industrial pollution control facilities (L 1971, ch 978), winter recreation facilities and then recreation facilities generally (L 1974, ch 954; L 1977, ch 630), horse racing facilities (L 1977, ch 267), railroad facilities (L 1980, ch 803) and educational or cultural facilities (L 1982, ch 541).

As noted above, however, it has not been amended to specifically include casinos. And it also does not specifically include residential developments.

In 1985, however, the New York State Comptroller's Office was asked by the village attorney for the village of Port Chester whether construction of an apartment complex was a commercial purpose within the meaning of GML Section 854(4) and, thereby, whether it was a proper project for

industrial development bond financing. In response, the Comptroller issued Opinion No. 85-51, 1985 N.Y. St. Comp. 70 (Aug. 16, 1985) (the "Comptroller's Opinion").

In the Comptroller's Opinion, the Comptroller's Office explained that, at its inception, the IDA Act's primary thrust was to promote the development of commerce and industry as a means of increasing employment opportunities.

The Comptroller's Opinion then reasoned that for an apartment complex to qualify as an eligible project under Article 18-A, it had to promote employment opportunities and prevent economic deterioration in the area served by the IDA.

The Comptroller's Opinion added that the Comptroller's Office was "not in a position to render an opinion" as to whether a project that consisted of the construction of an apartment complex was a commercial activity within the meaning of Article 18-A. Rather, it continued, such a determination "must be made by local officials based upon all the facts relevant to the proposed project."

Any such determination, the Comptroller's Opinion concluded, had to take into account the stated purposes of the IDA Act: "the promotion of employment opportunities and the prevention of economic deterioration."

When this issue reached the court in *Triple S. Realty Corp. v. Village of Port Chester*, Index No. 22355/86 (Sup.Ct. Westchester Co. Aug. 19, 1987), the Westchester County Supreme Court held that residential construction may be eligible for industrial development agency benefits if such construction "would increase employment opportunities and prevent economic determination in the area served by the IDA."

The decision by the Nassau County Supreme Court in *Matter of Ryan* provides further confirmation that residential developments certainly are eligible to receive IDA benefits.

Matter of Ryan

The case arose after the Town of Hempstead Industrial Development Agency (TOHIDA) granted financial and tax benefits and assistance to Renaissance Downtowns UrbanAmerica, LLC, with respect to the construction of a new 336-unit residential apartment complex in the village of Hempstead on Long Island. That was Phase 1 of a multi-phase revitalization project that was planned to include additional mixed-use buildings and parking facilities.

The financial benefits and assistance granted by the TOHIDA included:

- exemptions from mortgage recording taxes for one or more mortgages
- securing the principal amount not to exceed \$70,000,000;
- a sales and use tax exemption up to \$3,450,000 in connection with the purchase/lease of building materials, services, or other personal property for the project; and
- abatement of real property taxes for an initial term of 10 years pursuant to a Payment in Lieu of Taxes ("PILOT") Agreement.
- The court then pointed out that the TOHIDA had approved Renaissance's application for assistance with respect to the first phase of the revitalization project based on the TOHIDA's findings, that, among other things:
- In its decision, the court noted that the Comptroller's Opinion had observed that the determination of whether construction of an apartment complex was a commercial activity within the meaning of the IDA Act had to be made by local officials based on facts relevant to the proposed project.

- The court agreed with the respondents and dismissed the petition.
- For their part, the respondents contended that the development of a residential rental building fell within the ambit of the statutory definition of a project entitled to receive an IDA's financial assistance and benefits in that it promoted "employment opportunities" and prevented "economic deterioration" in the area served by the IDA.
- Six petitioners, including a trustee for the village of Hempstead, challenged the TOHIDA's resolution in an Article 78 proceeding, arguing that an IDA could not grant benefits for a project that was residential, either in whole or in part, in nature.
- the town of Hempstead was in need of attractive multi-family housing to retain workers in the town and attract new business;
- a healthy residential environment located in the town was needed to further economic growth;
- there was a lack of affordable, safe, clean multi-family housing within the town; and
- the facility would provide the nucleus of a healthy residential environment, and would be instrumental and vital in the further growth of the town.

Moreover, the court continued, the TOHIDA also found that the development of the first phase of the facility would "promote and maintain the job opportunities, health, general prosperity and economic welfare" of the town's citizens and "improve their standard of living."

Given that the project promoted employment opportunities and served to combat economic deterioration in the area served by the TOHIDA, the court upheld the TOHIDA's decision as rationally based and not arbitrary or capricious, an abuse of discretion, or an error of law.

Conclusion

IDA benefits can play an important role in real estate development. For nearly five decades, they have benefited New Yorkers in numerous situations. As the Comptroller's Office and the courts have recognized, a project – including a residential project – that demonstrates that it promotes employment opportunities and prevents economic deterioration is eligible to receive IDA benefits.

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Related Practice Areas: Land Use & Municipal

Featured Attorneys: Anthony S. Guardino

Publications: New York Law Journal

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Ryan et al. v. Town of Hempstead Industrial Development Agency et al.

EXHIBIT D

Town of Hempstead Industrial Development Agency Uniform Tax Exemption Policy

EXHIBIT E

REASONS SUPPORTING THE DETERMINATION OF SIGNIFICANCE FOR A CERTAIN PROJECT FOR THE GARDENS AT BUFFALO LLC

Name of Project: The Gardens at Buffalo LLC

Location: 80-84 Albany Avenue & 17-33 Buffalo Avenue, Village of Freeport,
Town of Hempstead, Nassau County, New York (Section: 190; Block:
190; Lot: 63)

SEQR Status: Type I

**Determination
of Significance:** Negative Declaration

1. Impact on Land. The Project involves the renovation and expansion of three existing, vacant two-story multi-family buildings containing 102 units formerly managed by the Freeport Housing Authority ("FHA") along with the demolition of a vacant building to result in 98 new units with a total of 200 residential units overall, a garage with 132 parking spaces, and 47 surface parking spaces (hereinafter, the "Project") on the approximate 2.5-acre site located at 80-84 Albany Avenue and 17-33 Buffalo Avenue in the Village of Freeport within the Town of Hempstead in Nassau County (hereinafter, the "Land"). The renovated and new units will provide workforce housing, veterans housing and housing for seniors.

The Company would add two-story additions to each of the three existing, 3-story residential buildings and will also construct infill, creating an overall development that appears as one five-story building along the streetscape. The buildings will be set back along the upper stories to provide visual interest on the ground floor while reducing the bulk of the building and visual impact on the surrounding neighborhood. The Land is located in the Village of Freeport Residence Apartment District, with a portion also located in the Golden Age Floating District. The Village of Freeport approved the development as well as multiple variance requests required for the proposed structure including, among others, variances for height, open space, lot coverage and side and rear yards.

Per the EAF, the Project will involve minimal excavation for site preparation and foundation work. The average depth to the water table is more than 6 feet below grade and the average depth to bedrock is on average about 1,400 feet below grade. There are no bedrock outcroppings on the Land and it is relatively level, without steep slopes. The EAF notes that existing land uses in the vicinity include industrial, commercial and residential uses. The Project is consistent with existing land uses in the vicinity and will not significantly alter or increase its previous multi-family residential uses. The EAF further notes that there will be a .2-acre increase in impervious surfaces, roughly 8,700 square feet. The Project will be consistent with

adjacent four- and five story building, including the five-story development immediately adjacent to the Land. Overall, the Project will renovate, improve, and construct on a previously occupied and developed site, and, as such, will not create any potentially significant adverse impacts to land resources or land uses.

2. Impact on Geological Features. The Project does not contain and is not adjacent to any unique geologic features or National Natural Landmarks. Accordingly, the Project will not create any potentially significant adverse impacts to geological features.
3. Impact on Surface Water. The EAF indicates that there are no wetlands or other surface bodies present near or on the Land, and the Project will not create any new waterbody or affect the surface area of any existing waterbody. The Land is currently developed, is in a well-developed area and does not contain any surface water features. The EAF notes that no additional stormwater runoff is anticipated to be generated by the Project either during construction or post-construction. Accordingly, the Project will not create any potentially significant adverse impacts on surface water.
4. Impact on Groundwater. The Land is served by the Village of Freeport Water District. The Nassau-Suffolk Sole Source Aquifer lies underneath or adjoining the Land. Per the EAF, the Project will involve minimal excavation for site preparation and foundation work. The average depth to the water table is more than 6 feet below grade. The EAF notes that the Village of Freeport Water Department draws its water supply from 11 wells and in 2020, the Water Department pumped about 1.41 billion gallons of water. The Project's estimated water need is estimated to be about 51,000 gallons a day, equaling a nominal portion of the existing water supply. The Land is served by existing sewer lines sufficient to serve the demand created by the Project. It sits within the Village of Freeport Sewer Department's district and will utilize the Nassau County Cedar Creek Sewage Treatment Facility, both of which have capacity to handle the sanitary wastewater generate by the Project. The Project does not involve bulk storage of chemicals, production of hazardous waste, commercial application of pesticides near water sources or any other activities that would pose a threat to groundwater. Accordingly, the Project is not anticipated to create any significant adverse impacts to groundwater.
5. Impact on Flooding. The EAF notes that the 100% of the Land is well-drained. It is not located within the 500 year floodplain. While the Land is located within the 100 year floodplain, the Project is in a well-developed area and will only slightly increase impermeable surfaces by .2 of an acre or about 8,700 square feet. Less than 10% of the Land is sloped. Accordingly, the Project will not create any potentially significant adverse impacts to flooding.
6. Impact on Air. The Project will not be a significant source of air emissions. The Project does not entail the types of activities or operations that require the Company to acquire air registration permits or that are associated with a significant potential for air emissions. Although the Project does involve both the renovation and the addition of floor area and infill to the existing buildings, it will add 98 units overall to the Land, which historically housed families within its 102 existing units. The Project will not substantially increase traffic to the Land nor will it substantially increase demand for

transportation facilities or services. The Project, as a result, will not create any potentially significant adverse impacts to air resources.

7. Impact on Plants and Animals. Per the EAF, the Project will not result in any changes to cover type that would result in the loss of habitat for plant or animal species. The Land was previously developed, and as noted in the EAF, there are no predominant wildlife species that occupy or use the Land. As such, the Project will not substantially interfere with the nesting/breeding, foraging or over-wintering habitat for any species, and the Project will not fragment the habitat or reduce the value of the surrounding land to any species. The Land does not contain a designated significant natural community. Accordingly, the Project is not anticipated to create any significant adverse impacts on plants and animals.
8. Impact on Agricultural Land Resources. The Land is not located within an Agricultural District and is neither currently used for Agricultural purposes nor zoned to be used as such. Therefore, the Project will not create any potentially significant adverse impacts to agricultural land resources.
9. Impact on Aesthetic Resources. The Project will not be visible from any officially designated federal, state or local scenic or aesthetic resources. As described above, the Land is previously developed with multi-family units and the infill will not significantly increase the intensity of the current uses planned as part of the Project. Accordingly, the Project will not create any potentially significant adverse impacts to aesthetic resources. The Company would add two-story additions to each of the three existing, 3-story residential buildings and will also construct infill, creating an overall development that appears as one five-story building along the streetscape. The buildings will be set back along the upper stories to provide visual interest on the ground floor while reducing the bulk of the building and visual impact on the surrounding neighborhood. Moreover, the Project will enhance the visual appeal of the Land and the surrounding community. Based on the foregoing, the Project is not anticipated to create any significant adverse impacts to aesthetic resources.
10. Impact on Historic and Archaeological Resources. The Land does not contain nor is it substantially contiguous historic site, building or historic preservation district. Further, while the Land is in an archeologically sensitive area, it has already been substantially disturbed by the construction of the existing structures. Accordingly, the Project will not change or alter an existing or potentially historic structure, an existing historic preservation district, nor impact any existing archeological resources, and thus, will not create any significant impacts to historic or archeological resources.
11. Impact on Open Space and Recreation. The Land is substantially contiguous to a publically owned recreation space (i.e., the Cleveland Avenue Sports Field), used as a baseball field and surrounding open space. The Proposed Project will not reduce or eliminate the fields or open space. Further, while the Project will clearly be visible from the ballfields and surrounding open space, the improvements have been designed to minimize visual impacts to this area by constructing a smaller structure between the ballfields/open space and the renovated and expanded five-story residential structures. Further, the Project will bring life back to a vacant and abandoned housing project. Overall, the five-story residential development is designed to be closer to the adjacent

streets where it is consistent with adjacent four- and five-story buildings. As the Project will not eliminate or reduce the area of the adjacent Cleveland Avenue Sports Field and surrounding open space, and the Project design sets back along the portion of the Land closest to the open space, the Project, overall, will not result in a potentially significant impact to existing recreational resources or open spaces.

12. Impact on Critical Environmental Areas. The Project is not located in or substantially contiguous to any Critical Environmental Areas. As such, the Project will not create any potentially significant adverse impacts to Critical Environmental Areas.
13. Impact on Transportation. The EAF notes that the Project will not result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services. Again, the Project will result in 200 units on a site that contained 102 units along with parking. Based on the foregoing, the Project is not anticipated to create any significant adverse impacts on transportation.
14. Impact on Energy. Per the EAF, the Project will not result in any increase in the use of energy, and no significant energy infrastructure improvements are necessary to accommodate the Project. As such, the Project will not create any potentially significant adverse impacts to energy resources.
15. Impact on Noise, Odor and Light. The Project is not expected to appreciably create odors or result in excessive lighting or noise. The EAF recognizes that construction activity may result in noises exceeding ambient levels, but this increase in noise levels is typical of construction and will be limited to weekdays from 6:00 A.M. to 8:00 P.M. in accordance with the Village of Freeport noise regulations. As noted in the EAF, outdoor light fixtures will be installed on the subject property but will be downward facing to prevent light spill over. Based on the foregoing, the Project will not create any significant adverse impacts on noise, odor or light.
16. Impact on Public Health. The Nassau County Department of Health (DOH), in its July 6, 2023 letter to the Agency, outlined requirements that the Company must meet prior to the demolition of the industrial building, including, among others, testing of the building and surroundings for lead, conducting a survey for asbestos containing building materials, the removal of any petroleum tanks on the Land, if any, and the permanent closure of all stormwater drywells or cesspools. As described above, the Land is previously developed and the Project will not substantially increase the intensity of the previous contained on the Land. Accordingly, the Project will not create any potentially significant adverse impact to public health.
17. Impact on Character of the Community, and Community Plans. The impact to the character of the surrounding community will be minimal. Visually, as shown by the photos submitted with the EAF, the renovation and expansion of the buildings on the Land will create a uniform 5 story-building with design details that will create visual improvements to the building along the street-face. The Project will not significantly alter the existing land uses and involves no major change in use or significant increase of intensity. It will maintain the character of the existing neighborhood while providing needed workforce units and housing for veterans, persons over the age of

55, and families. Accordingly, the Project will not create any potentially significant adverse impacts to the character of the community or community plans.

SHORT FORM ORDER

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

P R E S E N T : HON. JEFFREY S. BROWN
JUSTICE

-----X TRIAL/IAS PART 13
In the Matter of DONALD L. RYAN, FLAVIA
IANNACONE, JAMES DENON, JOHN M. WILLAMS,
REGINAL LUCAS and ROBERT DeBREW, JR.,

INDEX # 5324/16

Petitioners,

Mot. Seq. 1

Mot. Date 9.13.16

Submit Date 11.17.16

For A Judgment Pursuant to Article 78 of the New York
Civil Practice and Rules,

XXX

-against-

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT
AGENCY, RENAISSANCE DOWNTOWNS
URBANAMERICA, LLC, and RDU A PARCEL 1 LLC,

Respondents.

-----X

The following papers were read on this motion:

Papers Numbered

Notice of Petition, Affidavits, Exhibits, Memorandum Annexed.....	1,2
Verified Answers.....	3,4,5
Opposing Affidavits.....	6,7,8,9,10,11,12
Reply Affidavits.....	13, 14
Sur-Reply Affidavit.....	15
Hearing Record (3 Vols.).....	16

Application by petitioners pursuant to Article 78 to invalidate as *ultra vires* and to void the May 18, 2016 resolution passed by the Town of Hempstead Industrial Development Agency (TOHIDA) is decided as hereinafter provided.

In this Article 78 proceeding, petitioners seek to invalidate the resolution passed by respondent TOHIDA on May 18, 2016, which granted financial and tax benefits and assistance to respondent Renaissance Downtowns UrbanAmerica, LLC (Renaissance) *vis-a-vis* construction of a new 336 unit residential apartment complex on the northwest corner of the intersection of Washington and Front Streets (Phase 1 of the multi-phase Village of Hempstead downtown revitalization project¹ which was planned to include additional mixed use buildings/parking facilities). The Phase I property was a tax exempt Village property for at least 50 years until December 15, 2015 when it was acquired by respondent Renaissance.

The financial benefits and assistance granted include:

exemptions from mortgage recording taxes for one or more mortgages securing the principal amount not to exceed \$70,000,000;

sales and use tax exemption up to \$3,450,000 in connection with the purchase/lease of building materials, services or other personal property for the project;

abatement of real property taxes for an initial term of ten years pursuant to Payment in Lieu of Taxes Agreement (PILOT).

Based on the theory that the resolution was affected by an error of law, i.e., that residential apartment buildings are not included in the type of project or facility that is eligible for financial assistance under the General Municipal Law Article 18-A (Industrial Development Act [the IDA or the Act]), petitioners seek to invalidate the subject resolution as *ultra vires*/void.

In opposition, respondents first seek dismissal of the petition based on its alleged multiple fatal flaws including petitioners' lack of standing; failure to raise the *ultra vires* issue in the administrative proceeding before respondent TOHIDA; and failure to serve the attorney general in accordance with CPLR 7804(e).

The alleged flaws are not fatal and do not provide a basis for dismissal. Petitioners have standing to maintain an action for equitable or declaratory relief under State Finance Law § 123-b *vis-a-vis* the issue of whether the project herein falls within the definition of a "project" for which IDA benefits may be granted (*see Nearpass v Seneca County Indus. Dev. Agency*, 52 Misc 3d 533 [Sup Ct, Seneca County 2016 Falvey, J.]; *Dudley v. Kerwick*, 52 NY2d 542 [1981]; *cf.*

¹The development as outlined in the Appraisal Report (Exhibit "2" to the Petition) was approved in a unanimous 5-0, bi-partisan vote by the Village of Hempstead Board. It includes the construction of, among other things: residential units, structured parking, retail space, medical office building, mixed used artist loft with grade and basement level supermarket, surface parking office space, senior independent living apartment building, hotel and restaurant space.

Kadish v. Roosevelt Raceway Assoc., 183 AD2d 874, 875 [2d Dept 1992] [no standing under State Finance Law § 123-b (1) to challenge financing and acquisition of property by TOHIDA through bond issuance because statute specifically excludes bond issuance by a public benefit corporation). Further, the *ultra vires* issue was, in fact, raised in the administrative proceeding before respondent TOHIDA (Record: Vol, 3 Tab 25, pp 113-114), and the Nassau County Regional Office of the New York State Attorney General rejected service of the petition on the ground that the office did not represent respondent TOHIDA.

In further support of its dismissal, movants argue that the petition fails to state a viable cause of action as it is based on the false premise that an Industrial Development Agency may not grant benefits for a commercial project that is residential, either in whole or in part, in nature.

For the reasons which follow, the petition must be dismissed.

Pursuant to General Municipal Law § 858, an Industrial Development Agency

“shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities . . . and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their recreation opportunities, prosperity and standard of living.”

An Industrial Development Agency is thus a “governmental agenc[y] or instrumentalit[y] created for the purpose of preventing unemployment and economic deterioration (General Municipal Law § 852) and to “provide one means for communities to attract new industry, encourage plant modernization and create new job opportunities” (Governor’s Mem., 1969 McKinney’s Session Laws of N.Y. at 2572).

According to respondents, the development of a residential rental building falls within the ambit of the statutory definition of a project,² entitled to financial assistance and benefits, as set forth in § 854(4) of the General Municipal Law in that it “promotes employment opportunities and prevents economic deterioration in the area served by the industrial development agency” (Opns. St. Comp. No. 85-51 [N.Y.S. Cptr., 1985 WL 25843]).

In the opinion of the State Comptroller, the determination of whether construction of an apartment complex is a commercial activity within the meaning of the statute must be made by

²As set forth in § 854(4) the term “project” is broadly defined to include, in relevant part, “any land, any building or other improvement, and all real and personal properties located within the state of New York and within or outside or partially within and partially outside the municipality for whose benefit the agency was created. . . .”

local officials based upon facts relevant to the proposed project (*Id.* ["Local officials must determine, based upon all the relevant facts, whether construction of an apartment complex will promote employment opportunities and prevent economic deterioration. . . ."]). Respondents argue that TOHIDA acted within the scope of its authority in resolving to provide IDA assistance to the project since it would promote job creation and growth in a distressed area of the Village of Hempstead and serve as the first physical manifestation of the Village's Downtown Revitalization plan and a catalyst for future phases.

Here, the record establishes that a duly noticed public hearing was held regarding respondent Renaissance's application for TOHIDA assistance with respect to the first phase of the \$2.5 billion Hempstead Revitalization project for which site plan approval was already in place and a building permit issued. The resolution was granted based on respondent TOHIDA's findings, that, among other things:

- (a) The Town of Hempstead is in need of attractive multi-family housing to retain workers in the Town and attract new business;
- (b) a healthy residential environment located in the Town of Hempstead is needed in order to further economic growth;
- (c) there is a lack of affordable, safe, clean multi-family housing within the Town of Hempstead;
- (d) the facility will provide the nucleus of a healthy residential environment, and will be instrumental and vital in the further growth of the Town of Hempstead.

Respondent TOHIDA also found that:

the acquisition, construction and equipping of the Phase I Facility will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Hempstead and the State of New York and improve their standard of living and thereby serve the public purposes of the Act;

the project conformed with local zoning laws and planning regulations of the Town of Hempstead; and

the project will not have a significant effect on the environment as determined in accordance with Article 8 of the Environmental Conservation Law and regulations promulgated thereunder.

The allegations proffered in opposition to the resolution, regarding traffic congestion; additional garbage/sewage; additional burden of increased student population in an already overcrowded/underfunded school district; burden of increased financial costs of municipal services to support increased population, are speculative and lack merit in the face of reasoned evaluation of the project by respondent TOHIDA as set forth in the record. As stated in the affidavit of Wayne J. Hall, Sr., Mayor of the Incorporated Village of Hempstead and Chairman of the Village Community Development Agency:

“the IDA benefits awarded to Renaissance for this particular Phase I of the development are critically important to the revitalization of the Village of Hempstead’s downtown area, and are essential to the twin goals of preventing any further physical and economic deterioration of the area, as well as promoting employment opportunities to the Village.”

As stated in the Socio-Economic Impact of the Village of Hempstead’s Revitalization Plan report, dated March 31, 2016, (Exhibit “A” to the Affidavit of Donald Monti in Opposition to Petition):

“Upon completion, the overall revitalization of the Village of Hempstead will have generated an estimated \$4 billion in economic activity, comprised of economic activity during and after the construction period.

Nearly \$3 billion of primary and secondary economic activity will be generated from construction of the development encompassing 5 million square feet, comprising 2.8 million square feet of 3,500 residential units and 2.2 million square feet of mixed use, retail, hospitality, office and other commercial uses.

This will result in new socio-economic improvements to the Village of Hempstead that will provide much needed housing for Long Island’s young professionals and active adults, and create during the construction period as many as 22,000 temporary construction and secondary jobs generating nearly \$1.4 billion in wages.

When completed, the revitalization will create approximately 6,000 permanent and 4,500 secondary jobs generating \$498 million in wages of which 1,500 of the permanent jobs generating \$125 million in wages projected to be held by Village of Hempstead residents. Thus, in total, the construction activity and resulting permanent jobs and their related secondary economic impacts are expected to generate nearly \$4 billion in primary and secondary economic impact, and over the 20 year PILOT period \$142 million in new county, town, school and village property taxes, and \$43.5 million in new county sales taxes.”

In reviewing the actions of an administrative agency, courts must assess whether the determination was the result of an error of law or was arbitrary, capricious, or an abuse of discretion such that the actions at issue were taken without sound basis in reason and without regard to the facts (*Matter of County of Monroe v Kaladjian*, 83 NY2d 185, 189 [1994], citing *Matter of Pell v Bd. of Educ.*, 34 NY2d 222, 231 [1974]; *Akpan v Koch*, 75 NY2d 561, 570-71 [1990]; *Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers*, 238 AD2d 417, 418 [2d Dept 1997]). The agency's determination need only be supported by a rational basis (*Matter of County of Monroe v Kaladjian*, *supra*; *Matter of Jennings v Comm. N.Y.. Dept. of Social Svcs.*, 71 AD3d 98, 108 [2d Dept 2010]). If the determination is rationally based, a reviewing court may not substitute its judgment for that of the agency even if the court might have decided the matter differently (*Matter of Savetsky v Zoning Bd. of Appeals of Southampton*, 5 AD3d 779, 780 [2d Dept 2004]; *Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers*, *supra*). It is not for the reviewing court to weigh the evidence or reject the choice made by the agency where the evidence conflicts and room for choice exists (*Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers*, *supra*, citing *Toys "R" Us v Silva*, 89 NY2d 411, 424 [1996]; *Akpan v Koch*, *supra*).

The record at bar establishes that in adopting the challenged resolution following a public hearing, review of Renaissance's application, and the environmental effects, respondent TOHIDA did not act in excess of its jurisdiction or beyond the scope of its authority; i.e., *ultra vires*. Nor was TOHIDA's decision after review of all of the circumstances to adopt the resolution finding that the Phase I facility constituted a "project" under the IDA affected by an error of law as would warrant relief under Article 78.

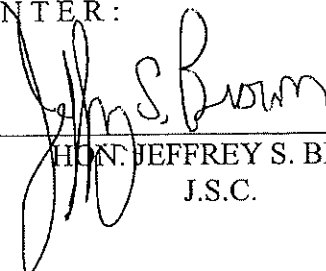
Where, as here, the project at issue promotes employment opportunities and serves to combat economic deterioration in an area served by an industrial development agency, a finding that the project falls within the ambit of the IDA is rationally based; neither arbitrary or capricious or an abuse of discretion, nor an error of law.

Accordingly, the petition is **denied** and the proceeding is hereby **dismissed**.

This constitutes the decision and order of this court. All applications not specifically addressed herein are denied.

Dated: Mineola, New York
January 25, 2017

ENTER:



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