

RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL
DEVELOPMENT AGENCY TAKING OFFICIAL ACTION
TOWARD APPOINTING GREENVIEW COMMONS WEST,
LLC, A NEW YORK LIMITED LIABILITY COMPANY, ON
BEHALF OF ITSELF AND/OR THE PRINCIPALS OF
GREENVIEW COMMONS WEST, LLC AND/OR AN
ENTITY FORMED OR TO BE FORMED ON BEHALF OF
ANY OF THE FOREGOING AS AGENT(S) OF THE
AGENCY FOR THE PURPOSE OF ACQUIRING,
DEMOLISHING, CONSTRUCTING, EQUIPPING, AND
FURNISHING THE FACILITY AND MAKING CERTAIN
FINDINGS AND DETERMINATIONS WITH RESPECT TO
THE FACILITY

WHEREAS, Greenview Commons West, 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 Greenview Commons West, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "**Company**"), has applied to the Town of Islip Industrial Development Agency (the "**Agency**"), to enter into a transaction in which the Agency will assist in the acquisition of an approximately 13.2 acre parcel of land located at the south side of Sunrise Highway, approximately 400 feet west of Oakdale Bohemia Road, Oakdale, New York 11769 (SCTM# 0500-302.00-02.00-003.000) (the "**Land**"), the demolition of an approximately 2,000 square foot building located thereon, the construction of an approximately 230,000 square foot building thereon (the "**Improvements**"), and the acquisition and installation therein of certain equipment and personal property (the "**Equipment**"; and together with the Land and the Improvements, the "**Facility**"), which Facility will be leased by the Agency to the Company and is to be used as a senior housing apartment complex containing approximately one hundred fifty-eight (158) rental apartments together with common areas, a fitness center, a pool, and a pool house (the "**Project**"); and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements and title to the Equipment, will sublease and lease the Facility 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 47 of the Laws of 1974 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, consistent with the policies of the Agency, 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, consistent with the policies of the Agency, all to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions 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 the date of the Hearing (defined below), the Agency will have made a determination for financial assistance; and

WHEREAS, prior to the 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 the 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 are or will be annexed hereto as Exhibit B; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed financial assistance is either an inducement to the Company to maintain the Facility in the Town of Islip 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**”), together with such letters or reports from interested parties and governmental agencies or officials (the “**Letters of Support**”; and together with the Feasibility Study, 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 received to date are listed below and attached as Exhibit C hereof:

1. Benefits Analysis for Town of Islip Industrial Development Agency – Greenview Commons West, dated January, 2020 by VHB Engineering, Surveying and Landscape Architecture, P.C.;
2. New York Law Journal Article, dated March 22, 2017 on Eligibility of Residential Developments for IDA Benefits by Anthony Guardino, Esq.; and
3. Ryan et al. v. Town of Hempstead Industrial Development Agency et al.; and

WHEREAS, the Agency’s Uniform Tax Exemption Policy (“**UTEP**”), which such UTEP is annexed hereto as Exhibit D, provides for the granting of financial assistance by the Agency for housing projects pursuant to Section I.A.4.; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the

State of New York (collectively, the “SEQR Act” or “SEQR”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company has prepared and submitted to the Agency an Environmental Assessment Form and related documents (the “Questionnaire”) with respect to the Facility, a copy of which is on file at the office of the Agency; and

WHEREAS, the Questionnaire has been reviewed by the Agency; 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 leasing of the Facility by the Agency to the Company.

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

Section 1. Based upon the Environmental Assessment Form completed by the Company and reviewed by the Agency and other representations and information furnished by the Company regarding the Facility, the Agency determines that the action relating to the acquisition, demolition, construction, equipping, furnishing and operation of the Facility is an “unlisted” action, as that term is defined in the SEQR Act. The Agency also determines that the action will not have a “significant effect” on the environment, and, therefore, an environmental impact statement will not be prepared. This determination constitutes a negative declaration for purposes of SEQR. Notice of this determination shall be filed to the extent required by the applicable regulations under SEQR or as may be deemed advisable by the Chairman or Executive Director of the Agency or counsel to the Agency.

Section 2. In connection with the acquisition, demolition, construction, equipping, and furnishing 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 Company’s Application, the Requisite Materials and other public information:

- (a) There is a lack of affordable, safe, clean and modern senior rental housing in the Town of Islip, Suffolk County;
- (b) Such lack of senior rental housing has resulted in individuals leaving the Town of Islip and therefore adversely affecting employers, businesses, retailers, banks, financial institutions, insurance companies, health and legal services providers and other merchants in the Town of Islip and otherwise adversely impacting the economic health and well-being of the residents of the Town of Islip, employers, and the tax base of the Town of Islip;
- (c) The Facility, by providing such senior rental housing will enable persons to remain in the Town of Islip 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 Town of Islip which will increase the economic health and well-being of the residents of the Town of Islip, 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;

- (d) The Facility will provide services, i.e., senior rental housing, which but for the Facility, would not otherwise be reasonably accessible to the residents of the Town of Islip.

Section 3. The acquisition, demolition, construction, equipping and furnishing of the Facility by the Agency, the subleasing and leasing of the Facility 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 Islip 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 the same is, therefore, approved.

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

Section 5. The Company hereby agrees to comply with Section 875 of the Act. The Company further agrees that the exemption of sales and use tax provided pursuant to the Act and the appointment of the Company as agent of the Agency pursuant to this resolution is subject to termination and recapture of benefits pursuant to Section 875 of the Act and the recapture provisions of the Lease and Project Agreement, dated a date to be determined (the "**Lease Agreement**"), by and between the Company and the Agency.

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

Section 7. The Chairman, the Executive Director, 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 (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 8. Any expenses incurred by the Agency with respect to the Facility, including the expenses of Transaction Counsel, shall be paid by the Company. The Company agrees to pay such expenses and further agrees 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 9. This resolution shall take effect immediately.

ADOPTED: June 16, 2020

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

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY THAT:

I have compared the foregoing copy of a resolution of the Town of Islip Industrial Development Agency (the “**Agency**”) with the original thereof on file in the office of the Agency, and the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Agency held via Live-Stream at <http://islipida.com/business-assistance/ida/ida-documents-2/96-ida-videos/ida-board-meetings/335-ida-board-meeting-6-16-2020.html>, on the 16th day of June, 2020, at which meeting the following members were:

Present: Chairwoman Angie M. Carpenter
 Councilwoman Trish Bergin Weichbrodt
 Councilman John C. Cochrane Jr.
 Councilwoman Mary Kate Mullen
 Councilman James P. O’Connor

Absent:

Recused: Councilwoman Trish Bergin Weichbrodt

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

Voting Aye

Chairwoman Angie M. Carpenter
Councilman John C. Cochrane Jr.
Councilwoman Mary Kate Mullen
Councilman James P. O’Connor

and, therefore, the resolution was declared duly adopted and approved 4-0.

The Application is in substantially the form presented to and approved at such meeting.

I FURTHER CERTIFY, because of the Novel Coronavirus (COVID-19) Emergency and State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo's Executive Order 202.1 issued on March 12, 2020, as amended by Executive Order 202.14, issued on April 7, 2020, as amended by Executive Order 202.28, issued on [May 7, 2020 – update with extension of executive order] suspending the Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, the Agency's Board Meeting on June 16, 2020 (the "**Board Meeting**"), was held electronically via Live-Stream instead of a public meeting open for the public to attend in person. Members of the public were advised, via the Agency's website, to listen to the Board Meeting by going to <http://islipida.com/business-assistance/ida/ida-documents-2/96-ida-videos/ida-board-meetings/335-ida-board-meeting-6-16-2020.html>, and were further advised that the Minutes of the Board Meeting would be transcribed and posted on the Agency's website, and that all members of said Agency had due notice of said meeting and that the meeting was in all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of June 16, 2020.


Assistant Secretary

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that due to the Novel Coronavirus (COVID-19) Emergency State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo's Executive Order 202.1 issued on March 12, 2020, as amended by Executive Order 202.14, issued on April 7, 2020, suspending the Open Meetings Law, as further amended and extended by Executive Order 202.15 issued on April 9, 2020, as amended by Executive Order 202.28, [issued on May 7, 2020 – update once executive order extended] permitting local governments to hold public hearings by telephone and video conference and/or similar device, the Public Hearing scheduled for June __, 2020, at __:__ a.m., local time will be held by the Town of Islip Industrial Development Agency electronically via [conference call][webinar] in connection with the following matters:

Greenview Commons West, 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 Greenview Commons West, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”), has applied to the Town of Islip Industrial Development Agency (the “**Agency**”), to enter into a transaction in which the Agency will assist in the acquisition of an approximately 13.2 acre parcel of land located at the south side of Sunrise Highway, approximately 400 feet west of Oakdale Bohemia Road, Oakdale, New York 11769 (SCTM# 0500-302.00-02.00-003.000) (the “**Land**”), the demolition of an approximately 2,000 square foot building located thereon, the construction of an approximately 230,000 square foot building thereon (the “**Improvements**”), and the acquisition and installation therein of certain equipment and personal property (the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), which Facility will be leased by the Agency to the Company and is to be used as a senior housing apartment complex containing approximately one hundred fifty-eight (158) rental apartments together with common areas, a fitness center, a pool, and a pool house (the “**Project**”). The Facility will be initially owned, operated and/or managed by the Company.

The Agency contemplates that it will 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, consistent with the policies of the Agency.

A representative of the Agency will, at the above-stated time and place, hear and accept written comments from all persons with views in favor of or opposed to either the proposed financial assistance to the Company or the location or nature of the Facility. Members of the public may [listen to] [view] the Public Hearing and comment on the Project and the benefits to be granted to the Company by the Agency during the Public Hearing by [insert instructions to dial into the conference call or log into the webinar]. Comments may also be submitted to the Agency in writing or electronically. Minutes of the Public Hearing will be transcribed and posted on the Agency's website. At the hearing, all persons will 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 Facility.

Dated: June __, 2020

TOWN OF ISLIP INDUSTRIAL
DEVELOPMENT AGENCY

By: William G. Mannix
Title: Executive Director

EXHIBIT B

MINUTES OF PUBLIC HEARING HELD ON
June __, 2020

TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY
(GREENVIEW COMMONS WEST, LLC 2020 FACILITY)

Section 1. _____ of the Town of Islip Industrial Development Agency (the “**Agency**”) called the hearing to order.

Section 2. _____ then appointed _____, the _____ of the Agency, the hearing officer of the Agency, to record the minutes of the hearing.

Section 3. The hearing officer then described the proposed transfer of the real estate, the other financial assistance proposed by the Agency and the location and nature of the Facility as follows:

Greenview Commons West, 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 Greenview Commons West, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”), has applied to the Town of Islip Industrial Development Agency (the “**Agency**”), to enter into a transaction in which the Agency will assist in the acquisition of an approximately 13.2 acre parcel of land located at the south side of Sunrise Highway, approximately 400 feet west of Oakdale Bohemia Road, Oakdale, New York 11769 (SCTM# 0500-302.00-02.00-003.000) (the “**Land**”), the demolition of an approximately 2,000 square foot building located thereon, the construction of an approximately 230,000 square foot building thereon (the “**Improvements**”), and the acquisition and installation therein of certain equipment and personal property (the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), which Facility will be leased by the Agency to the Company and is to be used as a senior housing apartment complex containing approximately one hundred fifty-eight (158) rental apartments together with common areas, a fitness center, a pool, and a pool house (the “**Project**”). The Facility will be initially owned, operated and/or managed by the Company.

The Agency contemplates that it will 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, consistent with the policies of the Agency.

Section 4. The hearing officer then opened the hearing for comments from the floor for or against the proposed transfer of real estate, the other financial assistance proposed by the Agency and the location and nature of the Facility. The following is a listing of the persons heard and a summary of their views:

Section 5. The hearing officer then asked if there were any further comments, and, there being none, the hearing was closed at _____.

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

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the foregoing copy of the minutes of a public hearing held by the Town of Islip Industrial Development Agency (the “**Agency**”) on the ____ day of June, 2020, at _____ .m., local time, electronically via [conference call][webinar], with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the minutes in connection with such matter.

IN WITNESS WHEREOF, I have hereunto set my hand as of June ___, 2020.

Assistant Secretary

EXHIBIT C

Requisite Materials

EXHIBIT C-1

Benefits Analysis for Town of Islip Industrial Development Agency – Greenview Commons
West

Greenview Commons West

South side of Sunrise Highway, west of
Oakdale-Bohemia Road

PREPARED FOR

Greenview Commons West, LLC
5 Shore Lane
Bay Shore, New York, 11706

PREPARED BY



**VHB Engineering, Surveying,
Landscape Architecture and
Geology, P.C.**
100 Motor Parkway – Suite 350
Hauppauge, NY 11788
631.787.3400

January 2020

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1

Introduction

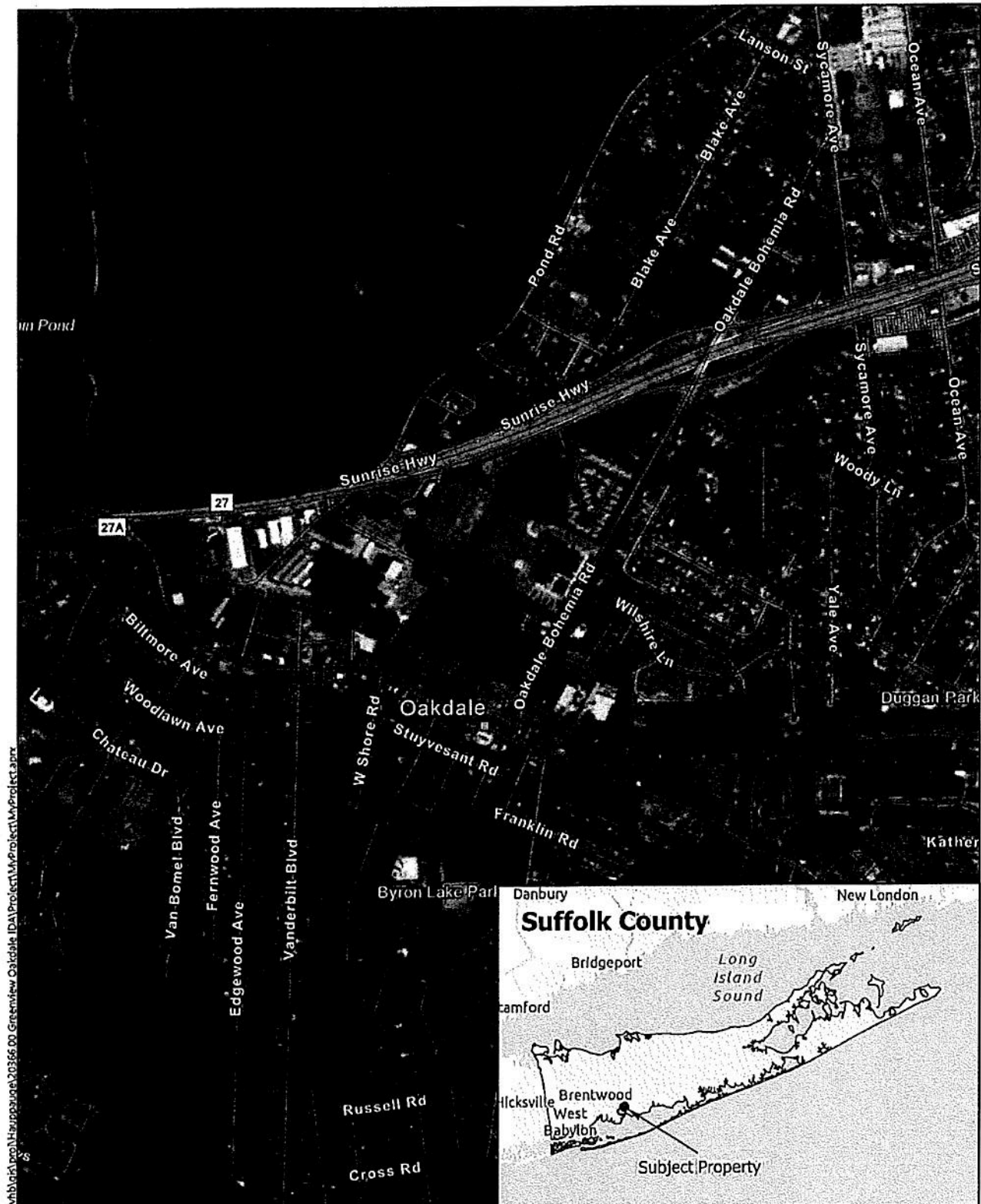
1.1 Proposed Project

This report has been prepared at the request of Greenview Commons West, LLC (the "Applicant"), 5 Shore Lane, Bay Shore, New York 11706. The Applicant is seeking Town of Islip Industrial Development Agency (IDA) benefits associated with the Applicant's proposed redevelopment (the "Project" or "Greenview Commons West") of vacant land located south of Sunrise Highway (New York State Route 27) and west of Oakdale-Bohemia Road,¹ in the hamlet of Oakdale, Town of Islip, Suffolk County (the "subject property") (see Figure 1). The Project involves the redevelopment of the former Oakdale Golf Center with a four-story apartment building containing 158 senior² rental apartments and associated amenities.

The 13.2±-acre subject property comprises one tax parcel, known on the Suffolk County Tax Map as District 500 – Section 302 – Block 2 – Lot 3.1, and is situated along the Sunrise Highway South Service Road. As noted, the property formerly housed the Oakdale Golf Center, and since it has closed, all associated buildings on the subject property have been demolished. The site has been vacant since around 2012.

¹ The subject property is located west of the former Bayview Avenue (a paper street), which was abandoned as part of the development application.

² At least one person 62 years or older shall be the lessee of each unit.



0 500 1,000 2,000 Feet

Subject Property

Greenview Commons West | Oakdale, New York

Site Location
Hamlet of Oakdale
Town of Islip

Sources: Bing Maps;
NYS Civil Boundaries, NYS Office of Information Technology Services GIS Program Office (GPO)

Upon implementation of the Project, the four-story apartment building would be substantially set back from Sunrise Highway, with parking surrounding the building. The 230,000±-square-foot (SF) building would include 158 senior apartments on four floors consisting of two studio units, 92 one-bedroom units, eight one-plus-bedroom units and 56 two-bedroom units. The proposed development is subject to a Declaration of Covenants and Restrictions (C&Rs), dated August 15, 2019 (Appendix A) (see discussion below). Based on the C&Rs, at least 10 percent (16) of the apartment units will be set aside as affordable units subject to the Town of Islip requirements. Residential amenities include a gym, bistro clubroom, bar, parlor/living room, mail room and outdoor pool with associated courtyard. The proposed apartment building would connect to an existing sanitary sewage treatment plant (STP) located at the neighboring Greenview Commons senior development, with a pumping station on site. Approximately half of the site would be landscaped. Access to the subject property would be provided via one curb cut on the Sunrise Highway South Service Road.

The subject property was previously rezoned from Recreation Service (RSG) to Residence CA in 2009 to permit the development of 109 non-age-restricted multifamily units. Prior to construction under the Residence CA zone, a new application was subsequently submitted to the Town of Islip to change the zoning of the subject property to permit age-restricted (senior) housing rather than non-age-restricted multifamily housing. On June 20, 2019, the Town Board of the Town of Islip granted a change of zone for the subject property from Residence CA to Residence C District, as well as approval for additional height and stories to permit the proposed senior apartment building.

As indicated above, development of the property, as described above, is subject to C&Rs. Requirements outlined in the C&Rs are as follows:

- › The Project must include at least 10 percent affordable units, subject to Town of Islip requirements. The property owner or management company must enter into a contract with a not-for-profit U.S. Department of Housing and Urban Development (HUD)-certified Housing Counseling Agency to review and certify compliance with the affordable housing provisions.
- › The Applicant will arrange for adequate security, refuse collection, landscape maintenance, snow and ice removal and is to keep the property kept neat and clean of litter, debris and graffiti.
- › The Applicant is to maintain all aspects of the roadway to include snow removal, repair and maintenance, lighting and walkways.
- › Solid waste collection should be provided to the residents of the apartments to include separation of solid waste into recyclable components by the Applicant. All containers for recyclable materials and garbage dumpsters should be enclosed with a decorative or split faced concrete block enclosure with opaque gates. All stormwater drainage will be contained on site and non-point source pollution mitigation will be incorporated into the overall drainage plan.
- › All lighting will be positioned or shielded so as to illuminate only the subject parcel.

See Appendix A for the complete listing of the C&Rs required as part of the proposed Greenview Commons West development.

The total project cost estimated by the Applicant is \$50,650,000. This figure includes the land cost, site work/sanitary STP costs, building construction costs, and soft costs.

The purpose of this report is to evaluate the Project with respect to the general guidelines and standards regarding public benefit for IDA approval (i.e., Sales Tax Exemption, Mortgage Recording Tax Exemption and Payment-in-lieu-of-Taxes [PILOT]). Specifically, the socioeconomic and community benefits and need for the Project, including economic activity during the construction phase and the purchasing power of Project residents, are evaluated.

1.2 Comprehensive Planning Documents

The Project's consistency with relevant comprehensive planning documents is summarized below.

1.2.1 Oakdale Hamlet Center Vision Plan (2008)

The *Oakdale Hamlet Center Vision Plan* (the *Oakdale Vision Plan*) was completed in 2008 by the Town of Islip Department of Planning to articulate a vision for Montauk Highway in Oakdale along with the idea of creating a hamlet center. The vision is intended to guide the Town of Islip when reviewing applications for future development of properties within the Hamlet of Oakdale as well as aid community based and volunteer efforts and capital improvements for Oakdale. The study area analyzed in the *Oakdale Vision Plan* includes properties located on Montauk Highway, the area north of Montauk Highway between Forbes Street and Oakdale Avenue, as well as the Long Island Rail Road (LIRR) corridor. The study area was divided into two sections, with Oakdale-Bohemia Road dividing the two sections. Amongst the policies listed for both sections of Oakdale is to "diversify the housing stock with dwellings for smaller households."

While the subject property is not located within the boundaries of the study area, it is situated about one quarter-mile northeast of the study area. As the *Oakdale Vision Plan* recommends development of diversified housing for smaller households, as well as senior housing in the hamlet, although situated just outside the study area, the Project would add to the diversified housing stock within Oakdale.

1.2.2 Sunrise Highway Corridor Study: Islip Town and Brookhaven Town Suffolk County, New York (2009)

The *Sunrise Highway Corridor Study: Islip Town and Brookhaven Town Suffolk County, New York* (*Sunrise Highway Study*) was completed in 2009 by the Suffolk County Department of Planning to analyze the Sunrise Highway corridor in response to increasing concerns over the impact of the development along the corridor within the Town of Islip and the Town of Brookhaven. The concerns identified include traffic congestion and safety issues on Sunrise Highway including the service roads, traffic impacts and land use conflicts to the

neighborhoods that adjoin the highway. The goal of the study was to identify policies and practices that would help to manage growth within the Sunrise Highway corridor that will improve the quality of development among other things. The *Sunrise Highway Study* specifically highlights the subject property as one of a number of properties in the Town of Islip

...that are currently developed but could be redeveloped for other, sometimes more intense, uses. While any property could theoretically be redeveloped, the properties selected for a discussion of redevelopment potential were selected because they may have the potential to be redeveloped in the future.

At the time of the study, the subject property was zoned RSG for recreational facilities, indicative of its previous use as a driving range. Due to its status as a driving range, the *Sunrise Highway Study* indicated that,

recreational uses are preferred. Recent suggested uses include assisted living and diversified housing. While these can be successful uses, the density and design would need to be appropriate to equal the benefits of RSG zoning or recreational uses.

Around the time the *Sunrise Highway Study* was completed, the Town of Islip rezoned the subject property for multifamily development and then subsequently rezoned for senior apartments, thus realizing the anticipated redevelopment of the property from the golf center to residential use. Additionally, the design of the subject property under the proposed action with the development set back from the Sunrise Highway service road is compliant with the overall recommendations of the study to increase front yards setbacks along Sunrise Highway.

1.2.3 Town of Islip Comprehensive Plan (1979)

The *Town of Islip Comprehensive Plan* (Volume 7E, Oakdale, West Sayville, Sayville, Bayport, the "1979 Comprehensive Plan") was originally intended to guide the Town's "decision-makers" in assuring that most appropriate future development for Oakdale, West Sayville and Bayport without the threat of adverse or uncharted development. The plan identified recommendations for the individual hamlets pertaining to land use within a study area bounded by the Connetquot River, Sunrise Highway, the Brookhaven Town line and the Great South Bay. Specifically, the Town established the following objectives as guidelines to be followed within the 1979 Comprehensive Plan:

- › Preserve residential areas;
- › Satisfy housing needs;
- › Provide opportunities for recreation;
- › Protect environmental features;
- › Project commercial and industrial needs and their proper locations;
- › Evaluate traffic and road networks;
- › Provide adequate public service; and
- › Promote community awareness.

The *1979 Comprehensive Plan* identified housing stock within each of the hamlets for a five-year span between 1970 and 1975. During that time period there was a total of 1,323 apartment units of which 455 units were located within Oakdale. Out of the 455 units only 119 units were restricted for senior citizens. It was identified within the *1979 Comprehensive Plan* the need for housing for young married couples and senior citizens within the hamlets. To accommodate residential uses within the hamlets, the *1979 Comprehensive Plan* acknowledged that vacant commercial properties along Sunrise Highway that abut residential neighborhoods should be rezoned to conform to the residential zoning. The proposed Project is consistent with this as the Town Board approved a change of zone to accommodate first multifamily units and then senior housing on the subject property, which abuts Sunrise Highway, as well as an existing senior living apartment complex, Greenview Commons at Oakdale. As the subject property is currently vacant, derelict land, the Project would introduce residential uses along the Sunrise Highway corridor as well as increase the total number of senior living units within the hamlet.

1.2.4 Town of Islip Comprehensive Plan Update (2011)

In 2011, the Town of Islip updated its *1979 Comprehensive Plan* to address the demographic changes that had occurred in the Town during the intervening years. While the goals outlined in the *1979 Comprehensive Plan* remain, the *Town of Islip Comprehensive Plan Update (2011) (Comprehensive Plan Update)* aims to respond to the recent and future challenges within the Town. The *Comprehensive Plan Update* notes that while single-family homes continue to be the predominant housing option in the Town, demographic trends have led to an increase in diversified housing options. It is noted in the *Comprehensive Plan Update* that between 2000 and 2010, the Town of Islip experienced an approximately four percent increase in new residents. Additionally, the *Comprehensive Plan Update* notes that rental apartments only account for approximately 10.1 percent of the overall housing stock in the Town of Islip. The Project responds to these trends by providing a housing product – i.e., rental apartments, ten percent of which will be affordable – for which there is a well-established need, as documented in the trend analysis in the *Comprehensive Plan Update*.

1.2.5 Suffolk County Comprehensive Master Plan 2035 (2015)

The *Suffolk County Comprehensive Master Plan 2035: Framework for the Future (Suffolk 2035 Plan)*, adopted by the Suffolk County Legislature on July 28, 2015, represents the final part of a planning effort that was initiated in 2011 with the publication of an inventory of data relating to demographics, the economy, and quality of life in Suffolk County. The *Suffolk 2035 Plan* is guided by six key priorities:

1. *Build a 21st Century Transit Network to Provide More Transportation Choices to Improve Mobility, Access, and Safety;*
2. *Providing Equitable, Affordable, Fair Housing;*
3. *Enhance Economic Competitiveness and Capacity to Build an Innovative Economy;*
4. *Support Vibrant Communities;*

5. *Streamline Government, Coordinate Policies, and Leverage Investment; and*
6. *Protect the Environment and Enhance Our Human Capital.*

It is noted in the *Suffolk 2035 Plan* that demographic changes in Suffolk County over the past two decades have created a housing demand that includes a higher proportion of smaller, multifamily family units, a higher proportion of rental units, and more affordable units. Consistent with recommendations outlined in the *Suffolk 2035 Plan*, the Project includes the redevelopment of the vacant, derelict lot to provide 158 senior rental apartments in a range of sizes (i.e., two studio units, 92 one-bedroom units, eight 1+-bedroom units and 56 two-bedroom units.), including 16 affordable units, consistent with the key priority to provide equitable, affordable and fair housing.

1.3 Rental Housing Trends and Data

The current need for rental housing on Long Island is well documented. As set forth in the *1979 Comprehensive Plan* and the *Comprehensive Plan Update*, as well as the *Suffolk 2035 Plan*, there is a need for housing for young married couples and senior citizens within the hamlets, Town of Islip and within Suffolk County, in general. The Project is consistent with this recommendation, by providing 158 senior rental units of varying sizes.

The Regional Planning Association's (RPA), *Long Islands' Rental Housing Crisis (2013)*³ ("*2013 RPA Report*") points to a number of trends in the Long Island housing market, noting that "[t]he shortage of affordable rental homes is already straining Long Island's economy, and will make it much harder to compete for jobs in the years ahead" (page 3). The key trends and statistics mentioned in the 2013 RPA Report include the following:

- › Long Island's 4.3% rental vacancy rate means that there are fewer available rental homes than in any other suburban area in the New York region;
- › 56% of renters pay more than 30% of their income for housing;
- › 64% of Long Island renters cannot afford a typical two-bedroom apartment;
- › 55% of 20-to-34-year-olds live with their parents or older relatives;
- › Over a quarter of all the rental homes on Long Island are concentrated in 10 communities;
- › Every 100 new units of rental housing generated 32 local jobs, \$2.3 million in income and \$395,000 in tax revenue annually; and
- › Actions should be taken at all levels of government to create new homes that both meet community needs and relieve the rental housing crisis.

With respect to supply, rental options are not plentiful on Long Island. The U.S. Census Bureau's 2017 American Community Survey (ACS) shows that only approximately 20 percent of occupied housing units on Long Island are rentals.⁴ Overall, Suffolk County ranks far

³ Regional Plan Association, *Long Island's Rental Housing Crisis (2013)*, (accessed January 2020); available online at <http://library.rpa.org/pdf/RPA-Long-Islands-Rental-Housing-Crisis.pdf>.

⁴ U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates.

behind neighboring metropolitan area counties with respect to the percentage of occupied rental housing units, as shown in **Error! Reference source not found.** below. In fact, only Nassau County and the more rural Putnam County have a lower percentage of rental units.

Table 1 - Rental Housing Units as Percent of Total Occupied Housing Units

County	Percentage of Rental Units
Suffolk County, NY	19.7
Nassau County, NY	19.4
Hudson County, NJ	68.6
Essex County, NJ	55.5
Westchester County, NY	38.5
New Haven County, CT	37.7
Bergen County, NJ	35.4
Fairfield County, CT	32.3
Dutchess County, NY	30.8
Rockland County, NY	31.1
Putnam County, NY	18.1

Source: U.S. Census Bureau, 2014-2017 American Community Survey 5-Year Estimates.

Furthermore, the demand for rental housing is increasing throughout the country. Since its peak at 10.6 percent in 2010, the rental vacancy rate has fallen across the United States to an average of 6.8 in the third quarter of 2019,⁵ indicating that, nationally, the demand for rental units is increasing in relation to supply. The 2017 ACS five-year estimates show that the rental vacancy rate in Suffolk County was 5.3 percent, and the rental vacancy rate in the Town of Islip was 4.6 percent.⁶ This shows that the rental housing market, such as it exists, is extremely tight. Therefore, it is anticipated that the Project will bring a much-needed housing type to the area.

1.4 Comparable Rental Developments

The Suffolk County Department of Economic Development and Planning (SCEDP) gathers information on apartment complexes with 10 or more units either existing or currently under construction in the County. According to SCEDP data,⁷ in the Town of Islip, there are approximately 116 apartment complexes with a total of 11,534 units. Five of these apartment complexes, with a total of 438 units, are located in the Oakdale area. Of the five apartment

⁵ U.S. Census Bureau, *Quarterly Residential Vacancies and Homeownership, First Quarter 2017*, (accessed January 2020); available at <https://www.census.gov/housing/hvs/files/currenthvspress.pdf>.

⁶ U.S. Census Bureau, *Selected Housing Characteristics 2013-2017 American Community Survey 5-Year Estimates for the Town of Islip and Suffolk County*, (accessed January 2020); available at <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF> and <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>

⁷ Suffolk County Department of Economic Development and Planning, *Apartment Complexes of 10 or More Units*, November 29, 2018, (accessed January 2020); available at: <https://www.suffolkcountyny.gov/Portals/0/formsdocs/planning/Research/2018/AptS.pdf>.

complexes, four are age-restricted, intended for senior citizens (containing 419 total units), while the remaining complex is non-age-restricted, not targeted specifically to seniors.

Table 2 - Apartment Complexes of 10 or More Units, Oakdale

Name	Address	Number of Units	Type
Brookwood at Oakdale	Patricia Court and Race Place	88	Senior Citizen
Fairfield at Oakdale	20 West Shore Road and Montauk Highway	19	Non-age-restricted
Greenview Commons	Meredith Lane and Sunrise Highway	163	Senior Citizen
Greenview Court	Greenview Court and Oakdale-Bohemia	68	Senior Citizen
Ockers Gardens	Ockers Drive and 963 Montauk Highway	100	Senior Citizen/Affordable

Source: Suffolk County Department of Economic Development and Planning, *Apartment Complexes of 10 or More Units*, November 29, 2019

As four of the five apartment complexes located within the Oakdale area are age-restricted, the Project will increase Oakdale's age-restricted rental housing stock by approximately 38% by the introduction of 158 units, including 16 affordable senior units.

2

Anticipated Benefits of the Project

2.1 IDA Evaluation Criteria

The IDA evaluates projects seeking benefits pursuant to the guidelines in its Uniform Tax Exemption Policy (UTEP)⁸ (Appendix B). The Project is eligible to apply for a Real Property Tax Abatement pursuant to Section I.A.4 of the UTEP as it is a senior apartment complex within the Town of Islip. As the Project is seeking a Sales Tax Exemption, Mortgage Recording Tax Exemption, and a PILOT Agreement from the IDA, it is subject to the following real property tax abatement guidelines/criteria for the IDA to determine whether to provide such abatements (Attachment 1 of the UTEP in Appendix B):

1. *Economy: Local and regional economic conditions at the time of application.*

The Town of Islip has considered economic revitalization of the Sunrise Highway corridor a planning priority, dating back to the *Sunrise Highway Study* in 2009. Since the *Sunrise Highway Study*, the Town has seen some progress with a number of development and redevelopment projects along the corridor; however, development of this corridor is still ongoing. The Project will contribute to the economic vitality and the aesthetic quality of the Sunrise Highway corridor by redeveloping a long vacant property and unmaintained property that would generate economic benefits to the Town in comparison to the site's current state as vacant property. The introduction of 158 senior rental apartments on the

⁸ Town of Islip Industrial Development Agency, *Uniform Tax Exemption Policy*, November 19, 2013 (accessed January 2019); available at: <http://islipida.com/documents/ida-documents/additional-documents-1/laws-agreements/877-uniform-tax-exemption-policy-for-approval-on-10-22-2019/file.html>

subject property would also introduce new residents to the area that would provide an expanded customer base for local merchants in the surrounding area. Overall, the Project would help to advance the objectives of the *Sunrise Highway Study* by activating an underutilized site along the highway with residences, thus expanding the local tax base and increasing the number of residents that will patronize area businesses.

2. Jobs: The extent to which the project will directly create or retain permanent private sector jobs as well as "temporary" jobs during the construction period. In addition, the level of secondary "multiplier" jobs that will be created or retained as a result of the project.

VHB conducted an analysis of the jobs projected to be generated in the zip codes comprising the Town of Islip by the Project using the IMPLAN software tool, which uses a regional input-output model. This analysis was conducted for both construction period and the long-term operations of the Project. For the construction period, the inputs included hard and soft costs, less the value of land acquisition for a total of approximately \$46 million. The multipliers for the IMPLAN analysis included the following sectors: Construction of New Multifamily Residential Structures; Legal Services; and Architectural, Engineering, and Related Services. Construction of the Project is anticipated to start in 2020 and finish in fall 2022 – an approximately 24-month period. Based on these inputs, the Project is estimated to generate approximately 216 jobs during the construction phase. These jobs are broken down as follows in Table 3:

Table 3 - Employment Impact (Construction Phase)

Impact Type	Employment
Direct Effect ⁹	124
Indirect Effect ¹⁰	50
Induced Effect ¹¹	42
Total	216

The analysis of the Project upon completion of construction (i.e., operational phase) is based upon the assumption that the Project would directly generate 10 jobs and projections that net operating income (NOI) of the project (i.e., gross operating income less operating expenses) would be approximately \$1.5 million. Using the NOI as the input for the IMPLAN model produces a conservative estimate of economic impacts that accounts for various maintenance expenses.

The results of the employment analysis for the operational phase of the Project are as follows:

⁹ Direct Effect is an immediate result of direct spending (i.e., construction jobs directly related to on-site activity).

¹⁰ Indirect Effect is the impact of local industries buying goods and services from other local industries (i.e., jobs supported from construction-related spending).

¹¹ Induced Effect is the response by an economy to an initial change (Direct Effect) that occurs through re-spending of income by direct employees. Money is recirculated through the household spending patterns causing further local economic activity (i.e., jobs created through household spending of income from direct jobs).

Table 4 - Employment Impact (Operational Phase)

Impact Type	Employment
Direct Effect	7
Indirect Effect	2
Induced Effect	1
Total	10

It is estimated that the Project has the potential to create a total of approximately 216 jobs during construction and 10 jobs during operation. Because the subject property is currently vacant, all operational jobs would be new positions.

3. Project Cost/Payroll: Level of direct annual payroll that results from the project as well as secondary "multiplier" payroll and payroll during the initial construction period.

The IMPLAN analysis also includes projections of the impact on income from jobs that are anticipated to be created by the Project. This includes income from direct, indirect and induced jobs. The results of this analysis, for both the construction and operational phases of the Project are as follows in Tables 5 and 6:

Table 5 - Labor Income for Jobs Generated During Construction

Impact Type	Employment	Labor Income	Average Salary
Direct Effect	124	\$7,898,416	\$63,697
Indirect Effect	50	\$2,762,345	\$55,247
Induced Effect	42	\$2,154,137	\$51,289
Total	216	\$12,814,898	\$56,744

Table 6 - Labor Income for Jobs Generated During Operation

Impact Type	Employment	Labor Income	Average Salary
Direct Effect	7	\$159,218	\$22,745
Indirect Effect	2	\$110,073	\$55,036
Induced Effect	1	\$55,764	\$55,764
Total	10	\$325,055	\$44,515

As demonstrated above, the Project would generate approximately \$12.8 million in income for jobs (direct, indirect and induced) during construction, with an average salary of approximately \$56,744. During Project operations, the Project would generate approximately \$325,055 in income for all jobs (direct, indirect and induced), with an average salary of approximately \$44,515. Again, as the subject property is currently vacant and does not generate any direct jobs, all income generated by the Project would be entirely new to the Town of Islip. Data from the American Community Survey (2013-2017 five-year estimates) indicate that the per capita income in the Town of Islip is approximately \$34,222. Thus, salaries generated by the Project would be somewhat higher than the Town of Islip's per capita income.

The new residents of the 158 proposed housing units would also generate economic benefits to the Town through household spending. Based on the estimated median disposable household income of residents in Oakdale of \$67,822 it is estimated that aggregated annual household disposable income spending from the Project will total approximately \$10.7 million, a portion of which would be spent locally.¹²

4. Project Purpose: Type of industrial or commercial activity proposed for the facility.

As the subject property is located within the Residence C zoning district, which only permits residential development, the Project does not include industrial or commercial uses as part of the proposed action.

5. Site Alternative: Likelihood that the project will locate elsewhere resulting in subsequent real economic losses for retention projects and possible failure to realize future economic benefits for attraction projects.

The Project has recently received approval for a change of zone by the Town of Islip Town Board as well as recommendation for approval from the Suffolk County Planning Commission, to allow for the development of senior residential apartments. The Applicant (or associated entities) has developed and operates other senior and non-aged-restricted developments in the Town and is unlikely to relocate the Project. Additionally, redevelopment of the existing vacant land would provide much-needed rental apartment space in the Oakdale area and the Town of Islip. By providing additional senior rental housing options, the Project will complement the other nearby senior housing developments and aid the Town of Islip and the region by allowing senior citizens to stay in the area while downsizing, rather than moving outside of the Town or region.

6. Project Location: Nature of the property before the project (vacant land, vacant buildings, distressed community, Former Empire Zone, blighted property, downtown corridor).

The subject property is comprised of one tax parcel, identified on the Suffolk County Tax Map as District 500 – Section 302 – Block 2 – Lot 3.1, which has been vacant since around 2012. As previously indicated, prior to its current vacant status, the subject property housed the Oakdale Golf Center and associated parking lot.

The Project will upgrade the subject property as it will convert existing derelict land (the improvements associated with the golf center have been removed) into a four-story senior apartment building, thereby advancing the on-going revitalization efforts of the *Sunrise Highway Plan* through the productive redevelopment of an underutilized property, consistent with this IDA evaluation criterion. As discussed previously, the Town Board of the Town of Islip granted a change of zone for the subject property from Residence CA to Residence C District, to allow the construction of a senior apartment building in August 2019.

¹² ESRI 2019 USA Median Disposable Income (accessed January 2020); available at: <https://www.arcgis.com/home/item.html?id=49f50fc061ae494a9e023af67b836669>.

7. Project Benefits: Amount of private sector investment as a result of the project and the level of additional revenue for local taxing jurisdictions.

The Applicant estimates that the total investment in the property to be approximately \$50.65 million (including soft costs, land costs, site preparation costs including connection to the sanitary STP and construction costs), which is a substantial investment in the Oakdale community and Town of Islip.

The Project aims to redevelop derelict land for residential purposes at the subject property along Sunrise Highway. Revitalization of the land will attract residential tenants who would otherwise locate elsewhere. As previously noted, implementation of the Project would generate approximately \$12.8 million in payroll income during construction and \$325,055 in payroll income during operations. Without significant investment in the subject property, income that would be generated as a result of implementation of the Project would be diverted elsewhere, potentially outside of the Town of Islip.

Currently, the entirety of the 13.2± subject property is vacant. Without redevelopment, the subject property would continue to be underutilized. As such, the proposed residential complex would attract residential tenants that would otherwise locate elsewhere. The four-story building would be an attractive addition to the Sunrise Highway corridor and would enhance the area in the immediate vicinity of the subject property.

Increased overall property taxes for the subject property would increase the amount of revenue allocated to the site's taxing jurisdictions, including the Connetquot School District, the West Sayville Fire Department and the Suffolk County Police Department.

Additionally, the redevelopment of the subject property with 158 senior rental apartments would provide a much-needed housing option for a portion of the population that are looking to downsize and would otherwise relocate elsewhere. These new residents in Oakdale would provide additional private sector economic stimulus to the Sunrise Highway corridor. As noted above, anticipated aggregate household spending from the Project is estimated to be approximately \$10.7 million, a portion of which would be spent locally within the Town.

8. Project Costs: Impact of the project and the proposed abatements/exemption on local taxing jurisdictions and extent to which will require additional services from local government entities.

The subject property was formerly operated as the Oakdale Golf Center, to which local services, including the Suffolk County Police Fifth Precinct, the West Sayville Fire Department, and the Community Ambulance Company, were provided. Although currently vacant, these services are still provided to the property. The proposed senior housing development will also require services from these and other local government entities, and these providers, including those identified above, will benefit from increased revenue streams resulting from the Project. As the Project includes the development of senior apartments, no school-aged children would be generated. However, the Project will generate property taxes for the Connetquot School District, with the district benefiting from a surplus of tax revenue, even under an IDA PILOT program.

3

Conclusions

For the reasons discussed in the previous section, there is currently a high demand for rental housing, including both senior and affordable rental housing, in the Town of Islip. As demonstrated by ACS data, age-restricted rental options are not plentiful on Long Island. In fact, the availability of rental housing on Long Island lags behind other metropolitan counties, even as demographic shifts have led to a higher demand for diversified housing options.

The Project would be consistent with identified goals, objectives and priorities in the *1979 Comprehensive Plan*, the *Oakdale Hamlet Center Vision Plan*, the *Comprehensive Plan Update*, the *Sunrise Highway Corridor Study* and the *Suffolk 2035 Plan*. The Town of Islip has advanced the goal of providing diversified housing options by allowing for changes of zone on properties within the Town to accommodate more housing. As previously indicated, the Town Board of the Town of Islip has granted a change of zone for subject property from Residence CA to Residence C District to allow the construction of age-restricted rental apartments. Moreover, the Project will add a type of housing that is in high demand throughout the Town of Islip and Long Island, as indicated by the low vacancy rates identified in the Census data. By providing 158 residential senior rental units, including 16 affordable units, the Project will enable senior citizens to stay within the Oakdale area and the Town of Islip to remain close to their home and families, rather than leave the Town and region altogether.

An IMPLAN analysis was undertaken to evaluate the anticipated employment and economic benefits of the Project during construction and operation phases. This analysis indicates that the Project will potentially generate a total of approximately 216 jobs (including direct, indirect and induced jobs) during the construction period, with a total labor (payroll) income

of approximately \$12.8 million. Further, it is estimated that the operational phase of the Project would potentially generate a total of approximately 10 jobs (including direct, indirect and induced jobs), with a total labor (payroll) income of approximately \$325,055. Additionally, disposable household spending by Project residents is estimated at approximately \$10.7 million, a portion of which would be spent locally.

In addition, the Applicant estimates the total project costs at \$50.65 million, which is a substantial investment in the Oakdale community and Town of Islip.

Based on the analysis and findings presented in this report, the Project is consistent with the guidelines and criteria of the IDA UTEP, and would result in both public benefits related to affordable housing and employment, generation of direct and indirect economic benefits to the Town of Islip and redevelopment of a long-vacant, underutilized property along Sunrise Highway.

Appendix A

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, made and dated the 15th day of August 2019 by GREENVIEW COMMONS WEST, LLC RESIDING (a corporation duly created, organized and existing under and by virtue of the laws of the State of New York), and having its principal place of business at 5 Shore Lane, Bay Shore, NY 11706) hereinafter referred to as the Declarant:

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of the following described real property:

ALL that certain plot, piece or parcel of land situate, lying and being at Oakdale, Town of Town of Islip, County of Suffolk and State of New York, being known and designated as Lot 27 and part of Lots 30, 37, and 40 and part of Bayview Road as shown on a certain map entitled "Amended Map of Northside, Property of W.K. Aston" filed in the Office of the Clerk of Suffolk County on September 29, 1908 as File No. 630, being more particularly bounded and described as follows:

BEGINNING at a point on the southerly side of Sunrise Highway (S.R. 27), distant 363.77 feet westerly from the corner formed by the southerly side of Sunrise Highway (S.R. 27) and the southerly side of Waterford Road;

RUNNING THENCE South 30 degrees 16 minutes 00 seconds West, 521.11 feet;

THENCE North 59 degrees 44 minutes 00 seconds West, 25.00 feet;

THENCE South 30 degrees 16 minutes 00 seconds West, 799.94 feet;

THENCE North 59 degrees 44 minutes 00 seconds West, 610.10 feet;

THENCE North 35 degrees 58 minutes 40 seconds East, 720.55 feet to the southerly side of Sunrise Highway (S.R. 27);

THENCE, along the southerly side of Sunrise Highway (S.R. 27) along the arc of a non-tangent curve bearing to the left having a radius of 9047.00 feet and a length of 826.30 feet, the chord of which bears North 73 degrees 16 minutes 13 seconds East for a distance of 826.02 feet to the POINT OR PLACE OF BEGINNING.

Containing: 574,610. square feet or 13.19 acres, more or less.

WHEREAS, a public hearing was held on the, 20th day of June 2019, by the Town Board of the Town of Islip, a municipal corporation of and in the County of Suffolk, State of New York, upon the application of the Declarant, made pursuant to Sections 264 and 265 of the Town Law to change the zoning classification of the above described real property from Residence CA District (CA) to Resident C District (C) as well as the approval for additional height and stories for an apartment house pursuant to 68-126.3 B.

and,

WHEREAS, at the conclusion of the said hearing and after due deliberation having been had thereon, the said zoning change was approved by said Town Board:

and,

WHEREAS, the Declarant deems it advisable and for the best interest of itself and for the Town of Islip as a whole that certain covenants and restrictions be placed upon the said real property with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the said Town of Islip.

NOW THEREFORE, in consideration of the premised, the Declarant declares as follows:

SCTM#0500-302.00-02.00-003.001

1. A change of zone from Residence CA to Residence C District is deemed granted as part of this application. At least one person 62 years or older shall be a leasee of each unit. All other age requirements of the Residence C District remain effective.
2. The use of the subject property shall be limited to a rental apartment complex having no more than 158 dwelling units. No unit shall consist of more than 2 bedrooms. The residential occupancy of the apartments shall be limited to the number permitted by the New York State Building Code. The residential occupancy of the one bedroom apartments shall be limited to two persons.
3. A modification of deed covenants and restrictions associated with TC #5159 shall be granted as part of this application. All deed covenants and restrictions associated with TC #5159 recorded in the office of the Suffolk County Clerk on December 5, 2014 in Liber D00012798, page 955 and all prior Town Board imposed deed covenants shall be deemed null and void and shall be replaced with these.
4. At least 10% (16) dwelling units shall be set aside as affordable units subject to the following Town of Islip Code requirements in §68-3 in effect at the time of this grant. The property owner or Management Company shall enter into a contract with a not-for-profit HUD Certified Housing Counseling Agency to review and certify compliance with the above provisions. Evidence of compliance with the above referenced affordability provisions must be provided prior to issuance of rental permit(s) and/or upon request to the Town of Islip Planning Department.
5. Declarant/Owner agrees to enter into a contract with a property management company to oversee the daily management of the property, including arranging for adequate security, refuse collection, landscaping maintenance, clean-up of litter and snow and ice removal, (as may be necessary). The subject parcel shall be kept neat, clean, graffiti and litter free. Any proposed garbage dumpsters shall be located at the direction of the Town Engineer and shall be enclosed in compliance with the Subdivision and Land Development Regulations. Dumpsters shall be emptied on a regular basis to prevent overflow. The subject site shall be maintained in a neat, clean, and litter free condition.
6. The roadway servicing the units shall not be offered for dedication. The Declarant/Owner agrees to install and permanently maintain all aspects of the roadway to the satisfaction of the Planning Board, or its designee. Said maintenance shall include, but not be limited to, snow removal, all repair and maintenance, lighting, walkways, etc.
7. Declarant/Owner shall provide regular solid waste collection services to residents of the apartments. Said collection services shall include separation of solid waste into recyclable components, including but not limited to newspapers, corrugated cardboard, ferrous metal, aluminum beverage containers, plastic beverage containers and glass. As part of this requirement, Declarant/Owner shall provide designated containers for recyclable materials. Said containers shall be regulated in the same manner as garbage dumpsters, including regular servicing and enclosure within a decorative or split faced concrete block enclosure with opaque gates.
8. The Town Board permits the height of the building to exceed 35' and two stories pursuant to Town of Islip Code Section 68-126.3 B. In no instance shall the height of the ridge line of the building exceed 69' or the number of stories exceed four. Architectural features such as cupolas may exceed 69' pursuant to the direction of the Planning Department. Prior to the issuance of any building permits or Certificates of Occupancy, there shall be submitted to the Town of Islip Planning Department for review and subject to approval the following items. The approved site plan shall supersede this plan for the purposes of regulating the subject property.
 - a. Exterior architectural drawings of all proposed buildings. The Planning Department shall review said drawings for overall design, color, materials, and exterior mechanical equipment. The submitted architectural drawings shall be in substantial conformance to the plan(s) prepared by Mosely Architects and received by the Planning Department on October 22, 2018. Said plan shall also show the following design elements:

7. Fire pits
8. Cooking facilities

iv. All stormwater drainage shall be contained on-site in accordance with the current Subdivision and Land Development Regulations. In addition, Declarant/Owner agrees to incorporate non-point source pollution mitigation into the overall drainage plan by incorporating one or more of the following stormwater mitigation techniques:

1. Natural retention area(s) such as vegetated swales and bioretention cells/rain gardens.
2. Permeable/porous pavement surfaces.
3. Manufactured treatment devices, i.e. catch basin inserts designed to filter hydrocarbons and other pollutants from stormwater runoff.

v. Declarant/Owner shall have on-site an office trailer which shall be made accessible to all Town personnel for the review of plans and communication with all contractors and subcontractors. Said trailer shall remain onsite until the issuance of a Certificate of Occupancy or written permission for its removal is given by the Building Department.

The Planning Board reserves the right to modify any site plan requirements with the consent of the Declarant/Owner after due public hearing. The Commissioner of Planning, is hereby authorized to waive the requirement for such public hearing if any future site plan modification is reasonable, is evident within the documentation submitted as part of this application, and is within the spirit and intent of this grant.

9. Declarant/Owner agrees to meet all Suffolk County requirements with regard to sanitary waste.

10. Prior to the issuance of a building permit, the Declarant/Owner agrees to consolidate all parcels of the subject property into a single Suffolk County Tax Map parcel.

11. All lighting shall be positioned or shielded so as to illuminate only the subject parcel. The Planning Board reserves the right to further limit or shield lighting fixtures if it is determined that light is not being contained on the subject property. The Planning Board reserves the sole responsibility of determining if lighting is properly contained on the subject property.

12. Prior to the issuance of any sign permits, all exterior signs shall be subject to review and approval by the Town of Islip Planning Department. The Planning Department shall review the signs for design compatibility, color, materials, height, and size.

13. Except as provided herein, Declarant/Owner agrees to comply in all respects with the Subdivision and Land Development Regulations and the Islip Town Code.

14. Declarant/Owner further agrees to permanently maintain all improvements and landscaping to the satisfaction of the Planning Board. If the declarant fails to comply with this restriction then the Town Board reserves the right, after due public hearing, to revert the zoning of the subject property, rescind any special permit(s) and approvals on the subject property, or revoke the property's Certificate of Occupancy. The Declarant/Owner shall waive any right to non-conformity in the event that any of the above Town Board actions are taken.

15. The above-mentioned covenants and restrictions shall be and constitute real covenants running with the land and shall be binding upon the Declarant/Owner and any and all subsequent owners of the said real property or any part thereof, and upon their heirs, executors, and administrators (or their successors and assignees) subject, however, to the right of the Town of Islip after a public hearing to amend, alter, annul or repeal any or all of the foregoing covenants and /or restrictions at any time with the consent of the owner or owners for the time being of the premises herein described, and such right shall be effectual and may be exercised without the consent of any adjacent owners or other owners or lienors of any other property.

IN WITNESS WHEREOF, the Declarant has hereunto set his hand and seal the day and year first above written.

Greenview Commons West, LLC

By: [Signature]
Larry C. Gargano, Managing Member

STATE OF NEW YORK)
COUNTY OF SUFFOLK)

On the 15 day of August in the year 2019 before me the undersigned, personally appeared Larry C. Gargano personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

[Signature]
Notary Public

Ivete X. Matos
Notary Public, State of New York
No. 02MA6002156
Qualified in Nassau County
Commission Expires March 18, 2022

IVETTE X. MATOS
NOTARY PUBLIC STATE OF N.Y.
02MA6002156
NASSAU COUNTY
EXPIRES 3-16-22

Appendix B



TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY

UNIFORM TAX EXEMPTION POLICY

The Town of Islip Industrial Development Agency ("TOIIDA") provides financial assistance (tax-exempt or taxable bonds and/or straight lease transactions) for projects which promote the economic growth and health of Islip Town and the Long Island region. TOIIDA provides financial assistance to all projects and facilities as defined in Title I of Article 18A of the General Municipal Law. These projects and facilities as defined in Title I of Article 18A of the General Municipal Law (the "Act"). These projects and facilities include, but are not limited to: industrial, manufacturing, research and development, warehousing, commercial, office, recreation and other economic development projects. Also included are: affordable housing, senior housing, downtown housing, assisted living facilities, brownfield redevelopment projects and projects that eliminate commercial blight. Certain retail projects are included (those that are in conformance with Sec. 862 of the NYS GML, those that are part of a mixed use downtown redevelopment plan and those that involve the elimination of community blight).

All projects receiving financial assistance through TOIIDA are eligible for various tax exemptions and abatements. In reviewing applications for financial assistance, TOIIDA shall take into consideration, review and comply with all requirements and provisions of the Act.

I. REAL PROPERTY TAXES

- A. **Real Property Tax Abatement:** TOIIDA provides real property tax abatements in the form of reduction of existing taxes and/or freezing existing taxes and/or abating the increased assessment (value added) as a result of the project. Real property tax abatements may be structured in the form of fixed annual payments with or without scheduled increases over a period of time or in the form of abatements of the increased assessment that results from the project over a period of time or in the form of reduction of the existing taxes with a phase in back to the original tax level over a period of time. To evidence such abatements, TOIIDA will enter into a lease and project agreement or other agreement evidencing the real property tax abatement relating to such project with the project occupant, which such agreement shall require payment of PILOT payments in accordance with the provisions set forth below.

Each project is reviewed and evaluated on a case by case basis. TOIIDA's review utilizes criteria that measure the projects level of significance and/or strategic value and/or impact upon the Town of Islip at both the micro and macro level as well as upon Long Island as a Region and/or the State economy.

As a general rule, the term of the real property tax abatement is ten years. The basic real property tax abatement provided by the TOIIDA is based upon the equivalent of Section 485-b of the New York State Real Property Tax Law. This section provides for a 50% real property tax abatement on the increased assessed value in the first year; 45% real property tax abatement

in the second year; 40% abatement in the third year and thereafter declining 5% per year over a ten year period. A 485-b real property tax abatement is the minimum that TOIIDA provides. An enhanced real property tax abatement is considered and/or provided under the following circumstances:

1. **Existing Vacant Facilities & Brownfields:** In order to encourage "reuse" and upgrading of existing building stock and environmentally damaged properties commonly referred to as brownfields, TOIIDA may provide an enhanced real property tax benefit and abatement for projects involving vacant existing facilities and brownfields. The benefits may include freezing or reducing the assessment base of the pre-improved facility and granting of abatements that are equivalent of double the benefits provided by Section 485-b of the Real Property Tax Law. These abatements will consist of a 100% abatement on the increased assessed value in the first year; a 90% abatement in the second year; and 80% abatement in the third year and thereafter declining 10% per year over a ten year period.
2. **Significant/Strategic Projects:** TOIIDA may provide enhanced real property tax abatements (double 485-b) to projects that are considered significantly and strategically important to the economic well-being of Islip Town and the Long Island region. Provision of an enhanced real property tax abatement would be considered for high-tech and biomedical manufacturing; research and development; computer and data processing facilities; financial (back office) operations; professional services industry; corporate, national or regional headquarters; and projects deemed significant to the revitalization of distressed communities. Each project eligible for enhanced property tax abatement is evaluated pursuant to the guidelines/criteria contained in Attachment 1.
3. **Projects within the boundaries of the former Empire Zone:** TOIIDA provides enhanced real property tax abatement to projects located within the boundaries of the former New York State designated Empire Zone. The enhanced property tax abatement consists of a 100% abatement on the increased assessed value for the first 5 years; 90% in year 6; 80% in year 7 and thereafter declining 10% per year through year 14.
4. **Housing projects:** TOIIDA provides property tax abatements for standard rental housing projects (senior housing, assisted living facilities, downtown corridor rental housing) that provide a public benefit in accordance with the Town of Islip Comprehensive Plan and related Planning Department studies. Including but not limited to the Central Islip Revitalization Master Plan and the Suffolk County Industrial and Commercial Incentive Board Plan, Zones 2 & 3. These abatements will consist of a 100% abatement on the increased assessed value in the first year; a 90% abatement in the second year; and 80% abatement in the third year and thereafter declining 10% per year over a ten year period. The ten year abatement period will commence upon the receipt of a certificate of occupancy for any portion of the qualified housing project and during the initial construction of property will be assessed and billed at the base value.
5. **Subsidized Housing:** For qualified housing projects (100% affordable housing projects). That provide a public benefit in accordance with the Town of Islip Comprehensive Plan and related Planning Department studies, TOIIDA may set flat PILOT payments on a per unit, per year basis. The length and term of these agreements

will be determined on a case-by-case basis, based upon such factors as affordability, market conditions & the extent of public subsidies and participation in the project.

6. **Blighted Commercial Properties:** TOIIDA may provide enhanced property tax abatements (double 485-b) for projects that eliminate community blight as defined in Chapter 6A, Article II of the Islip Town Code.
 7. **Mixed Use properties in Downtown Commercial Corridors:** TOIIDA may provide enhanced real property tax abatements (double 485-b) for projects in which a combination of residential and commercial construction work is performed to create a building used for mixed residential and commercial purposes. Such projects must be located within proscribed downtown corridors as contained in zones 2 & 3 of the Suffolk County Industrial and Commercial Incentive Board Plan adopted in 1999, as amended and/or those projects governed by Chapter 68 of the Town Code known as Downtown Development Districts and Business Districts.
 8. **Town and/or other Municipally Owned Property:** Property owned by the Town of Islip and/or another municipal entity that is sold and/or leased to a private developer and/or private company may qualify for a 100% abatement and/or an enhanced abatement for periods up to 15 years. However, no village taxes will be abated in any PILOT Agreement entered into under this provision.
 9. **Large Employment Generators:** Projects that create or retain 500 jobs or more may qualify for tax abatements for periods of up to 20 years. For new construction, this would be in the form of a 100% abatement the first year and declining 5% per year for 20 years. For existing buildings, the benefits may include reducing existing real property taxes and/or freezing the real property tax base and/or granting real property tax abatements on the increased value that result from the project for periods up to 20 years.
 10. **Manufacturing Project:** TOIIDA may provide enhanced real property tax abatement to manufacturing projects. The enhanced property tax abatement consists of a 12 year term.
- B. **Projects in Foreign Trade Zone:** For projects located within Islip's Foreign Trade Zone, all payments are made pursuant to land lease with the Town of Islip's Foreign Trade Zone Authority.
- C. **Deviations from Policy:** TOIIDA reserves the right to deviate from its uniform real property tax abatement policy under special/extraordinary circumstances. Deviations can take the form of providing less or more in the way of real property tax abatements. These deviations would be done by reducing or increasing the percentage of the annual abatement, or by reducing or increasing the term of the PILOT Agreement, or by doing a combination of both. Provision of less in the way of real property tax abatements is applicable to projects that are subsequent phases of a previously TOIIDA financed, multi-phased project and/or TOIIDA determines that the benefit provided by these projects merits a reduced level of incentive (cost). Provision of more in the way of real property tax abatements is applicable to projects that are considered extremely significant and vital to the economic health and well-being of Islip Town and the

Long Island Region. Any applicant may apply in writing to TOIIDA for increased real property tax abatement benefits setting forth reasons for a proposed deviation from the uniform policy. Such requests should set forth specific data and information which would cause TOIIDA to deviate from its uniform policy focusing, in whole or part, on the guidelines and criteria set forth in Attachment 1 hereto. Each time TOIIDA propose to deviate from its uniform real property tax abatement policy, it will provide written notification with any explanation for the deviation to the chief executive officer of each affected taxing jurisdiction.

II. SALES TAX EXEMPTIONS

- A. **Eligible Expenses:** TOIIDA provides sales and use tax exemptions on all eligible materials and/or equipment used or incorporated into the project during the initial construction/renovation and equipping of the project. TOIIDA does not provide sales tax exemption for ongoing expenses after the project is completed. Unless otherwise determined by resolution of TOIIDA, the sales and use tax exemption may be up to one hundred percent (100%) of the sales and/or use taxes that would have been levied if the project were not exempt by reason of TOIIDA's involvement in the project.
- B. **To provide such exemption:** TOIIDA shall execute a lease and project agreement or other agreement evidencing the sales and use tax exemption relating to such project with the project occupant. The period of time for which such exemption shall be effective shall commence no earlier than the date of execution of such agreement. Such agreement shall contain an expiration date for the continued availability of sales tax exemptions, which such expiration date shall be based upon the anticipated project completion date. Should the project not be completed by the expiration date, the project occupant must request an extension of the expiration date from TOIIDA prior to the stated expiration date. The sales and use tax exemption will also have a stated maximum amount of the exemption. If an applicant anticipated that it is going to exceed the stated amount of the sales and use tax exemption, they must request TOIIDA to increase the exemption amount before the applicant has exceeded the exemption in accordance with Section II D below.
- C. **Reporting Requirements:** Project occupants (agents) are required to annually file a statement of the value of all sales tax exemptions claimed for the year to the New York State Department of Taxation and Finance. TOIIDA requires that each project occupant (agent) provides TOIIDA with a copy of that annual filing.
- D. **Deviations from Policy:** TOIIDA reserves the right to deviate from its uniform sales tax exemption policy under special/extraordinary circumstances. Deviations can take the form of providing less in the way of sales tax exemptions. These deviations would be done by reducing the full sales tax exemption to a partial sales tax exemption for the initial project completion period. Provision of less in the way of sales tax exemption is applicable to projects that are subsequent phases of a previously TOIIDA financed multi-phase project and/or TOIIDA determines that the benefit provided by these projects merits a reduced level of incentive (cost). If an exemption of less than one hundred percent (100%) is determined by TOIIDA to be applicable to a project, then the project operator shall be required to pay a Payment-in-lieu-of-tax to TOIIDA equal to the applicable percentage of sales and/or use tax liability not being abated. TOIIDA shall remit such payment within thirty (30) days of receipt thereof by TOIIDA, to the affected tax jurisdictions in accordance with Section 874(3) of the Act. Each time TOIIDA deviates from its uniform sales tax exemption policy, it will provide written notification, with an explanation for the deviation to the chief executive officer of each affected taxing jurisdiction.

- E. LATER TERMINATION/INCREASE IN AMOUNT:** The Executive Director is authorized on behalf of TOIIDA to approve (i) requests regarding the extension of the completion date of its project and (ii) requests regarding an increase of sales and use tax exemptions in an amount not to exceed \$100,000.00 in connection with the purchase or lease of equipment, building materials, services or other personal property, without the need of approval of the board of directors of TOIIDA. Any requests for an increase of sales and use tax exemptions in an amount greater than \$100,000.00 will require public notice in accordance with the Act and approval of the TOIIDA board.

III. MORTGAGE RECORDING TAX

All TOIIDA assisted projects are eligible for a partial exemption from the mortgage recording tax imposed pursuant to Article 11 of the New York State Tax Law, except with respect that portion of the mortgage recording tax allocated to transportation districts referenced in Section 253(2)(a) of the Tax Law.

- A. Project Related Financing:** Financing secured by a mortgage which is directly related to the project is exempt from the mortgage recording tax
- B. Non-Project Related Financing:** Financing secured by a mortgage which is not directly related to, or a part of, the project, are not eligible for exemption from mortgage recording tax.
- C. Deviations from Policy:** TOIIDA reserves the right to deviate from its uniform mortgage recording tax exemption policy under special/extraordinary circumstances. Deviations can take the form of providing less in the way of mortgage recording tax exemptions. These deviations would be done by reducing the mortgage recording tax exemption from a full exemption to a partial exemption. Provision of less in the way of exemption from mortgage recording tax is applicable to projects that are subsequent phases of a previously TOIIDA financed multi-phase project and/or TOIIDA determines that the benefit provided by these project merits a reduced level of incentive (cost). Each time TOIIDA proposes to deviate from its uniform mortgage recording tax exemption policy, it will provide written notification with an explanation for the deviation to the Chief executive officer of each affected taxing jurisdiction.

IV. RECAPTURE OF BENEFITS:

ALL TOIIDA projects which receive financial assistance in accordance with the terms and provisions of this Uniform Tax Exemption Policy shall be subject to termination and recapture of any benefits received in accordance with TOIIDA's Recapture and Termination Policy, as such may be amended from time to time, and as required under the Act.

ATTACHMENT 1

ENHANCED REAL PROPERTY TAX ABATEMENT GUIDELINES/CRITERIA

TOIIDA considers the following significant indicators when determining whether to provide enhanced real property tax abatements. (These determinants are not all inclusive and are not in priority order):

1. ***Economy:*** Local and regional economic conditions at the time of application.
2. ***Jobs:*** The extent to which the project will directly create or retain permanent private sector jobs as well as "temporary" jobs during the construction period. In addition, the level of secondary "multiplier" jobs that will be created or retained as a result of the project.
3. ***Project Cost/Payroll:*** Level of direct annual payroll that results from the project as well as secondary "multiplier" payroll and payroll during the initial construction period.
4. ***Project Purpose:*** Type of industrial or commercial activity proposed for the facility.
5. ***Site Alternatives:*** Likelihood that the project will locate elsewhere resulting in subsequent real economic losses for retention projects and possible failure to realize future economic benefits for attraction projects.
6. ***Project Location:*** Nature of the property before the project (vacant land, vacant buildings, distressed community, Former Empire Zone, blighted property, downtown corridor).
7. ***Project Benefits:*** Amount of private sector investment as a result of the project and the level of additional revenue for local taxing jurisdictions.
8. ***Project Costs:*** Impact of the project and the proposed abatements/exemption on local taxing jurisdictions and extent to which will require additional services from local government entities.

EXHIBIT C-2

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

New York Law Journal

Real Estate Trends

WWW.NYLJ.COM

VOLUME 257—NO. 54

An ALM Publication

WEDNESDAY, MARCH 22, 2017

ZONING AND LAND USE PLANNING

Eligibility of Residential Developments for IDA Benefits

By
Anthony S.
Guardino



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 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 continues 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 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,

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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.

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

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 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 deterioration 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, 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 million;
- a sales and use tax exemption up to \$3.45 million 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.

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.

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.

The court agreed with the respondents and dismissed the petition.

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 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:

- 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.

EXHIBIT C-3

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

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 RDUA PARCEL 1 LLC,

Respondents.

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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

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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 I 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 Kuladjian*, 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 Kuladjian*, *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.

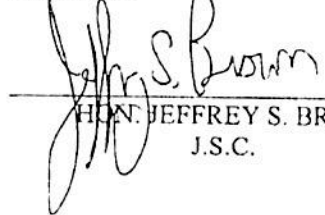
Where, as here, the project at issue promotes employment opportunities and serves to combat economic deterioration in an area served by an industrial development agency, a finding that the project falls within the ambit of the IDA is rationally based; neither arbitrary or capricious or an abuse of discretion, 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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J.S.C.

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EXHIBIT D

Town of Islip Industrial Development Agency Uniform Tax Exemption Policy



TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY

UNIFORM TAX EXEMPTION POLICY

The Town of Islip Industrial Development Agency (TOIIDA) provides financial assistance (tax-exempt or taxable bonds and/or straight lease transactions) for projects which promote the economic growth and health of Islip Town and the Long Island region. TOIIDA provides financial assistance to all projects and facilities as defined in Title I of Article 18A of the General Municipal Law. These projects and facilities include, but are not limited to: industrial, manufacturing, research and development, warehousing, commercial, office, recreation and civic facilities. Also included are: affordable housing, senior housing, assisted living facilities, brownfield redevelopment projects and projects that eliminate commercial blight. Certain retail projects are included (those that are in conformance with Sec. 862 of the NYS GML, those that are part of a mixed use downtown redevelopment plan and those that involve the elimination of community blight).

All projects receiving financial assistance through TOIIDA are eligible for various tax exemptions and abatements.

I. REAL PROPERTY TAXES

- A. Real Property Tax Abatement:** TOIIDA provides real property tax abatements in the form of reduction of existing taxes and/or freezing existing taxes and/or abating the increased assessment (value added) as a result of the project. Real property tax abatements may be structured in the form of fixed annual payments with or without scheduled increases over a period of time or in the form of abatements of the increased assessment that results from the project over a period of time or in the form of reduction of the existing taxes with a phase in back to the original tax level over a period of time.

Each project is reviewed and evaluated on a case by case basis. The Agency review utilizes criteria that measure the projects level of significance and/or strategic value and/or impact upon the Town of Islip at both the micro and macro level as well as upon Long Island as a Region and/or the State economy.

As a general rule, the term of the real property tax abatement is ten years. The basic real property tax abatement provided by the TOIIDA is based upon the equivalent of Section 485-b of the New York State Real Property Tax Law. This section provides for a 50% real property tax abatement on the increased assessed value in the first year; 45% real property tax abatement in the second year; 40% abatement in the third year and thereafter declining 5% per year over a ten year period. A 485-b real property tax abatement is the minimum that TOIIDA provides. An enhanced real property tax abatement is considered and/or provided under the following circumstances:

1. **Existing Vacant Facilities & Brownfields:** In order to encourage “reuse” and upgrading of existing building stock and environmentally damaged properties commonly referred to as brownfields, TOIIDA may provide an enhanced real property tax benefit and abatement for projects involving vacant existing facilities and brownfields. The benefits may include freezing or reducing the assessment base of the pre-improved facility and granting of abatements that are equivalent of double the benefits provided by Section 485-b of the Real Property Tax Law. These abatements will consist of a 100% abatement on the increased assessed value in the first year; a 90% abatement in the second year; and 80% abatement in the third year and thereafter declining 10% per year over a ten year period.
2. **Significant/Strategic Projects:** TOIIDA may provide enhanced real property tax abatements (double 485-b) to projects that are considered significantly and strategically important to the economic well being of Islip Town and the Long Island region. Provision of an enhanced real property tax abatement would be considered for high-tech and biomedical manufacturing; research and development; computer and data processing facilities; financial (back office) operations; professional services industry; corporate, national or regional headquarters; and projects deemed significant to the revitalization of distressed communities. Each project eligible for enhanced property tax abatement is evaluated pursuant to the guidelines/criteria contained in Attachment 1.
3. **Projects within the boundaries of the former Empire Zone:** TOIIDA provides enhanced real property tax abatement to projects located within the boundaries of the former State designated Empire Zone. The enhanced property tax abatement consists of a 100% abatement on the increased assessed value for the first 5 years; 90% in year 6; 80% in year 7 and thereafter declining 10% per year through year 14.
4. **Housing projects:** For qualified housing projects (affordable housing, senior housing, assisted living facilities) that provide a public benefit in accordance with the Town of Islip Comprehensive Plan and related Planning Department studies, TOIIDA may set flat PILOT payments on a per unit, per year basis. The length and terms of these agreements will be determined on a case-by-case basis, based upon such factors as affordability, market conditions & the extent of public subsidies and participation in the project.
5. **Civic Facilities (Not-for-Profits):** TOIIDA provides property tax exemption for projects owned by 501(c)(3) corporations, equivalent to the exemption (100%) these not-for-profit corporations would receive under the RPTL, absent the involvement of the agency. For projects leased by 501(c)(3) corporations, TOIIDA provides a 100% abatement on any improvement to real property for the term of the lease, as long as the facility is used exclusively for, and in furtherance of, their 501(c)(3) mission.
6. **Blighted Commercial Properties:** TOIIDA may provide enhanced property tax abatements (double 485-b) for projects that eliminate community blight as defined in Chapter 6A, Article II of the Islip Town Code.
7. **Mixed Use properties in Downtown Commercial Corridors:** TOIIDA may provide enhanced real property tax abatements (double 485-b) for projects on which a combination of residential and commercial construction work is performed to create a building used for mixed residential and commercial purposes. Such projects must

be located within proscribed downtown corridors as contained in the Suffolk County Industrial and Commercial Incentive Board Plan adopted in 1999, as amended and/or those projects governed by Chapter 68 of the Town Code known as Downtown Development Districts and Business Districts.

8. **Town and/or other Municipally Owned Property:** Property owned by the Town of Islip and/or another municipal entity that is sold and/or leased to a private developer and/or private company may qualify for a 100% abatement and/or an enhanced abatement for periods up to 15 years. However, no village taxes will be abated in any PILOT Agreement entered into under this provision.
 9. **Large Employment Generators:** Projects that create or retain 500 jobs or more may qualify for tax abatements for periods of up to 20 years. For new construction, this would be in the form of a 100% abatement the first year and declining 5% per year for 20 years. For existing buildings, the benefits may include reducing existing real property taxes and/or freezing the real property tax base and/or granting real property tax abatements on the increased value that result from the project for periods up to 20 years.
- B. **Projects in Foreign Trade Zone:** For projects located within Islip's Foreign Trade Zone, all payments are made pursuant to land lease with the Town of Islip's Foreign Trade Zone Authority.
- C. **Recapture of Benefits:** Projects that receive enhanced real property tax abatements are subject to the recapture of benefits pursuant to the following schedule:

Within 1 year	100%
Within 2 years	100%
Within 3 years	50%
Within 4 years	25%
After 4 years	0%

The above term period is from the effective date of the PILOT Agreement. Imposition of any recapture is at the sole discretion of the TOIIDA and is reviewed/considered on a case by case basis. Reasons for the recapture of benefits include the following:

1. Sale or closure of the facility and departure of the company from the Long Island region.
 2. Significant change in the use of the facility and/or the business activity of the company.
 3. Significant employment reductions not reflective of the company's (normal) business cycle and/or local and national economic conditions.
- D. **Deviations from Policy:** TOIIDA reserves the right to deviate from its uniform real property tax abatement policy under special/extraordinary circumstances. Deviations can take the form of providing less or more in the way of real property tax abatements. These deviations would be done by reducing or increasing the percentage of the annual abatement, or by reducing or increasing the term of the PILOT Agreement, or by doing a combination of both. Provision of less in the way of real property tax abatements is applicable to projects that are subsequent phases of a previously TOIIDA financed, multi-phased project and/or TOIIDA determines that the benefit provided by these projects merits a reduced level of incentive

(cost). Provision of more in the way of real property tax abatements is applicable to projects that are considered extremely significant and vital to the economic health and well-being of Islip Town and the Long Island Region. Any applicant may apply in writing to TOIIDA for increased real property tax abatement benefits setting forth reasons for a proposed deviation from the uniform policy. Such requests should set forth specific data and information which would cause TOIIDA to deviate from its uniform policy focusing, in whole or part, on the guidelines and criteria set forth in Attachment 1 hereto. Each time TOIIDA propose to deviate from its uniform real property tax abatement policy, it will provide written notification with any explanation for the deviation to the chief executive officer of each affected taxing jurisdiction.

II. SALES TAX EXEMPTIONS

- A. **Eligible Expenses:** TOIIDA provides sales tax exemptions on all materials and/or equipment used or incorporated into the project during the initial construction/renovation and equipping of the project. TOIIDA does not provide sales tax exemption for ongoing expenses after the project is completed.
- B. TOIIDA executes a sales tax exemption agreement with the project occupant that contains an expiration date for the continued availability of sales tax exemptions. The expiration date is based upon the anticipated project completion date. Should the project not be complete by the expiration date, the project occupant must request an extension of the expiration date from TOIIDA.
- C. **Reporting Requirements:** Project occupants (agents) are required to annually file a statement of the value of all sales tax exemptions claimed for the year to the New York State Department of Taxation and Finance. TOIIDA requires that each project occupant (agent) provides the Agency with a copy of that annual filing.
- D. **Deviations from Policy:** TOIIDA reserves the right to deviate from its uniform sales tax exemption policy under special/extraordinary circumstances. Deviations can take the form of providing less or more in the way of sales tax exemptions. These deviations would be done by reducing the full sales tax exemption to a partial sales tax exemption for the initial project completion period or by extending the term of the sales tax agreement to include ongoing operating expenses. Provision of less in the way of sales tax exemption is applicable to projects that are subsequent phases of a previously TOIIDA financed multi-phase project and/or TOIIDA determines that the benefit provided by these projects merits a reduced level of incentive (cost). Provision of more in the way of sales tax exemption is applicable to projects that are considered extremely significant and vital to the economic health and well-being of Islip Town and the Long Island region. Any applicant may apply in writing to TOIIDA for increased sales tax exemptions setting forth reasons for a proposed deviation from the uniform policy. Such request should set forth specific data and information which would cause TOIIDA to deviate from its uniform policy focusing, in whole or in part, on the guidelines and criteria set forth in Attachment 1 hereto. Each time TOIIDA deviates from its uniform sales tax exemption policy, it will provide written notification, with an explanation for the deviation, to the chief executive officer of each affected taxing jurisdiction.

III. MORTGAGE RECORDING TAX

All TOIIDA assisted projects are eligible for exemption from the mortgage recording tax

- A. **Project Related Financing:** Financing secured by a mortgage which is directly related to the project is exempt from the mortgage recording tax
- B. **Non-Project Related Financing:** Financing secured by a mortgage which is not directly related to, or a part of, the project, are not eligible for exemption from mortgage recording tax.
- C. **Deviations from Policy:** TOIIDA reserves the right to deviate from its uniform mortgage recording tax exemption policy under special/extraordinary circumstances. Deviations can take the form of providing less or more in the way of mortgage recording tax exemptions. These deviations would be done by reducing the mortgage recording tax exemption from a full exemption to a partial exemption or by allowing all or part of the non-project related financing to be exempt from mortgage recording tax. Provision of less in the way of exemption from mortgage recording tax is applicable to projects that are subsequent phases of a previously TOIIDA financed multi-phase project and/or TOIIDA determines that the benefit provided by these project merits a reduced level of incentive (cost). Provision of more in the way of exemption from mortgage recording tax is applicable to projects that are considered extremely significant and vital to the economic health and well-being of Islip Town and the Long Island region. Any applicant may apply in writing to the TOIIDA for increased mortgage recording tax exemptions setting forth reasons for a proposed deviation from the uniform policy. Such request should set forth specific data and information which would cause TOIIDA to deviate from its uniform policy focusing in whole or in part on the guidelines and criteria set forth in Attachment 1 hereto. Each time TOIIDA proposes to deviate from its uniform mortgage recording tax exemption policy, it will provide written notification with an explanation for the deviation to the chief executive officer of each affected taxing jurisdiction.

ATTACHMENT 1

ENHANCED REAL PROPERTY TAX ABATEMENT GUIDELINES/CRITERIA

TOIIDA considers the following significant indicators when determining whether to provide enhanced real property tax abatements. (These determinants are not all inclusive and are not in priority order):

1. ***Economy:*** Local and regional economic conditions at the time of application.
2. ***Jobs:*** The extent to which the project will directly create or retain permanent private sector jobs as well as “temporary” jobs during the construction period. In addition, the level of secondary “multiplier” jobs that will be created or retained as a result of the project.
3. ***Project Cost/Payroll:*** Level of direct annual payroll that results from the project as well as secondary “multiplier” payroll and payroll during the initial construction period.
4. ***Project Purpose:*** Type of industrial or commercial activity proposed for the facility.
5. ***Site Alternatives:*** Likelihood that the project will locate elsewhere resulting in subsequent real economic losses for retention projects and possible failure to realize future economic benefits for attraction projects.
6. ***Project Location:*** Nature of the property before the project (vacant land, vacant buildings, distressed community, Former Empire Zone, blighted property, downtown corridor).
7. ***Project Benefits:*** Amount of private sector investment as a result of the project and the level of additional revenue for local taxing jurisdictions.
8. ***Project Costs:*** Impact of the project and the proposed abatements/exemption on local taxing jurisdictions and extent to which will require additional services from local government entities.



Trish Bergin
Councilwoman

May 15, 2020

Town of Islip Economic Development
40 Nassau Avenue
Islip, NY 11751

Governance Committee:

Please accept this as the reason for my recusal of items #9 & #10 at the Town of Islip IDA Board meeting of 5/12/20.

I recused myself on items #9 & #10 regarding Greenview Properties, due to my involvement on a business matter with the applicant, unrelated to the items that I recused myself on.

In addition, I will continue to recuse myself on any future applications involving Greenview Properties and/or its subsidiaries.

Sincerely,

Trish Bergin
TB/ct