

Date: January 8, 2020

At a meeting of the Town of Brookhaven Industrial Development Agency (the “Agency”), held on the 8th day of January, 2020, at 1 Independence Hill, 2nd Floor, Farmingville, New York 11738, the following members of the Agency were:

Present: Frederick C. Braun, III
Martin Callahan
Scott Middleton
Gary Pollakusky
Ann-Marie Scheidt

Recused:

Excused: Felix J. Grucci, Jr.
Frank C. Trotta

Also Present: Lisa M. G. Mulligan, Chief Executive Officer

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition of a leasehold interest in and title to a certain industrial development facility more particularly described below (Brightview Port Jefferson, LLC Facility) and the leasing of the facility to Brightview Port Jefferson, LLC for further subleasing to BV Port Jefferson Operator, LLC.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Voting Nay

Braun
Callahan
Middleton
Pollakusky
Scheidt

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE APPOINTMENT OF BRIGHTVIEW PORT JEFFERSON, LLC, A MARYLAND LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF BRIGHTVIEW PORT JEFFERSON, LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AND BV PORT JEFFERSON OPERATOR, LLC, A MARYLAND LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF BV PORT JEFFERSON OPERATOR, 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, CONSTRUCTING AND EQUIPPING THE FACILITY, APPROVING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF SUCH INDUSTRIAL DEVELOPMENT FACILITY AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE FACILITY AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 358 of the Laws of 1970 of the State of New York, as amended from time to time (collectively, the “**Act**”), the Town of Brookhaven Industrial Development Agency (the “**Agency**”), was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, Brightview Port Jefferson, LLC, a limited liability company organized and existing under the laws of the State of Maryland, on behalf of itself and/or the principals of Brightview Port Jefferson, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”) and BV Port Jefferson Operator, LLC, a limited liability company organized and existing under the laws of the State of Maryland, on behalf of itself and/or the principals of BV Port Jefferson Operator, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Sublessee**”), have applied to the Agency to enter into a transaction in which the Agency will assist in (i) the acquisition of an approximately 8.7 acre parcel of land located at 1175 NY-112, Port Jefferson Station, New York 11776 (the “**Land**”), (ii) the demolition of an approximately 8,900 square foot building located on the Land, and (iii) the construction of a three-story approximately 187,425 square foot building to contain approximately 170 apartment units (including Independent Living, Assisted Living and Alzheimer/Memory Care units) and associated parking, a new wastewater treatment plant, emergency power generator, a theater room, library, multiple dining venues, activity spaces and other associated improvements (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 further

subleased by the Company to, and used by, the Sublessee as a senior living residential community (the “**Project**”). The Facility will be initially owned by the Company and managed by the Sublessee; and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements pursuant to a certain Company Lease Agreement, dated as of January 1, 2020 or such other date as the Chairman, the Chief Executive Officer of the Agency and counsel to the Agency shall agree (the “**Company Lease**”), by and between the Company and the Agency; and

WHEREAS, the Agency will acquire title to the Equipment pursuant to a certain Bill of Sale, dated the Closing Date (as defined in the hereinafter defined Lease Agreement) (the “**Bill of Sale**”), from the Company to the Agency; and

WHEREAS, the Agency will sublease and lease the Facility to the Company pursuant to a certain Lease and Project Agreement, dated as of January 1, 2020 to the Agency shall agree (the “**Lease Agreement**”), by and between the Agency and the Company; and

WHEREAS, in connection with the subleasing of the Facility to the Sublessee, the Sublessee and the Agency will enter into a certain Agency Compliance Agreement, dated as of January 1, 2019, or such other date as the Chairman, the Chief Executive Officer of the Agency and counsel to the Agency shall agree (the “**Agency Compliance Agreement**”), whereby the Sublessee will provide certain assurances to the Agency with respect to the Facility; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in the form of: (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$60,300,000 but not to exceed \$65,000,000 in connection with the financing of the acquisition, renovation and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, renovating, redeveloping and equipping the Facility, (ii) exemptions from sales and use taxes in an approximate amount not to exceed \$1,620,000, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit C hereof); 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, as security for a loan or loans, the Agency and the Company will execute and deliver to a lender or lenders not yet determined (collectively, the “**Lender**”), a mortgage or mortgages, and such other loan documents satisfactory to the Agency, upon advice of counsel, in both form and substance, as may be reasonably required by the Lender, to be dated a date to be determined, in connection with the financing, any refinancing or permanent financing of the costs of the acquisition, construction and equipping of the Facility (collectively, the “**Loan Documents**”); and

WHEREAS, a public hearing (the “**Hearing**”) was held on January 7, 2020 and notice of the Hearing was given and such notice (together with proof of publication) together with the minutes of the Hearing are in substantially in the form annexed hereto as Exhibits A and B respectively; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed Facility is either an inducement to the Company to maintain and expand the Facility in the Town of Brookhaven or is necessary to maintain the competitive position of the Company in its industry; and

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

1. Market Analysis, Impact Analysis and Feasibility Study, dated August, 2019, prepared by Camoin Associates 310 Ltd.;
2. Letter of Support from Long Island Builders Institute, dated September 13, 2018;
3. New York Law Journal Article, dated March 22, 2017 on Eligibility of Residential Developments for IDA Benefits by Anthony Guardino, Esq.; and
4. Ryan et al. v. Town of Hempstead Industrial Development Agency et al.; and

WHEREAS, 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, Brightview @ Port Jefferson Station submitted a request for rezoning to the Brookhaven Town Board (“**Town Board**”), from J Business 2 and A Residential 1 to NH-H Health Facility District (the “**Action**”); and

WHEREAS, on July 12, 2018, a duly advertised public hearing was held to consider the application of Brightview @ Port Jefferson Station for the Action; and

WHEREAS, the Town Board determined that the Action in connection with the Facility (the “**Action**”), is an “Unlisted Action” for SEQR purposes; and

WHEREAS, pursuant to a resolution dated July 12, 2018, the Town Board determined that the Action will not have a “significant effect” on the environment, and, therefore, an environmental impact statement will not be prepared; and

WHEREAS, this determination constitutes a negative declaration for purposes of SEQR; and

WHEREAS, as an Involved Agency, the Agency must make its own findings under SEQR prior to funding, undertaking, or approving an Action; and

WHEREAS, the Agency has reviewed the Questionnaire and such other documents as the Agency felt it necessary or appropriate to examine to adequately review the proposed Action; and

WHEREAS, the Agency finds that the negative declaration of the Town Board accurately and adequately examines environmental issues presented by the Action; and

WHEREAS, the Company and the Sublessee have 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 and the subleasing of the Facility to the Sublessee;

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. Based upon the Environmental Assessment Form completed by the Company and other representations and information furnished regarding the Action, the Lead Agency, following coordinated review, determined that, based upon its review of the EAF, the appropriate criteria for determination of significance, and such other and further information which the Lead Agency felt necessary to review the Action, that the Action would 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. The Agency hereby adopts the Lead Agency’s negative declaration as its own negative declaration under SEQR.

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

(a) There is a lack of affordable safe, clean and modern senior housing in the Town of Brookhaven; and

(b) Such lack of senior housing has resulted in individuals leaving the Town of Brookhaven and therefore adversely affecting employers, businesses, retailers, banks, financial institutions, insurance companies, health and legal services providers and other merchants in the Town of Brookhaven and otherwise adversely impacting the economic health and well-being of the residents of the Town of Brookhaven, employers, and the tax base of the Town of Brookhaven; and

(c) The Facility, by providing such senior housing will enable persons to remain in the Town of Brookhaven 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 Brookhaven which will increase the economic health and well-being of the residents of the Town of Brookhaven, help preserve and increase permanent

private sector jobs in furtherance of the Agency's public purposes as set forth in the Act, and therefore the Agency finds and determines that the Facility is a commercial project within the meaning of Section 854(4) of the Act; and

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

(e) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(f) The Facility constitutes a "project", as such term is defined in the Act; and

(g) The Requisite Materials support the Agency's determination that the Facility constitutes a project under the Act and supports the Agency's determination to provide financial assistance for the Project to the Company; and

(h) The acquisition, construction and equipping of the Facility and the leasing of the Facility to the Company, will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of Brookhaven, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(i) The acquisition, construction and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

(j) Based upon representations of the Company and counsel to the Company, the Facility conforms with the local zoning laws and planning regulations of the Town of Brookhaven, Suffolk County, and all regional and local land use plans for the area in which the Facility is located; and

(k) It is desirable and in the public interest for the Agency to lease the Facility to the Company; and

(l) The Company Lease will be an effective instrument whereby the Agency leases the Land and the Improvements from the Company; and

(m) The Lease Agreement will be an effective instrument whereby the Agency leases the Facility to the Company, the Agency and the Company set forth the terms and conditions of their agreement regarding payments-in-lieu of taxes, the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility and will describe the circumstances in which the Agency may recapture some or all of the benefits granted to the Company;

(n) The Agency Compliance Agreement will be an effective instrument whereby the Sublessee will provide certain assurances to the Agency with respect to the Facility; and

(o) The Loan Documents to which the Agency is a party will be effective instruments whereby the Agency and the Company agree to secure the Loan made to the Company by the Lender.

Section 3. The Agency has assessed all material information included in connection with the Company's application for financial assistance, including but not limited to, the cost-benefit analysis prepared by the Agency and such information has provided the Agency a reasonable basis for its decision to provide the financial assistance described herein to the Company.

Section 4. The Agency is hereby authorized to acquire the real property and personal property described in Exhibit A and Exhibit B, respectively, to the Lease Agreement, and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 5. In consequence of the foregoing, the Agency hereby determines to: (i) lease the Land and the Improvements from the Company pursuant to the Company Lease, (ii) execute, deliver and perform the Company Lease, (iii) lease and sublease the Facility to the Company pursuant to the Lease Agreement, (iv) execute, deliver and perform the Lease Agreement, (v) execute and deliver the Agency Compliance Agreement, (vi) grant a mortgage on and security interest in and to the Facility pursuant to the Loan Documents, and (vii) execute, deliver and perform the Loan Documents to which the Agency is a party.

Section 6. The Agency hereby authorizes and approves the following economic benefits to be granted to the Company in connection with the acquisition, construction and equipping of the Facility in the form of: (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$60,300,000 but not to exceed \$65,000,000 in connection with the financing of the acquisition, renovation and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, renovating, redeveloping and equipping the Facility, (ii) exemptions from sales and use taxes in an approximate amount not to exceed \$1,620,000, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit C hereof.

Section 7. Subject to the provisions of this resolution, the Company is herewith and hereby appointed the agent of the Agency to acquire, construct and equip the Facility. The Company is hereby empowered to delegate its status as agent of the Agency to its agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company may choose in order to acquire, construct and equip the Facility. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company as agents of the Agency solely for purposes of making sales or leases of goods, services and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency, shall be deemed to be on behalf of the Agency and for the benefit of the Facility. This agency appointment expressly excludes the

purchase by the Company of any motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company, as agent of the Agency. The aforesaid appointment of the Company as agent of the Agency to acquire, construct and equip the Facility shall expire at the earlier of (a) the completion of such activities and improvements, (b) a date which the Agency designates, or (c) the date on which the Company has received exemptions from sales and use taxes in an amount not to exceed \$1,620,000 in connection with the purchase or lease of equipment, building materials, services or other personal property; provided however, such appointment may be extended at the discretion of the Agency, upon the written request of the Company if such activities and improvements are not completed by such time. The aforesaid appointment of the Company is subject to the completion of the transaction and the execution of the documents contemplated by this resolution.

Section 8. The Company and the Sublessee are hereby notified that they will be required to comply with Section 875 of the Act. The Company and the Sublessee shall be required to agree to the terms of Section 875 pursuant to the Lease Agreement and the Agency Compliance Agreement. The Company is further notified that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Company as agent of the Agency pursuant to this Authorizing Resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Lease Agreement.

Section 9. The form and substance of the Company Lease, the Lease Agreement, the Agency Compliance Agreement and the Loan Documents to which the Agency is a party (each in substantially the forms presented to or approved by the Agency and which, prior to the execution and delivery thereof, may be redated and renamed) are hereby approved.

Section 10.

(a) The Chairman, the Chief Executive Officer of the Agency or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Company Lease, the Lease Agreement, the Agency Compliance Agreement and the Loan Documents to which the Agency is a party, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, the Chief Executive Officer of the Agency or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and counsel to the Agency, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the “**Agency Documents**”). The execution thereof by the Chairman, the Chief Executive Officer of the Agency or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, the Chief Executive Officer of the Agency or any member of the Agency are further hereby authorized, on behalf of the Agency, to designate any

additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 11. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 12. Any expenses incurred by the Agency with respect to the Facility shall be paid by the Company. The Company shall agree 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 13. This resolution shall take effect immediately.

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

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

That I have compared the annexed extract of the minutes of the meeting of the Town of Brookhaven Industrial Development Agency (the "Agency"), including the resolutions contained therein, held on the 8th day of January, 2020, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Agency Documents contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 8th day of January, 2020.

By: 
Secretary

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law will be held by the Town of Brookhaven Industrial Development Agency (the “**Agency**”) on the 7th day of January, 2020, at 11:00 a.m. local time, at the Town of Brookhaven, Offices of Economic Development, One Independence Hill, 2nd Floor, Farmingville, New York 11738, in connection with the following matters:

Brightview Port Jefferson, LLC, a limited liability company organized and existing under the laws of the State of Maryland, on behalf of itself and/or the principals of Brightview Port Jefferson, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”) and BV Port Jefferson Operator, LLC, a limited liability company organized and existing under the laws of the State of Maryland, on behalf of itself and/or the principals of BV Port Jefferson Operator, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Sublessee**”), have applied to the Agency to enter into a transaction in which the Agency will assist in (i) the acquisition of an approximately 8.7 acre parcel of land located at 1175 NY-112, Port Jefferson Station, New York 11776 (the “**Land**”), (ii) the demolition of an approximately 8,900 square foot building located on the Land, and (iii) the construction of a three-story approximately 187,425 square foot building to contain approximately 170 apartment units (including Independent Living, Assisted Living and Alzheimer/Memory Care units) and associated parking, a new wastewater treatment plant, emergency power generator, a theater room, library, multiple dining venues, activity spaces and other associated improvements (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 further subleased by the Company to, and used by, the Sublessee as a senior living residential community (the “**Project**”). The Facility will be initially owned by the Company and managed by the Sublessee.

The Agency will acquire a leasehold interest in the Land and the Improvements and title to the Equipment and lease the Facility to the Company for further sublease to the Sublessee. 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 in connection with the construction and equipping of the Facility and exemption 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. 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: December 27, 2019

TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY

By: Lisa MG Mulligan
Title: Chief Executive Officer

EXHIBIT B

MINUTES OF PUBLIC HEARING HELD ON
JANUARY 7, 2020 at 11:00 A.M.

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
(BRIGHTVIEW PORT JEFFERSON, LLC 2020 FACILITY)

Section 1. Lisa MG Mulligan, Chief Executive Officer of the Town of Brookhaven Industrial Development Agency (the “**Agency**”) called the hearing to order.

Section 2. Lisa MG Mulligan then appointed herself 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:

Brightview Port Jefferson, LLC, a limited liability company organized and existing under the laws of the State of Maryland, on behalf of itself and/or the principals of Brightview Port Jefferson, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”) and BV Port Jefferson Operator, LLC, a limited liability company organized and existing under the laws of the State of Maryland, on behalf of itself and/or the principals of BV Port Jefferson Operator, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Sublessee**”), have applied to the Agency to enter into a transaction in which the Agency will assist in (i) the acquisition of an approximately 8.7 acre parcel of land located at 1175 NY-112, Port Jefferson Station, New York 11776 (the “**Land**”), (ii) the demolition of an approximately 8,900 square foot building located on the Land, and (iii) the construction of a three-story approximately 187,425 square foot building to contain approximately 170 apartment units (including Independent Living, Assisted Living and Alzheimer/Memory Care units) and associated parking, a new wastewater treatment plant, emergency power generator, a theater room, library, multiple dining venues, activity spaces and other associated improvements (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 further subleased by the Company to, and used by, the Sublessee as a senior living residential community (the “**Project**”). The Facility will be initially owned by the Company and managed by the Sublessee.

The Agency will acquire a leasehold interest in the Land and the Improvements and title to the Equipment and lease the Facility to the Company for further sublease to the Sublessee. 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 in connection with the construction and equipping of the Facility and exemption 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:

Francis G. Gibbons, Port Jefferson Station/Terryville Civic Association: Wants Civic Association to be formally informed of a public hearing, concerned about students.

Gerard T. Maxim, Port Jefferson Station/Terryville Civic Association: "Dead against." Concerned with Comsewogue bond recently passed.

Salvatore Pitti, Port Jefferson Station/Terryville Civic Association: Concerned seniors will vote against the budget . Emergency services strain.

Faith Cardone, Port Jefferson Station/Terryville Civic Association: Dead set against PILOT program. Everyone should pay its "fair share." Concerned about volunteer fire department. Water district.

Fran Navaretta: Against proposal.

Ed Garboski, Port Jefferson Station/Terryville Civic Association: School district, fire district and ambulance district concerns.

Thomas Navaretta, Jr., Port Jefferson Station/Terryville Civic Association: did not comment.

Frances Miller, Port Jefferson Station/Terryville Civic Association: did not comment.

Tony Cardone, Port Jefferson Station/Terryville Civic Association: did not comment.

James Tullo, Brookhaven IDA: did not comment

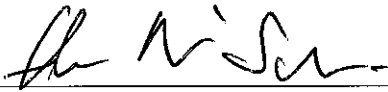
Section 5. The hearing officer then asked if there were any further comments, and, there being none, the hearing was closed at 11:29 a.m.

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

I, the undersigned Secretary of the Town of Brookhaven 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 Brookhaven Industrial Development Agency (the “Agency”) on January 7, 2020, at 11:00 a.m., local time, at Town of Brookhaven, Offices of Economic Development, One Independence Hill, 2nd Floor, Farmingville, New York 11738, 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 January 7, 2020.



Secretary

EXHIBIT C

Proposed PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Town of Brookhaven, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Comsewogue School District, Suffolk County and Appropriate Special Districts

Property Address: 1175 NY-112, Port Jefferson Station, New York 11776

Tax Map Nos. 0200-183.00-0700-001.00, 002.001 and 002.004

Comsewogue School District

| <u>Tax Year</u> | <u>PILOT Payment Amount</u> |
|-----------------|--|
| 1 | \$ 22,910.00 |
| 2 | \$ 23,368.00 |
| 3 | \$ 23,836.00 |
| 4 | \$ 118,292.00 |
| 5 | \$ 216,517.00 |
| 6 | \$ 318,624.00 |
| 7 | \$ 424,729.00 |
| 8 | \$ 534,951.00 |
| 9 | \$ 649,411.00 |
| 10 | \$ 768,236.00 |
| 11 | \$ 891,554.00 |
| 12 | \$ 1,019,497.00 |
| 13 | \$ 1,152,202.00 |
| 14 | 100% of full taxes and assessments on the Facility and thereafter |

EXHIBIT D

Requisite Materials

1. Market Analysis, Impact Analysis and Feasibility Study, dated August, 2019, prepared by Camoin Associates 310;
2. Letter of Support from Long Island Builders Institute, dated September 13, 2018;
3. New York Law Journal Article, dated March 22, 2017 on Eligibility of Residential Developments for IDA Benefits by Anthony Guardino, Esq.; and
4. Ryan et al. v. Town of Hempstead Industrial Development Agency et al.

EXHIBIT D-1

Market Analysis, Impact Analysis and Feasibility Study, dated August, 2019, prepared by
Camoin Associates 310



Main Office:
120 West Avenue, Suite #303
Saratoga Springs, NY 12866
Phone: 518.899.2608
Fax: 512.777.5045

Regional Offices:
Portland, ME
Boston, MA
Richmond, VA
Brattleboro, VT

10/9/2019

Ms. Lisa Mulligan
CEO & Director
Town of Brookhaven IDA
1 Independence Hill
Farmingville, NY 11738

Re: Reliance on Market Analysis, Impact Analysis, and Feasibility Study, Brightview Port Jefferson (the "Project")

Dear Ms. Mulligan:

In accordance with your request and upon authorization from our client, Brightview Development, LLC (the "Client"), this Letter of Reliance ("Letter"), confirms that the Town of Brookhaven Industrial Development Agency and any of its affiliates, agents and advisors may rely on the contents of the Market Analysis, Impact Analysis, and Feasibility Study (the "Report") of Brightview Port Jefferson located at 1175 NY-112, Port Jefferson Station, NY 11776 dated August 2019 as prepared by Camoin 310 (the "Consultant").

Should you have any questions, please call me at: 802-579-1865 or email rachel@camoinassociates.com.

Sincerely,

A handwritten signature in black ink that reads "Rachel Selsky".

Rachel Selsky
Vice President
Camoin 310

Brightview Port Jefferson

MARKET ANALYSIS, IMPACT
ANALYSIS, AND FEASIBILITY STUDY

Brightview Senior Living, LLC

AUGUST 2019

PREPARED BY:



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518.899.2608
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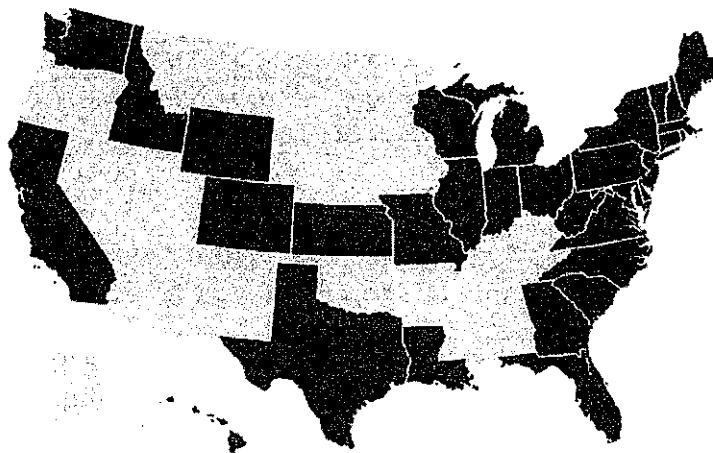
ABOUT CAMOIN 310

Camoin 310 has provided economic development consulting services to municipalities, economic development agencies, and private enterprises since 1999. Through the services offered, Camoin 310 has had the opportunity to serve EDOs and local and state governments from Maine to California; corporations and organizations that include Lowes Home Improvement, FedEx, Amazon, Volvo (Nova Bus) and the New York Islanders; as well as private developers proposing projects in excess of \$6 billion. Our reputation for detailed, place-specific, and accurate analysis has led to projects in 32 states and garnered attention from national media outlets including Marketplace (NPR), Forbes magazine, The New York Times and The Wall Street Journal. Additionally, our marketing strategies have helped our clients gain both national and local media coverage for their projects in order to build public support and leverage additional funding. We are based in Saratoga Springs, NY, with regional offices in Portland, ME; Boston, MA; Richmond, VA and Brattleboro, VT. To learn more about our experience and projects in all of our service lines, please visit our website at www.camoinassociates.com. You can also find us on Twitter @camoinassociate and on Facebook.

THE PROJECT TEAM

Rachel Selsky
Vice President, Project Principal

Jessica Ulbricht
Analyst, Project Staff



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INTRODUCTION

The Town of Brookhaven Industrial Development Agency (the "Agency") received an application for financial assistance from Brightview Port Jefferson LLC (the "Applicant"), for the completion of a residential rental facility which would create a senior living community with a continuum of housing options (the "Project"). The Project consists of the construction of a 170-unit senior living community that provides a variety of housing options, including Independent Living, Assisted Living, and Alzheimer/Memory Care units. The project will be located at 1175 NY-112, Port Jefferson Station, NY 11776 in the Town of Brookhaven and will involve the construction of an over 187,000 square foot building, along with the acquisition of related equipment and fixtures. Amenities to be constructed include a theater room, library, dining venues, and activity spaces. Brightview Senior Living LLC (the "Client") commissioned Camoin 310 to conduct an analysis of the local housing market, an economic and limited fiscal impact analysis of the Project on the Town of Brookhaven, and a feasibility study of the Project. These three analyses are included in the following sections.

MARKET ANALYSIS

HOUSING MARKET

Throughout this analysis Camoin 310 compared the housing market in the Town of Brookhaven with Suffolk County. The following sections summarize the supply and demand of housing in the town, as well as the demand for senior housing specifically. Through this analysis we can conclude that:

- ◆ The population of the town and county are aging. Between 2010 and 2019 the number of residents age 55+ increased by 27% in the town. This population cohort is expected to increase by another 6% by 2024. As the population continues to age, it is likely that this demographic will follow national trends and continue to demand smaller units in multifamily complexes, with amenities easily accessible, rather than single family units.
- ◆ Rental units are not readily available within the town. The Town of Brookhaven's housing stock is predominantly single-family, owner occupied units. Renter-occupied units represent only 19% of the town's total housing stock.
- ◆ Although increases in the number of high income (>\$100,000) households is projected in the Town of Brookhaven, median household incomes of renter occupied households are significantly lower (\$49,631).
- ◆ 8% of units in the Town of Brookhaven are vacant which is lower than the Suffolk County vacancy rate of 13%. This is a healthy vacancy rate and indicates that the Town of Brookhaven could support additional new units.
- ◆ Based on the supply and demand trends, the Town of Brookhaven's housing market can support additional rental units that cater to 55+ residents. In particular, units that are affordably priced are in high demand and will be absorbed quickly.

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SUPPLY

The table below breaks out the Town of Brookhaven and Suffolk County's housing stock by structure type. The vast majority of homes within both geographies are single-family detached homes (78% in the Town of Brookhaven and 80% in Suffolk County). Although the market is dominated by single family homes, the town has a slightly higher percentage of housing structures with more than 5 units than the county (12% vs. 9%).

Table 1

| Housing Units by Units in Structure | | | | |
|-------------------------------------|--------------------|-------------|----------------|-------------|
| Units in Structure | Town of Brookhaven | | Suffolk County | |
| | Number | Percent | Number | Percent |
| 1-unit, detached | 136,834 | 78% | 459,741 | 80% |
| 1-unit, attached | 10,757 | 6% | 25,738 | 4% |
| 2 units | 4,265 | 2% | 22,161 | 4% |
| 3 or 4 units | 3,810 | 2% | 12,738 | 2% |
| 5 to 9 units | 6,729 | 4% | 16,085 | 3% |
| 10 to 19 units | 6,262 | 4% | 14,027 | 2% |
| 20 or more units | 6,822 | 4% | 18,621 | 3% |
| Mobile home | 322 | 0% | 5,083 | 1% |
| Boat, RV, van, etc. | 28 | 0% | 148 | 0% |
| Total | 175,829 | 100% | 574,342 | 100% |

Source: 2013-2017 American Community Survey

The housing stock in the Town of Brookhaven and in Suffolk County are of similar age. 68% of housing units in both the town and the county were built between 1950 and 1989. The number of housing units built in recent years (since 2010) has been relatively small, only accounting for approximately 1% of the housing stock in both geographies. The older homes may not have the accessibility features that are desired and sometimes required by older individuals as they age and have changing mobility needs.

Table 2

| Housing Units by Year Structure Built, 2017 | | | | |
|---|--------------------|-------------|----------------|-------------|
| Year | Town of Brookhaven | | Suffolk County | |
| | Number | Percent | Number | Percent |
| 2014 or later | 665 | 0% | 1,912 | 0% |
| 2010-2013 | 1,310 | 1% | 4,092 | 1% |
| 2000-2009 | 17,733 | 10% | 45,003 | 8% |
| 1990-1999 | 18,438 | 10% | 49,102 | 9% |
| 1980-1989 | 21,250 | 12% | 58,977 | 10% |
| 1970-1979 | 44,588 | 25% | 104,649 | 18% |
| 1960-1969 | 31,825 | 18% | 119,519 | 21% |
| 1950-1959 | 21,325 | 12% | 107,110 | 19% |
| 1940-1949 | 6,976 | 4% | 28,959 | 5% |
| 1939 or earlier | 11,719 | 7% | 55,019 | 10% |
| Total | 175,829 | 100% | 574,342 | 100% |

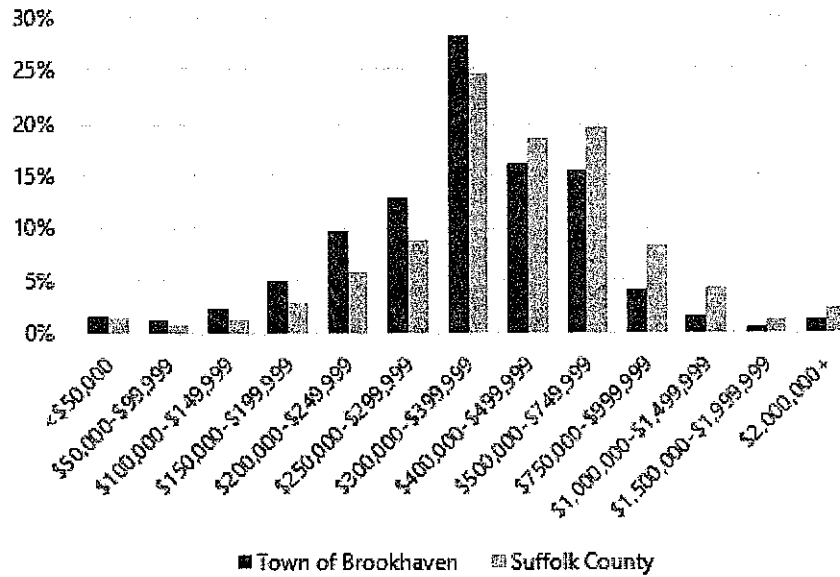
Source: 2013-2017 American Community Survey

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Owner occupied housing values in the Town of Brookhaven are skewed to the lower end of the housing value spectrum (values less than \$400,000) compared to Suffolk County. Suffolk County has a higher percentage of homes valued at \$400,000 or greater than the Town of Brookhaven. The town's median home value is \$361,308 compared to \$423,761 in the county.

Figure 1

Owner Occupied Housing Values (2019)



Source: ESRI

Given the home values in Suffolk County, it is not surprising that housing values are projected to increase in the town over the next five years. This growth will be realized primarily in homes valued at \$400,000 or greater. There will be fewer housing units in the less than \$400,000 range. The median housing value in the town is expected to jump approximately 9% over the next five years.

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Table 3

| Housing Value (Owner Occupied Housing), Town of Brookhaven | | | | | | |
|--|-------------------|---------|-------------------|---------|------------------|------------|
| Housing Value | 2019 | | 2024 | | Change | |
| | Number | Percent | Number | Percent | Number | Percent |
| <\$50,000 | 2,037 | 2% | 968 | 1% | (1,069) | -1% |
| \$50,000-\$99,999 | 1,660 | 1% | 864 | 1% | (796) | -1% |
| \$100,000-\$149,999 | 2,937 | 2% | 2,057 | 2% | (880) | -1% |
| \$150,000-\$199,999 | 6,553 | 5% | 5,208 | 4% | (1,345) | -1% |
| \$200,000-\$249,999 | 12,790 | 10% | 10,687 | 8% | (2,103) | -2% |
| \$250,000-\$299,999 | 17,018 | 13% | 14,201 | 11% | (2,817) | -2% |
| \$300,000-\$399,999 | 37,088 | 28% | 33,580 | 26% | (3,508) | -3% |
| \$400,000-\$499,999 | 21,325 | 16% | 22,018 | 17% | 693 | 1% |
| \$500,000-\$749,999 | 20,417 | 16% | 25,640 | 20% | 5,223 | 4% |
| \$750,000-\$999,999 | 5,246 | 4% | 8,450 | 6% | 3,204 | 2% |
| \$1,000,000-\$1,499,999 | 2,016 | 2% | 3,176 | 2% | 1,160 | 1% |
| \$1,500,000-\$1,999,999 | 654 | 0% | 953 | 1% | 299 | 0% |
| \$2,000,000+ | 1,725 | 1% | 3,148 | 2% | 1,423 | 1% |
| Total | 131,466 | | 130,950 | | (516) | 0% |
| Median Value | \$ 361,308 | | \$ 393,776 | | \$ 32,468 | 9% |
| Average Value | \$ 431,448 | | \$ 499,183 | | \$ 67,735 | 16% |

Source: ESRI

Median housing values in Suffolk County are expected to increase by approximately 10% over the same time.

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Table 4

| Housing Value (Owner Occupied Housing), Suffolk County | | | | | | |
|--|-------------------|-------------|-------------------|-------------|------------------|------------|
| Housing Value | 2019 | | 2024 | | Change | |
| | Number | Percent | Number | Percent | Number | Percent |
| <\$50,000 | 5,625 | 1% | 2,624 | 1% | (3,001) | -1% |
| \$50,000-\$99,999 | 3,246 | 1% | 1,642 | 0% | (1,604) | 0% |
| \$100,000-\$149,999 | 5,280 | 1% | 3,630 | 1% | (1,650) | 0% |
| \$150,000-\$199,999 | 11,194 | 3% | 8,626 | 2% | (2,568) | -1% |
| \$200,000-\$249,999 | 23,541 | 6% | 19,119 | 5% | (4,422) | -1% |
| \$250,000-\$299,999 | 35,431 | 9% | 29,148 | 7% | (6,283) | -2% |
| \$300,000-\$399,999 | 99,488 | 25% | 87,824 | 22% | (11,664) | -3% |
| \$400,000-\$499,999 | 75,412 | 19% | 73,065 | 18% | (2,347) | 0% |
| \$500,000-\$749,999 | 79,372 | 20% | 90,376 | 23% | 11,004 | 3% |
| \$750,000-\$999,999 | 33,155 | 8% | 45,143 | 11% | 11,988 | 3% |
| \$1,000,000-\$1,499,999 | 17,141 | 4% | 21,350 | 5% | 4,209 | 1% |
| \$1,500,000-\$1,999,999 | 5,038 | 1% | 6,043 | 2% | 1,005 | 0% |
| \$2,000,000+ | 9,524 | 2% | 12,990 | 3% | 3,466 | 1% |
| Total | 403,447 | 100% | 401,580 | 100% | (1,867) | 0% |
| Median Value | \$ 423,761 | | \$ 465,937 | | \$ 42,176 | 10% |
| Average Value | \$ 538,086 | | \$ 599,040 | | \$ 60,954 | 11% |

Source: ESRI

Gross rents in the Town of Brookhaven are similar to those in Suffolk County, with median gross rent at \$1,670 and \$1,646, respectively. Within the town, 31% of gross rents are \$2,000 or greater. This is compared to 28% in the county.

Table 5

| Renter-Occupied Housing Units by Gross Rent | | | | |
|---|--------------------|-------------|-----------------|-------------|
| Rent | Town of Brookhaven | | Suffolk County | |
| | Number | Percent | Number | Percent |
| Less than \$500 | 1,649 | 5% | 4,919 | 5% |
| \$500-\$999 | 3,004 | 9% | 8,493 | 9% |
| \$1,000-\$1,499 | 8,235 | 25% | 23,715 | 26% |
| \$1,500-\$1,999 | 9,709 | 30% | 28,523 | 31% |
| \$2,000-\$2,499 | 6,657 | 21% | 16,811 | 18% |
| \$2,500-\$2,999 | 2,235 | 7% | 5,613 | 6% |
| \$3,000 or more | 887 | 3% | 2,827 | 3% |
| Total | 32,376 | 100% | 98,901 | 100% |
| Median (\$) | \$ 1,670 | | \$ 1,646 | |

Source: 2013-2017 American Community Survey

DEMAND

Over the 2010 to 2016 time period, both geographies experienced a similar growth rate of 1% in number of households. The Town of Brookhaven grew by approximately 16,000 households while Suffolk County grew by

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nearly 31,000 households. The number of households in both geographies is expected to stagnate between 2019 and 2024, with both geographies experiencing nominal decreases in the number of households.

Table 6

| Change in Number of Households (2000 to 2024) | | |
|---|--------------------|----------------|
| | Town of Brookhaven | Suffolk County |
| 2000 Households | 146,847 | 469,299 |
| 2010 Households | 162,884 | 499,922 |
| 2019 Households | 164,575 | 503,659 |
| 2024 Households | 163,916 | 500,460 |
| # Change 2010 to 2019 | 16,037 | 30,623 |
| % Change 2010 to 2019 | 1% | 1% |
| # Change 2019 to 2024 | (659) | (3,199) |
| % Change 2019 to 2024 | 0% | -1% |

Source: ESRI

Approximately 19% of housing units are occupied by renters in the Town of Brookhaven, while about 74% are owner occupied and the remaining 8% are vacant. These trends are expected to continue into the future as current occupancy patterns are expected to remain consistent. From 2019 to 2024 the town is projected to see a decrease of 39 renter occupied units putting additional pressure on the rental market

Table 7

| Household Trends by Tenure - Town of Brookhaven | | | | | | |
|---|----------------|-------------|----------------|-------------|----------------|-------------|
| | 2010 | | 2019 | | 2024 | |
| | # | % | # | % | # | % |
| Owner Occupied | 128,294 | 73% | 131,434 | 74% | 130,905 | 73% |
| Renter Occupied | 34,655 | 20% | 33,081 | 19% | 33,042 | 18% |
| Vacant | 12,077 | 7% | 13,339 | 8% | 16,611 | 9% |
| Total | 175,026 | 100% | 177,854 | 100% | 180,558 | 100% |

Source: ESRI

Suffolk County shows higher vacancy rates than the town- a trend that is projected to remain constant. The county is projected to add over 3,000 vacant units between 2019 and 2024.

Table 8

| Household Trends by Tenure - Suffolk County | | | | | | |
|---|----------------|-------------|----------------|-------------|----------------|-------------|
| | 2010 | | 2019 | | 2024 | |
| | # | % | # | % | # | % |
| Owner Occupied | 120,768 | 69% | 123,786 | 70% | 123,502 | 68% |
| Renter Occupied | 32,730 | 19% | 30,769 | 17% | 30,334 | 17% |
| Vacant | 21,528 | 12% | 23,299 | 13% | 26,723 | 15% |
| Total | 569,985 | 100% | 579,465 | 100% | 587,532 | 100% |

Source: ESRI

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Examining the household size of the two geographies indicates that households of 2 people and 4 or more people are most common, followed by 1-person and then 3-person households in both the town and the county.

Table 9

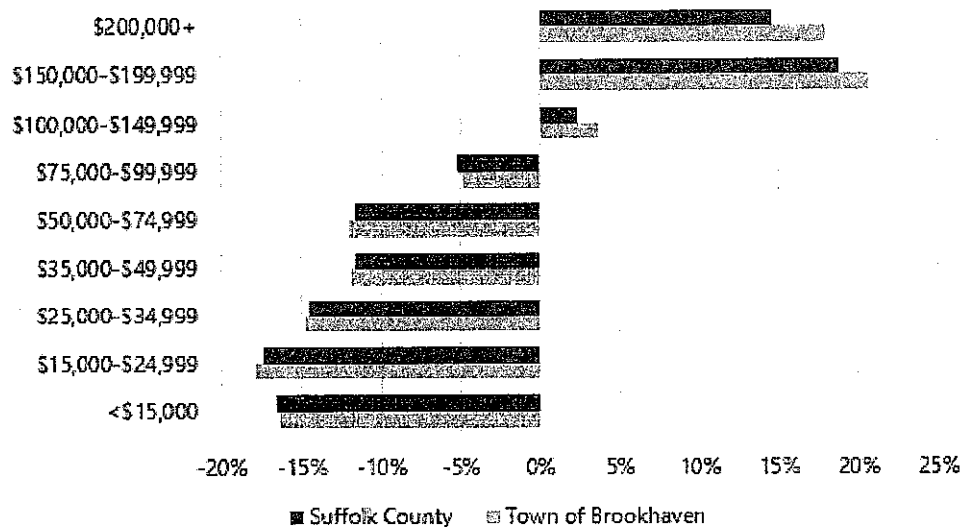
| Household Size | Households by Size (2017) | | | |
|----------------|---------------------------|-------------|----------------|-------------|
| | Town of Brookhaven | | Suffolk County | |
| | # | % | # | % |
| 1-person | 36,308 | 23% | 107,864 | 22% |
| 2-person | 47,799 | 30% | 146,199 | 30% |
| 3-person | 27,741 | 17% | 84,875 | 17% |
| 4 or more | 49,016 | 30% | 150,390 | 31% |
| Total | 160,864 | 100% | 489,328 | 100% |

Source: 2013-2017 American Community Survey

Trends in household income can help identify the type of housing product that will be in demand in the future. Household incomes are projected to rise in both the Town of Brookhaven and Suffolk County. Both geographies are expected to experience an increase in the number of households making \$100,000 or more and a decrease in households making less than \$100,000.

Figure 2

Percent Change in Households by Income Range (2019-2024)



Source: ESRI

The following table outlines projected household income trends in the Town of Brookhaven by income cohort. The largest concentration of households falls within the income cohort between \$100,000 and \$149,000 at 21% of households. The largest percent increase in number of households is projected to be in the \$150,000 to \$199,999 cohort. Median household income is projected to grow by \$11,715 by 2024.

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Table 10

| Household Income Trends - Town of Brookhaven | | | | | | |
|--|------------------|-------------|-------------------|-------------|------------------|------------|
| Household Income | 2019 | | 2024 | | Change | |
| | # | % | # | % | # | % |
| <\$15,000 | 10,675 | 6% | 8,927 | 5% | (1,748) | -16% |
| \$15,000-\$24,999 | 9,837 | 6% | 8,079 | 5% | (1,758) | -18% |
| \$25,000-\$34,999 | 8,099 | 5% | 6,904 | 4% | (1,195) | -15% |
| \$35,000-\$49,999 | 14,171 | 9% | 12,485 | 8% | (1,686) | -12% |
| \$50,000-\$74,999 | 23,347 | 14% | 20,540 | 13% | (2,807) | -12% |
| \$75,000-\$99,999 | 21,110 | 13% | 20,096 | 12% | (1,014) | -5% |
| \$100,000-\$149,999 | 34,396 | 21% | 35,661 | 22% | 1,265 | 4% |
| \$150,000-\$199,999 | 21,923 | 13% | 26,433 | 16% | 4,510 | 21% |
| \$200,000+ | 21,005 | 13% | 24,779 | 15% | 3,774 | 18% |
| Total | 164,563 | 100% | 163,904 | 100% | (659) | 0% |
| Median Household Income | \$ 92,861 | | \$ 104,576 | | \$ 11,715 | 13% |

Source: ESRI

The below table shows a similar breakdown for changes in household incomes in Suffolk County. As of 2019, median household income is slightly higher in the county than in the town, at \$97,352 and \$92,861, respectively. Similar to the town, the \$150,000 to \$199,999 cohort is expected to see the biggest increase in number of homes by 2024.

Table 11

| Household Income Trends - Suffolk County | | | | | | |
|--|------------------|-------------|-------------------|-------------|------------------|------------|
| Household Income | 2019 | | 2024 | | Change | |
| | # | % | # | % | # | % |
| <\$15,000 | 30,650 | 6% | 25,571 | 5% | (5,079) | -17% |
| \$15,000-\$24,999 | 26,955 | 5% | 22,265 | 4% | (4,690) | -17% |
| \$25,000-\$34,999 | 25,288 | 5% | 21,630 | 4% | (3,658) | -14% |
| \$35,000-\$49,999 | 44,507 | 9% | 39,359 | 8% | (5,148) | -12% |
| \$50,000-\$74,999 | 67,968 | 13% | 60,081 | 12% | (7,887) | -12% |
| \$75,000-\$99,999 | 61,701 | 12% | 58,492 | 12% | (3,209) | -5% |
| \$100,000-\$149,999 | 100,796 | 20% | 103,118 | 21% | 2,322 | 2% |
| \$150,000-\$199,999 | 67,904 | 13% | 80,670 | 16% | 12,766 | 19% |
| \$200,000+ | 77,877 | 15% | 89,261 | 18% | 11,384 | 15% |
| Total | 503,646 | 100% | 500,447 | 100% | (3,199) | -1% |
| Median Household Income | \$ 97,352 | | \$ 107,749 | | \$ 10,397 | 11% |

Source: ESRI

Median household income for renters however is significantly lower, being \$49,631 in the town and \$48,689 in the county.

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Table 12

| Median Household Income - Renter Occupied Housing Units | | | | |
|---|--------------------|---------------|----------------|---------------|
| Household Income | Town of Brookhaven | | Suffolk County | |
| | # | % | # | % |
| Less than \$5,000 | 1,878 | 6% | 4,341 | 5% |
| \$5,000-\$9,999 | 1,241 | 4% | 3,685 | 4% |
| \$10,000-\$14,999 | 2,267 | 7% | 6,470 | 7% |
| \$15,000-\$19,999 | 1,994 | 6% | 6,092 | 6% |
| \$20,000-\$24,999 | 1,863 | 6% | 5,416 | 6% |
| \$25,000-\$34,999 | 3,089 | 9% | 10,113 | 11% |
| \$35,000-\$49,999 | 4,575 | 14% | 12,818 | 13% |
| \$50,000-\$74,999 | 6,766 | 20% | 17,345 | 18% |
| \$75,000-\$99,999 | 3,990 | 12% | 12,079 | 13% |
| \$100,000-\$149,999 | 3,818 | 11% | 11,348 | 12% |
| \$150,000 or more | 2,121 | 6% | 6,356 | 7% |
| Total | 33,601 | 100% | 96,263 | 100% |
| Median Renter Household Income | \$ | 49,631 | \$ | 48,689 |

Source: 2013-2017 American Community Survey

SENIOR LIVING MARKET

NATIONAL SENIOR LIVING MARKET TRENDS

The combination of aging Baby Boomers and continuous technological advancements in the medical field is causing a shift in national demographics towards a dominating senior population. Medical improvements have increased the national life expectancy; however, senior and elderly care industries are seeing an increase in dementia and memory loss cases across the country. With this shift comes a need for a plethora of care options for the elderly at every stage of the aging process.

Age-restricted housing can take different forms including independent living facilities, assisted living, and nursing homes. These are described in more detail below:

- ◆ **Independent Living:** Independent Living facilities and communities are for seniors that are very independent with few medical problems. Residents typically live in fully equipped private apartments. Facilities typically have on-site dining and meal plans available. Independent living facilities include retirement communities, congregate care, 55+ communities, and senior apartments.¹
- ◆ **Assisted Living:** Assisted living communities are for seniors that cannot live on their own safely, but do not yet need the intense care provided by a nursing home. Typically, the assistance is needed for medications, activities of daily living, meals, and housekeeping. There is a 24-hour staff and residents live in private apartments. Some facilities provide skilled nursing care. These facilities are also known as assisted care communities.
- ◆ **Nursing Homes:** These provide the greatest amount of care with nursing care for elderly that have a high level of need for medical care and assistance. Residents either share a room or have their own room and partake in common activities in common spaces, such as dining in a central dining area. Many nursing homes provide separate units for Alzheimer's residents to specialize care. Nursing homes are also known as long term care facilities.

Nationally, there has been increased emphasis on the "aging in place" trend. Aging in place is a process that helps residents stay in their homes and communities as they grow old rather than moving to a new place to live in a specialized facility. As a result of this shift and the general aging of the population, there has been an increase in demand for age-restricted housing to accommodate these changing needs but still allow them to live locally. In line with this trend, demand for Continuing Care Retirement Communities (CCRCs) are increasing.

CCRCs are the most comprehensive options on the senior care spectrum. They are age-restricted communities with diverse service offerings, with the intention of providing residents with long-term treatment from entry until death. CCRCs allow residents to age in place by combining independent living with assisted living and around-the-clock nursing services, as well as memory care in some case. These communities are often set up in a campus format such that residents do not have to move off of the campus if their care needs change.

LOCAL SENIOR LIVING MARKET

The Town of Brookhaven population is aging. The population age 55 and older grew by 27% between 2010 and 2019 and is expected to grow by another 6% over the next five years. This means that over 9,000 more residents of the town will be 55 or older. The greatest increase will be in the 75-84 age range. Suffolk County exhibits a similar aging trend.

¹A Place for Mom, Senior Housing 101.

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Table 13

| Age 55+ Population Growth: Town of Brookhaven | | | | | | | |
|---|----------------|----------------|----------------|---------------------|-----------------------|---------------------|-----------------------|
| | 2010 | 2019 | 2024 | Change 2010-2019 | % Change 2010-2019 | Change 2019-2024 | % Change 2019-2024 |
| 55-64 | 57,992 | 67,692 | 66,820 | 9,700 | 17% | (872) | -1% |
| 65-74 | 32,529 | 46,810 | 50,345 | 14,281 | 44% | 3,535 | 8% |
| 75-84 | 18,148 | 23,254 | 29,262 | 5,106 | 28% | 6,008 | 26% |
| 85+ | 7,609 | 9,586 | 10,191 | 1,977 | 26% | 605 | 6% |
| Total (55+) | 116,278 | 147,342 | 156,618 | 31,064 | 27% | 9,276 | 6% |

Source: ESRI

Table 14

| Age 55+ Population Growth: Suffolk County | | | | | | | |
|---|----------------|----------------|----------------|---------------------|-----------------------|---------------------|-----------------------|
| | 2010 | 2019 | 2024 | Change 2010-2019 | % Change 2010-2019 | Change 2019-2024 | % Change 2019-2024 |
| 55-64 | 178,216 | 215,963 | 213,436 | 37,747 | 21% | (2,527) | -1% |
| 65-74 | 107,983 | 147,749 | 162,178 | 39,766 | 37% | 14,429 | 10% |
| 75-84 | 65,969 | 78,985 | 94,141 | 13,016 | 20% | 15,156 | 19% |
| 85+ | 27,841 | 35,285 | 37,049 | 7,444 | 27% | 1,764 | 5% |
| Total (55+) | 380,009 | 477,982 | 506,804 | 97,973 | 26% | 28,822 | 6% |

Source: ESRI

Overall, the population over age 55 has increased, and is expected to continue to increase significantly, particularly in the 75-84 age cohort. This suggests that assisted living facilities will be in the greatest demand, with additional demand for independent living facilities.

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ECONOMIC AND FISCAL IMPACT ANALYSIS

SUMMARY

Following the Market Analysis, Camoin 310 conducted an economic and limited fiscal impact analysis of the Project on the Town of Brookhaven.

Camoin 310 used the housing market analysis in the Town of Brookhaven (the "Town") to determine the extent to which any of the housing units would create "new" households and, therefore, new household spending in the Town. Given the demand for senior housing options that allow residents to age in place, we determined that all 170 units could be considered as providing "net new" households to the Town (i.e. allowing households to exist in the Town that would otherwise locate elsewhere). We then computed the projected total amount of new spending by these additional households to derive job creation resulting from the Project.

The following is a summary of our findings from this study.

Table 15

| Summary of Benefits to Town | |
|--|----------------------|
| Construction Phase Jobs | 252 |
| Construction Phase On-Site Jobs | 201 |
| Construction Phase Earnings | \$ 16,204,120 |
| Construction Phase On-Site Earnings | \$ 13,292,417 |
| One-Time Sales Tax Revenue to County* | \$ 120,518 |
| Annual Jobs | 176 |
| Direct Jobs | 127 |
| Indirect Jobs | 49 |
| Annual Earnings | \$ 7,519,711 |
| Direct Earnings | \$ 4,840,166 |
| Indirect Earnings | \$ 2,679,544 |
| Average Annual Sales Tax Revenue to County* | \$ 133,331 |
| Average Annual PILOT Payment | \$ 633,993 |

*Sales tax benefits expressed in terms of benefit to Suffolk County

- ♦ The completion of the construction of the Project would result in approximately 201 net new direct construction jobs and 51 indirect jobs in the Town of Brookhaven². These jobs would generate approximately \$13.3 million in direct earnings and an additional approximately \$2.9 million in indirect earnings.
- ♦ The Project would support 180 new jobs in the Town with nearly \$7.7 million in associated earnings. Those figures are composed of new jobs resulting from maintenance and operation of the facility and new economic activity from household spending.

² Analysis uses the 30 ZIP codes that are predominantly located within the Town of Brookhaven (map image shown in Attachment D).

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- ♦ The Applicant is applying for a 10-year PILOT agreement with the Agency. Under this proposed PILOT agreement, the Applicant would pay approximately \$6.3 million over the 10-year PILOT term, or an average of \$633,993 per year

Table 16

| Summary of Costs to County | | |
|-------------------------------------|----|-------------|
| Sales Tax Exemption | \$ | 1,619,948 |
| Mortgage Tax Exemption | \$ | 452,250 |
| Loss (Gain) of Property Tax Revenue | \$ | (6,105,608) |

Source: Applicant IDA Application

- ♦ The Applicant has also applied for sales tax and mortgage tax exemptions worth \$1,619,948 and \$452,250, respectively. However, if we assume that the Project would not occur absent IDA benefits, these exemptions are not actually a "cost" to the affected tax jurisdictions since no future revenue stream would exist without the exemptions.
- ♦ The schedule of payments to be made by the Applicant under the proposed PILOT agreement would be approximately \$6.1 million more than the property tax payments generated by the Site if the Project were not to occur. In other words, the PILOT represents a benefit to the affected taxing jurisdictions averaging \$610,561 per year.

ECONOMIC IMPACT ANALYSIS

The estimates of direct economic activity generated during the construction phase and building occupation phase as provided by the Applicant were used, with certain modifications described below, as the direct inputs for the economic impact model. Camoin Associates used these direct inputs in the input-output model designed by Economic Modeling Specialists, Inc. (EMSI). EMSI allows the analyst to input the amount of new direct economic activity (spending or jobs) occurring within the Town to estimate the spillover effects that the net new spending or jobs have as these new dollars circulate through the Town of Brookhaven economy. This is captured in the indirect impacts and is commonly referred to as the "multiplier effect." See Attachment A for more information on economic impact analysis.

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

CONSTRUCTION PHASE IMPACTS

The Applicant anticipates that the private sector investment in the construction of the Project (excluding legal fees and financial charges) would cost approximately \$67 million. If we assume that approximately 50%³ of the construction spending would be sourced from within the Town, we can project that there will be \$33,713,000 in net new spending in the Town associated with the construction phase.

³ Camoin 310 conducted an industry analysis on the construction industry in the Town of Brookhaven and found that 52% of the region's demand is met from within the town. Based on this data, Camoin 310 assumes that 50% of the total construction sales will be sourced from within the town.

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Table 17

| Construction Phase Spending | | |
|-------------------------------|----|------------|
| Total Construction Cost | \$ | 67,426,000 |
| Percent Sourced from Town | | 50% |
| Net New Construction Spending | \$ | 33,713,000 |

Source: Applicant, Camoin 310

Using this amount of direct sales as an input to the EMSI model, Camoin 310 determined that there would be nearly \$42.0 million in total sales, 252 jobs, and approximately \$16.2 million in earnings in the Town over the course of the 36-month construction period.

Table 18

| Economic Impact - Construction Phase | | | | |
|--------------------------------------|---------------|--------------|---------------|--|
| | Direct | Indirect | Total | |
| Jobs | 201 | 51 | 252 | |
| Earnings | \$ 13,292,417 | \$ 2,911,703 | \$ 16,204,120 | |
| Sales | \$ 33,713,000 | \$ 8,226,219 | \$ 41,939,219 | |

Source: EMSI, Camoin 310

*The Applicant estimates approximately 70 construction jobs, however we estimate 201 direct construction jobs based on over \$33.7 million construction spending.

IMPACTS OF NEW HOUSEHOLD SPENDING

In order to determine the annual economic impact of the Project on the Town, the first step is to calculate the number of households that can be considered “net new” to the Town’s economy. In other words, the number of households that, but for the Project, would not exist in the Town of Brookhaven.

With respect to this Project, net new household assumptions are based on the results of the market analysis, in which we analyzed the existing rental supply and demand for 55+ housing in the Town of Brookhaven. The following summarizes the percentage of units that could be considered new to the Town of Brookhaven.

Given the lack of multifamily rental units in the town, increasing amount of residents age 55+, and demand for options that allow residents to age in place, the Project will likely capture a notable amount of the Town’s pent-up rental housing demand, retaining residents within the town and/or attracting new residents. The age-restricted and continuum of care nature of the Project is a strong contributor to this conclusion.

Therefore, due to the high demand for 55+ housing units within the Town of Brookhaven and in Suffolk County in general, this analysis assumes that 100% of those occupying the 170 units will be net new to the town.

Spending by New Tenants

New residents would make purchases in the Town, thereby adding new dollars to the Town of Brookhaven economy. For this analysis, we researched spending patterns by household income of potential tenants.

For these units, qualifying tenants will need a household income of at least \$88,000, given that averaging starting market rents for apartments designated as 55+ housing are approximately \$2,200, based on an assessment of comparable apartment complexes in the vicinity of the Project. Given this, as well as the projected increase in high-income households in the town, the spending basket for this group will consider a \$100,000 to \$149,999 income bracket.

Using spending baskets which detail household spending in individual consumer categories by income level, we analyzed likely tenant spending. According to the Bureau of Labor Statistics 2017 Consumer Expenditure Survey,

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households with an income between \$100,000 and \$149,999, have annual expenditures of \$32,517, excluding housing and utility costs. The second column in the table below shows the total spending for market-rate, workforce, and affordable-rate households by category.

It is assumed that 70%⁴ of total expenditures would occur within the Town of Brookhaven and, therefore, have an impact on the Town of Brookhaven economy. The third column shows the total amount spent in the Town per unit.

Table 19

| Tenant Spending Basket | | | |
|--|------------------------------------|-------------------------------|---|
| Market-Rate Units (\$100,000 to \$149,999 Annual Household Income) | | | |
| Category | Annual per Unit Spending Basket | Amount Spent in Town (70%) | Total Net New Town Spending (170 net new units) |
| Food | \$ 10,918 | \$ 7,643 | \$ 1,299,242 |
| Household furnishings and equipment | \$ 2,994 | \$ 2,096 | \$ 356,286 |
| Apparel and services | \$ 2,762 | \$ 1,933 | \$ 328,678 |
| Transportation | \$ 14,041 | \$ 9,829 | \$ 1,670,879 |
| Health care | \$ 6,850 | \$ 4,795 | \$ 815,150 |
| Entertainment | \$ 4,692 | \$ 3,284 | \$ 558,348 |
| Personal care products and services | \$ 1,110 | \$ 777 | \$ 132,090 |
| Education | \$ 1,745 | \$ 1,222 | \$ 207,655 |
| Miscellaneous | \$ 1,341 | \$ 939 | \$ 159,579 |
| Annual Discretionary Spending | \$ 46,453 | \$ 32,517 | \$ 5,527,907 |

Source: 2017 Consumer Expenditure Survey, Bureau of Labor Statistics

The total net new spending in the Town was calculated by multiplying the amount spent in the Town by the number of net new units. As shown in the table above, spending in the Town by new households would total over \$5.5 million per year. We used the above spending basket amounts to calculate the direct, indirect, and total impact of the Project on the Town. To do this, we attributed the various spending categories to the NAICS codes found in the table below.

⁴ Every category of retail exists within the Town, but some portion of the retail expenditure occurs outside the Town limits.

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Table 20

| Spending Basket Breakdown by NAICS Code | | |
|---|--|---|
| NAICS Code | Industry | Spending Basket Category |
| 445110 | Supermarkets and Other Grocery (except Convenience) Stores | Food |
| 722511 | Full-Service Restaurants | Food |
| 442299 | All Other Home Furnishings Stores | Household furnishings and equipment |
| 448140 | Family Clothing Stores | Apparel and services |
| 441110 | New Car Dealers | Transportation |
| 447110 | Gasoline Stations with Convenience Stores | Transportation |
| 811111 | General Automotive Repair | Transportation |
| 524114 | Direct Health and Medical Insurance Carriers | Health care |
| 622110 | General Medical and Surgical Hospitals (Private) | Health care |
| 512131 | Motion Picture Theaters | Entertainment |
| | All Other General Merchandise Stores | Entertainment, Personal care products and services, Miscellaneous |
| 452319 | All Other General Merchandise Stores | Personal care products and services |
| | All Other General Merchandise Stores | Miscellaneous |
| 611310 | Colleges, Universities, and Professional Schools | Education |

Source: Camoin 310

Using \$5,527,907 as the new sales input, Camoin 310 employed EMSI to determine the indirect and total impact of the Project. The following table outlines the findings of this analysis.

Table 21

| Economic Impact - Household Spending | | | | |
|--------------------------------------|--------------|--------------|--------------|--|
| | Direct | Indirect | Total | |
| Jobs | 52 | 12 | 64 | |
| Earnings | \$ 1,870,966 | \$ 744,095 | \$ 2,615,061 | |
| Sales | \$ 5,527,908 | \$ 2,068,345 | \$ 7,596,253 | |

Source: EMSI, Camoin 310

Spending from tenant households will result in a total of 64 net new jobs, over \$2.6 million in earnings, and nearly \$7.6 million in sales in The Town of Brookhaven, annually.

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IMPACTS OF ON-SITE EMPLOYMENT

The Applicant projects that 75 workers will be employed on-site two years following Project completion. Since all 170 housing units are considered to be net new to the Town, 100% of the 75 onsite jobs projected by the Applicant would be net new. The table below details the impact the 75 new jobs will have on The Town of Brookhaven in terms of direct, indirect and total impacts on employment and wages.

Table 22

| Annual Economic Impact - Operation and Maintenance | | | | |
|--|---------------|----|-----------|---------------|
| | Direct | | Indirect | Total |
| Jobs | 75 | | 37 | 112 |
| Earnings | \$ 2,969,201 | \$ | 1,935,449 | \$ 4,904,650 |
| Sales | \$ 12,809,622 | \$ | 5,337,711 | \$ 18,147,333 |

Source: EMSI, Camoin 310

The 75 net new onsite jobs will create 37 additional indirect jobs, resulting in total annual earnings of over \$4.9 million, and sales over \$18.1 million.

The complete economic impact of both new household spending as well as operation and maintenance of the new senior continuum care residential facility is displayed in the table below.

Table 23

| Economic Impact - Household Spending | | | | |
|--------------------------------------|--------------|----|-----------|--------------|
| | Direct | | Indirect | Total |
| Jobs | 52 | | 12 | 64 |
| Earnings | \$ 1,870,966 | \$ | 744,095 | \$ 2,615,061 |
| Sales | \$ 5,527,908 | \$ | 2,068,345 | \$ 7,596,253 |

| Annual Economic Impact - Operation and Maintenance | | | | |
|--|---------------|----|-----------|---------------|
| | Direct | | Indirect | Total |
| Jobs | 75 | | 37 | 112 |
| Earnings | \$ 2,969,201 | \$ | 1,935,449 | \$ 4,904,650 |
| Sales | \$ 12,809,622 | \$ | 5,337,711 | \$ 18,147,333 |

| Economic Impact - Combined Annual Impact | | | | |
|--|---------------|----|-----------|---------------|
| | Direct | | Indirect | Total |
| Jobs | 127 | | 49 | 176 |
| Earnings | \$ 4,840,166 | \$ | 2,679,544 | \$ 7,519,711 |
| Sales | \$ 18,337,530 | \$ | 7,406,056 | \$ 25,743,585 |

Source: EMSI, Camoin 310

The total annual economic impact will include 176 new jobs with over \$7.5 million in new earnings, and over \$25.7 million in new sales.

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FISCAL IMPACT ANALYSIS

In addition to the economic impact of the Project on the local economy outlined above, there would also be a fiscal impact in terms of annual property tax and sales tax generation. The following section of the analysis outlines the impact of the completion of the Project on the local taxing jurisdictions' revenue sources.

PAYMENT IN LIEU OF TAXES (PILOT)

The Applicant has applied to the Town of Brookhaven IDA for a Payment in Lieu of Taxes (PILOT) agreement. Following the construction period, a 10-year payment schedule has been proposed, with taxes being paid on an increasing portion of taxable assessed value until taxes on the full value of the property are paid in year 11. Camoin 310 used the \$42,080,000 in construction costs⁵ as a proxy for full value upon project completion and calculated the assessed value to be 0.9%⁶ of this full value, or approximately \$378,720. This analysis is limited in that the final assessed value is yet to be determined. These assumptions have been made for comparison purposes and to provide an estimate of what the PILOT payments will be. The resulting PILOT schedule is included in Table 24. Over the 10-year PILOT period the Applicant will pay a total of over \$6.3 million, or an average of nearly \$634,000 per year.

Table 24

| Tax Payments with PILOT | |
|-------------------------|---------------------|
| Year | PILOT Payments |
| 1 | \$ - |
| 2 | \$ 140,887 |
| 3 | \$ 281,774 |
| 4 | \$ 422,662 |
| 5 | \$ 563,549 |
| 6 | \$ 704,436 |
| 7 | \$ 845,323 |
| 8 | \$ 986,211 |
| 9 | \$ 1,127,098 |
| 10 | \$ 1,267,985 |
| Total | \$ 6,339,926 |
| Average | \$ 633,993 |

Source: Applicant, Camoin 310

⁵ As specified by the Applicant in Part IV of the application.

⁶ According to 2019 property tax bills.

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TAX POLICY COMPARISON

Without financial assistance from the Town of Brookhaven IDA, Camoin 310 assumes that the Applicant would not undertake the Project. Based on the current taxes applicable to the Site and an assumed annual increase to the tax rate of 2.0%⁷ (holding taxable value constant), the following table outlines the estimated tax payments made by the building owner without the Project.

Table 25

| Tax Payment Without Project | |
|-----------------------------|---------------------------------------|
| Year | Property Tax Payment Without Project* |
| 1 | \$ 21,400 |
| 2 | \$ 21,828 |
| 3 | \$ 22,264 |
| 4 | \$ 22,709 |
| 5 | \$ 23,164 |
| 6 | \$ 23,627 |
| 7 | \$ 24,099 |
| 8 | \$ 24,581 |
| 9 | \$ 25,073 |
| 10 | \$ 25,574 |
| Total | \$ 234,319 |
| Average | \$ 23,432 |

* Assumes an average annual increase of 2.0%.

Source: Applicant, Camoin 310

The following table calculates the benefit (or cost) to the affected taxing jurisdictions as the difference between the PILOT payments associated with the Project and the property tax payments without the Project. Over the course of the proposed PILOT term, the average annual collection by local jurisdictions would be approximately \$610,561 more in PILOT revenue than property taxes without the Project. The total benefit to the affected taxing jurisdictions of the PILOT agreement over 10 years would be over \$6.1 million.

⁷ The tax rate is increased by 2.0% annually, the maximum inflation factor that can be reasonably anticipated into the future. New York State property tax cap legislation limits tax levy growth to an inflation factor set by the State or 2.0%, whichever is less, the amount by which a government entity may increase its annual tax levy (certain exceptions apply). Although in recent years the inflation factor has been less than 2.0%, using 2.0% for the purposes of comparing future otherwise applicable property tax payments without the Project to the proposed PILOT schedule provides a conservative estimate of the Project's benefit/cost to the County.

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Table 26

| Tax Policy Comparison | | | |
|-----------------------|--------------------------------------|---------------|---|
| Year | A | B | C |
| | Property Tax Payment Without Project | PILOT Payment | Benefit (Cost) To County of Project (Col. B - Col. A) |
| 1 | \$ 21,400 | \$ - | \$ (21,400) |
| 2 | \$ 21,828 | \$ 140,887 | \$ 119,059 |
| 3 | \$ 22,264 | \$ 281,774 | \$ 259,510 |
| 4 | \$ 22,709 | \$ 422,662 | \$ 399,953 |
| 5 | \$ 23,164 | \$ 563,549 | \$ 540,385 |
| 6 | \$ 23,627 | \$ 704,436 | \$ 680,809 |
| 7 | \$ 24,099 | \$ 845,323 | \$ 821,224 |
| 8 | \$ 24,581 | \$ 986,211 | \$ 961,630 |
| 9 | \$ 25,073 | \$ 1,127,098 | \$ 1,102,025 |
| 10 | \$ 25,574 | \$ 1,267,985 | \$ 1,242,411 |
| Total | \$ 234,319 | \$ 6,339,926 | \$ 6,105,608 |
| Average | \$ 23,432 | \$ 633,993 | \$ 610,561 |

Source: Applicant, Camoin 310

EXEMPTIONS

In addition to the PILOT program, the Applicant has applied for a sales tax exemption in the estimated amount of \$1,619,948 and a mortgage tax exemption in the estimated amount of \$452,250.

Table 27

| Summary of Costs to County | |
|----------------------------|--------------|
| Sales Tax Exemption | \$ 1,619,948 |
| Mortgage Tax Exemption | \$ 452,250 |

Source: Applicant IDA Application

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

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SALES TAX REVENUE*Construction Phase*

The one-time construction phase earnings would lead to additional sales tax revenue for Suffolk County. The revenue is not likely distributed to the Town of Brookhaven as a set negotiated amount is shared with each town and village with a separate police department.⁸ It is assumed that 70% of the construction phase earnings would be spent within the County and that 25% of those purchases would be taxable.

Table 28

| One-Time County Sales Tax Revenue Construction Phase | |
|---|-------------------|
| Total New Earnings | \$16,204,120 |
| Amount Spent in County (70%) | \$11,342,884 |
| Amount Taxable (25%) | \$ 2,835,721 |
| County Sales Tax Rate | 4.25% |
| New County Tax Revenue | \$ 120,518 |

Source: Camoin 310

As a result of the construction phase employment, we estimate that the County would receive \$120,518.

New Household Spending

In addition to sales tax generated by the construction phase, the County would also receive sales tax revenue from the purchases made by the new households. Based on in-Town spending by new households, Suffolk County would receive \$96,852 annually in net new sales tax revenue.

Table 29

| Annual County Sales Tax Revenue Household Spending | |
|---|------------------|
| Total New Spending | \$7,596,253 |
| Amount Taxable (30%) | \$2,278,876 |
| County Sales Tax Rate | 4.25% |
| New County Tax Revenue | \$ 96,852 |

Source: Camoin 310

Note that the household spending figure has already been adjusted to account for 70% of total spending occurring within the Town (see page 19, table entitled "Tenant Spending Baskets"). Also note that we have used a higher value for "Amount Taxable" as compared to the previous tables (30% rather than 25%) since certain non-taxable items (related to housing expenses) have been removed from the total spending line, thus increasing the remaining portion taxable.

Employee Earnings

The new earnings generated by onsite jobs that will occur as a result of building occupation at the Project (described under Onsite Jobs Impacts) would lead to additional annual sales tax revenue for the County. It is assumed that 70% of the earnings would be spent within Suffolk County and that 25% of those purchases will be taxable.

⁸ Office of the New York State Comptroller. <https://www.osc.state.ny.us/localgov/pubs/research/salestax2015.pdf>

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Table 30

| Annual County Sales Tax Revenue On-Site Jobs | |
|---|------------------|
| Total New Earnings | \$ 4,904,650 |
| Amount Spent in County (70%) | \$ 3,433,255 |
| Amount Taxable (25%) | \$ 858,314 |
| County Sales Tax Rate | 4.25% |
| New County Tax Revenue | \$ 36,478 |

Source: Camoin 310

Under these assumptions, the County will receive over \$36,478 additionally each year from the economic impacts of the Project.

Total Annual Sales Tax Revenue

In total, we estimate that the County would receive \$133,331 in annual sales tax related to the Project.

Table 31

| Total Annual County Sales Tax Revenue | |
|---------------------------------------|-------------------|
| Household Spending | \$ 96,852 |
| On-Site Employee Earnings | \$ 36,478 |
| New County Tax Revenue | \$ 133,331 |

Source: Camoin 310

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FEASIBILITY ANALYSIS

Camoin 310 was commissioned by the Client to conduct a feasibility analysis of the Project, including a review of the assumptions used and the likely cash flow. We have completed our analysis using the assumptions that the developer provided in its pro forma.

The average annual Equity Dividend Rate of 10.84% is within the typical range for assisted living type projects. The minimum required Debt Service Coverage Ratio (DSCR) of 1.25 is met in year 3. The table below presents additional information about the project costs and returns.

| Summary of Investment Returns | | | |
|---|------------------|-----------------|--|
| Measure | Project | Benchmark | |
| <u>Project Metrics</u> | | | |
| Project Cost (Exclusive of Financing costs) | \$ 80,400,000.00 | -- | |
| Developer Investment (Equity) | \$ 20,100,000.00 | -- | |
| Equity as % of Project Costs | 25.00% | -- | |
| <u>Equity Dividend Rates</u> | | | |
| Average Equity Dividend Rate, before Sale | 10.84% | 7.54% to 16.64% | |
| Range of Equity Dividend Rates, before Sale | 0.24% to 20.43% | | |
| Modified Internal Rate of Return (MIRR) | 14.02% | -- | |
| Internal Rate of Return (IRR) | 16.33% | -- | |
| <u>Debt Service Coverage Ratio</u> | | | |
| Average, Before Sale | 1.15 | | |
| Range, Before Sale | -0.23 to 1.80 | 1.25 | |

Benchmark for Target Equity Dividend Rate: RealtyRates Investor Survey, Q3 2019.

Note: The end year is not included in the calculations of Equity Dividend Rate or DSCR because the lump sum cashflows resulting from estimated sale and final loan payoff distort these measures. Sale year is included in both MIRR and IRR.

SOURCES CONSULTED

We consulted the following resources during our research and analysis:

- ◆ Client's application to the IDA for assistance;
- ◆ Financial assumptions and calculations provided by the client, including the client's own pro forma financial analysis of the project;
- ◆ Current property tax bills for the property ;
- ◆ RealtyRates.com's "Investor Survey, 3rd Quarter 2019";
- ◆ RealtyRates.com's "Market Survey, 2nd Quarter 2019";
- ◆ US Census Bureau's "American Community Survey 2013-2017"; and
- ◆ Local real estate listings for multi-family properties in the Brookhaven region.

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TESTING OF ASSUMPTIONS

We tested the assumptions used in the Developer's submitted annual cashflows. The table below presents the anticipated income and expenses in Year 4, when the project is complete and expected to be fully operational. Taxes were provided by the Developer and include assumptions related to a potential PILOT agreement. We researched income and expense benchmarks for residential developments and calculated an average to represent overall expectations of how the project is estimated to perform compared to the benchmarks. We find the Developer's assumptions to be within an acceptable range of market benchmarks.

Table 32

| Comparison of Income and Expenses to Benchmarks, Year 4 | | | |
|--|--------------------|-----------------------------|------------|
| | Total | % of Gross Potential Income | Benchmark |
| INCOME | | | |
| Gross Income, Net of Vacancy | \$18,967,556 | 90.76% | 87% |
| EXPENSES | | | |
| Operating Expenses | (\$9,327,256) | 44.63% | |
| Real Property Taxes | <u>(\$419,904)</u> | <u>2.01%</u> | |
| Total Expenses | (\$9,747,160) | 46.64% | 41% |
| Net Operating Income | \$9,220,397 | 44.12% | 52% |

Sources: Developer. Calculations: Camoin 310. Benchmarks: RealtyRates Market Survey, Q2 2019 apartment data.

Other assumptions not included above are shown on the table below.

Table 33

| Additional Assumptions | | |
|-------------------------------|-------|---|
| Vacancy Rate | 6% | Vacancy rates are within the norm reported for market conditions. |
| Income Escalation | 3.56% | Income and operating expenses were escalated at an average of 3.56% |
| Expense Escalation | 3.56% | All assumptions appear to be within reported industry norms |

Sources: Developer. Calculations: Camoin 310

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FINANCING PLAN, CALCULATION OF SALE PRICES, AND ANNUAL CASHFLOWS

Table 34

| Sources and Uses of Funds | |
|----------------------------------|---------------------|
| Sources of Funds | |
| Senior Debt | \$60,300,000 |
| Equity and Working Capital | <u>\$20,100,000</u> |
| Total Sources | \$80,400,000 |
| Uses of Funds | |
| Land Acquisition | \$7,000,000 |
| Building Construction | \$42,080,000 |
| Sitework | \$8,950,000 |
| Machinery/Equip | \$1,950,000 |
| Soft Cost | \$15,570,000 |
| Finance Charges | \$4,850,000 |
| Total Uses | <u>\$80,400,000</u> |

Financing Plan

The Developer proposes a mix of debt and equity, with both a construction loan and a long term loan. The Sources and Uses table shows the total project costs.

Source: Developer. Calculations: Camoin 310. "Working Capital and Other" calculated by Camoin 310 based on capital mix.

Calculation of Sale Prices

The table below shows the projects value should it be sold at the end of year 9. This provides an end point to the investment return analysis. A sale price was estimated by Camoin 310 using an income approach, where the final year's Net Operating Income (NOI) is divided by a Capitalization Rate⁹. The Developer's NOI (including tax payments) and anticipated Capitalization Rate (Cap Rate) of 8.69% were used to calculate a sale price. Net Sale Proceeds, as shown in the table below, subtract estimated market-rate sale costs and the repayment of deferred principal on the long-term loan.

Table 35

| Calculation of Market Value for Sale Price | |
|---|-----------------------|
| | Year 9 |
| Last Year Net Operating Income (NOI) After Taxes | \$10,014,679 |
| Reversion Capitalization Rate (Cap Rate) | 8.69% |
| Reversion (Sale) Value (NOI/Cap Rate) | \$115,243,713 |
| Sale Commission Rate | 2.50% |
| Sale Commission Cost | \$2,881,093 |
| Net Sale Proceeds (Price less Commission) | \$ 112,362,620 |

Source: Developer. Calculations: Camoin 310

⁹ A Capitalization Rate is an estimated rate of future return, based on anticipated operating income. Each investor or developer will have a desired Capitalization Rate for a project. RealtyRates.com collects industry information to identify benchmarks.

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Annual Cashflows

The following pages present summary tables of annual cashflows. Annual income, operating expenses, property tax, and debt service payments were provided by the Developer. Sale price was calculated by Camoin 310.

Table 36

| Summary of Cash Flows | | | | | |
|------------------------------|---------------|---------------|---------------|---------------|---------------|
| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 |
| Effective Gross Income | \$6,421,939 | \$13,636,181 | \$17,157,698 | \$18,967,556 | \$19,726,259 |
| Operating Expenses | (7,315,802) | (8,469,272) | (8,860,722) | (9,327,256) | (9,700,346) |
| Real Property Tax | (37,601) | (157,606) | (283,832) | (419,904) | (566,408) |
| Net Operating Income | (\$931,465) | \$5,009,303 | \$8,013,144 | \$9,220,397 | \$9,459,505 |
| Debt Service | (\$4,005,315) | (\$4,962,021) | (\$5,114,057) | (\$5,114,057) | (\$7,621,372) |
| Cash Flow After Debt Service | (\$4,936,780) | \$47,282 | \$2,899,087 | \$4,106,340 | \$1,838,133 |
| Debt Service Coverage Ratio | -0.23 | 1.01 | 1.57 | 1.80 | 1.24 |
| Annual Equity Dividend Rate | n/a | 0.24% | 14.42% | 20.43% | 9.14% |

| | Year 6 | Year 7 | Year 8 | Year 9 |
|------------------------------|---------------|---------------|---------------|---------------|
| Effective Gross Income | \$20,318,046 | \$20,927,588 | \$21,555,415 | \$22,202,078 |
| Operating Expenses | (9,991,356) | (10,291,097) | (10,599,830) | (10,917,825) |
| Real Property Tax | (723,960) | (893,210) | (1,074,841) | (1,269,574) |
| Net Operating Income | \$9,602,730 | \$9,743,281 | \$9,880,744 | \$10,014,679 |
| Debt Service | (\$7,621,372) | (\$7,621,372) | (\$7,621,372) | \$37,650,379 |
| Cash Flow After Debt Service | \$1,981,358 | \$2,121,909 | \$2,259,372 | \$47,665,057 |
| Debt Service Coverage Ratio | 1.26 | 1.28 | 1.30 | |
| Annual Equity Dividend Rate | 9.86% | 10.56% | 11.24% | |

Sources: Developer, Yonkers IDA. Calculations: Camoin 310

Notes: Debt Service Coverage calculated on current interest and annual principal repayment, not final payoff. Annual Equity Dividend Rate is not calculated for year of sale of project as equity is returned in a lump sum with sale. Last year of debt service includes lump sum payoff of loan.

CAMOIN 310

ATTACHMENT A: WHAT IS ECONOMIC IMPACT ANALYSIS?

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

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

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

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

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

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

ATTACHMENT B: WHAT IS FISCAL IMPACT ANALYSIS?

Fiscal impact analysis is a tool that compares, for a given project or policy change, changes in governmental costs against changes in governmental revenues. For example, a major residential development project in Town A will mean new residents that require new services and facilities such as fire and police protection, libraries, schools, parks, and others. At the same time, Town A will receive new revenues from the project in the form of property tax revenues, local sales tax revenue, and other taxes and fees. A fiscal impact analysis compares the total expected costs to the total expected revenues to determine the net fiscal impact of the proposed development on Town A.

Typical revenues and costs in a fiscal impact analysis include (but are not limited to) the following:

- ◆ Property tax
- ◆ Sales tax
- ◆ Income tax
- ◆ Other local taxes
- ◆ Water and sewer fees
- ◆ One-time construction-related fees
- ◆ Impact fees
- ◆ Miscellaneous fees
- ◆ Increased staffing costs
- ◆ Water and sewer and other infrastructure costs
- ◆ Road maintenance costs
- ◆ Public school costs
- ◆ Police and fire protection costs
- ◆ New parks and recreation facilities
- ◆ Miscellaneous costs

There are several standard methodologies that can be employed in a fiscal impact analysis. The two general approaches to fiscal impact analysis are *average costing* and *marginal costing*:

- ◆ **Average Costing:** This method establishes an existing average cost per unit of service. So for example, to understand new road maintenance costs in Town A, this methodology would calculate the average cost per road-mile in the town currently. This average cost would then be multiplied by the number of new road miles added to the Town because of the development.

Similar to the average costing approach is the "Proportional Evaluation Method" that uses the proportion of local property the development comprises (typically measured by assessed value.) For example, if the development in Town A increases the town's total assessed value by 1%, then under this method it is assumed that the town's costs and revenues will increase by 1%. This 1% factor is only applied to those costs and revenues likely to be affected by the Project.

- ◆ **Marginal Costing (Case Study):** The marginal approach addresses the Town's *capacity* to deliver services. For example, if Town A does not have the equipment or manpower to maintain the new roads, then additional costs will be incurred to purchase new equipment and hire additional staff. Conversely, a school district may have excess space due to historically declining enrollments, obviating the need to build new schools for an influx of new residents.

This approach involves case studies and interviews with local officials and experts. It takes a more detailed look at the deficient (or excess) capacity to deliver services by getting more precise estimates of how different government bodies will be affected by a given development.

ATTACHMENT C: DATA SOURCES

ECONOMIC MODELING SPECIALISTS INTERNATIONAL (EMSI)

To analyze the industrial makeup of a study area, industry data organized by the North American Industrial Classification System (NAICS) is assessed. Camoin Associates subscribes to Economic Modeling Specialists Intl. (EMSI), a proprietary data provider that aggregates economic data from approximately 90 sources. EMSI industry data, in our experience, is more complete than most or perhaps all local data sources (for more information on EMSI, please see www.economicmodeling.com). This is because local data sources typically miss significant employment counts by industry because data on sole proprietorships and contractual employment (i.e. 1099 contractor positions) is not included and because certain employment counts are suppressed from BLS/BEA figures for confidentiality reasons when too few establishments exist within a single NAICS code.

ESRI BUSINESS ANALYST ONLINE (BAO)

ESRI is the leading provider of location-driven market insights. It combines demographic, lifestyle, and spending data with map-based analytics to provide market intelligence for strategic decision-making. ESRI uses proprietary statistical models and data from the U.S. Census Bureau, the U.S. Postal Service, and various other sources to present current conditions and project future trends. Esri data are used by developers to maximize their portfolio, retailers to understand growth opportunities, and by economic developers to attract business that fit their community. For more information, visit www.esri.com.

IBISWORLD

IBISWorld is one of the world's leading publishers of business intelligence, specializing in industry and procurement research. Through its detailed industry reports available at 5-digit NAICS level, IBISWorld provides insight into market conditions for targeted industries, helps to identify major suppliers or supply chain, and provides an understanding of competitor activity. More at www.ibisworld.com

REFERENCEUSA

ReferenceUSA's searchable database of U.S. businesses allows the user to identify businesses matching various criteria, including industry, geography, sales, employment count, and other characteristics. ReferenceUSA is useful for developing company lists for business attraction and retention activities, as well as gaining a more granular understanding of the businesses that make up a region's economy. ReferenceUSA is a division of Infogroup. For more information, visit <http://resource.referenceusa.com/>

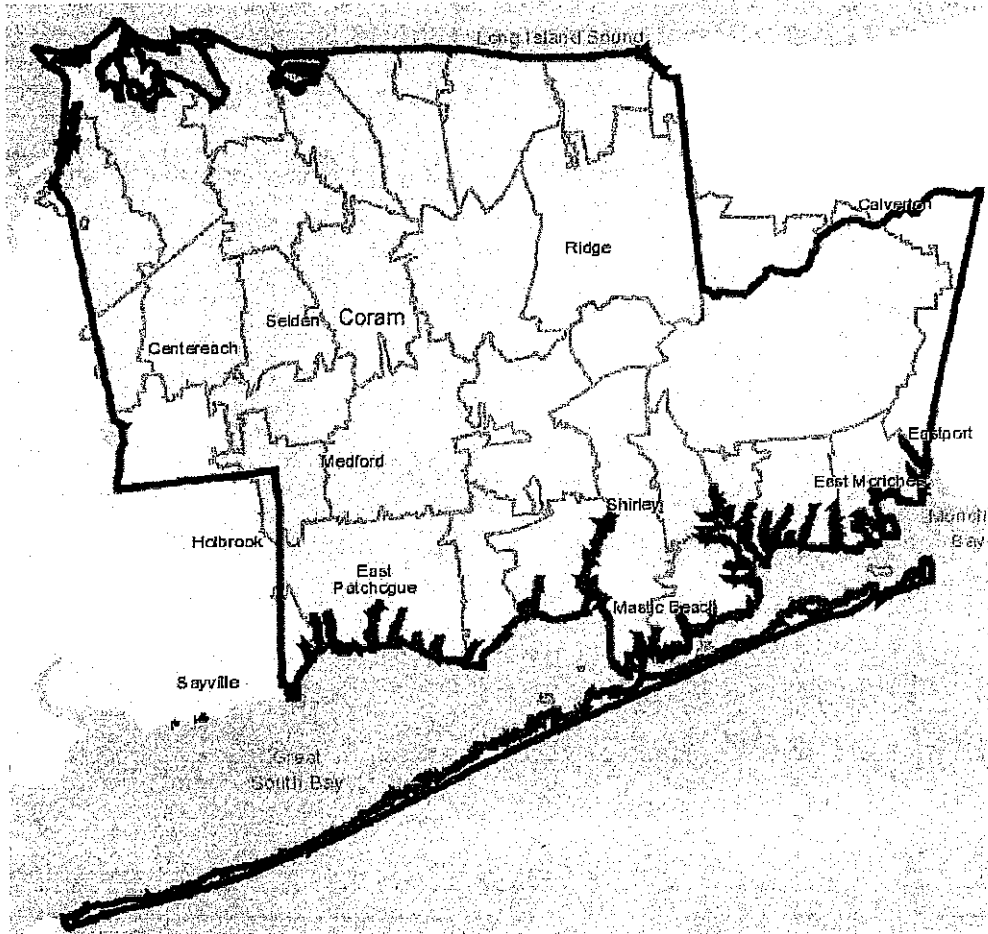
AMERICAN COMMUNITY SURVEY (ACS), U.S. CENSUS

The American Community Survey (ACS) is an ongoing statistical survey by the U.S. Census Bureau that gathers demographic and socioeconomic information on age, sex, race, family and relationships, income and benefits, health insurance, education, veteran status, disabilities, commute patterns, and other topics. The survey is mandatory to fill out, but the survey is only sent to a small sample of the population on a rotating basis. The survey is crucial to major planning decisions, like vital services and infrastructure investments, made by municipalities and cities. The questions on the ACS are different than those asked on the decennial census and provide ongoing demographic updates of the nation down to the block group level. For more information on the ACS, visit <http://www.census.gov/programs-surveys/acs/>

CAMOIN 310

ATTACHMENT D: STUDY AREAS

Town of Bookhaven (blue outline) and ZIP Code Region (red)



CAMOIN 310

ATTACHMENT D: Benchmark Definitions and Methods of Calculation

Internal Rate of Return (IRR): The return on an investment, calculated as the rate that reconciles the beginning value (or initial investment) with intermediate cashflows and the ending value. IRR assumes that all cashflows are reinvested in the project at the same rate of return. The rate of return is constant for the entire period being measured. (Source: RealtyRates.com)

Modified Internal Rate of Return (MIRR): Similar to the IRR, the MIRR is calculated as the rate that reconciles beginning value, ending value, and intermediate cashflows, producing a single rate of return for the entire period measured. Unlike the IRR, the MIRR assumes the intermediate cashflows are withdrawn and invested at some other rate (for example a US Treasury security) by the investor. This is considered a more accurate measure, since it recognizes that intermediate cashflows occur over time and do not actually earn the same rate of return as the initial investment. This reflects the actual market risk associated with intermediate cashflows. (Source: RealtyRates.com)

Equity Dividend Rate: This is calculated as the rate of return on the equity component of a project. It is calculated as follows: (Source: RealtyRates.com)

$$\text{Equity Dividend} / \text{Equity Investment} = \text{Equity Dividend Rate,}$$

$$\text{where Equity Dividend} = \text{Net Operating Income} - \text{Debt Service.}$$

Note: Because the Equity Dividend Rate is calculated for each year's NOI, Camoin 310 calculates an average to facilitate comparison to industry benchmarks and client targets.

Debt Service Coverage Ratio (DSCR): The ratio of annual debt repayment, including principal and interest, to total Net Operating Income (NOI). (Source: RealtyRates.com)

Net Operating Income (NOI): Income net of all operating costs including vacancy and collection loss but not including debt service. Appraisers also typically expense reserves for repairs and replacements. However, because reserves are not usually reported along with other transaction data, RealtyRates.com tracks lender requirements but does not include them in calculations. (Source: RealtyRates.com)

Overall Capitalization Rate (OAR): Ratio of Net Operating Income to property value or sales price. (Source: RealtyRates.com)

$$\text{OAR} = \text{NOI} / \text{Property value or sales price}$$

Note: To derive a future sales price, Camoin 310 divides NOI by a Capitalization Rate using either a market benchmark for OAR or a client- or Developer-provided rate. This "reverses" the OAR equation to calculate a sales price based on investment return requirements for market conditions.



Leading action to grow your economy

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EXHIBIT D-2

Letter of Support from Long Island Builders Institute, dated September 13, 2018



LONG ISLAND
BUILDERS INSTITUTE

Advocating Responsible Building & Remodeling

September 13, 2018

Lisa M. G. Mulligan
CEO & Director of Economic Development
Town of Brookhaven Industrial Development Agency
1 Independence Hill
Farmingville, NY 11738

Re: Brightview Port Jefferson Application for IDA Benefits

Dear Lisa,

I am pleased to forward this letter of support from the Long Island Builders Institute on behalf of the Brightview Port Jefferson application for IDA Benefits. We extend our support because we believe that the Brightview development is completely aligned with our mission at LIBI of making Long Island a better place to live and work, by creating a balance between the economy, the environment and development opportunities for all our communities and our residents.

We understand that memory loss and related diseases like Alzheimer's are major drivers of the need for senior housing and the services provided therein. When considering that the number of people in the United States with dementia is expected to triple between 2010 and 2040, with no major medical advances having been made to prevent or slow the disease as of yet, the need for supportive senior housing is clear. The development plans for Brightview Port Jefferson call for the construction of a 170-unit Senior Living Community comprised of independent, assisted living and memory care residential units as well as abundant amenity spaces (including multiple dining venues, library, pub and billiards room, gym, sunroom, outdoor gardens and walking paths). In addition to the beautiful and well-appointed physical structure, residents at this new community will benefit from the Brightview philosophy of focusing on possibilities and joy filled living, not limitations, regardless of where on the health spectrum the resident happens to be.

Regarding economic benefits, the Brightview development brings many, beginning with a \$70 Million + Investment in the Town of Brookhaven via the development and construction of this new community. Additionally, the development will generate both construction and long term jobs. During the construction period, we have been advised that the job should average 60 Full Time Equivalent workers on site each month, (recognizing exact numbers of workers on site will fluctuate from approximately 10 during initial mobilization and start up to near 100 during peak construction on site). Additionally, once construction is completed, the sponsor will create long term job opportunities with more than 75 associates hired to support the ongoing operation of the community. Moreover, Brightview is committed to local hiring for its needs and plans to have material outreach efforts in and around the local community for a diverse set of positions ranging from front line staff to executive chefs, program directors, van drivers, nurses and technicians just to name a few.

The Long Island Builders Institute strongly supports Brightview's efforts to develop this much needed assisted living community in the Town of Brookhaven and we urge your favorable consideration of the IDA Benefits requested to assist in making this development financially feasible.

Sincerely,

Mitchell H. Pally

Chief Executive Officer

EXHIBIT D-3

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

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,

ANTHONY S. GUARDINO is a partner with Farrell Fritz in the firm's Hauppauge office.

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 determination in the area served by the IDA."

The decision by the Nassau County Supreme Court in *Matter of Ryan* provides further confirmation that

residential developments certainly are eligible to receive IDA benefits.

'Matter of Ryan'

The case arose after the Town of Hempstead Industrial Development Agency (TOHIDA) granted financial and tax benefits and assistance to Renaissance Downtowns UrbanAmerica, 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 D-4

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
Mot. Seq. 1
Mot. Date 9.13.16
Submit Date 11.17.16

Petitioners;

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

XXX

-against-

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

Respondents.

-----X

| The following papers were read on this motion: | Papers Numbered |
|---|------------------|
| Notice of Petition, Affidavits, Exhibits, Memorandum Annexed..... | 1,2 |
| Verified Answers..... | 3,4,5 |
| Opposing Affidavits..... | 6,7,8,9,10,11,12 |
| Reply Affidavits..... | 13, 14 |
| Sur-Reply Affidavit..... | 15 |
| Hearing Record (3 Vols.)..... | 16 |

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

In this Article 78 proceeding, petitioners seek to invalidate the resolution passed by respondent TOHIDA on May 18, 2016, which granted financial and tax benefits and assistance to respondent Renaissance Downtowns UrbanAmerica, LLC (Renaissance) *vis-a-vis* construction of a new 336 unit residential apartment complex on the northwest corner of the intersection of Washington and Front Streets (Phase 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 Kaladjian*, 83 NY2d 185, 189 [1994], citing *Matter of Pell v Bd. of Educ.*, 34 NY2d 222, 231 [1974]; *Akpan v Koch*, 75 NY2d 561, 570-71 [1990]; *Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers*, 238 AD2d 417, 418 [2d Dept 1997]). The agency's determination need only be supported by a rational basis (*Matter of County of Monroe v Kaladjian*, *supra*; *Matter of Jennings v Comm. N.Y. Dept. of Social Svcs.*, 71 AD3d 98, 108 [2d Dept 2010]). If the determination is rationally based, a reviewing court may not substitute its judgment for that of the agency even if the court might have decided the matter differently (*Matter of Savetsky v Zoning Bd. of Appeals of Southampton*, 5 AD3d 779, 780 [2d Dept 2004]; *Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers*, *supra*). It is not for the reviewing court to weigh the evidence or reject the choice made by the agency where the evidence conflicts and room for choice exists (*Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers*, *supra*, citing *Toys "R" Us v Silva*, 89 NY2d 411, 424 [1996]; *Akpan v Koch*, *supra*).

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

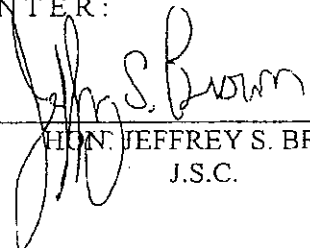
Where, as here, the project at issue promotes employment opportunities and serves to combat economic deterioration in an area served by an industrial development agency, a finding that the project falls within the ambit of the IDA is rationally based; neither arbitrary or capricious or an abuse of discretion,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

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

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

Dated: Mineola, New York
January 25, 2017

ENTER:



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