

Baruch 1050 Realty SEQR Resolution

A regular meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency at 1550 Franklin Avenue, Suite 235, Mineola, Nassau County, New York, on May 23, 2012, at 9:30 a.m. local time.

The meeting was called to order by the Chairman and, upon roll being called, the following members of the Agency were:

PRESENT:

Timothy Williams	Chairman
John Coumatos	Vice Chairman
Christopher Fusco	Asst. Secretary

ABSENT:

Gary Weiss	Secretary
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THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Joseph J. Kearney	Executive Director
Joseph Foarile	Chief Financial Officer
Colleen Pereira	Administrative Director
Mary Dolan Grippo	Chief Marketing Officer
Nicholas Terzulli	Director of Business Development
Edward Ambrosino, Esq.	General Counsel
Paul O'Brien, Esq.	Bond/Transaction Counsel
Milan Tyler, Esq.	Bond/Transaction Counsel

The attached resolution no. 2012-15 was offered by T. Williams, seconded by J.

Coumatos:

Resolution No. 2012-15

RESOLUTION FINDING THAT ACTION TO UNDERTAKE A
CERTAIN PROJECT FOR AMBER COURT ASSISTED LIVING, LLC AND BARUCH 1050
REALTY LLC WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT
ON THE ENVIRONMENT

WHEREAS, the Nassau County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "project" (as defined in the Act) or to cause said project to be acquired, constructed, reconstructed and installed and to convey said project or to lease said project with the obligation to purchase; and

WHEREAS, AMBER COURT ASSISTED LIVING LLC ("Amber") and, BARUCH 1050 REALTY LLC ("Baruch" and together with Amber, collectively, the "Applicant"), each a limited liability company organized and existing under the laws of the State of New York, presented an application for financial assistance (the "Application") requesting that the Agency undertake a project (the "Project") consisting of the following: (A) (1) the acquisition of an interest in an approximately 0.47 acre parcel of land located at 3500 Brush Hollow Road, Westbury, Town of Oyster Bay, County of Nassau, New York (Section: 11; Block: B; Lot: 1050) (collectively, the "Land" or "Project Site"), (2) the construction of an approximately 29,400 square foot structure on the Land (collectively, the "Building"), together with related improvements to the Land, and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment"), all of the foregoing for use as an assisted living residential facility (collectively, the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to Baruch or such other entity as may be designated by the Applicant and agreed upon by the Agency and the sublease

thereof to Amber or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

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

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether the Project may have a significant adverse impact upon the environment, the Applicant submitted to the Agency: (1) Applicant's Application for Financial Assistance to the Agency dated July 9, 2010, and (2) a Full Environmental Assessment Form dated January 21, 2009 (collectively the "Project Environmental Documents"); and

WHEREAS, on July 27, 2010 the Town Board of the Town of Oyster Bay resolved that the Project will not have a significant impact on the environment and adopted a detailed report in support of its Negative Declaration; and

WHEREAS, pursuant to SEQRA, the Agency, in conducting an independent review of the Project, now desires to determine whether the Project may have a significant adverse impact on the environment and whether an Environmental Impact Statement (an "EIS") must be prepared with respect to the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Based upon a thorough review and examination of the Project Environmental Documents and upon the Agency's knowledge of the area surrounding the Project Site and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to the Project:

(A) The Agency is undertaking an uncoordinated review of the proposed action in accordance with the requirements of SEQRA;

(B) Prior to making a recommendation about the potential environmental significance of the Project, the Agency has consulted several information sources, and has considered the list of activities which are Type I Actions outlined in Section 617.4 of the Regulations, the list of activities that are Type II Actions outlined in Section 617.5 of the Regulations, and the criteria for determining significance outlined in Section 617.7 of the Regulations; and

(C) The Project is an Unlisted action pursuant to SEQRA.

Section 2. No potentially adverse significant impacts on the environment are noted in the EAF and none are known to the Agency.

Section 3. Based upon the foregoing investigations of the potential environmental impacts of the Project and considering both the magnitude and importance of each environmental impact indicated, the Agency makes the following determinations with respect to the Project.

The Project will not have a significant adverse impact upon the environment. The reasons supporting this determination are as follows:

1. The Project consists of the expansion of an existing assisted living facility, and the demolition of a former catering facility and associated site improvements to serve additional elderly patients and create an outdoor recreation space and additional parking with new curbs and landscaping.
2. Land use conditions at the Project Facility will not change as a result of the Project. Applicant already operates an assisted living facility out of the existing building, to which an expansion is being added to increase the number of assisted living units and make improvements to the Land. A former catering facility, currently vacant, will be demolished and that portion of the Land will be returned to active use with the construction and operation of the expanded Project Facility.
3. The Land does not contain, nor lie in the immediate vicinity of any surface waterbody.
4. The Project will discharge sanitary wastewater to existing sewer lines and will not entail the types of activities or operations that are associated with a significant potential for groundwater contamination.
5. The Project will not be a significant source of air emissions or odors. As the Project is an expansion of existing facilities, there may be a minor increase in traffic, but the existing roadway system has the capacity to support such an increase and a minor increase in traffic would not be a significant impact to air quality.
6. The Land is already developed and does not possess significant ecological value. There are no sensitive animals, plants or natural communities and/or significant wildlife habitat that will be impacted by the development of the Project Facility.

7. The Project does not involve any agricultural land.
8. The Project Facility does not contain any scenic views known to be important to the community.
9. The Project Facility does not contain historically significant resources. As the site previously has been developed, it lacks the characteristics which would suggest the potential presence of significant archaeological resources.
10. The Project Facility is a large assisted living and former catering facility and does not comprise public open space and is not used for recreation.
11. The Project Facility is not located in or substantially contiguous to any Critical Environmental Area.
12. Existing utility lines serve the Project Facility and no significant improvements are necessary to accommodate the Project.
13. Operation of the Project Facility is not expected to appreciably increase ambient noise levels.
14. The Project will not result in population growth, and generally is in character with adjacent development. The Project will result in increased employment to serve the expanded facilities and additional residents of the Project Facility.
15. The Project will not result in any significant impacts associated with solid waste generation. The proposed development will generate solid wastes at a rate of approximately 6 tons per month. The solid wastes will be collected by a private carter for transport to existing solid waste disposal facilities, and recycling will occur in accordance with local requirements.
16. There will be no significant adverse environmental impacts as a result of the Project.

Section 4. The Chairman, Vice Chairman and Executive Director of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 5. This Resolution shall take effect immediately.

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

Timothy Williams	VOTING	Aye
John Coumatos	VOTING	Aye
Gary Weiss	EXCUSED	
Christopher Fusco	VOTING	Aye

The foregoing Resolution was thereupon declared duly adopted.

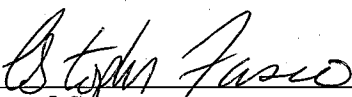
STATE OF NEW YORK)
) SS.:
COUNTY OF NASSAU)

I, the undersigned [Asst.] Secretary of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 23, 2012, with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 23rd day of May, 2012.



[Asst.] Secretary
(SEAL)