

Low Properties SEQRA Resolution

A regular meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 1100 Franklin Avenue, Suite 300, Garden City, County of Nassau, New York on January 7, 2010, at 6:30 p.m., local time.

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

PRESENT:

Leonard Steinman	Chair
John E. Puckhaber	Treasurer
Mark Goldberg	Asst. Treasurer
Richard B. Roberts	Member

ABSENT:

Gary Weiss	Vice Chair
Christopher Fusco	Asst. Secretary

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Joseph Gioino, Esq.	Executive Director
Cara Longworth, Esq.	Chief Financial Officer
Colleen Pereira	Administrative Director
Robert J. Chanis, Esq.	Bond/Transaction Counsel
Andras Komaromi	Bond/Transaction Counsel
Milan K. Tyler, Esq.	Special Counsel

The attached resolution no. 2010-01 was offered by Mark Goldberg, seconded by John E. Puckhaber:

Resolution No. 2010-01

RESOLUTION THAT ACTION TO UNDERTAKE A CERTAIN PROJECT FOR
LOWE PROPERTIES, 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, commercial and civic 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 "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Lowe Properties, LLC, a limited liability company organized and existing under the laws of the State of New York ("Applicant"), presented an application (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") consisting of the following: (A) (1) acquisition of an interest in an approximately 0.4386 acre parcel of land located at 250 Post Avenue, in the Village of Westbury, Town of North Hempstead, County of Nassau, New York (the "Land"), (2) renovations to an approximately 24,000 square foot, two storey building together with related improvements on the Land (collectively, the "Building"), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment"), all of the foregoing for use by the Applicant as a multi use performing arts theater and related parking 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) (the "Financial Assistance"); (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and (D) the sublease of the Project Facility by any entity that 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 SEQRA 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 Applicants submitted to the Agency a short Environmental Assessment Form (the "EAF"), dated March 17, 2009, (collectively, the "Project Environmental Documents"), a copy of which were presented to and reviewed by the Agency, and which is on file at the office of the Agency for public inspection; and

WHEREAS, pursuant to SEQRA, the Agency 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 Land and such further investigation of the Project and the 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 pursuant to 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 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 the 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 consist of Financial Assistance for (1) the acquisition of an interest in an approximately 0.4386 acre parcel of land, located at 250 Post

Avenue, in the Village of Westbury, Town of North Hempstead, County of Nassau, New York , (2) to an approximately 24,000 square foot, two storey building together with related improvements located on the Land, and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment, all of the foregoing to constitute a multi use performing arts theater and related parking facility.

2. The Project is a permitted use in the district.
3. The Project does not involve the use of any agricultural land.
4. The Land is not substantially contiguous to, nor does it contain, buildings, sites or districts listed on the National Registers of Historic Places.
5. There are no unique or unusual land forms at the Land.
6. Energy demands for the Project are not significant.
7. The Project will not result in a material increase in solid waste generation and any solid waste generated by the Project will be properly disposed of pursuant to Federal, State and local laws and regulations.
8. The Land has never been used for the disposal of solid or hazardous waste.
9. There are no sensitive animals, plants or natural communities and/or significant wildlife habitat that will be impacted by the Project.
10. The Land is not presently used by the community as open space or a recreation area.
11. The Land does not contain, nor will the Project adversely affect, any scenic views known to be important to the community.
12. The Project will not require any extensive changes in levels of service from community resources or facilities or adversely impact local public safety services, such as police and fire protection, either collectively or individually.
13. The Project will not involve the removal of a substantial amount of natural materials or vegetation from the Land and any disturbed topsoil will be stockpiled on-site and replaced.
14. The Project will not result in the discharge of surface or subsurface wastewater to any existing water body.
15. Environmental impacts associated with the renovation and construction activities at the Land will be minimal and temporary.

16. There will be no significant adverse environmental impacts as a result of the Project.

Section 4. The Chair, Vice Chair 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.

ADOPTED: January 7, 2010

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

Leonard Steinman	VOTING	AYE
Gary Weiss	ABSENT	
Christopher Fusco	ABSENT	
John E. Puckhaber	VOTING	AYE
Mark Goldberg	VOTING	AYE
Richard Roberts	VOTING	AYE

The foregoing Resolution was thereupon declared duly adopted.

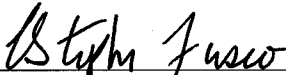
STATE OF NEW YORK)
) SS.:
COUNTY OF NASSAU)

I, the undersigned Assistant 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 January 7, 2010 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 7th day of January, 2010.



Assistant Secretary

(SEAL)