

Blue Cassel Commercial Realty, LLC, PILOT Deviation Resolution

A regular meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the Theodore Roosevelt Executive & Legislative Building, Ceremonial Chambers, 1550 Franklin Avenue, Mineola, Nassau County, New York on May 16, 2019 at 6:30 p.m., local time.

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

PRESENT:

Richard Kessel	Chairman
Lewis M. Warren	Vice Chairman
Anthony Simon	2nd Vice Chairman
Amy Flores	Treasurer
Chris Fusco	Asst. Secretary

NOT PRESENT:

Timothy Williams	Secretary
John Coumatos	Asst. Treasurer

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Harry Coghlan	Chief Executive Officer/Executive Director
Danielle Oglesby	Chief Operating Officer/Deputy Executive Director
Joseph Foarile	Chief Financial Officer
Colleen Pereira	Administrative Director
Thomas D. Glascock	Agency Counsel
Andrew Komaromi	Bond/Transaction Counsel

The attached resolution no. 2019-47 was offered by Amy Flores, seconded by Lewis M. Warren:

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM
TAX EXEMPTION POLICY OF THE NASSAU COUNTY
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT
TO A PROJECT FOR BLUE CASSEL COMMERCIAL REALTY, LLC

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 1 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 “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, in 2008, the Applicant, a limited liability company duly organized and existing under the laws of the State of New York, and Blue Cassel Site A Realty, LLC, a limited liability company duly organized and existing under the laws of the State of New York (the “Residential Applicant” and together with the Applicant, collectively the “Applicants”) presented a joint application for financial assistance (as amended the “2008 Application”) to the Agency, which 2008 Application requested that the Agency consider undertaking a project (the “2008 Project”) consisting of the following: (A)(1) the acquisition of an interest in a parcel of land located at 701, 715, 721 and 729 Prospect Avenue, New Cassel, Town of North Hempstead, County of Nassau, New York (the “Land”), (2) the construction of an approximately 123,250 square foot building (inclusive of indoor parking), together with related improvements, on the Land, excluding subtenant alterations for the retail portion of such improvements (collectively the “Building”), 19,740 square feet of which is ground floor commercial (the “Commercial Realty”) and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment, excluding any subtenant equipment with respect to the retail portion of the Building (the “Equipment”), all of the foregoing to constitute a mixed-use residential/commercial facility (collectively the “2008 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 “2008 Financial Assistance”); (C) the lease (with an obligation to purchase) or sale of the residential portion of the 2008 Project Facility to the Company; and (D) the

guaranty by The Bluestone Organization, Inc. of the obligations of the Applicants in connection with the 2008 Project; and

WHEREAS, the 2008 Project was a part of a coordinated effort by the Town of North Hempstead to revitalize and create a walkable downtown in the Hamlet of New Cassel and after almost 10 years, 4,000 square feet of the Commercial Realty has yet to be leased up; and

WHEREAS, in December 2018, the Applicant presented an application for additional financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking an amendment of the 2008 Project (as so amended, the "Project") consisting of the following: (A) the retention of the Commercial Realty (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 real property taxes (but not including special assessments and ad valorem levies) for the Commercial Realty (collectively the "Financial Assistance"); (C) the lease (with an obligation to purchase) or sale of the Commercial Realty to the Company; and (D) the guaranty by The Bluestone Organization, Inc. of the obligations of the Applicants in connection with the Project; and

WHEREAS, the Application states that the Applicant is seeking an amended exemption from real property taxes with respect to the Project Facility that constitutes a deviation from the Agency's Uniform Tax Exemption Policy (the "Tax Exemption Policy"); and

WHEREAS, pursuant to Section 874(4) of the Act, (A) the Chief Executive Officer / Executive Director of the Agency caused a letter dated April 29, 2019 (the "Pilot Deviation Notice Letter") to be mailed to the chief executive officer of each affected tax jurisdiction, informing said individuals that the Agency would, at its meeting on May 16, 2019 (the "IDA Meeting"), consider a proposed deviation from the Tax Exemption Policy with respect to the payments in lieu of real property taxes to be made pursuant to a payment in lieu of taxes agreement to be entered into by the Agency with respect to the Project Facility; and (B) the members of the Agency conducted the IDA Meeting on the date hereof and reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 874(4) of the Act with respect to the proposed deviation from the Tax Exemption Policy;

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

Section 1. Prior to making the determinations set forth in this resolution, the members of the Agency have considered the following factors set forth in the Tax Exemption Policy: (1) the extent to which the Project would create or retain permanent jobs; (2) the extent to which the Project would create construction jobs; (3) the estimated value of tax exemptions to be provided with respect to the Project; (4) the amount of private sector investment generated or likely to be generated by the Project; (5) the likelihood of the Project being accomplished in a timely manner; (6) the extent of new revenue that would be provided to affected tax jurisdictions as a result of the Project; (7) whether affected tax jurisdictions would be reimbursed by the Applicant if a Project does not fulfill the purposes for which an exemption was provided, (8) the impact of the Project on existing and proposed businesses and economic development projects in the vicinity, (9) the demonstrated public

support for the Project, (10) the effect of the Project on the environment, (11) the extent to which the Project would require the provision of additional services, including, but not limited to, additional educational, transportation, police, emergency, medical or fire services, and (12) any other miscellaneous public benefits that might result from the Project.

Section 2. The Agency hereby determines that the Agency has fully complied with the requirements of Section 874(4) of the Act relating to the proposed deviation from the Tax Exemption Policy.

Section 3. Having reviewed all comments and correspondence received at or prior to the IDA Meeting, the Agency hereby approves the proposed deviation from the Tax Exemption Policy as described in the Pilot Deviation Notice Letter (a copy of which is attached hereto as Exhibit A) because the proposed deviation is necessary to induce the Applicant to undertake the Project and because the PILOT payments would not be lower than the real property taxes that should otherwise apply with respect to the Land and the existing improvements thereon as of the closing date of the transaction.

Section 4. The Chairman, Vice Chairman, Chief Executive Officer/Executive Director, Chief Operating Officer and Administrative Director of the Agency are each hereby authorized and directed, acting individually or jointly, 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. If the Agency hereafter adopts appropriate final approving resolutions with respect to the proposed straight-lease transaction with the Applicant (the "Transaction"), the Chairman, Vice Chairman, Chief Executive Officer/Executive Director, Chief Operating Officer and Administrative Director of the Agency are each hereby authorized and directed, acting individually or jointly, to cause the Agency to (A) enter into a Payment in Lieu of Taxes Agreement with the Applicant, providing, among other things, that the Applicant shall make payments in lieu of taxes consistent with the formula set forth in the PILOT Deviation Notice Letter, and (B) file an application for real property tax exemption with the appropriate assessor(s) with respect to the Project Facility.

Section 5. This Resolution shall take effect immediately, but is subject to and conditioned upon the closing of the Transaction.

ADOPTED: May 16, 2019

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

Richard Kessel	VOTING
Lewis M. Warren	VOTING
Anthony Simon	VOTING
Timothy Williams	NOT PRESENT
Chris Fusco	VOTING
Amy Flores	VOTING
John Coumatos	NOT PRESENT

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK

) SS.:

COUNTY OF NASSAU

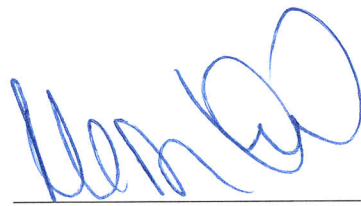
We, the undersigned [Vice] Chairman and [Assistant] Secretary of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 16, 2019 with the original thereof on file in our 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.

WE 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.

WE 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, we have hereunto set our respective hands and affixed the seal of the Agency this 16th day of May, 2019.


[Assistant] Secretary


[Vice] Chairman

(SEAL)

EXHIBIT A

DEVIATION NOTICE



NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

1 WEST STREET

4TH FLOOR

MINEOLA, NY 11501

TELEPHONE (516) 571-1945 FAX (516) 571-1076

www.nassauida.org

April 29, 2019

CERTIFIED MAIL, RETURN
RECEIPT REQUESTED and
FIRST CLASS MAIL

County Executive Laura Curran
County of Nassau
1550 Franklin Avenue
Mineola, NY 11501

Supervisor Judi Bosworth
Town of North Hempstead
220 Plandome Road
Manhasset NY 11030

Superintendent Mr. Eudes S. Budhai
Westbury Central School District
2 Hitchcock Lane
Old Westbury NY 115681624

NOTICE OF PROPOSED DEVIATION FROM
UNIFORM TAX EXEMPTION POLICY

Ladies and Gentlemen:

Notice is hereby given that at a meeting of the Nassau County Industrial Development Agency (the "Agency") to be held on May 16, 2019 at 6:30 p.m. local time at the Nassau County Executive & Legislative Building, Ceremonial Chambers, 1550 Franklin Avenue, Mineola, New York, the Agency will consider whether to approve the application of the Applicants (as defined below), for certain "financial assistance" which, if granted, would deviate from the Agency's Uniform Tax Exemption Policy (the "Policy") with respect to the payment of real property taxes. The meeting of the Agency will be open to the public.

In 2008, BLUE CASSEL COMMERCIAL REALTY, LLC (the "Applicant"), a limited liability company duly organized and existing under the laws of the State of New York, and Blue Cassel Site A Realty, LLC, a limited liability company duly organized and existing under the laws of the State of

New York (the "Residential Applicant" and together with the Applicant, collectively the "Applicants") presented a joint application for financial assistance (as amended the "2008 Application") to the Agency, which 2008 Application requested that the Agency consider undertaking a project (the "2008 Project") consisting of the following: (A)(1) the acquisition of an interest in a parcel of land located at 701, 715, 721 and 729 Prospect Avenue, New Cassel, Town of North Hempstead, County of Nassau, New York (the "Land"), (2) the construction of an approximately 123,250 square foot building (inclusive of indoor parking), together with related improvements, on the Land, excluding subtenant alterations for the retail portion of such improvements (collectively the "Building"), 19,740 square feet of which is ground floor commercial (the "Commercial Realty") and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment, excluding any subtenant equipment with respect to the retail portion of the Building (the "Equipment"), all of the foregoing to constitute a mixed-use residential/commercial facility (collectively the "2008 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 "2008 Financial Assistance"); (C) the lease (with an obligation to purchase) or sale of the residential portion of the 2008 Project Facility to the Company; and (D) the guaranty by The Bluestone Organization, Inc. of the obligations of the Applicants in connection with the 2008 Project.

The above referenced 2008 Project Facility was initially and is currently owned, operated and/or managed by the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency. The Applicant received the 2008 Financial Assistance with respect to the 2008 Project Facility from the Agency. The Agency and the Applicant are party to a Payment in Lieu of taxes Agreement, dated as of December 1, 2008, by and between the Agency and the Applicant ("PILOT Agreement").

In 2018, the Applicant presented an application for additional financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking an amendment of the 2008 Project (as so amended, the "Project") consisting of the following: (A) the retention of the Commercial Realty (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 real property taxes (but not including special assessments and ad valorem levies) for the Commercial Realty (collectively the "Financial Assistance"); (C) the lease (with an obligation to purchase) or sale of the Commercial Realty to the Company; and (D) the guaranty by The Bluestone Organization, Inc. of the obligations of the Applicants in connection with the Project

The Application states that the Applicant is seeking an abatement of real property taxes. However, based upon preliminary negotiations between representatives of the Applicant and the Agency, the parties contemplate that the Agency may agree to grant an amended real property tax exemption (the "Amended Property Tax Exemption") consisting of an additional approximately ten (10) year real property tax exemption with respect to the Commercial Realty as follows: payments for each of the first (1st) through fifth (5th) fiscal tax years following the tenth (10th) fiscal tax year when PILOT Payments are currently payable under the PILOT Agreement (i.e. year 11 through year 15, inclusive, of the term of the to be amended PILOT Agreement), shall be equal to \$120,591, followed by a period of five (5) fiscal tax years with annual increases of 1.84% per year (compounded) each

fiscal tax year (i.e. year 16 through year 20, inclusive, of the term of the to be amended PILOT Agreement) (collectively the "PILOT Term").

After the expiration of the term of the Amended Property Tax Exemption, and through the end of the period in which the Agency has an interest in the Premises, the payments would be equal to the real property taxes that would be payable as if the Premises were returned to the tax rolls as taxable real property and subject to taxation at its then current, full assessed value, as the same may be reassessed from time to time, and subject to tax rate increases imposed by the affected tax jurisdictions.

The Amended Property Tax Exemption, if approved by the Agency, would constitute a deviation from the Policy.

The reason for the deviation is that the Property Tax Exemption, if approved by the Agency, is necessary to induce the Applicants to undertake the Project and that the PILOT payments would not be lower than the real property taxes that should otherwise apply with respect to the Land and the existing improvements thereon as of the Closing Date.

Sincerely,

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 

Harry Coghlan
Chief Executive Officer