

July 17, 2020

Ulster County Industrial Development Agency (“IDA”)  
P.O. Box 4265  
Kingston, NY 12402

Re: Proposed Payment in Lieu of Taxes (“PILOT”)  
For the Kingstonian Development Project (the “Kingstonian” or “Project”)  
Kingstonian Development, LLC  
420 Broadway and 151 Plaza Road

Dear Members of the Ulster County IDA,

Please accept this comment letter on Kingstonian Development LLC’s (“Kingstonian Development” or the “Applicant”) Application for Incentives (“Application”) submitted to the Ulster County Industrial Development Agency (“IDA”). Kingstonian Development is seeking a 25-year deviated PILOT which would relieve it from paying approximately of \$29,874,000 in taxes over the next 25 years. I am writing on behalf of several property owners which own property in the vicinity of the Project and urge you to refrain from acting on the application at this time because the Application is outside of the IDA’s authority, the Applicant has not demonstrated a public benefit, and the Application is incomplete and inadequate to justify the PILOT.

*The IDA is Not Authorized to Grant the Application*

As a threshold matter the IDA does not have authority to consider or grant the Application for the Project which includes residential housing units. The IDA’s Housing Projects Policy, which was reaffirmed on January 8, 2020, only allows IDA financing in limited circumstances. It provides that:

- A. The Agency will only consider the granting of any “financial assistance” (as defined under the Act) for following projects that provide housing:
- (1) a project that satisfies the definition of a continuing care retirement community project under Section 859-b of the Act; or
  - (2) a project by an industrial, manufacturing, warehousing, commercial, research and recreation facility (as defined in the Act) that provides workforce housing for its employees.

The Kingstonian’s proposed residential apartments and associated parking are not a continuing care community, nor is it employee housing. Therefore the IDA cannot grant financial incentives to the Project and all consideration of the Application should cease.

*The Project will Result in a Loss of Public Parking Spaces*

The Applicant has stated that the PILOT is needed to offset the cost of the proposed parking garage and has alleged that the parking garage will provide a public benefit. However, information provided to this Board and to the Planning Board by the Applicant indicates that the Project will result in a net loss of available parking spaces. The IDA should not be financing a garage that eliminates public parking and will contribute to the already difficult parking situation in Uptown Kingston.

The Kingstonian is being constructed on an existing surface parking lot which contains approximately 144 parking spaces serving the businesses in Uptown Kingston. The Project will replace the surface parking lot with a parking garage with 420 spaces serving both the public and the needs generated by the Project, or 276 spaces more than the Property currently provides. However, the Project would generate the need for at least 313 to 373 parking spaces, resulting in a net loss of parking spaces available to the public.

Section 405-34J of the Zoning Law requires 1.5 spaces for each one-bedroom apartment and 2 spaces for a two- or three-bedroom apartment. The Zoning Law further requires one parking space for each hotel room with an additional space needed for every 600 square feet of space outside of guest rooms.

The Project proposes a mix of one-, two- and three-bedroom apartments. Based on the proposed mix of apartments, a minimum of 251 parking spaces are required. The hotel requires another 32 parking spaces plus spaces for employees. A minimum of 283 parking spaces in the garage will be occupied by residential tenants and hotel customers. This does not account for the additional parking needs generated by customers and employees of the 9,000 square feet of commercial space.

The Zoning Law requires one parking space for every 100 square feet of gross floor area for a restaurant, and one parking space for every 300 square feet of floor area for retail. The commercial portion of the Project will therefore generate the need for at least 30 to 90 parking spaces.

Using a very conservative estimate, the minimum number of spaces needed to serve the Kingstonian is 313. The proposed parking garage with 420 parking spaces is not sufficient to replace the existing 144 public parking spaces and provide for the additional 313 parking spaces needed by the Project.<sup>1</sup> The Project will therefore result in net loss of publicly available parking spaces.

The loss of publicly available parking does not justify an almost \$30 million dollar tax break. In the current economic climate, it is not responsible for any taxing jurisdiction to issue such a monumental tax break to a project that does not offer any public benefit, particularly to

---

<sup>1</sup> All parking numbers are approximate as the Applicant has not provided a parking analysis.

well-funded projects that are already receiving millions of dollars in government funding. It is our understanding that Ulster County stands to have a budget deficit of \$30-40 million dollars in the upcoming years due to the economic downturn.<sup>2</sup> Similarly, the City of Kingston is facing losses of millions in tax revenue.<sup>3</sup>

There is simply no justification to grant the Application.

*The Applicants' Financial Analysis Is Insufficient*

Even if the IDA had authority to approve the Application and the Applicant could demonstrate that additional parking spaces would be created, the Application lacks sufficient information on the Project's finances. The Applicant alleges that the costs of constructing the parking garage total approximately \$16.8 million, which, after financing, would purportedly result in annual costs of \$1,067,000 over 25 years. However, it is not at all clear if these cost estimates are accurate. The data supporting the Applicant's calculation has not been publicly posted. We request that the IDA release all data provided and engage an independent consultant to audit the Applicant's estimated costs to determine their validity.

The Applicant's financial statements also fail to address whether any part of the garage construction costs would be incurred even without the garage. Activities such as demolition, excavating, regrading and installing the foundation for the entire building are tied to the construction of the overall structure and should not be considered when determining the costs of the garage.

*The IDA Should Not Consider the Application Until the Pending Article 78 is Resolved*

The IDA was included as an involved agency in the Planning Board's coordinated review of the Project under the State Environmental Quality Review Act ("SEQRA"). The Planning Board's negative declaration has been challenged for, among other things, failing to adequately consider the impact of the loss of public parking spaces on the community. A copy of the Verified Amended Petition is enclosed herewith for your records.

The IDA should refrain from acting on the application until the pending SEQRA litigation is resolved, as any decision it makes may thereafter be invalidated.

---

<sup>2</sup> Doxsey, Patricia, *Ulster County Spent More than it Took in Last Year*, THE DAILY FREEMAN (May 7, 2020), [https://www.dailyfreeman.com/news/local-news/ulster-county-spent-more-than-it-took-in-last-year/article\\_0e63984c-907d-11ea-8e7a-3f150911b721.html](https://www.dailyfreeman.com/news/local-news/ulster-county-spent-more-than-it-took-in-last-year/article_0e63984c-907d-11ea-8e7a-3f150911b721.html) (last accessed July 9, 2020).

<sup>3</sup> Zangla, Ariél, *Pandemic Could Cost Kingston Up to \$5.7 Million in Lost Revenue, Comptroller Warns*, THE DAILY FREEMAN (July 8, 2020), [https://www.dailyfreeman.com/news/local-news/pandemic-could-cost-kingston-up-to-5-7-million-in-lost-revenue-comptroller-warns/article\\_f535c49c-c175-11ea-8aef-b79860147246.html](https://www.dailyfreeman.com/news/local-news/pandemic-could-cost-kingston-up-to-5-7-million-in-lost-revenue-comptroller-warns/article_f535c49c-c175-11ea-8aef-b79860147246.html) (last accessed July 9, 2020).

*An IDA Member May Have a Conflict of Interest*

During the July 8, 2020 meeting it was disclosed that one member of the IDA has a business relationship with Herzog Supply Co. (aka. "Herzog's"), whose president is a principal of Kingstonian Development. The IDA member's business apparently leases space at a property owned by Herzog's. We believe that this presents a conflict of interest, as the granting of the PILOT stands to financially benefit the Applicant, which in turn would financially benefit Herzog's. The possibility of raised rent or a termination of a lease as retribution for a negative vote is sufficient to cause a conflict of interest.

However, even if this does not rise to the level of a formal conflict of interest under Article 4 of the New York State Public Officers Law, it at the very least creates the appearance of impropriety and weakens the public's confidence in its government. Therefore, we request that this member of the IDA recuse himself from consideration of the present application.

*Conclusion*

For the foregoing reasons, we believe there are serious deficiencies in the Application currently pending before the IDA. Because the IDA does not have any authority to grant the Application, it should immediately cease review. However, even if the IDA had the authority to consider the Application, there are serious issues, such as the loss of parking and the lack of financial information, that the IDA must carefully evaluate.

Thank you for your consideration. Please feel free to contact me with any questions regarding the above.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria L. Polidoro", with a long horizontal flourish extending to the right.

Victoria L. Polidoro

Cc: Alita Giuda, Esq.  
Hon. Steve Noble, Mayor