



NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

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RECEIVED

AUG 12 2019

SUPERINTENDENT'S OFFICE
SYOSSET CENTRAL S.D.

August 6, 2019

Via Certified Mail

Return Receipt Requested:

Syosset Central School District

99 Pell Lane

Syosset, New York 11791

Attention: Superintendent Dr. Thomas Rogers

Dear Superintendent Rogers,

This letter is in response to your letter regarding the Nassau County Industrial Development Agency ("Agency"), sent on behalf of the Board of Education of the Syosset Central School District ("School District") to County Executive Laura Curran, dated June 25, 2019. As a reminder, your letter generally made the following assertions, which we respond to as follows:

- That the Agency did not provide adequate notice to the School District regarding two proposed projects of the Agency. The Agency, in fact exceeded all legally required notice requirements in the cited instances. Representatives of the School District have attended the public hearings and board meetings with respect to both projects and made comments despite claiming lack of adequate notice.
- That the Agency's economic consultant Camoin Associates is not independent. The consultant in question is one of the most well regarded economic consultants in the State undertaking consultancy services for numerous industrial development agencies. Your contention of a perceived conflict as a result of said consultant analyzing proposed Agency projects and also aggregating statistical information of the costs and benefits of all projects for periodic summaries for the Agency is at best difficult to follow, but certainly without merit.
- That there is question concerning the accuracy of the conclusions of Camoin Associate's report regarding one of the Agency's projects. The Agency has continued confidence in

the conclusions reached by Camoin Associates with respect to said project as well as in their expertise and the economic models and methodology utilized by them; and

- Lastly, that despite its promise, the Agency has not held Payment-in-Lieu-of-Tax (PILOT) Agreement extensions to a “more rigorous criteria”. The Agency, as required by law and by its own policies and procedures, exercises diligence and rigor when evaluating the eligibility of projects for financial assistance whether for a new project or a project that has received prior financial assistance, but has conferred value to the County and needs to be incentivized to continue to keep jobs in the County. In fact, the two PILOT Agreement extensions your letter challenges, incentivized the retention of collectively over 1,000 jobs. This number alone underscores the high standard against which the Agency reviews PILOT Agreement extension.

The remainder of this letter will provide additional detail on the previous points.

1. A. Agency Provides Timely Notices

In your letter, you noted a concern as to the brevity of notices the School District received regarding projects impacting the School District and the alleged failure of the Agency to improve notices. In particular you noted that short notices were provided with respect to the Agency’s Nestle Waters and Southern Glazers projects.

In the noted instances, following New York State law and its general practices, the Agency provided multiple forms of notice, each exceeding the legally required time for such notice. Whenever an industrial development agency considers the provision of financial assistance in excess of \$100,000, it needs to adhere to the General Municipal Law (“Act”) requiring the provision of 10-days published notice in advance of the legally required public hearing and, at the same time, the provision of such notice to the chief executive officer of each affected taxing jurisdiction. Whenever an industrial development agency proposes to deviate from its uniform tax exemption policy (“UTEP”), as the Agency did in connection with the two projects you noted, it is required by the Act to notify the affected tax jurisdictions of the proposed deviation (“Deviation Notice”). Notably, the Act does not impose any time limitations on the provision of such Notice.

With respect to the application of Nestle Waters on April 29, 2019, the Agency published notice and mailed notice to the affected taxing jurisdictions, that its public hearing was to be held on May 13, 2019. Accordingly, both notices were provided fourteen (14) days in advance of the date of the public hearing, exceeding the legal requirement by four (4) days. Also, on April 29, 2019, the Agency mailed its Deviation Notice to the affected taxing jurisdictions, including the School District, noting that it would consider at its meeting on May 16, 2019 whether to approve financial assistance that, if granted, would deviate from its UTEP. Accordingly, the Agency provided seventeen (17) days of notice in advance of its meeting where the actual PILOT Agreement extension was considered, despite no timing requirement imposed by the Act. Further, the Agency, pursuant to its recent policy change, undertook a preliminary approval of the project for Nestle Waters at its meeting on April 18, 2019. The Agenda of that meeting was published on the Agency’s website 72 hours prior to such meeting – or, approximately, 30 days prior to the final approval of the PILOT Agreement extension. The Agency’s monthly meetings are now set at the

beginning of the year and a cursory monthly look on the Agency's website reveals the projects and their location to be considered for preliminary and final approval of financial assistance.

With respect to Southern Glazer's application, the Agency published and mailed notice on November 23, 2018 to the affected taxing jurisdictions in furtherance of its public hearing held on December 7, 2018. Accordingly, both notices were provided fourteen (14) days in advance of the date of the public hearing, exceeding the legal requirement by four (4) days. Also on November 23, 2018 the Agency mailed its Deviation Notice to the affected taxing jurisdictions, including the School District, noting that it would consider at its meeting on December 12, 2018 whether to approve financial assistance that, if granted, would deviate from its UTEP. Accordingly, the Agency provided nineteen (19) days of notice in advance of its meeting where the actual PILOT Agreement extension was considered, despite no timing requirement imposed by law.

Lastly, I note that I personally reached out to elected officials in whose district the projects at question are located as well as to the School District to discuss the projects and provide additional informal notice of the hearings and Agency board meetings.

B. FOIL Concerns

Your letter notes that the 10-day notice requirement under the Act and the twenty business days afforded by law to respond to Freedom of Information Law (FOIL) requests is in inherent conflict. This is likely due to differing purposes that the State legislature was advancing under the Act and the FOIL Law. The foregoing notwithstanding, the Agency is committed to responding to FOIL requests quickly and thoroughly and has no intention of using the FOIL time allowance to provide documents post transaction approval, if timely requested. Your letter notes a specific instance where the Agency denied a FOIL request to the School District for an economic impact report prepared by Camoin Associates. Your metadata analysis found that the document was created the same day when the FOIL denial was received by the School District. This evidences that the Agency had not yet received the impact report at the time of the FOIL request *as it has just been created* and not yet transmitted to the Agency. The Agency's quick denial is indicative of its effort to respond promptly to FOIL requests rather than use the full 20 days available under law. The Agency will continue to do its best to promptly provide any information requested by the School District.

2. Consultant Independence Concerns

Your letter raises a concern over the independence of Camoin Associates, one of the Agency's economic analysts who frequently assists the Agency in evaluating the costs versus benefits of a proposed project. The basis of your contention is that the Agency has, in the past, also utilized Camoin Associates to prepare an economic impact report of the Agency's projects for a given time period. Such a report is merely a tally of all of the Agency's projects for such period. Camoin Associates certainly uses the collective data from the individual projects approved by the Agency in that period. They do so regardless of to what extent any given data point is favorable to the Agency or not. Camoin Associate's economic impact study for an individual project is certainly not altered by the fact that the Agency *may* ask them at some point in the future to tally all project

data for a periodic report. The Agency is free to ask and challenge any finding of Camoin Associates, and the Agency's staff does so from time to time. Your apparent contention that Camoin Associates would exaggerate benefits so that if asked to do a periodic tally it would show the Agency in better light, is spurious, without merit and it attacks the professional integrity of a highly regarded service provider in a publicly available piece of correspondence.

3. Economic Analysis of the Nestle Water Application

Your letter contains a review of the economic impact report prepared by Camoin Associates in connection with the Nestle Waters application. We understand that you disagree with some of the assumptions, methodology and conclusions of the report. The Agency has selected Camoin Associates as one of its economic impact analysts through a request for proposals process. Staff and members of the Agency have been equally impressed by Camoin Associate's qualifications. As noted previously, they are one of the economic analysts relied on by numerous industrial development agencies in the State. The Agency's staff conducted a recent meeting with Camoin Associates where their economic modelling and methodology was discussed. The Agency remains confident in Camoin Associates and their services and the economic models they utilize that we understand are widely accepted in the industry.

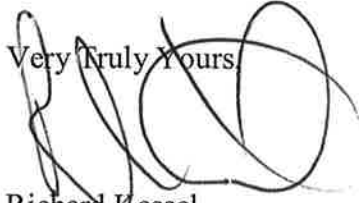
4. PILOT Extensions

Your letter notes the cost of extended PILOTs to taxpayers. The Agency is well aware of this cost and only approves such extensions if it determines that the benefits outweigh those costs. In both the Nestle Waters and Southern Glazers matters, there was very credible threat that such companies, sought after by other jurisdictions, would leave Nassau County but for the incentives provided by the Agency. In the case of Nestle Waters that would have meant the loss of up to 900 jobs. In the case of Southern Glazers that would have meant the loss of up to 105 jobs. Staff of the Agency evaluates each proposed project based on the 26 evaluation criteria enumerated in Section 1(c)(i) and (ii) of its UTEP - only one of which is the potential for "flight risk" referenced above. Several of the other evaluation criteria relate to the economics of the project, some of which are addressed by the economic impact analysis commissioned by the Agency. Staff and the Agency's members rely on a totality of these evaluation criteria as they did when recommending for approval and approving, respectively, the two projects in question.

In conclusion, I note that the Agency understands that the School District passed a resolution in blanket opposition of all future PILOT Agreement renewals. The Agency understands but disagrees with the reasons stated in your letter. The Agency is fearful that the School District's blanket opposition (that appears to be based on the pretext of inadequate notices or issues with economic consultant methodology utilized) is actually rooted in its conceptual opposition to PILOT Agreements. The Agency is equally responsible for economic development within the boundaries of the School District as elsewhere in the County. If the Agency heeded the School District's blanket opposition it would run the risk of failing to discharge its statutory mission. Rather, the Agency will continue to evaluate projects, including PILOT Agreement extensions, on their merits and will remain committed to preserving and creating jobs throughout Nassau County. As before, the Agency will strive to continue to adhere to best practices including providing timely

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notice to all interested parties including the School District of pending projects as it has done in the past.

Very Truly Yours,

Richard Kessel
Chairman

Cc: County Executive Laura Curran
County Legislator Joshua Lafazan
County Legislator Arnold Drucker
Individual Members of the Nassau County Industrial Development Agency
Harry Coghlan, CEO/Executive Director Nassau County Industrial Development Agency