

9:00 a.m.
Public Hearing
Covenant Manor Apartments LLC
11/28/2012

<u>Name</u>	<u>Association</u>
Robert Kenyon	City of Jamestown Dept of Dev.
Jonathan Tober	Counsel to CCIDA
LAURENCE TAYLOR	CCIDA
Richard Dixon	CCIDA
Carol Rasmussen	CCIDA

HEARING OFFICER: Good morning. My name is Carol Rasmussen. I am a Project Manager for the County of Chautauqua Industrial Development Agency (hereafter, the "Agency") and I have been directed by the members of the Agency to hold a public hearing. Today is November 28, 2012 and the time is now 9:00 a.m. We are at the offices of the Agency, located at 200 Harrison Street, City of Jamestown, County of Chautauqua, New York.

This is a public hearing pursuant to section 859-a of the New York General Municipal Law, as amended. The Agency has received an application for financial assistance in connection with the following matter:

Covenant Manor Apartments, LLC, a limited liability company organized and existing under the laws of the State of New York (the "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) the acquisition of an interest in approximately 0.62 acres of land located at and around 23 West Third Street, City of Jamestown, County of Chautauqua, New York (collectively, the "Land"), together with an existing approximately 120,000 square foot, 8-story building located on the Land (collectively, the "Building") and parking and related improvements, and (2) the possible 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 low to moderate income senior independent living 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) 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. The Project Facility would be initially owned, operated and/or managed by the Applicant.

Notice of this public hearing was published in *The Jamestown Post-Journal* on November 14, 2012 and provided to the Chief Executive Officer of each affected tax jurisdiction.

The purpose of this hearing is to provide an opportunity for all interested parties to present their views, both orally and in writing, with respect to the Project.

Is there anyone wishing to be heard with respect to the Project?

Robert Kenyon, Jamestown Local Development Corporation

I am.

Carol Rasmussen, CCIDA

Please state your name and affiliation.

Robert Kenyon, Jamestown Local Development Corporation

I am Robert Kenyon, with Department of Development, City of Jamestown, and I would like to read a letter on behalf of the City of Jamestown and Mayor Sam Teresi.

Dear Mr. Metzger and Mr. Daly: (this is regarding the Public Hearing comments).

Letter attached:

(After letter was read, no other comments were made).

Carol Rasmussen, CCIDA

On behalf of the Agency, I would like to thank the members of the public for attending this public hearing and for their comments with respect to the Project. It is now 9:14 a.m. I now call this hearing to a close.



TIME NOTED: 9:14 a.m.

Doc #03-124397.1

CITY OF JAMESTOWN



OFFICE OF THE MAYOR

www.jamestownny.net

SAMUEL TERESI

November 27, 2012

Mr. Michael Metzger, Board Chairman
County of Chautauqua Industrial Development Agency (CCIDA)
200 Harrison Street
Jamestown, New York 14701

Mr. William Daly, Director
County of Chautauqua Industrial Development Agency (CCIDA)
200 Harrison Street
Jamestown, New York 14701

Re: Public Hearing Comments

Dear Mr. Metzger and Mr. Daly:

On behalf of the 35,000 residents of the City of Jamestown, please accept this correspondence as our formal input regarding the proposal to grant various tax incentives, including a lucrative Payment in Lieu of Tax (PILOT) benefit to Covenant Manor, LLC in conjunction with their proposed acquisition of the property at 23 West Third Street in Downtown Jamestown. I would also respectfully ask that this correspondence be entered into the official record of the public hearing that is being held on Wednesday, November 28, 2012. Furthermore, I would also request that a copy of this correspondence be shared with members of the Chautauqua County *Industrial Development Agency (CCIDA)* Board **prior to** their public meeting, to be held on November 29, 2012 in Dunkirk, New York.

This letter is a follow up to my previous communication dated October 10, 2012 and the September 7, 2010 letter from Director of Development Steven Centi (see attached), in which the City of Jamestown's concerns about the CCIDA's broadly written and over reaching Uniform Tax Exemption Policy (UTEP) were enumerated in detail. It is my firm belief that the project before you today effectively illustrates and supports all of those concerns, and quite frankly, is a mile long stretch from what *Industrial Development Agencies* were originally created to do and the types of private business development and job creation projects that they should still be assisting today.

It is our understanding that the proposed recipient of this lucrative tax package, Covenant Manor Apartments, LLC, is a private, for profit developer and manager of federally subsidized housing, much like other private for profit companies currently operating in the City of Jamestown (i.e.: Crestline Villa Inc. and Pathstone Inc. –dba Brad Mar Village Apartments). It is also our understanding that the intent of Covenant Manor Apartments LLC is to continue to operate the subject building as **subsidized housing** for income eligible senior citizens.

Please be advised that the City of Jamestown was initially very enthused about this project moving forward and actually was planning to assist the developer to return this land mark Downtown building to the tax rolls. Our staff, once the ownership transaction and assessment on the property was finalized, was prepared to work with the developer regarding methods in which the City might assist with the improvement of the property, just as we have done over the years with the owners of the other two privately held, subsidized complexes in the City (Crestline and Brad Mar).

Incidentally, Pathstone Inc., the owners of Brad Mar, are presently completing a \$5 million plus upgrade of their facilities and have executed an agreement with the City that they, as a property owner, will **NOT** challenge the assessment on their development for a period of 20 years.

You should be aware that over the past several weeks, representatives of Covenant Manor Apartments, LLC had been in communication and by all accounts, had been working cooperatively and effectively with members of the City Assessor's Office to determine an appropriate value at which the property would be placed on the tax rolls. Recently, the Assessor's Office apprised me that they were close to reaching an agreement with the buyer that:

- A.) Reflected a legal and accurate **market value** for the property.
- B.) Would not adversely impact the reinvestment plans for the property by the buyer.
- C.) Could be effectively defended if challenged by another party with legal standing.

Out of the blue and without any warning from either the developer or the CCIDA, the City received your notice on November 14, 2012 advising that the developer had apparently sought and applied for various forms of tax abatement through the CCIDA. Your notice also indicated that it was the apparent intention of the CCIDA to move forward and approve this request.

It is our understanding that the PILOT portion of the CCIDA "package" would effectively cut in half the property taxes to be paid by the developer to local taxing jurisdictions, with slight increments over the subsequent nine (9) year period. The PILOT revenues would then be proportionately split between the revenue-starved City of Jamestown, County of Chautauqua and Jamestown Public School District.

Needless to say, I must question why an *Industrial* Development Agency is even considering granting lucrative tax benefits (PILOT, mortgage and sales tax abatements) to a private, taxable developer for the purchase of an **EXISTING, SUBSIDIZED SENIOR HOUSING COMPLEX?!**

Quite frankly, I must question exactly what this project has to do with high quality economic development for the region and the creation of family sustaining jobs for our residents. And, please help me and the 35,000 residents of my City understand precisely how this is fair to the other for profit, taxable providers of federally subsidized housing in Jamestown (Crestline, Brad Mar and the rest of the other smaller residential property owners) who have been paying and continue to pay their taxes in full and on time every year to the City, County and School District.

All the time, while managing to reinvest in and maintain their properties within all state and local codes!

Once again on behalf of the residents, businesses and taxpayers of the City of Jamestown, I strongly urge you to carefully reconsider and reject this proposal.

As I have indicated before, it remains our strong belief that the CCIDA should be involved with promoting the creation and expansion of private businesses that export products and services to points outside of the Chautauqua Region, as a device to generate new wealth and jobs for our residents. This project fails to address any of these objectives while creating an inappropriate and unfair advantage for a new entry in the private subsidized housing market.

Thank you for your consideration on this matter. Please feel free to contact me should you have any questions, or if I can clarify any of the points contained herein.

Sincerely,

A handwritten signature in cursive script that reads "Samuel Teresi".

Samuel Teresi
Mayor

CC: Jamestown City Council Members
Marilyn Fiore-Lehman, Corporation Counsel
Randall Holcomb, Assessor
Joseph Bellitto, City Comptroller
Steven Centi, Director of Development
Daniel "Deke" Kathman, Superintendent - Jamestown Public School System
Gregory Edwards, Chautauqua County Executive
Chautauqua County Legislators
Thomas DiNapoli, NYS Comptroller

CITY OF JAMESTOWN



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SAMUEL TERESI

October 10, 2012

Mr. William Daly, Director
Chautauqua County Industrial Development Agency (CCIDA)
200 Harrison Street
Jamestown, New York 14701

Dear Bill:

Thank you for your recent letter regarding proposed changes to the Chautauqua County Industrial Development Agency's "**Uniform Tax Exemption Policy**" (UTEP). Per your request, I am hereby submitting this response on behalf of the City of Jamestown regarding the proposed amendment, the UTEP in general, and how it is being utilized for projects in the City of Jamestown and throughout Chautauqua County.

Attached you will find the September 7, 2010 letter from City of Jamestown Director of Development Steve Centi outlining the City's position and concerns about the UTEP proposal at that time. While Steve's letter continues to reflect our opposition to the UTEP that was implemented in 2010, we remain fully supportive of the CCIDA's important role in providing real property tax abatement and other development incentives to retain and expand existing firms and to attract new businesses into Chautauqua County. It remains our belief however, that these incentives must be focused in the proper direction. Specifically, any tax abatement inducement needs to be true to the purpose for which industrial development agencies were originally created and should be applied only in the following cases:

1. New or expanded industrial operations resulting in new job creation and/or an increase in taxable assessed valuation.
2. Distribution operations that provide "true export value" and generate "new money" for Chautauqua County and the municipalities in which they are located.
3. Businesses offering new products or services not currently being provided to Chautauqua County residents and visitors by existing businesses.

With regard to both the current UTEP and the proposed changes pertaining to energy related improvements to business and residential properties, please be advised that I hereby officially declare my opposition on the basis that the benefits are:

1. **Excessive and Unnecessary to achieve the intended outcomes.**
2. **Ill-timed.**
3. **Paid for by and destructive to the taxing jurisdictions within Chautauqua County.**

In addition, the City remains opposed to the use of tax abatement incentives for retail, professional office, service, residential, and resort types of development which are "market driven". As we have previously indicated, tax incentives for non-manufacturing projects are already provided elsewhere with the NYS Real Property Tax Law (ie Section 485-B) and tend to be destructive to existing, established, competing businesses that become forced to subsidize such new competitive operations with their own tax dollars. There is also something inherently **unfair** and **wrong** about treating **new** businesses differently and better than **existing**, competing companies/projects that have been faithfully investing in and serving our community for years.

Furthermore, the City of Jamestown reaffirms its position that **15-year** real property tax abatements offering **100% or 90%, etc. reductions** (on a sliding scale to the current **50%** abatement level) are **excessive** and **unwarranted**, particularly for new retail, lodging, restaurant, residential and other service-related businesses. Again, IDA tax abatement packages should be reserved for manufacturing and distribution projects or for those projects that will produce a large number of jobs in a business category not already present in Chautauqua County.

At this time, on behalf of the City of Jamestown, I am asking the Chautauqua County IDA to **not** enact the proposed amendment and in fact, to **repeal** the current UTEP. Specifically, I would ask the CCIDA to return to the more traditional tax abatement policy that was in place before the present UTEP was adopted in 2010.

As was mentioned in Steve's letter of September 7th 2010, the City of Jamestown fully supports the CCIDA's use of real property tax abatements to "level the playing field" in the very competitive arena of industrial developer recruitment and retention. However, such incentives need to be applied at the "right time" and in the "proper manner". The City truly believes that the CCIDA had all the tools it needed to accomplish this mission before adopting the current UTEP and that the CCIDA can offer, by utilizing its previous "deviation policy", customized, cutting-edge, industrial incentive packages that can compete with those offered anywhere in the United States. However, industrial project incentives should be limited to no more than **50%** reductions in current assessed valuation and should last no longer than **10 years**. In addition, all such incentive packages to be offered by the CCIDA should be subject to the "**review and approval**" of the host communities and "**all taxing jurisdictions**" that lie therein.

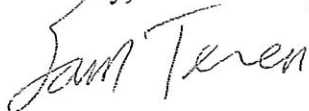
Furthermore, the City feels that should the CCIDA elect to ignore our position and recommendations and proceed in granting property tax abatement packages to non manufacturing and distribution businesses (and without the approval of all affected taxing jurisdictions), the CCIDA should **waive any and all application/administrative fees and closing costs associated with such actions.**

As is evidenced by recent media reports, local communities and school systems are all struggling with reduced revenues in the face of declining tax bases, ever-increasing expenses and out of control mandated services. This widespread dilemma has led to an almost daily override of the 2% property tax levy cap imposed by New York State on local governments. With this very real revenue and mandated expense crisis facing all local governments and schools, an overly generous tax abatement policy for projects involving businesses outside of the manufacturing and distribution arenas, is not only ill-advised, unnecessary and ill-timed, but also destructive.

The City of Jamestown once again urges the CCIDA staff and Board members to review this matter carefully and consider all of the potentially adverse ramifications before continuing on with, or adding to, your current, overly liberal version of the **Uniform Tax Exemption Policy**.

Please feel free to contact me with any questions that you may have.

Sincerely,



Samuel Teresi
Mayor

Cc: Jamestown City Council Members
Steven Centi, Director of Development
Randall Holcomb, Assessor
Joseph Bellitto, Comptroller
Thomas DiNapoli, NYS Comptroller
William H. "Sam" Hoyt III, Regional President - Empire State Development Corporation
Daniel "Deke" Kathman, Superintendent - Jamestown Public School System
Gregory Edwards, Chautauqua County Executive
Chautauqua County Legislators
CCIDA Board of Directors
Richard Dixon, Chief Financial Officer - CCIDA

DEPARTMENT
OF
DEVELOPMENT

CITY OF JAMESTOWN

STEVEN CENTI
DIRECTOR OF DEVELOPMENT

(716) 483-7541 • FAX (716) 483-7772

September 7, 2010

Mr. William Daly, Director
Chautauqua County Industrial Development Agency
200 Harrison Street
Jamestown, New York 14701

Dear Bill:

I am writing to follow-up our recent meeting to discuss the proposed Chautauqua County Industrial Development Agency (CCIDA) "Uniform Tax Exemption Policy" (UTEP). First I would like to thank you and Rich Dixon for taking the time to meet with members of the City of Jamestown's administrative team to answer questions about the UTEP. Secondly, per your request, I am submitting some of the City's comments and ongoing concerns about the policy.

Tax Abatement:

As discussed at our meeting, the City of Jamestown is fully supportive of the CCIDA's important role in providing real property tax abatement and other development incentives to retain and expand existing firms and to attract new businesses into Chautauqua County, provided that these incentives are focused on businesses that are:

1. Moving into Chautauqua County from areas outside the County.
2. Offering new products or services not currently being provided to Chautauqua County residents and visitors by existing businesses in the same market area.
3. "Exporting" new products and services to customers outside the County while at the same time "importing" new dollars, jobs and tax revenues into the local economies of Chautauqua County's municipalities.

The City feels that simply providing property tax abatements to businesses re-locating from one community to another within Chautauqua County or to businesses that provide the same products and services currently being provided by existing Chautauqua County businesses, creates an unfair competitive advantage for the new business at the expense of existing businesses, which would essentially be subsidizing their competitors through the payment of full real property taxes.

The City also contends that 15-year real property tax abatements offering 100% or 90%, etc. reductions on a sliding scale to the current 50% abatement level, is excessive and unwarranted particularly for retail, lodging, restaurant, and other service-related businesses. Such abatement packages should be reserved for larger scale manufacturing projects or for those projects that will produce a large number of jobs in an industry not already present in Chautauqua County.

Retail Exclusion:

While the proposed UTEP may strive to render tax abatement decisions by the CCIDA staff and Board that will be governed by a “retail exclusion” clause or policy, in reality, it is not clearly stated what the parameters might be. In the case of a developer locating a commercial business, restaurant, or hotel in direct proximity and in direct competition to an established, existing business, the UTEP needs to provide further clarification as to how such a scenario would be handled. The City contends that in these cases, no tax abatement should be granted if the same product or service is currently being provided by existing businesses operating in the same market area. Such a policy will only serve to exacerbate the out-migration of commercial activity from one location to another within the same market leading to more under-utilized, vacant, and abandoned commercial locations and the decline of assessment and tax base in the affected municipalities.

Market-Rate Housing/Commercial Development:

The City of Jamestown is currently reviewing a Neighborhood Revitalization Plan that was recently completed by consultant Charles Buki (*czb, LLC*) of Alexandria, VA, which determined that the Greater Jamestown real estate market is experiencing a “supply” problem in its residential housing market characterized by a surplus of existing units that far exceed the market demand. This, in turn, has driven high vacancy rates, a growing number of abandoned properties, and the depression/stagnation of housing market values. In its FY 2010-FY 2014 HUD Consolidated Plan, the City is seeking to limit the creation of any new residential housing units in the Greater Jamestown market area without an equal or greater reduction in the number of existing units. The language in the UTEP regarding potential “Adaptive Re-Use” property tax abatements for “market-rate” housing is not only problematic for Jamestown housing, but could be equally troublesome for existing housing in the condominium and senior housing markets. Facing a declining population base, the Greater Jamestown market can only fill new housing units by draining existing units within the same market. Such a drain has been ongoing for decades as evidenced by the volume of vacant and abandoned properties that exist today. Providing tax incentives for new housing projects will only serve to exacerbate the City’s and County’s housing problems when a moratorium on new units is the more appropriate strategy to stabilize this inequity.

The City also believes that the application of tax incentives to create new retail and commercial spaces in an already over-saturated, countywide market would create a similar dynamic as the one currently affecting the residential sector. Such development serves to drain tenants from existing retail and commercial locations in the same market. Without a significant influx of people and new income into Chautauqua County, the capacity to support new development in these sectors does not exist and can only be achieved by “moving pieces around the proverbial checker board”, with associated increases in vacant and abandoned commercial buildings left in its wake, followed by the inevitable reduction in local assessments and tax revenues.

Codifying Policy/Setting Unwanted Precedents:

As discussed at our meeting, the adoption of the proposed UTEP could make it difficult for the CCIDA staff and Board to turn down future projects that may meet the “letter” of the policy, while at the same time stimulating a series of unintended consequences. The adoption of this written policy containing language that offers expanded incentives for projects qualifying as “Adaptive Re-Use” and “Tourist Destination” is problematic as such a determination rests solely at the discretion of the CCIDA staff and Board. While the current staff and Board adequately

understand the concerns outlined in this communication and may exercise great care, discretion, and restraint in the review, consideration, and approval of tax abatement applications, a policy "written in stone" could be subject to alternative interpretations by future boards and even legal challenges by developers who will interpret the policy in a manner that suits their relentless drive to maximize development incentive packages. The City feels that the current "deviation" policy, already available to the CCIDA and which has been used effectively recently on projects such as the SKF "Heat Treat" expansion in Falconer, provides an existing, flexible tool that already allows the CCIDA to customize competitive incentive and tax abatement programs on a case-by-case basis without adopting a written policy that future CCIDA staffs and Boards may interpret and apply in an unintended and counterproductive manner.

Summary:

As mentioned previously, the City of Jamestown fully supports the CCIDA's existing business expansion and new business attraction efforts and remains supportive of its use of real property tax abatements to "level the playing field" in the very competitive arena of new developer recruitment. However, such incentives need to be applied at the right time and in the proper manner. The City feels that the CCIDA already has all the tools it needs to accomplish this mission and that it can offer, by utilizing its existing "deviation policy", customized, cutting-edge incentive packages, when absolutely necessary, that can compete with those offered anywhere in the United States.

We urge the CCIDA staff and Board members to continue to review this matter carefully and consider all of the potentially adverse ramifications, particularly, as it relates to providing a 15-year excessive incentive package for "adaptive re-use" and "tourism" retail, housing, and commercial projects, before adopting this particular version of a **Uniform Tax Exemption Policy**.

If you have any questions regarding this matter please feel free to contact me.

Sincerely,



Steven Centi
Director of Development

Cc: Samuel Teresi, Mayor
Jamestown City Council Members
Randall Holcomb, Assessor
Joseph Bellitto, Comptroller
James Olson, Director of Financial Services
Marilyn Lehman, Corporation Counsel
Gregory Edwards, Chautauqua County Executive
Chautauqua County Legislators
CCIDA Board of Directors
Richard Dixon, Chief Financial Officer – CCIDA
Jonathan Taber, Legal Counsel – CCIDA
Todd Trantum, Executive Director- Chautauqua County Chamber of Commerce