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PUBLIC HEARING: TOWN OF POUGHKEEPSIE

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In the Matter of the Application of:

THE APPLICATION OF EFG/SABER HERITAGE SC,  
LLC FOR THE CONTINUATION OR EXTENSION OF  
FINANCIAL ASSISTANCE

-----X

DATED: September 3, 2020  
10:03 a.m. - 10:14 a.m.

Claudia Miller, Reporter

MINUTES  
OF  
PUBLIC HEARING  
(VIA VIDEOCONFERENCING)

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APPEARANCES:

DONALD CAPPILLINO, ESQ.  
HEARING OFFICER  
CAPPILLINO, ROTHSCHILD & EGAN, LLP  
7 Broad Street  
Pawling, New York 12564  
E-mail: dc@cappillino.com

ALSO PRESENT:

Sara Lee, CFO, Think Dutchess  
Marilyn Yerks, DCIDA, CFO  
Susan Burke, Member of Applicant  
Rebecca Burke, DC legislature

SPEAKERS:

Doreen Tignanelli  
Jim Beretta

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HEARING OFFICER'S EXHIBITS

NUMBER		PAGE
1	Notice of public hearing	
	For identification/in evidence	4
2	Affidavit from the	
	Poughkeepsie Journal	
	For identification/in evidence	4
3	Affidavit of Jenna L. Jones	
	For identification/in evidence	4
4	Letter of Timothy Dean for	
	For identification/in evidence	4

1 DCIDA PUBLIC HEARING

2 (Whereupon, the following exhibits were  
3 marked before the start of the hearing)

4

5 (NOTICE OF PUBLIC HEARING RECEIVED  
6 AND MARKED AS HEARING OFFICER'S  
7 EXHIBIT 1 FOR IDENTIFICATION/IN  
8 EVIDENCE)

9

10 (AFFIDAVIT FROM THE POUGHKEEPSIE  
11 JOURNAL RECEIVED AND MARKED AS  
12 HEARING OFFICER'S EXHIBIT 2 FOR  
13 IDENTIFICATION/IN EVIDENCE)

14

15 (THE AFFIDAVIT OF JENNA L. JONES  
16 RECEIVED AND MARKED AS HEARING  
17 OFFICER'S EXHIBIT 3 FOR  
18 IDENTIFICATION/IN EVIDENCE)

19

20 (LETTER OF TIMOTHY DEAN RECEIVED  
21 AND MARKED AS HEARING OFFICER'S  
22 EXHIBIT 4 FOR IDENTIFICATION/IN  
23 EVIDENCE)

24

25

## 1 DCIDA PUBLIC HEARING

2 BY THE HEARING OFFICER: Good morning.

3 We're holding this public hearing in the  
4 matter of the application of EFG/Saber  
5 Heritage SC, LLC for the continuation or  
6 extension of financial assistance to projects  
7 here involving the -- actually, it looks like  
8 there are two matters involved. They have an  
9 administrative building and a mixed-use  
10 building. Before the public hearing started,  
11 I have marked as Hearing Officer's Exhibit  
12 Number 1, the notice of public hearing in  
13 this matter indicating that this public  
14 hearing would take place today by Zoom  
15 conference on September 3rd, 2020 at 10:00  
16 a.m. It is now a couple of minutes after  
17 10:00 a.m. I have marked as Hearing  
18 Officer's Exhibit Number 2 the affidavit from  
19 the Poughkeepsie Journal indicating that on  
20 8/19/200 a copy of the notice of public  
21 hearing was published in the Poughkeepsie  
22 Journal. I have marked as Hearing Officer's  
23 Exhibit Number 3 the affidavit of Jenna L.  
24 Jones, indicating that on August 20th, 2020,  
25 she served a copy of this notice of public

## 1 DCIDA PUBLIC HEARING

2 hearing on the Honorable Jon Jay Baisley, the  
3 supervisor of the Town of Poughkeepsie, Dr.  
4 Greer F. Rychcik, the Superintendent of  
5 Schools of the Hyde Park Central School  
6 District and the Honorable Marcus J.  
7 Molinaro, County Executive of Dutchess  
8 County. I have marked as Hearing Officer's  
9 Exhibit Number 4 in evidence the August 17th,  
10 2020 letter of Timothy Dean, the Chairman of  
11 the Dutchess County Industrial Development  
12 Agency appointing me the Hearing Officer in  
13 this particular matter. With that, I'll open  
14 the public hearing.

15 Susan, on behalf of the applicant,  
16 would you like to at least give a brief  
17 description of what's going on?

18 BY MS. BURKE: Sure. So, in the  
19 beginning, when we originally were -- was  
20 induced, we didn't necessarily have tenants  
21 for the buildings, so we contemplated what we  
22 were going to build first, and since then,  
23 we've signed several leases, and now we have  
24 a better idea as to which buildings we're  
25 building. So we're not really changing

## 1 DCIDA PUBLIC HEARING

2 anything. We've just rearranged what we're  
3 doing first, and also, adding some work to  
4 the administration building where originally  
5 we were going to have that be potentially  
6 sold to a user and then that user would then  
7 sign up for their own IDA benefits, but right  
8 now, we have to make that building watertight  
9 and replace the roof and do some  
10 restorations, so that's why we're adding  
11 that, and then after our original inducement,  
12 we realized that the supermarket -- we  
13 included in that supermarket, and then we  
14 realized that the supermarket was going to be  
15 owned by ShopRite, so they went and did there  
16 own IDA induction, so we want to remove that  
17 and take those benefits and put them to the  
18 additional buildings that we're building at  
19 this time.

20 BY THE HEARING OFFICER: So you're not  
21 asking for any more benefits, no more sales  
22 tax, no more mortgage tax, no more pilot  
23 agreement?

24 BY MS. BURKE: No. We're basically the  
25 supermarket with other components of the

1 DCIDA PUBLIC HEARING

2 development.

3 BY MS. LEE: Don, let me make it clear  
4 that this project does not have a pilot  
5 agreement.

6 BY THE HEARING OFFICER: It doesn't  
7 have an IDA pilot agreement?

8 BY MS. LEE: It's only amended to the  
9 mortgage and sales tax.

10 BY THE HEARING OFFICER: All right.  
11 With that, I'll open it up to the members of  
12 public. Anyone want to speak on this  
13 particular matter?

14 BY MS. TIGNANELLI: Yes. This is  
15 Doreen Tignanelli. I would like to speak,  
16 please.

17 BY THE HEARING OFFICER: Please do.

18 BY MS. TIGNANELLI: I'd like to say  
19 that I'm opposed to the issuance of any  
20 financial assistance to the Hudson Heritage  
21 project in any form. Also, I don't know, to  
22 me this sort of has the appearance of a  
23 shoving, and the fact that the counsel for  
24 the applicant suggested that there was no  
25 need for a public hearing is troubling to me.



## 1 DCIDA PUBLIC HEARING

2 The fact that they say, well, now we have  
3 this \$568,750 in sales tax or use extension  
4 that was previously authorized for the  
5 supermarket, and they say, well, now we can  
6 use that, because ShopRite is now a separate  
7 entity. Well, from the DCIDA, from what I  
8 can see of these ShopRite documents, they  
9 gave a sales tax exception in excess of one  
10 million dollars to -- to the ShopRite  
11 supermarket and that supermarket is still  
12 going to be located on the Hudson Heritage  
13 property site, so, again, it's unclear why --  
14 why this half a million plus should be  
15 considered available for use by Hudson  
16 Heritage, and I also have concern about the  
17 job numbers for the two projects could be  
18 intertwined and then that would make it  
19 harder to determine the actual job numbers  
20 and, again, whether or not the call-back  
21 recapture provisions are enforced, and again,  
22 that would be to the detriment of the  
23 taxpayers if they're not, because, again,  
24 taxpayers are subsidizing this project.  
25 Thank you.

1 DCIDA PUBLIC HEARING

2 BY THE HEARING OFFICER: Thank you,  
3 Doreen. Would anyone else like to speak?

4 BY MR. BERETTA: Yes. Good morning.  
5 This is Jim Beretta. I would like to speak.  
6 So I submitted written comments and Ms. Lee  
7 has informed me via e-mail that those written  
8 comments were received, so I'll kind of  
9 summarize. I am opposed to granting of  
10 financial assistance to this project and I  
11 outline why in my written comments. I'm not  
12 going to go into that, but very specifically,  
13 for what's going on here, I totally am not in  
14 favor of IDA money that's been previously  
15 granted being treated as fundable goods, and  
16 the way that I heard this outline here, I  
17 mean, it sounds to me like there's  
18 double-dipping going on with regard to the  
19 supermarket. The Hudson Heritage applicant,  
20 you know, came in and, as we heard here, you  
21 know, there were -- you know, there were no  
22 named tenants, but there obviously was a  
23 concept of a supermarket, and as part of that  
24 concept, the IDA granted financial  
25 assistance, you know, for a supermarket, even

## 1 DCIDA PUBLIC HEARING

2 though it wasn't named, and now that  
3 supermarket has -- as we've heard here, has  
4 gone forward to seek their own financial  
5 assistance through the IDA, so you've got  
6 double-dipping going on, and so the aggregate  
7 amount that the IDA is giving out is now  
8 larger than was first anticipated. So, it  
9 needs to be zero based. I mean, if funding  
10 was given with the premise of a supermarket,  
11 and there is a financial amount that's given  
12 in the documentation, the letter of amendment  
13 that was submitted, that should be subtracted  
14 from the original amount, and if the  
15 applicant wants to, you know, come in and do  
16 the zero based and, you know, justify it all  
17 over again, then that's what should happen,  
18 and if these dollars are getting moved around  
19 under the covers, how can IDA have valid  
20 metrics in terms of what you've loaned out,  
21 the benefit you're getting from it, when  
22 things are moving around, you know, under the  
23 table like that. So, I'm opposed to this,  
24 and that concludes my comments. Thank you  
25 very much.

1 DCIDA PUBLIC HEARING

2 BY THE HEARING OFFICER: I'd just like  
3 to clarify a couple of points, that the  
4 ShopRite facility was pulled out of project's  
5 approval and was treated separately and all  
6 of the metrics involved in that were studied  
7 and approved by the Board as a separate  
8 matter. So that changed the underlying deal,  
9 but the original approval did that, but here  
10 we're having a public hearing and the Board  
11 will be considering all of those comments,  
12 and so all of this is being done under the  
13 table or under the covers -- this is all  
14 being done out in the open so everyone's  
15 allowed to speak and try to justify their  
16 position, and we appreciate your comments.  
17 Anyone else have anything else to add?

18 BY MS. EDWARDS: Hi. This is Rebecca  
19 Edwards. If I could ask a question briefly?

20 THE HEARING OFFICER: Go ahead. I  
21 mean, public hearings are generally not for  
22 questions, but go ahead.

23 BY MS. EDWARDS: Well, this is a  
24 question about the documents for today.

25 BY THE HEARING OFFICER: Go ahead.

1 DCIDA PUBLIC HEARING

2 BY MS. EDWARDS: How does one obtain  
3 the documents in advance of public hearing to  
4 review them? They're not on the IDA website,  
5 I believe, the documentation for the  
6 hearings, so I'm asking how one gets them,  
7 just to clarify.

8 BY THE HEARING OFFICER: Sarah?

9 BY MS. LEE: So, Rebecca, they were on  
10 the website. This is the -- the public  
11 hearing notice was on the website, which  
12 describes the project, and then the original  
13 application is also on the website, and then  
14 any information that -- additional  
15 information can be requested.

16 BY MS. EDWARDS: So the two pieces of  
17 information -- you're saying that the project  
18 description is on the project page?

19 BY MS. LEE: It's on the project page.

20 BY MS. EDWARDS: And then you're saying  
21 that what's discussed today is in the meeting  
22 notice?

23 BY MS. LEE: Yes, correct.

24 BY MS. EDWARDS: Are the additional --  
25 there's additional documentation that one can

1 DCIDA PUBLIC HEARING

2 get, but one has to write to the IDA and ask  
3 for it?

4 BY MS. LEE: Yes. They can -- they can  
5 -- both Doreen and Jim have done this. They  
6 have just sent me an e-mail and I have sent  
7 them what they have asked for.

8 BY MS. EDWARDS: And why would that  
9 additional information -- why wouldn't the  
10 full information be put on the web so that  
11 anyone who would like to know can prepare for  
12 the public hearing fully?

13 BY MS. LEE: So the full information --  
14 in this case, the public hearing items will  
15 be part of the Board packet. The Board  
16 packet has not been sent out.

17 BY MS. EDWARDS: So the Board packet  
18 will be sent out for the next Board meeting  
19 and that will be made public on the website?

20 BY MS. LEE: Correct.

21 BY MS. EDWARDS: But in advance of the  
22 public hearing, it's not practice to put that  
23 information out?

24 BY MS. LEE: Yes, because that  
25 information is published in the hearing

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DCIDA PUBLIC HEARING

notice.

BY MS. EDWARDS: Okay. Thank you.

BY THE HEARING OFFICER: Does anyone  
else have anything to add?

With that, I will close the public  
hearing. Thank you very much.

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STATE OF NEW YORK    )  
                                  )  SS.  
COUNTY OF ORANGE    )

I, CLAUDIA MILLER, a Stenotype Reporter  
and Notary Public within and for the State of  
New York, do hereby certify that the  
foregoing is a true and correct transcript of  
the minutes having been stenographically  
recorded and transcribed by me, to the best  
of my knowledge and belief.

X \_\_\_\_\_  
                                  *Claudia Miller*  
                                  CLAUDIA MILLER

Dated: September 4th, 2020



## Sarah Lee

---

**From:** Jim Beretta <jimberetta@aol.com>  
**Sent:** Wednesday, September 02, 2020 5:04 PM  
**To:** Sarah Lee  
**Subject:** Public Hearing Comments, EFG/Saber Heritage SC, LLC,

To: Dutchess County Industrial Development Agency  
Attention: Ms. Sarah Lee

Following is are my comments for the Public Hearing on EFG/Saber Heritage SC, LLC, scheduled, per the public hearing notice, for September 3, 2020 at 10 a.m.

1. I am opposed to a request for financial assistance or continuation of financial assistance for EFG/Saber Heritage SC, LLC.
2. When development projects don't pay their taxes the burden is shifted to other taxpayers. Especially during this time of the COVID-19 pandemic, governments and municipalities have gaps in their budgets and absolving projects, such as this one, from paying taxes is antithetical to the gaps in municipal budgets and fairness for all other taxpayers.
3. Millions of people in the country are facing unemployment and the lack of ability to put food on the table for their family. All taxes should be collected.
4. Right here in the Hudson Valley, a recent article in the Poughkeepsie Journal pointed out that **"38% of Hudson Valley households struggle to make ends meet"**. I reference that article below:

Poughkeepsie Journal article by Ryan Santistvan, August 12, 2020.

### **"ALICE report shows 38% of Hudson Valley households struggle to make ends meet"**

" Amid the COVID-19 pandemic, unemployment across the region and state has soared. But even before that, roughly 38% of Hudson Valley households and 45% of households across the state were not making enough money to cover their basic needs, according to the United Way of New York. And, those numbers were disproportionately higher when looking only at black and hispanic households.

5. This is not a tax exempt entity and by definition should not be getting a Payment In Lieu Of Taxes (PILOT) agreement.

Definition of a PILOT: **A payment in lieu of taxes (usually abbreviated as PILOT, or sometimes as PILT) is a payment made to compensate a government for some or all of the property tax revenue lost due to tax exempt ownership or use of real property (such as nontaxable federal lands).**

Sincerely,

Jim Beretta  
Poughkeepsie

## Sarah Lee

---

**From:** Jim Beretta <jimberetta@aol.com>  
**Sent:** Wednesday, September 02, 2020 7:55 PM  
**To:** Sarah Lee  
**Subject:** Additional Comments, Public Hearing Comments, EFG/Saber Heritage SC, LLC,

Ms. Lee, I wish to offer the following, additional, public comment for the Public Hearing on EFG/Saber Heritage SC, LLC, scheduled, per the public hearing notice, for September 3, 2020 at 10 a.m.

I have now had the opportunity to read the letter amendment submitted by Hudson Heritage, dated June 26, 2020, which I had not received when I initially requested the application on August 19, 2020 and which you provided to me when I requested it today, September 2, 2020.

I am opposed the request for moving funds around, under the covers, that have been provided to the project applicant for a previous stated need and use that may no longer be valid. The DCIDA should not be allowing the fungible use of financial assistance once DCIDA approvals have been granted for previously stated reasons. In addition, the DCIDA would have a false basis for any metrics going forward if financial assistance is being moved around under the covers and used for purposes other than the basis for which the DCIDA approved it to begin with.

I find the applicant's suggestion, in the June 26, 2020 letter, that funds could be used for different purposes "...without the need for a public hearing." to suggest that the process could be circumvented.

Again, I oppose the fungible use of previously approved financial assistance by the DCIDA, for this project (and any others.)

Sincerely,

Jim Beretta  
Poughkeepsie

-----Original Message-----

From: Jim Beretta <jimberetta@aol.com>  
To: sarah@thinkdutchess.com <sarah@thinkdutchess.com>  
Sent: Wed, Sep 2, 2020 5:04 pm  
Subject: Public Hearing Comments, EFG/Saber Heritage SC, LLC,

To: Dutchess County Industrial Development Agency  
Attention: Ms. Sarah Lee

Following is are my comments for the Public Hearing on EFG/Saber Heritage SC, LLC, scheduled, per the public hearing notice, for September 3, 2020 at 10 a.m.

1. I am opposed to a request for financial assistance or continuation of financial assistance for for EFG/Saber Heritage SC, LLC.
2. When development projects don't pay their taxes the burden is shifted to other taxpayers. Especially during this time of the COVID-19 pandemic, governments and municipalities have gaps in their budgets and absolving projects, such as this one, from paying taxes is antithetical to the gaps in municipal budgets and fairness for all other taxpayers.
3. Millions of people in the country are facing unemployment and the lack of ability to put food on the table for their family. All taxes should be collected.
4. Right here in the Hudson Valley, a recent article in the Poughkeepsie Journal pointed out that "**38% of Hudson Valley households struggle to make ends meet**". I reference that article below:

Poughkeepsie Journal article by Ryan Santistvan, August 12, 2020.

**"ALICE report shows 38% of Hudson Valley households struggle to make ends meet"**

" Amid the COVID-19 pandemic, unemployment across the region and state has soared. But even before that, roughly 38% of Hudson Valley households and 45% of households across the state were not making enough money to cover their basic needs, according to the United Way of New York. And, those numbers were disproportionately higher when looking only at black and hispanic households.

5. This is not a tax exempt entity and by definition should not be getting a Payment In Lieu Of Taxes (PILOT) agreement.

Definition of a PILOT: **A payment in lieu of taxes (usually abbreviated as PILOT, or sometimes as PILT) is a payment made to compensate a government for some or all of the property tax revenue lost due to tax exempt ownership or use of real property (such as nontaxable federal lands).**

Sincerely,

Jim Beretta  
Poughkeepsie

## Sarah Lee

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**From:** Doreen Tignanelli <doreentig@aol.com>  
**Sent:** Wednesday, September 02, 2020 9:05 PM  
**To:** Sarah Lee  
**Subject:** Hudson Heritage, Public Comment for Sept. 3 2020 DCIDA Public Hearing

Ms. Lee, please include my comments as part of the official public record for the 10:00 am September 3, 2020 DCIDA Public Hearing regarding the EFG/Saber Heritage SC, Hudson Heritage project and share these comments with the DCIDA Chair and Board members.

- 1) I am opposed to the issuance of "Financial Assistance" to the Hudson Heritage Project in any form including, but not limited to, Mortgage Tax Exemption, Sales Tax Exemption and Payment in Lieu of Taxes (PILOT).
- 2) The request for financial assistance as outlined in the June 26, 2020 letter amendment to the application has the appearance of a shell game and the fact that Counsel for the applicant suggested in the letter that there was no need for a public hearing is troubling.

The letter appears to suggest that the \$568,750 in sales/use tax exemptions previously authorized by the DCIDA for a supermarket that was to be part of the Hudson Heritage project is now available for use in other Hudson Heritage work as the supermarket was severed from the Hudson Heritage project and is now to be a separate project, a Shop-Rite undertaken by the Wakefern Food Corporation.

The separate Shop-Rite project, to be located on the Hudson Heritage project site, subsequently received financial assistance by the DCIDA for sales tax exemption in excess of \$1,000,000.

It is unclear why \$568,750 should be considered available for use by Hudson Heritage. Furthermore, the projected job numbers for the two projects may be intertwined making it harder to determine actual job creation numbers which impacts recapture/clawback provisions to the detriment of taxpayers subsidizing these projects.

- 3) The Dutchess County IDA appears to be over-incentivizing projects. According to a July 27, 2020 front-page Poughkeepsie Journal article entitled "Local IDAs grant second-most tax breaks in state", the Dutchess County IDA provided \$22.6 million in net tax exemptions with 1,404 jobs created. Contrast that with the Orange County IDA that provided \$12.6 million in net tax exemptions with 6,511 jobs created per the article.

Perhaps the Dutchess County IDA is more likely than other IDAs to be influenced into granting financial assistance when applications contain statements that could be considered ultimatums such as when an application stated that if financial assistance was not granted the applicants would then donate the property to a Not-for-Profit for a tax write-off resulting in a loss of tax revenue for taxing jurisdictions or, as in most cases, that the project would not be undertaken if the DCIDA does not provide financial assistance. It is plausible that many projects could go forward without the IDA's financial assistance. Taxpayers should not be asked to share the developer's tax burden and subsidize their profits.

**4)** Regarding job creation numbers, projected numbers often are not accurate. While Counsel for the DCIDA has noted the existence of recapture/clawback provisions, these provisions are meaningless if the IDA is not ensuring the accuracy of job numbers.

Inaccuracy of IDA job numbers was noted in DC Comptroller Robin Lois' findings in her September 2018 LDC/IDA Audit Report stating "*there is no formal monitoring process in place to ensure the accuracy of employment numbers submitted to the agency by project representatives*" and "*In some cases the number of jobs certified by projects to the respective agency did not match what was reported to the Authorities Budget Office through the annual PARIS filing*".

Doreen A. Tignanelli  
29 Colburn Drive  
Poughkeepsie NY 12603