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STATE OF NEW YORK
COUNTY OF DUTCHESS

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DUTCHESS COUNTY INDUSTRIAL DEVELOPMENT AGENCY
RE:

FOX RUN at FULTON 3, LLC

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DATED: April 12, 2021
10:00 a.m. - 10:14 a.m.

Claudia Miller, Reporter

MINUTES OF PUBLIC HEARING
CONDUCTED BY REMOTE VIDEOCONFERENCE

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APPEARANCES:

DONALD CAPPILLINO, Hearing Officer
CAPPILLINO & ROTHSCHILD, LLP
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(Videoconference Appearance)

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(Videoconference Appearance)

KELLY LIBOLT

DOREEN TIGNANELLI

JAMES BERETTA

* * * * *

PROCEEDINGS

1
2 MR. CAPPILLINO: Good morning
3 everyone. Welcome to the public
4 hearing before the IDA on the
5 application of Fox Run at Fulton 3,
6 LLC to Dutchess County Industrial
7 Development Agency for financial
8 assistance. Before this public
9 hearing was opened, I have Hearing
10 Officer's Exhibit 1 marked in
11 evidence, the Notice of Public Hearing
12 in this matter. I have marked as
13 Hearing Officer's Exhibit 2 in
14 evidence the affidavit of publication
15 from the Poughkeepsie Journal
16 indicating that on March 29, 2021, a
17 copy of the Notice of Public hearing
18 was published in the Poughkeepsie
19 Journal. I've marked for
20 identification as Hearing Officer's
21 Exhibit 3 in evidence the affidavit of
22 Jenna Jones indicating that on March
23 26th, 2021, a copy of the Notice of
24 Public Hearing was served upon
25 Honorable John J. Baisley, Town

PROCEEDINGS

1
2 Supervisor of the Town of
3 Poughkeepsie, Mrs. Aviva Kafka, the
4 Superintendent of Schools of Hyde Park
5 Central School District, and the
6 Honorable Marcus J. Molinaro, Dutchess
7 County Executive. I have marked as
8 Hearing Officer's Exhibit Number 4,
9 the March 24th, 2021 letter of Mark
10 Doyle, Vice Chairman of the Dutchess
11 County IDA, indicating that I was
12 authorized to conduct this public
13 hearing on behalf of the IDA.

14 With that, I will now open the
15 public hearing. Kelly Libolt, would
16 you now -- you're here representing
17 the applicant in this matter?

18 MS. LIBOLT: Yes, I am. Kelly
19 Libolt with KARC Planning, and I
20 represent the applicant on this
21 request. We are seeking sales tax and
22 mortgage tax exemption only on this
23 project. We are not seeking a pilot.
24 This is a new project located in the
25 Town of Poughkeepsie on Fulton Avenue.

PROCEEDINGS

1
2 It is a multifamily apartment complex
3 that was scheduled to be built in 2019
4 and into 2020. As presented last
5 month, once COVID hit, we were
6 reestablishing our budgets for this
7 project, and as written in the many
8 projects before you, construction
9 costs have varied and risen
10 significantly and, therefore, we were
11 seeking the mortgage tax and sales tax
12 and sales tax exemptions. The
13 mortgage tax exemption was one hundred
14 and -- or 116,000, and the sales tax
15 exemption, which was amended subject
16 to the comments that were received at
17 the last meeting, to 969,000. We have
18 communicated with the Town of
19 Poughkeepsie, even though we're not
20 required for this project, and I have
21 discussed this project with the town
22 assessor. This property will pay full
23 taxes in the Town of Poughkeepsie and
24 all the special districts and to the
25 school district.

1 PROCEEDINGS

2 So, again, just the sales tax
3 and the mortgage tax exemptions.

4 MR. CAPPILLINO: Do you have
5 anything -- do you have anything that
6 you want to add to that?

7 You indicated on page 19 of the
8 application that the number of actual
9 jobs themselves, there are two?

10 MS. LIBOLT: Yes. Yeah, we
11 do -- although, in addition to the
12 construction jobs that will be created
13 for this project, we do anticipate
14 that there will be two new positions,
15 which will be management and other,
16 which is really the outdoor
17 landscaping and property management,
18 so two new positions, at a minimum, we
19 believe will be created as part of
20 this project.

21 MR. CAPPILLINO: Do you know how
22 many construction jobs will be
23 created?

24 MS. LIBOLT: I don't. I think
25 we had indicated 150. Yes. On our

1 PROCEEDINGS

2 application, we said approximately 100
3 to 150.

4 MR. CAPPILLINO: Okay. Fine.
5 Comments from you, first of all, Ms.
6 Libolt?

7 MS. LIBOLT: No, that's all that
8 I have. Thank you.

9 MR. CAPPILLINO: Mr. Beretta, I
10 know that you submitted something in
11 writing to the board. If you have
12 anything that you would like to add?

13 MR. BERETTA: Yes. Sure. Good
14 morning. Thank you for the
15 opportunity to speak.

16 Yeah, let me just give a little
17 summary of what I -- overall, I'm in
18 opposition of the financial relief
19 that is being requested. I do feel
20 that this is a transfer of tax burden
21 to other taxpaying public. Also, at
22 the -- at the last meeting, Chairman
23 Dean brought up that the board has
24 become more and more uncomfortable
25 with being able to evaluate projects,

PROCEEDINGS

1
2 and he's suggesting that maybe the
3 board start to look in to getting
4 third-party reviews, and they're --
5 the board's right at the beginning of
6 this, and he did say that it was
7 primarily due to housing, which this
8 is, especially the more complex ones,
9 so it is unclear where the board is at
10 on that, you know, as this project is
11 coming through and -- and his comment
12 was historical, meaning that there are
13 other projects that have come before
14 this one and others like it that the
15 board has been uncomfortable with.

16 So it's unclear how the board
17 could just, you know, go ahead with a
18 final approval on this without
19 thoroughly investigating that,
20 especially since there are missing
21 data elements that came out in the
22 last meeting when Ms. Libolt was
23 questioned that the final rents are
24 not known, because -- and I'm
25 paraphrasing what Ms. Libolt said in

PROCEEDINGS

1
2 the -- in the last meeting, that
3 because of the rise in costs,
4 construction material cost, -- the
5 cost of the prices, but yet the area
6 seems to be maxing out in terms of
7 what the market will bear in terms of
8 rents being paid. So that is a key
9 element, and it's a key data element
10 in doing the analysis as to whether
11 these kind of financial incentives
12 should be granted, and without key
13 data elements like that, it is unclear
14 how those financial incentives could
15 be granted.

16 I'd like to also add that
17 there's no commercial or manufacturing
18 component to this project, and as you
19 said, I did submit my written comments
20 so that completes my verbal input.
21 Thank you.

22 MR. CAPPILLINO: Thank you,
23 Mr. Beretta. Ms. Tignanelli, do you
24 have anything to add? I see that you
25 just submitted written comments.

1 PROCEEDINGS

2 MS. TIGNANELLI: Yes,
3 Mr. Cappillino. I just sent my
4 written comments to Ms. Lee and I
5 would like those included. Thank you.

6 MR. CAPPILLINO: And they did
7 come to me too, so -- she forwarded
8 them to me, I do have them and they
9 will be made part of the record.

10 MS. TIGNANELLI: Can I go ahead?

11 MR. CAPPILLINO: Yes, please do.

12 MS. TIGNANELLI: Okay. Thank
13 you.

14 So I am opposed to the issuance
15 of financial assistance to the Fox Run
16 project in any form. Also, the job
17 creation number -- so, at the March
18 19th meeting of the IDA, about 90
19 seconds into the audio, if you wanted
20 to listen, you could hear Ms. Lee
21 state that there would be a, quote,
22 creation of three jobs, unquote. So
23 the application material is saying two
24 jobs, so I'm not sure why it was
25 stated that there would be three jobs

1 PROCEEDINGS

2 and, again, you know, the IDA is
3 supposed to be tracking job numbers
4 and, you know, accurate job numbers
5 are necessary for claw backs and
6 recaptures, so it should be clearly
7 stated what the job is supposed to be.
8 And, again, to note that there's no
9 commercial or manufacturing component
10 to this, that's why the miniscule
11 number of jobs to be created, and that
12 the tax exemptions are associated with
13 the building of 69 residential units
14 and, again, the tax -- resulting tax
15 break shifts to the -- the tax burden
16 to the remaining basin, and basically,
17 this serves just to increase the
18 profits of the applicant.

19 So, the other thing I'd like to
20 mention is that one of the benefits
21 when the basins are given and set,
22 future sales tax revenue. Well, one
23 of the things that isn't mentioned is
24 the current assessed value versus the
25 estimated new value afterwards, and it

1 PROCEEDINGS

2 doesn't take into account that
3 applicants often challenge their
4 assessments, and some of you may be
5 aware that Fox Run, in a previous
6 version, did exactly this: In 2017,
7 they challenged their assessment in a
8 case known as Fox Run At Fulton, LLC
9 versus Town of Poughkeepsie, which was
10 tracked in the -- filed with the
11 Dutchess County Supreme Court, Index
12 Number 2017-51707, and the applicant
13 asked that the assessed value of
14 twenty-two million, six hundred
15 thousand be reduced to six million
16 dollars, so they tout that this is
17 going to increase the value of the
18 property once it's built on, and then
19 the applicant turns around and
20 challenged that assessment with the
21 town. So you really don't get the
22 taxes a lot of times on the value that
23 -- the assessed value that you're
24 claiming.

25 Again, many inconsistencies in

PROCEEDINGS

1
2 the application packet. I'll name one
3 of them. The short environmental
4 assessment form is woefully
5 inaccurate. Part one of the EAF that
6 was to be filled out by the applicant
7 was totally blank except for the
8 undated signature of Ms. Libolt on
9 page 3 attesting to the fact that
10 information provided was accurate. So
11 the IDA asks them to fill out a short
12 form EAF. Part one was to be filled
13 out by the applicant, at least the
14 version posted on the website, was
15 totally blank except for an undated
16 signature, and there's many EAF
17 discrepancies, even one by the lead
18 agency where part two -- out of eleven
19 questions, only one was answered.
20 It's not clear why that one was
21 answered, but -- and this was not a
22 case where you only had to answer if
23 it was yes or no, you know, based on a
24 yes or no, so again, the EAF, and --
25 and regarding inconsistencies, the

1 PROCEEDINGS

2 project name is very inconsistent
3 throughout documents. The EAF calls
4 it Fulton Landing, Fox Run, Building
5 A. Another section of the EAF calls
6 it Fulton Landing. The hearing notice
7 calls it Fox Run at Fulton 3, LLC.
8 The application does not include the
9 Fulton 3 part, so, again, many
10 inconsistencies, but the bottom line
11 is, it seems that this family owned,
12 privately held real estate company
13 would be able to absorb, in my
14 opinion, these costs without asking
15 for financial assistance from the IDA
16 and the taxpayers of the county.
17 Thank you.

18 MR. CAPPILLINO: All right.
19 Thank you. Anything else, does
20 anybody want to add anything?

21 With that, I will now close the
22 public hearing. Thank you all.

23
24 (Whereupon, the proceedings were
25 concluded at 10:14 a.m.)

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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

Dated: April 12, 2021

A	assessor (1) 5:22 assistance (3) 3:8;10:15;14:15 associated (1) 11:12 attesting (1) 13:9 audio (1) 10:19 authorized (1) 4:12 Avenue (1) 4:25 Aviva (1) 4:3 aware (1) 12:5	burden (2) 7:20;11:15	costs (3) 5:9;9:3;14:14 County (5) 3:6;4:7,11;12:11; 14:16 Court (1) 12:11 COVID (1) 5:5 created (4) 6:12,19,23;11:11 creation (2) 10:17,22 current (1) 11:24	11:25 evaluate (1) 7:25 even (2) 5:19;13:17 everyone (1) 3:3 evidence (3) 3:11,14,21 exactly (1) 12:6 except (2) 13:7,15 Executive (1) 4:7 exemption (3) 4:22;5:13,15 exemptions (3) 5:12;6:3;11:12 Exhibit (4) 3:10,13,21;4:8
able (2) 7:25;14:13 absorb (1) 14:13 account (1) 12:2 accurate (2) 11:4;13:10 actual (1) 6:8 add (5) 6:6;7:12;9:16,24; 14:20 addition (1) 6:11 affidavit (2) 3:14,21 afterwards (1) 11:25 again (7) 6:2;11:2,8,14; 12:25;13:24;14:9 Agency (2) 3:7;13:18 ahead (2) 8:17;10:10 although (1) 6:11 amended (1) 5:15 analysis (1) 9:10 answered (2) 13:19,21 anticipate (1) 6:13 apartment (1) 5:2 applicant (7) 4:17,20;11:18; 12:12,19;13:6,13 applicants (1) 12:3 application (6) 3:5;6:8;7:2;10:23; 13:2;14:8 approval (1) 8:18 approximately (1) 7:2 area (1) 9:5 around (1) 12:19 assessed (3) 11:24;12:13,23 assessment (3) 12:7,20;13:4 assessments (1) 12:4	B backs (1) 11:5 Baisley (1) 3:25 based (1) 13:23 basically (1) 11:16 basin (1) 11:16 basins (1) 11:21 bear (1) 9:7 become (1) 7:24 beginning (1) 8:5 behalf (1) 4:13 benefits (1) 11:20 Beretta (3) 7:9,13;9:23 blank (2) 13:7,15 board (6) 7:11,23;8:3,9,15,16 board's (1) 8:5 bottom (1) 14:10 break (1) 11:15 brought (1) 7:23 budgets (1) 5:6 building (2) 11:13;14:4 built (2) 5:3;12:18	C calls (3) 14:3,5,7 came (1) 8:21 Can (1) 10:10 CAPPILLINO (10) 3:2;6:4,21;7:4,9; 9:22;10:3,6,11;14:18 case (2) 12:8;13:22 Central (1) 4:5 Chairman (2) 4:10;7:22 challenge (1) 12:3 challenged (2) 12:7,20 claiming (1) 12:24 claw (1) 11:5 clear (1) 13:20 clearly (1) 11:6 close (1) 14:21 coming (1) 8:11 comment (1) 8:11 comments (5) 5:16;7:5;9:19,25; 10:4 commercial (2) 9:17;11:9 communicated (1) 5:18 company (1) 14:12 completes (1) 9:20 complex (2) 5:2;8:8 component (2) 9:18;11:9 concluded (1) 14:25 conduct (1) 4:12 construction (4) 5:8;6:12,22;9:4 copy (2) 3:17,23 cost (2) 9:4,5	D data (3) 8:21;9:9,13 Dean (1) 7:23 Development (1) 3:7 discrepancies (1) 13:17 discussed (1) 5:21 District (2) 4:5;5:25 districts (1) 5:24 documents (1) 14:3 dollars (1) 12:16 Doyle (1) 4:10 due (1) 8:7 Dutchess (4) 3:6;4:6,10;12:11	F fact (1) 13:9 family (1) 14:11 feel (1) 7:19 filed (1) 12:10 fill (1) 13:11 filled (2) 13:6,12 final (2) 8:18,23 financial (6) 3:7;7:18;9:11,14; 10:15;14:15 Fine (1) 7:4 first (1) 7:5 form (3) 10:16;13:4,12 forwarded (1) 10:7 Fox (6) 3:5;10:15;12:5,8; 14:4,7 full (1) 5:22 Fulton (7) 3:5;4:25;12:8;14:4, 6,7,9 future (1) 11:22
			E EAF (6) 13:5,12,16,24;14:3, 5 element (2) 9:9,9 elements (2) 8:21;9:13 eleven (1) 13:18 else (1) 14:19 environmental (1) 13:3 especially (2) 8:8,20 estate (1) 14:12 estimated (1)	G given (1)

11:21 Good (2) 3:2;7:13 granted (2) 9:12,15	5:4;10:19;12:2 investigating (1) 8:19 issuance (1) 10:14	7:16 LLC (3) 3:6;12:8;14:7 located (1) 4:24 look (1) 8:3 lot (1) 12:22	3:2;7:14 mortgage (4) 4:22;5:11,13;6:3 Mrs (1) 4:3 multifamily (1) 5:2	owned (1) 14:11
H	J	M	N	P
hear (1) 10:20 hearing (13) 3:4,9,9,11,13,17, 20,24;4:8,13,15;14:6, 22 held (1) 14:12 historical (1) 8:12 hit (1) 5:5 Honorable (2) 3:25;4:6 housing (1) 8:7 hundred (2) 5:13;12:14 Hyde (1) 4:4	Jenna (1) 3:22 job (4) 10:16;11:3,4,7 jobs (7) 6:9,12,22;10:22,24, 25;11:11 John (1) 3:25 Jones (1) 3:22 Journal (2) 3:15,19	management (2) 6:15,17 manufacturing (2) 9:17;11:9 many (5) 5:7;6:22;12:25; 13:16;14:9 March (4) 3:16,22;4:9;10:17 Marcus (1) 4:6 Mark (1) 4:9 marked (4) 3:10,12,19;4:7 market (1) 9:7 material (2) 9:4;10:23 matter (2) 3:12;4:17 maxing (1) 9:6 may (1) 12:4 maybe (1) 8:2 meaning (1) 8:12 meeting (5) 5:17;7:22;8:22; 9:2;10:18 mention (1) 11:20 mentioned (1) 11:23 million (2) 12:14,15 minimum (1) 6:18 miniscule (1) 11:10 missing (1) 8:20 Molinaro (1) 4:6 month (1) 5:5 more (3) 7:24,24;8:8 morning (2)	name (2) 13:2;14:2 necessary (1) 11:5 new (4) 4:24;6:14,18;11:25 note (1) 11:8 Notice (4) 3:11,17,23;14:6 Number (5) 4:8;6:8;10:17; 11:11;12:12 numbers (2) 11:3,4	packet (1) 13:2 page (2) 6:7;13:9 paid (1) 9:8 paraphrasing (1) 8:25 Park (1) 4:4 part (6) 6:19;10:9;13:5,12, 18;14:9 pay (1) 5:22 pilot (1) 4:23 Planning (1) 4:19 please (1) 10:11 positions (2) 6:14,18 posted (1) 13:14 Poughkeepsie (7) 3:15,18;4:3,25; 5:19,23;12:9 presented (1) 5:4 previous (1) 12:5 prices (1) 9:5 primarily (1) 8:7 privately (1) 14:12 PROCEEDINGS (13) 3:1;4:1;5:1;6:1; 7:1;8:1;9:1;10:1; 11:1;12:1;13:1;14:1, 24 profits (1) 11:18 project (11) 4:23,24;5:7,20,21; 6:13,20;8:10;9:18; 10:16;14:2 projects (3) 5:8;7:25;8:13 property (3) 5:22;6:17;12:18 provided (1) 13:10 public (9) 3:3,8,11,17,24; 4:12,15;7:21;14:22
I	K		O	
IDA (7) 3:4;4:11,13;10:18; 11:2;13:11;14:15 identification (1) 3:20 inaccurate (1) 13:5 incentives (2) 9:11,14 include (1) 14:8 included (1) 10:5 inconsistencies (3) 12:25;13:25;14:10 inconsistent (1) 14:2 increase (2) 11:17;12:17 Index (1) 12:11 indicated (2) 6:7,25 indicating (3) 3:16,22;4:11 Industrial (1) 3:6 information (1) 13:10 input (1) 9:20 into (3)	Kafka (1) 4:3 KARC (1) 4:19 Kelly (2) 4:15,18 key (3) 9:8,9,12 kind (1) 9:11 known (2) 8:24;12:8		Officer's (4) 3:10,13,20;4:8 often (1) 12:3 once (2) 5:5;12:18 one (10) 5:13;8:14;11:20, 22;13:2,5,12,17,19, 20 ones (1) 8:8 only (3) 4:22;13:19,22 open (1) 4:14 opened (1) 3:9 opinion (1) 14:14 opportunity (1) 7:15 opposed (1) 10:14 opposition (1) 7:18 others (1) 8:14 out (6) 8:21;9:6;13:6,11, 13,18 outdoor (1) 6:16 overall (1) 7:17	
	L			
	Landing (2) 14:4,6 landscaping (1) 6:17 last (5) 5:4,17;7:22;8:22; 9:2 lead (1) 13:17 least (1) 13:13 Lee (2) 10:4,20 letter (1) 4:9 Libolt (10) 4:15,18,19;6:10, 24;7:6,7;8:22,25; 13:8 line (1) 14:10 listen (1) 10:20 little (1)			

publication (1) 3:14		4:2	unclear (3) 8:9,16;9:13	10:18
published (1) 3:18	S	supposed (2) 11:3,7	uncomfortable (2) 7:24;8:15	2
Q	sales (6) 4:21;5:11,12,14; 6:2;11:22	Supreme (1) 12:11	undated (2) 13:8,15	2 (1) 3:13
quote (1) 10:21	saying (1) 10:23	Sure (2) 7:13;10:24	units (1) 11:13	2017 (1) 12:6
R	scheduled (1) 5:3	T	unquote (1) 10:22	2017-51707 (1) 12:12
real (1) 14:12	School (2) 4:5;5:25	tax (15) 4:21,22;5:11,11,12, 13,14;6:2,3;7:20; 11:12,14,14,15,22	up (1) 7:23	2019 (1) 5:3
really (2) 6:16;12:21	Schools (1) 4:4	taxes (2) 5:23;12:22	upon (1) 3:24	2020 (1) 5:4
recaptures (1) 11:6	seconds (1) 10:19	taxpayers (1) 14:16	V	2021 (3) 3:16,23;4:9
received (1) 5:16	section (1) 14:5	taxpayers (1) 14:16	value (6) 11:24,25;12:13,17, 22,23	24th (1) 4:9
record (1) 10:9	seeking (3) 4:21,23;5:11	taxpaying (1) 7:21	varied (1) 5:9	26th (1) 3:23
reduced (1) 12:15	seems (2) 9:6;14:11	terms (2) 9:6,7	verbal (1) 9:20	29 (1) 3:16
reestablishing (1) 5:6	sent (1) 10:3	therefore (1) 5:10	version (2) 12:6;13:14	3
regarding (1) 13:25	served (1) 3:24	third-party (1) 8:4	versus (2) 11:24;12:9	3 (5) 3:5,21;13:9;14:7,9
relief (1) 7:18	serves (1) 11:17	thoroughly (1) 8:19	Vice (1) 4:10	4
remaining (1) 11:16	set (1) 11:21	though (1) 5:19	W	4 (1) 4:8
rents (2) 8:23;9:8	shifts (1) 11:15	thousand (1) 12:15	website (1) 13:14	6
represent (1) 4:20	short (2) 13:3,11	three (2) 10:22,25	Welcome (1) 3:3	69 (1) 11:13
representing (1) 4:16	signature (2) 13:8,16	throughout (1) 14:3	Whereupon (1) 14:24	9
request (1) 4:21	significantly (1) 5:10	Tignanelli (4) 9:23;10:2,10,12	without (3) 8:18;9:12;14:14	90 (1) 10:18
requested (1) 7:19	six (2) 12:14,15	times (1) 12:22	woefully (1) 13:4	969,000 (1) 5:17
required (1) 5:20	speak (1) 7:15	totally (2) 13:7,15	writing (1) 7:11	
residential (1) 11:13	special (1) 5:24	tout (1) 12:16	written (4) 5:7;9:19,25;10:4	
resulting (1) 11:14	start (1) 8:3	Town (8) 3:25;4:2,25;5:18, 21,23;12:9,21	1	
revenue (1) 11:22	state (1) 10:21	tracked (1) 12:10	1 (1) 3:10	
reviews (1) 8:4	stated (2) 10:25;11:7	tracking (1) 11:3	10:14 (1) 14:25	
right (2) 8:5;14:18	subject (1) 5:15	transfer (1) 7:20	100 (1) 7:2	
rise (1) 9:3	submit (1) 9:19	turns (1) 12:19	116,000 (1) 5:14	
risen (1) 5:9	submitted (2) 7:10;9:25	twenty-two (1) 12:14	150 (2) 6:25;7:3	
Run (6) 3:5;10:15;12:5,8; 14:4,7	suggesting (1) 8:2	two (5) 6:9,14,18;10:23; 13:18	19 (1) 6:7	
	summary (1) 7:17	U	19th (1)	
	Superintendent (1) 4:4			
	Supervisor (1)			

From: [Doreen Tignanelli](#)
To: [Sarah Lee](#)
Subject: Public Comment, DCIDA Hearing, Fox Run LLC at Fulton 3, April 12, 2021
Date: Monday, April 12, 2021 10:04:35 AM

Ms. Lee, please include my comments as part of the official public record for the DCIDA Public Hearing for Fox Run at Fulton 3 LLC project scheduled for April 12, 2021 and share these comments with the DCIDA Chair and Board members.

I would like to note that if any page numbers given in my comments conflict with information that board members have, it is because updated information is often posted to the DCIDA website without replacing prior information which results in multiple versions of applications, EAFs, etc. Updated versions should replace outdated information.

- 1)** I am opposed to the issuance of "Financial Assistance" to the Fox Run project in any form including, but not limited to, exemptions from sales and use taxes, real estate transfer taxes and mortgage recording taxes.

- 2)** Job creation associated with this project is miniscule, possibly 2 or 3, as the project has no commercial or manufacturing component. The tax exemptions are associated with the building of 69 residential rental units that will serve to increase the profits of the developer. Such tax breaks result in a shift of the tax burden to the remaining base, leading to higher tax bills for all other residents. Often times, those who profess their excitement about the granting of abatements are those who stand to gain monetarily.

- 3)** Even though the number of jobs to be created for this project is minimal, inconsistencies exist. About 90 seconds into the March 19, 2021 DCIDA Meeting, CEO Sarah Lee stated there would be "creation of three jobs". However, application materials posted on the DCIDA website show two jobs are to be created, one "Administrative" and one "Other". The DCIDA is supposed to be tracking job numbers as they relate to the DCIDA clawback/recapture policy so accurate job numbers should be provided for all projects.

- 4)** In the section "Evaluation of Projects Requesting IDA Benefits", benefits to local government in anticipated property tax revenue is based on "Current Assessed Value" and "Estimated New Assessed Value". However, this fails to take into consideration the fact that applicants often challenge the assessed value of the property after completion. In 2017, Fox Run at Fulton LLC challenged their assessment in the case known as Fox Run at Fulton LLC vs. Town of Poughkeepsie, Dutchess County Supreme Court Index Number 2017-51707. The applicant asked that the \$22,600,000 assessed value of the property be reduced to \$6,000,000.

- 5)** The project application was posted as part of the meeting materials packet on the DCIDA website. The information provided on the Short Environmental Assessment Form is woefully inadequate. Part 1 of the EAF, to be filled out by the applicant, was totally blank except for the undated signature of project consultant "K. Libolt" on Page

3 of 3 attesting to the fact that information provided was accurate.

Part 2 of the EAF, to be filled out by the DCIDA as Lead Agency, contained eleven questions regard impacts. One question was answered "No, or small impact". The other ten questions regarding impacts went unanswered.

6) There are inconsistencies in project materials throughout the revised packet, including for something as simple as the project name which is referred to under various names. For example, Page 7 of the application identifies the project as "Fox Run at Fulton LLC". On Part 2 of the EAF, Page 1, the Lead Agency identified the project name as "Fulton Landing (Fox Run Bldg A)". On Part 2 of the EAF, Page 2, the Lead Agency identified the project name as "Fulton Landing". The Public Hearing Notice identifies the project as "Fox Run at Fulton 3, LLC". The Preliminary Resolution identifies the project as "Fox Run at Fulton LLC".

7) It seems unlikely that this family-owned, privately held real estate management and development company could not absorb the requested exemptions for this project and that the project would not be able to go forward without financial assistance from the DCIDA.

Doreen A. Tignanelli
29 Colburn Drive
Poughkeepsie NY 12603

From: [Jim Beretta](#)
To: [Sarah Lee](#)
Subject: FOX RUN AT FULTON 3, LLC, Public Hearing Comments, April 12, 2021
Date: Sunday, April 11, 2021 7:22:17 PM

Ms. Lee (DCIDA CEO),

Following are my comments on the FOX RUN AT FULTON 3, LLC project for the public hearing on April 12, 2021.

I am **opposed** to the "financial assistance" requested by this project as listed by the DCIDA as follows:

" certain "financial assistance" (within the meaning of the Act) with respect to the Facility (hereinafter defined), including potential exemptions from certain sales and use taxes, real estate transfer taxes and mortgage recording taxes for the following project (the "Project") in connection with the construction, improvement, reconstruction, repair, renovation, installation, furnishing and equipping of a certain residential facility (the "Facility") consisting of the following: (A) the construction of an approximately 93,000 square foot, five-story building with 69 residential units (currently estimated to be comprised of 38 one-bedroom units, three one-bedroom units with a den, 26 two-bedroom units, and two two-bedroom units with a den) (the "Improvements") located on an approximately 2.33- acre portion on the northwest corner of an approximately 15.94-acre parcel of land located at 10 Campus View Court (a/k/a 60 Fulton Avenue) in the Town of Poughkeepsie, County of Dutchess, State of New York, bearing Tax Map Grid No. 134689-6162-05-161788-0000 (the "Land"); and (B) the acquisition and installation of new equipment, machinery and other personal property for use in the premises described above (collectively the "Equipment") to be owned by the Agency and leased to the Company to be used as part of the Facility. The Facility will be initially owned, operated and/or managed by the Company "

My reasons for opposition are as follows:

1. All of these tax incentives are a transfer of tax burden to the rest of the taxpaying public.
2. There is no manufacturing or commercial component in this project.
3. Chairman Tim Dean made extensive comments at the 3/19/21 DCIDA meeting, which I attended, about looking into third party reviews of applicant data for projects coming before the DCIDA because:
 - a. " ...the board has felt, has become more and more uncomfortable with their ability to evaluate some of the more complex aspects of projects" and,
 - b. "the area that this has been most challenging for us recently, just because of the number, has been in the development of housing. But this same issues can

apply to other areas as well.”

Since the DCIDA is admitting their discomfort in the ability to evaluate projects and the most challenging area is housing, I don't see where, or how, the DCIDA can proceed to grant final approval on this project without a high degree of comfort with the cost analysis of the project and the reasonability study that the third party review is intended to provide.

DCIDA CEO, Ms. Lee, stated that after preliminary approval the board could request a third party study.

4. Ms. Kelly Libolt, project consultant, stated at the 3/19/21 DCIDA meeting, which I attended, that they did not yet know what the rental rates will be when the project is completed and that the rental rates in the area may be maxing out with regard to what the market will bear.

Rental rates are a key component to a business case and it would be questionable if the board could reasonably grant final approval if a key component of the project analysis is missing.

Because the construction rates are high and the rent that can be charged may be maxing out, that is not a reason to give the project financial incentives and drag taxpayers in to share the burden on a business case that won't close.

5. With the escalation of construction material costs, Ms. Libolt stated she did not have 'escalators' built in and would have to take another look at that before the final meeting. This is another key data component that the board needs to provide a complete and thorough analysis before committing taxpayers to sharing the burden of this project.

6. With missing key data components, it is not proven that this project is only viable with the requested financial assistance.

7. During this time of the COVID-19 pandemic, governments and municipalities have gaps in their budgets and absolving a special few from paying taxes is antithetical to the gaps in municipal budgets and fairness for all other taxpayers.

8. 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 from non-tax-exempt projects.

9. 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."

10. Dutchess County experienced financial budget gaps due to the COVID-19 pandemic, having to furlough employees, offer early retirement and take other spending cuts to try and meet the financial challenge. The County can ill afford to be providing tax exemptions. As quoted in the following referenced article, Dutchess County is at the top of the list, "statewide", for sales tax loss, so far, in 2020 and the County Executive "was projecting 50% less revenue in sales tax this year amid the pandemic."

Rockland/Westchester Journal News, May 12, 2020, David McKay Wilson

"Dutchess County had the biggest year-to-year sales tax decline statewide in March, with a loss of 17%, as popular restaurants shifted to take-out, and tourists stayed home. April was even worse, with sales taxes revenue down 27%. For the first four months of 2020, Dutchess sales tax receipts are down \$4.5 million, or 7%. Last month, Dutchess County Executive Marc Molinaro said the county was projecting 50% less revenue in sales tax this year amid the pandemic. The restoration "I daresay, is going to last through the duration of 2020," he said. "

Again, I am opposed to the financial assistance being requested.

Jim Beretta
Town Of Poughkeepsie Resident & Taxpayer

From: [Doreen Tignanelli](#)
To: [Sarah Lee](#)
Subject: Fwd: Public Comment, DCIDA Hearing, Fox Run LLC at Fulton 3, April 12, 2021
Date: Monday, April 12, 2021 10:24:51 AM

Please accept this additional public comment.

It should be noted that prior to the Public Hearing, the public was not provided updated information regarding the increase in Sales Tax Exemption that more than doubled from the previously stated \$446,000 to \$969,000. This information was disclosed by the project consultant, Kelly Libolt, at the Public Hearing.

Doreen Tignanelli

"Information is the oxygen in which the fire of democracy burns. If you have information, it burns, if you don't, it chokes". D. DeBar

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

From: Doreen Tignanelli <doreentig@aol.com>
To: Doreen Tignanelli <doreentig@aol.com>
Sent: Sun, Apr 11, 2021 9:56 pm
Subject: Public Comment, DCIDA Hearing, Fox Run LLC at Fulton 3, April 12, 2021

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- 1)** I am opposed to the issuance of "Financial Assistance" to the Fox Run project in any form including, but not limited to, exemptions from sales and use taxes, real estate transfer taxes and mortgage recording taxes.
- 2)** At the March 19, 2021 DCIDA Meeting, Fox Run was on the agenda for Preliminary Approval. Board Chairman Timothy Dean stated he had a conflict of interest with the project. Yet, Page 6 of 6 of the Preliminary Resolution contained in the DCIDA Revised Meeting Packet shows "Timothy Dean, Chairman" as "VOTING", calling into question on how the Resolution was declared duly adopted on March 19, 2021 as Chairman Dean had recused himself due to a conflict of interest.
- 3)** Job creation associated with this project is miniscule, possibly 2 or 3, as the project has no commercial or manufacturing component. The tax exemptions are associated with the building of 69 residential rental units that will serve to increase the profits of the developer. Such tax breaks result in a shift of the tax burden to the remaining base, leading to higher tax bills for all other residents. Often times, those who profess their excitement about the granting of abatements are those who stand to gain monetarily.
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