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PUBLIC HEARING: TOWN OF POUGHKEEPSIE

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In the Matter of the Application of:

MHTC DEVELOPMENT, LLC AND 45 EASTDALE
AVENUE, LLC FOR FINANCIAL ASSISTANCE
FROM THE DUTCHESS COUNTY LOCAL
DEVELOPMENT CORPORATION

-----X

DATED: September 3, 2020
9:30 a.m. - 9:47 a.m.

Claudia Miller, Reporter

MINUTES
OF
PUBLIC HEARING
(VIA VIDEOCONFERENCING)

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APPEARANCES BY VIDEOCONFERENCE:

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
John Hettinger, Member of Applicant

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	Publication of notice of public hearing For Identification/In Evidence	4
3	Notice of publication of public hearing with additional information For Identification/In Evidence	4
4	Affidavit of Nicholas Renstrom For Identification/In Evidence	4
5	Affidavit of Jenna For Identification/In Evidence	5

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 OF NICHOLAS RENSTROM
11 RECEIVED AND MARKED AS HEARING
12 OFFICER'S EXHIBIT 2 FOR IDENTIFICATION/IN
13 EVIDENCE)

14

15 (UPDATED NOTICE OF PUBLIC HEARING
16 RECEIVED AND MARKED AS HEARING
17 OFFICER'S EXHIBIT 3 FOR
18 IDENTIFICATION/IN EVIDENCE)

19

20 (AFFIDAVIT OF NICHOLAS RENSTROM
21 RECEIVED AND MARKED AS HEARING
22 OFFICER'S EXHIBIT 4 FOR
23 IDENTIFICATION/IN EVIDENCE)

24

25 (AFFIDAVIT OF JENNA JONES

1 DCIDA PUBLIC HEARING
2 AND MARKED AS HEARING OFFICER'S
3 EXHIBIT 5 FOR IDENTIFICATION/IN
4 EVIDENCE)

5
6 (LETTER OF TIMOTHY DEAN RECEIVED
7 AND MARKED AS HEARING OFFICER'S
8 EXHIBIT 6 FOR IDENTIFICATION/IN
9 EVIDENCE)

10
11 BY THE HEARING OFFICER: Good morning
12 everyone. It's 9:30 a.m. We're holding this
13 public hearing on the application of MHTC
14 Development, LLC and 45 Eastdale Avenue, LLC.
15 This is a project that -- before this
16 started, I guess, is the best way to do this,
17 before the hearing was opened, I had marked
18 into evidence as Hearing Officer's Exhibit
19 Number 1, the notice of public hearing in
20 this matter. I had marked as Hearing
21 Officer's Exhibit Number 2, the publication
22 of that notice of public hearing by the
23 affidavit of Poughkeepsie Journal, Nicholas
24 Renstrom, indicating that the notice of
25 public hearing was published on August 19th,

DCIDA PUBLIC HEARING

2020. I have marked as Hearing Officer's Exhibit Number 3 in evidence the updated notice of public hearing where a couple of additional pieces of information were added. I have marked as Hearing Officer's Exhibit Number 4 in evidence the affidavit of Nicholas Renstrom indicating that on August 22nd, 2020, the updated notice of public hearing was published in the Poughkeepsie Journal. I have marked as Hearing Officer's Exhibit Number 5 in evidence, the affidavit of Jenna Jones indicating that on August 20th, 2020, she served a true copy of both the notice of public hearing and the updated notice of public hearing upon the Honorable Jon Jay Baisley, Supervisor of the Town of Poughkeepsie, Dr. Brendan Lyons, Superintendent of Schools of the Arlington Central School District, and the Honorable Marcus J. Molinaro, Dutchess County Executive. I have marked as Hearing Officer's Number 6 in evidence the August 14th, 2020 letter of Timothy Dean, Chairman of the Dutchess County Industrial Development

1 DCIDA PUBLIC HEARING

2 Agency, designating me as the Hearing Officer
3 in this matter. With that, I'll open the
4 public hearing.

5 John, do you have something to say?

6 BY MR. HETTINGER: Forty-five Eastdale
7 Avenue is an approximately 12,000 square-foot
8 mixed use office and retail building located
9 on the northwest side of Route 44 adjacent to
10 Premier Medical Group, neurology division,
11 and across the street from Eastdale's --
12 Eastdale's newly opened commercial cottages.
13 If it's helpful, I could share my screen, if
14 that is doable, and provide a sense for just
15 the specific location. Can everybody see the
16 map of Eastdale Road?

17 BY THE HEARING OFFICER: Yes.

18 BY MS. LEE: Yes.

19 BY MR. HETTINGER: Perfect. So where
20 that cursor is right now is where 45 Eastdale
21 Avenue is located. This, of course, is Route
22 44, Dutchess Turnpike, a new traffic light
23 here. Eastdale Avenue north running towards
24 Premier is the phase of the project that is
25 currently being most actively developed

1 DCIDA PUBLIC HEARING

2 adjacent, obviously, to the first and second
3 phases of residential, and as I mentioned a
4 moment ago, right across Eastdale Avenue from
5 the newly completed and newly opened
6 commercial cottages, which we can get more
7 into during the actual Board meeting, but the
8 project -- I'll switch my screen if you'll
9 bear with me for one minute. Can everybody
10 now see the building elevation?

11 BY THE HEARING: Yes.

12 BY MS. LEE: Yes.

13 BY MR. HETTINGER: Wonderful. The
14 project is a two-story building. The ground
15 floor of the project will feature four
16 commercial spaces, Beasts of Beauty, Hudson
17 Valley Businesses, Pizzeria Posto, Bertolozzi
18 Physical Therapy, an affiliate of Elizabeth
19 Boutique and Craft Kup, and the second floor
20 will be occupied by Kirchoff Property
21 Management, Inc. which, through the facility
22 of this spearheading and development of
23 Eastdale Village and -- like each of the
24 tenants within this building is moving to the
25 project in order to either grow somewhat of a

1 DCIDA PUBLIC HEARING

2 real-estate related challenge to their
3 business or some combination of the two, and
4 the overriding reason -- the main reason why
5 this is possible is obviously because of the
6 benefits provided by the DCIDA and the
7 partnership that Eastdale Village continues
8 to enjoy with the IDA.

9 From a design perspective, 45 Eastdale
10 Avenue has a clean traditional look that
11 compliments the architectural monocular of
12 Eastdale Village generally, while still
13 remaining unique and unto itself. The first
14 floor commercial space of Eastdale Avenue
15 will have a name where you can pop trim, with
16 some brick accents, while the second floor
17 will be generally comprised of white James
18 Hardie lap siding. We have unique and
19 character-enhancing awnings and signage and
20 lighting that creates some -- some, again,
21 singular branding and marketing the
22 opportunities for the tenants and the
23 businesses, help them be as successful as
24 they can possibly be within Eastdale, and it
25 goes without saying that we're just incredibly

1 DCIDA PUBLIC HEARING

2 excited about this project and honored to
3 further extend our relationship with the IDA
4 through this process and through Eastdale, in
5 general.

6 BY THE HEARING OFFICER: One other
7 thing it's important to note is that Craft
8 Kup is staying on Raymond Avenue. This is an
9 expansion for the boutique. This is not a
10 replacement site, and the same thing goes
11 with Pizzeria Posto, which built their
12 business and are very well known in
13 Rhinebeck. They're going to keep that
14 flagship location in Rhinebeck. These are
15 growth opportunities that our users would not
16 otherwise have without their program, so,
17 thank you.

18 BY THE HEARING OFFICER: Thank you.
19 Now, just for some clarification, because
20 there may be some confusion about this. The
21 original documents here or the original
22 approvals here provided the pilot for the
23 entire project and that would apply to any of
24 the development that took place, and so those
25 are not being amended or changed in any way

1 DCIDA PUBLIC HEARING

2 as they come in. They fall under the pilot
3 provisions with each section, as originally
4 anticipated and approved. The schedules will
5 run from the completion of each in the little
6 areas as they go through. In particular
7 cases, I understand it -- as well, another
8 part of this is, that the originally approved
9 documents allowed the MHTC to -- as long as
10 MHTC was a principle owner, that there was no
11 need to come back to the Board for any
12 approval, and so while all of that was taking
13 place, the difference here is that even
14 though Kirchoff is part of all of this, and
15 this 45 Eastdale, LLC -- 45 Eastdale Avenue,
16 LLC though is not principally owned by MHTC
17 Development, and so you need the Board's
18 approval for that and we thought it best --
19 even though no new benefits are being granted
20 in any way -- this is part of the original
21 approvals -- we thought it best to have a
22 public hearing to hear the public on this
23 because we are making amendments, and so I
24 would ask if any members of the public have
25 anything that they want to say, please

1 DCIDA PUBLIC HEARING

2 indicate.

3 BY MS. TIGNANELLI: Hi. This is Doreen
4 Tignanelli. I'd like to comment.5 BY THE HEARING OFFICER: Sure.
6 Please do, Doreen.7 BY MS. TIGNANELLI: So regarding MHTC
8 Development, 45 Eastdale Avenue, I'm opposed
9 to the issuance of any financial assistance
10 to the project. The July 16th, 2020 updated
11 application for financial assistance that was
12 referred to in the public hearing outlines
13 sales tax exemptions and a mortgage tax
14 exemption and it does not contain any
15 information regarding any real property tax
16 exceptions, so that's a little confusing,
17 because updated notice of public hearing
18 specifically said that the company was
19 seeking financial assistance with respect to
20 the granting of a real property tax exemption
21 and providing for payments in lieu of
22 property taxes. So, again, I didn't see
23 anything in that updated application
24 regarding a pilot. It's always the sales tax
25 and the mortgage tax exception, and if that's

1 DCIDA PUBLIC HEARING

2 the case, it seems odd that the \$51,428 in
3 sales tax and mortgage tax exemptions --
4 that's the total of the two -- that that
5 amount could not have been absorbed by the
6 applicants, their associated family trust and
7 their family entities without assistance of
8 the IDA. I also have a concern that the IDA
9 could be over-incentivising projects. There
10 was a recent article in the Poughkeepsie
11 Journal about the number of jobs created
12 compared to the tax exemptions given out by
13 the Dutchess County IDA and, Dutchess County
14 IDA compared to Orange County IDA, gave out
15 much more money than the Orange County for a
16 much smaller amount of jobs created. So,
17 again, I think that there is a possible
18 over-incentivising of projects, and the
19 original Eastdale application gave what could
20 be considered by some an ultimatum, that if
21 they didn't get the requested financial
22 assistance, then they would be forced to
23 donate the property to a not-for-profit for a
24 tax write-off, and then that would result in
25 a loss of tax revenue for taxing

1 DCIDA PUBLIC HEARING

2 jurisdictions, and last, regarding job
3 creation numbers, whether or not it's this
4 project or any other project, again, while
5 the IDA council has noted that there are
6 call-back provisions and recapture
7 provisions, these provisions don't mean
8 anything if the IDA doesn't ensure the
9 accuracy of job numbers in the audit by
10 Dutchess County Comptroller, Robin Lois,
11 which outlines some concerns about that, that
12 there was no formal monitoring process in
13 place regarding the unemployment number and
14 it wasn't clearing that the IDA --

15 (Interrupted)

16 MS. LEE: Doreen, you muted.

17 BY MS. TIGNANELLI: I'm sorry. I'm not
18 sure where I got muted.

19 BY THE HEARING OFFICER: We missed the
20 last sentence, that's all.

21 BY MS. TIGNANELLI: Well, again, I'm
22 just concerned about the accuracy of job
23 numbers that are provided to the IDA and
24 whether or not the IDA can accurately give
25 the projected -- projected job numbers the

1 DCIDA PUBLIC HEARING

2 the scrutiny they need in order to ensure
3 that the provisions can be enforced. Thank
4 you.

5 BY THE HEARING OFFICER:

6 Thank you, Doreen. Anyone else?

7 BY MR. BERETTA: I'm Jim Beretta. Good
8 morning to everybody. Ms. Lee informed me
9 that she received my written comments, so I'm
10 not going to go into every detail since you
11 have the written comments, but just in
12 general, I'm opposed to the granting of
13 financial assistance. Basically, I see this
14 as transfer tax to, you know, the rest of the
15 people in the county and the municipality,
16 and so it's a shift in tax burdens and, you
17 know, we're right in the middle of a
18 pandemic. Millions of people are out of work
19 in this country. There was recently -- the
20 Poughkeepsie Journal did an article recently
21 that said 38 percent of the people in the
22 Hudson Valley are -- struggle to make ends
23 meet and, you know, here we have a request,
24 you know, for financial assistance, you know,
25 where the application lists the owners of the

1 DCIDA PUBLIC HEARING

2 project. You know, there's several names
3 listed and also three family trusts. Now, I
4 say God bless anyone that's got a family
5 trust -- that's their personal business --
6 but when it comes to asking for public money
7 and 38 percent of the people in the Hudson
8 Valley struggle to make ends meet, I find
9 that to be a drastic imbalance, and I find it
10 hard to believe that the people that are the
11 owners' applicants if this project can't
12 afford to do the project without this
13 assistance. I'll also say that I looked over
14 the application and I didn't see any business
15 case. All I saw was a statement that said
16 that without the assistance, the project was
17 unaffordable, but I don't see any hard
18 numbers. I don't see any business case.
19 Thank you very much.

20 BY THE HEARING OFFICER: Thank you, Mr.
21 Beretta. I would like to indicate that,
22 again, as I stated at the beginning, this is
23 not a new project, and if these -- there are
24 two of these things could have been done
25 without any amendment from the Board of the

1 DCIDA PUBLIC HEARING

2 lease agreement, but under the terms of the
3 lease agreement, if one of the entities was
4 not owned by MHTC, they would have to come
5 back, but the amount of the benefits that
6 were granted were granted at the beginning of
7 this, including the overall pilot agreement,
8 including the mortgage and sales tax
9 provisions, so these are just extending onto
10 this. They have to come back to the Board
11 and get the Board's approval of this, and
12 under the circumstances, we don't -- under
13 statutes, we didn't even have to have a
14 public hearing, but we want to hear from
15 people like you about their thoughts, and I
16 appreciate that. These thoughts will be
17 provided to the Board. You've written yours
18 as well, and that's helpful, because that
19 will be -- your comments will be sent to the
20 Board and the Board will be considering this
21 at its meeting on the 9th of September.

22 Does anyone else have anything else to
23 add?

24 BY MS. LEE: Don, I'd just like to add,
25 as Jim mentioned, I did receive written

1 DCIDA PUBLIC HEARING

2 comments that will be part of the public
3 record from Mr. Beretta and Ms. Tignanelli.

4 BY THE HEARING OFFICER: That's fine.
5 Anyone else have anything to add?

6 With that, I will close the public
7 hearing. Thank you, everyone. I appreciate
8 it.

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	Don (1) 17:24	Jim (1) 17:25	percent (1) 16:7	
A	done (1) 16:24	L	personal (1) 16:5	U
add (3) 17:23,24;18:5	drastic (1) 16:9	lease (2) 17:2,3	pilot (1) 17:7	unaffordable (1) 16:17
afford (1) 16:12	E	LEE (1) 17:24	project (5) 16:2,11,12,16,23	under (3) 17:2,12,12
again (1) 16:22	else (3) 17:22,22;18:5	listed (1) 16:3	provided (1) 17:17	V
agreement (3) 17:2,3,7	ends (1) 16:8	looked (1) 16:13	provisions (1) 17:9	Valley (1) 16:8
amendment (1) 16:25	entities (1) 17:3	M	PUBLIC (7) 16:1,6;17:1,14; 18:1,2,6	W
amount (1) 17:5	even (1) 17:13	meet (1) 16:8	R	without (3) 16:12,16,25
applicants (1) 16:11	everyone (1) 18:7	meeting (1) 17:21	receive (1) 17:25	written (2) 17:17,25
application (1) 16:14	extending (1) 17:9	mentioned (1) 17:25	record (1) 18:3	3
appreciate (2) 17:16;18:7	F	MHTC (1) 17:4	S	38 (1) 16:7
approval (1) 17:11	family (2) 16:3,4	money (1) 16:6	sales (1) 17:8	9
assistance (2) 16:13,16	find (2) 16:8,9	mortgage (1) 17:8	saw (1) 16:15	9th (1) 17:21
B	fine (1) 18:4	much (1) 16:19	sent (1) 17:19	
back (2) 17:5,10	G	N	September (1) 17:21	
beginning (2) 16:22;17:6	God (1) 16:4	names (1) 16:2	several (1) 16:2	
benefits (1) 17:5	granted (2) 17:6,6	new (1) 16:23	stated (1) 16:22	
Beretta (2) 16:21;18:3	H	numbers (1) 16:18	statement (1) 16:15	
bless (1) 16:4	hard (2) 16:10,17	O	statutes (1) 17:13	
Board (5) 16:25;17:10,17,20, 20	hear (1) 17:14	OFFICER (2) 16:20;18:4	struggle (1) 16:8	
Board's (1) 17:11	HEARING (7) 16:1,20;17:1,14; 18:1,4,7	one (1) 17:3	T	
business (3) 16:5,14,18	helpful (1) 17:18	onto (1) 17:9	tax (1) 17:8	
C	Hudson (1) 16:7	over (1) 16:13	terms (1) 17:2	
case (2) 16:15,18	I	overall (1) 17:7	thoughts (2) 17:15,16	
circumstances (1) 17:12	imbalance (1) 16:9	owned (1) 17:4	three (1) 16:3	
close (1) 18:6	including (2) 17:7,8	owners' (1) 16:11	Tignanelli (1) 18:3	
comments (2) 17:19;18:2	indicate (1) 16:21	P	trust (1) 16:5	
considering (1) 17:20	J	part (1) 18:2	trusts (1) 16:3	
D		people (3) 16:7,10;17:15	two (1) 16:24	
DCIDA (3) 16:1;17:1;18:1				

From: [Jim Beretta](#)
To: [Sarah Lee](#)
Subject: Public Hearing comments, MHTC Development, LLC and 45 Eastdale Avenue, LLC,
Date: Wednesday, September 02, 2020 5:03:32 PM

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

Following are my comments for the Public Hearing on MHTC Development, LLC and 45 Eastdale Avenue, LLC,, scheduled, per the public hearing notice, for September 3, 2020 at 9:30 a.m.

1. I am opposed to a request for financial assistance for MHTC Development, LLC and 45 Eastdale Avenue, LLC, which, per the public hearing notice includes but may not be limited to:

"...an exemption from all state and local sales and use taxes with respect to the qualifying personal property included within the 45 Eastdale Avenue Facility or used in the construction, improvement, reconstruction, repair, renovation, installation, furnishing and equipping of the 45 Eastdale Avenue Facility and an exemption from all real estate transfer taxes and mortgage recording taxes with respect to any qualifying mortgage on the 45 Eastdale Avenue Facility (or such interest in the 45 Eastdale Avenue Facility as is conveyed to the Agency) ..."

2. There is no business case provided that demonstrates that this project is not economically feasible without financial assistance.

3. The legal notice for the subject project / hearing makes reference to a PILOT yet the application for continuation letter, dated July 16, 2020, makes no mention of a PILOT.

4. 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 some from paying taxes is antithetical to the gaps in municipal budgets and fairness for all other taxpayers.

5. 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 for-profit, non-tax-exempt projects.

6. 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.

7. 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).**

8. When the applicants consist of family trusts, indicating a magnitude of wealth, they can afford to pay the taxes on the project and not transfer the burden. From the application:

"Applicant: The ultimate ownership primarily comprises Joseph T. Kirchhoff, Christopher Dyson, and Molly Dyson, along with Trusts associated with the Kirchhoff family, the Dyson family and the Silver family. "

Sincerely,

Jim Beretta
Poughkeepsie

Sarah Lee

From: Doreen Tignanelli <doreentig@aol.com>
Sent: Wednesday, September 02, 2020 9:06 PM
To: Sarah Lee
Subject: Public Comment, 45 Eastdale Avenue Project, DCIDA Public Hearing, Sept 3, 2020

Ms. Lee, please include my comments as part of the official public record for the 9:30 am September 3, 2020 DCIDA Public Hearing regarding MHTC Development, LLC and 45 Eastdale Avenue, LLC project and share these comments with the DCIDA Chair and Board members.

1) I am opposed to the issuance of "Financial Assistance" to the 45 Eastdale Avenue Project in any form including, but not limited to, Mortgage Tax Exemption, Sales Tax Exemption and Payment in Lieu of Taxes (PILOT).

2) The July 16, 2020 updated application for financial assistance referred to in the Updated Notice of Public Hearing outlines Sales Tax Exemption of \$34,278 and Mortgage Recording Tax Exemption of \$17,150. The updated application does not contain any information regarding any Real Property Tax Exemption.

However, the Updated Notice of Public Hearing states "*The Agency is contemplating providing financial assistance (the "45 Eastdale Avenue Financial Assistance") to the Company with respect to the 45 Eastdale Avenue Facility by granting a real property tax exemption and providing for payments in lieu of real property taxes.*"

If a Real Property Tax Exemption is being requested, the public's opportunity to provide meaningful comment was hindered due to lack of information and lack of transparency relating to project materials.

3) If the request for financial assistance is solely for Sales Tax Exemption of \$34,278 and Mortgage Recording Tax Exemption of \$17,150 and not for any real property tax exemption, it seems highly unlikely that the applicants and the associated family trusts and/or family entities outlined in the original and updated applications could not absorb the total amount of \$51,428 "for the continuing development of Eastdale Village" without assistance.

4) 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 such as the original Eastdale application contain what some might consider to be an ultimatum, namely that if the requested financial assistance was not granted, the applicants would "*be forced to donate the property to a Not-for-Profit for a tax write-off in order to minimize the loss impacts*" resulting in a loss of tax revenue for taxing jurisdictions.

5) 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