



NYS DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

RP-412-a (1/95)

INDUSTRIAL DEVELOPMENT AGENCIES
APPLICATION FOR REAL PROPERTY TAX EXEMPTION
(Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

1. INDUSTRIAL DEVELOPMENT AGENCY (IDA)

Name Broome County Industrial Dev. Agency
Street P.O. Box 1510
City Binghamton, New York 13902
Telephone no. Day (607) 584-9000
Evening () N/A
Contact Richard D'Attilio
Title Executive Director

2. OCCUPANT (IF OTHER THAN IDA)

(If more than one occupant attach separate listing)

Name Clover Communities Johnson City, LLC
Street 348 Harris Hill Road, Suite B
City Williamsville, New York 14221
Telephone no. Day () 716-204-1190
Evening () N/A
Contact Michael L. Joseph
Title Manager

3. DESCRIPTION OF PARCEL

- a. Assessment roll description (tax map no./roll year) 127.09-1-16.1 AND 127.09-1-30
- b. Street address 1035 Anna Maria Drive - Rear AND 1039 Anna Maria Drive
- c. City, Town or Village Village of Johnson City

d. School District Johnson City

e. County Broome

f. Current assessment \$1,250.00 AND \$300.00

g. Memorandum of Lease
Rec'd to IDA (date recorded; liber and page)

Rec'd: 9/27/11 in Book 2355 at
Page 357

4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans or specifications)

- a. Brief description (include property use) A 125 unit independent living apartment complex for senior citizens with 149 off street parking spaces.
- b. Type of construction Brick and mortar
- c. Square footage 133,734+/-
- d. Total cost \$8,093,000
- e. Date construction commenced September 1, 2011
- f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA) August 31, 2022

5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION

(Attach copy of the agreement or extract of the terms relating to the project).

- a. Formula for payment See attached PILOT Agreement

b. Projected expiration date of agreement August 31, 2022

c. Municipal corporations to which payments will be made

	Yes	No
County <u>Broome</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Town/City <u>Union</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Village <u>Johnson City</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
School District <u>Johnson City</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. Person or entity responsible for payment

Name Michael L. Joseph
 Title Manager
 Address 348 Harris Hill Road - Suite B
Williamsville, New York 14221

e. Is the IDA the owner of the property? Yes No (check one)

If "No" identify owner and explain IDA rights or interest Telephone (716) 204-1190
 in an attached statement. Property is owned by Clover Communities Johnson City, LLC
 and leased to the Broome County Industrial Development Agency.

6. Is the property receiving or has the property ever received any other exemption from real property taxation? (check one) Yes No

If yes, list the statutory exemption reference and assessment roll year on which granted:
 exemption _____ assessment roll year _____

7. A copy of this application, including all attachments, has been mailed or delivered on 12/1/11 (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

CERTIFICATION

I, Richard D'Attilio, Executive Director of
 Name Title
Broome County Industrial Development Agency hereby certify that the information
 Organization

on this application and accompanying papers constitutes a true statement of facts.

12/1/11
 Date


 Signature

FOR USE BY ASSESSOR

1. Date application filed _____
2. Applicable taxable status date _____
- 3a. Agreement (or extract) date _____
- 3b. Projected exemption expiration (year) _____
4. Assessed valuation of parcel in first year of exemption \$ _____
5. Special assessments and special as valorem levies for which the parcel is liable:

 Assessor's signature

PAYMENT IN LIEU OF TAXES AGREEMENT

THIS PAYMENT IN LIEU OF TAXES AGREEMENT (the "Agreement"), dated as of September 1, 2011, by and among CLOVER COMMUNITIES JOHNSON CITY, LLC (the "Company"), a limited liability company organized and existing pursuant to the laws of the State of New York, with offices located at 348 Harris Hill Road, Suite B, Williamsville, New York 14221 and the BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "Agency"), a public benefit corporation organized and existing under the laws of the State of New York, with offices located at 60 Hawley Street, P.O. Box 1510, Binghamton, New York 13902, collectively, the "Parties".

WITNESSETH:

WHEREAS, the Company intends to construct and operate a 133,734+/- square foot, 125 unit, independent living apartment complex for senior citizens with 149 off street parking spaces (the "Facility") on a two (2) lot parcel located at 1035 Anna Maria Drive-Rear and 1039 Anna Maria Drive, tax map parcel numbers 127.09-1-16.1 and 127.09-1-30, respectively, in the Village of Johnson City, Town of Union, Broome County, New York (the "Property"). The Facility and the Property are referred to herein collectively as the "Project"; and

WHEREAS, the Agency was created as a public benefit corporation pursuant to and for the purposes specified in Title 1 of Article 18-A of the General Municipal Law; and

WHEREAS, the Company has agreed to lease the Property to the Agency and has agreed to construct and operate the Facility thereon; and

WHEREAS, the Agency will lease the Project to the Company for an eleven (11) year term from September 1, 2011 through August 31, 2022; and

WHEREAS, in that the Agency is exempt from the payment of real estate taxes and certain assessments imposed upon real property, the Company has agreed that, notwithstanding such exemption, the Company will nevertheless make payments to the Village of Johnson City (the "Village"), the Town of Union (the "Town"), the Johnson City Central School District (the "School") and the County of Broome (the "County"), collectively, the "Taxing Entities", during the term of the lease in lieu of general tax levies as provided herein.

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed as follows:

1. TAX-EXEMPT STATUS OF THE PROJECT

A. General Assessment of the Project: Pursuant to General Municipal Law §874 and Real Property Tax Law §412-a, the Parties hereto understand that, upon acquisition of the Property by the Agency in 2011, and provided the Project continues to be leased by the Agency, the Project shall be assessed by the Taxing Entities as exempt upon the assessment rolls of the respective Taxing Entities for the term as provided below.

B. Water and Sewer Charges and Special Assessments: The Parties hereto understand that the tax exemption extended to the Agency by General Municipal Law §874 and Real Property Tax Law §412-a does not entitle the Agency to exemption from water and sewer charges, fire district charges, if any, or special assessments and special ad valorem levies. Commencing on the date hereof, and continuing during the term of the lease, the Company will be required to pay all water and sewer charges, fire district charges, if any, special assessments and special ad valorem levies lawfully levied and/or assessed against the Project.

2. AMOUNT OF PAYMENTS IN LIEU OF TAXES

A. During the period that the Facility is leased by the Agency pursuant to a

Lease Agreement with the Company, the Company agrees to pay to the Taxing Entities the percentage of full real property taxes as set forth in Exhibit "A" attached hereto that would have otherwise been levied on the Project if the same were subject to full real property taxation.

B. Pursuant to Section 858(15) of the General Municipal Law, the Agency agrees to give each of the Taxing Entities a copy of this PILOT Agreement within fifteen (15) days of the execution and delivery hereof, together with a request that a copy thereof be given to the appropriate officer or officers with respect to each taxing jurisdiction responsible for preparing the tax rolls for said jurisdiction, together with a request that said officer or officers submit to the Company, and the appropriate receiver of taxes, periodic statements specifying the amount and due date or dates of the payments due to each hereunder. Such periodic statements to be submitted to the Company at approximately the times that tax bills are mailed by such jurisdictions.

C. Pursuant to Section 874(5) of the General Municipal Law, if the Company shall fail to make any timely payment required by this PILOT Agreement, the Company shall pay the same, together with a late payment penalty equal to five percent (5%) of the amount due. If the Company shall remain in default beyond the first month after such payment is due, the Company shall thereafter pay a late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due thereunder is delinquent beyond the first month, plus interest thereon to the extent permitted by law at the greater of (a) one percent (1%) per month, or (b) the rate per annum which would have been payable if such amount were delinquent taxes, until so paid in full.

D. Pursuant to Section 874(6) of the General Municipal Law, if the Company should default in performing any of its obligations, covenants or agreements under this

Agreement and the Agency, or any Taxing Entity, should employ attorneys or incur other expenses for the collection of any amounts payable hereunder, or for the enforcement or performance or observation of any obligation, covenant or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefore, pay to the Agency or such Taxing Entity, as the case may be, not only the amounts adjudicated due hereunder, together with the late payment penalty and interest due thereon, but also reasonable fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred whether or not an action is commenced.

3. ADDITIONS TO PROJECT

Should the Company, during the term of this Agreement, cause to be constructed on the Property any addition to the Project, then such addition shall be assessed and real estate taxes imposed in the same manner as all other non-tax-exempt real property is then being assessed and taxed by the Village, Town, School and County, unless otherwise agreed by the Parties and Taxing Entities hereto.

4. TERM OF AGREEMENT

This Agreement shall become effective, and the obligations of the Company shall arise absolutely and unconditionally, upon (a) the execution of this Agreement by the Agency and the Company, (b) the execution and filing of Real Property Tax Form RP-412-a with the Assessor of the Town of Union, and (c) the delivery, by first class mail, of a copy of this Agreement and Real Property Tax Form RP-412-a to the Village, the Town, the School and the County. If the conditions required above are not completed on or before December 31, 2011, then this Agreement shall become null and void. This Agreement shall continue to remain in effect through August 31, 2022, or the date upon which the leasehold interest to the Project is no longer

held by the Agency, including a change of title due to foreclosure, whichever shall be sooner.

5. PRIORITY

The Parties do hereby agree that payments due hereunder shall be accorded a lien priority equivalent to the lien of unpaid real property taxes as provided in the Real Property Tax Law of the State of New York and, as such, shall have priority over any mortgages or other liens filed against the Property. In addition, the Village, the Town, the School and the County shall have the same rights afforded by the Real Property Tax Law regarding the collection and enforcement of unpaid taxes.

6. REPRESENTATIONS OF THE COMPANY

The Company represents and warrants that:

- A. It is duly organized as a limited liability company in good standing in accordance with the laws of the State of New York.
- B. It has full power and authority to execute and deliver this Agreement and to perform its obligations.
- C. This Agreement constitutes a legal, valid, and binding obligation of the Company enforceable in accordance with its terms.
- D. To the best of its knowledge, the execution and delivery of this Agreement does not, and the performance of this Agreement will not, violate any law, regulation, ordinance, judicial order, judicial decree, or any agreement, indenture, note, or other instrument to which it is a party.
- E. To the best of its knowledge, there is no claim, action, arbitration, or administrative proceeding pending, threatened against, or involving the Company which, if adversely determined, would question the validity of this Agreement or have a material adverse

effect on the financial condition of the Company.

7. RECAPTURE OF BENEFITS

The Agency reserves the right to recapture the benefits provided through the abatement of real property taxes in the event that the Company's performance is substantially different than anticipated as defined below:

- A. Sale or foreclosure of the Project and a departure of the Company from Broome County;
- B. Significant change in use of the Project and/or the business activities of the Company; and
- C. Significant employment reductions not reflective of the Company's normal business cycle and/or local or national economic conditions.

In cases deemed to meet one or more of the above conditions, the following recapture shall apply:

<u>Period</u>	<u>Accumulative Amount of Recapture</u>
Within 1 Year	100%
Within 2 Years	75%
Within 3 Years	50%
Within 4 Years	25%
After 4 Years	0%

8. AMENDMENT OF AGREEMENT

This Agreement may not be amended, changed, modified, altered or terminated unless such amendment, change, modification, alteration or termination is in writing intended for such purpose and executed and delivered by each of the Parties hereto.

9. BINDING EFFECT

This Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Company and their respective successors and assigns, regardless of the tax exempt

status of any successor or assign.

10. NOTICES

All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently deemed given when sent to the applicable address stated below by registered or certified mail, return receipt requested, or by such other method as shall provide the sender with documentary evidence of such delivery. The addresses to which notices, certificates or other communications hereunder, shall be delivered are as follows:

To the Company: Clover Communities Johnson City, LLC
348 Harris Hill Road, Suite B
Williamsville, New York 14221
Attn: Manager

To the Village: Village of Johnson City
243 Main Street
Johnson City, New York 13790
Attn: Mayor

To the School: Johnson City Central School District
666 Reynolds Road
Johnson City, New York 13790
Attn: Superintendent

To the Town: Town of Union
3111 East Main Street
Endwell, New York 13760
Attn: Supervisor

To the County: Broome County
60 Hawley Street
P.O. Box 1766
Binghamton, NY 13901
Attn: County Executive

To the Agency: Broome County Industrial Development Agency
60 Hawley Street
P.O. Box 1510
Binghamton, New York 13902
Attn: Executive Director

A duplicate copy of each notice, certificate or other communication given hereunder shall be given to each Party and Taxing Entity. Any person entitled to notice may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

11. SEVERABILITY

If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall, for any reason, be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent, and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

12. COUNTERPARTS

This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

13. APPLICABLE LAW

This Agreement shall be construed in accordance with the laws of the State of New York. Venue for any action or proceeding shall be in Broome County, New York.

14. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the Parties and shall not be modified unless in writing and signed by all of the Parties hereto in the same manner as this Agreement is executed.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be duly executed the date set forth herein.

CLOVER COMMUNITIES JOHNSON CITY, LLC

By: Clover Communities GP, LLC

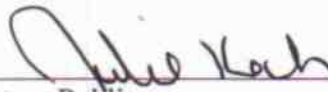
By: _____
Michael L. Joseph, Manager

BROOME COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Richard D'Attilio, Executive Director

STATE OF NEW YORK :
: ss.:
COUNTY OF Erie :

On this 19 day of September, in the year 2011, before me, the undersigned, a Notary Public in and for said state, personally appeared MICHAEL L. JOSEPH, personally known to me, or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

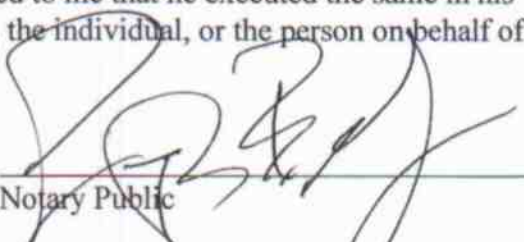


Notary Public

JULIE KOCH
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Nov. 23, 2013

STATE OF NEW YORK:
: ss.:
COUNTY OF BROOME:

On this 15th day of September, in the year 2011, before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD D'ATTILIO, personally known to me, or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



Notary Public

JOSEPH B. MEACHER
Notary Public, State of New York
Broome County 02ME4974837
Commission Expires Nov. 26, 2014

