

STATE OF NEW YORK

COUNTY OF BROOME

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Broome County Industrial  
Development Agency  
Public Hearing Regarding  
Upstate SK LLC

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Proceedings held on Tuesday, the 2nd day of July,  
2013, commencing at 7:02 p.m.

BEFORE: Ruth I. Lynch  
Registered Professional Reporter  
Registered Merit Reporter  
NY/PA Notary Public  
28874 State Route 171  
Susquehanna, PA 18847  
(570) 396-1459

1 MR. MEAGHER: Good evening, ladies and  
2 gentlemen. My name is Joseph Meagher, and I'm  
3 counsel to the Broome County Industrial  
4 Development Agency.

5 This evening we're conducting a hearing  
6 pursuant to General Municipal Law Section 859A,  
7 the purpose of which is to seek comment from  
8 the public on an application for financial  
9 assistance that has been submitted by  
10 Upstate SK LLC, Sheedy Road, LLC, and Juneberry  
11 Road, LLC, in connection with a proposed  
12 148,400-square-foot multi-use senior long-term  
13 care campus to be used as three New York State  
14 Department of Health licensed health-related  
15 facilities;

16 One, a hundred-and-sixty-bed skilled  
17 nursing facility consisting of approximately  
18 119,250 square feet;

19 Two, a 40-bed assisted living program  
20 facility consisting of approximately 24,978  
21 square feet;

22 And, three, a 31 registrant adult care  
23 health program facility consisting of  
24 approximately 4,168 square feet;

25 Each with separate public entrances,

1 parking lots, an additional loading zone for  
2 two tractor trailers, stormwater management,  
3 and other ancillary facilities, located on a  
4 19.04-acre site at 1501 Route 26 South in the  
5 Town of Vestal, County of Broome and State of  
6 New York.

7 The acceptance of the filing of this  
8 application by this agency does not infer any  
9 position on the approval or disapproval of the  
10 financial assistance requested. No position  
11 will be taken by the Agency until this public  
12 hearing is concluded and the results thereof  
13 are reported to the Board of Directors.

14 A copy of the application, along with  
15 the cost benefit analysis prepared by the  
16 Agency, is available for your review.

17 Notice of this hearing was published in  
18 the Press and Sun-Bulletin on June 20th, 2013.

19 I request that each person wishing to  
20 speak state his or her name, and if you are  
21 speaking on behalf of an entity or an  
22 organization please identify that entity or  
23 organization. The hearing will remain open  
24 until all public comment is concluded.

25 You'll notice off to my right is a

1 court reporter who's taking down everything  
2 that is said. That will be put together in a  
3 transcript that will be provided to the Board  
4 of Directors for their review.

5 At this time I'm going to ask Richard  
6 D'Attilio, the Executive Director of the IDA,  
7 to explain the tax benefits that have been  
8 requested by the applicant in this case.

9 MR. D'ATTILIO: First let me say this  
10 is a relocation and reconstruction and an  
11 expansion of what we all know as the old Vestal  
12 Nursing Home on Old Vestal Road.

13 AN ATTENDEE: Is it possible to get a  
14 mic on him?

15 MR. D'ATTILIO: I've got a frog in my  
16 throat.

17 AN ATTENDEE: Can you come up closer?

18 MR. D'ATTILIO: Again, this is -- this  
19 is -- this facility, as we all know, has been  
20 hit twice; once in 2006 where it was severely  
21 damaged, and significant reinvestment was put  
22 into that facility; and most recently in 2011  
23 where it was devastated beyond any repair  
24 whatsoever. The investors and owners of the  
25 former nursing home from my perspective should

1           be commended as outside investors in the  
2           community. They are willing to re -- re-invest  
3           in this community, not only to rebuild what  
4           they had but also to rebuild something much  
5           more expanded in terms of its scope.

6                     You may not know it but the building is  
7           a skilled nursing facility that also will be  
8           providing adult day care, as well as assisted  
9           living. I got those a little bit backwards,  
10          but it's basically a three-tier project that  
11          would allow folks to basically move from one,  
12          one level of care to the skilled level of care.

13                    The primary benefits that the Agency is  
14          basically offering at this particular point in  
15          time is being discussed with the developer.  
16          There are no special incentives being provided.

17                    I should state that the incentives  
18          that -- that have been requested of us are a  
19          standard payment annuity tax program. In some  
20          cases large projects of this nature come to us  
21          and through the working with the Town  
22          negotiating special incentives. In this case  
23          it's strictly a standard boilerplate, if you  
24          will, payment annuity tax program.

25                    First let me say that we've been

1 provided information by the developer in order  
2 to be able to do the cost benefit analysis. We  
3 are -- we expect this project to look at about  
4 \$33.7 million in investment. They've advised  
5 us that there will be a hundred and fifteen new  
6 jobs created. And they will retain another  
7 hundred and thirty-five jobs that already  
8 existed, so that's a total of 250 jobs we  
9 would have lost had they not decided to  
10 re-invest in the community.

11 The basic payroll on an annual basis,  
12 which is including all salary and benefits, is  
13 a little over \$4.5 million.

14 When we do the cost benefit analysis,  
15 we run it through a ten-year period. The  
16 reason for that is that's the term of the  
17 benefits that we are providing. So over a  
18 ten-year period we're talking about a  
19 45 million, little over \$45 million total  
20 payroll for the 250 employees.

21 In addition, we also include the  
22 payment of taxes under the pilot. And in this  
23 particular case, over a ten-year period the  
24 project will pay \$5.4 million in taxes under  
25 the pilot agreement. Abatement, in relative

1 comparison, is \$3.2 million. So you can see  
2 that the pilot payment will exceed the actual  
3 benefit of the incentives.

4 So with that said, the total benefit of  
5 the project, including the payment of the  
6 pilot, is \$84.8 million. The cost to the  
7 community basically is sales tax abatement,  
8 which is another benefit, and that's estimated  
9 to be \$1.2 million. That's based on a  
10 \$30 million project. Half of those costs  
11 typically would be considered materials and  
12 sales tax items. And that's how we arrive at  
13 the \$1.2 million.

14 Mortgage recording tax, we're  
15 estimating it would probably be about \$300,000  
16 based on a \$30 million mortgage.

17 These are pro forma numbers, I should  
18 say, these are not audited numbers at this  
19 point, because the project really has not been  
20 completed in terms of real dollars. These are  
21 project budgets that have been provided to us.

22 So that said, the total cost, if you  
23 will, is \$4.4 million. In comparison to the  
24 \$84.8 million in benefits, we end up with about  
25 20 to 1 benefit to cost ratio for the

1 project. Which basically is a very strong  
2 cost, cost to benefit ratio.

3 As Joe said, this project is before the  
4 Agency. And it's not approved at this point in  
5 time. Your comments are welcome and  
6 considered and will be presented to the Board  
7 in total through the transcript that's being  
8 provided.

9 Thank you.

10 MR. MEAGHER: At this time I'm going to  
11 ask if the representatives of the application  
12 wish to be heard?

13 MR. KAMLET: I'm Ken Kamlet, with  
14 Hinman, Howard, and Kattell. I'll just make a  
15 very brief comment with respect to the  
16 benefits. As Dick indicated, during the  
17 10-year period of the abatement, the benefit to  
18 cost ratio is about 20 to 1. The useful life  
19 of the project is more like 30 years. So one  
20 can multiply the benefits at least by a factor  
21 of 3 to take that into account.

22 Also during that 30-year period there  
23 are no abatements being provided and the  
24 project is paying full taxes. So as a  
25 consequence of that, I -- I think by one



1 relevant measure the actual benefit to cost  
2 ratio is well in excess of a hundred to one  
3 rather than the 20 to 1 ratio that the IDA  
4 conservatively relies on. So I just thought I  
5 would inject that.

6 If there are other questions that arise  
7 later, Denise Johnson and I will try to  
8 respond.

9 MR. MEAGHER: Thank you. And I'll take  
10 comments now from the audience. And again, if  
11 you would state your name prior to speaking,  
12 and if you're representing a group please  
13 identify that group.

14 Does anyone else wish to be heard?  
15 Gentleman?

16 MR. MAXIM: Yeah, my name is Bob Maxim.  
17 I live on 104 David Avenue in Vestal.

18 This gentleman mentioned something  
19 about a sales tax? And how -- how -- what --  
20 could you repeat that? I wasn't fully  
21 understanding.

22 MR. D'ATTILIO: The benefits that --  
23 that pass through the Agency here are  
24 not-for-profit status. So as a result of that  
25 we are able to provide an exemption under the



1 neighborhood surrounding this development has  
2 to pay taxes and has suffered flooding.  
3 Further down the road there's been significant  
4 flooding.

5 The Town can't take care of its  
6 infrastructure, they can't hire people because  
7 they need tax dollars. And no matter where the  
8 tax break is seen, it's still a tax break.  
9 We're not getting any breaks.

10 One of the things I'd like to point  
11 out; Mr. Stife, one of the owners, I believe,  
12 was able to assume a HUD mortgage after it was  
13 defaulted upon. I'm looking at a substantial  
14 amount of evidence here that the developer and  
15 the Upstate SK LLC has substantial enough  
16 assets that, you know, quite frankly I think  
17 it's ridiculous that they're asking for any  
18 consideration in, you know, tax breaks  
19 whatsoever. Especially at this time.

20 Everybody's crying about high taxes.  
21 Everybody here I know is stretching their  
22 dollar as thin as possible. I -- quite frankly  
23 I'm not against the project. I do have a  
24 problem when businesses come in and I start  
25 doing a little research into their background,

1 and I'm going jeez, they own this, they own  
2 that, they're tied in with Bridgewater over  
3 here, they've got another place in Spring --  
4 what is it, Spring Valley; they've spent in  
5 20 -- 2012 alone \$24,000 in lobbying fees.

6 Let's see here, 2011.

7 If you don't mind I got to sit down  
8 here, I have a lot of stuff.

9 In 2011 they could afford \$61,266 in  
10 lobbying fees. And, you know, everybody here,  
11 I mean just this weekend I'm digging a trench,  
12 we're digging a trench down in my neighborhood.  
13 The Town of Vestal says we're going to get to  
14 you, we're going to get to you. Why? Well, we  
15 can't hire anybody, we don't have the money.  
16 And then I read the stuff that okay, he can  
17 hire -- he can assume a HUD mortgage. After  
18 the business defaulted on.

19 I -- I find it as a slap in the face to  
20 the neighborhood that is going to suffer a  
21 substantial change from traffic, I mean you're  
22 taking a rural neighborhood and kicking in --  
23 kicking it into an urban environment. And it's  
24 not sitting well with a lot of the people in  
25 the neighborhood. Primarily because of

1 problems that haven't been addressed, with the  
2 excuse by the Town or whomever that they need  
3 tax dollars, they don't have the manpower and  
4 the likes of that.

5 I, quite frankly, am a little tired of  
6 subsidizing businesses. And I have been in  
7 municipal government for 32 years. I've seen  
8 LLCs come into town, get these beautiful deals,  
9 take the money and run, laughing all the way.  
10 And you can't even go after them. I've seen  
11 that way too many times.

12 Now, my question, one of the questions  
13 I have, is granted the IDA is going to hold the  
14 title to that property and they're leasing the  
15 management to Upstate SK LLC. Is that correct?

16 MR. MEAGHER: That will be a transfer  
17 similar to that, either a lease leaseback or a  
18 sale leaseback.

19 MR. ZYSKOWSKI: Okay, so the IDA is  
20 going to hold this property.

21 Now let's just say by some strange  
22 event they default. Is the IDA going to pick  
23 that up?

24 MR. MEAGHER: Default on?

25 MR. ZYSKOWSKI: Their mortgage. Or

1           it's just -- is the IDA holding the entire --

2                   MR. MEAGHER: The IDA will assume no  
3           responsibility on the mortgage.

4                   MR. ZYSKOWSKI: Okay, now how much  
5           property does the IDA own in Broome County  
6           that's vacant at this time? That is off the  
7           tax rolls?

8                   MR. D'ATTILIO: I --

9                   MR. ZYSKOWSKI: Correct me if I'm wrong  
10          but when a property is vacant --

11                   MR. D'ATTILIO: I'll do a very quick  
12          synopsis of the ownership that the IDA has. As  
13          Joe points out, we have nominal title to a lot  
14          of property. All of it is owner occupied for  
15          the most part that I'm aware of. We don't own  
16          anything for our own portfolio except a  
17          building in the Corporate Park in Conklin,  
18          which is occupied; the L3 building is -- is  
19          occupied by Link. We have a small building in  
20          Deposit which we have a day-care center in.  
21          But all of the other properties that we -- we  
22          actually have title to are for the benefit of  
23          our clients, much like it would be in this  
24          particular instance.

25                   So we have very -- we have no property

1           that I'm aware of that's vacant.

2                       MR. ZYSKOWSKI:   Okay.   One of the  
3           things, 'cause I'm kind of amazed at that from  
4           some of the details I've seen.   But one of the  
5           things I'm seeing here is Upstate SK LLC is  
6           also tied in with Upstate Services Group in  
7           Syracuse, and also downstate, so I'm looking at  
8           a lot of nursing homes that are under this  
9           umbrella, and I'm still kind of amazed; I'm  
10          looking at a lot of assets here, a lot of  
11          money.

12                      I've heard a lot of figures thrown out  
13          there that we really haven't been shown, we  
14          haven't been given the time to digest and  
15          review.   But just off the cuff, scanning this,  
16          I'm baffled why an entity with so much capital  
17          behind it is asking for any special  
18          consideration.   You got \$9.2 million.   Now you  
19          want a HUD mortgage.   And who's that backed by?

20                      Come on.   Vestal's flooded how many  
21          times, Broome County has flooded how many  
22          times.

23                      I have no qualms of people coming to do  
24          business, beautiful, I'll go do business with  
25          ya.   But please don't beg for a break when

1 every -- just about every year down in our  
2 neighborhood we're cleaning up after flood  
3 waters, runoff. I mean Vestal, this building  
4 we're in they want to get out of because of  
5 floods, and it's all going to be tax dollars.  
6 We can't keep giving it away. We have to  
7 account for it.

8 And sure you can say there's a  
9 tradeoff, we give you a break today, but how  
10 much actual tax, sales tax revenue, are we  
11 going to lose? I mean I know the County,  
12 County's already fighting with the  
13 municipalities over a 50/50 split, they don't  
14 want to give up anything. What's that tell ya?  
15 We're in some dire times.

16 I know over in Endicott the plastics  
17 manufacturing facility rescinded their pilot  
18 request. I ask that it happens here.

19 We're in tough times, and I think it's  
20 really a slap in the face to Broome County and  
21 especially a neighborhood that is going to  
22 change really quick.

23 Right now there's going to be two  
24 entities, once the other community center is  
25 built, they're both going to be tax exempt.



1 Now here's a third property is going to be a  
2 tax deal. Not even 500 yards away from each  
3 other, we've got 3 special tax deals going on.  
4 And I'm supposed to smile and say oh, yeah,  
5 beautiful. Here, take my tax money, give it to  
6 somebody else; and then I look at the dollars,  
7 look at their assets, look at the number of  
8 nursing homes they have.

9 No, I'm sorry, if they want to build  
10 it, build it. But I'm against the pilot  
11 100 percent.

12 MR. MEAGHER: Okay. Does anyone else  
13 wish to be heard?

14 Yes.

15 MS. GRIFFITH: My name's Kate Griffith.  
16 I live in Vestal. It's more of a question. I  
17 thought that IDA supported businesses be -- and  
18 there was a connection there has to be job, to  
19 show job growth. So how many jobs, more jobs,  
20 would be created by this? Is that -- is there  
21 a -- I mean am I -- is my premise okay that the  
22 IDA has to --

23 MR. D'ATTILIO: In part. We take a lot  
24 of factors into consideration relative to the  
25 economic benefit to the community. In addition

1 to the financial aspects of it. But to answer  
2 your specific question, there's a hundred and  
3 fifteen new jobs being projected for this  
4 project, and also the retention of those jobs  
5 had this not -- this project not gone forward.  
6 The 250 people who were working in the former  
7 facility would not be working; conceivably they  
8 would be working in other facilities but we are  
9 retaining them for this particular project to  
10 support the growth of the -- of the facility  
11 itself.

12 MS. GRIFFITH: But a hundred fifteen  
13 new --

14 MR. D'ATTILIO: A hundred and fifteen  
15 new.

16 MS. GRIFFITH: Thank you.

17 MR. KRAFT: Phil Kraft, I also live in  
18 Vestal. That's with a K.

19 To expand on Kate's point about jobs,  
20 I'd like to address, I think Miss Johnson's  
21 here tonight? I'd like to ask her when the  
22 older facility was functioning about how many  
23 representative jobs there were held by Vestal  
24 residents?

25 MS. JOHNSON: I can't answer that,

1 really. We -- we employ -- we can't say --

2 UNIDENTIFIED SPEAKER: You can't say  
3 about future jobs because they haven't  
4 happened.

5 MS. JOHNSON: We employ people from  
6 local as well as out of town.

7 MR. KRAFT: But you don't have a  
8 breakdown?

9 MS. JOHNSON: Not off the top of my  
10 head.

11 MR. KRAFT: So conceivably in addition  
12 to Broome County there could be jobs held by  
13 people coming from P.A., right across the state  
14 line.

15 MS. JOHNSON: Conceivably, yeah.

16 MR. KRAFT: Thank you.

17 MR. MEAGHER: Yes.

18 MS. ROTH: I'm a resident of Vestal,  
19 Sandra Roth. The longer I sit here, the more I  
20 hear, the more I know how little I know about  
21 this. However, I do have some personal input  
22 that I wanted to get out there, and that is we  
23 do need a nursing home in Vestal. My husband  
24 was in Vestal Park when the flood occurred, he  
25 was transferred to Binghamton. I hesitated to

1 sign him in. I didn't even get to see him for  
2 three days 'cause I couldn't get there. When I  
3 finally got there, they immediately wanted me  
4 to sign him in because he, fortunately, did get  
5 a bed immediately, whereas most of them were in  
6 a large room down on the first floor with  
7 nothing but shields and partitions between  
8 them. And very difficult situations for people  
9 that are handicap.

10 I finally looked at the woman, and I  
11 said do I have to sign him in today?

12 And she said if you don't sign him in,  
13 you're going to be traveling to Syracuse or  
14 Oneonta or Norwich.

15 Does that tell you anything? We empty  
16 one nursing home, and everything else is so  
17 full. We got to travel that far? Even  
18 traveling to Binghamton was a -- not just an  
19 inconvenience but a difficulty for me for the  
20 entire winter. Because I was not able to get  
21 him back into the Vestal Park in the Willow  
22 Point section, I should say that the other way  
23 around, the Vestal Park section of the Willow  
24 Point Nursing Home, until the middle of May.  
25 And I was happy to be able to even do that. I



1           because I've just been looking at places for a  
2           friend of mine, not a relative but a friend,  
3           and I know there is a need for nursing homes.  
4           However, the assisted living and adult care and  
5           independent living right now at this area are  
6           not needed. There are a lot of vacancies, in  
7           fact there's a competition between some of the  
8           facilities for people at that level.

9                         Now, I agree that there -- everybody  
10           says oh, yes, because of Vestal Nursing Home  
11           closing we definitely need, we need the nursing  
12           beds, but I'm wondering if anybody -- actually  
13           at my age I'd like one of those other kind of  
14           things to move into but I don't -- I'm  
15           wondering if we really need that in this area.  
16           That's going to be a lot of what you're doing  
17           by expanding.

18                        Another question I have, and I don't  
19           know whether this is really relevant or not,  
20           but, when I first heard about this project I  
21           came to the hearing when they talked about, you  
22           know, the environmental conditions and things  
23           like that, and I made some comments. I've been  
24           away, I think that's all been settled now. But  
25           I am wondering about the fact that the --

1           since -- since I -- while I was gone, Cuomo got  
2           this bill passed where they could get  
3           exemptions around universities. And that's  
4           going to have a big effect on Vestal, I think.  
5           To me, with the university we're going to lose  
6           a lot of tax dollars with business starting in  
7           that area. And I kind of question saying it  
8           would be okay to do this, but Vestal is really  
9           in trouble. They're really gonna be in trouble  
10          because of the tax free zone around the  
11          university. So because of that I'm sort of  
12          opposed to them giving away anything else.

13                   MR. MEAGHER: Thank you.

14                   Anyone else?

15                   MR. KAMLET: Joe, can I respond to  
16          Cindy's concern about the --

17                   MR. MEAGHER: Please.

18                   MR. KAMLET: -- new program that  
19          Governor Cuomo got through the legislature  
20          recently?

21                   My understanding is that in the final  
22          version of that legislation, before a site can  
23          be taken off the tax rolls in a locality, you  
24          know, even right next to the university, as  
25          long as it's off the university campus, which

1 is already tax exempt, the -- the local  
2 municipality has to agree to taking it off the  
3 tax roll. Without the consent of the local  
4 government, it can't participate in that  
5 program and get the tax benefits that are laid  
6 out in the new legislation. That -- that is  
7 the difference from the original Tax Free New  
8 York proposal as the governor initially  
9 proposed it.

10 MS. WESTERMAN: I don't -- I don't know  
11 about.

12 MR. MEAGHER: Thank you. Anyone -- and  
13 I'm going to let you speak again but I don't  
14 want you monopolizing, there's other people who  
15 haven't spoken, so does anyone?

16 MR. REYNOLDS: Dan Reynolds, I'm county  
17 legislator for this district. I have one  
18 question in particular. You mentioned the  
19 sales tax break that they were getting. Is  
20 there anything that would require the  
21 construct -- the people that are going to be  
22 doing the construction to buy the materials  
23 local if they're going to be getting the sales  
24 tax break?

25 MR. D'ATTILIO: In our -- in our due



1 diligence process we work with the developer to  
2 make them clearly understand the fact that in  
3 our application there's a citation, it's not a  
4 mandate but it's very strongly worded in our  
5 certification base that we encourage very  
6 strongly that local labor and local services  
7 and local products be -- be used in the  
8 project. Stopping short of mandating, we -- we  
9 certainly make sure that that message is -- is  
10 delivered.

11 MR. REYNOLDS: Is there a reason why  
12 IDA wouldn't mandate?

13 MR. D'ATTILIO: Well, I -- I guess  
14 we've been through this over the years in terms  
15 of putting a stronger -- stronger wording in it  
16 in terms of, if you want to just call it in  
17 general buy local. And I think the Board of  
18 Directors had come to the conclusion that, you  
19 know, basically putting a border around our  
20 community may very well have adverse effects,  
21 if some of our contractors or service providers  
22 or -- or suppliers would be excluded from going  
23 to Tioga County or any other county or any  
24 other community in New York.

25 So this is a somewhat free society. I

1 think the general tone of the -- of the Board  
2 was that we wanted to make sure that we had  
3 open doors for -- for our investors, and at the  
4 same time also very strongly encourage them to  
5 use local -- local contract, both labor  
6 services and suppliers.

7 MR. REYNOLDS: To follow up on the jobs  
8 that were -- are potentially going to be  
9 created, were those jobs at the facility or are  
10 they construction jobs, or what types of jobs  
11 are you talking about?

12 MR. D'ATTILIO: The jobs that I  
13 referred to here are strictly at the facility.  
14 Not construction jobs.

15 MR. REYNOLDS: They don't account for  
16 any construction jobs that would be created as  
17 a result of the project?

18 MR. D'ATTILIO: No.

19 MR. REYNOLDS: Okay. Thanks.

20 MR. MEAGHER: Okay. Anyone else?

21 I'm going to go back to Mr., I forgot  
22 your name already.

23 MR. ZYSKOWSKI: Ed Zyskowski.

24 Okay, I'm just kind of wondering what  
25 is going to happen to the old facility on Old

1 Vestal Road. Anybody have an idea what's going  
2 to happen to that?

3 Also, I know there's concerns about  
4 nursing homes in the area but I early on sat in  
5 a meeting where the County was actually looking  
6 at possibly building a new nursing home up at  
7 the State Hospital grounds to replace Willow  
8 Point. Now I know they're looking at refurbishing  
9 Willow Point. And I just want to let everybody  
10 know, because this really hasn't gotten out to  
11 the media, that the County was actually looking  
12 at building a whole new facility at the State  
13 hospital.

14 And quite frankly, from everything I  
15 know in the neighborhood, and as you heard from  
16 other people, flooding potential, and granted  
17 they're going to build it up, but you still  
18 have a creek there, and I'll tell ya, it would  
19 have been nice if -- I mean 'cause your travel  
20 time is 5 minutes to 15 minutes; it would have  
21 been great if they built it up there at the  
22 State Hospital grounds. Because the State's  
23 looking to sell off a ton of property up there.

24 It would have been safe up in the  
25 facility, high and dry. And God forbid there's

1 a catastrophic event.

2 But I got a strange feeling the new  
3 facility may be surrounded by water at some  
4 point in time in the future.

5 MR. MEAGHER: Yes.

6 MR. KRAFT: Bill Kraft, Vestal.

7 UNIDENTIFIED SPEAKER: With a K.

8 MR. KRAFT: With a K, Bundt Hill  
9 Road. Right around the corner from Sheedy.

10 I guess I'll just ask this as plainly  
11 as I can. Has the IDA asked the developers  
12 whether they would continue to build if they  
13 did not get tax write-offs? This is a  
14 for-profit enterprise, quite -- much larger  
15 than for-profit enterprise, which as Mr., I'm  
16 sorry, Ed has -- has pointed out, has huge  
17 assets throughout the state. Across the state.  
18 And presumably the owners have done the numbers  
19 and decided whether they can make money on this  
20 enterprise just on the basis of conventional  
21 investments. Did you ask them, did the Board  
22 ask them in their application or formal or  
23 informal hearings whether they would proceed  
24 without the subsidy.

25 Thank you.



1                   MR. KRAFT: Just so I understand, and  
2                   make sure I heard you properly, you're saying  
3                   that they have indicated they would not proceed  
4                   if they didn't get the tax breaks.

5                   MR. D'ATTILIO: They have not said it  
6                   in that particular way but they have said it's  
7                   necessary for them to basically make the return  
8                   on investment that would encourage them to go  
9                   forward with this \$30 million project. It's  
10                  not -- it's not a black-and-white yes or no.

11                  MR. KRAFT: But you also said something  
12                  I want to make sure I understood, I wasn't  
13                  expecting part of your answer. Did you also  
14                  say you have no good way of auditing their  
15                  books or their claims in the application so you  
16                  don't?

17                  MR. D'ATTILIO: They wouldn't disclose.

18                  MR. KRAFT: They would not disclose?

19                  MR. D'ATTILIO: Generally clients will  
20                  not disclose to us, the public agency, their  
21                  financial records.

22                  MR. KRAFT: So this is based entirely  
23                  on a profit-making entity's claim that they  
24                  have X, Y, and Z subsidies or they will not  
25                  proceed with the project.

1 MR. D'ATTILIO: That is all the  
2 information they provide to us. We take it in  
3 good faith, they sign the certification page,  
4 which basically if it -- if there's a violation  
5 of any information or any -- any information  
6 provided to us, regarding the project,  
7 financing, we can default the project and  
8 basically convert it back to a fully taxable  
9 entity.

10 MR. KRAFT: But of course I don't  
11 understand how you would know if they violated  
12 any of the terms if you don't audit them.

13 MR. D'ATTILIO: It's not in our purview  
14 to audit, nor would they allow us to audit.  
15 It's just the only way I can answer your  
16 question.

17 MR. KRAFT: You're not allowed to audit  
18 them.

19 MR. D'ATTILIO: They wouldn't allow us  
20 to audit them.

21 MR. KRAFT: Did you --

22 MR. D'ATTILIO: If I were to come to  
23 your house and want to look at your tax  
24 returns, I mean it's simply - it's not that  
25 simple but it's similar.

1                   MR. KRAFT: Well, when the bank gave me  
2 a mortgage on my property on Bundt Hill Road,  
3 they wanted to look at my tax returns.

4                   MR. D'ATTILIO: We're not the financier.  
5 We -- we basically are providing benefits but  
6 the financing is done separate, and it's  
7 basically a nonrecourse financing so the  
8 Agency's not involved in the financial  
9 transaction per se. So we wouldn't be  
10 expected, nor would we really have a privilege  
11 or a right, to look at their financial records.

12                  MR. KRAFT: Wow, I'd really like to  
13 come to you for my remortgage. It sounds like  
14 a really good deal.

15                  MR. MEAGHER: Just so you understand  
16 also that many of the projects, including this  
17 one, are brought by sole source LLCs that have  
18 no financial background beyond this project and  
19 really don't even have numbers yet. They  
20 haven't even bid this project yet. They have  
21 no idea what the project -- they -- I mean they  
22 have an idea but the -- correct me if I'm  
23 wrong, Ken, has this been bid out yet? For  
24 construction?

25                  MR. KAMLET: I'm not sure exactly what



1 the status is.

2 MS. JOHNSON: Last I heard they were in  
3 the process of it.

4 MR. MEAGHER: Process. They -- at this  
5 point they haven't even -- they don't even have  
6 their own numbers yet.

7 MR. KRAFT: But you've got numbers for  
8 us tonight about tax benefits.

9 MR. MEAGHER: We're talking about what  
10 the tax benefits are in connection with this,  
11 as opposed to we've been given a guesstimate as  
12 to what it's going to cost to build this  
13 facility.

14 MR. D'ATTILIO: In fact, I should say  
15 that these benefits that we are talking about  
16 are projections. They could be higher, in  
17 terms of benefits to the community, and  
18 which -- they could possibly be lower in terms  
19 of cost. Once the true numbers are in. But  
20 these are the best estimates that are provided  
21 to us by the developer based on his budgeting.  
22 And they wouldn't go forward with it if they  
23 weren't within, let's call it inside the fence  
24 with those numbers.

25 MR. KAMLET: Okay, let me make two

1           comments, if I could. In response to that  
2           series of questions. One of them is that  
3           whether or not the IDA has closely audited the  
4           financials, I can assure you that HUD, which is  
5           providing a \$26 million mortgage for this  
6           project, has minutely scrutinized the  
7           financials, you know, stacks and stacks of  
8           documentation required by them. No stone has  
9           gone unturned in connection with that, that  
10          review. It's the most rigorous review I've --  
11          I've ever seen. Far more rigorous than --

12                   UNIDENTIFIED SPEAKER: Could we see it?

13                   MR. KAMLET: When that -- when that's  
14           completed I think the HUD paperwork is a matter  
15           of public record and could be accessed through  
16           the federal Freedom of Information Act.

17                   UNIDENTIFIED SPEAKER: You have not  
18           seen it?

19                   MR. KAMLET: I have not seen it myself,  
20           I've seen bits and pieces of it.

21                   The documentation that we assemble to  
22           put together the application to the IDA is  
23           based on the preliminary numbers that were  
24           submitted to HUD. And they were worked over  
25           very -- very carefully. And more recently the

1 folks who are working with the developer on  
2 finalizing the HUD mortgage application as in  
3 its very final stages informed us that the  
4 figures that we used for the IDA, IDA  
5 application, are very close to the final  
6 figures that were submitted to HUD.

7 So I -- I've got a high degree of  
8 confidence that the numbers that were submitted  
9 to the IDA are very, very accurate.

10 The other thing I was going to say  
11 about the importance of the IDA tax abatement  
12 in terms of the ability for the project to go  
13 forward or not; this project could possibly  
14 have gone forward somewhere else, without the  
15 benefit of a pilot agreement of the sort that,  
16 you know, the IDA has under consideration. The  
17 Town of Vestal is very anxious for this project  
18 to be built within the Town of Vestal, rather  
19 than somewhere else.

20 The site on which this project is  
21 located is in a lot of ways not an ideal site.  
22 It is basically a sand and gravel barrel pit,  
23 it was used in the 1960s as a source of sand of  
24 gravel for the shoulder of Route 26 when that  
25 was constructed. It's like a bowl, it has very

1 steep slopes on the Route 26 side. Closer to  
2 the river there's a four-plus-acre portion of  
3 the site that is within the FEMA designated  
4 flood plain that HUD would not allow us to  
5 build on, so that portion of the site was off  
6 limits for locating the facility itself.

7 If you take -- take into account not  
8 only, you know, the four-plus acres there but  
9 also the acreage that is steep slopes that  
10 cannot support construction, about half of the  
11 overall site is not available for construction  
12 of this project. And I can assure you that the  
13 tax assessor in coming up with a preliminary  
14 assessment for this project didn't give us any  
15 dispensation for all of the unusable, you know,  
16 land that makes up this site.

17 It's a 19.03-acre site overall; close  
18 to 10 acres is not -- not useable. So in order  
19 for this site to be viable for this project, we  
20 needed to get some sort of tax abatement, and,  
21 as Dick indicated earlier, we sought the  
22 minimum standard tax abatement for a commercial  
23 construction project, which is 50 percent  
24 abatement for the first 5 years, 25 percent  
25 abatement for the next 5 years, and after that

1           it's full payment of taxes.

2                       So I -- I don't think this developer  
3           has been greedy at all in terms of what it  
4           sought from the IDA or the way it's handled  
5           this.

6                       The other speaker, Ed, spoke of other  
7           nursing home projects that this LLC operates.  
8           Many of those projects were turned over to this  
9           developer because they were in distress, were  
10          poorly managed by previous owners, and it's  
11          only the sterling reputation of this nursing  
12          home operator that caused the Federal  
13          Government to turn to this nursing home  
14          operator to take over those other failing  
15          nursing homes. And he's restored most of those  
16          other nursing homes to good financial health.

17                      I think it's something the Town of  
18          Vestal should welcome to its community and  
19          not -- not view it as something, you know,  
20          where a rich developer is trying to put  
21          something over on the community and detract  
22          from the tax base. You know, it's quite the  
23          opposite. It's going to add greatly to the tax  
24          base over the long term, a period of 30 years  
25          or more, and that's something this community

1           desperately needs.

2                   I'm a Vestal resident myself.

3                   So I wanted to, you know, make that a  
4           little more clear.

5                   MR. MEAGHER:   Yes.

6                   MR. REYNOLDS:  I'd just like to get  
7           back to Ed's question, because I don't think it  
8           was answered.  This -- this company has the  
9           other facility that's over on Old Vestal Road.  
10          To rephrase your question, if -- if I'm not  
11          exactly right on this feel free to correct me  
12          on; is the IDA contemplating the disposition of  
13          that facility as a process or at least part of  
14          whether or not they're going to approve the  
15          pilot agreement for the proposed facility off  
16          of 26?

17                  MR. D'ATTILIO:  I should say that there  
18          are certain members of the IDA Board of  
19          Directors that are very aware of that concern,  
20          the concern that's -- that was expressed.  And  
21          having asked that information be considered, or  
22          be provided to us, and in response to their  
23          concerns, for that matter.  And it has  
24          basically been discussed.

25                  I can't speak necessarily for the

1 progress or where the developer is but  
2 certainly we've been told that there's a couple  
3 of alternatives that they were willing to -- to  
4 consider; A, a possibility of working with the  
5 Town on a transfer for town purposes.  
6 Certainly the other aspect would be to dispose  
7 of the property in a commercial way, should  
8 there be a commercial use for it, which would  
9 therefore put it back on the tax rolls.

10 So we have had that dialogue with the  
11 developer. At this point in time they're  
12 considering the options of what they're going  
13 to do with the facility. But in the meantime  
14 they're, as I understand it, current and are  
15 continuing to pay taxes on the facility as it  
16 currently reside, as it currently sits.

17 MR. REYNOLDS: So do you anticipate  
18 there's going to be a resolution to that issue  
19 before the -- the pilot gets voted on by the  
20 Board?

21 MR. D'ATTILIO: I really can't say what  
22 the resolution will be in terms of timing. But  
23 it's certainly something that some of the board  
24 members are very interested in.

25 MS. JOHNSON: If I could just clarify,

1 at this point we are using the facility, the  
2 building, storage, until we have another place  
3 to put some of our possessions until the new  
4 building is built. So. I think that kind of  
5 goes in with the timing.

6 MS. PANECIK: My name is Debbie  
7 Panecik, I'm a Vestal resident. I live in Twin  
8 Orchards, and I was substantially. I  
9 absolutely know what it feels like to have  
10 somebody asking for a tax break because my own  
11 property probably is worth \$50,000 less today  
12 than it was prior to the flood, and we are  
13 currently still paying substantial taxes.

14 However, I would like to address  
15 generationally what this building will do.  
16 First of all, while I can't guarantee that all  
17 the employees will be from Vestal, the majority  
18 of the applications that we get for the  
19 residents are. And if you have parents that  
20 are elderly, you know, like my dad has not been  
21 on Court Street in 20 years. To try and get to  
22 Binghamton Psych Center would be an  
23 impossibility for him. So many of our Vestal  
24 residents need something close.

25 Secondly, yes, for ten years they're



1 going to get a break. But my daughter lives in  
2 Vestal. And I would like to see Vestal  
3 prosper. And if we don't allow them to build,  
4 that empty field is going to generate zero  
5 dollars ten years from now. And at least ten  
6 years from now they will be paying full taxes.  
7 And this community will be able to continue to  
8 prosper. Jobs, taxes, et cetera.

9 It is hard in the interim to look the  
10 other way and not be angry. But what has  
11 happened to us cannot stop us from progressing  
12 as a town.

13 MR. MEAGHER: Thank you.

14 MR. MAXIM: I don't know if this --  
15 just for my own observation. I live on David  
16 Avenue, and we have Route 26 goes across. And  
17 up, up the hill, they put in a new development.  
18 And I know this is just through my own  
19 observation, that after they put that  
20 development in, there seemed to be an increase  
21 of water, you know, coming down the hill, into  
22 the creek. Okay, which is washing out a lot of  
23 the backyards of the people who border the  
24 creek. Again, it's from my own observation,  
25 you know, once you take away all that, the

1 trees and the grass, you know.

2 I'm not against the nursing home being  
3 built. But I know, you mentioned something  
4 about a drainage being put in? Did you say? I  
5 thought somebody mentioned that.

6 MR. MEAGHER: There -- any -- any  
7 project of this nature requires a stormwater  
8 management plan to be submitted and to be  
9 approved by -- by New York State. And they  
10 can't get their building permits and their  
11 zoning permits without a stormwater management  
12 plan. You may be taking it from that word or  
13 that phrase that I used.

14 MR. MAXIM: Yes, I believe so.

15 But what I'm saying is that, you know,  
16 they built these houses, there seemed to be an  
17 increase in water, and these -- these  
18 backyards are being washed away. You know,  
19 what's going to happen down there when they  
20 take the grass out and there's, you know,  
21 blacktop and roofing, there isn't anything to  
22 absorb that water. Has that been taken into  
23 account. You know, I don't know if anybody in  
24 that area's concerned with that issue. You  
25 know.

1 UNIDENTIFIED SPEAKER: They are. And  
2 Ed, I -- I have to -- he's -- he's brought some  
3 points that I hadn't thought of. When he  
4 spoke, and I, you know.

5 MR. D'ATTILIO: I can't speak to that  
6 as an engineer but I had conversations with --  
7 with Ken who represents the developer, and it  
8 may sound counterintuitive but in all  
9 likelihood the development of that site and the  
10 stormwater management plan and the drainage  
11 control systems may very well improve what  
12 maybe you are experiencing today as a result of  
13 being an undeveloped site. So as Joe points  
14 out, the New York State DEC requires a storm  
15 management plan. And that supersedes any  
16 action at the local level, until you get that  
17 approval.

18 So you've got state approvals, you got  
19 local approvals, you got the planning board  
20 approvals. All of which are taking into  
21 consideration how that site will be developed  
22 and what impact it's going to have not only at  
23 the site but in the surrounding areas.

24 So I can't predict the future but I  
25 would suggest that maybe it will improve the

1           problem that you're experiencing.

2                   Ken?

3                   MR. KAMLET: You know, I can comment  
4           further on that. The stormwater pollution  
5           prevention plan, you know, has been approved,  
6           you know, was a prerequisite to getting site  
7           plan approval from the Town of Vestal Planning  
8           Board. As was testified by the project Civil  
9           Engineer Poe at both the planning board and the  
10          town board. The pollution prevention --  
11          stormwater pollution prevention plan in fact  
12          actually reduces the amount of overall runoff  
13          at the site, compared to the preconstruction  
14          condition. It's not going to handle all of the  
15          off-site runoff that's unrelated to the project  
16          but there will be a net benefit during most of  
17          the, you know, intervals that, you know, are  
18          looked at as part of hydrologic calculations.

19                   And, you know, that was documented by  
20          the civil engineer, it was part of the  
21          prevention plan, it was received and approved  
22          by DEC. And that's not surmised, it's been as,  
23          you know, well documented as possible, without  
24          having a crystal ball.

25                   MS. WESTERMAN: I have two questions.

1 Does the LLC, whatever you call it, do they own  
2 the nursing home now, the one that's not being  
3 operated on Old Vestal Road?

4 MR. MEAGHER: I'll let Ken answer that.

5 MR. KAMLET: That is a different  
6 entity. There is kind of a convoluted history  
7 associated with that. Prior to the flood of  
8 2011 a related LLC let's say operated the  
9 facility. For a very short period of time.

10 MS. JOHNSON: Three months.

11 MR. KAMLET: Three months, before it  
12 was hit by -- by the flood. Did not own the  
13 facility; totally separate, unrelated entity  
14 owned the facility at that time.

15 Subsequent, you know, to the flood and  
16 the devastation of that facility, my -- my  
17 client, United Services Group, entity really  
18 had no interest in the old nursing home  
19 facility because, you know, despite the  
20 scrutiny of the town, of FEMA, of HUD, of  
21 various other, you know, entities, became clear  
22 that there was no way that that old facility  
23 could be rehabilitated and restored as -- as a  
24 nursing home, and that's the business that our  
25 client, you know, is involved in. You know,

1           they have no interest in or capacity to operate  
2           it as an office building or as a retail  
3           facility or anything of that -- that sort.

4                         Related LLC wound up acquiring that  
5           facility as part of a package deal, there were  
6           a number of other facilities that had not been  
7           impacted by the flood, you know, outside of  
8           this immediate area that they did have an  
9           interest in acquiring, but the owner of those  
10          facilities which also own the old Vestal  
11          Nursing Home facility would not sell the other  
12          facilities without also transferring the old  
13          nursing home. So it kind of unwillingly and  
14          unwittingly found itself, you know, the owner  
15          of that old facility. It has no particular  
16          plans for the use of that building because it  
17          has no potential use as a nursing home any  
18          longer.

19                        The Town approached us with the -- you  
20          know, the issue of whether the developer would  
21          have an interest in donating that facility to  
22          the Town, and, as Dick indicated, it is  
23          something that's under consideration. You  
24          know, the tax implications of that are being  
25          actively investigated.

1                   The other potential scenario in that  
2                   regard would be for that property to be put on  
3                   the -- on the market, the commercial market,  
4                   and if someone else in some other line of  
5                   business had use for that facility in mind that  
6                   would put it back on the tax rolls and restore  
7                   it to productive use, that that's the other  
8                   likely potential scenario for, you know,  
9                   turning that facility over to someone who would  
10                  make beneficial use of it.

11                  You know, that's as far as the, you  
12                  know, thinking has gone at this point. The  
13                  developer is preoccupied right now with  
14                  consummating the HUD mortgage and, you know,  
15                  getting through this process. And, you know,  
16                  once that, you know, is taken care of and  
17                  construction has begun on this new facility, I  
18                  imagine that additional attention will be paid  
19                  to implementing one of those two alternatives  
20                  that have been talked about.

21                  So that's where we are, you know, Dan,  
22                  and others in that regard.

23                  MS. WESTERMAN: I also have another  
24                  question about the site. Ken said right away  
25                  that it wasn't an ideal site, which was my

1           immediate reaction when I read about it. I  
2           thought why in the world are they going from  
3           one flood place to another. I did attend the  
4           hearing with the environmental concerns  
5           mentioned; as I say, I think that's legally  
6           satisfied, I'm not sure actually what's going  
7           to happen. But I just wondered, isn't there  
8           another -- is there any other site in Vestal, I  
9           mean like everybody wants this in Vestal. Is  
10          there any other site that they would be able to  
11          use the full, you know, the full acreage, or  
12          are there none available?

13                   MS. JOHNSON: I can speak to that.  
14           Because I was -- I operated very actively in  
15           looking for various properties. And there's  
16           very little property in Vestal, which that's  
17           our name, that's where we see our mission.

18                   MS. WESTERMAN: I'm not opposed to it.

19                   MS. JOHNSON: That's not actively in  
20           the flood area that's large enough to build on  
21           and is in a location that anybody would want to  
22           live in.

23                   There was one other property that was  
24           even further out Route 26 that we felt was a  
25           close second but because it was so far out of



1 town we were concerned about elderly spouses or  
2 other elderly families having to drive that far  
3 in order to be able to visit. Especially at  
4 night.

5 MS. WESTERMAN: I understand that, I  
6 just was curious.

7 MS. JOHNSON: That location really was  
8 the best location that we could find.

9 MS. WESTERMAN: Even though you  
10 couldn't use the whole site.

11 MS. JOHNSON: Right.

12 MR. D'ATTILIO: Was that the old  
13 school?

14 MS. JOHNSON: The old school, yes,  
15 sorry.

16 MR. KAMLET: It's kind of interesting  
17 that, you know, that Ed, while talking about  
18 impacts on the Vestal tax rolls, is so willing  
19 to suggest use of the psych center site as an  
20 alternative location, which of course would  
21 take it off the Vestal tax rolls entirely and  
22 put it on the Binghamton tax rolls. Just an  
23 observation.

24 MR. ZYSKOWSKI: With site selection,  
25 did any -- did any of it have to do with the

1 fact that Rambo Realty LLC, slash, Botnick Five  
2 Ventures is affiliated with or was affiliated  
3 with Bridgewater Nursing Home on Front Street,  
4 and also that nursing home was taken under at  
5 one point in time Mr. Cee's control, also which  
6 would have been SK LLC? Because what I'm  
7 seeing here is an entity that had vested  
8 interest in one nursing home and now another  
9 nursing home is coming to buy property from an  
10 entity that was tied to the entity we're  
11 discussing. Upstate SK LLC. And it kind of is  
12 a little perplexing when you start looking at  
13 all these LLCs who owns it, and then once again  
14 to hear someone requesting that they would like  
15 to, you know, get a tax break.

16 MS. JOHNSON: I can tell you that that  
17 was purely coincidental because I would -- I  
18 was the one that was looking for properties.  
19 And presenting it to the owners in order to --  
20 for consideration. And I am not savvy to know  
21 who has what property and what all that is.  
22 It's -- it was purely coincidental.

23 MR. KAMLET: But Rambo Realty is a  
24 commercial real estate broker, and I guess  
25 nursing homes is one of the things that it

1           brokers.

2                   MS. JOHNSON: I literally myself was  
3 driving around the streets of and hills of  
4 Vestal looking for possible places for our  
5 home.

6                   MR. ZYSKOWSKI: Well, a beautiful place  
7 would have been just right up the place from  
8 your existing site on Old Vestal Road which is  
9 right across from where Lourdes Hospital is  
10 building their new facilities, a nice big, flat  
11 area well out of the flood plain. No  
12 questions.

13                  MS. JOHNSON: That flooded. It's not  
14 big enough, and it flooded.

15                  MR. ZYSKOWSKI: You have a huge  
16 expanse, there's a number of sites down there.  
17 Large expanses of land. And definitely keep  
18 you out of flood plain.

19                  MR. MEAGHER: Yes.

20                  UNIDENTIFIED SPEAKER: I -- I have a  
21 question but I do want to say that I -- I  
22 thought that Ed's idea of going to the psych  
23 center was putting safety above -- even above  
24 the taxes, the money, and the money's not the  
25 very first priority of everything. At least

1 not with some of us.

2 But anyway, I think I understand that  
3 the -- the first year they only pay half the  
4 taxes?

5 MR. MEAGHER: First five years.

6 UNIDENTIFIED SPEAKER: Oh, okay. So  
7 they pay half the taxes.

8 MR. MEAGHER: Right.

9 UNIDENTIFIED SPEAKER: This is only  
10 half the taxes as of late.

11 MR. MEAGHER: But now there's  
12 essentially no taxes on that property. The  
13 property will be assessed by the Town of Vestal  
14 assessor, and, you know, that -- that may be a  
15 battle that is a dispute between the owner and  
16 the assessor, but at some point an assessment  
17 will be reached, the property will be taxed,  
18 and what they pay will be half of that amount.  
19 Not half of what the taxes are on the property  
20 now, because this is taxed now as vacant land.  
21 This will be half of a fully constructed  
22 nursing home facility.

23 And in year 6 through 10 they will be  
24 paying 75 percent of what the full taxation  
25 would be, full taxation in year 11 and

1           thereafter.

2                   UNIDENTIFIED SPEAKER:   Okay.   And could  
3           we have an estimate of in year 11?   What the --  
4           what we might be -- what that would mean to our  
5           tax rolls?

6                   MR. MEAGHER:   Well, we can't tell you  
7           what the taxes would be because that -- we  
8           would have to know what the tax rate is.   And  
9           we don't know at this point what the facility  
10          is even going to be assessed at.   We have -- I  
11          think we use in our cost benefit analysis the  
12          figure given to us by the assessor, is that  
13          correct?   Dick, which was how much?

14                   MR. D'ATTILIO:   The assessment provided  
15          to us based upon information provided, the  
16          assessment provided to us based on the  
17          information provided to the assessor from the  
18          developer basically ended up with a  
19          \$26.64 million value.   We applied the current  
20          tax rates.

21                   UNIDENTIFIED SPEAKER:   Which is a  
22          hundred percent.

23                   MR. D'ATTILIO:   That's right.   So  
24          the -- a hundred percent assessed value applied  
25          to the current tax rates resulted in an annual

1 tax of \$870,000, 870,300.33, to be exact, based  
2 upon that calculation in today's tax rates. So  
3 as you forecast out tax rate growth, you could  
4 see that number grow potentially in years 11  
5 and on. But even as a constant it's a  
6 significant tax payment when you consider  
7 870,000 and they're paying 50 percent of that  
8 for 5 years and then 50 percent for the next 5  
9 years. That, that is a constant.

10 Tax rates will change, the 50 percent  
11 will increase based upon the rate change as  
12 well.

13 UNIDENTIFIED SPEAKER: Oh, so even if  
14 the first five years we may each year have  
15 additional amount of tax --

16 MR. D'ATTILIO: If the rates go up.

17 UNIDENTIFIED SPEAKER: Even if the rate  
18 doesn't go up, the amount of --

19 MR. D'ATTILIO: The rates would have to  
20 go up or the assessment would change. In  
21 either case. But it would, it would affect  
22 50 percent calculation for the 75 percent  
23 calculation.

24 UNIDENTIFIED SPEAKER: Just so I have a  
25 comparison, what -- for example, what does a

1 place like Walmart pay?

2 MR. D'ATTILIO: Couldn't tell you.

3 UNIDENTIFIED SPEAKER: I was just  
4 trying to. But anyway, just, or just how  
5 business are -- how that is -- how that is with  
6 other businesses.

7 But anyway, thank you.

8 MR. REYNOLDS: You just mentioned  
9 something that just made me think of another  
10 question on it. You said that there's  
11 potential that there's going to be a dispute on  
12 the assessment. Does the IDA have an agreement  
13 between the Town and the party that's entering  
14 into the -- the agreement on what the assessed  
15 value is going to be? To approve it?

16 MR. MEAGHER: No, we don't have to.  
17 Many times in a pilot there will be an  
18 agreement between the developer and the  
19 assessor and it will be part of the pilot  
20 package. But at the end of the day, his  
21 project should be assessed at what its true  
22 value should be. And that leaves open the  
23 possibility of an assessment challenge. But at  
24 the end of the day you hopefully get to the  
25 figure of what is this building worth.

1 MR. REYNOLDS: So historically the IDA  
2 hasn't required the two parties have an  
3 agreement before they issue.

4 MR. MEAGHER: Historically no. I'm not  
5 going to say that there haven't been cases  
6 where, and a figure has been reached between  
7 the developer and the assessor going into the  
8 project.

9 MR. REYNOLDS: You can see where  
10 there'd be some apprehension, because I mean  
11 some of the numbers that you're speaking of are  
12 contingent on the number being whatever it is  
13 that they're agreed to, so.

14 MR. MEAGHER: Well, this is the maximum  
15 number based on the assessment that the town  
16 assessor has set forth. It certainly may end  
17 up being less. It may end up being less, and  
18 on the bottom side of that the benefit that the  
19 developer receives will then be less.

20 MR. REYNOLDS: Again I'm just going to.

21 MR. MEAGHER: Sure.

22 MR. REYNOLDS: Are you currently in  
23 talks with the Town of Vestal on the assessed  
24 property value, discussing, at least, or?  
25 Discussion that you can talk about?



1                   MR. KAMLET: I mean I could go into a  
2                   lot of detail regarding the background of that  
3                   but, you know, we try to reopen negotiations  
4                   after the Vestal tax assessor came up with the  
5                   same number that he came up with four months  
6                   earlier, before he involves the data that we  
7                   provided him on the other comparable  
8                   facilities, and he evidently took none of that  
9                   into account in coming up with his preliminary  
10                  assessment.

11                  This is, you know, a roughly  
12                  \$36 million project. There's a 9 -- \$9 million  
13                  heel grant from the State Department of Health  
14                  involved, and a lot of the things that should  
15                  factor into the calculation. It's a project  
16                  that has had a 30-year useful life. Obviously  
17                  the upfront investment is not something that is  
18                  going to be realized in the first year or the  
19                  first ten years. It's amortized over the full  
20                  useful life of a facility.

21                  For the most part as I understand it  
22                  property assessments for nursing homes are  
23                  based on a per bed valuation because the  
24                  occupancy of those beds determines the return  
25                  on investment that the, you know, nursing home

1 facility receives.

2 None of that evidently was taken into  
3 account by the -- by the Vestal assessor, and,  
4 you know, we expressed shock and dismay over  
5 the preliminary estimate that he provided and  
6 requested the opportunity to, you know, talk  
7 with him further. And have not heard anything  
8 back from him since then.

9 But the IDA, the agreement that would  
10 be entered into with the IDA does not depend on  
11 the absolute assessed valuation number. It's  
12 expressed in terms of percentages of the  
13 assessed value. So that there is ample time  
14 over the two years or more that it's going to  
15 take to complete construction of this project  
16 to negotiate, you know, an understanding with  
17 the tax assessor in that regard. On what the  
18 absolute amount would be.

19 MR. MEAGHER: Anyone else?

20 Yes.

21 MR. DRANCHOK: My name's Steve  
22 Dranchok, I live on Juneberry Road. I just had  
23 a couple questions.

24 First I want to make a couple comments.  
25 I don't think the people are saying that a

1 nursing home's a bad thing in Vestal. I think  
2 they're saying a nursing home's a good thing in  
3 Vestal, as long as things are done properly. I  
4 think we talked about stormwater, we talked  
5 about runoff and all this kind of stuff. I've  
6 got a couple questions about the pilot. But I  
7 kind of feel like I'm watching a baseball game  
8 for the first time that came in on the 7th  
9 inning, I'm a little bit behind on some things.

10 And I guess we have these kind of  
11 meetings in the future. The information that  
12 was read at the beginning, if that would be  
13 available before the meeting so that we can see  
14 it so we can kind of come up to speed, it will  
15 help us as residents of the area.

16 A couple of questions with the pilot.  
17 The 50 percent savings on taxes and 25 percent  
18 savings on taxes, how were those numbers  
19 negotiated? Is that a fixed, does that come  
20 out of the pilot that that's fixed, that's the  
21 way it is, or was that negotiated by the  
22 parties?

23 MR. MEAGHER: That's our standard  
24 commercial pilot.

25 MR. D'ATTILIO: The State of New York

1 required many years ago that IDAs across the  
2 state put in place a heel uniform payment in  
3 lieu of tax program. That uniform payment tax  
4 program basically required a public hearing  
5 across all tax jurisdictions in Broome County.  
6 I can't even tell ya the date. It was pre --  
7 preceded my tenure here. But that -- that  
8 standard payment has -- has never changed in  
9 all those years. The only time you'll see a  
10 deviation is if the -- in this particular  
11 instance, if the Town thought it was worthy of  
12 a -- or necessary for a different tax program  
13 other than what your standard would be, then  
14 the Town would be negotiating as sort of the  
15 lead agency to come to the Agency and say here  
16 is what we proposed, because we think the  
17 project is worthy or in need of something other  
18 than your standard.

19 So we did not negotiate pilot, it was  
20 basically off -- off the menu, if you will.

21 MR. DRANCHOK: Okay. Thank you. So I  
22 guess the next question is after the ten years  
23 expires, is there anything that prohibits you  
24 guys from coming and asking for another tax  
25 break.

1 MR. D'ATTILIO: Wouldn't be us.

2 MR. DRANCHOK: Or whoever, the nursing  
3 home, or.

4 MR. D'ATTILIO: There's -- there would  
5 be --

6 MR. DRANCHOK: Once they pay  
7 100 percent taxes, it's 100 percent tax from  
8 that day forward, or is there another plan they  
9 could go after so they don't have to pay taxes?

10 MR. MEAGHER: Not from IDA.

11 MR. D'ATTILIO: Not for the existing  
12 developer. The only case where that may occur,  
13 if it were sold, and if the sale required or  
14 requested. But there would be no -- it would  
15 not qualify under our standard payment lieu of  
16 tax program. It's only for new added value  
17 projects that the agency program would apply.

18 The only way it would apply is if, for  
19 example, the project were to be sold and  
20 conditioned upon the sale the new owner would  
21 say to the Town we can't afford to buy it  
22 unless you give us a tax deal.

23 Now I should say also historically in  
24 my 18 years, we've always had a policy that  
25 I've been strict on, and that is that we do not

1 take anything off the tax rolls for below what  
2 the current taxes are. So if there were -- for  
3 example there was a purchase of a facility, and  
4 we've done it a couple of times, it never  
5 reduced the taxes; all we were able to do with  
6 the lead agency being the town in question  
7 would be to set a fixed payment for a period of  
8 time to support the acquisition and -- and --  
9 and redevelopment of the project. But it would  
10 always have added value. You would always have  
11 a base.

12 Whatever is being paid would be paid as  
13 a fixed base payment. And we would only treat  
14 the -- the increase as a -- as an abatement.  
15 So there would have to be added value to the  
16 tax base.

17 MR. DRANCHOK: Okay. So I guess just a  
18 couple other comments I want to make. Sounds  
19 like there's a little bit of air in the room  
20 that a pilot doesn't go through, Vestal, no  
21 more jobs created. Sounds like it's a little.  
22 But we've heard from you we don't know whether  
23 they'll go through with the project if they  
24 didn't have pilot. Right? That's this -- this  
25 gentleman's question.

1                   MR. D'ATTILIO: Yeah, I don't have that  
2                   crystal ball to be able to answer that question  
3                   conclusively but certainly I think Ken made  
4                   a -- made the point that the investor does  
5                   have -- did all alternatives, he's in the  
6                   business, he has other locations that he could  
7                   actually steer his investor. Should he choose  
8                   to do so. But I can't -- I can't tell you.

9                   MR. DRANCHOK: Okay, so he's strictly  
10                  an investor, he's not a -- I heard last time we  
11                  were here let's put a face on the residents of  
12                  the nursing home. It sounds like this  
13                  gentleman's not one of those, he's strictly an  
14                  investor.

15                 MR. D'ATTILIO: I use the word loosely  
16                 as an investor; he's an investor operator.

17                 MR. DRANCHOK: I just want to make sure  
18                 I understand.

19                 MS. JOHNSON: I'll clarify that. He --  
20                 he is very hands-on operator. I speak with him  
21                 all the time, he's involved, he comes to the  
22                 facility. He's very interested in having a --

23                 MR. DRANCHOK: Has he been to one of  
24                 these meetings?

25                 MS. JOHNSON: No. No. We represent

1 him. Yeah, we represent him. But he's very  
2 involved. Two days ago he was asking me to  
3 clarify the weather report because he was  
4 concerned of what could happen, because he  
5 still has the property.

6 MR. DRANCHOK: Thank you.

7 MR. MEAGHER: Yes.

8 UNIDENTIFIED SPEAKER: I think, I think  
9 I heard that the useful life is 30 years. So  
10 does that mean that after the first 10 we  
11 probably are only going to get 20 more years of  
12 taxes?

13 MR. MEAGHER: No. It will be taxed as  
14 long as it's there and as long as it's  
15 operating.

16 UNIDENTIFIED SPEAKER: Okay. As long  
17 as it's operable.

18 MR. MEAGHER: What we're saying is an  
19 ordinary building construction of this type has  
20 a proposed useful life which they say is 30  
21 years. Now, that doesn't mean you have to  
22 replace it at the end of 30 years. But that's  
23 the. And most of these facilities last much  
24 longer than that.

25 UNIDENTIFIED SPEAKER: I'm counting on



1 more than three times that.

2 MS. JOHNSON: Our original building was  
3 built in 1966. And with proper upkeep --

4 UNIDENTIFIED SPEAKER: It can last  
5 more than 30 years.

6 MS. JOHNSON: Absolutely.

7 UNIDENTIFIED SPEAKER: Okay. And the  
8 second question, I think the whole reason that  
9 I thought that IDA agency exists or the IDA  
10 exists was to promote businesses for job  
11 growth. So what if those -- that number, that  
12 one fifteen, doesn't materialize or it's only  
13 there for a short period? Does -- is there any  
14 payback there, I mean, because we're doing it  
15 so we have these jobs, I think. What happens  
16 if they don't -- we don't always have an extra  
17 hundred and fifteen. Is there any --

18 MR. MEAGHER: We have clawback, what we  
19 call clawback provision in the standard pilot  
20 allow us to. Again the facts of the situation  
21 will determine how many jobs.

22 I can't imagine a lot of your work  
23 force is going to be replaced by robots, or.

24 MS. JOHNSON: I mean we -- we need --

25 MR. MEAGHER: It's a fairly hands-on

1 industry.

2 MS. JOHNSON: We need a minimum of  
3 those jobs in order to function. And it's a --  
4 it's a -- it's health care, you know, it's very  
5 hands-on, we can't be replaced by robots.

6 MR. MEAGHER: Right.

7 UNIDENTIFIED SPEAKER: Thank you.

8 MR. MEAGHER: Yes.

9 MR. KRAFT: Phil Kraft. I have a  
10 question for you and a question for Miss  
11 Johnson.

12 Have you ever in the last 15 years  
13 invoked the clawback provisions for any  
14 enterprise that --

15 MR. MEAGHER: We haven't invoked the  
16 clawback because the company went out of  
17 business and there was no one to get money.  
18 What we do is if someone is not fulfilling  
19 their promises, we can deed the property back  
20 to them. And once we do that, it automatically  
21 becomes 100 percent taxable. We have done that  
22 on occasion.

23 You know, we try to work with the  
24 company. And a lot of companies come in, not a  
25 lot of but companies come in with the

1 absolutely best of intentions and for whatever  
2 reason they don't make it; their industry may  
3 collapse or maybe foreign competition, but they  
4 end up not producing the number of jobs that  
5 they indicated they would or hoped to produce.  
6 And we have on occasions just deeded the  
7 property back.

8 So the benefit is there then ultimately  
9 lost.

10 MR. KRAFT: And about how many times  
11 have you done that? Leased back?

12 MR. MEAGHER: Three, four. I can't say  
13 right offhand but.

14 MR. D'ATTILIO: I think it also should  
15 be known, and we concentrate, we concentrate on  
16 the -- on the job creation aspect. I know  
17 that's important to every single person in the  
18 room, including myself. We all want to have a  
19 job. But in the business of economic  
20 development it's not just only job creation,  
21 it's investment. It's long-term commitment of  
22 an investor in the community that's going to  
23 invest \$30 million, and conceivably in this  
24 case a \$45 million payroll over 10 years. So  
25 we -- we have to -- we as professionals in this

1 business look at the bigger picture that we're  
2 getting investment, we're getting jobs, we're  
3 getting tax base, we're getting services that  
4 are being provided, we're getting an economic  
5 engine, if it's manufacturer that's buying,  
6 buying products here, selling products outside  
7 the area, so there's a certain multiplier  
8 effect. So you -- and I don't want to get into  
9 too much of the -- the formula of economic  
10 development because it does change.

11 Thank you for that.

12 But every situation has its own  
13 benefit. And if you just focus on jobs alone,  
14 as we all know we're -- the American economy is  
15 going -- is efficiency through economizing and  
16 developing ways to do more with less. We've  
17 all experienced that, I'm sure.

18 In this particular case I don't think  
19 you're going to see that. You're probably  
20 going to see a requirement for more jobs, more  
21 residents occupying the facilities, because I  
22 don't know what the numbers are in terms of how  
23 many, how many to how many residents, the ratio  
24 between residents and service providers, but,  
25 but this is a growth industry, believe me.

1 MR. KRAFT: Okay. Thank you.

2 And for Miss Johnson. We've heard,  
3 well, maybe, I do want to preface it by saying  
4 what Richard, I want to underline what he said  
5 about how I'm absolutely not opposed to a  
6 nursing home in Vestal, anywhere in Vestal,  
7 including where I live. Especially as I get  
8 older. But there are these other questions  
9 that I think we all need to have answered.

10 You spoke about the breakdown in beds,  
11 nursing, day care, adult day care, et cetera.  
12 Has the configuration of the facility been  
13 designed with flexibility in bed allotments,  
14 that is between, for example, Medicare  
15 patients, Medicaid patients on one side, and  
16 day care on -- adult day care on the other, and  
17 I guess have some kind of transitional program  
18 in the middle anyway.

19 MS. JOHNSON: Well, some people in the  
20 room saw the -- the architect's, you know,  
21 overview.

22 MR. KRAFT: I wanted to move right  
23 into, yeah.

24 MS. JOHNSON: Well, in the main part of  
25 the nursing home that's closest to Sheedy is

1           configured of four nursing units that have 2  
2           neighborhoods of 20 beds each. Those are all  
3           skilled levels but it's -- it's split up into  
4           going to being used, now they're all skilled  
5           SNF beds but they're one unit, which is 40  
6           beds, is going to be used as rehab beds. Where  
7           people would be short-term stay. Another 40  
8           beds would be used for dementia care, and the  
9           rest are traditional skilled. We're actually  
10          looking at some other possibilities of what  
11          unmet need might be in the community because  
12          that's what we did in our old building is to,  
13          you know, who's in the hospital, who needs  
14          placement, what are we going to specialize in  
15          sort of thing.

16                    The assisted living does have a  
17                    separate doorway, or entrance, entranceway, but  
18                    it's connected through a main corridor in the  
19                    building. And as well as the assisted living.  
20                    The adult health program. That is a very  
21                    attractive feature, based on our experience of  
22                    just being a freestanding skilled facility,  
23                    because there's always other parties that you  
24                    feel like you want to help that are related in  
25                    one way or another to the particular residents.

1                    Say there's been times where we had  
2 spouses of the skilled resident who really  
3 needed services but they were -- they were  
4 going home at night, you know. They'd come to  
5 visit and we would worry about them as much as,  
6 you know, we cared what the residents would  
7 need. And to us it was kind of a silver lining  
8 after this terrible storm of being able to  
9 expand our services to say yes, we now have a  
10 place to put the spouses, or, you know, another  
11 relative; sometimes it's even mother/daughter  
12 combinations or different things.

13                    And we also have, you know, the  
14 possibility of being able to have more of an  
15 outpatient with the adult health care program.  
16 They were all things that were needed in our  
17 area that we hadn't been able to fulfill  
18 before.

19                    MR. KRAFT: Let me clarify. Can you  
20 hear me?

21                    I appreciate the need for these  
22 services. And your concern about being able to  
23 provide some of them. I've got a more down to  
24 earth concern, though, which has to do with tax  
25 assessment. Has flexibility you built into

1           this design allowed you potentially to convert  
2           some of these day care, adult day care  
3           facilities or intermediate care facilities into  
4           skilled facilities on an as-needed basis? And  
5           I ask that, I'll be very plain about this,  
6           because that, of course, would affect the  
7           assessment of the property. Since it's done on  
8           a per bed and per bed type basis. So that's my  
9           question. How -- how much have you planned  
10          that in the design of the facility?

11                   MS. JOHNSON: The -- I would say, we  
12           really need the architect here to know  
13           all the code exactly, but the assisted living  
14           in appearance would meet the qualifications for  
15           skilled beds if we ever needed to.

16                   MR. KRAFT: They would.

17                   MS. JOHNSON: I believe they would.

18                   The assisted living con -- or the  
19           adult day health care program, that wouldn't  
20           really meet the configuration for additional  
21           skilled beds but possibly other outpatient  
22           services.

23                   One other thing that was discussed  
24           in an earlier meeting was whether or not we  
25           could do outpatient rehab. You know, I think



1 the therapy department and the way the  
2 entrances were built is that that would be a  
3 possibility down the road. Adult day care  
4 health or whatever. Three tier.

5 I'm pretty sure the assisted living  
6 would -- if it doesn't exactly meet the code  
7 right now it would be easy to configure it.

8 MR. KRAFT: Thank you.

9 So if I may just follow up with the  
10 folks from the IDA; if for whatever reason  
11 market requirements or change in plan some of  
12 these beds are reconfigured, the assessment is  
13 not the business of the IDA, it's strictly a  
14 matter --

15 MR. MEAGHER: Tax assessor.

16 MR. KRAFT: -- between the Town and the  
17 assessor.

18 MR. MEAGHER: It's the tax assessor.

19 MR. KRAFT: I see. Thank you.

20 MR. MEAGHER: Yes.

21 UNIDENTIFIED SPEAKER: Ms. Johnson too,  
22 will you be taking Medicare and Medicaid  
23 patients?

24 MS. JOHNSON: Yes. Just as we do now.

25 UNIDENTIFIED SPEAKER: Okay.

1 MR. MEAGHER: Anyone further?

2 (No response)

3 MR. MEAGHER: There being no further  
4 statements, I'm going to draw this hearing to a  
5 close. Thank you all.

6 As I stated in the beginning, we have a  
7 court reporter. A transcript will be prepared,  
8 and all of your remarks will be presented to  
9 the board members of the Industrial Development  
10 Agency for their review. Prior to making a  
11 decision on this project.

12 Thank you all very much. We really  
13 appreciated your input.

14 (Proceedings were adjourned at  
15 8:30 p.m.)

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STATE OF NEW YORK  
COUNTY OF BROOME

I, Ruth I. Lynch, RMR, do hereby certify that I reported in machine shorthand the foregoing pages of the above-styled cause, and that they were prepared using computer-aided transcription by me personally and constitute a true and accurate record of the proceedings;

I further certify that I am not an attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

By \_\_\_\_\_  
Ruth I. Lynch  
Registered Professional Reporter  
Registered Merit Reporter  
NY/PA Notary Public