

COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY

Sun Valley Apartments LLC PUBLIC HEARING MINUTES

May 2, 2022

Dave O'Brien, Chair of the Counties of Warren and Washington Industrial Development Agency (the "Agency"), called to order a duly noticed Public Hearing for Sun Valley Apartments LLC at 4:15 p.m. on the 2<sup>nd</sup> day of May, 2022 via Zoom.

**Present:**

Dave O'Brien

Alie Weaver

Dan Bruno

Mike Grasso

Craig Leggett

Kara Lais

Brian Campbell

Ginny Sullivan

Mike Wild

Michael Bittel

Mike Ostrander

Chuck Barton

Drew Wardle

Jeffrey Meyer

Joe Leuci

**Representing:**

WWIDA/WWCDC Chair

Office Administrator, WWIDA/WWCDC

WWIDA/WWCDC Member

Sun Valley Apartments LLC

WWIDA/WWCDC Vice Chair

FMBF, Legal Counsel for WWIDA/WWCDC

WWIDA/WWCDC Park Chair

WWIDA/WWCDC Member

WWIDA /WWCDC Member

WWIDA/WWCDC Sec/Treasurer

WWIDA Executive Director

WWIDA/WWCDC Member

Post Star

Alie Weaver, WWIDA Office Administrator read into the minutes the published statement (legal notice) describing the proposed project.

Mr. O'Brien stated that the builders are looking at this project as workforce housing, defined as 60%-120% of the median income in the Town of Lake George. He noted that the median income in the Town of Lake George is \$67,907, making the range to be \$40,674 - \$81,348 annually.

Mr. Grasso provided a brief overview of their project stating that he and his Partner, Rich Askew, received preliminary board approval in September to construct five buildings consisting of 39 apartments and one office space. He addressed the concern of subletting the apartments as short-term rentals by stating that their lease agreement restricts subletting by the current leasee, adding that potential tenants will be reference, credit, income, and background checked prior to approval of their one-year lease.

Mr. Grasso stated that, due to the increase in construction costs, this project would not be eligible as workforce housing without IDA incentives. He also stated that they have received approval of the apartment complex by the Town of Lake George and the Lake George School District.

Mr. Grasso noted that the project would provide 57 construction jobs with an estimation of 3 million dollars spent on labor, machinery rentals, etc. He also noted that most of the source material and contractors will be from local businesses.

After some discussion regarding the possible scenarios where subletting/short-term leasing would be applicable, it was decided to amend the resolution to include language pertaining to no subletting or short-term leasing for less than 30 days.

Ms. Lais read the particulars of the IDA incentives to include a sales tax exemption of \$153,220, a mortgage tax exemption of \$59,532 and PILOT exemptions of \$166,702 over a 10-year period.

Mr. Campbell made a motion to approve the resolution accepting the Sun Valley Apartments LLC project contingent upon the added verbiage of the 30-day subletting restriction and Mr. Bruno seconded. All voted in favor by roll call vote.

Mr. O'Brien asked if there were any questions or comments on the subject matter of this Public Hearing at three separate intervals.

There being no questions or comments, Mr. O'Brien adjourned the Public Hearing for Sun Valley Apartments LLC at 5:17 PM.



FitzGerald Morris  
Baker Firth  
Attorneys & Counselors

Kara I. Lais  
Partner  
kil@fmbf-law.com

April 21, 2022

*Certified Mail Return Receipt Requested*

Kevin B. Geraghty, Chair  
Warren County Board of Supervisors  
1340 State Route 9  
Lake George, New York 12845

Dennis Dickinson, Supervisor  
Town of Lake George  
20 Old Post Road  
Lake George, New York 12845

Douglas W. Huntley, Ed.D., Interim Supt.  
Lake George Central School District  
381 Canada Street  
Lake George, NY 12845

Re: Notice of Public Hearing – Sun Valley Apartments, LLC

Dear Gentlemen:

Enclosed is a notice of public hearing for the above referenced project. The public hearing will take place on May 2, 2022, at 4:15 pm local time, via ZOOM as indicated in the notice.

A copy of the resolution setting the public hearing is also included for your review.

If you have any questions concerning this matter, please feel free to contact me. Thank you.

Very truly yours,

Kara I. Lais

cc: WWIDA Chairman  
Alie Weaver, WWIDA Office Administrator  
Jon Lapper, Esq., Company Counsel

## NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that a public hearing pursuant to Article 18-A of the New York State General Municipal Law will be held by the Counties of Warren and Washington Industrial Development Agency (the "Agency") on the 2nd day of May, 2022, at 4:15 pm local time, via ZOOM at the meeting information below, in accordance with Legislation S. 7623A/A. 8591, amending Chapter 417 of the Law of 2021, in connection with the following matter at:

<https://us02web.zoom.us/j/81855899959?pwd=anpNQzNpZDZjbkU2ZXIRcFg0WVIZQT09>

Meeting ID: 818 5589 9959

Passcode: 267233

Dial by your location

+1 646 558 8656 US (New York)

Find your local number: <https://us02web.zoom.us/u/kctb9SG5t5>

Sun Valley Apartments, LLC, a limited liability company established pursuant to the laws of the State of New York, having an address of 23 Rapport Drive, Lake George, New York (the "Company") has requested that the Agency provide financial assistance in the form of a partial real property tax abatement, a mortgage recording tax exemption and a sales tax abatement regarding a certain commercial project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real property located at Sun Valley Drive in the Town of Lake George, County of Warren, New York and being known as tax map parcel 264.11-1-37 (the "Land"); (ii) the planning, design, construction, operation and maintenance by the Company of five (5) buildings which include a total of thirty nine (39) apartment units intended for year round occupancy (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended.

The Agency may be providing financial assistance with respect to the Project in the form of sales tax exemptions related to the construction and equipping of the Project Facility; a mortgage recording tax exemption on qualifying mortgages and a payment in lieu of taxes, which are consistent with the policies of the Agency. Should other financial assistance be requested, it shall be consistent with the policies of the Agency.

A representative of the Agency will be in attendance at the above-stated time and place to hear and accept written comments from all persons with views in favor of or opposed to the granting of financial assistance contemplated by the Agency or the location or nature of the Facility. The application of the Company is available for public inspection during normal business hours at the offices of the Agency, located at 5 Warren Street, Glens Falls, New York 12801.

Minutes of the hearing will be made available to all necessary parties.

Counties of Warren and Washington  
Industrial Development Agency  
David O'Brien, Chairman  
Published: April 21, 2022

Resolution No. 22-11  
Adopted April 18, 2022

Introduced by Mr. Leggett  
who moved its adoption.

Seconded by Mr. Caimano

**RESOLUTION ACCEPTING AN APPLICATION FOR FINANCIAL ASSISTANCE  
SUBMITTED BY SUN VALLEY APARTMENTS LLC (THE "COMPANY") RELATING  
TO A CERTAIN PROJECT; AUTHORIZING A PUBLIC HEARING WITH RESPECT  
TO THE PROJECT; AND DESCRIBING THE FINANCIAL ASSISTANCE BEING  
CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT**

WHEREAS, Sun Valley Apartments, LLC, a limited liability company established pursuant to the laws of the State of New York, having an address of 23 Rapport Drive, Lake George, New York (the "Company") has requested that the Agency provide financial assistance in the form of a partial real property tax abatement, a mortgage recording tax exemption and a sales tax abatement regarding a certain commercial project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real property located at Sun Valley Drive in the Town of Lake George, County of Warren, New York and being known as tax map parcel 264.11-1-37 (the "Land"); (ii) the planning, design, construction, operation and maintenance by the Company of five (5) buildings which include a total of thirty nine (39) apartment units intended for year round occupancy (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, Chapters 356 and 357 of the Laws of 1993 require that prior to granting financial assistance of more than \$100,000.00 to any project, an Agency must (i) adopt a resolution describing the project and the financial assistance contemplated by the Agency with respect thereto, and (ii) hold a public hearing in the city, town or village where the project proposes to locate upon at least ten (10) days published notice and, at the same time, provide notice of such hearing to the Chief Executive Officer of each affected taxing jurisdiction within which the project is located; and

WHEREAS, the Agency is in the process of reviewing and considering the Company's Application requesting the Agency to provide financial assistance for the proposed Project (collectively the "Financial Assistance") in the form of (i) an exemption from all State and local sales and use taxes with respect to qualifying personal property included in and incorporated into

the Facility or used in the acquisition, construction or equipping of the Facility, (ii) an exemption for mortgage recording tax on eligible mortgages and (iii) a partial real property tax abatement through a payment in lieu of tax agreement (the "PILOT Agreement"), pursuant to which the Company would make payments in lieu of real property taxes to each affected tax jurisdiction (the "Affected Tax Jurisdictions"), all of which shall be consistent with the uniform tax exemption policy of the Agency; and

WHEREAS, the Agency desires to (i) accept the Application; (ii) authorize the scheduling and conduct of a public hearing; and (iii) negotiate, but not enter into an Agent Agreement and Project Agreement, pursuant to which the Agency will designate the Company, as its agent for the purpose of acquiring, constructing and equipping the Project, and Lease Agreement, a Leaseback Agreement and related Payment in lieu of Tax Agreement with the Company.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Company has presented an application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's Application, the Agency hereby finds and determines that:

(a) Pursuant to the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The Agency has the authority to take the actions contemplated herein under the Act; and

(c) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Warren and Washington Counties, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(d) The Project will not result in the removal of a commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company.

2. The proposed financial assistance being contemplated by the Agency includes (i) an exemption from all state and local sales and use taxes with respect to the qualifying personal property included within the Project or used in the acquisition, construction or equipping of the Project in the estimated amount of \$153,720.00 based on purchases in the amount of \$2,196,000.00; (ii) an exemption from mortgage recording tax for qualifying mortgages in the estimated amount of \$59,532.00 based on mortgages in the approximate amount of \$4,762,500.00; and (iii) a partial real property tax abatement through a PILOT Agreement pursuant to the following terms (below) and an estimated value of \$166,702.00, pursuant to

which the Company would make payments in lieu of real property taxes to the Affected Tax Jurisdictions.

- Year 1: Base Value plus 50% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 2: Base Value plus 45% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 3: Base Value plus 40% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 4: Base Value plus 35% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 5: Base Value plus 30% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 6: Base Value plus 25% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 7: Base Value plus 20% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 8: Base Value plus 15% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 9: Base Value plus 10% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 10: Base Value plus 5% of increased assessed valuation attributable to improvements made to the Project Facility.

The Base Value for the parcel shall be \$405,000.00 for the term of the PILOT.

The estimated total project cost is \$5,981,301.

3. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to cause the issuance of public hearing notices, hold a public hearing in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) the Agent Agreement and Project Agreement, whereby the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement whereby the Company leases the Project to the Agency, (C) a related Leaseback Agreement conveying the Project back to the Company, (D) a PILOT Agreement, whereby the Company agrees to make certain payments-in-lieu-of real property taxes and (E) related documents; provided (i) the rental payments under the Agent Agreement and Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

4. The Agency is hereby authorized to schedule and conduct a public hearing pursuant to Article 18-A of the General Municipal Law and, if applicable, in accordance with any legislation adopted by the State of New York and/or Executive Orders issued by the Governor of the State of New York permitting virtual meetings at a date and time and in a manner determined by the Chairman. The Agency hereby further authorizes the posting and publication of a Notice of Public Hearing for the Project in accordance with the Act and the Agency's policies and procedures.

5. This resolution shall take effect immediately.

Member	Yes	No	Abstain	Absent
Craig Leggett	x			
Michael Bittel	x			
Brian Campbell				x
Chuck Barton	x			
Ginny Sullivan	x			
Mike Wild	x			
Dan Bruno	x			
Mary King	x			
Nick Caimano	x			
Dave O'Brien	x			
<b>Total</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>1</b>

The foregoing resolution was thereupon declared duly adopted.

STATE OF NEW YORK        )  
   ) SS:  
 COUNTY OF WARREN        )

This is to certify that I, Alie Weaver, Records Management Officer for the Counties of Warren and Washington Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Counties of Warren and Washington Industrial Development Agency, Glens Falls, New York on the 18th day of April 2022.

In witness whereof, I have hereto set my hand and affixed the official seal of the Counties of Warren and Washington Industrial Development Agency on this 18th day of April 2022.

Alie Weaver  
 Alie Weaver  
 Counties of Warren and Washington  
 Industrial Development Agency

