

PUBLIC HEARING SCRIPT

Orchard Heights, Inc. Project

Public Hearing to be held on June 27, 2014 at 9:00 a.m.,
at the Town of Orchard Park Town Offices, 4295 South Buffalo Street
(1st Floor Lobby Conference Room), Orchard Park, NY 14127

ATTENDANCE

Chuck Malcomb
Kevin Budin - The Hamister Group
Dan Hamister - The Hamister Group
Colleen Phelps
Chris Luterk

Second Option: To be followed when Members of the Public are in attendance:

1. WELCOME: Call to Order and Identity of Hearing Officer.

Hearing Officer: *Welcome. This public hearing is now open; it is 9:00 a.m. My name is Grant Lesswing I am the Business Development Officer of the Erie County Industrial Development Agency, and I have been designated by the Agency to be the hearing officer to conduct this public hearing.*

2. PURPOSE: Purpose of the Hearing.

Hearing Officer: *We are here to hold the public hearing on the Orchard Heights, Inc. project. The transcript of this hearing will be reviewed and considered by the Agency in determination of this project. Notice of this hearing appeared in The Buffalo News on June 16, 2014.*

3. PROJECT SUMMARY: Description of Project and Contemplated Agency Benefits.

Hearing Officer: *The proposed project (the "Project") consists of: (i) the leasehold interest in a 17+/- acre parcel of land located at 5200 Chestnut Ridge Road, Town of Orchard Park, Erie County, New York (the "Land")*

together with the existing improvements thereon (the “Existing Improvements”), (ii) the expansion, renovation, upgrading and equipping of the Existing Improvements to include a new wing of 41 assisted living units and additions to the facility common area and dining areas and the construction and equipping of two (2) 32-unit independent living apartment buildings (the “Improvements”), and (iii) the acquisition and installation in and around the Existing Improvements and Improvements by the Company of certain items of machinery, equipment and other tangible personal property (the “Equipment”, and collectively with the Land, the Existing Improvements and the Improvements, the “Facility”).

The proposed financial assistance contemplated by the Agency includes sales and use tax exemption benefits, mortgage recording tax exemption benefits, and real property tax abatement benefits (in compliance with Agency's uniform tax exemption policy).

4. FORMAT OF HEARING: Review rules and manner in which the hearing will proceed.

Hearing Officer: *All those in attendance are required to register by signing the sign-in sheet at the front of the room; you will not be permitted to speak unless you have registered. If you have a written comment to submit for the record, you may do so. Written comments may also be delivered to the Agency at 95 Perry Street, Suite 403, Buffalo, New York 14203 until the comment period closes on July 15, 2014. There are no limitations on written comments.*

5. PUBLIC COMMENT: Hearing Officer gives the Public an opportunity to speak.

Hearing Officer: *If anyone is interested in making a comment, please raise your hand, state your name and address; if you are representing a company, please identify the company. I request that speakers keep comments to 5 minutes, and if possible, 3 minutes.*

The Hearing Officer calls on those who raise their hand.

Dan Hamister - The Hamister Group. I am here representing Orchard Heights, the project. We are looking to expand the facility. We are currently quite full given the demand in senior housing in the area. We are not only expanding the assisted living side and bringing the existing building up to current standards, given that this building was built over 22 years ago but, we are also adding a independent living component which is now sort of the new development of this type of client where they want to be able to age in place.

The project also includes some upgrades on the memory care wing we have as well. Seniors are living longer and there is a greater need for memory care. The project itself already is coming in over our cost estimates, so we are already starting to pare back a few things trying to figure out what we can do to make sure the project is viable. One of those things is ensuring that we have sales tax and mortgage tax abatement as well as PILOT for real estate taxes. The project will also create 23 new jobs at the location.

Chuck Malcomb - I have been interested in incentives for long term care and other facilities. In reviewing the application, I have a couple of questions and comments.

The first thing is that the application indicates that there would be 30 assisted living beds added. Would that be the net addition? My understanding is that for this type of expansion, a Certificate of Need would be required according to State Law and ECIDA guidelines says that the application has to contain the Certificate of Need if required by State Law and I did not see that document with the application materials. I don't know if it's something that I missed or it's in there and I just am not seeing it.

Dan Hamister - That doesn't apply to this type of project.

Chuck Malcomb - So assisted living wouldn't need a Certificate of Need?

Dan Hamister- No

Chuck Malcomb - Ok

Dan Hamister - The Certificate of Need does not really occur until you have the drawing 100% done and we are not at that place yet is my understanding.

Ken Budin - Third party architects are required. That happens after the drawings are complete, but typically Certificates of Need only apply to a skilled nursing facility. There is a license handed down and it's a higher classification than assisted living itself. The amount of care needed for skilled nursing is higher and the burden to become licensed for that is higher, so the Certificate of Need is only needed for skilled nursing not assisted living.

Chuck Malcomb - So when you say you need the building plans first, then there would be a requirement? Just later on in the process for assisted living?

Ken Budin - It's actually two different things. The building plans are needed for the third party architects review

Chuck Malcomb - Right

Ken Budin - And that can only be done after the plans are done and that's basically a code compliance thing. It has nothing to do with any certificates.

Chuck Malcomb - So there is just no requirement for assisted living?

Ken Budin - There is no Certificate of Need requirement for assisted living

Chuck Malcomb - Ok and separate from that I noticed that the guidelines say there has to be a demonstrated need for it in the county. Is that something that you guys looked at to see if there was a need for this type of facility or expansion?

Ken Budin - We have Brompton Heights facility in Williamsville as well and we applied for additional licenses there. It leaves us 26 new licenses and part of the application with the State requires us to go back to the County to figure out what the need was. At the time we went to the County they said they don't keep track of it because there is an implied need with the senior population growth at this time.

Dan Hamister - Having said that we also went back to the County and asked again if they would restate that they don't track that data.

Chuck Malcomb - The County doesn't track that data?

Dan Hamister - No

Chuck Malcomb - So they just deem an implied need based on the population I guess or aging population?

Ken Budin - My best guess is speculation

Chuck Malcomb - The other comment or question I had was the project period and amount of real property tax abatements. Do you guys have an idea of what that is and what is available? I know standard PILOT is 10 years I think for a PILOT. I don't know how that is broken out. Do you have any idea what you are asking for?

Ken Budin - Broken out how?

Chuck Malcomb - As far as is it going to be upfront tax abatement and then phasing in over the years or how is that going to work?

Ken Budin - I believe we are looking at a 7-year standard PILOT. It's a graduated abatement so it's not 100% the first year. It starts at X % so let's say 80% the first year, then the second year

it would be 70%, and the next year it would be 60% so at the end of the term you would be back up to 100% in taxes.

Chuck Malcomb - You mentioned that there is going to be 23 new jobs. Do you have any idea what kind of jobs these are? Is that going to be housekeeping staff or skilled?

Dan Hamister - It is going to range. We outsource all of our housekeeping. So the 23 jobs do not include any housekeeping services. The majority of what would be added will probably be cooks and chefs, nursing care, sales person and there is also a significant portion that will be dietary aids we call them. This is basically weight control staff for the residents.

Chuck Malcomb - Is there a draft PILOT Agreement that is going around that you are working on? Are there any documents that I could look at or request a FOIL? I just want to see what the forms of documents are.

Dan Hamister - We don't have any documents. You would have to go to the ECIDA to get those.

Chuck Malcomb - Ok thank you guys.

Colleen Phelps - I have one questions and that is would the surrounding competition and the other assisted livings just help Orchard Park carry it proper. While you are creating 22 new jobs, what kind of impact would it have on other assisted facilities because you have, Fox Run, you have one by the 219 and you have one down the road from your proposed expansion? So while you say you are going to create jobs, how many jobs in the long run? Is going to become a neutral issue?

I don't believe those other facilities are running at full capacity, so everyone is vying towards the same client. So if they all shift towards your new expansion that is going to create economic hardship on the existing businesses already operating.

Dan Hamister - I can't exactly comment on how the competition would react.

Colleen Phelps - ok

Dan Hamister - What I can tell you is that the market as a whole is 95% occupied. The demographics in terms of the senior population have grown 34% in the last 11 years. So as seniors live longer they basically need more care for long period of time. So we believe that the market will absorb quite frankly the increase in supply quite a bit. Look at rule of thumb for independent living for example you need a penetration 25% or less. If you look at Orchard Park it's 14 and some change % and with our addition it will be 17%.

So there is clearly a need based on the information that we have. I can't speculate exactly what will happen but I can tell you typically the seniors don't move. Once they are in the facility

typically they don't move unless they need a higher level of care liked skilled nursing and we just don't provide that.

Colleen Phelps - So are you looking at attracting non-existing Orchard Park elderly residents and pulling them from other areas? And my last question is what payment sources are you accepting? Are you going to be Medicaid approved? Are you looking at all spectrums or is it going to be private pay or does the County pay?

Dan Hamister - Medicaid does not cover this service. It's primarily private pay. We do have some non-private pay residents, but when it comes to independent living for example there is no program, at least that we are aware of for anything but private pay.

Chris Luterk - Will these beds fall under your enhanced care license?

Ken Budin - We are approved for 142 enhanced licenses. I don't believe that we filed for any new licenses, so for right now no.

Chris Luterk - Do you plan down the road to file for theses beds to be enhanced?

Ken Budin - We may if the need is available.

6. ADJOURNMENT.

As there were no further comments, the Hearing Officer closed the public hearing at 9:17 a.m.

SIGN IN SHEET

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regarding:

Orchard Heights, Inc.

Project Location: 5200 Chestnut Ridge Road, Orchard Park, New York 14127

Name	Company and/or Address	X box to speak/ comment