

RESOLUTION
(Lago Resort & Casino, LLC)

A regular meeting of Seneca County Industrial Development Agency on December 10, 2015, at 12:00 p.m. (noon).

The following resolution was duly offered and seconded, to wit:

Resolution No. 2015/14

RESOLUTION AUTHORIZING THE SENECA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") TO (i) UNDERTAKE A CERTAIN PROJECT (AS DEFINED BELOW) FOR THE BENEFIT OF LAGO RESORT & CASINO LLC (THE "COMPANY"), (ii) NEGOTIATE, EXECUTE AND DELIVER A LEASE AGREEMENT, LEASEBACK AGREEMENT, AGENCY AGREEMENT, TAX AGREEMENT AND RELATED DOCUMENTS, (iii) PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (a) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE UNDERTAKING OF THE PROJECT, (b) A PARTIAL REAL PROPERTY TAX ABATEMENT UNDER A TAX AGREEMENT, AND (c) A MORTGAGE RECORDING TAX EXEMPTION FOR FINANCING RELATED TO THE PROJECT; AND (iv) EXECUTE A MORTGAGE AND RELATED DOCUMENTS

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 63 of the Laws of 1972 of the State of New York, as amended (hereinafter collectively called the "Act"), the SENECA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (hereinafter, the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **LAGO RESORT & CASINO, LLC**, a Delaware limited liability company, for itself or on behalf of an entity to be formed by it or on its behalf (the "Company") has submitted an application (the "Application"), a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition of approximately 84 acres of land within the Town of Tyre in the area east of New York State Route 414 and north of the New York State Thruway (being tax map number 12.00-01-36) (the "Land"), (ii) the construction on the Land of an approximately 95,000 square-foot casino containing approximately 85 gaming tables and approximately 2,000 slot machines, plus an additional 75,000 square-foot of support and back of house space, a six-story, approximately 153,000 square-foot hotel containing approximately 205 rooms, an approximately 12,500 square-foot state-of the art full-service spa, and approximately 2,500 square-feet of pool area, an assortment of restaurants totaling approximately 28,000 square-feet, an approximately 40,000 square-foot event center, an approximately 4,000 square-foot child care center, concierge service, a parking garage with parking spaces to accommodate approximately 805 vehicles, surface parking for approximately 2,403 cars, buses or RVs, an approximately 9,000 square foot central plant including and adjacent maintenance facility and related amenities (collectively, the "Improvements"), and (iii) the acquisition and installation by the Company in and around the Improvements of certain items of equipment and other tangible personal property (the "Equipment" and, collectively with the Land and the Improvements, the "Facility"); and

WHEREAS, by resolution adopted on November 16, 2015 (the "Inducement Resolution"), the Agency (i) accepted the Application, and (ii) directed that a public hearing be held pursuant to General Municipal Law section 859-a; and

WHEREAS, pursuant to General Municipal Law section 859-a, on Monday, November 30, 2015, at 6:00 p.m. at Magee Fire Department, 1807 Route 318, Town of Tyre, New York, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance (as defined in the Inducement Resolution) being contemplated by the Agency (the “Public Hearing”) whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; and

WHEREAS, copies of the minutes of the Public Hearing, written submissions and the notice of the Public Hearing published and forwarded to the affected taxing jurisdictions at least then (10) days prior to said Public Hearing are attached hereto as Exhibit A; and

WHEREAS, the Agency has retained a consultant to provide a cost-benefit analysis with respect to the Project and the contemplated Financial Assistance and has reviewed the results of said cost-benefit analysis; and

WHEREAS, in reviewing the Application, the Agency has considered (i) the nature of the Project, (ii) the economic condition of the area and the multiplying effect the Project will have on the area; (iii) the extent to which the Project will create permanent, private sector jobs; (iv) the estimated value of tax exemptions contemplated to be provided; (v) the economic impact of the Project and proposed tax exemptions on affected taxing jurisdictions; (vi) the impact of the Project on existing and proposed businesses and economic development projects in the vicinity of the Project; (vii) the amount of private sector investment likely to be generated by the Project; (viii) the extent to which the Project will require the provision of additional services; (ix) the extent to which the Project will provide additional sources of revenue for the municipalities and school district in which the Project is located; and (x) the benefit of the Project not otherwise available to the area in which the Project is located; and

WHEREAS, the Tax Agreement (as defined in the Inducement Resolution) as so contemplated provides for a schedule of payments to be made by the Company to the Agency; and

WHEREAS, the Agency desires to formally approve the schedule of payments to be so made pursuant to the Tax Agreement, which schedule is attached hereto as Exhibit B (the “Tax Agreement Payment Schedule”); and

WHEREAS, the Agency desires to adopt a resolution (i) acknowledging that the Public Hearing was held in compliance with the Act, (ii) authorizing Financial Assistance to the Company in excess of \$100,000, (iii) authorizing the execution and delivery of the Lease Agreement, the Leaseback Agreement, the Agent Agreement, the Tax Agreement (as all of the foregoing are defined in the Inducement Resolution) and all documents related thereto, and (iv) authorizing the execution and delivery of one or more mortgages and related documents related to the financing of the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:

Section 1. The Agency hereby finds and determines:

(a) By virtue of 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 Project will promote employment opportunities and prevent economic deterioration in Seneca County, and otherwise further the purposes of the Agency, and that by entering into the Tax Agreement and otherwise providing financial assistance for the Project the Agency will be increasing employment opportunities in Seneca County and otherwise furthering the purposes of the Act;

and

(c) The Project includes components providing for participation by the general public in recreation activities, and facilities and appurtenances thereto promoting the use of such components; and

(d) The Facility constitutes both a commercial facility and a recreational facility as contemplated by the Act, and a “project” as such term is defined in the Act; and

(e) The leasing of the Facility from and the subleasing back of the Facility to the Company will promote and maintain job opportunities, health, general prosperity and economic welfare of the citizens of the County of Seneca and State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(f) Based upon the representations and warranties of the Company, the Facility conforms with local zoning laws and planning regulations of the County of Seneca and all regional and local land use plans for the area in which the Facility is located; and

(g) Based upon the representations and warranties of the Company, the Facility and the operations conducted thereon will not cause or result in the violation of the health, labor or other laws of the United States of America, the State of New York or the County of Seneca; and

(h) It is desirable and in the public interest for the Agency to acquire an interest in the Facility; and

(i) The Lease Agreement will be an effective instrument whereby the Company leases the Facility to the Agency; and

(j) The Leaseback Agreement will be an effective instrument whereby the Agency subleases the Facility back to the Company; and

(k) The Tax Agreement will be an effective instrument whereby the Agency and the Company set forth the terms and conditions of their agreement regarding the Company’s payment of real property taxes; and

(l) The Agent Agreement will be an effective instrument whereby the Agency and the Company set forth the terms and conditions of their agreement regarding the Agency’s appointment of the Company as its agent for the Project; and

(m) The Public Hearing held by the Agency on November 30, 2015 concerning the Project and the Financial Assistance was duly held in accordance with the Act, including but not limited to the giving of at least ten (10) days published notice of the Public Hearing (such notice also provided to the Chief Executive Officer of each affected tax jurisdiction), affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the Project.

Section 2. In consequence of the foregoing, the Agency hereby determines to (a) acquire a leasehold interest in the facility pursuant to the Lease Agreement, (b) sublease the Facility back to the Company pursuant to the Leaseback Agreement, (c) authorize the undertaking of the Project and appoint the Company as its agent for purposes of acquiring, constructing and/or equipping the Facility, subject to the Company entering into the Agent Agreement, and (d) provide financial assistance for the Project in the form of (i) a sales and use tax exemption for purchases and rentals related to the undertaking of the Project, subject to the terms and conditions of the Agent Agreement, the total value of the exemption not to exceed \$16,000,00, (ii) a partial real property tax abatement, subject to the terms and conditions of the Tax Agreement, and (iii) a mortgage recording tax exemption for financing related to the Project.

Section 3. The Agency finds and determines that the Tax Agreement Payment Schedule was developed by the Agency with input from representatives of the Seneca County Board of Supervisors, and from the Town of Tyre assessor following review of the appraisal of the Facility prepared for assessment purposes for the Town of Tyre by Cushman & Wakefield, Inc. (John R. Mako, MAL, SRA) dated September 30, 2014, so as to establish a fixed dollar payment schedule for tax certainty for the applicable jurisdictions and the Company, and otherwise to further the public purposes of the Agency, and hereby approves the Tax Agreement Payment Schedule, and determines to provide a real property tax exemption

and related in lieu of payment schedule pursuant to the terms of the Tax Agreement and the Tax Agreement Payment Schedule.

Section 4. The Agency hereby finds and confirms that the partial real property tax abatement provided pursuant to the Tax Agreement and Tax Agreement Payment Schedule conforms to the Agency's uniform tax exemption policy.

Section 5. The foregoing resolutions notwithstanding, the Agency's appointment of the Company as its agent for purposes of undertaking the Project is subject to and conditioned upon the Company's agreement, in accordance with Section 875(3) of the New York General Municipal Law, that, if the Company receives New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") from the Agency, and it is determined that: (i) the Company is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project, then the Company will (A) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (B) promptly pay over any such amounts to the Agency that the Agency demands in connection therewith, and that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine New York State and local sales and use taxes due from the Company, together with any relevant penalties and interest due on such amounts.

Section 6. The Chairman, Vice Chairman and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Lease Agreement, Leaseback Agreement, the Agent Agreement, Tax Agreement in substantially the forms presented to this meeting, and all documents related thereto, with such additions, changes, variations, omissions and insertions as the Chairman, Vice Chairman and/or Executive Director, shall approve, which agreements may provide for the forfeiture and/or recapture of financial assistance where projected employment goals have not been met. The execution thereof by the Chairman, Vice Chairman and/or Executive Director of the Agency shall constitute conclusive evidence of such approval.

Section 7. The Chairman, Vice Chairman and/or Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions and required by any lender or financial institution identified by the Company providing financing for the Project, all with such changes, variations, omissions and insertions as the Chairman, Vice Chairman and/or Executive Director of the Agency shall approve, the execution thereof by the Chairman, Vice Chairman and/or Executive Director of the Agency to constitute conclusive evidence of such approval, provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 8. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 9. These Resolutions shall take effect immediately.

The question of the adoption of the foregoing Resolutions was duly put to a vote on roll call, which resulted as follows:

	Yea	Nay	Abstain	Absent
G. Thomas Macinski	X			
Steven Brusso	X			
Robert E. Kernan, Jr.	X			
Cindy Garlick-Lorenzetti	X			
Thomas L. Kime	X			
Bruce Johnson	X			
Stephen Wadhams				X
Valerie Bassett	X			
Erica Paolicelli	X			

The Resolutions were thereupon duly adopted.

SECRETARY'S CERTIFICATION
(Lago Resort & Casino, LLC Project)

STATE OF NEW YORK)
COUNTY OF SENECA) ss.:

I, the undersigned, Secretary of the Seneca County Industrial Development Agency DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Seneca County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on December 10, 2015, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 10th day of December 2015.



G. Thomas Macinski

Exhibit A
[NOTICE DOCUMENTS]
Attached

EXHIBIT B
TAX AGREEMENT PAYMENT SCHEDULE

SCHOOL YEAR	COUNTY & TOWN YEAR	TAX PAYMENT	TAX PAYMENT DATE
2017/2018	2018	\$685,000	June 15, 2017
2018/2019	2019	\$885,000	June 15, 2018
2019/2020	2020	\$985,000	June 15, 2019
2020/2021	2021	\$1,085,000	June 15, 2020
2021/2022	2022	\$1,185,000	June 15, 2021
2022/2023	2023	\$1,285,000	June 15, 2022
2023/2024	2024	\$1,385,000	June 15, 2023
2024/2025	2025	\$1,485,000	June 15, 2024
2025/2026	2026	\$1,585,000	June 15, 2025
2026/2027	2027	\$1,685,000	June 15, 2026
2027/2028	2028	\$2,321,690	June 15, 2027
2028/2029	2029	\$2,372,424	June 15, 2028
2029/2030	2030	\$2,424,172	June 15, 2029
2030/2031	2031	\$2,476,956	June 15, 2030
2031/2032	2032	\$2,530,795	June 15, 2031
2032/2033	2033	\$2,585,711	June 15, 2032
2033/2034	2034	\$2,641,725	June 15, 2033
2034/2035	2035	\$2,698,859	June 15, 2034
2035/2036	2036	\$2,757,137	June 15, 2035
2036/2037	2037	\$2,816,579	June 15, 2036

MINUTES OF PUBLIC HEARING

**LAGO CASINO & RESORT
TOWN OF TYRE**

**MAGEE FIRE HALL
1807 Route 318
Tyre, NY**

**MONDAY, NOVEMBER 30, 2015
6:00 PM**

ATTENDEES: Robert Aronson, IDA Executive Director; G. Thomas Macinski, IDA Chairman; Steven Brusso, IDA Vice Chairman; Cindy Garlick Lorenzetti; IDA Board Member and Supervisor; Town of Fayette; Ron McGreevy; Supervisor Town of Tyre; Robert Halpin, IDA Legal Counsel; Patricia Jones, IDA Deputy Director, Kelly Kline, IDA Executive Assistant; Tammy B. Figler, Alliance Court Reporter and 37 attendees as noted on attached sign-in sheets.


A public hearing on assistance being extended to Lago Resort & Casino was opened by Robert Aronson, Executive Director to the IDA, at 6:00 p.m.

Copies of written comments and a transcript of the oral comments are attached.

After comments were heard the meeting was closed by Mr. Aronson at 7:10pm

Copies of written comments and a transcript of the oral comments are on file in the Seneca County IDA Office.

Respectfully submitted,



Robert J. Aronson
Executive Director

SENECA COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

LAGO CASINO & RESORT
PUBLIC HEARING

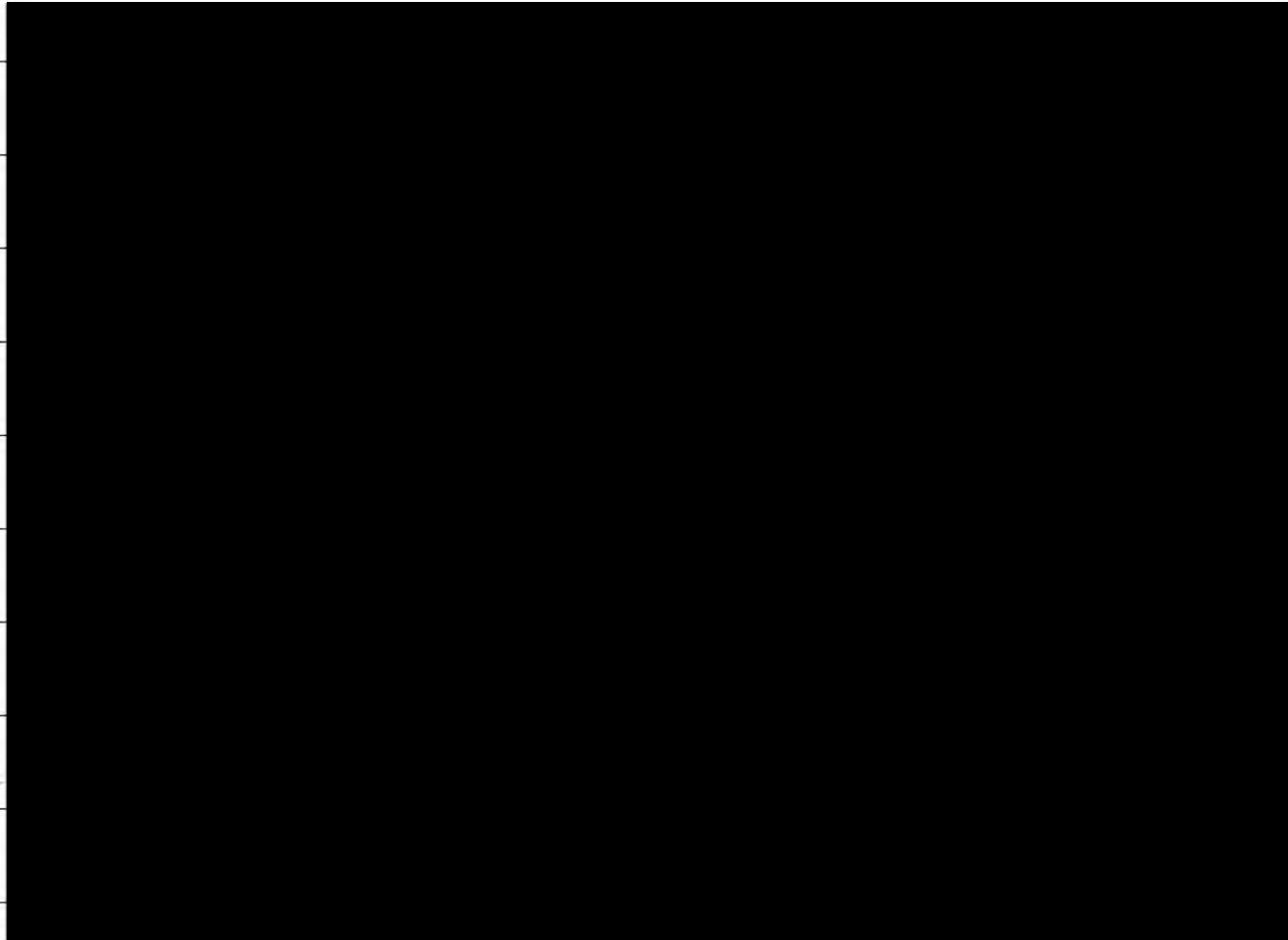
Monday November 30, 2015
6:00 PM

MAGEE FIRE HALL
1807 Route 318
Tyre, New York

SIGN-IN SHEET for SPEAKERS

PLEASE PRINT CLEARLY

- ✓ Name TOM MEYERS
- ✓ Name Catherine Strong
- ✓ Name Beth Smith
- ✓ Name RICHARD BARNER
- ✓ Name Betty Steele
- ✓ Name Dagmar Neapass
- ✓ Name Allison Stokes
- ✓ Name Desiree Dawley
- ✓ Name SAMFS MITCHELL
- ✓ Name James A. Dawley III



SENECA COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

LAGO CASINO & RESORT
PUBLIC HEARING

Monday November 30, 2015
6:00 PM

MAGEE FIRE HALL
1807 Route 318
Tyre, New York

SIGN-IN SHEET for SPEAKERS

PLEASE PRINT CLEARLY

✓ Name Laurel Shoemaker

✓ Name Tina Macdonald

Name _____

Name _____ Address _____ Phone # _____

Name _____ Address _____ Phone # _____

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SENECA COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

LAGO CASINO & RESORT
PUBLIC HEARING

Monday November 30, 2015
6:00 PM

MAGEE FIRE HALL
1807 Route 318
Tyre, New York

SIGN-IN SHEET for SPEAKERS

PLEASE PRINT CLEARLY

✓ Name Jeffrey Dawley

✓ Name Michael Jarvis

✓ Name Linda Ochs

✓ Name David Schoonmaker



Name _____

Name _____ Address _____ Phone # _____

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SENECA COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

LAGO CASINO & RESORT
PUBLIC HEARING

Monday November 30, 2015
6:00 PM

MAGEE FIRE HALL
1807 Route 318
Tyre, New York

SIGN-IN SHEET

PLEASE PRINT CLEARLY

Name John Sheppard

Name Desiree Dawley

Name Henry Beaud

Name Tom Durits

Name Phil Schmitt

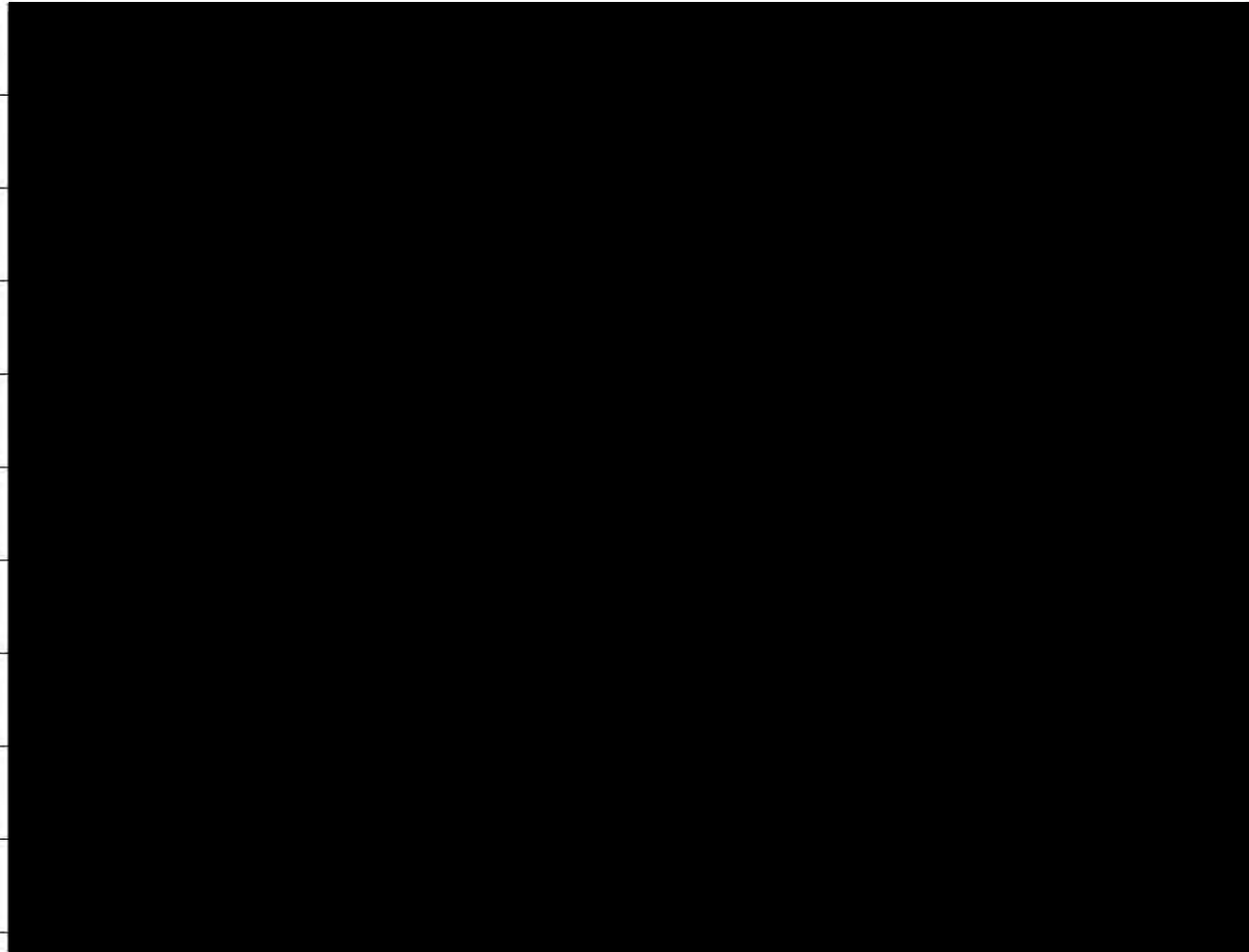
Name Jan Neff

Name David Schoonmaker

Name KAREN ROHRS

Name Dan Stremler

Name Tina Macdonald



SENECA COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

LAGO CASINO & RESORT
PUBLIC HEARING

Monday November 30, 2015
6:00 PM

MAGEE FIRE HALL
1807 Route 318
Tyre, New York

SIGN-IN SHEET

PLEASE PRINT CLEARLY

Name Kenneth Sutterby

Name Melissa Sutterby

Name Ronald McGreevy

Name Betty Smith

Name Russell Smith

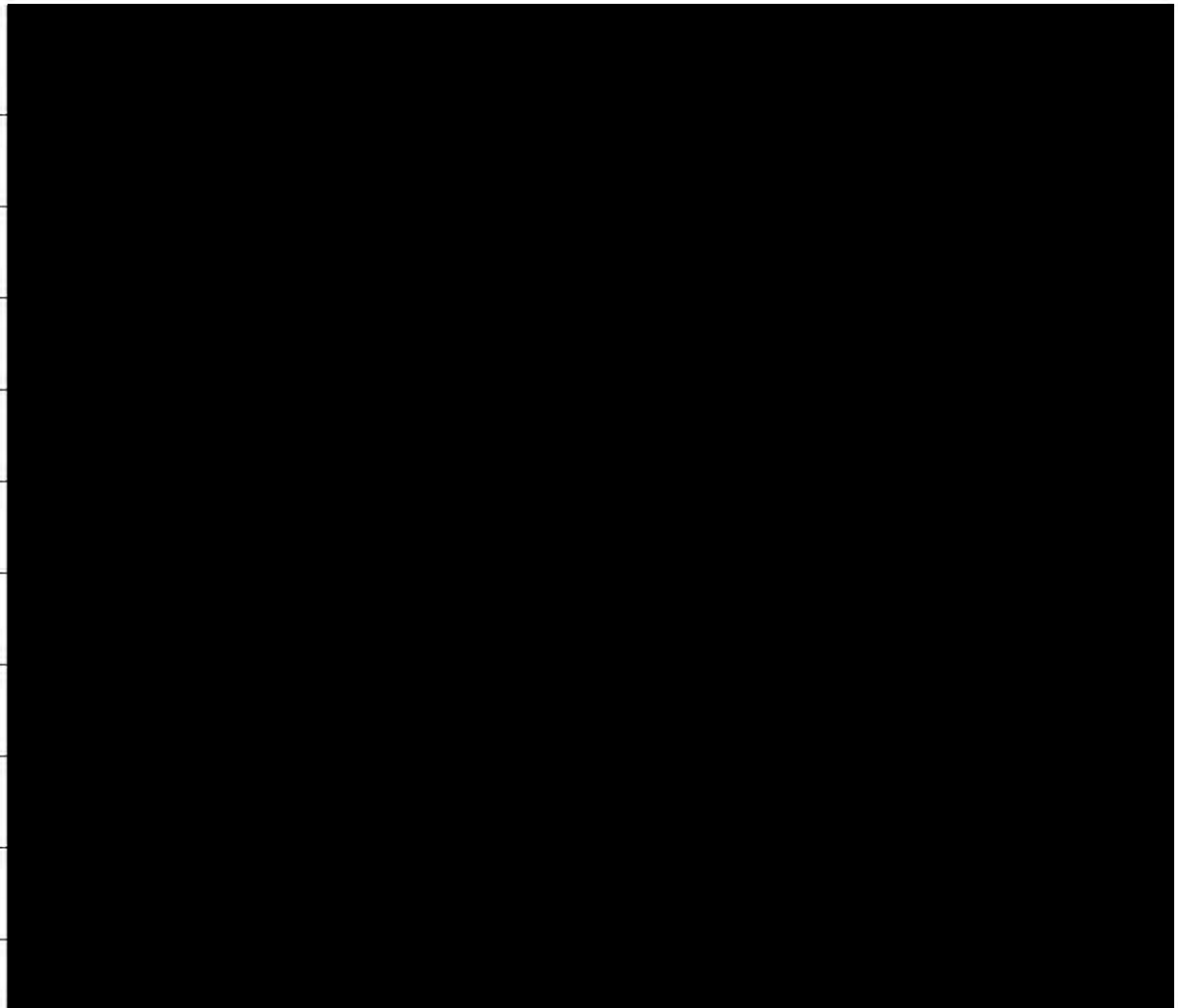
Name RICHARD BARNER

Name Dida Corley-Osterman

Name Gary Osterman

Name Elizabeth Sutterby

Name Art Wentland



SENECA COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

LAGO CASINO & RESORT
PUBLIC HEARING

Monday November 30, 2015
6:00 PM

MAGEE FIRE HALL
1807 Route 318
Tyre, New York

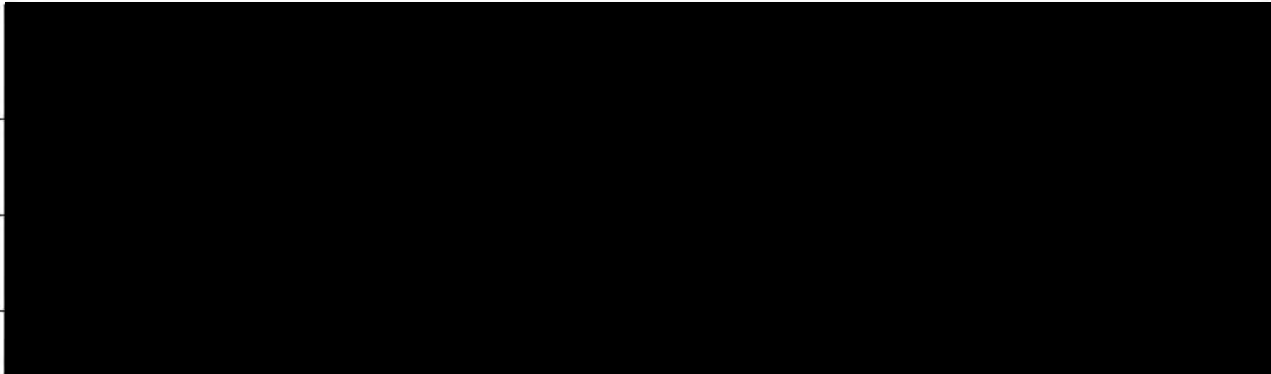
SIGN-IN SHEET

PLEASE PRINT CLEARLY

Name Thomas J. Thomas

Name Patricia Neypass

Name Jane A. Mouselle



Name _____ Address _____ Phone # _____

Name _____ Address _____ Phone # _____

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RE: TOWN OF TYRE LAGO CASINO AND RESORT

PUBLIC HEARING

November 30, 2015



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IN THE MATTER OF
IN RE: TOWN OF TYRE LAGO CASINO AND RESORT

Public Hearing in the Above-Titled Matter:

Location: Magee Fire Department
1807 Route 318
Waterloo, New York 13165

Date: November 30, 2015

Time: 6:00 p.m.

Reported By: TAMMY B. FIGLER
Alliance Court Reporting, Inc.
120 East Avenue, Suite 200
Rochester, New York 14604



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A P P E A R A N C E S

Appearing on Behalf of the Industrial Development Agency:

Robert L. Halpin, Esq.

The Halpin Firm

4588 Route 224

Montour Falls, New York 14865

rhalpin@thehalpinfirm.com

Board Members of the Industrial Development Agency:

Robert J. Aronson, Executive Director

Steven Brusso, Vice Chairman

Thomas Macinski, Executive Director

* * *



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P U B L I C H E A R I N G

MONDAY, NOVEMBER 30, 2015;

(Proceedings in the above-titled matter
commencing at 6:00 p.m.)

* * *

MR. ARONSON: This is a public hearing of
the Seneca County Industrial Development Agency
regarding financial assistance by the IDA to the Lago
Resort and Casino.

We will be hearing tonight from people, or
we'll accept written comments, which we have some from
all persons with views in favor of or opposed to
either the proposed financial assistance to the
company or nature of the facility.

We're going to ask people to keep their
comments to five minutes each, and we'll time them,
and with that we'll open the meeting with the first
speaker.

That would be Tom Meyers.

MR. MEYERS: To the board members of the
Seneca County Industrial Agency. My name is Tom
Meyers and I'm objecting to any financial assistance
to be given to Wilmorite or any of its agencies in any
form, be it loans, leasebacks, tax abatements,
elimination, reduction or any partial or deferred



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P U B L I C H E A R I N G

1
2 payment of the actual fairly assessed mortgage tax,
3 sales and/or town/county tax, or any such PILOT
4 agreements offered to the Seneca County Industrial
5 Development Agency.

6 When a private corporation has been
7 petitioning the courts -- has petitioned the courts
8 for failure to complete a state-mandated review
9 designed to protect our water and natural resources,
10 but instead makes monetary bribes to avoid the
11 judicial system, this should be a red flag to our
12 local officials who should not assist them in any way,
13 especially financially.

14 The attached copies outlines the bribe
15 made by Wilmorite attorney, Shawn Griffin, to the ten
16 petitioners of the Article 78 lawsuit reported in the
17 Finger Lakes Times, November 16, 2015, exposing
18 Wilmorite to their offer of hush money in an attempt
19 to avoid a proper New York State review and squash the
20 opposition to his boss's casino project. The same
21 Harris Beach attorney representing the Seneca County
22 IDA in negotiating a tax break while representing
23 Wilmorite is a glaring conflict of interest. That
24 corporation should not get any assistance.

25 On July 10th, 2015, the courts ultimately



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P U B L I C H E A R I N G

1 ruled that, indeed, Wilmot's environmental review was
2 not -- I'm sorry. Wilmot's environmental review was
3 flawed and every single approval for the casino was
4 vacated. The same suit that Shawn Griffin tried to
5 squash. As a result another review was commenced.
6 This time Wilmot's paid-professional skirted every
7 request by the neighborhood residents to avoid any
8 further studies which would merely protect the
9 residents. What are they afraid of?

11 In fact, review and study would ensure
12 that the casino impacts of estimated 9,000 visitors
13 per day to a small rural community of 900 residents
14 would protect residents from permanent risk to their
15 safety and property, but instead, Wilmot would rather
16 go to court for a second time for ignoring glaring
17 adverse impacts. I caution the IDA to review the
18 character of this applicant and his unwillingness to
19 stand behind his word to the public saying that he
20 would be a, quote, "good neighbor" and "taxpayer."
21 Check out his tax record of failed and unpaid
22 projects, in particular the Sibley building blight
23 that struck the City of Rochester for 18 million
24 dollars of back taxes because of a, quote, "deal" and
25 a loophole that was cut with the city.



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1 P U B L I C H E A R I N G

2 And I have copies of emails that were
3 sent, two of them actually, and I'll read you the
4 emails.

5 This document or email is to be used as
6 supporting statements made in our press release to the
7 Finger Lakes Times in regard to the Article 78
8 Petition decision dated September 18, 2014. Any other
9 use will have to be approved by the Casino Free Tyre's
10 attorney.

11 Date: August 7, 2014, at 12:29 p.m.

12 From: Douglas H. Zamelis, Esq.

13 Subject: Report of the settlement offer
14 from Wilmorite.

15 Dear Desiree, Jim and Other Petitioners:
16 I received a call yesterday, while I was in New York
17 about to argue a case, from Shawn Harris, the lead
18 attorney from Wilmorite. He asked me, quote, "Is
19 there anything that your clients might consider to
20 settle the matter or are they dead set on litigating
21 the matter to judgment?"

22 He said to me, quote, "If there's any way
23 you can put your real estate attorney hat on instead
24 of your litigator hat on, then I'm the guy to talk
25 to."



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1 P U B L I C H E A R I N G

2 I told him I would pass along the offer to
3 the petitioners and get back to him, but I called him
4 back this morning to feel him out further.

5 Harris responded saying that he has not
6 discussed specifics with his client, but he is
7 confident Wilmorite would be willing to -- would be
8 willing, in exchange for withdrawing the suit, to
9 purchase the petitioners' properties and grant each
10 person a life estate that would allow possession and
11 residence of the property for the remainder of the
12 petitioners' lives.

13 Then, again -- then another try again
14 8/26, 2014, 10:10 p.m., the night before the hearing.

15 From: Shawn M. Griffin.

16 Sent: Tuesday, August 26th at 10:10 p.m.

17 To: Desiree.

18 PS: For settlement purposes only, and not
19 to be used in litigation, if one of your clients wants
20 to sell, we will have individual discussions. You do
21 not need to all agree to discuss this with us. We do
22 not need the additional lands, but we want a favorable
23 outcome for all willing to work with us.

24 If any of your clients want to discuss
25 this before the judge issues his decision, please call



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2 me to discuss. Once a decision is rendered, we will
3 proceed as directed and we will not have further
4 interest in this concept.

5 Your call, as my client wants to minimize
6 any local concerns.

7 Shawn Griffin, Harris Beach, PLLC.

8 If that's not a bribe, I don't know what
9 is.

10 MR. ARONSON: Thank you.

11 Next speaker is Catherine Strong.

12 MS. STRONG: This new Seneca County IDA
13 application for financial assistance for the Lago
14 project suffers from the same fundamental deficiency
15 as the first one. Originally Lago's application
16 represented on its face that Lago's financing was
17 100 percent in place. Now the most recent application
18 is worded differently with no explanation for the
19 change.

20 Lago does not need these benefits to
21 proceed, because these benefits are not necessary to
22 induce the development. There is no justification
23 under the law for the IDA to award benefits. These
24 benefits simply would serve a private rather than
25 public purpose.



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2 According to the Location Board in
3 December when the recommendation was made, one of the
4 reasons for the board's decision was because of their
5 stellar financing that they submitted to the State
6 Gaming Commission for a license.

7 Wouldn't it be contrary to your mission as
8 an Industrial Development Agency to give incentives to
9 a project who stated that they didn't need assistance?

10 Thank you.

11 MR. ARONSON: Betty Smith.

12 MS. SMITH: To the board members of the
13 IDA: I am a resident of the Town of Tyre and a
14 taxpayer to the Waterloo School District, and I'm
15 strongly opposed to the proposed casino plan.

16 There are two main taxpayer concerns I
17 would like to get into the record tonight for your
18 consideration, which are the casino's Community
19 Mitigation Plan and the IDA taxpayer revenue giveaway.

20 The proposed Wilmot casino project is
21 located in the taxing jurisdiction of the Waterloo
22 School District and has a large potential to be a
23 detriment to the tax base to the communities of all
24 three school districts of which Tyre residents pay
25 their school taxes: Clyde-Savannah, Waterloo and



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2 Seneca Falls.

3 With Wilmot using a small town like Tyre,
4 a town using three school districts to ship their kids
5 off to school, shouldn't the plan be broader than the
6 Town of Tyre when it comes to paying for casino
7 impacts?

8 The Community Mitigation Plan was based on
9 a Center For Governmental Research report, a report
10 which appears to be highly deficient in its analysis
11 of impacts to Tyre, New York, and the surrounding
12 towns involved. It's not really a third-party
13 document when the Lago lawyer, Shawn Griffin, is
14 involved in the content of the report, potentially
15 tainting the report. He has also been a party to the
16 IDA negotiations as counsel for IDA and Wilmorite, a
17 blatant conflict.

18 Where are the school impacts? Where are
19 the costs to the county in services? Why was the
20 original HCA in 2014 written behind closed doors with
21 Shawn Griffin, Wilmot's attorney, having a say?
22 Wilmot paid for the CGR report relied upon to create
23 the CMP, which in effect creates a biased outcome.

24 The plan fails to address any social
25 impact mitigation other than what is required by New



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2 York State Gaming Commission Laws. It seriously
3 underestimates the cost to our tax-paying base in
4 regard to the student population impacts, school
5 programs and subsidized programs, all of which will
6 cost our county and nearby counties as well.

7 The majority of casino jobs are listed as
8 low-wage jobs, which will impact costs for services
9 and inevitably create significant costs to our county,
10 extra costs to the schools, and extra costs ultimately
11 to the people of Seneca County and the region.

12 Tyre is the only town that receives any
13 shared gaming tax revenue, which is guaranteed to be
14 2 million dollars a year, but the town is so small
15 that other nearby towns, who will likely experience
16 impacts, get no money from the taxes. It would be
17 irresponsible for you to give away our tax dollars to
18 Wilmot.

19 So in response to a tax break for Wilmot's
20 project, the risk to taxpayers is too great. I
21 request that you get further studies that include
22 these costs per student, costs to our social services
23 and keep 100 percent of our tax money in order to
24 protect our community. Wilmot claims lower taxes.
25 Make him prove it and give the taxpayers the full



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2 benefit. No tax breaks for Wilmot.

3 MR. ARONSON: Richard Barner.

4 MR. BARNER: Hello. My name is Richard
5 Barner, and I'm a resident of Tyre and a Seneca County
6 and Waterloo School taxpayer.

7 I'm here today to speak on behalf of the
8 Financial Assistance Application before us tonight for
9 the proposed Lago Casino.

10 Wilmot's casino doesn't qualify. It
11 doesn't matter what their representatives and lawyers
12 try to call "a project." It's a casino anyway you
13 look at it. Just because they reference wishful
14 reasons in their attachments to their application
15 doesn't make it so.

16 Wilmot's Lago Casino is not a project as
17 it must be under the statute for the IDA to approve
18 benefits. Lago's insistence that this is, in fact, a
19 project does not make it so, and an amended petition
20 which you have a copy of in the records tonight lays
21 out the reasons. Still applicable here why it is not
22 a project. So the IDA is acting unlawfully outside of
23 its jurisdiction.

24 Thank you for listening.

25 MR. ARONSON: Betty Steele.



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2 MS. STEELE: Good evening. My name is
3 Betty Steele and I reside in Waterloo.

4 I am opposed to the proposed incentive
5 package offered to Wilmorite and the other developers
6 of the proposed Lago Resort and Casino Seneca County
7 IDA. As a taxpayer in Seneca County for over 40
8 years, I resent the fact that Tom Wilmot and Wilmorite
9 literally bulldozed its way into Seneca County and the
10 Town of Tyre, a rural, agricultural region, by luring
11 politicians and residents with the promise of more
12 jobs and lower taxes due to increased revenue to the
13 town and county from the proposed casino.

14 I believe the purpose of tax incentives is
15 to lure new businesses to a specific area. Tom Wilmot
16 chose Seneca County and specifically Tyre for the
17 development of a casino and hardly needed any
18 incentives to do so.

19 In fact, several times Mr. Wilmot has
20 stated he really doesn't need the proposed incentives.
21 Which is it? Does he or doesn't he?

22 In the past the IDA has ignored requests
23 by residents to not give tax incentives to the casino
24 project, especially after the application for the
25 casino was submitted to the Gaming Commission for



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2 approval and has subsequently been approved for
3 consideration of a license by the commission.

4 I can't image that a full financial
5 statement would not be submitted as part of the
6 application process for the proposed casino affirming
7 that finances for the project are secure. If that's
8 the case, there should be no question that tax
9 incentives are not needed for this project especially
10 from such an economically depressed area as Seneca
11 County has been portrayed.

12 Are you sure Seneca County taxpayers can
13 afford this? I'm not sure. On Sunday, November 29th,
14 an article in the Finger Lakes Times stated that the
15 current offer for incentives is expected to be the
16 same as the first offer that was approved by the IDA
17 in February. That same offer was going to be
18 reaffirmed by the IDA three weeks ago but was tabled.

19 So I take it that this new deal is the
20 same lucrative incentive package that was conceived by
21 Attorney Shawn Griffin working behind the scenes for
22 both sides of the negotiating table as attorney for
23 both the IDA and Wilmorite. Doesn't that make this
24 supposedly "new deal" as blatant a conflict of
25 interest as the first one? I believe it does.



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2 Thank you for your time.

3 MR. ARONSON: Dagmar Nearpass.

4 MS. NEARPASS: Good evening. I'd just
5 like you to know that I am opposed to any and all
6 financial breaks for Wilmorite from the IDA.

7 I'm also submitting a copy of all the
8 comments from the first public hearing on
9 January 29th. Please include these in the records of
10 this hearing.

11 Also is a copy of the Amended Article 78
12 Petition against the IDA, for the record.

13 MR. ARONSON: Alison Stokes.

14 MS. STOKES: My name is Alison Stokes, and
15 I'm from Seneca Falls and I want to begin by
16 protesting a five-minute rule. It's an extremely,
17 extremely important issue that we're discussing and to
18 limit unnecessarily when, I would assume we'll be out
19 of here in less than an hour, I have at least 7 or 8
20 minutes prepared and I ask that you hear everything I
21 have to say.

22 MR. ARONSON: We're fine.

23 MS. STOKES: Thank you. Thank you very
24 much. I appreciate that.

25 I begin my remarks tonight by briefly



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2 greenhouses, a wind turbine, and even a small roadside
3 shed with a solar panel.

4 Over the canal bridge, I entered the
5 Seneca Falls Heritage Area, turned left on Fall Street
6 and passed the Hall of Fame and Women's Rights
7 National Park. There were restaurants, the Gould
8 Hotel, Microtel and after turning north on 414 were
9 the Hampton Inn and Holiday Inn. Whatever it might
10 have been in days past, it is a place that is in --
11 not in economic distress or desperately in need of the
12 economic assistance from a casino developer.

13 As I drove north toward Tyre on 414, dead
14 ahead was a Seneca mountain of garbage, misnamed
15 Seneca Meadows, and often emitting noxious odors. I
16 passed the huge Petro and finally to the newly paved
17 entrance to the yet-to-be-licensed gambling casino.

18 Tom Wilmot and the IDA claim that Lago
19 will be a destination resort, and this setting beside
20 the Thruway, overlooking Petro, down street from a
21 smelly landfill, that will never happen. Amidst the
22 beauty of Seneca County, only a gambling casino will
23 draw patrons there, a quick on and off the Thruway for
24 many of them.

25 The front page story in Today's Finger



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2 Lakes Times is relevant here too. The headline reads:
3 "Horn To New York City Mayor. Don't Send Trash Here."

4 Reporter David Shaw quotes from a letter
5 written ten days ago from the General City Manager
6 Matt Horn to Mayor de Blasio. Horn writes that the
7 proposed \$3.3 billion transaction between New York
8 City and Seneca Meadows, quote, "Has the potential to
9 destroy the brand that the Finger Lakes, Geneva and
10 our sister communities have worked so hard to develop
11 and preserve."

12 Indeed, as I traveled Route 414 I thought
13 about how all that we had worked so hard to develop
14 and preserve is threatened by Tom Wilmot's gambling
15 casino. By giving him taxpayer-provided incentives,
16 the IDA is in collusion with him. The IDA is
17 comprised of a board made up of -- almost exclusively
18 of men who are not elected. They are not
19 representative of the people and not accountable to
20 the people.

21 Moreover the board has no interest in
22 listening to the testimony of opponents to the
23 gambling casino. I learned this from your
24 January 29th, 2015, hearing on the first incentive
25 resolution for Tom Wilmot. Only one board member and



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2 the executive director attended that hearing. They
3 then ignored the majority testimony against the
4 proposed incentive resolution. The Seneca County IDA
5 now, once again, wrongfully proposes to give public
6 assistance to a wealthy man for his private benefit.

7 From the incredible amount of money he has
8 spent promoting Lago, it is more than clear that Tom
9 Wilmot needs absolutely no incentive to build a
10 gambling casino in Seneca County.

11 The IDA was formed to bring industrial
12 development to Seneca County using incentives. It was
13 not formed for promoting tourism. This is an
14 important point. The Seneca County Board of
15 Supervisors at its last meeting, once again,
16 designated the Chamber of Commerce as the County's
17 TPA, or Tourism Promotion Agency. I want to read to
18 you what the executive director of the chamber told an
19 interviewer in the summer of 2013, about two years
20 ago. This was at a time when the issue of bringing
21 Vegas-style casinos to the state was slated to be on
22 the ballot in the fall, and it was widely being
23 publicly discussed, including in Seneca County and
24 including at the Chamber of Commerce.

25 Jeff Shiplee spoke with the founder of the



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2 Institute for American Values, David Blankenhorn.
3 Blankenhorn recalls their conversation and Mr. Shiplee
4 is saying: Most Seneca County merchants and business
5 leaders oppose casino expansion. Casino gambling
6 impoverishes people, he said, and we already have poor
7 people.

8 The interviewer goes on to say, he
9 reported a strong general feeling against
10 Indian-sponsored gambling in the region, and said that
11 a casino gambling sponsored by New York State would
12 not help, and would likely hurt the local businesses
13 whose owners are Chamber of Commerce members.

14 People going to casinos means those people
15 are not going to our restaurants and not going to our
16 shops. He also pointed out that many leaders in
17 politics and business now stress the importance of
18 sustainability. They regularly urge sustainable
19 agriculture, sustainable economic growth and
20 sustainable business models. Casinos move us in the
21 opposite direction. Casinos are not sustainable
22 anything.

23 If you want to read this conversation,
24 it's in Blankenhorn's report: "New York's Promise.
25 Why sponsoring casinos is a regressive policy unworthy



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2 of a great state." Mr. Shiplee had this exactly right
3 before he flip-flopped.

4 Thank you.

5 MR. ARONSON: Desiree Dawley.

6 MS. DAWLEY: Good evening. My name is
7 Desiree Dawley, and I'm here tonight to oppose the
8 financial assistance package, essentially a repeat of
9 the January through February application.

10 I would like to address a few questionable
11 aspects of this, quote, "deal." I would like this
12 board to explain the discounted IDA fee. What is the
13 reason for giving one of the richest developers in the
14 country a discount on the fee, because Mr. Wilmot's
15 lawyer is the IDA's regular lawyer, maybe -- I
16 suggest -- may I suggest that may have caused some
17 undue influence.

18 Banishing Shawn Griffin and Harris Beach
19 from the new application does not cure the conflict.
20 This is essentially the same old deal that his firm
21 negotiated for Lago while counsel to the IDA. The
22 ethical taint remains.

23 The IDA was created to support economic
24 development in Seneca County. The IDA fee is
25 essential to supporting those efforts, and the largest



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2 project and associated tax breaks in the county's
3 history could mean grants or loans to small businesses
4 and numerous other ways to support other people of
5 this county.

6 But instead this board has given Wilmot a
7 75 percent discount. Why? What's the reason?
8 There's no mention of any need for this discount in
9 the state application, so why are you giving it to
10 him? It appears that the only one getting lower taxes
11 from this casino project is Mr. Wilmot's Lago project.
12 His signs claiming lower taxes should be changed to
13 "lower taxes for Lago."

14 The whole redo is entirely disappointing
15 and a real slap in the face to area taxpayers that
16 were sold something very different than what we see
17 here tonight.

18 And I hope you, the IDA, will say no to
19 the assistance for Wilmot's casino project this time.

20 Thank you.

21 MR. ARONSON: James Mitchell.

22 MR. MITCHELL: My name is James Mitchell.
23 I live at 1691 Route 336, Waterloo, New York.

24 First I want to thank you for letting me
25 speak. I feel the incentive package for Lago is



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2 crazy, ridiculous, not necessary. If they want to
3 come here, pay their own way -- excuse me -- and not
4 give them 45 million dollars tax break. The
5 incentives are insane, and the taxpayers foot the
6 bill.

7 I'm concerned about all of the taxpayers,
8 me and all the taxpayers in Seneca County. They're
9 getting a gold mine, and we're getting the
10 you-know-what.

11 Thank you very much.

12 MR. ARONSON: James Dawley III.

13 MR. DAWLEY: Thank you for allowing me to
14 speak tonight. One thing, my name is James Dawley
15 III.

16 Once again Lago appears to be relying on
17 the false appraisal on which it previously relied. We
18 have provided an analysis from certified appraiser of
19 the many deficiencies in that appraisal report.

20 In light of that report, if this board
21 approves these benefits, it will be the epitome of
22 arbitrary and capricious decision.

23 I'm resubmitting a copy of our expert's
24 report for this board's review, and please include
25 this in the record for this hearing.



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2 MR. ARONSON: Jeffery Dawley.

3 MR. DAWLEY: Thank you for letting me
4 speak tonight. My name is Jeffery Dawley and I'm from
5 Waterloo -- taxpayer of Waterloo Village. And mostly
6 a teacher and I'm concerned about these tax breaks and
7 how they're going to affect our county/town and then
8 how it's going to effect schools as well.

9 I made comments at the previous hearing as
10 well, and I still think it's confusing that we're
11 trying to give tax breaks or incentives to a company
12 that's coming here on their own volition to make
13 money. I mean, if they think that they're going to be
14 making money based on all these projections and things
15 that they've offered us, why would we need to give
16 them any incentive to come here? It's insane.

17 Anyway, basically a re-duration of what I
18 told you guys before. The assistance applications for
19 tax breaks, etc., for Wilmorite should be scrutinized
20 no differently than any other applicant. Does it or
21 does it not meet the New York State agency criteria?
22 A statement from the former chairman of the board of
23 supervisors in regard to the August 13, 2013, minutes
24 calling for the IDA agency to re-evaluate its -- lost
25 my place. I'm sorry.



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2 A statement from the former chairman of
3 the board of supervisors in regards to the August 13,
4 2013, minutes calling for the IDA agency to
5 re-evaluate its policies for financial support in
6 regard to Seneca Meadows, Inc., it's the same thing.
7 We need to have more scrutiny on these situations.

8 As a taxpayer I don't feel like handing
9 out my hard-earned taxpayer money towards something
10 that's not going to benefit us as a people.

11 While Seneca County taxpayers could use
12 100 percent of the estimated tax money much more than
13 Wilmorite, and if they will not be taking their casino
14 project to another county or state, nor will there be
15 any job losses if this casino application is not
16 granted, the basis for the IDA mission -- I'm sorry --
17 which is the basis for the IDA mission to grant tax
18 incentives.

19 Words of support from Robert Shiplee, the
20 first time Wilmot sought tax incentives from the IDA
21 raised the necessity of this project to offset the
22 delinquent Indian property taxes owed to this
23 county/town of Seneca Falls. If this is such a
24 burden, why would he or any other legislature be in
25 favor of the tax breaks at all, especially from a



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2 project that needs no enticing and is going anywhere
3 else?

4 Senator Nozzolio garnering quite a sum of
5 New York State taxpayer money to the tune of
6 1.2 million dollars to offset the loss of the tax
7 revenue which was given to this county. Shouldn't we
8 be using that money to help lower taxes for the Seneca
9 Falls taxpayers burdened by the Cayuga Nation land
10 issue? Instead it has been used for projects in
11 Waterloo, and for the 318/414 sewer line which likely
12 will benefit the casino project. Why are we paying
13 for Wilmot's private corporate monopoly? If licensed,
14 Wilmot will be guaranteed its own monopoly on
15 restaurants, hotel patrons and his profit from all
16 costs gambling empire.

17 I question how you can give away, not
18 collect, taxpayer dollars that should be used for the
19 impacts to our community from the supposed increase of
20 tourism, traffic accidents, crime, and especially the
21 impact that has not been well-documented in regard to
22 problem gambling.

23 The addition of a potential burden to
24 Seneca County, casino related, should be a factor that
25 taxpayers shouldn't have to pay for, and tax abatement



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2 means much less money into taxes, a benefit only to
3 Wilmorite but a detriment to taxpayers.

4 I also know that Wilmorite's lawyers,
5 Harris Beach, have been historically involved with
6 this Seneca County IDA agency. This conflict should
7 be a public issue. There will be formal complaints
8 and an investigation will be raised on behalf of this
9 community if people in Seneca County opposed to the
10 granting of any tax breaks for Wilmorite/Whitetail
11 414, LLC, or any agent of Wilmorite or their
12 affiliates, gets stuck with the county IDA agency
13 cutting the taxpayer out of the benefit of 45 million
14 dollars for no apparent reason.

15 Please hear the people of your county.
16 The taxpayers' money is not for Wilmorite's gain.
17 None of the county has agreed to give them anything,
18 and it's up to you to listen. That's what this public
19 hearing is for. Not just an exercise in futility.

20 Thank you.

21 MR. ARONSON: Michael Davis.

22 MR. DAVIS: I'd like to thank the board
23 for hearing me tonight. I want to bring back the
24 focus to what this project will bring to this area and
25 why I would agree with you if you were to hand these



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2 tax breaks over.

3 1,800 construction jobs. We have still
4 been waiting for them. They should have been on the
5 way. That's a huge chunk of construction in this
6 area, not to mention the indirect jobs you get to put
7 in this. And I understand what you're allowed to put
8 in theses as far as what kind of benefits you'll show.

9 The indirect spinoff jobs from the
10 construction market alone, when 1,800 people will be
11 massive. The \$42,000 average wage is far from a low
12 wage in this area. That is more of a middle-class
13 wage in this area. It's a very good wage, and it's
14 something that should definitely be looked at when
15 you're making this decision.

16 You're protecting the schools by bringing
17 this here. I've heard time and time again, well, the
18 schools are losing out. There's nothing there right
19 now that funds these schools. Anything is better than
20 nothing. And you cannot afford not to. This area
21 needs some sort of economic development, and I'm
22 100 percent for helping it anyway we can.

23 Thank you.

24 MR. ARONSON: Linda Ochs.

25 MS. OCHS: Good evening. My name is Linda



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2 Ochs, O-C-H-S.

3 It's hard to get a man to understand when
4 his salary depends on him not understanding. Think
5 about that for a second.6 And that's kind of what this project --
7 this definitely applies to this project. This is the
8 second review you've done, and looking over the first
9 one and the amendments that you guys went back and
10 supposedly did, things have not changed and you really
11 have not listened to the people that live here and
12 that are going to be here. A lot of the jobs and
13 stuff that we're talking about will be here very
14 shortly and be gone.15 You have my previous comments, and can
16 they be put on the record as well? Is that something
17 that we do?18 MR. ARONSON: They would be there because
19 of somebody who left the prior comments.

20 MS. OCHS: Okay.

21 MR. ARONSON: They'll be there.

22 MS. OCHS: Okay. And I wish to reiterate
23 those comments and what other people have stated
24 tonight as well.

25 This casino project should not receive a



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2 dime of our tax dollars to make this project happen.
3 Wilmot has said publicly he didn't need or want our
4 money for this project, and that kind of let people
5 feel like, okay, we don't have to worry. They're not
6 going to be grabbing our tax dollars and making a
7 bigger fortune than what they already we're planning
8 on.

9 We shouldn't be making rich people with
10 less than outstanding financial and project
11 accomplishments that do not hold true for this
12 project. We cannot be giving people money making them
13 richer, when we don't even have a guarantee that the
14 taxpayers of Seneca County will not end up holding the
15 bag for his loans or any other financial debts that he
16 may incur.

17 In Seneca County the IDA has a track
18 record of using taxpayer dollars to finance 90 million
19 dollars worth of bonds and 5 million dollars in sales
20 tax exemptions for Seneca Meadows' expansion, in
21 addition to other things, they got the cleaning up the
22 gases and shipping them off to California using our
23 tax dollars as well. And these are projects that
24 probably would have occurred without IDA incentive
25 anyway.



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1 P U B L I C H E A R I N G

2 Now they voted to give away 45.3 million
3 more of our money in tax incentives. This time to
4 Wilmorite, a wealthy corporation that owns shopping
5 malls throughout New York State and whose gain comes
6 at the expense of higher taxes for others, including
7 those more deserving.

8 What's worse, as outlined by Alison
9 Stokes, Finger Lakes Times, February 25, 2015, is that
10 these IDA payments to Wilmorite would last for a
11 period of 20 years, effectively turning county
12 taxpayers into cosigners on a long-term loan for a
13 project that banks apparently deem too risky to
14 approve on its own merits.

15 In other words, will taxpayers be stuck
16 with picking up the tab as they did for JP Morgan and
17 other too-big-to-fail banks?

18 As David Cay Johnston, a Pulitzer
19 Prize-winning reporter and author and three books on
20 financial inequality said, "IDA and other state and
21 local corporate for welfare now cost \$900 a year for
22 every U.S. family of four."

23 As reasoning for their actions, the Seneca
24 County IDA points to a report they commissioned that
25 concluded that the financial benefits to the town and



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1 P U B L I C H E A R I N G

2 the county would be 1.8 billion, or a benefit-to-cost
3 ratio of nearly 52 to 1. But if the benefits are
4 indeed this great, why don't the banks see it this
5 way? The only one who's guaranteed lower taxes out of
6 this deal would be Wilmot.

7 Perhaps they've read "Gambling in America
8 Costs and Benefits," generally viewed as the
9 definitive study of this topic wherein the author,
10 Earl Grinols, estimates every dollar of economic gain
11 from casinos is offset by \$3 of economic loss. The
12 story of recently failed casinos up and down the
13 Atlantic seaboard has been one of taxpayer bailouts,
14 whether it's to bailout the seller or to help fund a
15 new buyer.

16 The casinos cannot now operate without
17 government subsidies and have become welfare queens.
18 This is an ironic reversal of what was supposed to
19 produce jobs and income for residents who now instead
20 have to support the industry with their tax dollars.

21 And if Wilmore were to default on the
22 loan, it wouldn't be the first time. City of
23 Rochester officials say that Wilmore was delinquent
24 for a period of over a decade in owing them over
25 20 million dollars. See the Democrat & Chronicle



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1 P U B L I C H E A R I N G

2 Article 2/12/12.

3 For these reasons and more Seneca County
4 citizens on January 29th, myself included,
5 overwhelming disapproved of any amount of taxpayer
6 money being given to Wilmorite in what has become just
7 one more of the IDA's growing list of sham public
8 hearings that has endorsed and abetted by our elected
9 county officials.

10 So here you are at it again after
11 previously ignoring the will of the people. Shame on
12 you for even reconsidering giving my money to
13 Wilmorite.

14 Sincerely Glen Silver, President Concerned
15 Citizens of Seneca County.

16 And, again, it's time to listen to the
17 people. You have to quit giving big money, big money,
18 because this county does not have it to give, and we
19 definitely need to protect the white deer and other
20 things that no one has in this area.

21 Thank you.

22 MR. ARONSON: David Schoonmaker.

23 MR. SCHOONMAKER: Good evening. My name
24 is David Schoonmaker. I've lived in the Town of Tyre
25 for 54 years.



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1 P U B L I C H E A R I N G

2 To me the idea of giving a billionaire
3 tens of millions of dollars is absolutely ridiculous.
4 Why would we do this? Why would we even consider
5 giving this amount of money to a business who is only
6 going to create empty bank accounts and nothing more.

7 Thank you.

8 MR. ARONSON: Laurel Shoemaker.

9 MS. SHOEMAKER: Good evening. I'm Laurel
10 Shoemaker, resident of the Town of Phelps, and I do
11 apologize for not being here when you first opened up
12 your meeting.

13 Are you all the IDA, or are there more of
14 you?

15 MR. ARONSON: We have one other board
16 member with us tonight.

17 MS. SHOEMAKER: Thank you.

18 Our family resides in a neighboring town
19 to the proposed site of the Wilmorite casino. We are
20 strongly opposed to this project, its location and any
21 tax incentive packages that might be in consideration
22 for it. It will undermine not only Tyre, but the
23 surrounding areas' economy, as well, and you've heard
24 over and over, "blah-blah blah-blah."

25 But I would like to reference IDA Act GML,



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1 P U B L I C H E A R I N G

2 Article 18-A. You're probably familiar with it. It
3 is my understanding that casinos are not included in
4 this act and, therefore, shouldn't be allowed, not
5 even considered for any financial assistance.

6 As far as the "centerpiece designation"
7 reference to the attachment to the Lago application,
8 Lago's casino location and the casino model
9 disqualifies it from being a "tourism destination."
10 See IDA Article 18-A.

11 For location, the Lago project is nowhere
12 near any state line to attract out-of-state tourists.
13 And as for the casino model it relies on 50 to 70
14 percent of repeat customers to exist. This percentage
15 of repeat customers would be locals frequenting this
16 locale, not out-of-towners. Lago would be nothing
17 more than a convenience casino once the shine wears
18 off.

19 It's been mentioned at least one other
20 time this evening. When you think of destination
21 resorts, what sights and sounds and smells come to
22 mind? Well, typically, a dump, a truck stop, and the
23 New York State Thruway wouldn't be at the forefront of
24 your mind.

25 The Catskills, Sullivan Montreign Casino



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P U B L I C H E A R I N G

1
2 location, is a true destination location of our state.
3 This is the casino that Wilmot's attachment references
4 at the bottom of page 3 when comparing the impacts and
5 assessing financial assistance. As vague as that all
6 is, it's a poor comparison. Sullivan County's
7 Montreign Casino isn't stealing 50 to 70 percent of
8 the patrons from the nearby gaming facilities as Lago
9 would be -- being nothing more than another thruway
10 casino.

11 Multiple casinos within a 22 to 75-mile
12 radius of the proposed Lago location are already
13 readily available to those looking to patronize a
14 casino. It seems one of the only true similarities
15 between the proposed Lago and the Montreign is the
16 search for tax breaks, and who doesn't like a good tax
17 break?

18 The proposed Lago casino has been
19 strategically placed to draw from the New York State
20 Thruway. Every vehicle that would otherwise turn
21 right and enter our growing Finger Lakes region will
22 now go left to the casino. The folks going off the
23 thruway will be drawn into Lago, its casino,
24 restaurants. Not the restaurants in historic Seneca
25 Falls, and along the lakeside, nor the restaurants in



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P U B L I C H E A R I N G

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Waterloo.

The goal of casinos is keeping patrons there, as stated in the Town of Tyre's CGR report, page 22, and I quote, "The casinos' business model relies on retaining customers on site." That doesn't sound like a statement reflecting genuine concern for the economic development and growth of the surrounding area.

This IDA deal has been tainted by conflicts of interest since Shawn Griffin, Wilmorite's counsel, worked this deal while acting as counsel for the Seneca County IDA. Meanwhile Lago did not disclose any tax breaks in their application, selling their project as being a taxpayer. They were going to be this taxpayer. This can be found in the Fayette Town Board meeting minutes. FOILED documents reveal that at this time lucrative tax breaks were being negotiated for Wilmot.

So we heard this word used earlier on a couple of different occasions, in hopes of this not being futility so for all of these reasons the gaming commission would do well to not award a license to Lago. And for the purposes of this evening, with all due respect, it would behoove you, the IDA, to be



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P U B L I C H E A R I N G

1
2 gutsy and discard any inclination that you may have
3 had already. Do not give any tax breaks or incentives
4 to Wilmorite Casino Lago.

5 I implore you to just say no to Lago.

6 MR. ARONSON: Tina MacDonald.

7 MS. MacDONALD: Hi. Thank you for your
8 time tonight.

9 First off, I disagree with everything that
10 she just said. That's my opinion and everyone is
11 entitled to their own opinion.

12 I support the IDA, Seneca County, the Town
13 of Tyre and the Lago project. It's what Seneca County
14 needs. We need to increase jobs. The Finger Lakes is
15 a prime destination for tourism. We have wineries; we
16 have lakes, a perfect location between Rochester and
17 Syracuse, Buffalo, Albany. Why not come here? We
18 live here. We see how beautiful it is. Why not share
19 this with other people?

20 Lago will bring business and business
21 brings more business, and you, as the IDA, know what's
22 best for Seneca County.

23 Seneca County supports Lago and all the
24 other projects that will be created because of Lago.
25 The future of Tyre and Seneca County needs this.



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1 P U B L I C H E A R I N G

2 Thank you for your time.

3 MR. ARONSON: That concludes all the
4 speakers that have signed up.

5 Is there anybody who didn't have a chance
6 to sign up who would like to speak?

7 With that, then, we'll close this public
8 hearing.

9 Thank you very much for coming out
10 tonight.

11 (TIME: 7:10 p.m.)

12 * * *

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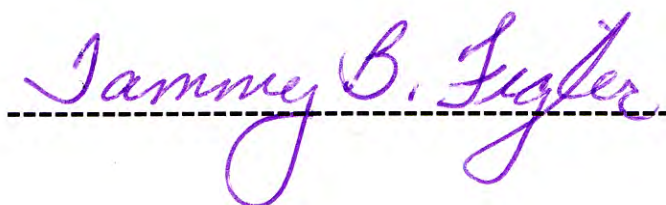
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C E R T I F I C A T I O N
STATE OF NEW YORK:
COUNTY OF ONTARIO:

I, TAMMY B. FIGLER, do hereby certify that I reported in machine shorthand the above-styled cause; and that the foregoing pages were produced by computer-aided transcription (CAT) under my personal supervision and constitute a true and accurate record of the testimony in this proceeding;

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;

WITNESS my hand in the City of Farmington, County of Ontario, State of New York.



TAMMY B. FIGLER
Freelance Court Reporter and
Notary Public No. 01FI4573724
in and for Ontario County, New York



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EXHIBIT B
TAX AGREEMENT PAYMENT SCHEDULE

SCHOOL YEAR	COUNTY & TOWN YEAR	TAX PAYMENT	TAX PAYMENT DATE
2017/2018	2018	\$685,000	June 15, 2017
2018/2019	2019	\$885,000	June 15, 2018
2019/2020	2020	\$985,000	June 15, 2019
2020/2021	2021	\$1,085,000	June 15, 2020
2021/2022	2022	\$1,185,000	June 15, 2021
2022/2023	2023	\$1,285,000	June 15, 2022
2023/2024	2024	\$1,385,000	June 15, 2023
2024/2025	2025	\$1,485,000	June 15, 2024
2025/2026	2026	\$1,585,000	June 15, 2025
2026/2027	2027	\$1,685,000	June 15, 2026
2027/2028	2028	\$2,321,690	June 15, 2027
2028/2029	2029	\$2,372,424	June 15, 2028
2029/2030	2030	\$2,424,172	June 15, 2029
2030/2031	2031	\$2,476,956	June 15, 2030
2031/2032	2032	\$2,530,795	June 15, 2031
2032/2033	2033	\$2,585,711	June 15, 2032
2033/2034	2034	\$2,641,725	June 15, 2033
2034/2035	2035	\$2,698,859	June 15, 2034
2035/2036	2036	\$2,757,137	June 15, 2035
2036/2037	2037	\$2,816,579	June 15, 2036

I am opposed to any financial "breaks" for Wilmore from the IDA!
I am submitting a copy of all of the comments from the first public hearing held January 29th, please include them in the record of this hearing.

Dagmar Nearpass

Dagmar P. Nearpass 11/30/15

Also included is a copy of the amended
article 78 petition against the IDA
For the record.

MINUTES OF PUBLIC HEARING

**LAGO CASINO & RESORT
TOWN OF TYRE**

**MAGEE FIRE HALL
1807 Route 318
Tyre, NY**

**THURSDAY, JANUARY 29, 2015
6:00 PM**

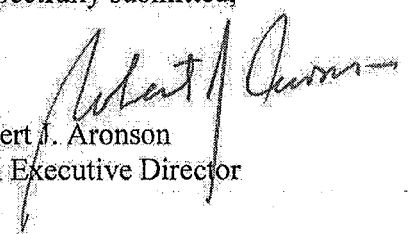
ATTENDEES: Robert Aronson, IDA Executive Director; Ralph Lott, IDA Board Member; Cindy Garlick Lorenzetti, Supervisor, Town of Fayette; Ron McGreevy; Supervisor, Town of Tyre; Kelly Kline, IDA Executive Assistant; Robert Halpin, IDA Legal Counsel; Molly Chimino, Alliance Court Reporter and 42 attendees as noted on the attached sign-in sheets.

A public hearing on assistance being extended to Lago Casino & Resort was opened by Robert Aronson, Executive Director to the IDA, at 6:02 pm.

Copies of written comments and a transcript of the oral comments are attached.

After comments were heard the meeting was closed by Mr. Aronson at 7:06pm.

Respectfully submitted,


Robert J. Aronson
IDA Executive Director

LAGO CASINO & RESORT
Public Hearing

TOWN OF TYRE
MAGEE FIRE HALL
1807 Route 318 Tyre, NY

THURSDAY, JANUARY 29, 2015

Sign-In Sheets

SENECA COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

LAGO CASINO & RESORT
PUBLIC HEARING

MAGEE FIRE HALL
1807 Route 318
Tyre, New York

Thursday January 29th

6:00 PM

SIGN-IN SHEET

PLEASE PRINT CLEARLY

1. Name Michael Davis Address 1111 Turnpike Rd. 14433
2. Name RICHARD BARNER Address 485 RT 414 TYRE
3. Name Frank Barner Address 2060 Steverson Rd Tyre
4. Name Donna Westfall Address 12300 S Steverson Rd
5. Name Shawn Griffin Address 113
6. Name Jim Wilmet Address Lago
7. Name Linda Ochs Address 2400 Homestead Dr WY
8. Name Jeffrey Dawley Address 45 Center Street Waterloo
9. Name Allison Stokes Address 83 1/2 State Street SF
10. Name David Henry Address 93 Virginia St^W
11. Name Kathy Martin Address 2140 Westbrook Rd. Seneca Falls
12. Name Kay Strong Address Waterloo, NY
13. Name Thomas A. Dowd Address 6120 St K Road St
14. Name Desiree Dawley Address 1438 Chau Rd
15. Name Cathy A. Davis Address 1390 Middle Black Brook

SENECA COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

LAGO CASINO & RESORT
PUBLIC HEARING

MAGEE FIRE HALL
1807 Route 318
Tyre, New York

Thursday January 29th

6:00 PM

SIGN-IN SHEET

PLEASE PRINT CLEARLY

Name Seneca Macdonald Address 170 RT 89 Tyre

Name NATE SHUMWAY Address 1724 MIDDLE BLACKBROOK A

Name John Quattrone Address 19 Edgewood Rd

Name Joell Murney-Karsten Address 3056 Rt 89, SF

Name Ron McGreevy Address 1907 W. Tyre Rd. Seneca Falls

Name CHL SHAW Address 3150 St. Rt. 96 Waterloo

Name LYNN PATTI Address 1157 KINGS ROW WFA

Name John Patti Address 1157 Kings Row WFA

Name Paul Poy Address Mason Rd SF

Name Steve Speno Address 52 Center St. Wraymo

Name Jane Skiffa Address 1257 Rte 96 Tyre
Waterloo Reg

Name Deb Geary Address 1175 M. BIKBTK RD 13148

Name Richard R. West Jr Address 12301 State Rd, Phelps

Name _____ Address _____

Name Kiva Taylor Address 193 William St. Genoa

Name Eddie Hilliard Address 2550 Road Rd WAT

Name Margaret A. McCann Address 15 E. Water St. Waterloo

Name Dwight P. Neuphauser Address 765 Black Brook Rd St

Name Alice M. McQuay Address 1407 W. Tyler Rd SF

Name Thomas F. Meyer Address 7395 Laramie Rd ^{CAVIA} MP

Name Sam Parter Address 2107 State St 318 P

Name _____ Address _____ Phone # _____

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SENECA COUNTY
INDUSTRIAL DEVELOPMENT AGENCY
LAGO CASINO & RESORT
PUBLIC HEARING

MAGEE FIRE HALL
1807 Route 318
Tyre, New York

Thursday January 29th
6:00 PM

SIGN-IN SHEET for SPEAKERS

1. Name ROBERT SHIPLEY Address 3008 EAST AVE, WATERLOO
2. Name GREG LAZZARO Address 17 SHAMROCK AVE
SENECA FALLS NY 13148
3. Name GLEN SILVER Address 3150 ST. RT 96
4. Name John Patti Address 1157 Kings Row
5. Name Michael Javis Address 11114 Turnpike Rd. 14433
6. Name Richard R. Wathell Address 123 Old State Rd, Phelps
7. Name Shirley S. Ochs Address 2400 Homestead Dr, Walton
8. Name Jeffrey D. Dunlop Address 4 Center Street Waterloo
9. Name Helen Stokes Address 83 1/2 State St, Seneca Falls
10. Name RICHARD BARNER Address RT 414 TYRE
11. Name John Quattro Address 19 Edgewood Rd
12. Name GEORGE PIERCE Address 2130 E. 206th RD

13. Name James Dawley III Address 6 West Elizabeth St

14. Name Desiree Dawley Address 1938 Chase Rd

15. Name Cathy Davis Address 1390 Middle Bl. Br. Rd

16. Name Lisa Taylor Address 43 William St. Chappaqua

17. Name TOM METERS Address 7395 LITWIN RD CHAMPAQUA

18. Name _____ Address _____ Phone # _____

19. Name _____ Address _____ Phone # _____

20. Name _____ Address _____ Phone # _____

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29. Name _____ Address _____ Phone # _____

30. Name _____ Address _____ Phone # _____

Written Comments

PUBLIC HEARING
LAGO CASINO & RESORT

January 29, 2015 / 6pm

TOWN OF TYRE

Name Dagmar P. Nearpass
Representing myself
Address 765 Black Brook Rd
Seneca Falls, NY 13148
Phone # 315-568-5708

COMMENTS (Please Print)

Lago wants to come here. They have already begun clearing the land. They will come if they get the license. Why should they need any enticement?? Giving taxpayer money to a mega developer who wants to be here is completely contrary to what I understand your mission to be.

If they claim to need a tax break to complete their financing, perhaps the Gaming Commission should be notified as they seem to believe Lago's financing is stellar!

PUBLIC HEARING
LAGO CASINO & RESORT

January 29, 2015 / 6pm

TOWN OF TYRE

Name _____

Representing _____

Address _____

Phone # _____

COMMENTS (Please Print)

No
Benefits
Package

Do something truly worthwhile for the
citizens of Ladera CO. Let's have our
fair share of taxes!

PUBLIC HEARING
LAGO CASINO & RESORT

January 29, 2015 / 6pm

TOWN OF TYRE

Name Linda Ochs
Representing _____
Address 2400 Homestead Dr, Waterloo, NY
Waterloo, NY 13165
Phone # 539-5607

52/1 Cost
ratio
Based on PA Statistics?
not the same

COMMENTS (Please Print)

Here we are again same scenario IDA giving our tax dollars away
Giving away our tax dollars to businesses that ~~are~~ are filthy rich
is harming our country this project will continue whether they get
IDA money. My question is WHY AGAIN supporting corporate
welfare. I know the IDA gets a cut of the cost of the project
so you are ~~not~~ getting this tax and where does that money
go? To other big businesses such as Seneca Meadows for example.
When asking the IDA about helping attract sustainable businesses
and or businesses that don't deal with garbage and other businesses
that don't promote a healthy community. NJ & CT are closing their
casinos - what makes this project closing - proof? It is wrong
for our County officials to hand over our tax dollars when these
companies put their hands out. Let's use our tax dollars
wisely and attracting businesses that will make Seneca County
grow in a healthy way. None of our tax dollars / IDA \$
should go to corporate welfare again or ever in Seneca County.
I'm fully opposed to the tax break.

PUBLIC HEARING
LAGO CASINO & RESORT

January 29, 2015 / 6pm

TOWN OF TYRE

Name Kathy Martin
Representing Kathy + Joshua Martin
Address 2140 Westbrook Rd. ~~So~~
Seneca Falls, NY 13148
Phone # 573-2061

COMMENTS (Please Print)

I do not believe that it is a wise use of taxpayer funds to assist the Lago Casino and Resort. According to the IDA website, this agency is a public benefit corporation dedicated to ensuring the economic health of our county by attracting ~~new~~ new business and helping existing business grow. Wilmarite and those involved with the Lago project approached the town of Tyre, they did not need to be attracted to the area, they chose this location and should be responsible for any financial responsibilities associated with it, not the local tax payers, such as myself and my husband. I am opposed to the Pilot Agreement with Lago Casino + Resort.

Kathy J. Martin

PUBLIC HEARING
LAGO CASINO & RESORT

January 29, 2015 / 6pm

TOWN OF TYRE

Name Jon Parlee
Representing Myself
Address 2107 State RT 318
Seneca Falls NY 13148
Phone # 585-200-7598

COMMENTS (Please Print)

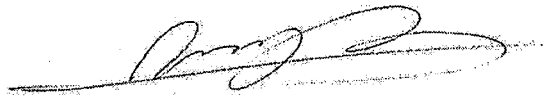
As members of the IDA, My understanding is
for you to be the salesmen of the county & NY
to bring business to our area that would be
on the fence moving here or keeping companies
from leaving our area to ~~an~~ other areas that
might appear more profitable. This county
has a very valuable location for any business that
would want to come here for a casino. Based on the
laws that have been passed Seneca County for
our district is the only one with a thruway
exit between two major cities in upstate NY.
There are no incentives needed to entice this
company to move here, we already have a prime
location that they require to be profitable.
We have read in the paper that

over ↴

Seneca County is already going to have to hire
1 1/2 workers for the building inspectors Lizzie to
support this construction effort, at a cost of over \$500K
why should we the community of Seneca County
bear this burden, when the Developer ~~desperately~~ Desperately
needs to be located here. I'm not opposed to
opening the welcome ~~mat~~ mat for them, but from
a financial sense I don't believe should bear
the cost, on the community for lost tax revenue.

I & my family don't support providing
financial assistance to Lago Resort & Casino's

Jon Paul Pantzer



To the Seneca County IDA Board of Directors

Re: IDA Application for Lago Casino

On behalf of Casino Free Tyre, I respectfully call upon the Board of Directors of the Seneca County Industrial Development Agency to deny, or at the least postpone pending a proper investigation, approval of the application for financial benefits for the proposed Lago Casino. Two specific areas of concern fuel our request: First, there are the recent disclosures in the state press of the conflicts of interest swirling around the awarding of the Lago license because of the significant role played by Lago's own counsel - especially given the apparent local conflicts and potentially improper acts I have outlined below. Second, the public simply does not know enough to comment in a useful manner on this application; the IDA fee is not known (a discount is demanded) and the property tax exemption amount left to a later discussion meaning the discount presented by the proposed PILOT is unknown. This knowledge is essential because the application and cost-benefit analysis show this project simply does not need any tax breaks. The cost benefit analysis says revenues will reach over \$300 million by the third year and will have excess cash flows. So why the tax breaks?

Turning to this second point first, Lago's application and cost/benefit analysis both allege the facility will be a wildly successful proposition, so why are property tax and mortgage tax exemptions needed? What is curious about the submittal is what is missing - any kind of pro forma. They disclose revenues to support tax revenue projections, but they make no effort to match expenses. Specifically, the Application says "The Applicant will be building the business model during the first 3-6 years and until the 10 year license is extended by state legislation the Lender will require cash sweeps of excess cash flow and therefore a Tax Agreement to provide payment certainty is a critical path item for financing." Besides

understanding what Lago is saying – bankers first, taxpayers second - Lago certainly would have shown pro formas to these bankers; why won't they show them to the people giving them tens and tens of millions of tax breaks?

Lago also says they have a separate Host Agreement with the Town, and that is a benefit. What about the school? They will be getting numerous new students the report says, but limited new revenues. Shouldn't this Board say, since you freely admit you have excess cash flows to pay down debt, you should pay the school its taxes?

As to that Host Agreement, there isn't anyone in this County who doesn't know that Lago threw millions at the Town to buy the rezoning. The Host Agreement pays far more money than any mitigation of costs. We are told that is illegal in New York – we raised the fraudulent nature of the Town's actions in our lawsuit - and you should be aware that we intend to continue our challenge to that Agreement and the rezoning.

That takes us back to the first issue. That Host Agreement was drafted by Lago's counsel, the same law firm that is the SCIDA's Agency counsel. Of course you would not know that from the Lago application because while their counsel is disclosed, no conflict of interest is admitted. We know the Agency hired a local attorney to represent it on this deal, but ask any legal ethics person and they will tell you it is still a conflict to appear before your own client. At a minimum we believe you should return this application to Lago and tell them to return with independent counsel, to avoid an obvious appearance of a conflict.

Not that we should be surprised by this failure to disclose; as the Binghamton paper pointed out, Lago hid its relationship with the State Siting Board's attorney by redacting the relationship disclosure.

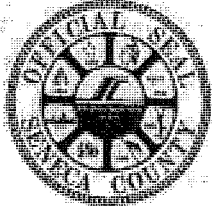
And in our opinion that concern is paramount when considering the undisclosed and to be negotiated IDA fee. The public has no idea what the fee will be or why Lago is entitled to a deviation. Lago has an unacceptable advantage because Lago's attorney – your attorney – knows more about the fee policy and the tax exemption policy than anyone. After all, he wrote them. To our view, that gives him an insider's knowledge that prevents the SCIDA from allowing him to appear before you. Hiring a local attorney with no IDA experience (to our knowledge) hardly resolves the question, but even if he were the world's IDA expert, the conflict is not removed.

At a minimum you should delay consideration of this application until these ethics concerns can be addressed by the Attorney General or the state office that regulates public authorities. An opinion can be requested from these agencies whether the IDA's Counsel should be on the other side of the largest transaction in County history, negotiating against his own client for a lower fee, or a lower PILOT payment, and for an unknown property tax exemption. At a minimum you could seek the advice of a legal ethics expert from Cornell or Syracuse law schools, before tarring your Agency with an appearance of impropriety. There is certainly no downside to seeking such independent advice before acting.

We thank you for your consideration. We don't need the stain of Albany settling on our County. We don't need to be giving scarce tax dollars to the already wealthy. Rejecting this application will not stop the casino, but it would send a heck of a message about doing business in our County and playing by the rules.

Thank you,

James Dawley III



Seneca County
BOARD OF SUPERVISORS

1 DIPRONIO DRIVE
WATERLOO, NEW YORK 13165

PHONE: 315-539-1700
FAX: 315-539-0207

Chairman
Donald Earle
Town of Seneca Falls

Majority Leader

Robert Shipley
Town of Waterloo

Minority Leader

Cindy Garlick
Lorenzetti
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Town of Waterloo
Gary Westfall

Clerk
Margaret E. Li

Deputy Clerk
Laura Granger

01-29-15

R. Shipley remarks to IDA Board regarding LAGO Benefit / Cost Analysis

Good evening, my name is Robert Shipley from the Town of Waterloo and my remarks are in support the IDA / Lago PILOT agreement.

I have read the Benefit Cost Analysis prepared by the Shepstone Management Company who was commissioned by the Seneca County IDA per NYS law. I was impressed with the executive summary that concluded the LAGO proposal will generate a positive benefit to cost ratio in excess of 50 to 1.

The NYS Casino location Board recommendation in support of Lago will jump start our lagging up-state unemployment situation with 1,200 construction jobs and the 1,800 full time jobs will reverse our long term regional job loss trend.

Seneca County has been victimized by a loophole in the NY state tax code that has allowed the Cayuga Indian Nation to buy land using the tribe's excessive profits from selling untaxed cigarettes and gasoline and then refuse to pay their fair share of local property taxes – thus taking over 1,100 acres off our County tax rolls (in fact, as of December 19, 2014 the Seneca Co Treasurer reports the total of unpaid CIN Property and School taxes at \$1,731,030.30). Our County remains bound by NYS Law that requires the County to hold harmless Towns and School Districts for all non-payment of property and school taxes.

With these unjust local tax burdens... our only method to hold the line or even reduce County property taxes is to either cut services or grow our tax base. Folks, this is not rocket science... that the LAGO proposal and other associated future development along the Rte. 318 / 414 corridors will do just that. I therefore urge the IDA board to support the LAGO project and help reverse the past years of undue hardship... help us grow our tax base...

Thank you for your attention....

Ciccino's Inc

d.b.a Ciccino's Pizzeria and Restaurant

22 E. Main St.

PO Box 122

Waterloo, NY 13165

315.539.1064

Ciccinos@verizon.net

1/29/15

Dear Robert Aronson, Seneca County IDA Board and Committee Members,

To introduce myself, my name is Salvatore Franzone. I am a resident and property owner residing at 3127 Bradley Ave, Seneca Falls (Seneca County) NY 13148. I have resided at this location along with my wife and three children since 2000. Prior to that I was born and raised in Auburn (Cayuga County)NY.

In addition to being a resident of Seneca County, I am the proud owner of two Restaurants. Ciccino's Pizzeria & Restaurant- Waterloo(est.1996) along with Ciccino's Pizzeria & Restaurant-Geneva(est.2006). Combined, both locations employ 60 full and part-time employees.

I had the opportunity to attend the multiple informational forums throughout 2014 and familiarized myself with the Lago project along with the potential benefits it brings along with it. I was happy to see that the New York State gaming Commission recommended The Lago Project application and site with-in Seneca County for the issuance of the required NY State Gaming License.

I have seen firsthand and as a business owner, of how the economy in Seneca County has struggled due to not only the recession of 2008, but also the exodus of major industries from this area throughout the years such as Sylvania, International paper and the Seneca Army Depot. The Fingerlakes Region, with its Natural Beauties, Local Wineries, cultural institutions and Shopping destinations bring many tourists to the area, but merchants do experience the effects of its seasonality. This Lago project will be the catalyst for this area to become a year around destination.

I have read about the proposed IDA Tax incentive and financial assistance package which includes State and County Tax Exemptions on certain items during the construction and operational phases. I have seen in the past, how such programs either on a County, State or Municipal level have benefited not only our organization but also other organizations small and large.

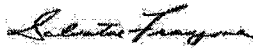
Through numerous conversations throughout the application process, it is clearly evident that The Wilmot Family and partnered developers have not only spelled out in detail the plans for their success, but also have incorporated the success of the Fingerlakes Region into their vision. Now that, along with the Lago's commitment to NY First(plan to purchase 90% of the goods and services available in New York from New York businesses) is a key synergistic component in making this project not only a success for the Wilmot Family, The

State of New York, The local County and municipalities, but most importantly for the local area residence and small businesses that have worked so hard for the last 20 years, to make the Finger Lakes Region the destination point that it has become today.

As we speak, local area governments are now steering there community visions of the future with the anticipated benefits of this project moving forward. The key is not just looking at the income and tax dollars generated in the short term, but the commitment to improving our local areas way of life and standard of living forever.

My stance not only stems from a business owners prospective, but also as a tax paying resident of Seneca County. I support and believe that The Lago Casino & Resort project will be a great addition to our area. Please consider any concessions that may be requested and grant Lago Casino and Resort the required approvals to help rebuild our region and help Seneca County and our local area economy THRIVE!

Sincerely,



Salvatore Franzone

From: PC Cleaveland [<mailto:pcleaveland@hotmail.com>]
Sent: Monday, February 02, 2015 12:48 PM
To: Bob Aronson
Cc: Joell Murney-Karsten
Subject: Lago

Good Day Mr. Aronson,

I was unable to make last Thursday's Lago session, and in lieu thereof, thank you in advance for your consideration of my comments.

I fully support the development and operation of Lago. My wife and I (in the process of running our B+B (www.thegridleyinn.com) for the past eleven years), have repeatedly experienced the positive effects of a broad base of business support in our region. Whether directly or indirectly, new business (particularly robust businesses) foster interest and drive commerce health, and the economic engine.

This theme is a recurring undercurrent (I've experienced) within my involvement with local businesses, government, the Seneca County Chamber and my seat on the, <Town of> Waterloo Planning Board.

Thanks you for your efforts of support towards projects of this nature.

Best Regards,

Perry Cleaveland
36 W. Main St.
Waterloo, NY 13165

Kelly Kline

From: JAMES DAWLEY III <ddawley8@yahoo.com>
Sent: Friday, February 06, 2015 10:47 AM
To: Bob Aronson; Kelly Kline
Cc: nozzolio@nysenate.gov; KolbB@assembly.state.ny.us; localgov@osc.state.ny.us
Subject: IDA record submission
Attachments: IDAmtgPoints (1).rtf

To the Seneca County IDA board members, and committee members of the Seneca County Industrial Development Agency
cc: Assemblyman Brian Kolb, Senator Michael Nozzolio, NYS Comptroller DiNapoli, Attorney General Schneiderman
Re: IDA Public Comment Meeting, Wilmorite Application

Please include this document into the public record for the IDA meeting held at Magee Fire Hall dated, January 29, 2015 in regard to Wilmorite/Lago/Whitetail 414LLC financial application. I was unable to hand this document in for the record that evening because of changes and additions I made all over my original paper. This document has points that I wanted to make that were too lengthy to make in the time you allotted each speaker.

Sincerely,
Desiree Dawley

Industrial Development Agency
One Dipronio Drive
Seneca County Office Bldg.

r.aronson@senecacountyida.org

k.kline@senecacountyida.org

January 29, 2015

To the board members of the Seneca County Industrial Development Agency:

Re: IDA Public Comment Meeting, Wilmorite Application

As a taxpayer of Seneca County, Waterloo, and Tyre, NY I implore you not to give any tax incentives, or any assistance available by your agency to any agent or shareholder that is connected in any way to Wilmorite Corporation. My reasons follow:

Taxpayers should not subsidize wealthy developers who do not fit criteria for assistance.

Again, Wilmorite continues to bring us further from prosperity by using our hard earned tax dollars for his personal gain.

1. The IDA will be spending taxpayer money, people's hard earned wage....funneling it to the developer who claims to NYS, financing is in order, promising he will widen a State owned bridge with his own money, will run water sewer with his own money, for his own project. Why should taxpayers allow Wilmorite to continue their promises to be?

2. You are an agency of NY State. The money you assist is our money. As a taxpayer, I am opposed to this IDA spending of our tax dollars on this facility. A commercial facility was never supposed to go north of the NYS thruway. (Bob Hayssen's own words in regard to a casinos and sewer lines on 318 in November 2013: **"A good thing is that the Thruway stops sprawl to the north and the landfill stops it on the south, so it's like a strip development."**

As far as the location and facility, It should not be north of the Thruway, and as far as public opinion, the county is not overly in favor of a casino facility anywhere.

3. At this juncture, Wilmorite is using strong arm tactics against taxpayers who have been sold the "prosperity propaganda" to pay for his casino, when most taxpayers know that only NYS, local government and the developer will be winners of any real revenue. This example of corporate greed and taxpayer handouts without necessity bring us to the question: Is this IDA operating within their NYS authorized agency's mission which must be guided by your own mission tenets of Transparency, Integrity, and Accountability?

4. With Wilmorite being given the go ahead by Tyre board members via the "Host Community Agreement," they have agreed to the Wilmorite Corp.'s financial assistance by the IDA. What does this mean in regard to the IDA, a State of New York Agency, in a legal sense if they are not granted assistance? Are your hands already tied as a result of the Tyre agreement?

5. What about the committee which was formed to "protect the taxpayers" brought forth by Supervisor McGreevy. Isn't this a conflict of interest to form a committee consisting only of Lago supporters. They are all on the Lago video available online. Isn't Ron McGreevy, supervisor in Tyre, NY who has already agreed to the Wilmorite project applying for assistance to the IDA in their "Host Community" agreement approved on June 12th and also naming himself as a committee member and having called for this very committee, a blatant conflict? This is not transparency and goes against your stated mission of transparency, integrity and accountability. How can the public gain the trust of local officials when these atrocities are seemingly status quo here in Seneca County.

6. The Harris Beach Law firm has been representing Wilmorite since they showed up on the public radar last December 2013, but even more dispelling is the fact that Harris Beach was involved in Seneca County even before

Wilmorite became public. Is it true that they were also representing this NY State agency here, the Seneca County Industrial Development Agency? When and how many meetings were commenced even before December 2013 while this conflict may have played a role in influencing the IDA board?

7. In the Wednesday March 27th, 14 meeting, a study was approved that was to be commissioned by Bonadio. When and where are the results of this study? When and where did the approval for Shepstone and the cancellation of Bonadio?

8. We the taxpayers, who will bear the burden of another bad decision made by this county, town and its business people, expect a comprehensive study which includes the entire northeast region of gambling, and should contain real life impacts, not just Pennsylvania revenue which is only a couple of years along and in which casinos are sited near high population centers. The comparisons are not even on the same playing field. This study is far from comprehensive. To name a few of my many points.....

- No northeast Gaming saturation was considered.
- No cannibalization of NY State revenue has been accounted for in the study.
- No job losses resulting from area competition along the Thruway corridor regions have been accounted for.
- No new employment, resulting family counselling, no extra educational supplies have been considered, no ESL or special teaching guaranteed by NYS is accounted for, no low wage family's cost to schools and county expenses are accounted for.
- No problem gambling, ie: social costs. The Shepstone report made recommendations which Wilmorite is not carefully heeding especially in regard to problem gambling. The known Problem/Pathological Gambling doubles in a 30 to 50 mile radius. Social costs skyrocket, and family troubles increase tremendously, where was the added expense for the extra use of roads, accidents costs, crime increase costs, assessment and taxpayer exodus losses, business' closed losses, (check the very modest impact study, CGR report, ie: The county will need 5 new police, and high end restaurants will be negatively impacted. Wilmorite does not fit the criteria for assistance....attracting commerce, industry, etc.

9. They are fighting to get here, they will not leave if they don't get assistance. How does this project qualify? Wilmorite contacted Hayssen (according to Mr. Hayssen himself), in other words they did not even need enticing, as far as we taxpayers can conclude.... unless promises for assistance were made early on, behind closed doors. Maybe Mr. Rowe, the former county manager could shed light on this matter. What basis can you use to approve such assistance and keep "integrity and accountability" as part of your mission statement?

10. Application??? 1.) When (date) was this first introduced?? 2.) Why are the dates and notary not completed before a hearing took place with no Q & A? 3.) Who was the applicant's attorney when the original application was part of your agency? 4.) When did the IDA officially stop using Harris Beach council? 5.) Why are there parts of the application that are incomplete for example the IDA fee is still under TBA, negotiation? Taxation without representation comes to mind.

11. Shepstone report promises billion dollar revenues for this county. We must not forget that over 65% of this supposed money is being siphoned from other NY State coffers. This means that much of this money is already being realized by the state. In the FL times it states that some of that much of that revenue is taxes at more than 2X the rate Wilmorite will pay to NYS. Any type of tax break is not in the best interest of New York State, and since this agency uses state tax dollars (or doesn't collect for NYS tax in case of tax breaks), shouldn't you be considering these types of impacts as well? This hurts jobs, and the bottom line for NY. There is no evidence that the Shepstone report of benefits is valid, in fact I can invalidate at least 35% of it in the following report.

<http://www.cmvh.org/documents/911.pdf>

Taxpayer Grievances: Your responsibility is under scrutiny:

1. Seneca County IDA has been granted authority by NYS in order to
 - a. Advance job opportunities and economic welfare of people of Seneca County

By,

- b. promoting,
- c. encouraging,

d. attracting

Economically sound

- a. commerce,
- b. industry
- c. and recreational opportunities

- 2. IDA, powers granted by New York State agency
 - a. financial assistance to qualified projects

Tell us how this project qualifies? My idea of no tax breaks is a 100 to 1 ratio, a "No brainer."

As a New York state funded by we taxpayers agency, how do you justify the an outlay(or as you refer to it as a tax abatement which is money the taxpayers are due.) of this magnitude, without properly studying the gaming industry of the entire Northeast, and in addition consider the history of Wilmorite's reputation. Here are recent articles pertaining to their broken promises in nearby Rochester and New Paltz, where the taxpayers have been stuck paying their bills, left with empty shells, never realized jobs, lawsuits against town planning boards, and loopholes for Wilmorite instead of thriving businesses.

City owed 22.2 million on Sibley Building: RochWil is Wilmorite
<http://blogs.democratandchronicle.com/rochester/?p=1737>

<http://www.democratandchronicle.com/apps/pbcs.dll/artikkel?NoCache=1&Dato=20120227&Kategori=NEWS01&Lop:enr=104100002&Ref=AR>

<http://therochesterian.com/2012/07/17/wilmorites-threat/>

"Alliance between state and federally elected officials motivated solely by their own political ambitions -- ambitions funded by corporate partners whose sole desire is to reap economic benefits to generate profit."

<http://www.newpaltz.com/2014/08/28/labor-community-organizations-and-citizens-protest-wilmore-ida-tax-breaks/>

Sincerely,

Desiree Dawley, a taxpayer on several homes and businesses in Seneca County for over 30 years

Jeffrey A. Dawley
8 Center Street
Waterloo, NY SENECA COUNTY

Industrial Development Agency
One Dipronio Drive
Seneca County Office Bldg.

r.aronson@senecacountyida.org
k.kline@senecacountyida.org

January 29, 2015

To the Board of Directors, Seneca County IDA;

This assistance application for tax breaks etc. for Wilmorite should be scrutinized no differently than any other applicant. Does it or does it not meet the NY State agency criteria? Here is a statement from the former chairman of the board of supervisors, Robert Hayssen in regard to the August 13, 2013 meeting of supervisor's minutes calling for this county's IDA agency to re-evaluate its policies for financial support in regard to Seneca Meadows, Inc.

Attached is the resolution passed unanimously at that meeting and please note the last paragraph of the resolution opposing this Seneca County's IDA, a New York State Agency's granting of an exemption: (attached p. 22-23, res. No. 161-13 <http://www.co.seneca.ny.us/wp-content/uploads/2014/11/Min-2013-08-13-Regular-Board-Meeting-Public-Hearing-APPROVED.pdf>)

For these very same reasons, in regard to the Wilmorite application, Seneca County taxpayers could use this money much more than Wilmorite, and if Wilmorite is licensed, they will not be taking their casino project to another county/state nor will there be any job losses if this Casino application is not granted.

I heard words from Robert Shipley last Thursday evening about the Indian property taxes are owed to the county/town of Seneca Falls. I recall Senator Nozzolio garnering quite a sum of money to offset the loss of tax revenue which was given to this County. That money, given in lieu of these losses of tax revenue was part of NY taxpayer money as well. I question how you can give away (not collect) taxpayer dollars that should be used for the impacts to our community from the supposed increases in tourism, traffic accidents, crime, and especially the impact that has not been well documented in regard to problem gambling. The Indian issue has absolutely no bearing on a casino project nor whether you should or should not give financial assistance to Wilmorite. This Indian issue should be dealt with through the federal government and avenues that the laws permit. The addition of a potential burden to Seneca County (casino related) should be a factor that taxpayers shouldn't have to pay for and tax abatements mean less money into taxes,, a benefit only to Wilmorite, but a detriment to taxpayers.

I also know that Wilmorite's lawyers, Harris Beach, have been historically involved in this Seneca County IDA agency. This conflict should be a public issue. There will be formal complaints and an investigation will have to be raised on behalf of this community if people in Seneca County opposed to the granting of any tax breaks etc. for Wilmorite/Whitetail 414, LLC, or Any agent of Wilmorite or their affiliates get stuck with the county IDA agency cutting the taxpayer out of the benefit of 36 million dollars for no apparent reason. Please hear the people of your county, the taxpayer's money is not for Wilmorite's gain. None of the county has agreed to give them anything, and it's up to you to listen. That is what the public hearings are for, not just an exercise in futility.

Sincerely,
Jeffrey Dawley
Jeffrey A. Dawley
8 Center Street
Waterloo, NY SENECA COUNTY

Industrial Development Agency
One Dipronio Drive
Seneca County Office Bldg.

r.aronson@senecacountyida.org
k.kline@senecacountyida.org

January 29, 2015

Resolution No. 161-13

<http://www.co.seneca.ny.us/wp-content/uploads/2014/11/Min-2013-08-13-Regular-Board-Meeting-Public-Hearing-APPROVED.pdf>

page 22-23:

SUPERVISORS OPPOSE SENECA COUNTY INDUSTRIAL DEVELOPMENT AGENCY'S FINANCIAL SUPPORT TO SENECA MEADOWS, INC. AND CALLS ON THE AGENCY TO RE-EVALUATE ITS POLICIES RELATED TO FINANCIAL SUPPORT TO COMPANIES

RESOLUTION NO. 161-13 moved by Mrs. Garlick Lorenzetti, second by Mr. Kubasik and adopted by 562 ayes and 188 absent (Earle, Kaiser, Lafler).

WHEREAS, Seneca Meadows, Inc. has sought financial assistance from the Seneca County Industrial Development Agency in the form of a sales and use tax exemption; and

WHEREAS, the Seneca County Industrial Development Agency has granted said exemption; and

WHEREAS, the Seneca County Board of Supervisors finds that the granting of this exemption should not be considered consistent with the policies of the Seneca County Industrial Development Agency; and

WHEREAS, the Seneca County Board of Supervisors urges the Seneca County Industrial Agency to reconsider this exemption and to re-evaluate its policies going forward; now, therefore

be it RESOLVED, that the Seneca County Board of Supervisors respectfully requests that the Seneca County Industrial Development Agency reconsider the granting of a sales and use tax exemption to Seneca Meadows, Inc.; and be it further RESOLVED, that the Seneca County Board of Supervisors respectfully urges the Seneca County Industrial Development Agency to re-evaluate its policies related to the offering of financial assistance to both new and existing companies.

Under discussion of Resolution No. 161-13, Chairman Hayssen stated he and the entire Board of Supervisors are pro-business. He reasoned that the county taxpayers could use that money rather than Seneca Meadows. They are not going anywhere, and jobs will not be lost if they don't have this exemption. The IDA should reconsider its approval and give it to a business that really needs it.

Kelly Kline

From: Tom Meyers <meyerst@wycol.com>
Sent: Sunday, February 08, 2015 5:48 PM
To: Bob Aronson; Kelly Kline
Cc: ddawley8@yahoo.com
Subject: Seneca County IDA - Wilmorite

Industrial Development Agency
One Dipronio Drive
Seneca County Office Bldg.

r.aronson@senecacountyida.org
k.kline@senecacountyida.org

February 8, 2015

To the board members of the Seneca County Industrial Development Agency:

My name is Tom Meyers and I spoke at the meeting held on January 29, 2015 at the Magee Fire Department hall. I wanted to clarify my statement made that evening and include the supporting documentation. I am a resident of Cayuga County objecting to ANY financial assistance to be given to Wilmorite or any of its agents in any form, be it loans, lease backs, tax abatements, elimination, reduction or any partial or deferred payment of the actual fairly assessed mortgage tax, sales and/or town/county tax or any such pilot agreements offered through the Seneca County Industrial Development Agency.

When a private corporation has been petitioned to the courts by citizens with "standing" for failure to complete, fairly and concisely, the proper format to protect our water and natural resources with a mandated New York State Environmental Impact Study and instead, makes monetary offers to avoid the Judicial court, this should be a "red flag" to our local officials who should not assist them in any way, especially financially.

The attached copy outlines the offer made by Wilmorite attorney Shawn Griffin to the ten petitioners of the Article 78 lawsuit reported in the Finger Lakes Times November 16, 2015 exposing Wilmorite for their offer of "hush money," or what I would call bribery to try and squash the opposition opposed to Wilmorite building a casino in Tyre, Seneca County. That corporation should not get any assistance in this or any county in our state.

Tom Meyers

This document (email copy) is only to be used as supporting the statements made in our press release to the Finger Lakes Times in regard to the Article 78 Petition decision dated September 18, 2014. Any other use will have to be approved by Casino Free Tyre's Attorney.

Date: August 7, 2014 at 12:29 PM

From: "Douglas H. Zamelis, Esq."

Subject: ***Report of Settlement Offer From Wilmorite***

Dear Desiree, Jim, Other Petitioners,

I received call yesterday while I was in New York about to argue a case from Shawn Harris, "lead attorney" for Wilmorite. He asked me "Is there anything that your clients might consider to settle the matter, or are they dead set on litigating the matter to judgment". He said to me "If there is any way you can put on your real estate attorney hat instead of your litigator hat, then I'm [Harris] the guy to talk to". I told him that I would pass along his offer to the petitioners and that I would get back to him. But I called him back this morning to feel him out further. **Harris responded by saying that he has not discussed specifics with his client but he is confident Wilmorite would be willing, in exchange for withdrawing the suit, to purchase petitioners' properties and grant each person a life estate that would allow possession and residence on the property for the remainder of the petitioners' lives.....**

Then another try again on 8/26 at 10:10pm the night before the hearing:

From: Shawn M. Griffin [mailto:SGriffin@HarrisBeach.com]

Sent: Tuesday, August 26, 2014 10:10 PM

To: <dzamelis@windstream.net>

Subject: Re: Dawley v. Whitetail 414, LLC - Index No. 48435

Ps. For settlement purposes only and not to be used in litigation - if one or more of your clients wants to sell we will have individual discussions. You do not need all to agree to discuss this with us. We do not need the additional lands but want a favorable outcome for all willing to work with us. If any of your clients want to discuss before the judge issues his decision please call me to discuss. Once a decision is rendered we will proceed as directed and will not have further interest in this concept. Your call as my client wants to minimize any local concerns.

Shawn Griffin Harris Beach PLLC 585-750-7364 sgriffin@harrisbeach.com

****Minimizing Local concerns should not be dependent on following the law.**

LAGO CASINO & RESORT
Public Hearing

TOWN OF TYRE
MAGEE FIRE HALL
1807 Route 318 Tyre, NY

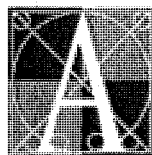
THURSDAY, JANUARY 29, 2015

Transcript

IN THE MATTER OF LAGO CASINO AND REORT

PUBLIC HEARING

January 29, 2015



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SENECA COUNTY

INDUSTRIAL DEVELOPMENT AGENCY

Public Hearing regarding:

LAGO CASINO & RESORT, LLC

Location: Magee Fire Department
1807 New York 318
Seneca Falls, New York 13148

Date: January 29, 2015

Time: 6:00 p.m.

Reported By: Molly Chimino
Alliance Court Reporting, Inc.
183 Main Street East, Suite 1500
Rochester, New York 14604



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A P P E A R A N C E S

Appearing on Behalf of Seneca County IDA:

Robert L. Halpin, Esq.

The Halpin Firm

4588 State Route 224

Montour Falls, New York 14865

rhalpin@thehalpinfirm.com

Robert J. Aronson, Seneca County IDA

Ralph Lott, Seneca County IDA

Kelly Kline, Seneca County IDA

Ronald McGreevy, Supervisor, Town of Tyre

Cindy Garlick Lorenzetti, Supervisor, Town of Fayette

* * *



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1 SENECA COUNTY IDA - LAGO CASINO & RESORT
2 THURSDAY, JANUARY 29, 2015;

3 (Proceedings in the above-titled matter
4 commencing at 6:02 p.m.)

5 * * *

6 MR. ARONSON: We're calling the public
7 hearing to order now. If everybody would please be
8 quiet and respectful to those people who are going to
9 make comments. If you can't hear, feel free to move
10 closer to the front. We don't have a PA system. We
11 didn't anticipate that.

12 This is a public hearing to receive
13 comments on the Lago Casino project. The IDA has
14 received an application and we're required by law to
15 have a public hearing and give the public opportunity
16 to give comments. Please note, it's not a time to
17 enter into public debate and it's not a time -- with
18 the IDA or with your neighbors.

19 With that, we're going to ask people to
20 keep their comments to five minutes so that we have
21 time for anybody that wants to speak. And especially
22 in the interest of the weather, I'm sure a lot of
23 people would like to get home.

24 We did have a list of people who signed
25 in. If you would like to speak and you haven't signed



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2 in, please do so up at the front desk. There's a list
3 for it. And we'll add you to the list after we get
4 through these people. We'll call them in order of how
5 they signed in.

6 And the first person is Robert Shipley.

7 MR. SHIPLEY: Thank you. Good evening.
8 My name is Robert Shipley from the Town of Waterloo.
9 And my remarks are in support of the IDA Lago PILOT
10 agreement.

11 I've read the benefit-cost analysis
12 prepared by Shepstone Management Company, who was
13 commissioned by the Seneca County IDA per New York
14 State Law. I was impressed with the executive summary
15 that concluded Lago -- the Lago proposal will generate
16 a positive benefit-to-cost ratio in excess of 50 to 1.
17 The New York State casino location board
18 recommendation in support of Lago will jump-start our
19 lagging upstate unemployment situation with 1,200
20 construction jobs and 1,800 full-time jobs, will
21 reverse our long-term regional job-loss trend.

22 Seneca County has been victimized by a
23 loophole in the New York State Tax Code that has
24 allowed that Cayuga Indian Nation to buy land using
25 the tribe's excessive profits from selling untaxed



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2 cigarettes and gasoline and then reuse -- and then
3 refuse to pay their fair share of local property
4 taxes, thus taking over 1,100 acres off our county tax
5 rolls. In fact, as of December 19, 2014, the Seneca
6 County Treasury reports the total of unpaid Cayuga
7 property and school tax taxes amount to \$1,731,030.30.

8 Our county remains bound by New York State
9 Law that requires the county to hold harmless towns
10 and school districts for all nonpayment of property
11 and school taxes. With these unjust local tax
12 burdens, our only method to hold the line or even
13 reduce county taxes is to either cut services or to
14 grow our tax base.

15 Folks, it's not rocket science that the
16 Lago proposal and other associated future development
17 along the Route 318/414 corridors will do just that.
18 I therefore urge the IDA board to support the Lago
19 project and help reverse the past years of undue
20 hardship. Help us grow our tax base.

21 Thank you for your attention.

22 MR. ARONSON: Thank you.

23 The next speaker is Greg Lazzaro.

24 MR LAZZARO: I was just signing in.

25 MR. ARONSON: You're not going to speak?



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2 MR. LAZZARO: No. I didn't realize that
3 was to speak.

4 MR. ARONSON: The next speaker is Glen
5 Silver.

6 MR. SILVER: Hello. My name is Glen
7 Silver. I'm president of Concerned Citizens of Seneca
8 County.

9 And I'd like to begin by actually going
10 back a little bit in time, addressing the IDA by
11 saying that you, the Seneca County IDA, have a track
12 record of financing already \$9 million worth of bonds
13 and \$5 million in sales tax exemptions for Seneca
14 Meadows expansion so that they can continue to bury
15 6,000 tons of garbage in our farmland every day is bad
16 enough. What's worse about what has happened in this
17 regard is that that project would have occurred
18 without IDA incentive anyway. So the tax abatement in
19 this case is a pure loss to the state and local
20 community.

21 Now comes Wilmorite, a wealthy corporation
22 that owns shopping malls throughout New York State,
23 with its handout, according to the newspaper, for
24 \$36 million more of your give-away money for yet
25 another project that would have occurred without IDA



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2 incentive.

3 And so the tax abatement in this case is
4 another pure loss to the local community coming at the
5 expense of higher taxes for other taxpayers and
6 possible cuts in vital services and programs for
7 people who are truly deserving.

8 Plain and simple, this is Robin Hood in
9 reverse. You are taking from the poor and giving to
10 the wealthy. I do not support corporate welfare and
11 neither should you.

12 It also sickens me that you are
13 incentivized to continue in this way by paying
14 yourself a fee for cutting these deals with no one in
15 the loop to guard the public's interest.

16 And yes, I've read your estimated
17 benefit-to-cost ratio of nearly 52 to 1 as being given
18 as a reason for giving Wilmorite taxpayer money.
19 However, in the book *Gambling in America: Costs and*
20 *Benefits*, which is generally viewed as a definitive
21 study of this topic, the author estimates that every
22 dollar of economic gain from casinos is offset by \$3
23 of economic loss. So I do not believe your
24 cost-benefit numbers for a moment.

25 What's more, the committee that's been



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2 established to decide this matter is comprised of
3 people who are avowed casino supporters or who have a
4 track record of rubber-stamping everything the IDA
5 does, or both.

6 So this itself is a sham as far as
7 citizens' involvement and citizens' rights are
8 concerned.

9 MR. ARONSON: Thank you.

10 The next speaker is John Patti.

11 MR. PATTI: Thank you very much. My name
12 is John Patti. I'm a retired teacher from Waterloo.
13 I taught in Waterloo for 34 years.

14 There are two groups of people here,
15 antagonists and protagonists. I'm a protagonist. I
16 think this is a good thing. Oh, it has its problems.
17 There are some things that some people don't like.
18 There are some -- there are also a lot of good things.
19 I'll get into the attributes a little more, but I want
20 to mention some things that are attracters.

21 I'm a senior citizen. I hate to admit
22 that. I'm not as senior as other people, but that's
23 okay. The major attractions I see for this project
24 are, yes, gambling. And I'll talk about that. I'll
25 give you my opinion of gambling.



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2 The spa, which is wonderful, healthful.
3 It's closer than Clifton Springs. I know a lot of
4 people should avail themselves of the spa.

5 There are five restaurants, I'm told. I
6 think we all eat. I like to eat more than some other
7 people here. Look at me. You can tell.

8 One of the major things that I think is a
9 great attraction is the theater. It will bring
10 entertainment here of the Las Vegas style I think, I
11 hope. A number of years ago, my wife and I and my
12 daughter and son-in-law, we went to Turning Stone to
13 see the Moody Blues. Fine entertainment. That kind
14 of thing could be here, which would, of course, bring
15 all kinds of people to the area to see that
16 entertainment. There may even be other forms of
17 entertainment. There may be live theater, films. You
18 know, whatever the auditorium would use would be very
19 good.

20 Then there's some shops, I'm told.
21 There's going to be, we hope, a mall adjacent to the
22 project here, which will bring commercial shops. And
23 that's a good thing. It will bring business here.
24 There's a New York pavilion, I'm told, where products
25 from New York State are promoted. Very good.



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2 So there are a lot of attributes. But the
3 biggest attribute that I want to point out -- and I
4 have a time limit. I'm going to try to move this
5 along a little quicker because I used to talk for a
6 living and I'm dangerous.

7 The big thing here is entertainment. Even
8 the gambling for me is entertainment. It's not a
9 problem for me. I can take it or leave it. In the
10 past there have been one or two times a year that I've
11 gone to a casino, either at Farmington or Turning
12 Stone. And that's all I've been to. I'll take a \$20
13 bill. Well, I'll have other money, but I designate
14 this \$20 bill and I only play slot machines. Maybe
15 roulette, black and red, but slot machines. And when
16 that \$20 is gone, I'm gone. But if I get a little
17 payback, I'll take that payback and put it in the
18 other pocket and never touch it. And that's my form
19 of entertainment. There's nothing wrong with that. I
20 don't do that for a thrill. I do it for, like I said,
21 entertainment.

22 Now, some people have said that gambling
23 is a major problem, will bring criminals here. I'm
24 told that one-half of 1 percent of the population that
25 would come here are problem gamblers. Yeah. That's a



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2 problem, one-half of 1 percent, but it's not a big
3 problem.

4 We have had gambling here for a lot of
5 years. OTB. Where is the problem? Where is the
6 crime? I don't see it. So I don't think -- I really
7 think that the gambling is not a problem.

8 And I'm about done. I just want to
9 mention the jobs.

10 We need jobs here badly. You don't have
11 to have me stand up here to tell you that. Bob
12 Shipley told you that. People who have a job here
13 will pay taxes. The resort -- and I don't like to
14 call it a casino. It's not a casino. It's a resort.
15 The resort will help this county economically and I
16 think that's a good thing.

17 And I thank you very much for allowing me
18 to talk to you.

19 You are on the IDA, sir?

20 MR. LOTT: Yes.

21 MR. PATTI: Okay. And I know Bob.

22 And this gentleman here, you're on the
23 IDA?

24 MR. HALPIN: I'm special counsel for the
25 IDA on this project.



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2 MR. PATTI: Oh. You're the mouthpiece,
3 the attorney. Okay. So there's only one member of
4 the IDA here.

5 MR. ARONSON: You're out of time now.

6 MR. PATTI: I'm sorry. You're telling me
7 to shut up. All right, Bob.

8 Thank you, people.

9 MR. ARONSON: The next speaker is Michael
10 Davis.

11 MR. DAVIS: Good evening. How's everybody
12 doing this evening, other than freezing?

13 My name is Michael Davis. I actually live
14 about 3 and a half miles that way in the Town of
15 Galen. I've been a citizen here for the last
16 25 years, grew up in Phelps and Clifton Springs,
17 business manager of the International Brotherhood of
18 Electrical Workers, president of the Finger Lakes
19 Building Trades. I also sit on the Ontario County
20 IDA. I'm actually the chairman there.

21 I just wanted to come and speak tonight in
22 favor of giving these breaks to the Wilmorite
23 corporation in order to build this casino.

24 As the chairman of the Ontario County IDA,
25 I'm not foreign to these forms. They're pretty simple



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2 and straightforward. They talk about jobs to be
3 created. And generally -- I know on the Ontario
4 County IDA we're very conservative, as it looks like
5 you were on these as to how many jobs will be created
6 because I think it will be a heck of a lot more than
7 you show on this. And that's the way you should do it
8 because you want to make sure that you're going to get
9 the bang for your buck. Jobs created are the return
10 on your investment. The investment here is minimal
11 compared to what the return is going to be over the
12 course of ten years.

13 The other questions I ask as I sit on that
14 board is, have you reached out to local contractors in
15 order to build these type projects? That's obviously
16 been done. There's a project labor agreement.

17 What kind of wages and benefits are going
18 to be paid? That's already been taken care of.
19 That's kind of in the gambling statute. They've
20 already signed an agreement that says that they'll
21 allow the employees to unionize.

22 So I guess the reality of it is, I'm
23 sitting up here telling you things you already know.
24 So I'll sit back down because this one is pretty much
25 a no-brainer. Thank you.



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2 MR. ARONSON: Thank you.

3 I'm having -- Richard "Westfell." I may
4 be mispronouncing that if I'm not reading it
5 correctly. Is that correct?

6 MR. WESTFALL: I hope I'm the one you're
7 talking about. Richard Westfall.

8 MR. ARONSON: Westfall. Sorry. Thank
9 you.

10 MR. WESTFALL: I'm not here to speak for
11 or against the casino because it's a done deal. I
12 feel sorry for the people that want the quiet country
13 life. My biggest concern is the stories I hear about
14 major tax breaks to the casino.

15 I have property in Waterloo and in Phelps.
16 And on the county tax alone, I paid about \$6,000 a
17 week ago for taxes. And I worked my butt off to earn
18 it to pay it. And why we would take a billion-dollar
19 company to come in here -- you're not enticing them.
20 They're going to be here whether they get the tax
21 break or not. So I say if they want to come in, let
22 them come in, but keep the money in the coffers for
23 something that's more beneficial to the people in
24 Seneca County.

25 And make sure -- I don't want to repeat



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2 anything anybody else has said. I guess the only
3 thing -- I got another big hang-up. I guess we're
4 going to give them quite a bit of money -- or a break,
5 not give them money. I have a big thing with this
6 White Deer out by the ordinance. The IDA seems to
7 bypass that or don't want to talk about it. If you're
8 going to give money away to give tax breaks, why not
9 to the White Deer association so they can get
10 family-friendly tourism and not a gambling casino?

11 So I wish you would give it a lot of
12 thought before you give them anything because you're
13 wasting your money. Several years from now, if they
14 follow the same road as some of the places in Atlantic
15 City, they'll go belly-up. And that isn't going to be
16 any benefit to Seneca County or you people or the
17 town.

18 So, again, I am totally opposed to the tax
19 break. They don't need it. You aren't going to
20 entice them to come here because they're coming
21 anyway. So save your money for something friendly for
22 the tourists and the families in Seneca County. If
23 you want to give your money away, give it to some of
24 the poor people that have lost their jobs due to
25 foreign trade if you want to help people out.



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2 Thank you.

3 MR. ARONSON: Thank you.

4 The next speaker is Linda Oaks.

5 MS. OAKS: Hi. Good evening. I've been
6 to IDA meetings before. I'm impressed that we have
7 one at night so other people can attend because a
8 couple of times I've been the only person that's
9 showed up.

10 In regards to this project, again, what's
11 been said previously holds with me in the fact that if
12 they're coming anyway, why would you even think of
13 giving them a dime of our tax money? They've created
14 this incredibly huge project. It's going to be
15 astronomical. It's going to be our economic savior.
16 But why do we have to support it when they've already
17 come -- when they submitted their paperwork; they had
18 to say they had their financing in place, all those
19 things. And now all of a sudden we have to give them
20 money? It's not like they're going to not come.
21 They've already committed to coming here as far as I
22 understand.

23 This is the same scenario. We went
24 through this over Mr. Bult's Trucking. And Seneca
25 Meadows is the beneficiary of tons of money from our



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2 county. And I know that the IDA likes to do big
3 projects because they do get a cut of the cost of the
4 project. And that money, what is it being used for?
5 I've asked several times about the White Deer and
6 other projects. And I understand that nothing has
7 been done in regards to anything like that.

8 So our county is -- I just don't
9 understand our thinking. If you've already got
10 somebody willing to come in; they're going to invest
11 all this stuff; there's going to be all this 5-to-1
12 ratio and all that, why do you have to give them our
13 tax dollars? They obviously don't need it. This is
14 corporate welfare to the ultimate.

15 Okay. And I've asked many times,
16 sustainable businesses or other businesses besides
17 garbage and other nasty habits that people think we
18 should have in our county. I mean, that's why we're
19 in such a poverty mess, because we're not funding the
20 right things. And we can create jobs if only we would
21 look at other business opportunities or smaller deals.

22 And I know the IDA does have the incentive
23 to do the big deals because then they get more money.
24 But, again, I'm not sure where all that money is going
25 or if it is going to create other businesses than just



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2 support Seneca Meadows and Goulds Pumps and a project
3 like this.

4 So I am definitely against the tax
5 dollars, IDA money, whatever you want to call it,
6 going to a corporate that is astronomically rich. And
7 that's how they keep getting richer and we keep
8 getting poorer.

9 Plus, nobody has even looked at the fact
10 of what's going to happen with this casino because New
11 Jersey and Connecticut are closing theirs. I see on
12 their paperwork that they're saying there's going to
13 be 1,200 jobs. Somebody else said 1,800. You know,
14 do we have a firm figure on how many jobs? And then
15 it says the average estimated salary is 42,000. I bet
16 the maids and the hotel clerks and the waitresses are
17 going to be thrilled to hear they're going to be
18 making that kind of money. I find it hard to believe
19 that that's an accurate figure as well.

20 And where are they going to get a lot of
21 the people? Are they going to bring them in from
22 other states or other areas in the state? Or are
23 these truly going to be Seneca County jobs? That's
24 the other thing. We want jobs, but we want Seneca
25 County people to get the jobs.



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2 And I know some areas, they need to be
3 trained because we don't have a well-trained workforce
4 in many areas. That's something else that needs to be
5 taken care of. We went through that over Mr. Bult's
6 Trucking. Some training. Because people would love
7 to have a job that makes \$42,000 a year, I'm sure,
8 with benefits. So those are some other things.

9 But I really don't think that we need to
10 spend our tax dollars on this. I'd rather see you
11 start some kind of training sessions and help people
12 out more so that they can be trained for other jobs
13 besides casino and hauling garbage. You know, that's
14 not going to sustain us.

15 My son left the area because there was no
16 place for him to work here. And that's pretty sad.
17 All of our young people are moving away to get a job
18 somewhere else because they don't want to work at the
19 landfill. And now it's going to be a casino too.
20 And, again, there's gambling issues and all that, but
21 I won't go into it.

22 I'm just saying, we should not give a dime
23 to corporations that come into our county and want to
24 do business unless there's a darn good reason for it
25 and, also, that we're going to get our money's worth



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2 out of it.

3 I know a lot of it, they base their facts
4 on Pennsylvania casinos. Isn't that pretty much what
5 they did for this project? They looked at what's
6 happening in Pennsylvania and said, "Well, it's
7 comparable." This is a different situation. And
8 you're going to ruin a whole neighborhood that could
9 use that money for other things.

10 So please, I'm definitely against giving
11 this corporate -- giving the corporations our tax
12 dollars. Thank you.

13 MR. ARONSON: Thank you.

14 The next speaker is Jeffrey Dawley.

15 MR. JEFFREY DAWLEY: Good evening. First,
16 I want to say this is tragic that we're even
17 considering this.

18 MS. OAKS: Can't hear you.

19 MR. PATTI: Speak up, please.

20 MR. JEFFREY DAWLEY: Sorry.

21 First of all, I want to say that it's
22 completely tragic that we are even considering this.
23 The assistance application we're considering tonight
24 should be scrutinized no different than any other
25 application. It does or does not meet New York



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2 State -- I'm sorry. Does it or does it not meet New
3 York State agency criteria?

4 Here is a statement from former chairman
5 of the board of supervisors, Robert Hayssen, in regard
6 to the August 13th, 2013, meeting of supervisors
7 minutes, calling for this county's IDA agency to
8 re-evaluate its policies for financial support in
9 regards to Seneca Meadows, Inc. Here is the last
10 statement of the resolution unanimously passed by the
11 board of supervisors opposing this county's IDA and
12 New York State agencies granting -- opposing this
13 county's IDA and New York State agencies granting an
14 exemption.

15 The supervisors oppose Seneca County
16 Industrial Development Agency's financial support to
17 Seneca Meadows, Inc., and calls on the agency to
18 re-evaluate its policies related to financial support
19 to companies. The county board of supervisors
20 respectfully urges the Seneca County Industrial Agency
21 to re-evaluate its policies related to the offering of
22 financial assistance to both new and existing
23 companies. Chairman Hayssen states that the entire
24 board of supervisors are pro-business. He reasons
25 that the county taxpayers could use that money rather



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2 than Seneca Meadows. They are not going anywhere and
3 jobs will not be lost if they do not have this
4 exemption.

5 The IDA should reconsider its approval and
6 give it to a business that really needs it.

7 For the same reasons, in regard to the
8 Wilmorite application, Seneca County taxpayers could
9 use this money. And if Wilmorite is licensed, they
10 won't be going anywhere if they don't get the IDA
11 approval. There will be no job losses if it's not
12 granted. Thank you.

13 MR. ARONSON: Thank you.

14 The next speaker is Allison Stokes.

15 MS. STOKES: My name is Allison Stokes.
16 I've been a resident of Seneca Falls for 12 years.
17 And I've been a vocal opponent of the proposed
18 gambling casino in Tyre. I've been outspoken about
19 the fact that there is significant opposition to the
20 proposed casino that has not been acknowledged. My
21 personal awareness of the extent of the opposition
22 came this past Labor Day when I spent hours reading
23 through a book of letters and statements from people
24 all over the county and beyond in opposition.

25 Why is this important? Because the Seneca



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2 County IDA is considering Tom Wilmot's application for
3 financial assistance. This is what we're considering
4 tonight. That was available for us to take (indicating).

5 Essentially, the IDA is asking taxpayers
6 in Seneca County, like me, who are opposed to a casino
7 in Tyre, to subsidize a wealthy developer. Let's be
8 clear. The issue tonight is not whether a casino is a
9 good idea. The issue is whether, as people have said,
10 the county IDA should give Tom Wilmot the financial
11 assistance he is asking for.

12 We're meeting at the Magee Firehouse in
13 Tyre. We are talking about a Seneca County issue
14 before the Seneca County IDA. A more suitable
15 location for such a hearing would be the Seneca County
16 Office Building, the home of the IDA. A meeting there
17 perhaps in the more spacious community room of the
18 office of the aging would be a more neutral location.
19 That location would be more easily accessible to all
20 Seneca County residents, especially on a night like
21 tonight. That location would make it clear that the
22 contested issue we discuss tonight is not just for the
23 far-away Tyre, but for all Seneca County taxpayers.

24 I went to the IDA website to get a notice
25 of tonight's meeting to be clear about what it is



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2 we're talking about. It was a one-page, very dense,
3 hard statement to read. To make it more intelligible
4 for myself and others, I reformatted it into two
5 pages. And I have this ready for copies for people if
6 you'd like to take them. And I hope you will because
7 reading through this gives a more specific statement
8 of what it is we're all about.

9 I have many, many questions based on this
10 notice of our meeting. But the most important one
11 that I want to address, it says that the company, Lago
12 Resort, has applied to the agency to enter into a
13 transaction in which the agency will assist in --
14 and then there are three points that they're going to
15 assist in.

16 The first point is the acquisition of
17 approximately 84 acres of land within the Town of
18 Tyre. I'm asking the IDA, how is the agency assisting
19 in the acquisition? In the application of Tom Wilmot,
20 it's noted, for one thing, that the acquisition, the
21 land, will cost a million dollars. He has said,
22 "We're ready to go. It's licensed and we're ready to
23 start. We're ready to break ground."

24 According to this, the current fee title
25 owners are James and Jeanne Leonard. The Leonards



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2 have granted an option to Whitetail, LLC, that can be
3 exercised at any time through October 2015. Upon
4 award of a gaming license, Whitetail is obligated to
5 assign the option to the applicant. And the
6 applicant -- that is Lago -- intends to exercise the
7 option upon receipt.

8 So it's upon receipt of the licensing that
9 they have to exercise that option and actually buy it.
10 This says that the IDA will assist in the acquisition.
11 And I want to know what that means, assisting in the
12 acquisition. Is taxpayer money going to help buy
13 that? I don't understand a lot of this. And one of
14 the reasons I put it out in a way that I hope will
15 flag some issues for people is that I don't understand
16 the --

17 MR. ARONSON: Excuse me, Ms. Stokes.

18 MS. STOKES: Okay.

19 -- land lease. And maybe you can
20 describe -- I'd ask you to explain the land lease.
21 And if taxpayers are exposed to liability if we have a
22 land lease and Lago fails, are we then implicated in
23 that?

24 There are lots of questions here that are
25 not being asked or answered. Please take one of my



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2 blue sheets if you're willing to see. Thank you.

3 MR. ARONSON: The next speaker is Richard
4 Barner.

5 MR. BARNER: Hello. My name is Richard
6 Barner and I've been a taxpayer here in Tyre for
7 18 years.. And I'm against my tax dollars or tax
8 breaks being given to Lago.

9 I mean, they're already coming here. And
10 about a year ago, Wilmorite rolled into town here
11 making all kinds of promises, that they're going to
12 pay for a new four-lane highway and a new bridge
13 that's four lanes; they're going to have paper, water
14 and sewer. And now they're asking for all these
15 breaks and they want assistance? That's not right.
16 And I feel it's wrong for them to receive these tax
17 breaks. And I'm really asking and praying that you
18 folks here at the IDA will not give them.

19 Thank you very much.

20 MR. ARONSON: Thank you.

21 The next speaker is John Quattrociochi.
22 Did I get that right?

23 MR. QUATTROCIOCCHI: Yes.

24 My name's John Quattrociochi. I live in
25 Seneca County. I live in Seneca Falls. And I, too,



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2 am unequivocally and uncategorically opposed to any of
3 the tax benefits that this project presents no matter
4 what your cost-benefit balance sheets purportedly
5 show.

6 I agree with some of the people here. I
7 mean, the casino may or may not be a great thing. But
8 it's definitely coming. And I think what people are
9 addressing is their lack of support for any such
10 program here that gives back our tax dollars or asks
11 us to suppress -- or subsidize this.

12 Mr. Shipley alluded to the fact that the
13 Indians' total tax unpaid on the land to this point
14 after all these years is 1.7-plus million dollars.
15 The truth of the matter is, your tax break package for
16 the Wilmots exceeds that and it will exceed that every
17 year that it's in place.

18 I also want to go back to when Wilmot
19 first came to town. I attended the first meeting at
20 the Holiday Inn. At the end of the meeting I asked --
21 I think it was young James, and I think he's here
22 tonight -- if this was going to be part of their
23 strategy. I think I said, "Do you have the nerve to
24 ask for any kind of tax breaks with all this money
25 floating around?"



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2 He, I think, looked over at Juris Basens,
3 is his name. They both told me, "No, that's not part
4 of our plan." I think maybe that's an indication of
5 the level of trust that I have come not to have here.

6 I don't see any valid viable reasons why
7 they should be considered for these tax incentives.
8 They're not going anywhere, as many people have
9 alluded to. And I'm not here to debate whether there
10 are that many social benefits to having the casino
11 like Mr. Patti alluded to.

12 However, I think for them to come in
13 here -- they weren't going anywhere else. There was
14 no incentive here involved. No one twisted their arms
15 to come. And then for you to come around and say
16 that, "Well, they need our tax money in order to
17 survive," is illogical. I think any kind of benefit
18 for them would be morally reprehensible and I think it
19 would be a slap in the face to the citizens and the
20 taxpayers in the county.

21 And I hope -- well, we've got two board of
22 supervisor people here now, Mr. Shipley and
23 Mr. Lazzaro. And I hope somehow the entire board of
24 supervisors can get some control over this and at
25 least continue keeping an eye out for the best



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2 interests of their constituents. I would ask them to
3 think of all the unpaid taxes that the school
4 districts could use that they won't get because of
5 such a deal that's going down. Thanks.

6 MR. ARONSON: Thank you.

7 The next speaker is Gene Pierce.

8 MR. PIERCE: Good evening. My name is
9 Gene Pierce. I'm the owner of Knapp Vineyard, Winery
10 and Restaurant in the southern part of the county. I
11 also serve on the County Chamber of Commerce Board and
12 serve as chair of the Seneca County Advisory Committee
13 on Tourism. And as well, I have served as chair of
14 the Yates County IDA, so I am familiar with what you
15 gentlemen -- with what the IDA has the opportunity to
16 have in front of you.

17 What I sometimes thinks gets lost in this
18 is, we have the opportunity to make an investment
19 that's going to benefit a lot of us in this county and
20 in other counties. The fact that there's going to be
21 thousands of people coming to the new resort, they're
22 going to be moving around through this county and
23 through other counties in the Finger Lakes region.
24 Those people will help all of us. That's a great
25 opportunity that this project presents.



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2 The other thing that it presents is,
3 Seneca County has the opportunity to become the
4 northern gateway to the Finger Lakes. There is not
5 one now. There is no well defined northern gateway.
6 With the Thruway exit and Route 414 and 5&20,
7 people -- this will provide a great opportunity for
8 people to come into our area to visit the wineries,
9 the breweries, the cheeseries, hotels, motels.

10 So while sometimes people are looking at
11 this as just an investment in Wilmorite for the IDA,
12 this is truly an investment in the business community
13 of Seneca County and beyond. I thank you very much.

14 MR. ARONSON: Thank you.

15 I just want to check for anybody who
16 signed in since we started.

17 The next speaker is James Dawley III.

18 MR. JAMES DAWLEY III: Good evening.
19 Thank you for this opportunity to speak tonight.

20 To the Seneca County IDA Board and
21 directors. My name is James Dawley III. And on
22 behalf of myself, my family and our coalition of
23 neighbors called Casino Free Tyre, I respectfully call
24 upon the board and the Seneca County IDA to deny or at
25 least postpone pending a proper investigation approval



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2 of the application for financial benefits for the
3 proposed Lago casino.

4 Two specific areas of concern fuel our
5 request. First, the public simply does not know
6 enough to comment in a useful manner on this
7 application. The IDA fee is not known. A discount is
8 demanded. And the property tax exemption amount is
9 left to a later discussion, meaning the discount
10 presented by the proposed PILOT is unknown. This
11 knowledge is essential because the application and the
12 cost-benefit analysis show this project simply does
13 not need any tax breaks.

14 Lago's application and the cost-benefit
15 analysis both allege the facility will be a widely
16 successful proposition with revenues that will reach
17 other 300 million by its third year and will have
18 excess cash flows, so why are property tax and
19 mortgage tax exemptions needed?

20 What is curious about the submittal is
21 what it is missing. Any kind of operating budget.
22 They disclose revenues to support tax revenue
23 projections, but they make no effort to match
24 expenses. Specifically, the application says the
25 applicant will be building the business model during



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2 the first three to six years. And until the ten-year
3 license is extended by state legislation, the lender
4 will require cash sweeps of excess cash flow. And
5 therefore, a tax agreement to provide payment
6 certainty is a critical path item for financing.

7 Besides understanding what Lago is
8 saying -- bankers first, taxpayers second -- Lago
9 certainly would have shown pro forma of those to the
10 bankers. Why won't they show them to the people
11 giving them tens of millions of dollars in tax breaks?

12 Lago claims to have all its financing
13 secured. Are they now saying their financing is
14 dependent on a tax break? And wouldn't paying the
15 normal taxes provide enough certainty?

16 Lago also says they have a separate host
17 agreement with the town. And that is a benefit. What
18 about the schools? They will be getting numerous new
19 students, the report says, but limited new revenues.
20 Shouldn't this board say, "Since you freely admit you
21 have excess cash flows to pay down debt, you should
22 pay the school its fair taxes"?

23 As to the host agreement, there isn't
24 anyone in this county who doesn't know that Lago threw
25 millions at the town to buy the rezoning. The host



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2 agreement pays far more money than any mitigation of
3 costs. We are told that is illegal in New York.

4 We raise the fundamental nature of the
5 town's actions in our lawsuit. And you should be
6 aware that we intend to continue our challenge to that
7 agreement and rezoning.

8 Now to the second issue. The host
9 agreement was drafted by Lago's counsel, the same law
10 firm that is the Seneca County IDA agency's counsel.
11 Of course, you would not know that from the Lago
12 application because while their counsel is disclosed,
13 no conflict of interest is admitted. We know that the
14 agency hired a local attorney to represent it on its
15 deal, but ask any legal ethics person and they will
16 tell you, it is still a conflict to appear before your
17 own client. At a minimum, we believe that you should
18 return this application to Lago and tell them to
19 return with independent counsel to avoid an obvious
20 appearance of conflict.

21 Not that we should be surprised by this
22 failure to disclose, as the Binghamton paper pointed
23 out, Lago hid its relationship with the State Siting
24 Board's attorney by redacting the relationship
25 disclosed. And in our opinion, that concern is



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2 paramount when considering the undisclosed and
3 to-be-negotiated IDA fee.

4 The public has no idea what the fee will
5 be or why Lago is entitled to a deviation. Lago has
6 an unacceptable advantage because Lago's attorney,
7 your attorney, knows more about the fee policy and the
8 tax exemption policy than anyone. After all, he wrote
9 them. To our view, that gives him an insider's
10 knowledge that prevents the Seneca County IDA from
11 allowing him to appear before you. Hiring a local
12 attorney with no IDA experience to our knowledge
13 hardly resolves the question. But even if he were the
14 world's IDA expert, the conflict is not gone.

15 At a minimum, you should delay
16 consideration of this application until these ethic
17 concerns can be addressed by the attorney general or
18 the state office that regulates public authorities.
19 An opinion can be requested from these agencies,
20 whether the IDA's counsel should be on the other side
21 of the largest transaction in county's history,
22 negotiating against his own client for a lower fee or
23 a lower PILOT payment and for an unknown property tax
24 exemption. At a minimum, you could seek the advice of
25 a legal ethics expert from Cornell or Syracuse Law



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2 School before tarring your agency with an appearance
3 of impropriety. There is certainly no downside to
4 seeking such independent advice before acting.

5 We thank you for your consideration. We
6 don't need the stain of Albany settling on our county.
7 We don't need to be giving scarce dollars to the
8 already wealthy, particularly when the constitutional
9 amendment that allowed this casino stated that
10 increasing local tax revenues was a primary goal.
11 Rejecting this application will not stop the casino,
12 but it will send a heck of a message about doing
13 business fairly in our county and playing by the
14 rules. Thank you.

15 MR. ARONSON: Thank you.

16 The next speaker is Desiree Dawley.

17 MS. DAWLEY: Good evening. I'm Desiree
18 Dawley. I'm a taxpayer in Seneca County. I'm opposed
19 to giving Wilmorite a tax break.

20 Listening to some of the previous
21 speakers, I hear people talking about things that are
22 really irrelevant, such as -- I don't know -- gambling
23 and whether you like to gamble or whether you don't
24 like to gamble, whether there are jobs. The jobs are
25 really irrelevant when it comes to your decision



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2 because your decision is about whether to give a
3 ten-year tax break to a company who basically there's
4 no guaranty.

5 Secondly, the Shepstone report is void of
6 many impacts that would cost our county. And I don't
7 think that taxpayers should be in the business of
8 subsidizing wealthy developers who don't fit the
9 criteria of the IDA. Your criteria, you list it in
10 your mission statement as basically, in the summary,
11 enticing business to come. Or let's say in the case
12 of somebody like BonaDent in the past, keeping them
13 here so they don't leave to Florida like many other
14 businesses in New York State have done. Trying to
15 keep the business here, trying to keep the jobs here.

16 The point of tonight's meeting, from what
17 I understand from your notice, is that we're here to
18 talk about whether you should give a tax break to
19 them. So I want to stay on that point.

20 I question the committee. I don't know if
21 you're not really following -- I have a lot of
22 questions. One would be that the committee that was
23 formed at one of the meetings called by Supervisor
24 McGreevy to form in order to help decide whether they
25 get a tax break, that is full of conflict. You have



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2 Ron McGreevy; you have Cindy Lorenzetti, you have Bob
3 Hayssen and then you had Mr. Smith, who's now leaving.
4 All of them are in support of Lago, so what kind of
5 committee is that to really spend tax dollars? The
6 taxpayers should be really outraged about that. That
7 is an absolute conflict. There's no transparency.
8 And it goes against your stated mission. At the end
9 of your mission it says, "Transparency, integrity and
10 accountability." That is clearly not what that is.
11 How can the public gain the trust of local officials
12 when these atrocities are status quo here in Seneca
13 County?

14 Wilmorite does not fit the criteria for
15 assistance. We talked about that before. It's for
16 attracting commerce. They're here. They're coming.
17 And unless we can stop them through legal matters or
18 maybe the Gaming Commission would finally see that
19 this is a saturation issue here, and that this is
20 basically a money-grab from other parts of the state
21 to bring here to Seneca County, no net gain at the
22 bottom line for New York State. And from what I
23 understand -- that's another question I have. Is IDA
24 money state money that's basically allocated county by
25 county? I'm not sure. I can't find that out from



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2 your website.

3 But bottom line is that, how does this
4 project qualify? Wilmorite contacted Hayssen. In
5 other words, they did not even need enticing as far as
6 we, the taxpayers, can conclude. Unless promises for
7 assistance were made earlier on, maybe behind closed
8 doors, which none of us know. Maybe we could ask
9 Mr. Rowe, the former county manager, and maybe he
10 could shed some light on this matter.

11 So what basis can you use to approve this
12 assistance if you stick to your mission statement?
13 Integrity, accountability.

14 As far as this application goes, it's
15 really sketchy because it has no date on it. There's
16 no date on your application that you have made
17 available to the public. Nowhere. And then where Tom
18 Wilmot signs it, no date, no notary. Is this a real
19 application or is this a mistake? Because I don't
20 understand that. Maybe you could answer those kind of
21 questions.

22 As far as that Shepstone report, I would
23 like to say, you know, I know everybody was very
24 excited about all this money they were going to get
25 with this supposed small impact. But at the end of



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2 the day, we're sure we'll lose 36 million, but we're
3 not so sure we'll gain the billions. I'm not even
4 sure what the number is right now. But I will say
5 this: When you stop and think about that saturation
6 issue that I brought up earlier with somewhere between
7 51, Wilmorite's numbers, and 67 in an independent
8 study done by Mohawk Valley written by Clyde Barrow,
9 that money is pretty sketchy. You're basically not
10 producing any real money in this area other than
11 repeat gamblers that you create right here in our
12 area.

13 Mr. Wilmot was quoted on December 17th
14 saying that the cars are going to come off the Thruway
15 and on the Thruway.

16 One more minute, please. I'll just finish
17 this one thought and I'll end.

18 90 percent of the cars are going to come
19 off the Thruway and on the Thruway. And so I don't
20 understand. And I did ask Mr. Hayssen this. But I
21 don't understand, with Mr. Pierce, who's got a winery
22 down in Yates County and south of here, how he expects
23 to attract business when even Tom himself, who's the
24 authority on this, says 90 percent of the business is
25 going to come off the Thruway and on the Thruway.



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2 That's not Seneca County. They're not going to our
3 lakes. The Lago they talk about is not real.

4 Thank you very much for listening.

5 MR. ARONSON: Thank you.

6 The next speaker is Cathy Davis.

7 MS. DAVIS: Hi. First, I'd like to say
8 thank you for allowing me to speak tonight. I'm going
9 to be kind of brief.

10 My youngest son is 26, so I've been back
11 here for 26 years in the Town of Tyre. I lived here
12 growing up, through my childhood, most of my teen
13 years. I now own the home that my mother, as a single
14 parent, struggled and built herself with no help.

15 I brought my family back here because I
16 wanted to grow up in this community. I love this
17 community. I love the country. I am against Lago,
18 and for many reasons. I hate seeing our land be
19 turned into an area that I consider partly greedy. We
20 don't need gambling to live. We don't need another
21 place to go see movies. We don't need many of the
22 things that Lago is offering.

23 Yes, Seneca County is struggling. But I
24 don't believe that eventually Lago is going to benefit
25 us. Mr. Wilmore himself left Rochester with 18



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2 million -- owing Rochester \$18 million because of the
3 Sibley Building. And that is public knowledge.

4 I do not feel that he should be considered
5 for any of our tax dollars. He did state with his own
6 money that he would widen the bridge; he would bring
7 in the water system. He would do all of these things
8 with his own money.

9 Mr. Wilmorite, when he purchased -- or
10 made the offer and agreement with the land, did not
11 face this woman himself. It was going to be disclosed
12 later. There has been many actions that he has done
13 that was disclosed later. I don't feel that the man
14 is honest and aboveboard. This is my own true
15 feelings from some of the things that I've seen, heard
16 and know. I don't think that our communities need to
17 be spending that kind of money because you're just
18 gambling our money away.

19 I work. And I've been working for a long
20 time. I work 40 hours. I've worked at the outlet
21 when it first opened up. I watched that outlet for
22 over seven years. Worked out there. I watched it
23 when it first opened up. Our second year was the best
24 year ever. But did the numbers die off? Yes, they
25 did. Have they ever succeeded back up there where it



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2 was after the second year of opening? I do not
3 believe so.

4 And as far as jobs in our community,
5 because of all the different jobs that I've worked at
6 and working in the public, I have watched people come
7 and go through jobs. And a lot of times, the reason
8 why somebody is not working in a lot of the areas that
9 I was is because of their own choice. Them walking
10 out, not sticking to it, coming up with excuses, not
11 wanting to go to work. And there's many more that I
12 can go on.

13 I feel that Seneca County should take some
14 of the money that they have and either educate,
15 strengthen, have these people go to work, provide more
16 ways of people going to work, whether it's giving more
17 money to the shuttle so that people have a way to get
18 to work. I have a son. He lives in Geneva. He walks
19 all the way up to the top of the hill to go to work.
20 He has no car.

21 I don't see where having a casino, when we
22 have one in Syracuse and we have one in the Finger
23 Lakes, and we're going to bring one here? We're going
24 to give up farmland. We have deer out there. Well,
25 we did. They're tearing down that. Many of the



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2 people in this area hunt deer and eat the venison and
3 that's part of their way of making their means. I
4 think that America needs to really re-evaluate
5 everything that we're doing.

6 We do have a money crunch. When I have a
7 money crunch in my house, I have to cut back and
8 suffer. And that's my responsibility because I put
9 myself there or I didn't save enough.

10 Bringing in a casino and stuff that we
11 don't need here? No. We need jobs, yes. We need
12 people to work, yes. But we need to do it in a
13 different way. Thank you for listening. And I'm
14 saying no.

15 MR. ARONSON: Lisa Taylor.

16 MS. TAYLOR: How are you this evening?

17 I am here much like Mr. Pierce from Knapp
18 Winery. I am the restaurant and bar manager at the
19 Holiday Inn. And we are here to support Lago Resort &
20 Casino.

21 Not only is it going to bring jobs to the
22 area, but it's going to bring jobs to our hotel as
23 well. During the construction phases, you know, we'll
24 have hundreds of workers that will need places to
25 stay, places to eat.



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2 It's going to bring tourists and
3 motor-coach buses to the area, which -- you know, they
4 say get on and off the Thruway. People aren't going
5 to just get on and off the Thruway. It's going to
6 bring them to the area; they're going to want to see
7 the wineries; they're going to want to see the local
8 attractions; they're going to want go to the Women's
9 Hall of Fame because they're here. And that casino
10 may have brought them here, which they might not have
11 come before.

12 When we go to Turning Stone as a family,
13 we don't always stay at Turning Stone because the
14 rooms may be a higher cost. We might stay at the
15 hotel that's down the street because it's a little
16 less expensive. We may go to the family diner because
17 it's a little less expensive than eating at the
18 casino. It's going to bring jobs to my hotel as well
19 as to the area because our business is going to
20 increase. So I'm here to show we're in full support.

21 MR. ARONSON: Thank you.

22 The next speaker is Tom Meyers.

23 MR. MEYERS: Good evening. When I heard
24 about the meeting, I just had -- one item in your
25 mission statements says about integrity. And is it



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2 within the IDA's policy to give taxpayer money to
3 companies who attempt or succeed in offering hush
4 money to the affected businesses or residences to not
5 oppose them? I thought that was a little odd that you
6 would support that. Thank you.

7 MR. ARONSON: That's everyone who signed
8 up. Is there anybody who would like to speak that
9 hasn't had a chance to speak?

10 MS. STOKES: Could I ask a question of
11 fact from the report? They give initials without
12 explaining what the name is. That's all I'm asking.
13 It talks about the challenge by the CGR, Inc. And CGR
14 is mentioned throughout this report. And I can't find
15 anywhere what CGR -- I went online and found
16 something, but I don't know if the CGR, Inc., profile
17 I found online is this CGR. Could you explain?

18 MR. ARONSON: CGR stands for the Center
19 for Governmental Research in Rochester, New York. And
20 they were hired to evaluate the original application
21 and statements by the developer, the market study that
22 the developer had done, and helped to formulate the
23 whole community agreement.

24 MS. STOKES: Thank you. And is that
25 report available?



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2 MR. ARONSON: I think it is available. I
3 just -- you know, if you wanted to write to us and ask
4 us for a copy, we could perhaps get you to the right
5 place. Okay?

6 MR. PATTI: I'd like to add one thing --
7 one short thing to my statement before.

8 Many people brought to your attention the
9 fact that the corporation is asking the IDA for
10 financial assistance. Okay. I believe it to be true
11 that the IDA assistance will be paid back twofold or
12 more to both the IDA, the county, villages, towns and
13 school districts. Lago will pay that assistance back.
14 I believe that.

15 MR. ARONSON: Thank you. And --

16 MR. QUATTROCIOCHI: And I might add,
17 that's a fallacy.

18 MR. ARONSON: With that, the public
19 hearing is closed.

20 MS. DAWLEY: I have a question. The other
21 question I have is, in your minutes from the IDA, it
22 says at the county level that Bonadio was hired.
23 There was a resolution passed to do this study. And I
24 wondered if that was available as well. You have a
25 Shepstone study, but no Bonadio study.



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2 MR. ARONSON: There was no Bonadio study
3 pursued. It didn't happen.

4 MS. DAWLEY: Oh.

5 MS. STOKES: Could you explain the
6 leaseback?

7 MR. HALPIN: This isn't really the forum.

8 MR. ARONSON: This isn't really the forum
9 for that. But if you'd like to send questions in,
10 we'll try and get you answers.

11 Okay. Then this public hearing is closed.
12 Thank you all for coming and go home safe, please.

13 (TIME: 7:06 p.m.)

14 * * *

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C E R T I F I C A T I O N
STATE OF NEW YORK:
COUNTY OF MONROE:

I, MOLLY CHIMINO, do hereby certify that I reported in machine shorthand the above-styled cause; and that the foregoing pages were produced by computer-aided transcription (CAT) under my personal supervision and constitute a true and accurate record of this proceeding;

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;

WITNESS my hand in the City of Rochester, County of Monroe, State of New York.

Molly Chimino

MOLLY CHIMINO
Freelance Court Reporter and
Notary Public No. 01PR6210086
in and for Monroe County, New York



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**STATE OF NEW YORK
SUPREME COURT COUNTY OF SENECA**

In the matter of

**DAGMAR NEARPASS, DESIREE DAWLEY, JAMES
DAWLEY, III, LYNN BARBUTO, ROBERT
BARBUTO, JONATHAN MORELLI, JANE MORELLI,
RICHARD BARNER, and DAVID SCHOONMAKER,**

Petitioners,

vs.

**SENECA COUNTY INDUSTRIAL DEVELOPMENT
AGENCY, LAGO RESORT & CASINO, LLC, WILPAC
HOLDINGS, LLC, WILMOT GAMING, LLC, WILPAC
FUNDING, LLC, THOMAS C. WILMOT, SR., M.
BRENT STEVENS, and WILMORITE, INC.,**

Respondents.

**For a Judgment Pursuant to Article 78 of the Civil
Practice Law and Rules.**

**NOTICE OF AMENDED
PETITION**

Index No.: 49356

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SUPREME & COUNTY COURTS

PLEASE TAKE NOTICE that, upon the annexed Amended Verified Petition, verified the 19th day of October, 2015, and the accompanying Volume of Exhibits to Verified Petition, dated the 19th day of October, 2015, an application will be made to the Supreme Court of the State of New York, County of Seneca, at a Special Term thereof: appointed to be held at the courthouse, 48 W. Williams St., Waterloo, NY 13165, on such date and time as specified by the Court, for a review under CPLR Article 78 and, as more fully set forth and described in the Annexed Amended Verified Petition and accompanying Volume of Exhibits, for an Order and Judgment as follows:

(1) on all of its Causes of Action (First through Seventh), an Order and Judgment pursuant to CPLR Article 78 adjudging and decreeing that the Lago IDA Resolution of February 12, 2015, authorizing, among other things, a Payment in Lieu of Tax Agreement and Lease between the IDA and Respondent Lago Resort & Casino, LLC, exceeded the IDA's lawful authority and jurisdiction, was made in violation of lawful procedure, was affected by an error of law and was arbitrary, capricious, and an abuse of discretion, and determining, adjudging, and decreeing that said Lago IDA Resolution is unlawful, null, void, invalid, and unenforceable, and further declaring and adjudging that any and all agreements based on or resulting from said Lago IDA Resolution, including, but not limited to, the Agent Agreement, Benefit Recapture Agreement, Agency Tax Agreement, Lease Agreement, and Leaseback Agreement by and between the IDA and Lago, are null, void, invalid, and without any legal effect;

(2) on all of its Causes of Action (First through Seventh), an Order and Judgment pursuant to CPLR Article 78 adjudging and decreeing that the Lago Property (County of Seneca/Town of Tyre/Waterloo Central School District/tax map/tax parcel number 12.00-01-

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Wilmot Gaming, LLC, Wilpac Funding, LLC,
Thomas C. Wilmot, Sr., M. Brent Stevens and Wilmorite, Inc.
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Pittsford, New York 14534

STATE OF NEW YORK
SUPREME COURT COUNTY OF SENECA

AMENDED VERIFIED
PETITION

In the matter of the

DAGMAR NEARPASS, DESIREE DAWLEY, JAMES
DAWLEY, III, LYNN BARBUTO, ROBERT
BARBUTO, JONATHAN MORELLI, JANE MORELLI,
RICHARD BARNER, and DAVID SCHOONMAKER

Index No.: 49356

Petitioners,

vs.

SENECA COUNTY INDUSTRIAL DEVELOPMENT
AGENCY, LAGO RESORT & CASINO, LLC, WILPAC
HOLDINGS, LLC, WILMOT GAMING, LLC, WILPAC
FUNDING, LLC, THOMAS C. WILMOT, SR., M.
BRENT STEVENS, and WILMORITE, INC.,

Respondents.

For a Judgment Pursuant to Article 78 of the Civil
Practice Law and Rules.

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SENECA COUNTY
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**TO: SUPREME COURT OF THE STATE OF NEW YORK FOR THE COUNTY OF
SENECA:**

The Amended Petition of Dagmar Nearpass, Desiree Dawley, James Dawley III, Lynn
Barbuto, Robert Barbuto, Jonathan Morelli, Jane Morelli, Richard Barner, and David
Schoonmaker (as residents and taxpayers of Seneca County, the Town of Tyre, and the Waterloo
Central School District) respectfully alleges and states as follows:

INTRODUCTION

1. Respondent Lago Resort and Casino, LLC ("Lago") is part of a Rochester-based
commercial real estate conglomerate. In support of its planned new casino in the Town of Tyre,
Lago recently obtained lucrative public tax exemptions from Respondent Seneca County

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Industrial Development Agency (“IDA”). Whereas the proper purpose of IDA assistance is to induce development that otherwise would not occur in the area, no such inducement was needed here, by Lago’s own admission. Indeed, when drumming up support for its proposed development, Lago publicly declared that it did not plan to ask for any IDA assistance. Further, Lago selected its planned casino site and submitted its casino license application months before even applying for any IDA benefits. Its license application made no mention of needing or seeking IDA assistance. Wholly unnecessary, IDA assistance here serves no purpose other than to enrich a private party at public expense. For multiple, independent reasons, the IDA’s decision must be nullified.

2. First, the IDA’s assistance was made in violation of the State Environmental Quality Review Act (“SEQRA”). On July 10, 2015, the Appellate Division, Fourth Department held that the Town of Tyre had violated SEQRA and annulled its negative declaration that the proposed casino would cause no significant adverse environmental impacts. *Dawley v. Whitetail 414, LLC*, 130 A.D.3d 1570, 1571 (4th Dep’t 2015). Because the IDA benefits resolution was predicated on the Town’s negative declaration, it too was nullified by the Fourth Department’s July 10, 2015 decision.

3. Second, the IDA had no authority to assist a casino development. Under the New York State Industrial Development Agency Act (“the IDA Act”), industrial development agencies are entitled to provide financial assistance only to certain types of facilities. No such authorization exists for casinos. As a result, the IDA’s assistance to Lago was *ultra vires* and in violation of law, and must be nullified.

4. Third, even if the IDA had possessed the power to provide financial assistance to casinos, the decision here could not stand. As *its* counsel for its IDA application, Lago retained

the IDA's then-acting and longtime counsel. That blatant conflict of interest casts a long shadow over the events that transpired involving the IDA: its reliance on an obviously flawed analysis vastly understating the extent of the benefits it was awarding to Lago; its violation of its obligation to specify the amount of assistance that Lago was receiving; its approval of sweeping benefits that were unnecessary to induce the development at issue; and its public press release falsely claiming that Lago's tax burden would be greater under the sweetheart agreement than otherwise. For each and all of these reasons, the IDA's decision was arbitrary and capricious; on that basis too, the decision cannot stand.

5. Like the tax-paying petitioners to this suit, who would be forced to make up the taxes from which Lago is receiving dispensation, the IDA must follow the law. It cannot provide benefits for facilities it has no legal authority to support. Nor can it act arbitrarily and capriciously in doling out benefits. Its decision to award tens of millions of dollars of tax benefits to Lago must be nullified.

THE LAGO PROPERTY

6. Upon information and belief, the real property that is the subject of the IDA action at issue is identified by the following tax map/tax parcel number for County of Seneca, Town of Tyre, and Waterloo Central School District ("District"): 12.00-01-36 ("the Lago Property"). Upon information and belief, Lago plans to construct a casino and related amenities on the Lago Property. The massive Lago development includes a six-story, 208 room, 33,820 square foot hotel; a two-story, 210,640 square foot casino with restaurants, theater, and administrative offices; a 5,850 square foot childcare center; a four-level, 76,450 square foot parking garage with parking for approximately 790 vehicles; and surface parking for an

additional 2,400 vehicles, on roughly 85 acres of formerly agricultural and undeveloped land in a rural community. Ex. 1 (Tyre SEQRA Reasons Document at 1).

PETITIONERS

7. Petitioner Dagmar Nearpass now is, and at all times relevant herein was, a taxpayer who owns a life estate on taxable real property at 765 Black Brook Road in the Town of Tyre, County of Seneca, and who pays real property taxes on such property. Ms. Nearpass's real property, where she resides, is located in close proximity to the Lago Property. The White Brook, which begins on the Lago Property, flows over Ms. Nearpass's property. Because of the close proximity of her residence to the Lago Property, Ms. Nearpass would experience direct harms caused by the casino that are different from those of the public at large, including a significant increase in traffic in and around her neighborhood, noise from the casino's construction and operation, dust from construction, nighttime lighting and sky glow, and odors. Ms. Nearpass also is concerned that the casino will contribute to flooding on her property via stormwater runoff into the White Brook, contaminate her groundwater and drinking water, destroy or degrade the scenic views her property now enjoys, and substantially and permanently alter the character of her rural and agricultural community.

8. Petitioners James and Desiree Dawley now are, and at all times relevant herein were, landowners and taxpayers who own taxable real property directly adjacent to the Lago Property at 1938 Chase Road in the District, Town of Tyre, County of Seneca, and who pay real property taxes on such property. The Dawleys' real property, where they reside, is located directly adjacent to the Lago Property to the north. Because of the close proximity of their property and residence to the Lago Property, the Dawleys would experience direct harms caused by the casino that are different from those of the public at large, including a significant increase

in traffic in and around their neighborhood, noise from the casino's construction and operation, dust from construction, nighttime lighting and sky glow, and odors. The Dawleys also are concerned that the casino will reduce the number of birds and other wildlife they presently enjoy watching on their property, increase the amount of trash and litter in and around their property and neighborhood, result in trespassers entering their property, increase their and their children's risk for personal injury or bodily harm, destroy or degrade the scenic views their property currently enjoys, and substantially and permanently alter the character of their rural and agricultural community.

9. Petitioners Robert and Lynn Barbuto now are, and at all times relevant herein were, landowners and taxpayers who own taxable real property at 1843 Chase Road in the District, Town of Tyre, County of Seneca, and who pay real property taxes on such property. The Barbutos' real property, where they reside, is in close proximity to the Lago Property. The White Brook, which begins on the Lago Property, flows over the Barbutos' property. Because of the close proximity of their property and residence to the Lago Property, the Barbutos would experience direct harms caused by the casino that are different from those of the public at large, including noise from the casino's construction and operation, dust from construction, and odors. The Barbutos also are concerned that the casino will light up their nighttime sky, interfere with their seeing the stars and the Milky Way, disrupt their sleep, cause increased traffic, make local roads more dangerous to traverse, contribute to flooding on their property via stormwater runoff into the White Brook, contaminate their groundwater and drinking water, destroy or degrade the scenic views their property currently enjoys, and substantially and permanently alter the character of their rural and agricultural community. Further, Mrs. Barbuto is a member of the clergy and maintains a chapel and sanctuary on their property, and she is concerned that the

construction and operation of the casino would forever destroy the existing peace and tranquility of their property, her chapel, and her sanctuary.

10. Petitioners Jonathan and Jane Morelli now are, and at all times relevant herein were, landowners and taxpayers who own taxable real property at 1077 Route 414 in the District, Town of Tyre, County of Seneca, and who pay real property taxes on such property. The Morellis' real property, where they reside, is located directly adjacent to the Lago Property to the north, and their residence is located only several hundred feet from the proposed entrance to the Lago Property. Because of the close proximity of their property and residence to the Lago Property, the Morellis would experience direct harms caused by the casino that are different from those of the public at large, including a significant increase in traffic in and around their neighborhood, noise from the casino's construction and operation, dust from construction, and odors. The Morellis also are concerned that the casino will contaminate their groundwater and drinking water via runoff from the nearby stormwater management facility, impair their safety as they walk on the road in front of their house for fear of being run over by casino traffic, increase crime in the area, destroy or degrade the scenic views their property currently enjoys and substantially and permanently alter the character of their rural and agricultural community.

11. Petitioner Richard Barner now is, and at all times relevant herein was, a landowner and taxpayer who owns taxable real property at 485 Route 414 in the District, Town of Tyre, County of Seneca, and who pays real property taxes on such property. Mr. Barner's real property, where he resides, is located in close proximity to the Lago Property along Route 414, where the proposed entrance to the Lago Property will be located. Because of the close proximity of his property and residence to the Lago Property, Mr. Barner would experience direct harms caused by the casino that are different from those of the public at large, including a

significant increase in traffic in and around his neighborhood. Mr. Barner also is concerned that the casino will substantially and permanently alter the character of his rural and agricultural community.

12. Petitioner David Schoonmaker now is, and at all times relevant herein was, a landowner and taxpayer who owns taxable real property at 470 Black Brook Road in the District, Town of Tyre, County of Seneca, and who pays real property taxes on such property. Mr. Schoonmaker's real property, where he resides, is located in close proximity to the Lago Property. Because of the close proximity of his property and residence to the Lago Property, Mr. Schoonmaker would experience direct harms caused by the casino that are different from those of the public at large, including a significant increase in traffic in and around his neighborhood. Mr. Schoonmaker also is concerned that the casino will substantially and permanently alter the character of his rural and agricultural community.

13. As described in further detail below, Lago has represented that IDA assistance is "a critical path item for financing," Ex. 2 (Lago IDA Application at 5), and that "[n]ot getting the incentives would change the structure of what we build," Ex. 3 (David L. Shaw, *Casino foes blast IDA aid package*, Finger Lakes Times (Jan. 30, 2015)). Thus, the scope of Lago and whether it is built it all depends upon the IDA's unlawful grant of financial assistance to Lago.

14. By virtue of their close proximity to the Lago Property, and their direct exposure to its many resulting environmental impacts, including but not limited to traffic, wildlife, noise, dust, odors, light pollution, water pollution, loss of agricultural land, and a change in the character of their neighborhood and community, Petitioners will be harmed in a manner different in kind and degree than the community and public at large if the IDA's unlawful grant of financial assistance to Lago is allowed to stand.

RESPONDENTS

15. Upon information and belief, Respondent Seneca County Industrial Development Agency, is a Public Benefit Corporation organized, operating under, and subject to Article 18-A of the General Municipal Law. The IDA's office and principal place of business is located at 1 Dipronio Drive, Waterloo, Seneca County, New York, 13165. The IDA now is, and at all relevant times to this proceeding was, a public "body" within the meaning of Article 78 of the Civil Practice Law and Rules ("CPLR").

16. Upon information and belief, Respondent Lago Resort & Casino, LLC is a foreign limited liability company, organized under the laws of the State of Delaware, that is registered to do business in the State of New York, with a principal office at 1265 Scottsville Road, Rochester, New York 14624.

17. Upon information and belief, Respondent Wilpac Holdings, LLC is a foreign limited liability company, organized under the laws of the State of Delaware, that is registered to do business in the State of New York, and that owns a 100% interest in Lago.

18. Upon information and belief, Respondent Wilmot Gaming, LLC is a foreign limited liability company, organized under the laws of the State of Delaware, that is registered to do business in the State of New York, with a principal office at 1265 Scottsville Road, Rochester, New York 14624, and that owns a 50% interest in Wilpac Holdings, LLC.

19. Upon information and belief, Respondent Wilpac Funding, LLC is a foreign limited liability company, organized under the laws of the State of Delaware, and that owns a 50% interest in Wilpac Holdings, LLC.

20. Upon information and belief, Respondent Thomas C. Wilmot, Sr. has a controlling interest in Wilmot Gaming, LLC.

21. Upon information and belief, Respondent M. Brent Stevens has a controlling interest in Wilpac Funding, LLC.

22. Upon information and belief, Respondent Wilmorite, Inc. is a domestic limited liability company, organized under the laws of the State of New York, with a principal office at 1265 Scottsville Road, Rochester, New York 14624.

STATEMENT OF FACTS

23. In November 2013, New York voters approved a constitutional amendment to permit casino gaming.

24. In anticipation of that approval, on July 30, 2013, Governor Andrew M. Cuomo signed into law the Upstate New York Gaming & Economic Development Act authorizing the award of up to a total of four destination casinos in three regions in upstate New York.

25. Pursuant to that law, the New York State Gaming Commission formed the Gaming Facility Location Board ("Location Board") for the purpose of soliciting, reviewing, and recommending applications for the three sites.

26. Upon information and belief, in anticipation of applying for a casino license, Lago acquired an option interest in rural land near the Thruway exit in the Town of Tyre. The site was conveniently located within easy driving distance of potential customer bases in Rochester and Syracuse.

27. Despite its plan to build a sprawling casino on that site, Lago successfully obtained a negative declaration that allowed it to avoid conducting an environmental impact study. In that negative declaration, the Town Board of the Town of Tyre declared that Lago did

not have the potential to cause even a single adverse environmental impact. Ex. 4 (Town of Tyre Negative SEQRA Declaration at 4). Lago also successfully petitioned to rezone the land consistent with its development plans. Ex. 5 (Town of Tyre Local Law No. 3 at 3). Both of those events are the subject of other litigation.

28. On March 13, 2014, as part of Lago's effort to garner regional support for its planned development, Lago's Vice President of Gaming Operations explained Lago's development plans during a meeting in Seneca County. On the topic of tax assistance, he represented that the Wilmot family plans on being a property and sales tax payer and did not plan to ask for a tax break. See Ex. 6 (Town of Fayette Town Board Meeting Minutes (Mar. 13, 2014) at 1). In particular, he stated that the Wilmot family did not plan to approach the IDA for assistance. *Id.*

29. In reality, documents recently obtained from the Town of Tyre via the Freedom of Information Law show that Lago planned to seek IDA assistance as early as February 2014. Ex. 7 (Email from Shawn Griffin, dated February 12, 2014).

30. On June 30, 2014, Lago submitted its application to the Location Board for a casino license in the Town of Tyre.

31. Upon information and belief, Lago did not disclose in its casino license application that it would be seeking IDA assistance. To the contrary, it represented that "[w]ith 100 percent of financing for construction and operations fully in place, Lago Resort & Casino's gaming facility can be completely constructed in 18 months." Ex. 8 (Lago Gaming License Application Executive Summary at 2). Whether an applicant might be benefiting from such benefits was material to the Location Board's assessment. As the Location Board explained in its Questions and Answers for applicants, "a factor for the graded RFA evaluation is economic

impact and *a subsidized application will likely illustrate diminished economic impacts when competitively evaluated.*” Ex. 9 (Round 1 Q&A (Apr. 23, 2014) at 39, Question 139(b) (emphasis added)).

32. Notwithstanding the prior representations made by Lago’s Vice President of Gaming Operations, on or about September 29, 2014, Lago submitted an application to the IDA for financial assistance (the “Lago IDA Application”). *See* Ex. 2. Upon information and belief, even though Lago submitted that Application while its application to the Location Board remained pending, Lago did not disclose that Application to the Location Board or Gaming Commission prior to the Location Board’s selection decision.

33. On October 2, 2014, the IDA accepted the Lago IDA Application for consideration by written resolution (the “Lago IDA Inducement Resolution”). *See generally* Ex. 10 (Lago IDA Inducement Resolution).

34. On December 17, 2014, the Location Board selected Lago as one of three applicants authorized to seek a license from the Gaming Commission.

35. Very soon thereafter, in a sharp departure from its earlier position, Lago claimed that IDA assistance was a necessary component of its plans. Following an IDA public forum meeting on January 29, 2015, during which numerous citizens objected to Lago’s IDA application, *see generally* Ex. 11 (IDA Meeting Minutes (Jan. 29, 2015)), James Wilmot claimed that “[n]ot getting the incentives would change the structure of what we build.” Ex. 3 (David L. Shaw, *Casino foes blast IDA aid package*, Finger Lakes Times (Jan. 30, 2015)).

36. On February 12, 2015, the IDA approved by written resolution the Lago IDA Application (the “Lago IDA Resolution”). *See* Ex.12 (Lago IDA Resolution at 5).

37. Shortly after that vote, a press release (the “Press Release”) that had been prepared before the vote was taken was handed out stating that the vote was unanimous. *See* Ex. 13 (Press Release (Feb. 12, 2015) at 1).

38. On July 9, 2015, after Petitioners commenced this action, the IDA passed a resolution that purported to approve a PILOT payment schedule with respect to Lago. *See generally* Ex. 14 (Tax Agreement Payment Schedule Resolution).

39. This schedule superficially provides for a twenty-year payment schedule beginning in 2017, but with the important caveat that “[i]n the event [Lago] pays, with respect to the period prior to the date that the Facility becomes exempt pursuant to this Agreement, real property taxes . . . in excess of taxes on the assessed value of the Land as vacant land, the [IDA] and [Lago] agree to negotiate in good faith a credit of such excess amount toward payments due pursuant to the above Schedule.” *Id.* at 4.

40. In effect, the IDA has agreed to grant Lago a 22-year real property tax exemption by providing for a tax credit to Lago for the two years prior to the beginning of the exemption period.

The IDA’s Noncompliance with Procedural Requirements

41. The IDA approved Lago’s application for assistance through a fast-tracked process that violated numerous important requirements of the IDA Act.

42. Enacted in 1969, the IDA Act invests industrial development agencies with the power to provide financial assistance to projects, including by entering into agreements for “payments in lieu of taxes.” N.Y. Gen. Mun. Law §§ 858(15) & 854(17).

43. In its Lago IDA Application, Lago claimed to be seeking financial assistance consisting of \$16,000,000 in sales and use tax exemption, \$3,350,000 in mortgage tax

exemption, and “TBD”, *i.e.*, an amount to be determined at a later date, in property tax abatement. Ex. 2 (Lago IDA Application at 3).

44. The lack of information concerning the amount of property tax assistance at issue persisted throughout the IDA process.

45. The IDA Act requires the IDA to adopt a resolution “describing the project and the financial assistance that the agency is contemplating with respect to such project.” N.Y. Gen. Mun. Law § 859-a(1). In violation of the IDA Act, neither the Lago IDA Inducement Resolution nor the Lago IDA Resolution specified the amount of real property tax abatement that Lago would be receiving. *See* Exs. 12 (Lago IDA Resolution at 3-4) & 10 (Lago IDA Inducement Resolution at 2-4).

46. The IDA Act also requires that any financial assistance that the IDA is contemplating be consistent with the uniform tax exemption policy adopted by the agency unless the agency has followed the required procedures for deviating from that policy. N.Y. Gen. Mun. Law § 859-a(1).

47. Regarding real property tax abatements, the Seneca County IDA Uniform Tax Exemption Policy provides that the period of exemption will be up to twenty (20) years. Ex. 15 (Seneca County IDA Uniform Tax Exemption Policy and Guidelines at 1).

48. The Lago IDA Resolution provided for an exemption period in excess of twenty (20) years. Ex. 12 (Lago IDA Resolution at 3-4).

49. The Tax Agreement Payment Schedule Resolution also effectively provides for a 22-year tax exemption. Ex. 14 at 4.

50. The IDA Act requires industrial development agencies to “set forth in writing the reasons for deviation” from the agency’s uniform tax exemption policy. N.Y. Gen. Mun. Law § 874(4)(b).

51. Upon information and belief, the IDA failed properly to set forth in writing the reasons for its deviation. *See generally* Exs. 12 (Lago IDA Resolution) & 10 (Lago IDA Inducement Resolution).

The IDA’s Miscalculation and Misstatement of Benefits Received by Lago

52. Following the IDA’s approval of Lago’s application, it has come to light that the IDA relied on a facially flawed analysis that significantly understated the benefits to Lago.

53. On February 12, 2015, the IDA issued the Press Release announcing that it had entered into a tax agreement with Lago. The press release claimed that the agreement would result in almost \$4 million more in revenues from Lago than if no agreement was entered:

Members of the Seneca County IDA board today unanimously approved a \$45.3 million payment accord for the proposed \$425 million Lago Resort & Casino project in the Town of Tyre, Seneca County. A study commissioned by the IDA estimates the project will have a \$1.8 billion economic impact in Seneca County.

Under the agreements, the developers of Lago Resort will pay \$45.3 million to Seneca County; the Waterloo Central School District; Route 318 infrastructure improvements; and other payments over 20 years, starting in 2016.

The \$45.3 million is \$3.83 million more than Lago Resort would pay if the project were fully taxed under the New York State statutory 485-b exemptions. For nearly 40 years, New York State has offered this 50 percent property tax exemption to businesses that invest \$10,000 or more per year on building enhancements. . . .

. . . The accord includes \$5.5 million in designated funds for Route 318 infrastructure upgrades. It also includes a provision that construction materials and supplies will be purchased from local Seneca County vendors whenever possible.

Ex. 13 (Press Release at 1-2).

54. Upon information and belief, the Press Release materially misstated the public assistance that Lago is receiving by, *inter alia*, using an unreasonably low tax assessment for Lago and unreasonably low property tax rate. Whether the IDA's public misstatement reflected a fundamental misunderstanding of the scope of assistance it was providing or something more purposeful, it speaks to a process gone awry.

55. Upon information and belief, the numbers included in the Press Release were derived from a Draft Agency Tax Agreement between the IDA and Lago (the "Draft Tax Agreement") and a draft spreadsheet (the "Draft Spreadsheet") obtained by undersigned counsel from the IDA through a Freedom of Information Law Request. Exs. 17 (Draft Agency Tax Agreement) & 18 (Draft Spreadsheet).

56. The Press Release states that Lago would pay \$45.3 million in payments over 20 years. Ex. 13 (Press Release at 1). The Draft Tax Agreement calls for 22 yearly payments from Lago, totaling \$37,876,048. Ex. 16 (Draft Agency Tax Agreement at Schedule A). The Draft Spreadsheets shows those payments, as well as \$5,500,000 in payments for the "Route 318 Impact Fee," \$1,000,000 in payments to the County, and \$1,000,000 in payments to the IDA. The Draft Spreadsheet shows total payments from Lago of \$45,376,048, which matches the number in the Press Release. Ex. 17 (Draft Spreadsheet at 1).

57. The payments made under the agreement would be in lieu of taxes to Seneca County, the Town of Tyre, and the District.

58. Upon information and belief, the Draft Spreadsheet attempts to calculate based on certain assumptions the property taxes Lago would have to pay on the Lago Property absent a tax agreement with the IDA. The Draft Spreadsheet calculates that Lago would have paid a total of \$41,543,434 in real estate property taxes on the Lago Property from 2018 to 2037. Ex. 17 (Draft

Spreadsheet at 1). That figure is \$3,832,614 less than the total payments from Lago above. That difference roughly matches the \$3.83 million figure in the Press Release.

59. Upon information and belief, the Draft Spreadsheet calculates Lago's tax liability by using an assessment for the Lago Property of \$102,700,000 for every year from 2018 to 2037.

60. Upon information and belief, the assessed value of \$102,700,000 that was used by the IDA to calculate the benefits was based on a September 30, 2014 Appraisal Report prepared by Cushman & Wakefield for the Town of Tyre (the "Appraisal Report"). *See generally* Ex. 18. Upon information and belief, the Appraisal Report was funded by Lago.

61. Upon information and belief, although Cushman & Wakefield has a specific practice group called the "Hospitality & Gaming Practice Group" headed by an appraiser in New York, the Appraisal Report was not conducted by an appraiser in Cushman & Wakefield's Hospitality & Gaming Practice Group.

62. Upon information and belief, the Appraisal Report was fundamentally flawed in several respects and was not a valid basis upon which to calculate the property taxes Lago would have to pay on the Lago Property absent a tax agreement with the IDA.

63. First, the Appraisal Report relies only on the cost approach for determining the property value, declining to apply either the sales comparison or income capitalization approaches. In considering the income capitalization approach, the Appraisal Report improperly limits the approach to calculating the potential rental income the Lago Property could make, and completely ignores the substantial revenue Lago itself projected it would make on a yearly basis.

64. Second, the Appraisal Report's cost approach improperly ignores Lago's own cost estimates and improperly discounts the cost based on the fact that Lago's license would only

be guaranteed for 10 years. By contrast on that latter point, the benefits that the IDA approved provide for a 22 year tax period.

65. Third, the Appraisal Report contains numerous mathematical errors.

66. These material flaws render the Appraisal Report an unreliable basis for determining the value of the Lago Property or calculating the taxes Lago would pay absent a tax agreement with the IDA.

67. Upon information and belief, the assessed value of Lago will be significantly higher than \$102,700,000. Lago claims it will spend \$425 million developing the casino (\$303.3 million excluding the costs of land acquisition and infrastructure improvements). Ex. 19 (Location Board Report (Feb. 27, 2015) at 276). Lago also projects that, by 2018, its third full year of operation, its annual gross gaming revenues will exceed \$280 million. *Id.* at 32.

68. Upon information and belief, although the Draft Spreadsheet does not identify the tax rates that it used, the Draft Spreadsheet calculated Lago's tax liability by using an overall tax rate (before any exemptions) of \$23.45 per \$1,000 of assessed valuation. The IDA has not provided any support for that assumption.

69. Based on the tax rates applicable for Seneca County when this matter was filed in July 2015, the Town of Tyre, and the District, the combined tax rate on the Lago Property would be \$36.86 per \$1,000 of assessed valuation. This combined tax rate is 57% higher than the combined tax rate used in the Draft Spreadsheet.

70. Like the assessment value, the tax rate assumption is highly material to the analysis. For example, had the combined tax rate of \$36.86 been used instead of \$23.45, Lago's property tax liability alone for 2018 through 2037 on the Lago Property would exceed \$65 million, even assuming it was assessed for only \$102,700,000 and that Lago was entitled to an

exemption under N.Y. Real Prop. Tax Law § 485-b. That change alone would mean that Lago received a net *benefit* in excess of \$20 million, contrary to the \$3.83 million net *burden* asserted in the Press Release.

71. On top of the property tax abatement benefit, Lago also received a total of \$19,350,000 in sales tax (\$16,000,000) and mortgage tax (\$3,350,000) exemptions from the IDA. In addition, upon information and belief, although the IDA normally would receive a fee of approximately \$4 million for providing financial aid to a facility this size, Lago was required to pay only a \$1 million fee.

72. Lago received this assistance even though no inducement was necessary to build the facility (Lago never conditioned its license application to the Location Board on IDA assistance) or to build it in Seneca County (Lago was committed to that location long before it applied for any IDA benefits).

73. On information and belief, the petitioners will pay higher property taxes as a result of Lago obtaining the IDA assistance.

The IDA's Conflict of Interest

74. In connection with the Lago IDA Application, Lago was represented by Shawn M. Griffin, of the law firm of Harris Beach, PLLC. *See* Ex. 2 (Lago IDA Application at 2).

75. Upon information and belief, Mr. Griffin has served as legal counsel to the IDA since at least 2008.

76. In its IDA Application, despite Mr. Griffin's longtime representation of the IDA, Lago represented that there were no conflicts of interest.

77. The Lago IDA Application, signed by Respondent Thomas C. Wilmot, was notarized by Mr. Griffin. Ex. 2 (Lago IDA Application at 4)

78. Upon information and belief, the IDA knew as early as May 2014 that Mr. Griffin and the Harris Beach law firm would be representing Lago.

79. Upon information and belief, the IDA hired outside counsel, Rob Halpin, to counsel the IDA on all matters related to Lago. Mr. Halpin previously worked for the Harris Beach firm. Ex. 20 (IDA Lago Q&A at 5).

80. Upon information and belief, while recusing itself on the Lago application, Harris Beach had been appointed IDA regular counsel and remained in that role during the review of the Lago application.

81. Upon information and belief, based on the IDA's minutes, at no time did the IDA waive the conflict and authorize the Harris Beach firm to appear before the IDA Board. Thus, the IDA was negotiating with its own counsel on the amount of the IDA's fee along with millions of dollars in reduced taxes.

82. Upon information and belief, due in part to its unwarranted deference to Mr. Griffin, its longtime counsel, the IDA failed to conduct a thorough and impartial analysis of the Lago IDA Application and the projected property taxes that would be owing from Lago in particular. The result is that Lago obtained a result significantly more lucrative than the IDA has claimed even though no assistance at all was necessary to induce Lago to undertake this development.

Lago's Ineligibility for IDA Assistance

83. The IDA had no legal authority to approve the Lago IDA Application.

84. The IDA Act authorizes agencies to enter into agreements requiring an applicant to make a payment in lieu of taxes only with respect to a "project." N.Y. Gen. Mun. Law § 854(17).

85. Whether or not a facility constitutes a “project” is determined by the IDA Act. Amendments have expanded the types of facilities covered by the definition of “project” since the original enactment of the IDA Act in 1969.

86. In its original iteration, the definition of “project” provided as follows: “‘Project’—shall mean any land, any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes.” Laws of New York, 1969, ch. 1030, § 854(4).

87. When that definition was enacted, the State Constitution barred casinos in New York. Therefore, the Legislature plainly did not intend for it to extend to casinos.

88. At no subsequent point in time has the Legislature ever added casinos to the project types that can qualify for assistance under the IDA Act.

89. By contrast, the Legislature *has* extended the scope of the IDA Act to include only certain facilities where wagering takes place, *i.e.*, certain horse racing facilities.

90. As quoted above, the original definition of “project” did not include horse racing facilities, even though pari-mutuel wagering had been legalized by constitutional amendment three decades earlier in 1939.

91. In 1977, eight years after the original enactment of the IDA Act, the definition of “project” was expanded to include certain horse racing facilities. That coverage remains in place today under the current definition of “project”:

‘Project’--shall mean any land, any building or other improvement, and all real and personal properties located within the state of New York and within or outside or partially within and partially outside the municipality for whose benefit the agency was created, including, but not limited to, machinery, equipment and

other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes or other economically sound purposes identified and called for to implement a state designated urban cultural park management plan as provided in title G of the parks, recreation and historic preservation law and which may include or mean an industrial pollution control facility, a recreation facility, educational or cultural facility, *a horse racing facility*, a railroad facility or an automobile racing facility, provided, however, no agency shall use its funds or provide financial assistance in respect of any project wholly or partially outside the municipality for whose benefit the agency was created without the prior consent thereto by the governing body or bodies of all the other municipalities in which a part or parts of the project is, or is to be, located, and such portion of the project located outside such municipality for whose benefit the agency was created shall be contiguous with the portion of the project inside such municipality.

N.Y. Gen. Mun. Law § 854(4) (emphasis added).

92. By expressly adding horse racing facilities to the definition of “project,” the Legislature made clear that such wagering facilities were not otherwise encompassed within the definition of “project.”

93. A “horse racing facility” is defined as one used for pari-mutuel wagering: “‘Horse racing facility’—shall mean any facility for the use of the general public *for purpose of conducting pari-mutuel wagering*, licensed by the state gaming commission, as of January first, nineteen hundred seventy-seven, except non-profit racing associations, including buildings, structures, machinery, equipments, facilities and appurtenances thereto, the construction, reconstruction, acquisition and/or improvement of which shall have been approved by the state gaming commission, and which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation of such racing facility.” N.Y. Gen. Mun. Law § 854(10) (emphasis added).

94. Even as to horse racing facilities, the expansion of the definition of “project” was limited in nature, applying only to those facilities licensed as of January 1, 1977.

95. The development planned by Lago is not a horse racing facility and was not licensed as of January 1, 1977.

96. The Legislature has not amended the definition of “project” to include casino gaming facilities.

97. Absent an amendment extending the definition of “project” to include casino facilities, industrial development agencies lack the authority to provide financial assistance to such facilities. As a result, the IDA had no authority to award financial assistance to Lago and its award of financial assistance to Lago was contrary to law. This is a matter of public significance, as other casinos have applied for and received IDA assistance as well. Ex. 21 (Montreign IDA Benefits).

The Lago IDA Resolution’s Nullification Under SEQRA

98. On June 12, 2014, the Town of Tyre issued a negative declaration under SEQRA, declaring that Lago would not cause any significant adverse impact to the environment. Ex. 4 at 4.

99. In its Inducement Resolution, the IDA acknowledged that it “must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the project,” and that the IDA was an “involved agency” under SEQRA with respect to Lago. Ex. 10 at 2.

100. In reliance upon the Town’s negative declaration, the IDA resolved in the Inducement Resolution that “the project does not pose a potential significant adverse environmental impact” and “ratifi[ed] the Negative Declaration previously issued by the Town Board.” Ex. 10 at 4.

101. On July 10, 2015, the Appellate Division, Fourth Department held that the Town of Tyre had violated SEQRA and annulled the negative declaration. *Dawley v. Whitetail 414, LLC*, 130 A.D.3d 1570, 1571 (4th Dep't 2015).

102. To date, the IDA has refused to acknowledge that the Lago IDA Resolution was rendered null and void as a result of the negative declaration's annulment under controlling New York law.

**AS AND FOR A FIRST CAUSE OF ACTION:
LAGO IS NOT ELIGIBLE FOR IDA ASSISTANCE AS A MATTER OF LAW**

103. Petitioners repeat and reallege each of the foregoing paragraphs as though fully set forth herein.

104. The IDA Act authorizes agencies to enter into PILOT agreements only with respect to a "project" as defined in the IDA Act.

105. Whether or not a facility constitutes a "project" is determined by the IDA Act.

106. When the IDA Act was first enacted, the Legislature plainly did not intend for it to extend to casinos. At that time, the State Constitution barred casinos in this State.

107. At no subsequent point in time has the Legislature added casinos to the project types that can qualify for assistance under the IDA Act.

108. By contrast, the Legislature has extended the scope of the IDA Act to include certain horse racing facilities.

109. The express addition of horse racing facilities demonstrates that such facilities were not encompassed within the original definition of "project."

110. A horse racing facility is the only type of facility with wagering that the definition of "project" has been expanded to encompass.

111. Lago is not a horse racing facility but rather a casino.

112. Consequently, industrial development agencies lack the authority to provide financial assistance to casinos such as Lago.

113. Based on the foregoing, the Lago IDA Resolution was *ultra vires*, made in violation of lawful procedure, exceeded the IDA's jurisdiction, was affected by an error of law and is arbitrary, capricious, and an abuse of discretion, and any agreements based upon it are null, void, and without legal effect. Further, because Lago is not eligible for IDA assistance as a matter of law, this Court should prevent the IDA from taking any action to enforce the Lago IDA Resolution, or any agreements based on it, on the ground that any such action would violate State law and exceed the IDA's lawful authority.

**AS AND FOR A SECOND CAUSE OF ACTION:
IMPROPER USE OF PUBLIC BENEFITS FOR PRIVATE PURPOSE**

114. Petitioners repeat and reallege each of the foregoing paragraphs as though fully set forth herein.

115. Lago received a total of \$19,350,000 in sales tax (\$16,000,000) and mortgage tax (\$3,350,000) exemptions from the IDA.

116. Lago received this assistance even though through its words and actions, Lago represented that no inducement was necessary to build the facility or to build it in Seneca County.

117. On March 13, 2014, Wilmot's Vice President of Gaming Operations summarized Lago's plans during a meeting in Seneca County. On the topic of tax assistance, he stated that the Wilmot family plans to be a property and sales tax payer and did not plan to ask for a tax break. In particular, he stated that the Wilmot family did not plan to approach the IDA for a PILOT program.

118. In reality, documents recently obtained from the Town of Tyre via the Freedom of Information Law show that Lago planned to seek IDA assistance as early as February 2014.

119. On June 30, 2014, Lago submitted its application for a casino in the Town of Tyre in Seneca County. Upon information and belief, Lago did not disclose that it would be seeking IDA assistance.

120. Lago did not apply for IDA benefits until after it had applied for a casino.

121. Because Lago did not require IDA benefits to build the facility, and because Lago submitted its application to the Location Board before seeking IDA benefits, the award of such benefits has a purely private purpose of benefiting Lago with reduced taxes.

122. Based on the foregoing, the Lago IDA Resolution was made in violation of lawful procedure, was affected by an error of law and is arbitrary, capricious, and an abuse of discretion, and any agreements based upon it are null, void, and without legal effect. Further, this Court should prevent the IDA from taking any action to enforce the Lago IDA Resolution, or any agreements based on it, on the ground that any such action would exceed the IDA's lawful authority.

**AS AND FOR A THIRD CAUSE OF ACTION
THE LAGO IDA RESOLUTION FAILED TO SPECIFY
THE AMOUNT OF LAGO'S REAL PROPERTY TAX ABATEMENT**

123. Petitioners repeat and reallege each of the foregoing paragraphs as though fully set forth herein.

124. The IDA Act requires the agency to adopt a resolution "describing the project and the financial assistance that the agency is contemplating with respect to such project." N.Y. Gen. Mun. Law § 859-a(1).

125. In violation of that requirement, neither the Lago IDA Resolution nor the Lago IDA Inducement Resolution specified the amount of real property tax abatement that Lago would be receiving.

126. Based on the foregoing, the Lago IDA Resolution was made in violation of lawful procedure, was affected by an error of law and is arbitrary, capricious, and an abuse of discretion, and any agreements based upon it are null, void, and without legal effect. Further, this Court should prevent the IDA from taking any action to enforce the Lago IDA Resolution, or any agreements based on it, on the ground that any such action would exceed the IDA's lawful authority.

**AS AND FOR A FOURTH CAUSE OF ACTION:
THE IDA FAILED TO SET FORTH IN WRITING THE REASON FOR THE
DEVIATION FROM THE IDA UNIFORM
TAX EXEMPTION POLICY AND GUIDELINES**

127. Petitioners repeat and reallege each of the foregoing paragraphs as though fully set forth herein.

128. The IDA Act requires industrial development agencies to "set forth in writing the reasons for deviation" from the agency's uniform tax exemption policy.

129. Regarding real property tax abatements, the Seneca County IDA Uniform Tax Exemption Policy and Guidelines provides that the period of exemption will be for a period of up to twenty (20) years.

130. The Lago IDA Resolution provided for an exemption period in excess of twenty (20) years. The Tax Agreement Payment Schedule Resolution also effectively provides for a 22-year tax exemption.

131. Neither the Lago IDA Resolution nor the Lago IDA Inducement Resolution explained the rationale for the IDA's deviation from the Seneca County IDA Uniform Tax Exemption Policy and Guidelines.

132. Based on the foregoing, the Lago IDA Resolution was made in violation of lawful procedure, was affected by an error of law and is arbitrary, capricious, and an abuse of discretion, and any agreements based upon it are null, void, and without legal effect. Further, this Court should prevent the IDA from taking any action to enforce the Lago IDA Resolution, or any agreements based on it, on the ground that any such action would exceed the IDA's lawful authority.

**AS AND FOR A FIFTH CAUSE OF ACTION:
THE IDA MATERIALLY MISSTATED
THE AMOUNT OF PUBLIC ASSISTANCE RECEIVED BY LAGO**

133. Petitioners repeat and reallege each of the foregoing paragraphs as though fully set forth herein.

134. On February 12, 2015, the IDA issued the Press Release announcing that it had entered into a tax agreement resulting in nearly \$4 million more in revenues from Lago than if no agreement was entered.

135. Upon information and belief, the Press Release materially misstated the public assistance that Lago is receiving by, *inter alia*, using an unreasonably low tax rate and tax basis for Lago.

136. Upon information and belief, the assessed value of Lago, which is a \$425 million project, will be significantly higher than the IDA's estimate of \$102,700,000.

137. Upon information and belief, the combined tax rates for Seneca County, the Town of Tyre, and the District will be significantly higher than assumed in the IDA's estimate.

138. Had the current combined tax rate been used instead, Lago's tax liability on the Lago Property would be significantly higher than the IDA estimated, even assuming it was assessed for only \$102,700,000 and that Lago was entitled to an exemption under N.Y. Real Prop. Tax Law § 485-b.

139. Upon information and belief, the Appraisal Report upon which the IDA relied in generating its estimate of \$102,700,000 was fundamentally flawed in several material respects as detailed herein.

140. These material flaws render the Appraisal Report an unreliable basis for determining the value of the Lago Property or calculating the taxes Lago would pay absent an a tax agreement with the IDA.

141. Based on the foregoing, the Lago IDA Resolution was made in violation of lawful procedure, was affected by an error of law and is arbitrary, capricious, and an abuse of discretion, and any agreements based upon it are null, void, and without legal effect.

**AS AND FOR A SIXTH CAUSE OF ACTION:
THE IDA PROCESS WAS TAINTED BY A SIGNIFICANT CONFLICT OF INTEREST**

142. Petitioners repeat and reallege each of the foregoing paragraphs as though fully set forth herein.

143. In connection with the Lago Application to the IDA, Lago was represented by Shawn M. Griffin, of the law firm of Harris Beach, PLLC.

144. Upon information and belief, Mr. Griffin has served as legal counsel to the IDA since at least 2008.

145. Despite Mr. Griffin's longtime representation of the IDA, Lago represented in its IDA Application that there were no conflicts of interest.

146. Lago's IDA Application was notarized by Mr. Griffin.

147. Upon information and belief, the IDA knew as early as May 2014 that Mr. Griffin and the Harris Beach law firm would be representing Lago.

148. Upon information and belief, the IDA hired outside counsel, Rob Halpin, to counsel the IDA on all matters related to Lago. Mr. Halpin previously worked for the Harris Beach firm.

149. Upon information and belief, the IDA gave more weight to Lago's justifications for why the IDA could and should provide the lucrative financial assistance it sought because Lago was being represented by the IDA's longtime legal counsel.

150. Accordingly, the IDA's decision making in connection with the Lago IDA Application was irreparably tainted by this conflict of interest, resulting in the IDA's improper and unlawful award of financial assistance to Lago.

151. Based on the foregoing, the Lago IDA Resolution was made in violation of lawful procedure, was affected by an error of law and is arbitrary, capricious, and an abuse of discretion, and any agreements based upon it are null, void, and without legal effect. Further, because the IDA process was tainted by a significant and unwaivable conflict of interest, this Court should prevent the IDA from taking any action to enforce the Lago IDA Resolution, or any agreements based on it, on the ground that any such action would exceed the IDA's lawful authority.

**AS AND FOR A SEVENTH CAUSE OF ACTION:
THE LAGO IDA RESOLUTION WAS NULLIFIED PURSUANT TO SEQRA**

152. Petitioners repeat and reallege each of the foregoing paragraphs as though fully set forth herein.

153. Under SEQRA, any "project[] or physical activit[y]" that "involve[s] funding by an agency" constitutes an "action." 6 N.Y.C.R.R. § 617.2(b)(1)(ii).

154. Further, an “involved agency” is any agency of state or local government that “has jurisdiction by law to fund, approve, or directly undertake an action.” 6 N.Y.C.R.R. § 617.2(s).

155. Under SEQRA, no agency is permitted to “undertake, fund or approve [an] action until it has complied with the provisions of SEQR.” 6 N.Y.C.R.R. § 617.3(a).

156. On June 12, 2014, the Town of Tyre issued a negative declaration under SEQRA, declaring that Lago would not cause any significant adverse impact to the environment.

157. In its Inducement Resolution, the IDA acknowledged that it “must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the project,” and that the IDA was an “involved agency” under SEQRA with respect to Lago.

158. In reliance upon the Town’s negative declaration, the IDA resolved in the Inducement Resolution that “the project does not pose a potential significant adverse environmental impact” and “ratifi[ed] the Negative Declaration previously issued by the Town Board.”

159. On July 10, 2015, the Appellate Division, Fourth Department held that the Town of Tyre had violated SEQRA and annulled the negative declaration. *Dawley v. Whitetail 414, LLC*, 130 A.D.3d 1570, 1571 (4th Dep’t 2015).

160. Because the Lago IDA Resolution was predicated on the now-invalid Negative Declaration, it is null and void. 6 N.Y.C.R.R. § 617.3(a). Nevertheless, the IDA has refused to acknowledge that the Lago IDA Resolution is null and void and cannot be enforced or given legal effect.

161. Based on the foregoing, the Lago IDA Resolution was made in violation of lawful procedure, was affected by an error of law and is arbitrary, capricious, and an abuse of discretion, and any agreements based upon it are null, void, and without legal effect. Further, because the IDA refuses to acknowledge that the Lago IDA Resolution is null and void based on the Fourth Department's July 10, 2015 decision, this Court should prevent the IDA from taking any action to enforce the Lago IDA Resolution, or any agreements based on it, on the ground that any such action would violate SEQRA and exceed the IDA's lawful authority.

WHEREFORE, Petitioners respectfully demand:

(1) on all of its Causes of Action (First through Seventh), an Order and Judgment pursuant to CPLR Article 78 adjudging and decreeing that the Lago IDA Resolution of February 12, 2015, authorizing, among other things, a Payment in Lieu of Tax Agreement and Lease between the IDA and Respondent Lago Resort & Casino, LLC, exceeded the IDA's lawful authority and jurisdiction, was made in violation of lawful procedure, was affected by an error of law and was arbitrary, capricious, and an abuse of discretion, and determining, adjudging, and decreeing that said Lago IDA Resolution is unlawful, null, void, invalid, and unenforceable, and further declaring and adjudging that any and all agreements based on or resulting from said Lago IDA Resolution, including, but not limited to, the Agent Agreement, Benefit Recapture Agreement, Agency Tax Agreement, Lease Agreement, and Leaseback Agreement by and between the IDA and Lago, are null, void, invalid, and without any legal effect;

(2) on all of its Causes of Action (First through Seventh), an Order and Judgment pursuant to CPLR Article 78 adjudging and decreeing that the Lago Property (County of Seneca/Town of Tyre/Waterloo Central School District/tax map/tax parcel number 12.00-01-36), and any other real property referred to or otherwise included in the Agent Agreement, Benefit

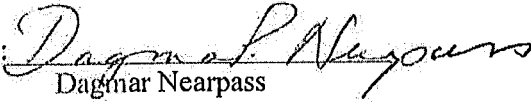
Recapture Agreement, Agency Tax Agreement, Lease Agreement, and Leaseback Agreement by and between the IDA and Lago, are not tax exempt by reason of the Lago IDA Resolution or any agreements executed pursuant to the Lago IDA Resolution, including but not limited to the Agent Agreement, Benefit Recapture Agreement, Agency Tax Agreement, Lease Agreement, and Leaseback Agreement by and between the IDA and Lago, and that the Lago Property, if it has been removed from the taxable section of any assessment or any tax roll, be ordered returned to the taxable portion of any such assessment and tax roll to the extent the Lago Property had been removed therefrom by reason of the Lago IDA Resolution of February 12, 2015, or any agreements based thereon;

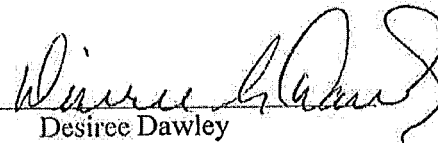
(3) on all of its Causes of Action (First through Seventh), an Order and Judgment pursuant to CPLR Article 78 adjudging and decreeing that the IDA is barred from taking any action to enforce the Lago IDA Resolution or any agreements based on it on the ground that any action to enforce it or any agreements based on it exceeds the IDA's authority and is contrary to law as set forth herein;

(4) and such other and further relief as to the Court may seem just, proper, and equitable.


Dated: October 19, 2015

DESIREE DAWLEY, JAMES DAWLEY, III,
DAGMAR NEARPASS, LYNN BARBUTO,
ROBERT BARBUTO, JOHN MORELLI, JANE
MORELLI, RICHARD BARNER, and
DAVID SCHOONMAKER

By: 
Dagmar Nearpass

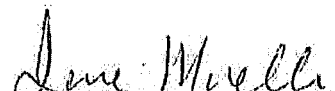
By: 
Desiree Dawley


By: 
James Dawley, III

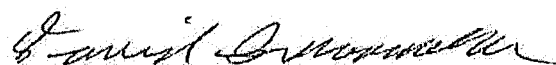
By: 
Lynn Barbuto

By: 
Robert Barbuto

By: 
Jonathan Morelli

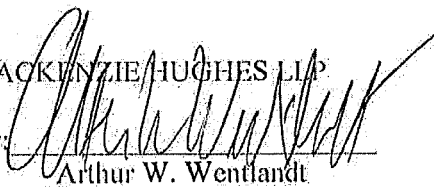
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Facsimile: 202-434-5029

Attorneys for Petitioners

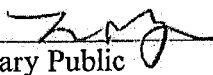
VERIFICATION

STATE OF NEW YORK)
COUNTY OF SENECA) SS:

Dagmar Nearpass, being duly sworn, says that deponent is a resident and taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca; that deponent has read the foregoing Amended Verified Petition and knows the contents thereof and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true. The sources of deponent's information and the grounds of deponent's belief include: books, documents, public and municipal officials and employees, IDA representatives and Board members and records. This Verification is made by me as a taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca pursuant to applicable provisions of law, as a person acquainted with the facts and as a person duly authorized to execute the foregoing Petition.


Dagmar Nearpass

Sworn and subscribed to before me
this 10th day of October, 2015.



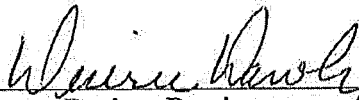
Notary Public

RICHARD P. JAMES
NOTARY PUBLIC, State of New York
Qualified in Oswego County
No. 4965615
Commission Expires April 23, 2016

VERIFICATION


STATE OF NEW YORK)
COUNTY OF SENECA) SS:

Desiree Dawley, being duly sworn, says that deponent is a resident and taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca; that deponent has read the foregoing Amended Verified Petition and knows the contents thereof and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true. The sources of deponent's information and the grounds of deponent's belief include: books, documents, public and municipal officials and employees, IDA representatives and Board members and records. This Verification is made by me as a taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca pursuant to applicable provisions of law, as a person acquainted with the facts and as a person duly authorized to execute the foregoing Petition.



Desiree Dawley

Sworn and subscribed to before me
this 18th day of October, 2015.



Notary Public

RICHARD P. JAMES
NOTARY PUBLIC, State of New York
Qualified in Oswego County
No 4965615
Commission Expires April 23, 2018


VERIFICATION

STATE OF NEW YORK)
COUNTY OF SENECA) SS:

James Dawley III, being duly sworn, says that deponent is a resident and taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca; that deponent has read the foregoing Amended Verified Petition and knows the contents thereof and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true. The sources of deponent's information and the grounds of deponent's belief include: books, documents, public and municipal officials and employees, IDA representatives and Board members and records. This Verification is made by me as a taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca pursuant to applicable provisions of law, as a person acquainted with the facts and as a person duly authorized to execute the foregoing Petition.


James Dawley III

Sworn and subscribed to before me
this 18 day of October, 2015.



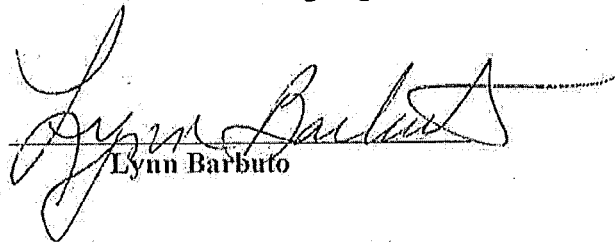
Notary Public

RICHARD P. JAMES
NOTARY PUBLIC, State of New York
Qualified in Oswego County
No. 4965615
Commission Expires April 23, 2018


VERIFICATION

STATE OF NEW YORK)
COUNTY OF SENECA) SS:

Lynn Barbuto, being duly sworn, says that deponent is a resident and taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca; that deponent has read the foregoing Amended Verified Petition and knows the contents thereof and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true. The sources of deponent's information and the grounds of deponent's belief include: books, documents, public and municipal officials and employees, IDA representatives and Board members and records. This Verification is made by me as a taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca pursuant to applicable provisions of law, as a person acquainted with the facts and as a person duly authorized to execute the foregoing Petition.


Lynn Barbuto

Sworn and subscribed to before me
this 15th day of October, 2015.



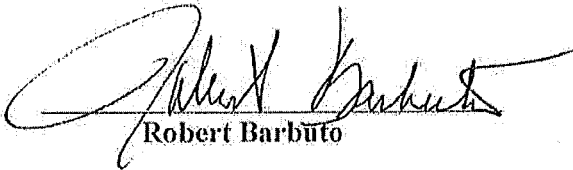
Notary Public

RICHARD P. JAMES
NOTARY PUBLIC, State of New York
Qualified in Oswego County
No 4965615
Commission Expires April 23, 2018


VERIFICATION

STATE OF NEW YORK)
COUNTY OF SENECA) SS:

Robert Barbuto, being duly sworn, says that deponent is a resident and taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca; that deponent has read the foregoing Amended Verified Petition and knows the contents thereof and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true. The sources of deponent's information and the grounds of deponent's belief include: books, documents, public and municipal officials and employees, IDA representatives and Board members and records. This Verification is made by me as a taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca pursuant to applicable provisions of law, as a person acquainted with the facts and as a person duly authorized to execute the foregoing Petition.


Robert Barbuto

Sworn and subscribed to before me
this 18th day of October, 2015.



Notary Public

RICHARD P JAMES
NOTARY PUBLIC, State of New York
Qualified in Oswego County
No 4965615
Commission Expires April 23, 2018

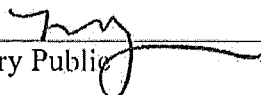
VERIFICATION

STATE OF NEW YORK)
COUNTY OF SENECA) SS:

Jonathan Morelli, being duly sworn, says that deponent is a resident and taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca; that deponent has read the foregoing Amended Verified Petition and knows the contents thereof and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true. The sources of deponent's information and the grounds of deponent's belief include: books, documents, public and municipal officials and employees, IDA representatives and Board members and records. This Verification is made by me as a taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca pursuant to applicable provisions of law, as a person acquainted with the facts and as a person duly authorized to execute the foregoing Petition.


Jonathan Morelli

Sworn and subscribed to before me
this 16th day of October, 2015.



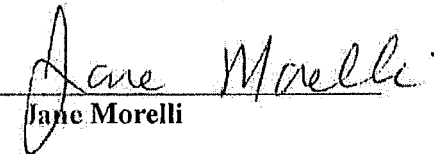
Notary Public

RICHARD P JAMES
NOTARY PUBLIC, State of New York
Qualified in Oswego County
No 4965615
Commission Expires April 23, 20 16


VERIFICATION

STATE OF NEW YORK)
COUNTY OF SENECA) SS:

Jane Morelli, being duly sworn, says that deponent is a resident and taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca; that deponent has read the foregoing Amended Verified Petition and knows the contents thereof and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true. The sources of deponent's information and the grounds of deponent's belief include: books, documents, public and municipal officials and employees, IDA representatives and Board members and records. This Verification is made by me as a taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca pursuant to applicable provisions of law, as a person acquainted with the facts and as a person duly authorized to execute the foregoing Petition.


Jane Morelli

Sworn and subscribed to before me
this 12th day of October, 2015.


Notary Public

RICHARD P. JAMES
NOTARY PUBLIC, State of New York
Qualified in Oswego County
No. 4965615
Commission Expires April 23, 2018

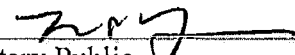
VERIFICATION

STATE OF NEW YORK)
COUNTY OF SENECA) SS:

Richard Barner, being duly sworn, says that deponent is a resident and taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca; that deponent has read the foregoing Amended Verified Petition and knows the contents thereof and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true. The sources of deponent's information and the grounds of deponent's belief include: books, documents, public and municipal officials and employees, IDA representatives and Board members and records. This Verification is made by me as a taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca pursuant to applicable provisions of law, as a person acquainted with the facts and as a person duly authorized to execute the foregoing Petition.


Richard Barner

Sworn and subscribed to before me
this 18th day of October, 2015.



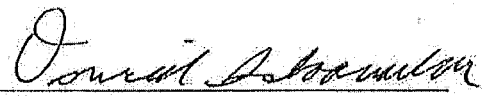
Notary Public

RICHARD P. JAMES
NOTARY PUBLIC, State of New York
Qualified in Oswego County
No. 4965615
Commission Expires April 23, 2018


VERIFICATION


STATE OF NEW YORK)
COUNTY OF SENECA) SS:

David Schoonmaker, being duly sworn, says that deponent is a resident and taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca; that deponent has read the foregoing Amended Verified Petition and knows the contents thereof and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true. The sources of deponent's information and the grounds of deponent's belief include: books, documents, public and municipal officials and employees, IDA representatives and Board members and records. This Verification is made by me as a taxpayer of the Waterloo Central School District, Town of Tyre and County of Seneca pursuant to applicable provisions of law, as a person acquainted with the facts and as a person duly authorized to execute the foregoing Petition.


David Schoonmaker

Sworn and subscribed to before me
this 18th day of October, 2015.


Notary Public

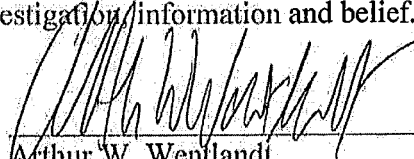
 RICHARD P. JAMES
NOTARY PUBLIC, State of New York
Qualified in Oswego County
No 4965615
Commission Expires April 23, 20 16

ATTORNEY'S VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONONDAGA) SS:

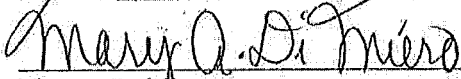
The undersigned, an attorney admitted to practice in the courts of New York State, shows: that deponent is the attorney of record for the Petitioners in the within action; that deponent has read the foregoing Amended Verified Petition and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true. Deponent further says that the reason this verification is made by deponent and not by the Petitioners is because the Petitioners' principal place of residence is located outside of the county in which the attorney's office is located.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows: file review, conferences, investigation, information and belief.



Arthur W. Wentlandt

Subscribed and sworn to before
me this 19th day of October, 2015.



Notary Public

MARY A. DIMIERO
Notary Public, State of New York
Qualified in Onon. Co. No. 4881134
Commission Expires Dec. 29, 2018



V EXECUTIVE SUMMARY

Wilmorite, Inc., an Upstate family development company since the 1940s, has a history of meeting consumer demands from affordable housing to regional malls to student housing. Wilmorite has developed millions of square feet in the Northeast and remains well suited for development in Upstate New York. Wilmorite formed Whitetail 414, LLC to acquire an option on 84 acres of land northeast of the intersection of the New York State Thruway and NYS Route 414 at Exit 41 in the Town of Tyre, Seneca County (an area with lower median income and higher unemployment and poverty than most areas in Region 5). In December 2013 representatives of Wilmorite met with Town of Tyre officials and agreed to fund all direct and indirect costs to the community and, after an extensive six-month review costing more than \$2 million, the Town of Tyre passed all necessary approvals and town officials recently participated in the public roll out of the "Lago Resort & Casino."

This proposal involves a budget of \$425 million – with more than \$300 million in qualifying costs under the "minimum capital investment" calculations (225 percent of the minimum required); a guarantee of 1,000 new jobs during operations – with direct and indirect jobs estimated at 1,800; construction jobs estimated at 1,200 direct jobs and more than 1,800 total construction jobs. The Applicant has entered into a Project Labor Agreement and a Labor Peace Agreement; reached agreement with the Finger Lakes Workforce Investment Board; finalized a Host Community Agreement, paying all direct and indirect costs of the Town to its satisfaction; agreed to fund the Seneca County Health Offices to address problem gaming issues; finalized an agreement with Finger Lakes Community College for training and career advancement; and, has agreements with CMAC regarding the local, live entertainment venue. The design of the facility is meant to enhance the wine and food tourism industry of the Finger Lakes and Southern Tier areas. The Applicant will be working with local businesses to promote their products, has intentionally limited its on-site hotel to 208 rooms to encourage visitors to stay in local hotels, and has a cross-promotion agreement with Hart Hotels which owns the Clayton Hotel, Watkins Glen Harbor Hotel and a Holiday Inn in downtown Ithaca.

Wilmorite has partnered with an experienced casino development and management team. M. Brent Stevens, Jonathan Swain and Natalie Schramm were responsible for one of the best success stories in regional gaming. They were the leadership team behind the development of similar gaming facilities in the Midwest under the name Peninsula Gaming (now owned by Boyd Gaming). If this combined, experienced team is awarded a Gaming License in late 2014, they will have gaming operations open in 2015 with all amenities completed by early 2016.

Picture a resort featuring a gorgeous premium hotel, state-of-the-art spa, outstanding, locally-inspired culinary options, and a tasteful, bustling casino. Imagine this resort and casino employing more than one thousand local residents who can share their knowledge of the beauty and history of the surrounding area with more than three million annual visitors, many making their first trip to this tourist magnet. See this resort with an architectural design, style and ambience that encompasses and highlights the majestic natural landscape of sprawling agricultural lands and picturesque lakes and shores.

Welcome to the Lago Resort & Casino in Tyre, Seneca County, the heart of the New York's Finger Lakes region, just steps away from Exit 41 of the New York State Thruway.

Lago – the Italian word for lake – takes its inspiration from the magnificent Finger Lakes, and nearby geologic features like the Gorges of Ithaca, surrounded by some of New York's most outstanding vineyards and wineries, reminiscent of a part of the Old World right here in Upstate New York. We



Lago Resort & Casino Application Exhibits

capture not just the meaning of the Italian *lago* in what we're creating, but really the essence of Lago as well. Lago brings together the Finger Lakes and the vineyards and acts as a gateway drawing upon and adding to the rich history of tourism in the area including Mark Twain country in Chemung County, Ithaca Gorges, Watkins Glen park and raceway, Corning Museum of Glass. It merges rural, agricultural and suburban with a small town feeling yet big time attraction.

Lago's design is not the result of accident or coincidence, nor was it created in a vacuum. It is the outcome of six months of working with and listening to local residents and businesses. The facilities are designed to reflect the charm and character of the lake and wine region which will be Lago's home. They are designed as low-rise structures, a good distance away from surrounding residential and agricultural areas, with plentiful green space on the property. The project will contract with the local dairy farm to buy energy created by the celebrated manure bio-digester process at Lawnhurst Farms and incorporate LEED design features.

Lago Resort & Casino will attract tourists from near (Rochester, Syracuse, the Southern Tier) and far (New York City, Long Island, the Hudson Valley, as well as Pennsylvania, Ohio and Canada). It is designed as a centerpiece destination resort – working in partnership with local businesses, arts and entertainment venues, historic and recreational sites – that will create thousands of new jobs, significantly boost economic activity throughout the region and serve as a catalyst for unifying the diverse communities throughout this region.

The vision – simple yet expansive – is for Lago Resort & Casino to become the centerpiece of the region, attracting new visitors and delivering quality services and a valuable entertainment experience in a comfortable environment which will keep visitors returning again and again.

Lago Resort & Casino is prepared to commence construction – employing a New York State contractor – within one week of being awarded a casino license. Lago is shovel-ready, has completed the State's SEQR process and has received all local approvals required for construction. In addition, a project labor agreement (PLA) has been entered into with the Finger Lakes Building Trades Council and its 19 affiliated labor unions to ensure efficient, safe, quality, and timely completion of the project, guaranteeing the employment of local tradespeople.

The Town Board of Tyre voted unanimously in support of a resolution supporting the project. The Tyre Town Board also unanimously approved the proposed development plan, site plan and host community agreement. All potential impacts were addressed to the Town's satisfaction.

Lago Resort & Casino not only has the support of our host community, Tyre, we have the strong support of the Seneca County Board of Supervisors, the Seneca County Town Boards of Coverl, Lodi, Seneca Falls, Varick, and Waterloo. Lago is also strongly supported by the Schuyler County Legislature and Wayne County Board of Supervisors.

In addition to the overwhelming support from the local governments, Lago has the support of the Seneca County Chamber of Commerce, IDA and Advisory Commission on Tourism; the Rochester Business Alliance; and, virtually every local union affiliate. Well over 100 local businesses, wineries, breweries, distilleries have also committed their strong support for the project. The Seneca County Planning Department has confirmed this project is consistent with the Regional Plan.

With 100 percent of financing for construction and operations fully in place, Lago Resort & Casino's gaming facility can be completely constructed in 18 months. All gaming related program areas, restaurants and structured parking will be open within 14 months of being awarded a casino



license. All other facilities, including the hotel and spa, will be completed and open within 18 months of license approval.

Once completed and opened, Lago's full-service casino will feature 85 table games and 2,000 slot machines. It will generate \$263 million in gaming revenue in its first year, with revenue expected to grow to \$348 million by 2026. Over \$54 million of gaming revenue will be "repatriated" to New York by out of state visitation and taking back revenue currently lost to other States.

While approximately half of that \$263 million first-year gaming revenue is expected to be drawn from existing New York gaming facilities (21 percent from existing New York racinos and 30 percent from current New York Native American facilities), the other half is forecasted to be new gambling revenue to New York State, including the 14 percent that will be "repatriated" from gambling facilities outside of New York.

At the outset, the \$263 million in gaming revenue results in Seneca County and the Town of Tyre being able to expect to receive approximately \$6.45 million in tax and fee revenues annually and New York State being able to expect approximately \$85 million annually in tax and fee revenues. Additionally, local governments can expect approximately \$5.9 million and New York State can expect approximately \$66.7 million in one-time tax and fee revenues from expenditures resulting from the development and construction of the Lago Resort & Casino.

Once completed, the Lago Resort & Casino will create approximately 1,800 permanent jobs for New York residents. Lago Resort & Casino's payroll will be approximately \$50 million annually. Lago has already reached agreements with and will partner with the Finger Lakes Workforce Investment Board and Finger Lakes Community College to help recruit, train and hire as many local residents as possible. Lago is committed to working with those entities to try and employ unemployed, long-term unemployed, underemployed, veterans and other New York residents.

Lago has adopted an Affirmative Action Program, is working with various Veteran Groups and has included the helmet to hardhats provision in the PLA. Throughout the hiring of employees both for construction and permanent jobs, every consideration will be given to boosting participation by minority and women owned businesses and to ensuring that Lago's workforce is diverse and reflects the face of New York.

In addition, Finger Lakes Community College will create a curriculum and offer a pre-employment Dealer Training School and a career track course for mid-level management. All of these actions taken together – along with Lago's commitment to purchase at least 90 percent of the available goods and services they buy from New York vendors – will provide an additional major economic boost for families and communities throughout the Finger Lakes and help solidify Lago's place as an economic and social centerpiece for the entire region.

When guests arrive at Lago, their entertainment, shopping and culinary opportunities will be plentiful, and more importantly, extraordinary. And that's before visitors head out to enjoy local restaurants, stores and entertainment venues, which will be cross-promoted, as many of these venues and businesses are participants in the Lago Rewards Partners program.

Restaurants planned for Lago include everything from a New York pizza stand to the Farmers Market Buffet, featuring locally secured produce, fruits, dairy products, meats and more, to Porlico, a contemporary interpretation of a charming lakeside eatery, which will be the finest steak and seafood restaurant in the region. The assortment of restaurants was carefully selected to appeal to all target markets, and all will – of course – feature local wines, brews and distilled beverages. Plus,



Lago Resort & Casino Application Exhibits

Centrifico is one of the most exciting lounges and bars that will be found in the entire region, and The Vine, which will feature the hottest big name entertainment, the coolest local drinks and a menu complete with fun food, much of it local.

Lago visitors will relish Savor New York, where local vendors will bring the region directly to them with a wide variety of local fruits, cheeses, irresistibly delicious baked goods, and other area specialties. And they'll be right at home in Shop New York, featuring Lago gear, as well as quality merchandise, gifts and products made in New York.

Additionally, Lago will feature a 10,000 square foot full-service spa featuring massages, facials, wraps, as well as a nail salon, styling salon and relaxation lounge. And the pool area will be spectacular, encompassing about 40,000 square feet, able to accommodate up to 900 guests.

From the vineyard and wineries, breweries and distilleries to the Outlet Mall, local shops and galleries to the state and local parks, amusement and theater venues and national historic sites, Lago's concierge service will be helping guests see, feel and explore the Finger Lakes and its attractions like they never have before – and for many of the guests this will be their first time.

With more than two dozen local businesses already enrolled in the Lago Rewards Partners program, and scores more expected to join, guests will have unlimited opportunities to explore. And Lago Rewards Players Club members will be able to use their points earned at Lago to buy local goods and services from Lago Rewards Partners. The entire local economy will benefit from Lago's direct and indirect spending, further cementing Lago as a regional centerpiece.

When they are not exploring the myriad of attractions in the magnificent Finger Lakes region, or spoiling themselves in the spa, or treating themselves to a marvelous meal, Lago guests will have 24-hour access to a casino second to none in New York. Both frequent and casual casino visitors will want to join the Lago Rewards Players Club and avail themselves of all the special perks of membership, which are as good if not better than any similar casino club in the state or nation.

Although most adults enjoy gambling for the entertainment it's intended to be, Lago will also actively encourage responsible gambling and provide extensive services for those who have or feel they may have problem gambling issues. Lago's Responsible Gambling Resource Center will be there for those who need help, providing information about safer gambling practices and referral to problem gambling treatment if desired.

If awarded one of New York's casino licenses, Lago Resort & Casino will be ready to open its doors to guests within a year and a half. It will quickly become the centerpiece of one of the state's top tourist and vacationing regions. It will provide significant, positive economic impact to local governments and to the State of New York— more than \$90.8 million annually and approaching \$1 billion in distributions by 2026. This development fits its environment well and by design, has positioned Lago to become an integral part of its community. The Finger Lakes' newest and most exciting tourist destination centerpiece is Lago Resort & Casino.

Once again Lago appears to be relying on the false appraisal on which it previously relied. We have provided an analysis from a certified appraiser of the many deficiencies in that appraisal report.

In light of that report, if this Board approves these benefits, it will be the epitome of an arbitrary and capricious decision.

I am resubmitting a copy of our expert's report for this Boards review, and please include it in the record of this hearing.

James A. Dawley III



570 Seventh Avenue, Suite 805
New York, NY 10018
Phone: 212.300.6684

October 21, 2015

By Email

Edward C. Barnidge
Williams & Connolly LLP
725 Twelfth St. NW
Washington, DC 20005
ebarnidge@wc.com

Dear Mr. Barnidge:

Pursuant to Williams & Connolly LLP's retention of LW Hospitality Advisors (LWHA), this letter reflects our independent review of the appraisal report completed by Cushman and Wakefield (C&W) for the Proposed Wilmorite Casino Project (Lago) in Tyre, Seneca County, New York, to be located at the intersection of NYS Route 414 and Interstate 90 (New York State Thruway).

Background

1. I am a Managing Director with LW Hospitality Advisors (LWHA), based in New York City. LWHA specializes in a wide range of advisory, valuation, feasibility, investment counseling, asset management, property management, and transaction services focused exclusively on hotels, resorts, gaming properties, and conference center assets worldwide. During the past eight years, I have been involved in the execution of more than 1,000 hotel/gaming consulting and valuation assignments throughout the United States.
2. I am a Certified General Real Estate Appraiser in the State of New York (License # 46000050939) and a Member of the Appraisal Institute (MAI). I am also licensed as a Certified General Real Estate Appraiser in the following states: New Jersey, Ohio, Illinois, Michigan, Pennsylvania, and Connecticut. In addition, I am a Member of the Adjunct Faculty at the Tisch Center for Hospitality and Tourism at New York University (NYU). In the past, I was also an Adjunct Faculty Member at the Boston University School of Hospitality Administration. I have taught several classes on Hotel Valuation for the Appraisal Institute and have been a frequent guest speaker on trends in the Hospitality Industry. My *curriculum vitae*, which details my experience and credentials, is attached hereto as **Exhibit A**.

The Cushman & Wakefield Appraisal Report

3. In September of 2015, LWHA was retained by Williams & Connolly LLP to prepare this letter analyzing the Cushman & Wakefield Appraisal Report prepared for the Lago project. The report is referred to throughout this Affidavit as the Appraisal Report, a copy of which is attached hereto as **Exhibit B**. The Appraisal Report was prepared for

the Town of Tyre and addressed to Mr. Ronald F. McGreevy, Town Supervisor. The date of the report is September 30, 2014, and the effective date of value is September 1, 2014. The Appraisal Report assumes that the casino and resort facilities were fully completed and operating as of the effective date of value. The Appraisal Report was prepared by John R. Mako, MAI, SRA. According to the certification on page 52 of the Appraisal Report, no one provided assistance in the preparation of the appraisal. Based on Mr. Mako's qualifications included with the Appraisal Report, it appears that he does not have substantial experience in the valuation of gaming properties. Ex. B at Addendum C.

4. The transmittal letter accompanying the Appraisal Report, attached hereto as **Exhibit C**, states, "This Valuation assignment is provided to assist the Town of Tyre in estimating an appropriate assessment level for the property, if completed, for planning purposes." Ex. C at 1.
5. The Appraisal Report identifies the property being appraised:

The subject property consists of a proposed resort/casino to be constructed on an 83.40± acre parcel of land located at the intersection of the New York State Thruway and NYS Route 414 in the Town of Tyre. The casino requires the issuance of a gaming license by the State of New York. Although application has been made, the competition for the available licenses is keen, and there are no current assurances that the subject's required license will be granted.

The property will consist of a hotel, casino, parking garage, spa, and employee use day-care center. The facility will operate as an integrated resort, but will be highly dependent upon the casino portion of the operation as a demand generator. The site is located approximately mid-way between the Syracuse and Rochester city centers, in a rural location. It is anticipated that the facility will draw from each of these MSA's as well as from the Finger Lakes region just to the south. The total property will contain approximately 702,605± square feet of building area, based on current design/construction plans. This size and configuration has been modified a number of times, and may be further refined. Our valuation is for assessment purposes, as if the property were completed and operating, as of our valuation date. This hypothetical condition is appropriate for the purpose/intended use of this report, to provide assistance to the Town of Tyre Assessor, for planning purposes. Ex. B at IV.

6. The Appraisal Report concludes with an "Estimated Market Value for Assessment Purposes As if Completed" for the "Fee simple/Real Property Value" as of September 1, 2014 of \$102,700,000. Ex. B at 48; Ex. C. at 2.
7. The Appraisal Report identifies three different approaches to valuing a property (the Cost Approach, the Sales Comparison Approach, and the Income Capitalization Approach), but it only employs the Cost Approach:

This appraisal employs only the Cost Approach. Based on our analysis and knowledge of the subject property type and relevant investor profiles, it is our opinion that this approach would be considered necessary and applicable for market participants. Because the subject property is a specialized land use, comparable sales are extremely rare and do not generally reflect true market transactions of real property, but are most generally sales of going concerns or distressed real property. Additionally, the subject land use is not typically marketed, purchased or sold on the basis of anticipated lease-revenue. Therefore, we have not employed the Sales Comparison Approach or the Income Capitalization Approach to develop an opinion of market value for assessment purposes. The absence of these approaches does not diminish the reliability of the analysis. Ex. B at 40.

8. The Appraisal Report describes the Income Capitalization Approach, which it does not employ, as follows:

In the Income Capitalization Approach the income-producing capacity of a property is estimated by using contract rents on existing leases and by estimating market rent from rental activity at competing properties for the vacant space. Deductions are then made for vacancy and collection loss and operating expenses. The resulting net operating income is divided by an overall capitalization rate to derive an opinion of value for the subject property. The capitalization rate represents the relationship between net operating income and value. This method is referred to as Direct Capitalization. We found no rentals of casino/resort facilities similar to the subject. We did not consider utilizing total operating income/EBITA as a valuation method, since that analysis would yield a going concern value, not appropriate for the intended use of this report, to provide guidance as to an appropriate level of real property assessment. Ex. B at 39.

9. The Appraisal Report employs the following "Extraordinary Assumptions":

The subject property is a potential casino development, to include a hotel, casino floor, spa, day-care center, and parking garage. The intended use of this report is to assist the Town of Tyre in forecasting an appropriate assessment level for the proposed project. However, it is noted that the final plans for the project have not been completed, changes in size, design, and configuration are anticipated, and the casino gaming license has not been obtained. This analysis is subject to updating once construction and licensing details are finalized.

The subject property will require a gaming license from the State of New York. This license is not yet approved for the subject site. Once, and if, obtained, it will be for a ten year period, a significantly shorter period than the expected useful life of the proposed improvements. This is a limitation upon the extended use of the property improvements, for their intended purpose, creating a significant level of obsolescence to the property improvements.

We have not valued the underlying land. The assessor will establish land value for the property assessment, once the approvals and final plans are in place. We have utilized a land value for our analysis of \$1,650,000, based on preliminary discussions with the assessor. Ex. B at 5.

10. The Appraisal Report employs the following "Hypothetical Condition":

The subject property is being valued as if constructed and operating as of the current date. The gaming license to operate the property has not been approved and the improvements have not been constructed as of this date. Therefore, this is a valuation subject to a hypothetical condition. Once the approvals and construction are completed, there may be significant variances in cost/construction. It is suggested that the final assessed value be based upon the final completed project, along with its associated costs and any inherent changes from our forecast. Ex. B at 5.

Observations/Critiques of the Appraisal Report

11. The Appraisal Report is flawed and contains numerous significant errors. Fundamentally, these errors fall into two categories: (a) the Appraisal Report improperly relies exclusively on the Cost Approach for estimating value of this income-generating property; and (b) the Appraisal Report makes numerous improper assumptions and calculation errors in its Cost Approach. These errors are detailed within the following two sections. Given its methodological flaws, unsupported assumptions, and computational errors, the Appraisal Report does not present sufficient information or data to support its conclusion that the market value of the subject property is \$102,700,000.

I. Inappropriate Exclusive Use of the Cost Approach

12. In conducting an appraisal of a commercial property, there are three generally accepted valuation methods: the Cost Approach, the Income Capitalization Approach, and the Sales Comparison Approach. The method that is considered most appropriate for a particular appraisal depends on the property at issue as well as the data available. Of the three generally accepted valuation methods, the Cost Approach is subordinate to both the Income Capitalization and Sales Comparison Approaches for valuing income producing properties such as the proposed Lago Resort & Casino. The Appraisal Report's exclusive reliance on the Cost Approach, coupled with its omission of both the Income Capitalization and Sales Comparison Approaches, represents a significant flaw in the analysis conducted. As a result, the appraisal fails to reach a well-supported or reasonable value conclusion.

A. Industry Practice and Experience Supporting Income Capitalization Approach

13. Based on my experience, industry practice, and court precedent, a credible appraiser of the subject property, like any buyer/investor, would rely primarily on the Income Capitalization Approach to value the property—i.e., the appraiser would value the property based on a Discounted Cash Flow (DCF) or an EBITDA (Earnings before Interest, Taxes, Depreciation, and Amortization) multiplier. In many cases, appraisers will utilize both methods.
14. The Appraisal Report rejects the Income Capitalization Approach due to a misunderstanding of how the Income Capitalization Approach would be applied to a casino property. The Appraisal Report posits that the Income Capitalization Approach is limited to determining the "contract rents on existing leases and . . . estimating market

rent from rental activity at competing properties for the vacant space.” Ex. B at 39. The Appraisal Report states that it did “not consider utilizing total operating income/EBITA as a valuation method, since that analysis would yield a going concern value, not appropriate for the intended use of this report, to provide guidance as to an appropriate level of real property assessment.” *Id.* The Appraisal Report offers no support for that conclusion, and the conclusion is unsupported. Any credible appraisal should take into account the net income the property is projected to generate, as that net income has a significant impact on the value of the property.

15. In addition to my experience, this conclusion is supported by my review of other gaming property appraisal reports. Every one of the gaming property appraisals I have seen relies primarily on the Income Capitalization Approach rather than the Cost Approach.
16. My conclusion is also supported by court decisions that casino appraisals should not rely exclusively on the Cost Approach. In a recent decision considering valuation reports for the Borgata Hotel Casino & Spa in New Jersey, the court concluded that the appraisal reports at issue in that case, which both used the Income Capitalization Approach to value the casino resort, had used an appropriate method. *Marina Dist. Dev. Co., LLC v. City of Atlantic City*, 27 N.J. Tax 469 (N.J. Tax. 2013) (a copy of this decision is attached hereto as **Exhibit D**). The court critiqued reliance on the Cost Approach for such a valuation:

The court also concludes that the cost approach to value is less reliable in this case to determine the true market value of the subject property on the relevant valuation dates. As plaintiff’s two appraisal experts credibly testified, participants in the casino-hotel industry do not use the cost approach to determine sales price. The court finds credible the experts’ opinions that the quality and characteristics of the physical structure of a casino-hotel are generally not directly indicative of marketplace value. *Id.* at 522-23.

17. My conclusion is also supported by reports I have seen that were completed by C&W’s “Hospitality & Gaming Practice Group.” (A printed copy of C&W’s website describing this practice group is attached hereto as **Exhibit E**.) It does not appear that the C&W Hospitality & Gaming Group prepared or participated in the Appraisal Report. As an example of the work of C&W’s Hospitality & Gaming Practice Group, I provide an appraisal report that Mr. Eric Lewis, the head of the group, prepared for a Boston hotel. (That report is attached hereto, along with an affidavit regarding it, as **Exhibit F**.) Mr.

Lewis's appraisal report relies primarily on the Income Capitalization Approach. As the report explains:

Because lodging facilities are income-producing properties that are normally bought and sold on the basis of capitalization of their anticipated stabilized earning power, the greatest weight is given to the value indicated by the income capitalization approach. We find that most hotel investors employ a similar procedure in formulating their purchase decisions, and thus the income capitalization approach most closely reflects the rational [sic] of typical buyers. When appropriate the sales comparison and cost approaches are used to test the reasonableness of the results indicated by the income capitalization approach. Ex. F at 1.

18. For all of these reasons, the Appraisal Report improperly relies exclusively on the Cost Approach and should have included the Income Capitalization Approach

B. Components of Proper Income Capitalization Approach of a Gaming Property

19. Because of the Appraisal Report's disregard for the income-generating potential of the property, there is a fundamental disconnect between what it claims to be valuing and the approach it actually takes. On the one hand, the Appraisal Report states that it is estimating the "Market Value for Assessment Purposes As if Completed," meaning the market value of the property once Lago is constructed, open for business, and generating income. Ex. B at 48. Yet, in purportedly determining that market value, the Appraisal Report entirely ignores Lago's projected revenue and income, which would factor heavily into its market value. The projected revenues and income levels of the proposed property should have been an integral component of the valuation.
20. When performing an Income Capitalization Approach of a gaming property, an appraiser should include a detailed market analysis in order to project the future revenue potential of all components of the property, including gaming, lodging, and food & beverage. A comprehensive Income Capitalization Approach should also include a detailed competitive market analysis with a fair share projection for the subject property. (A fair share analysis estimates the subject's capture rate of future market demand.) After conducting a detailed market analysis, a projection of departmental, undistributed, and fixed expenses based on comparable facilities would be deducted from the revenue projections in order to estimate the Net Operating Income (NOI). The NOI is then

capitalized through a Discounted Cash Flow analysis to determine the market value of the subject property. All of these core elements are missing from the Appraisal Report.

21. Furthermore, the Appraisal Report does not detail the type of gaming positions that will be available within the casino. Examples of gaming positions include slot machines, gaming tables, and poker tables. Ordinarily, the number of gaming positions is an integral and fundamental component of any gaming facility appraisal. Gaming market participants commonly analyze the following metrics when evaluating a gaming facility: win by unit per day, gaming revenue versus units in the market, slot machines inventory versus table games inventory, and detailed patron analysis of the target market. The Appraisal Report contains no discussion of any of these core metrics for valuing a gaming property.
22. The Appraisal Report also fails to consider revenue information from comparable gaming properties. Such information is readily available from State Gaming Commissions and the SEC filings of publically held companies. For example, the appraiser should have relied upon performance information from similar gaming properties in other nearby markets, such as Pennsylvania. In addition, many of the State Gaming Commissions now publish revenue information which is publically available.
23. The Appraisal Report also fails to take into account the revenue projections that the property's own developers submitted to the New York State Gaming Commission Location Board (the "Location Board") in June 2014 in connection with Lago's application for a casino license. This revenue projection was based on a TMG Consulting report. A copy of this report (which Lago redacted in the version made available to the public) is attached hereto as **Exhibit G**.
24. The TMG Report concluded that Lago would "generate over \$262 million in gaming revenues in its first full year of stabilized operations." Ex. G. at i. Although much of the TMG Report is redacted, it appears to be the type of market and income analysis I discussed above that an appraisal of the subject property should have included as part of the Income Capitalization Approach. Furthermore, in the Executive Summary to its application to the Location Board, Lago stated that its proposed casino, which it planned to spend \$425 million to construct, would experience significant revenue growth over time. (This Executive Summary is attached as **Exhibit H**.) By 2026, Lago is expected to generate \$348 million in gaming revenue alone per year. Ex. H at 3.
25. The Appraisal Report is flawed because it limited its definition of the Income Capitalization Approach to potential rental income and failed to consider Lago's

projected gaming and resort revenue/income. The Appraisal Report failed to conduct the type of market analysis that is standard in the industry in appraising proposed casinos such as the subject property. This failure is even more notable given that Lago provided such an analysis to the Location Board, one which showed significant annual revenues.

C. Unjustified Omission of the Sales Comparison Approach

26. The Appraisal Report is also flawed because it fails to appropriately consider and incorporate the Sales Comparison Approach. During the past several years, there have been numerous transactions involving casinos, many of which are owned by publicly owned companies such as real estate investment trusts (REITs). For example, PENN National Gaming (PENN) was the first to launch a REIT when it spun off from Gaming and Leisure Properties, Inc. Thus there is existing sales data for casino properties readily available from the SEC filings of public companies.
27. The Appraisal Report should have considered the Sales Comparison Approach as a secondary test of reasonableness to compare results with the Income Capitalization Approach. The Sales Comparison Approach compares previously sold properties in terms of size and use to the subject property. Sale transactions are often extracted from other states, or on a regional/national basis, when there is a lack of comparable properties located in the subject state.

II. Improper Application of the Cost Approach

28. The Appraisal Report is also flawed because of numerous methodological and computational errors in its Cost Approach.

A. Unjustified External Obsolescence Factor

29. The appraiser's use of External Obsolescence in the Cost Approach is significantly flawed. The Appraisal Report states, "We have estimated the obsolescence associated with this condition at 25%, representing the ratio of the ten year license period as a proportion of the anticipated weighted average of the economic lives of the various components comprising the resort." Ex. B at 43. It appears this unsupported estimate assumes the casino license will only be retained for a period of ten years, with no assumed possibility that the gaming license will be extended or renewed after the initial ten year period. It would make no economic sense for a real estate investor to develop a large scale casino resort only assuming an operating life of ten years. The appraiser's use of this time frame is entirely unsupported and not reflective of the actions of

hotel/gaming market participants. Based on the appraisals I have participated in developing and/or reviewing, I have never seen this approach employed.

B. Failure to Consider the Developer's Projected Costs and Other Significant Errors in the Cost Approach.

30. In addition to including the completely unjustified external obsolescence factor, the Appraisal Report conducted a flawed Cost Approach by: failing to consider the construction costs the developer was projecting; making unsupported assumptions regarding the construction class; using an unsupported land valuation; and making numerous calculation errors.
31. When conducting a Cost Approach analysis, the developer's actual construction plans and budgets should be an integral component of the analysis. These documents typically provide the best information supporting current cost. If the actual cost budget is not being relied upon, the appraisal needs to provide support for any adjustments made and any discrepancies arising between the Cost Approach conclusion and the actual cost budget.
32. The Addenda of the Appraisal Report includes a Development Cost Budget for the entire project illustrating a "Project Grand Total" cost of \$425,000,000 for Lago. Ex. B at Addendum B. An appraiser in possession of that budget would review and analyze it, speak to the persons who developed it, and rely on it as long as the figures and explanation were consistent with industry practice.
33. It does not appear, based on the Appraisal Report, that any weight was given to the actual cost budget, as there is no mention or reconciliation of the Appraisal Report's cost figure and the proposed budget's cost figures. For example, the developer's actual cost budget estimated the hard costs to be \$193,011,195, Ex. B at Addendum B, whereas the Appraisal Report estimated hard costs of only \$96,535,482, Ex. B at 47, or approximately 50 percent of the developer's proposed hard cost budget. The Appraisal Report contains no explanation or justification for this deviation. Given the significant difference between the appraiser's cost figures and those advanced by the actual developer, it is a fundamental flaw not to discuss this discrepancy within the report. The appraiser's value conclusion of \$102,700,000 is only a fraction of the actual cost to construct. No explanation is given for this discrepancy.
34. The Appraisal Report also fails to include support for its indirect costs and entrepreneurial profit estimates. The 3% utilized for indirect costs is below the industry

standard of 10-25% and contradicts the Developer's Project Cost Budget, which utilizes indirect costs of approximately 33% as presented in the Addendum of the appraisal. The appraiser refers to reliance placed on "Developer's" estimates of indirect costs and entrepreneurial profit; however, the appraisal does not explain who provided these estimates and in what fashion.

35. Additionally, the Appraisal Report makes unsupported and unjustified assumptions regarding construction costs which materially affect the overall cost estimate. On page 44 of the Appraisal Report, the estimated replacement cost of each of the five improvements (structures) is presented based on information from the Marshall & Swift Cost Estimating Guide. Ex. B. at 44. Marshall & Swift contains five different construction quality classifications; A, B, C, D, and S; 'A' representing high quality construction and 'S' low quality. The Marshall & Swift data is primarily used by the construction industry in order to assist with estimating building costs. While the appraisal indicates the casino will feature high end amenities, the appraiser assigns Class C construction quality for all components except for the parking structure (Class B) without any explanation why the developer's own construction plans were disregarded. The appraiser also should have consulted with a qualified engineer or contractor prior to assigning a construction Class for the subject property. There is no statement in the Appraisal Report that indicates that a construction industry expert was consulted for the Cost Approach analysis. In my experience, most casino properties constructed today represent at least Class B quality. The choice of construction class has a dramatic effect on the estimated replacement cost and ultimately the market value conclusion.
36. The land valuation in the Cost Approach analysis is flawed. An integral component of the Cost Approach is the valuation of the subject site (land) as if vacant. Yet the appraiser did not conduct a detailed land valuation analysis, instead simply relying on the local Assessor's opinion of projected land value (\$1,650,000). Ex. B at 41.
37. Finally, the Appraisal Report's Cost Approach includes several calculation errors resulting in the double-counting of indirect costs and entrepreneurial profit. The Cost Approach summary chart, Ex. B at 44, illustrates some of these double counting errors. In that chart, for the costs of the Hotel Structure, the appraiser adds \$1,193,157 for indirect costs and \$4,096,506 for entrepreneurial profit. *Id.* The same methodology was utilized for the other four structures. Subsequent to determination of the "Total Adjusted Costs," which represents a summation of the five structures (\$110,216,548), the appraisal adds an additional 3.0% indirect costs and 10% entrepreneurial profit to formulate an opinion of replacement cost new of \$123,154,590. *Id.* In addition, the "Adjusted Costs" calculated on page 44 are different from the "Adjusted Costs" on page 47, a discrepancy

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which appears to be another calculation error leading to an incorrect Cost Approach conclusion.

Conclusions/Overall Assessment of the Appraisal Report

38. The Appraisal Report's conclusion is based on a flawed methodology, unsound assumptions, and several calculation errors. The Appraisal Report's exclusive reliance on a deficient Cost Approach, which uses unsupported inputs, results in an unreliable value conclusion. The Appraisal Report's valuation of \$102,700,000 based on the Cost Approach includes a hard cost estimate that is almost exactly one-half of the developer's own hard cost projections (exclusive of various soft costs). The Appraisal Report does not contain a credible, supported valuation for the proposed Lago Casino and Resort.

Sincerely,



Jonathan Jaeger, MAI