



HARTZ®

HARTZ MOUNTAIN INDUSTRIES, INC.

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September 10, 2021

Via Federal Express and Electronic Mail

Anthony Catapano
Executive Director
Suffolk County Industrial Development Agency
H. Lee Dennison Building
100 Veterans Memorial Highway
Hauppauge, NY 11788

**Re: Former Newsday Site
90 Ruland Road and 235 Pinelawn Road, Melville**

Dear Mr. Catapano,

I write in reference to the financial assistance previously granted by the Suffolk County IDA to Hartz Mountain Industries, Inc. through its affiliates 235 Pinelawn Road North LLC and 235 Pinelawn Road South LLC (collectively, "Hartz Mountain") for the former Newsday site in Melville. In particular, I write to request technical modifications to the Lease and Project Agreements entered into by the Suffolk County IDA with each of 235 Pinelawn Road North LLC and 235 Pinelawn Road South LLC, to address impediments to financing and leasing that have only recently become evident as we have begun efforts to finance the projects and negotiate with prospective tenants.

Although the project was conceived from the start to consist of two independent buildings on two distinct tax lots, Hartz Mountain filed a single application with the Suffolk County IDA for financial assistance for both buildings. That financial assistance was granted pursuant to a single approval, but ultimately, at Hartz Mountain's request, was memorialized in two distinct Lease and Project Agreements and related other agreements, one for what has been described as the North Parcel (now identified by the mailing address of 90 Ruland Road), and one for what has been described as the South Parcel (still identified as 235 Pinelawn Road). At the time of the grant and the closing on the financial assistance, it was the intention of Hartz Mountain to develop the two distinct parcels independently of one another, on separate construction schedules, and to lease the parcels independently of one another. This continues to be Hartz Mountain's plan. Construction on both parcels is proceeding according to schedule, and the building on the North Parcel is

scheduled to be completed long in advance of the larger building on the South Parcel, construction of which was commenced several months later.

As Hartz Mountain is presently marketing the building on the North Parcel and looking at financing options for that parcel, two provisions of the Lease and Project Agreement for that parcel are creating some difficulties, and we request that they be modified to facilitate the successful financing and leasing of the project.

Specifically, the cross-default provision in Section 10.1(a)(x) of the Lease and Project Agreement is proving to be an impediment. As written, the tenant of one building could lose the financial assistance if there is a default on the other building. Likewise, Section 5.4(c)(7) stipulates that a Recapture Event on one parcel causes a Recapture Event on the other parcel. Prospective lenders and tenants will not take on that risk.

In addition, the provisions dealing with early termination of the Lease and Project Agreement would be an impediment to financing and leasing the project. Section 11.1 ties possible early termination of the Lease and Project Agreement to termination of the Lease and Project Agreement for the South Parcel. As with the cross-default provision, this provision impacts a tenant in one building if a tenant in another building requests that we exercise this option. Prospective lenders and prospective tenants would balk at this provision due to the risk of negative impact.

Attached is an email from a mortgage broker explaining these concerns from the perspective of prospective lenders.

While this is presently only an immediate concern with respect to the Lease and Project Agreement for the North Parcel, we request that the Lease and Project Agreement for the South Parcel be modified as well, as these same issues will arise when Hartz Mountain seeks to lease and finance that parcel.

Please let me know if you need anything else. Thank you for your continued efforts.

Sincerely yours,

HARTZ MOUNTAIN INDUSTRIES, INC.



James P. Rhatican
Vice President, Land Use and Development
Assistant General Counsel

Enc.

Killough, Mark

From: Gunning, James F. @ Saddle Brook <James.Gunning@cbre.com>
Sent: Friday, September 10, 2021 7:31 AM
To: Killough, Mark
Subject: [EXTERNAL] 90 Ruland Road Melville NY

Mark:

We have reviewed the materials you provided us in order to identify financing opportunities for the project being constructed on the north parcel. We have been advised of the tax incentives awarded for the projects on both the north parcel and the south parcel, and we are aware that they are subject to separate agreements. We also understand that the agreements contain cross-default provisions as well as a provision that links the termination rights of the two projects. In discussing this opportunity with prospective lenders, those lenders have expressed concern about these provisions. In my opinion, the individual parcels will be difficult to finance independently unless these provisions are removed or substantially modified. No lender of either property would finance a project if there were a possibility of a default of the incentive package which can be caused by a default from another property. Likewise, the termination provision will be of concern to lenders for similar reasons. I understand that you may want to share this with the Suffolk County IDA.

James F. Gunning | Executive Vice President
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