

# Syosset Central School District

**Dr. Thomas L. Rogers**  
Superintendent of Schools

## Board of Education

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December 12, 2018

*-via electronic transmission and hand delivery-*

Members of the Board of the  
Nassau County Industrial Development Agency and  
Joseph J. Kearney, Executive Director  
Theodore Roosevelt County Executive & Legislative Building  
1 West Street, 4<sup>th</sup> Floor  
Mineola, New York 11501

**Re:    *Southern Glazers Wine and Spirits, LLC and  
      Syosset Property Partners, LLC Application  
      Syosset Central School District – Letter in Opposition***

Dear Chairman Kessel, Members of the Board of the Nassau County Industrial Development Agency and Executive Director Kearney:

This letter is submitted on behalf of the Board of Education of the Syosset Central School District (the "School District") in opposition to the application for financial assistance submitted by Southern Glazers, LLC and Syosset Property Partners (hereinafter collectively referred to as the "Applicants") in connection with: (1) the Applicants' proposed renovation of an approximately 80,000 square foot facility located at 425 Underhill Boulevard, Syosset, New York; (2) the renewal of an existing PILOT agreement for property located at 313, 323, 325, and 345 Underhill Boulevard, Syosset, New York; and, (3) the proposed deviation from the Nassau County Industrial Development Agency's (the "Nassau IDA") Uniform Tax Exemption Policy (the "UTEPP").

At the outset, and as stated by the School District's representative at the public hearing for the proposed application held on December 7, 2018, the School District and the Board of Education have not been afforded ample time to fully review and evaluate the proposed application and the concomitant fiscal implications that the proposed deviation will have on the School District. The School District received notice of the December 7<sup>th</sup> public hearing on November 27<sup>th</sup>, giving the School District only seven (7) business days to analyze the project. As of today, the School District has not received all of the information and documentation requested concerning this project. Accordingly, the School District has not been afforded with a full and fair opportunity to review and analyze the proposed project and to be heard regarding this application after said review.

Notwithstanding the foregoing, due to these time constraints and based upon information gathered and reviewed to date, the School District has concluded that the proposed PILOT will negatively impact the School District and therefore, the School District hereby opposes the application. This opposition is based in part on five (5) areas that are of critical concern and the impact that the proposed application will have on the School District's current and future local revenue stream and the School District community.

- 1. Does the proposed extension of the Existing 2008 PILOT Agreement and the proposed Amended PILOT Agreement diminish existing tax revenue and adversely affect the finances of the School District and its taxpayers?** Yes. Any PILOT converts an existing property tax payment into a contractual payment whose terms are specified by the IDA and not driven by the tax rate in effect. When a PILOT agreement such as the 2008 PILOT agreement expires, the property is returned to the tax roll at its fully taxable assessed value. If a PILOT is lawfully extended, the parcel (or parcels) of property that would otherwise increase the assessed valuation of the School District and generate tax revenue when returned to the tax roll does not occur. This limits the School

District's ability to increase its tax revenue under the tax levy cap formula and further results in a shift of the tax burden from these properties to other properties located within the School District.

The existing PILOT agreement for the properties located at 345, 325, 323 and 313 Underhill Blvd, Syosset, New York (Section: 15, Block: 169, Lots: 8, 10, 21-22) is scheduled to expire on December 31, 2019. This PILOT agreement requires the Company to make a PILOT payment in the amount of \$2,306,275 for the last year of the PILOT term, of which the School District has already anticipated receiving its proportionate share of the annual PILOT payment in the Spring of 2019.<sup>1</sup> The PILOT schedule for the proposed extension of the existing PILOT freezes the payments at the amount of \$2,300,000 for the first three years<sup>2</sup> and thereafter increases incrementally at the rate of 1.84% for years 4-10. If the properties were returned to the tax roll, the current *pro forma* taxes on these properties would total \$3,675,809.92 of which approximately \$2,190,869.56 would be allocated to school taxes in the first year the property was returned to the tax roll.

Year	Proposed Extended PILOT for Section: 15, Block: 169, Lots: 8, 10, 21-22	Amount of Total Taxes to be paid <u>without</u> PILOT assuming an annual increase of 2%	Difference between Proposed PILOT payment and Amount of Taxes Without PILOT
Current year**	\$2,300,000	\$3,675,809.92	\$1,375,809.92
1	\$2,300,000	\$3,749,326.12	\$1,449,326.12
2	\$2,300,000	\$3,824,312.64	\$1,524,312.64
3	\$2,300,000	\$3,900,798.89	\$1,600,798.89
4	\$2,342,320	\$3,978,814.87	\$1,636,494.87
5	\$2,385,419	\$4,058,391.17	\$1,672,972.48
6	\$2,429,310	\$4,139,558.99	\$1,710,248.60
7	\$2,474,010	\$4,222,350.17	\$1,748,340.47
8	\$2,519,531	\$4,306,797.18	\$1,787,265.7
9	\$2,565,891	\$4,392,933.12	\$1,827,042.26
10	\$2,613,103	\$4,480,791.78	\$1,867,688.53
	<b>Total PILOT Payments : \$26,529,584.38</b>	<b>Total Taxes: \$44,729,884.87</b>	<b>Delta: \$18,200,300.49</b>

*\*\*The fiscal impact calculations contained in the report prepared for the IDA by Camoin Associations (the "Camoin Report") dated December 2018, and received by the School District on December 10, 2018 in partial response to its FOIL request to the IDA for documents related to this matter, does not include the PILOT/taxes for the current year. Since clarification was not provided by way of the documents provided to date, the District has included the current year in its calculations.*

As evidenced from the above, the amount of current year PILOT payments (~\$2.3 million) is significantly less than the amount of taxes that would have been received as tax revenue absent the extension of the existing PILOT agreement (~\$3.7 million). The loss in tax revenue totals approximately \$18,200,300.49. This significant amount

<sup>1</sup> In the event that this PILOT is not extended by the IDA, the School District must be kept whole for the payments it is scheduled to receive for the 2019 fiscal year, i.e. the second half of the 2018-2019 school year and the first half of the 2019-2020 school year. Provisions to keep school districts whole with firm dates for payment should be included in the PILOT agreements.

<sup>2</sup> It should be noted that the first three years of the existing 10-year 2008 PILOT were also frozen. If the PILOT is extended, these properties would have benefitted from at least 6 years of frozen payments. These benefits are to the advantage of the property owner and to the detriment of the School District and its taxpayers.

would negatively impact the School District's finances and stream of revenue and be shifted to the other tax payers located within the School District.

The same analysis can be applied for the additional parcel of property that the applicant is seeking a tax abatement for, which is located at 425 Underhill Blvd. (Section 15: Block: 169, Lot 12). According to the application, this property would be utilized for warehouse purposes. The cumulative loss in tax revenue for this new property proposed to be added to the proposed extended PILOT is approximately \$224,654. This amount would likewise be shifted to the other tax payers located within the School District and negatively impact the School District, the recipient of the school tax revenue generated from this property and the largest stakeholder of PILOTs as discussed further herein.

Year	Proposed Extended PILOT for Section: 15, Block: 169, Lot: 12	Amount of Total Taxes to be paid <u>without</u> PILOT assuming an annual increase of 2%	Difference between Proposed PILOT payment and Amount of Taxes Without PILOT
1	\$354,281	\$361,367	\$7,086
2	\$354,281	\$368,594.14	\$14,313
3	\$354,281	\$375,966.02	\$21,685
4	\$360,800	\$383,485.34	\$22,685
5	\$367,439	\$391,155.05	\$23,716
6	\$374,200	\$398,978.15	\$24,778
7	\$381,085	\$406,957.71	\$25,873
8	\$388,097	\$415,096.87	\$27,000
9	\$395,238	\$423,398.80	\$28,161
10	\$402,510	\$431,866.78	\$29,357
	<b>Total PILOT Payments : \$3,732,212</b>	<b>Total Taxes: \$3,956,865.67</b>	<b>Delta: \$224,654</b>

The cumulative loss of tax revenue by virtue of the property under the existing PLOT not returning to the tax roll at the conclusion of the PILOT term on December 31, 2019, coupled with the removal of additional property from the tax roll is significant and amounts to in excess of \$18 million.

2. **Does the PILOT payment keep pace with inflation?** No. School districts are subject to the State property tax cap under Education Law 2023-a, for which the base calculation is the rate of 2% or the rate of inflation, whichever is less. Should the tax cap calculation exceed 2% due to inflation and other factors, the PILOT schedule for these properties will not keep pace with other taxpayers in the School District.

In this case, the payments would be frozen for the first three (3) years of the PILOT and increase by only 1.84% per year for the remaining seven (7) years, falling significantly short of the annual two percent (2%) increases contemplated by the tax levy cap law. One need only look to the 2008 PILOT agreement for an example of this, where the current year *pro forma* tax of the four lots subject to that agreement is roughly \$3.7 million, but the current year PILOT payment as per the 2008 PILOT schedule is only \$2.3 million. The 2008 PILOT agreement payment schedule also includes multiple-year freezes and subsequent increases at less than 2 percent, causing this substantial deficit from what property tax payments would have been absent the agreement. A continuation of that pattern again forces the remainder of the School District's taxpayers to make up the difference and bear

the burden of subsidizing this business enterprise, while also decreasing the amount by which the School District can increase its levy to keep up with the rates of inflation for its operational purposes.

3. **Does the PILOT payment decrease the amount that the School District can increase its tax levy?** Yes. In addition to the reduction of the allowable levy growth factor resulting from the inclusion of additional PILOTs in the School District's tax levy limit calculation, property that is subject to a PILOT agreement may not be included in the School District's tax base growth factor calculation. Generally, a school district may be able to account for "new growth" in its tax levy limit calculation under limited circumstances. Pursuant to the tax levy limit formula, the District is allowed to raise additional revenue through taxes when the "quantity change factor" positively impacts the tax base growth factor. This factor is included in the tax cap legislation to allow the District to raise revenue to offset growth in the community should it occur. Pursuant to the calculation, after the District determines its prior year tax levy, it is then required to multiply that amount by the tax base growth factor. If a tax base growth factor has been reported to the local government by the Commissioner of Tax and Finance, the total amount of taxes levied for the prior year is to be multiplied by the growth factor. However, because property subject to a PILOT agreement is not included in the tax base growth factor, the new growth, in this case the proposed expansion of a commercial operation, never benefits the community from a tax revenue perspective. In fact, it is possible for PILOT agreements to reduce the District's baseline tax levy.

Legislation proposed in 2018 would have changed the law to allow for developments subject to a PILOT agreement to be included in the quantity change calculation as support for the financial benefits the Proposed Project will have on the District. However, the legislation was ultimately vetoed by Governor Cuomo, meaning that the law as it currently exists continues to exclude property that is the subject of a PILOT agreement from the tax base growth factor calculation. Hence, the School District is likewise further negatively impacted by the proposed PILOT agreement.

4. **Does the PILOT payment account for a fair share of any new debt the School District may incur?** The overwhelming majority of the Syosset Central School District's physical plant is over sixty (60) years old. The proposed PILOT agreement and extension would be for an additional ten (10) years beyond the expiration of the current 2008 PILOT Agreement.

In 2018, the Board of Education and School District voters approved several projects to improve School District facilities, to be funded by debt issued by the School District. Nothing in the application for financial assistance contemplates this property bearing its fair share of this debt in the same way in which every other Syosset taxpayer will contribute their fair share. Rather, the proposed PILOT agreement and extension would essentially shield this property from any share of the responsibility for the costs for facility improvements, leaving it to be borne by other taxpayers in the School District.

5. **Does the Camoin Report accurately reflect the benefits received from this proposed project, i.e. "new" PILOT?** No. The Camoin Report is flawed on several fronts. First, it presumes that since the applicant "would consider" moving current operations outside of Nassau County without assistance from the IDA<sup>3</sup>, that the existing 1061 jobs should be considered "net NEW jobs" for purposes of the economic analysis. This is illusory and grossly mischaracterizes the benefits to be received by this application. The Applicant has already benefitted from the grant of the first PILOT on the same grounds. In addition, if the IDA assumes 1061 net new jobs, then it must also assume that the property will remain completely vacant for the 10 years after the Applicant leaves Nassau County. The analysis "nets" the "new" jobs, which were allegedly created under the first PILOT, against an alternative of -0- jobs. At a minimum, the delta between the number of employees the Applicant will continue to employ at the property and the number of employees to be added to the warehouse addition, if approved, should be utilized, at least for comparative purposes. The Camoin Report is silent on this issue and has failed to include any analysis of another use of the property should the Applicant relocate its current operations. Additionally, the Camoin Report does not include any specific fiscal impact analysis for the School District, although it is the recipient that receives the largest share of property taxes and PILOTs.

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<sup>3</sup> See Camoin Report at p. 1.

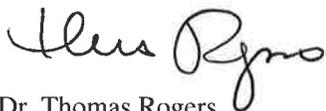
In addition, the Board of Education has expressed concern that school districts generally are afforded insufficient opportunity to perform due diligence on tax abatements issued through the Industrial Development Agency (IDA) via PILOTS. In the past, the Board has taken a position in support of New York State School Boards Association proposals to amend Article 18-A of the General Municipal Law to permit school districts to be necessary parties to PILOT applications. Doing so would better enable the School District to perform its role to evaluate and inform its residents of the impact any such abatements might have on future revenue streams to the District.

Finally, no PILOT agreement should be structured in such a way that the applicant should be permitted to terminate the PILOT mid-year and forego the second installment of their agreed upon annual PILOT payment. Doing so would allow the applicant to essentially absolve itself of a portion of its full property tax responsibility and would cause an immediate revenue shortfall in the current year School District budget.

The School District expressly reserves all of its rights regarding this application for financial assistance and the proposed PILOT/PILOT structure, including but not limited to, its right to submit additional comments to the IDA once it receives and evaluates the documents requested.

Thank you for your attention to this matter. In the event you wish to discuss any of these issues, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas Rogers", written in a cursive style.

Dr. Thomas Rogers  
Superintendent of Schools  
Syosset Central School District