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May 13, 2020

VIA ELECTRONIC MAIL ONLY

Frank Pestana, Chairman
Hudson County Improvement Authority
830 Bergen Avenue
Jersey City, NJ 07306

Re: Resolution No. 5-2020-8
Resolution No. 5-2020-10

Dear Chairman Pestana:

This letter is submitted in opposition to the above resolutions which are contained on the HCIA agenda for its meeting of May 13, 2020 at 5:30 p.m. Pursuant to the instructions on your website, this letter has been submitted to Michael O'Connor as written comment for the record. My clients are the owners of the property which you seek to take by eminent domain pursuant to the above resolutions. WTFK Bayonne Propco LLC is the owner of the Bayonne parcel identified in resolution No. 5 – 2020 – 8. SB Hoboken Propco is the owner of the Hoboken parcel identified in Resolution No 5 – 2020 – 10 (together “Owners” or “Owner”) (An entity related to my clients is also a minority member in the LLC which owns the property referenced in Resolution No. 5-2020-9). For the reasons set forth below, the Owner believes that there exists ample present opportunity for all parties to achieve their goals without resort to the extreme, time-consuming and litigious alternative of condemnation.

The goal of the Owners is to maintain both properties as acute-care hospitals. Due to accounts in the press and other statements we have heard, there has apparently been some myth created that the Owner’s intention is to have the Bayonne and Hoboken properties converted to some other use. This is not true and by this letter we aim to make clear to each member of the Hudson County Improvement Authority (“HCIA”) and the Hudson County Board of Freeholders that the Owners share the goal of continuing acute-care hospitals in both locations.

The Owner is ready willing and able to work with a responsible hospital operator as its new tenant in Bayonne and Hoboken. Before condemning the hospital properties and selecting a replacement tenant to operate the hospitals, the HCIA should engage in discussions with the Owner about securing replacement tenants. While the current tenant in each location, CarePoint, is in apparent financial distress and has, to our knowledge, been unable to find a buyer for its assets, there are suitable replacement tenants in the market. Indeed the Owner is aware of at least one such potential replacement licensee. Moreover, the Owner hereby proposes to enter direct conversations with the HCIA, as well as the New Jersey Department of Health, toward the installation of a replacement tenant for CarePoint in both Bayonne and Hoboken. In the words of Freeholder Bill O’Dea, the use of eminent domain should only be employed “if every other option fails.” It would thus seem prudent that the HCIA should discuss potential options directly with the Owner prior to unnecessarily spending taxpayer dollars.

The use of eminent domain on the Bayonne and Hoboken properties is as needless as it is expensive. Condemnation will unnecessarily interfere with the existing hospital leases between Owner and CarePoint. In the midst of a looming public financial crisis it is unnecessary for HCIA to incur the debt required to pay fair market value for Bayonne and Hoboken. Indeed, the history of New Jersey counties in the hospital business has not been characterized by success. That at this day and age a New Jersey county would seek to reenter the acute-care hospital business seems profoundly misguided, particularly when there is a private solution staring it in the face.

It is also time for the HCIA to take an appropriately objective look at CarePoint, the failing tenant in Bayonne and Hoboken, and start asking some tough questions. After all, it is CarePoint which once owned the Bayonne and Hoboken properties and sold them to a REIT from Alabama and pocketed the sales price. How ironic it is that the HCIA is now being used to “buy them back” with taxpayer dollars. And of course – as everyone knows – this is the same CarePoint that was the subject of a scathing report of the State Commission of Investigation just one year ago that found that the owners of CarePoint had siphoned a staggering \$150 million in suspect “management fees” from the operations of Bayonne and Hoboken (and Christ Hospital in Jersey City). Yet the HCIA appears to be ready to ignore all this history in the rush to condemn the Bayonne Medical Center and Hoboken University Medical Center properties.

There are other questions that require further due diligence before the HCIA should act upon condemnation. For example, the CarePoint system recently received in excess of \$76 million dollars in federal relief aid for COVID-19 related services. That is in addition to other dollars received from the CARES Relief program, as well as services they billed for during this time (<https://njbiz.com/heres-njs-largest-hospitals-got-federal-covid-19-relief-aid/>). Prior to the HCIA authorizing the use of taxpayer dollars, the public should be in a position to understand the finances of CarePoint. Secondly, Resolution No. 5 – 2020 – 8 and resolution No. 5 – 2020 – 10, which involve property only owned by the Owner, in both cases seek to condemn properties that are ancillary to the operation of acute care hospital itself. Resolution No. 5 – 2020 – 9, on



the other hand, which seeks authority to condemn property owned by an affiliate of the Owner, as well as CarePoint, limits the condemnation to the lot and block upon which the acute hospital is located. It does not even include the hospital parking lot. Thus it would seem that the Owner's property in Bayonne and Hoboken is being treated differently.

My client seeks to put this entire matter on the path to resolution and a continued future of acute-care hospitals in Bayonne and Hoboken – without the use of eminent domain. That being said, the taking of private property by eminent domain is one of the most extreme actions a government can take. Rest assured that my client is prepared to stand up to your condemnation threat if a successful business deal cannot otherwise be reached.

Based on the foregoing, I urge you to vote no on resolution No. 5 – 2020 – 8 and resolution No. 5 – 2020 – 10.

Respectfully submitted,

GENOVA BURNS LLC

/s/ Angelo J. Genova

ANGELO J. GENOVA

AJG/tt

cc: William J. Netchert, Esq., General Counsel, Hudson County Improvement Authority
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Commissioners of The Hudson County Improvement Authority
Hudson County Board of Chosen Freeholders
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