

STRICKEN AS OF END OF YEAR

Intro. Res. No. 1817-2013
Introduced by Legislators Kennedy and Cilmi

Laid on Table 10/8/2013

**RESOLUTION NO. -2013, TERMINATING A CERTAIN
CONTRACT WITH COMMUNITY HOUSING INNOVATIONS TO
PROVIDE HOMELESS SHELTER SERVICES**

WHEREAS, the County of Suffolk is charged with providing shelter to homeless individuals and families within its borders; and

WHEREAS, Chapter 438 of the SUFFOLK COUNTY CODE limits the number of families a homeless shelter location can serve at once to a maximum of twelve; and

WHEREAS, the Department of Social Services recently awarded a contract to Community Housing Innovations, Inc. ("CHI") for shelter services to be provided within the hamlet of Hauppauge in the Town of Smithtown; and

WHEREAS, this shelter currently houses 96 families, a capacity far in excess of the maximum established in the County Code; and

WHEREAS, the County should terminate its contract with CHI for this location, as it is in violation of the County Code; now, therefore be it

1st RESOLVED, that the County's contract with Community Housing Innovations, Inc. for shelter services to be provided in the hamlet of Hauppauge, Town of Smithtown, as described herein, is hereby terminated; and be it further

2nd RESOLVED, that the Department of Social Services is hereby directed to notify CHI of the contract's termination; and be it further

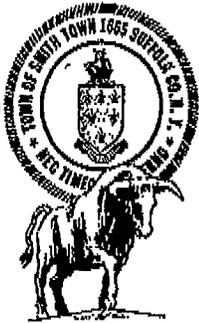
3rd RESOLVED, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20), (21) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:



1817

TOWN OF SMITHTOWN

OFFICE OF THE TOWN ATTORNEY
JOHN B. ZOLLO
TOWN ATTORNEY

SUPERVISOR
PATRICK R. VECCHIO

TOWN COUNCIL
THOMAS J. MCCARTHY
EDWARD R. WEHRHEIM
ROBERT J. CREIGHTON
KEVIN J. MALLOY

November 7, 2013

VIA FACSIMILE ONLY (631) 854-3744

John M. Kennedy, Jr.
Suffolk County Legislator
735 Veterans Memorial Highway
Building 17
Hauppauge, NY 11788

Re: Homeless Shelter on Moreland Road

Dear Legislator Kennedy:

As you will recall, at your request and with Town Board approval, I was asked to render an opinion whether the use of the former Howard Johnson motel, located on Moreland Road, as a homeless shelter is consistent with its current special permitted use as a motel. The initial question concerns the use of the motel as a homeless shelter. This property in 1971 was granted a special exception permit by the BZA for the use of the property as a motel. It appears that the motel was given a Certificate of Occupancy sometime in 1972.

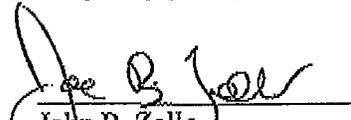
A motel is defined in the Town Code as a... "building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units, with direct outside access... designed primarily for transient automobile travelers..." Town Code §322-3. As you can see, the principal component of a "motel" is its "transient" status. By definition, transient generally means something that is temporary. It usually refers to occupancy of property for rent to others such as hotels and other places of lodging. Transient occupancy implies it is the intention of the parties that occupancy will be temporary. Based upon the grant of a special permit for the use of the property as a motel, the Town Code definition of motel and the definition of transient, it seems that the use of the facility as a homeless shelter is inconsistent with the Town zoning ordinance and the current use of the property as recognized by the Town of Smithtown.

Community Housing Innovations ("CHI") has applied to the New York State Office of Temporary and Disability Assistance ("NYSDOTDA") to use the Howard

Johnson as a Tier II facility. See, 18 NYCRR 900.2. Definitions. The Town, to the best of my knowledge, was never notified of the application. A Tier II facility is defined as a facility that services 10 or more homeless families which includes private rooms, etc., 18 NYCRR 900.2.(c)(2). It is my understanding that this facility is housing more than 90 families. Pursuant to Chapter 438 of the Suffolk County Code, "EMERGENCY SHELTERS", specifically §438-3 entitled, "Siting procedure; operating conditions" subdivision F.(4) "a facility shall not be occupied by more than 12 families receiving services (i.e., exclusive of providers)." Further, pursuant to §438-3.D. "[a] congregate emergency shelter shall comply with local zoning and building codes where required by applicable law subject to the provisions of §438-8....". §438-8 allows the shelter 60 days from the date of notification of the zoning ordinance violation to correct the condition. If CHI fails to comply, the contract shall be terminated by the County Department of Social Services and all payments by the department shall then cease. Suffolk County Code §438-8.

Based upon the review of our zoning code, the New York Code of Rules and Regulations, and the Suffolk County Code, the current use of the facility as a homeless shelter for more than 12 families is inconsistent with the Town's zoning ordinance and the County code.

Very truly yours,


John B. Zollo
Town Attorney

JBZ/lt

cc: *VIA EMAIL ONLY*
Supervisor Patrick R. Vecchio
Members of the Town Board
Frank DeRubeis, Planning Director
John Valentine, Director of Public Safety