

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Council Members

FROM: Scott D. Pickup, City Manager

SUBJECT: Enclosures - Council Packet

DATE: September 20, 2013

Enclosed with this memorandum are the following items:

- 9-12 Notice from Westchester County regarding a Public Hearing to be held on Wednesday, October 2, 2013 beginning at 11:00 a.m. at Rye City Hall to discuss a resolution to provide \$12 million in tax-exempt bond financing from the Westchester County Industrial Development Agency (IDA) to Rye Manor LLC to renovate Rye Manor, an affordable senior housing development located at 300 Theall Road in Rye.
- 9-13 Notice from the New York State Department of Public Service regarding a Public Hearing to be held on Thursday, October 10, 2013 beginning at 5:30 p.m. at the Yonkers Public Library to seek public comments on a proposal from Consolidated Edison to increase electric, gas and steam revenues effective January 1, 2014.
- 9-14 Legal Department Update from the Corporation Counsel dated September 20, 2013.
- 9-15 Notice from Westchester County regarding a *Senior Health Fair* to be held on Wednesday, September 25, 2013 from 10:30 a.m. to 2:00 p.m. at the Somers Public Library.
- 9-16 Notice from Lincoln Janus, Verizon Franchise Service Manager, regarding upcoming channel and programming changes to the FiOS® TV channel line-up.
- 9-17 Meeting notice for the week of September 23, 2013 is available on the City website www.ryeny.gov under Calendar.

Stephen J. Hunt
Chairman

James Coleman
Executive Director

September 12, 2013

Hon. Douglas H. French
Mayor
City of Rye
1051 Boston Post Road
Rye, New York 10580

Re: Public Hearing Notice

Project: Rye Manor LLC
300 Theall Road
Rye, New York

Dear Mayor French:

Pursuant to Section 147(f) of the Internal Revenue Code of 1986, and Article 18-A of the New York State General Municipal Law, the County of Westchester Industrial Development Agency will hold a public hearing on October 2nd at 11:00 a.m. at Rye City Hall, 1051 Boston Post Road Rye, New York.

Enclosed is a copy of the public hearing notice which will be published in The Journal News on September 13, 2013.

Sincerely,



James Coleman
Executive Director

Enclosure

Westchester Industrial
Development Agency

Michaelian Office Building, Room 903
White Plains, New York 10601

Telephone: (914) 995-2926 Fax: (914) 995-3044

Website: westchestergov.com

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a and Article 18-A of the New York State General Municipal Law and Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") will be held by the **COUNTY OF WESTCHESTER INDUSTRIAL DEVELOPMENT AGENCY** (the "Issuer") on the 2nd day of October, 2013 at 11 a.m., local time, at Rye City Hall, 1051 Boston Post Road Rye, New York 10580, in connection with the following matter:

RYE MANOR LLC, a New York limited liability company with offices at 700 White Plains Road, Suite 363, Scarsdale, New York 10583, (the "Company") has submitted an application (the "Application") to the Issuer, copies of which were presented at this meeting and a copy of which is on file at the office of the Issuer, requesting that the Issuer issue its Multi-Family Housing Agency Debt Obligations (Rye Manor LLC Project) in a principal amount not to exceed \$13,000,000 (the "Bonds") for the purpose of financing a certain project (the "Project") consisting of: (1) the acquisition of title to or a leasehold interest in land located at 300 Theall Avenue, Rye, New York (the "Land") and the existing improvements located thereon, consisting principally of the 3 and 4 story, 100-unit existing senior resident housing complex (the "Existing Improvements"); (2) the renovation, reconstruction, refurbishment and upgrading of the Existing Improvements to accommodate approximately twenty-five (25) studios, seventy-four (74) one-bedroom apartments and one (1) two bedroom apartment (as so renovated, reconstructed, refurbished and upgraded, the "Improvements"), and that, in accordance with the Code, will be leased to low-income seniors; and (3) the acquisition and installation 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"); (4) the payment of certain costs and expenses incidental to the issuance of Bonds (the costs associated with items (1) through (3) above being hereinafter referred to as the "Project Costs").

If the issuance of the Bonds is approved by the Issuer, the Issuer will retain or acquire title to the Facility (or an interest therein) and lease or sell the Facility or such interest therein to the Company pursuant to a lease agreement or installment sale agreement or other similar agreement (the "Agreement"), and the Company will operate and manage the Facility during the term of the Agreement.

The Issuer is contemplating providing financial assistance to the Company with respect to the Project (the "Financial Assistance") in the form of: (1) the issuance of the Bonds, (2) an exemption from all New York State and local sales and use taxes with respect to the qualifying personal property included within the Project or used in the renovation, reconstruction, refurbishment and upgrading of the Project, (3) an exemption from all New York State and local mortgage recording taxes with respect to any qualifying mortgage on the Facility (or such interest in the Facility as is conveyed to the Issuer) to secure the Bonds, and (4) the retention of title to or a leasehold (or other) interest in the Facility by the Issuer for a period of time so as to enable the Company to enter into an agreement with the Issuer regarding payments in lieu of real property taxes (the "PILOT Agreement" and if necessary, a PILOT mortgage) with the Issuer for the benefit of each municipality having taxing jurisdiction over the Project.

If the issuance of such Bonds is approved by the Issuer, (i) it is intended that interest on such Bonds will be excluded from gross income for Federal income tax purposes, pursuant to Section 103(a) of the Code, (ii) the Company shall make payments sufficient to fund debt service on the Bonds and make certain other payments, and (iii) the Bonds will be special limited obligations of the Issuer payable solely from certain of the proceeds of the agreement and certain other assets of the Issuer pledged to the repayment of the Bonds.

Under the Code, approval of the issuance of the Bonds by the County Executive of Westchester County is necessary under Section 147(f) of the Code in order for the interest on the Bonds to be excluded from the gross income for federal income tax purposes.

THE BONDS SHALL NOT BE A DEBT OF THE STATE OF NEW YORK OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING WESTCHESTER COUNTY, AND NEITHER THE STATE OF NEW YORK NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING WESTCHESTER COUNTY, SHALL BE LIABLE THEREON.

The Issuer will at said time and place provide a reasonable opportunity to all interested persons to present their views, either orally or in writing, on the location and nature of the Facility, the proposed plan of financing for the Facility by the issuance from time to time of the Bonds, or the proposed tax benefits to be afforded the Company in connection with the Project. A copy of the Application is available at the office of the Issuer for review by interested persons.

Individuals and representatives of organizations who desire to present oral testimony at the public hearing are requested to provide their names, addresses and telephone numbers, as well as the organization they represent (if any), by telephone to James Coleman at (914) 995-2963 by the close of business on September 27, 2013. Individual testimony will be limited to 5 minutes and the Issuer requests five (5) copies of such oral testimony be provided to the Executive Director, James Coleman, at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601. Written comments can be submitted prior to the hearing at the address given above.

This public hearing is being conducted in accordance with Section 147(f) of the Code.

DATED: September 13, 2013

COUNTY OF WESTCHESTER INDUSTRIAL
DEVELOPMENT AGENCY

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

www.dps.ny.gov

PUBLIC SERVICE COMMISSION

AUDREY ZIBELMAN

Chair

PATRICIA L. ACAMPORA

GARRY A. BROWN

GREGG C. SAYRE

DIANE X. BURMAN

Commissioners



PETER MCGOWAN

General Counsel

KATHLEEN H. BURGESS

Secretary

September 19, 2013

Dear Community Leader and Elected Official:

On October 9 and October 10, 2013, the New York State Public Service Commission will hold public statement hearings to seek public comments on a proposal by Consolidated Edison Company of New York, Inc. to increase electric, gas and steam revenues effective January 1, 2014. *A summary of the plan is provided in the attached fact sheet.*

The Commission recently announced that it will hold the public statement hearings to seek public comments from customers on "Cases 13-E-0030 (Electric), 13-G-0031 (Gas) & 13-S-0032 (Steam) – Consolidated Edison Company of New York, Inc. – Electric, Gas and Steam Rates." The date, time and location for the public statement hearings are as follows:

PUBLIC STATEMENT HEARINGS

New York City - October 9, 2013

5:30 pm

NYS Public Service Commission

90 Church Street

4th Floor - Boardroom

New York, NY

Yonkers - October 10, 2013

5:30 pm

Yonkers Public Library – Riverfront

Library Branch - Auditorium

One Larkin Center

Yonkers, NY

The enclosed fact sheet also provides detailed information on how to participate in the public statement hearings and available options to submit comments on the case. I would appreciate your assistance in making people in your area aware of the hearings.

Thank you.

Sincerely,

Douglas Elfner

Director

Office of Consumer Policy

Enclosure



**Summary of Con Edison Rate Cases:
13-E-0030 Electric, 13-G-0031 Gas and
13-S-0032 Steam Delivery Rates**

PSC Seeking Public Comment

The New York State Public Service Commission seeks public comments on a proposal by Consolidated Edison Company of New York, Inc. to increase electric, gas and steam revenues effective January 1, 2014.

It is not necessary to be present at the start of the public statement hearing, or to make an appointment in advance, or to present written material in order to speak at the hearing. *Persons* will be called to speak after completing a request card. The hearings will remain open and will continue until everyone wishing to speak has been heard or other reasonable arrangements have been made. A verbatim transcript of the hearing will be made for inclusion in the record.

Disabled persons requiring special accommodations may call the Department of Public Service's Human Resources Management Office at 518-474-2520. TDD users may request a sign language interpreter by placing a call through the New York Relay Service at 711. Individuals with difficulty understanding or reading English are encouraged to call the Commission at 1-800-342-3377 for free language assistance services regarding this fact sheet.

All statements transcribed at the public statement hearing and all other comments received by the Commission will become part of the record, and will be reported to the Commission for its consideration. All such comments will be posted for public viewing on the Commission's website, at www.dps.ny.gov.

Public Statement Hearing

**New York City - October 9, 2013
5:30 pm
NYS Public Service Commission
90 Church Street
4th Floor – Boardroom
New York, NY**

Public Statement Hearing

**Yonkers - October 10, 2013
5:30 pm
Yonkers Public Library – Riverfront
Library Branch - Auditorium
One Larkin Center
Yonkers, NY**

Background

On January 25, 2013, Consolidated Edison Company of New York, Inc. (Con Edison) filed a request with the New York State Public Service Commission (Commission) for approval of a major change in the amount of revenues it collects from customers through the rates they pay for electric, gas and steam delivery service.

Summary of Company's Request

Con Edison proposes to increase its electric service rates and charges by approximately \$419.9 million, its gas service rates and charges by approximately \$24.3 million, and its steam service rates and charges

by approximately \$10.2 million, for the 12-month period beginning January 1, 2014. The proposed revenue increases equate to 8 percent, 2.5 percent and 2.3 percent increases respectively in electric, gas and steam delivery revenues. Overall electric, gas and steam customer bills would increase respectively by 3.7 percent, 1.3 percent, and 1.6 percent. Con Edison identifies the main causes of its requests to increase delivery service revenues to be increases in planned infrastructure investments, pension and healthcare costs, cost of capital, depreciation costs, and operating expenses.

Under New York State Law, the Commission must consider a utility's proposal and may adopt or reject it in *whole or in part, or adopt changes not proposed by the Company*. Administrative Law Judges are presiding over the gathering of public comments and all evidence relating to the proposal.

Department of Public Service (DPS) Staff and other parties have evaluated the facts and circumstances of Con Edison's requests and made their own proposals to the Commission that the revenues to be collected from customers should be substantially lower than the level of revenues requested by Con Edison.

The Commission seeks public comments concerning Con Edison's proposals. Interested members of the public may comment as noted below. Your comments should refer to "Cases 13-E-0030 (Electric), 13-G-0031 (Gas) & 13-S-0032 (Steam) – Consolidated Edison Company of New York, Inc. – Electric, Gas and Steam Rates."

Other Methods for Commenting on the Case

- **Via the Internet or In Writing:** Those who cannot or do not wish to attend a public statement hearing may submit comments electronically to Hon. Kathleen H. Burgess, Secretary, at secretary@dps.ny.gov or by mail or delivery to Secretary Burgess at the Department of Public Service, Three Empire State Plaza, Albany, New York 12223-1350. Comments may also be entered directly into the case by locating the case via the home page of the Commission's website, www.dps.ny.gov, by clicking on "Search," and entering 13-E-0030 in the "Search by Case Number" field. In the open case, enter comments in the "Post Comments" located at the top of the page. Comments should refer to "Cases 13-E-0030 (Electric), 13-G-0031 (Gas) & 13-S-0032 (Steam) – Consolidated Edison Company of New York, Inc. – Electric, Gas and Steam Rates." Many libraries offer free internet service.
- **Toll-Free Opinion Line:** Individuals may choose to submit comments by calling the Commission's toll-free Opinion Line at 1-800-335-2120. This line is set up to receive in-state calls 24-hours a day. Callers should press "1" and select the choice for water to leave comments about Cases 13-E-0030 (Electric), 13-G-0031 (Gas) & 13-S-0032 (Steam) – Consolidated Edison Company of New York, Inc. – Electric, Gas and Steam Rates."

Comments submitted via these alternative means are requested by October 11, 2013

**CITY OF RYE
MEMORANDUM**

TO: Honorable Mayor and Rye City Council
FROM: Kristen K. Wilson, Corporation Counsel
SUBJECT: Litigation Update
DATE: September 20, 2013

TAX CERTIORARI

CARROLL v. CITY OF RYE

A Notice of Appeal in this matter was filed in the Appellate Division, Second Department.

THE TOWN OF RYE AND THE RYE TOWN PARK COMMISSION v. THE ASSESSOR and Board of Assessment Review of the CITY OF RYE

A Notice of Appeal has been filed in connection with this matter.

WESTCHESTER JOINT WATER WORKS v. CITY OF RYE

Counsel for Westchester Joint Water Works and the City of Rye have both filed a notice of appeal. The appeals will be fully submitted by early October.

LITIGATION

BEAVER SWAMP BROOK – (DEC Administrative proceeding)

The Town/Village of Harrison has decided to retain outside counsel on this matter – Thomas Fucillo, Esq. from Syracuse. Discovery is still on-going and the adjudicatory hearing will be during the weeks of November 4, 11 or 18th.

BASSETT v. CITY OF RYE

The Appellate Division, Second Department issued a decision reversing the lower court decision of Judge Berliner that set aside the jury verdict and remitted the matter back to him to consider whether a new trial should be granted.

CASPI v. CITY OF RYE

The Court has granted extensions for filing motions and responses. Motions for Summary Judgment must be filed and served on or before August 30, 2013. Opposition papers must be served and filed by October 16, 2013 and Reply papers by November 14, 2013.

DELLI PAOLI V. ZONING BOARD OF APPEALS

The Board of Appeals reaffirmed the Board of Architectural Review's decision to deny the application at their May meeting.

PANETTA v. PLANNING COMMISSION (declaratory judgment/42 U.S.C. 1983 claim)

I attended a settlement conference on July 18, 2013. A trial date has been calendared for February 4, 2014.

BUTLER v. PLANNING COMMISSION

The City's reply brief was filed and served on June 10, 2013. This matter is fully submitted.

BOARD OF MANAGERS OF THE IVES AT RYE v. CITY OF RYE

The City has served its Answer with Affirmative Defenses.

CITY COURT

People v. Chittenden

A conference was held with Judge Hansbury and a trial date of October 31, 2013 has been scheduled.

Respectfully submitted,



Kristen K. Wilson
Corporation Counsel

KKW/dfn



Senior Health Fair SOMERS PUBLIC LIBRARY

WHEN: WEDNESDAY, SEPT. 25TH

TIME: 10:30AM TO 2PM

**Come to this interesting and informative Fair
where you will meet exhibitors and professionals who specialize
in helping older adults in Westchester age in place**

ADMISSION IS FREE

REFRESHMENTS WILL BE SERVED



Sponsored by:





Dear Municipal Official,

This is to notify you of FiOS® TV programming changes.

On or after December 19, 2013, channel 1750 will be removed from the FiOS® TV channel line-up. The current programming on channel 1750, "Al Jazeera America" will continue to be available on channel 114. Customers will be notified by means of a bill message in the October bill cycle.

The following programming changes impact FiOS® TV customers who receive "RISE TV" or "WRNN-TV 48" on channel 481. Customers will be notified by means of a bill message in the October bill cycle.

- On August 22, 2013, the content provider changed the programming on channel 481, from "RISE TV" to "WRNN-TV 48," an independent TV station broadcasting a schedule of local news, talk shows, syndicated programming, and infomercials.
- On or after December 2, 2013, the content provider will change the programming on channel 481 to "FRANCE 24," a non-stop international news channel, which broadcasts 24/7 in English from its newsroom in Paris, France, giving a French perspective on global affairs.

On or after September 23, 2013, channel 160, "Style" becomes "Esquire Network" featuring a wide variety of content including programming about gaming and technology, entertainment, food, fashion, women, humor and travel. Customers are currently being notified by means of an onscreen Message Center Notice. Customers will also be notified by means of a bill message in the November bill cycle.

On or after October 1, 2013, channel 191, "G4" will be discontinued. "G4" programming will continue to be available on FiOS Free on Demand. Customers are currently being notified by means of an onscreen Message Center Notice. Customers will also be notified by means of a bill message in the November bill cycle.

Sample notification attached.

Access to the FiOS® TV channel lineup is available 24/7 by visiting us online at verizon.com/fiostvchannels.

Should you or your staff have any questions, please contact me or Lincoln Janus on 312-260-3503.

Rich Hillstrom
205 North Michigan Av., 7th Floor
Chicago, IL. 60601
312-260-3220 (office)



FiOS® TV Channel and Programming Changes

On or after December 19, 2013, channel 1750 will be removed from the FiOS® TV Channel Line-up. The current programming on channel 1750, "Al Jazeera America" will continue to be available on channel 114.

The following programming changes impact FiOS® TV customers who receive "RISE TV" or "WRNN-TV 48" on channel 481:

- On August 22, 2013, the content provider changed the programming on channel 481, from "RISE TV" to "WRNN-TV 48", an independent TV station broadcasting a schedule of local news, talk shows, syndicated programming, and infomercials.
- On or after December 2, 2013, the content provider will change the programming on channel 481 to "FRANCE 24", a non-stop international news channel, which broadcasts 24/7 in English from its newsroom in Paris, France, giving a French perspective on global affairs.



FiOS® TV Channel and Programming Changes

On or after September 23, 2013, channel 160, "Style" becomes "Esquire Network" featuring a wide variety of content including programming about gaming and technology, entertainment, food, fashion, women, humor and travel.

On or after October 1, 2013, channel 191, "G4" will be discontinued. "G4" programming will continue to be available on FiOS Free on Demand.