

Town of Yorktown
Planning Board
April 11, 2011

RESOLUTION

WHEREAS, an application for site plan approval dated June 21, 2010 was submitted to the Planning Board of the Town of Yorktown on behalf of Retail Store Construction Co., Inc, C/o Breslin Realty Development, 500 Old Country Road, Garden City, NY 11530 (the "**Applicant**") in connection with proposed development of a Costco Wholesale Retail Store at Section 26.18, Block 1, Lots 17, 18 and 19 and Section 26.19, Block 1, Lot 1, in the Town of Yorktown (the "**Application**"); and

WHEREAS, according to Schedule A of the Application, the owners of record (collectively, the "**Record Owners**") are as follows: (i) 3220 Crompond, Ltd. ("**Crompond**") (ii) Best Rent Properties 202, LLC ("**Best Rent Properties**") and (iii) Jhonny Herrera ("**Herrera**"); and

WHEREAS, Section 195-40.C of the Municipal Code of the Town of Yorktown requires that if an application is submitted by an entity other than the owner(s) of property which is the subject of such application , the owner(s) of such property must consent to such application; and

WHEREAS, owner affidavits were executed by agents on behalf of Crompond and Best Rent Properties on June 24, 2010 and June 25, 2010, respectively, and by Herrera on June 23, 2010, all of which affidavits were attached to the Application; and

WHEREAS, on April 4, 2011 the Yorktown Planning Board received a letter dated March 31, 2011 by Sammy El Jamal, as President of Best Rent Properties (the "**March 31 El Jamal Letter**"), stating that there is a dispute between Best Rent Properties and the Applicant and further stating that the Applicant has no standing to process the Application on behalf of Best Rent Properties;

WHEREAS, on April 7, 2011, the Yorktown Planning Board received a letter dated April 6, 2011 (the "**April 6 Calica Letter**") by Robert M. Calica of Rosenberg Calica & Birney LLP, Applicant's attorney, acknowledging the above-mentioned dispute, taking issue with the assertions made in the March 31 El Jamal Letter and requesting that the Yorktown Town Board and Planning Board continue to process the pending Application; and

WHEREAS, on April 11, 2011, the Yorktown Planning Board received a letter dated April 8, 2011 (the "April 8 Pirro Letter") from Albert J. Pirro, Jr. attorney for Mr. El Jamal, disputing the claims in the April 6 Calica Letter and reiterating Mr. El

Jamal's claim that the Applicant is not authorized to proceed with the Application on behalf of Best Rent Properties.

NOW, THEREFORE, BE IT RESOLVED, that the Yorktown Planning Board hereby directs staff to send a letter to the Applicant stating that the Planning Board will not further process the Application until the Applicant presents appropriate documentary evidence of undisputed authorization by Best Rent Properties for it to proceed with the Application.