

# Westchester IDA Votes Preliminary Approval of Financial Incentives for Regeneron's \$1.39 Billion Expansion of its Tarrytown Campus

## 724,000-Square-Foot Project Estimated to Create 700 Full-Time Jobs and Nearly 800 Construction Jobs, Officials Say

WHITE PLAINS

**I**n what officials say is one of the largest development projects to come before the Westchester County Industrial Development Agency (IDA), the IDA Board on Feb. 25 voted preliminary approval of financial incentives for Phase 2 of Regeneron's major expansion of its Tarrytown campus.

The 724,000-square-foot project represents a total investment by Regeneron of \$1.39 billion resulting in the creation of at least 700 new full-time jobs and nearly 800 construction jobs, according to officials.

"Today's historic vote by the IDA is an important affirmation of Westchester County's ongoing commitment to economic development and job creation. The financial incentives to be provided to Regeneron by the IDA will result in tremendous economic dividends for our County with hundreds of new construction jobs as well as hundreds of new well-paying jobs in the booming life sciences industry," said Westchester County Executive George Latimer.

"The Westchester IDA applauds Regeneron for its continued investment in our county's economy with this major expansion of its Tarrytown campus. Today's significant vote is yet another example of how the IDA is working to promote economic development in Westchester by creating, attracting and retaining jobs," said IDA Chair Joan McDonald.

The new facility would house multiple new R&D laboratories, administrative buildings, and amenities supporting the company's important work of turning groundbreaking science into much needed medicines, officials said.

The project, officials added, would encompass the design, construction and fit out of up to eight buildings, three parking garages, and a central utility plant. The project, which has received approval from the Town of Greenburgh Planning Department, would begin between April and June of this year, and is expected to be completed by the end of 2027.

According to an economic impact report prepared for the IDA by Camoin Associates, construction of the project will result in 789 jobs during the construction phase, generating \$100 million in total earnings. It is estimated that approximately 70 percent of these new earnings will be spent within Westchester County and 25 percent of that spending will generate sales tax revenue for the county. A cost benefit analysis shows that Regeneron's project will generate a return of approximately \$1.62 of county tax revenue for each \$1.00 of county incentives awarded which is at the top of the range of projects previously approved by the IDA, officials said.

Regeneron, an industry-leading biotechnology company and Westchester's largest private employer, currently has more than 3,300 full-time employees at its corporate and R&D headquarters at 777 Old Saw Mill River Road in Tarrytown. Founded and led by physician-scientists, the company has nine FDA-approved treatments and numerous product candidates in development, almost all of which were invented in Regeneron's Tarrytown laboratories. Its medicines help people with eye diseases, allergic and inflammatory diseases, cancer, cardiovascular and metabolic diseases, rare diseases and infectious diseases like COVID-19 and Ebola. Last year, Regeneron announced that it plans to invest about \$1.8 billion over six years to expand its facilities in the Westchester and the Mid-Hudson Region, officials added.

Regeneron indicated that it considered alternative sites in New Jersey for the expansion, noting that New Jersey has the highest concentration of scientists and engineers in the nation. Regeneron requested a sales tax exemption of approximately \$47.5 million and real property tax exemption of approximately \$125.3 million. In addition to the financial assistance sought from the IDA, Regeneron has been granted \$100 million in other public incentives to partially defray the cost of the proposed project capital investment, officials said.

## Realty Industry Report:

# Middle-Income Households Gain \$2.1 Trillion in Housing Wealth in a Decade

WASHINGTON, D.C.

**H**omeownership is widely recognized as the leading source of net worth among families. Housing wealth itself is primarily achieved by price appreciation gains, and the nation has seen home prices accelerate at a record pace during the course of the last decade.

A new study from the National Association of Realtors (NAR) - "Housing Wealth Gains for the Rising Middle-Class Markets" - examines the distribution of housing wealth between 2010 and 2020 across income groups and in 917 metropolitan or micropolitan areas. The study was released on Mar. 9.

NAR found that during those 10 years, nearly 980,000 middle-income households became homeowners. Within that timeframe, total housing wealth for this income group surged by \$2.1 trillion, the study said.

"Owning a home continues to be a proven method for building long-term wealth," said Lawrence Yun, the chief economist of NAR. "Home values generally grow over time, so homeowners begin the wealth-building process as soon as they make a down payment and move to pay down their mortgage."

From 2010 through 2020, 529 of 917, or 58 percent, of metropolitan and micropolitan areas gained middle-income homeowners. NAR identifies these locations as rising middle-income class housing markets, i.e., markets that saw the largest increase in middle-class owner-occupied housing units in 2020 compared to 2010, the study said.

The top 10 Rising Middle-Income Housing Markets, with at least 50,000 more Middle-Income Homeowner Households, were Phoenix-Mesa-Scottsdale (103,690); Austin-Round Rock (61,323); Nashville-Davidson-Murfreesboro-Franklin (55,252); Dallas-Fort Worth-Arlington (53,421); Houston-The Woodlands-Sugarland (52,716); Atlanta-Sandy Springs-Roswell (48,819); Orlando-Kissimmee-Sanford (35,063); Portland-Vancouver-Hillsboro (34,373); Seattle-Tacoma-Bellevue (31,284); and Tampa-St. Petersburg-Clearwater (28,979). NAR defines a middle-class homeowner as one earning an income of over 80 percent to 200 percent of the Area Median Income (AMI), the report said.

"Middle-Income Households in these growing markets have seen phenomenal gains in price appreciation," said Yun. "Given the rapid migration and robust job growth in these areas, I expect these markets to continue to see impressive price gains."

## Noteworthy Gains

As of the fourth quarter of 2021, the largest price gains (as a percent of the purchase price) over the preceding decade were in Phoenix-Mesa-Scottsdale (275.3 percent), Atlanta-Sandy Springs (274.7 percent), Las Vegas-Henderson-Paradise (251.7 percent), Cape Coral-Fort Myers (233.9 percent) and Riverside-San Bernardino-Ontario (207.6 percent), the study said.

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## Counsels' Corner

# The State's Eviction Moratorium Expires - Or Does It?

By Kenneth J. Finger, Esq., Dorothy M. Finger, Esq., Carl L. Finger, Esq., and Daniel S. Finger, Esq.

WHITE PLAINS

**T**he New York State "Eviction Moratorium" expired on Jan. 15, 2022. Landlords can breathe a sigh of relief that they can now proceed with cases that have been delayed for months and years, or can they?

The Moratorium Law provided that when a Tenant filed a Hardship Declaration (statement by the Tenant which "checked a box" that the Tenant was financially affected by COVID-19 or over 65 or subject to other health issues), any case to evict the tenant was automatically delayed, initially through May 3, 2021, then through Aug. 28, 2021 and ultimately until Jan. 15, 2022. Such a declaration was available to both residential and commercial tenants.

At first the Moratorium law did not allow the landlords any opportunity to challenge a tenant's hardship declaration. As a result the United States Supreme Court declared the law unconstitutional on Aug. 13, 2021 in the case of *Chrysaifis v. Marks*. In *Chrysaifis*, the Supreme Court said "[i]f a tenant self-certifies financial hardship, Part A of CEEFPA [the prior moratorium] generally precludes a landlord from contesting that certification and denies the landlord a hearing. This scheme violated the Court's longstanding rule of law that ordinarily 'no man can be a judge in his own case' consistent with the Due Process Clause."

This victory for Landlords was short-lived as New York State passed a new law reinstating the Moratorium on Sep. 2, 2021 and extending it through Jan. 15, 2022. The new law purportedly allowed a Landlord to challenge a Hardship Declaration in pending cases, filed by a Tenant by submitting a sworn statement requesting a hearing, and averring a good faith belief that the Tenant did not have a hardship. At the hearing the Court could then determine whether the Hardship Declaration was substantiated.

In order to start a new case where a Tenant had served a Hardship Declaration the Landlord was required to make a similar sworn statement. Additionally, when serving any notices, petitions, or the like, the Landlords were required to serve Tenants with a notice including information not only of the availability of the hardship declaration with a copy thereof, but to provide the Tenant with all of the contact information for legal services agencies in the county.

## An Important Change

Now that the "Moratorium Law" has expired, none of this is required any longer and that is an important change in circumstances as of today. However, breathing a sigh of relief may be precipitous due to the Tenant Safe Harbor Act and the surviving presumption in favor of Tenants who filed a hardship declaration that the Tenant in fact suffered a qualifying hardship. This presumption, which requires that the Landlord disprove the hardship rather than the Tenant proving it, will continue although the ability to challenge the declaration with a hearing pursuant to CEEFPA has also expired.

In addition to the Tenant Safe Harbor Act, the Emergency Rental Assistance Program (ERAP) continues to provide for a stay of any eviction cases once a tenant applies for ERAP assistance. The state stopped taking applications because funds were exhausted. Nonetheless since they have, as a result of a court case, reopened the application portal even though no funds are available, a tenant can delay proceedings by filing an application. Thus, New York State has effectively created another moratorium by another name, with seemingly no definitive end.

The Moratorium law also vacated all "default" judgments entered against Tenants either before Dec. 28, 2020 or between Aug. 13, 2021 and Sep. 2, 2021 regardless of any court or other proceedings after the entry of the default judgment - to be restored to the court's calendar only on the Tenant's request. Therefore, the Landlord, who obtained a default judgment, is put in the untenable position of not being able to continue with the eviction nor reinstate the action. With the expiration of the Act it is unclear whether Courts will restore the cases or whether Landlords will have to discontinue and recommence entirely.

## Elimination

The expiration of the Act eliminates the automatic stay of eviction proceedings upon the submission of a hardship declaration, and the court is no longer prohibited from accepting new residential eviction proceedings without the filing of both the hardship declaration and the affidavits of service associated therewith. Service of the Hardship Declaration is no longer required. It is anticipated that stayed proceedings will be restored to the active court calendars, bearing in mind that they can still be stayed pursuant to TSHA and ERAP.

However, as stated, the prior Hardship Declaration will still serve to activate the rebuttable presumption in favor of the Tenant at a hardship challenge hearing, thus continuing to put the legal "burden" on the Landlord petitioner.

Finally, many courts are limiting the number of cases on a given day. Add to this the existing backlog of cases stayed by the Moratorium, the worse than ever delays in some courts in processing restored and new cases as well as judgments and warrants, this may only be the beginning of the end with many months or more to go before Landlords in certain jurisdictions can hope to breathe a sigh of relief and have court action on their cases.

**Editor's Note:** The authors are attorneys with Finger and Finger, A Professional Corporation. The firm, based in White Plains, is Chief Counsel to The Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI) and its seven component associations.



"How Do We Get More Young Workers Into Construction, Renovation and Building Repairs?" was the topic of the Feb. 17 General Membership Meeting of The Building and Realty Institute (BRI) at the Westchester Marriott Hotel in Tarrytown. More than 50 members of the building, realty and construction industry attended the event. The BRI is a building, realty and construction industry membership organization with more than 1,800 members in 14 counties of New York State. Photo by Jeff Hanley



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