



## REALESTATE

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# Zone defense

Panel discusses limits and advantages of new opportunity zones program

By DAVID WINZELBERG

The new federal program that provides economic incentives for investment in under-performing neighborhoods could help revitalize communities while reducing investors' capital gains tax burden.

But the program's many rules and adherence to its tight time restrictions could make it tricky to navigate.

That's the takeaway from area experts who participated in a panel discussion on the new federal opportunity zones program at the Long Island Hilton in Melville on Tuesday. More than 160 people attended.

The panel event, moderated by Joe Dowd, editor and associate publisher of Long Island Business News included Steven Bokiess, a partner at Friedman LLP; Brad Blumenfeld, a principal of Blumenfeld Development Group; Laura Jens-Smith, supervisor of the Town of Riverhead; and Louis Vlahos, a partner at the Farrell Fritz law firm.

The opportunity zones program, which was enacted as part of the Tax Cuts and Jobs Act of 2017, allows individuals and businesses to defer and reduce taxes on capital gains in exchange for capital investment in certain lower-income communities across the country. On Long Island, opportunity zones are located in Hempstead, Riverhead, Central Islip, Glen Cove, Wyandanch, Huntington Station, Long Beach and North Bellport.

"These are economically distressed areas and we need to attract people to invest in these areas," said Vlahos, a specialist in tax law. "It's a great program, but it has to make sense from a business perspective."

Besides direct investment in real estate or a business located in one of the designated zones, investors can also put money into a qualified



Photo by Judy Walker

Panelists Steven Bokiess, Brad Blumenfeld, Laura Jens-Smith, Louis Vlahos and moderator Joe Dowd dissect the ins and outs of the federal opportunity zones program.

opportunity fund, which allows them to defer up to 100 percent of realized capital gain if that gain is reinvested into the fund within 180 days from the date of the asset sale.

The fund can be set up as a corporation or a partnership and must hold at least 90 percent of its assets in qualified opportunity zones. For a business to qualify, at least 50 percent of the gross income of the business must be derived from the conduct of business in the designated opportunity zone.

Bokiess said the program is a good way to defer gains from the stock market. He added that most of the interest so far has been in rental real estate.

"There's very little interest in business investment," Bokiess said.

However, real estate development in opportunity zones here is challenging, since under the program's guidelines investors have a 30-month window to complete the project.

"On Long Island, the uncertainty

of the approvals process makes it tough," said Blumenfeld. "To do a substantial project plans take nine to 12 months. It's not unusual to take two to three years for approvals then 18 to 24 months for construction. And you're up against a 30-month timeframe."

Jens-Smith, Riverhead supervisor, said it's a challenge for towns to gear up on this, though her town is trying.

"We have a 90-day approval process if you meet zoning specs," Jens-Smith said. "The goal is six months. We're working to meet the timeframe."

If the opportunity zone investment is held for seven years, then 15 percent escapes taxation permanently. But this is the last year to take advantage of that, since it only runs through 2026.

"The only way to hit that seven-year hold period is you have to make the investment in 2019, so the

clock is ticking," Bokiess said.

Still in its infancy, there are some unknowns about the program, especially in how it acts in concert with other economic incentives. The law that includes the opportunity zones program was enacted in Dec. 2017 and the first round of regulations came out in Oct. 2018.

"We're still waiting for the second round of regulations," Vlahos said. "They've got to extend it somehow."

Since the program has so many moving parts, the decision on whether to invest in opportunity zones projects or funds should probably be made in consultation with financial and legal professionals.

"Read the documents closely," Vlahos cautions. "Understand what's there and what your rights are."

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