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Suffolk County Sewer Agency Action

At the December 20, 2004 meeting of the Suffolk County Sewer Agency, the Agency took action on one project which may have far-reaching effects on any landowner, tenant, developer or governmental agency. Anyone who intends on connecting to the Southwest Sewer District in order to meet Suffolk County Department of Health requirements for new construction or expansion of an existing project will be affected.

At the December 20 meeting, conceptual certification was granted for the Heartland Town Square project. As you are aware, the Heartland Project is a project of significant proportion. It is likely to take up to 15 years to complete. In essence this project will use up nearly all the available capacity of the Southwest Sewer District.

Since there is limited additional capacity that can be allocated, the granting of this approval may have the effect of a de facto moratorium on connection to the Southwest Sewer District. This would in essence halt any development which exceeds allowable density for onsite treatment of wastewater. The County has not adopted an immediate plan to expand the plant, and we have been advised that conceptual certification will not be granted until plans have been developed for the expansion of the plant and the funding of such expansion. This process is likely to take several years.

Our firm has been approached by several clients to work with the County to address the Conceptual Certification process, review all approved applications and insure that this most recent action of the Sewer Agency does not have the effect of halting real estate development, economic development and affordable housing projects. We are in the process of forming a coalition of all interested parties to work with the County.

We have discussed the matter with the County Executive's office, and they are interested in working with us to resolve this problem. This coalition, the Sewer Allocation and Improvement Association, Inc. d/b/a SAIA, is open to all landowners, developers, engineers, business groups, governmental agencies and other interested parties. The membership fee is \$500. Our firm is acting as lead counsel to the association and will be vested with primary responsibility for direction of this task force.

If you are affected by this most recent action of the Suffolk County Sewer Agency, I urge to you to consider joining the coalition. The Heartland Town Square project is an interesting project, but it should not receive most favored nation status to the detriment of other, more immediate projects. We have every confidence that we can work out a viable solution. As with any effort of this nature, however, there is greater strength in numbers. To join the coalition, or for further information, please contact Larry Feldman at 631-367-0708 or via email at lfeldman@farrellfritz.com.

This advisory was written by Lawrence S. Feldman, Esq. Mr. Feldman is a partner in the Real Estate, Land Use, and Corporate & Banking Groups at Farrell Fritz. His practice concentrates on real estate development, land use, joint ventures, real estate brokerage law, economic development, as well as business transactions.