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JENNIFER POLOVETSKY  
COUNSEL

November 8, 2011

Ms. Jackie Ludorf  
Manhattan Community Board #8  
505 Park Avenue Suite 620  
New York, NY 10022

**RECEIVED**  
**NOV - 9 2011**  
BY COMMUNITY BOARD 8

Re: 421-a Application  
861 Lexington Avenue  
Block 1399 Lot 50, Manhattan

Dear Ms. Ludorf.

We have enclosed a copy of a 421-a application for the above referenced property.

Please contact us should you have any questions.

Sincerely,



Brett J. Gottlieb

BJG:ma  
Encl.

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November 3, 2011

**RECEIVED**

**NOV - 9 2011**

**BY COMMUNITY BOARD 8**

Department of Housing  
Preservation & Development  
421-A Tax Exemption Unit  
100 Gold Street  
New York, NY 10038

421-A

~~TEC 10083~~ S.# 46121 *HL*

861 Lexington Avenue

Manhattan Block 1399 Lots 50 and  
151

The following items of documentation are attached herewith  
pursuant to the above indicated Application:

- ( x ) Filing Fee
- ( x ) Preliminary Application Online
- ( x ) Opinion of Counsel
- ( x ) Owner's Affidavit
- ( x ) Architects Affidavit
- ( ) Appraisal
- ( x ) Building Plans
- ( ) 421-a certificate
- ( x ) Survey
- ( x ) RP 602
- ( ) Community Board Proof
- ( ) Final Application-Revised
- ( ) Architects Final
- ( ) CPA Statement
- ( ) MDR
- ( ) Rent Registration
- ( ) Other


Very truly yours,

  
Brett J. Gottlieb

2011 NOV - 3 PM 12:29

RECEIVED  
421 A&B PART B  
TAX EXEMPTION FID

025

	NYC Department of Housing Preservation and Development <span style="float: right;">Division of Housing Incentives</span>
	<b>Application for Preliminary Certificate of Eligibility for Partial Tax Exemption</b>
Mail to: NYC Department of Housing Preservation and Development 421-a Partial Tax Exemption Program, 100 Gold Street, 3rd floor, Section 3Y, New York, NY 10038 (212) 863-8540 Fax (212) 863-5899	
<b>Instructions:</b> Once you have completed filling out the application and have submitted it electronically to HPD, you must also print, sign and send a hard-copy to the 421-a Partial Tax Exemption Program at HPD along with all required affidavits and documentation. If construction commenced on or after December 28, 2007, each multiple dwelling must contain four (4) dwelling units or more (unless it is built with substantial government assistance). If construction commenced before December 28, 2007, three (3) or more dwelling units is sufficient.	



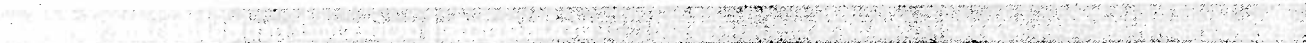
Entity Type **Limited Liability Company (LLC)**  
 Entity Name **Toll Lexington LLC**  
 Name **David Von Spreckelsen**  
 Title **Division President**  
 House No **16** Street Name **Court Street**  
 PO Box/Suite/Floor **2400**  
 City **Brooklyn** State **NY**  
 Country **USA** Zip code **11201**  
 Phone **(718) 852-5595** Fax **(718) 702-6961**  
 Email



Filing Representative Type **Entity** Company Name **Tuchman, Korngold, Weiss, Lippman & Gelles LLP**  
 Name of Contact Person  
 Name **Paul Korngold**  
 House No **6** Street Name **East 45 Street**  
 PO Box/Suite/Floor **7**  
 City **New York** State **NY**  
 Country **USA** Zip code **10017**  
 Phone **(212) 687-3747** Fax **(212) 599-4459**  
 Email **pkorngold@tkwlg.com**



<b>Commencement of construction date</b>	<b>03/05/2009</b>						
<b>Estimated Year of Construction Completion</b>	<b>03/05/2012</b>						
Borough	<b>MANHATTAN</b>	Block	<b>01399</b>	Lot	<b>0151</b>	Tax Class	<b>4</b>
Base Year AV	<b>\$580,300.00</b>	GEA	<b>Y</b>	REMIC	<b>N</b>	NPP	<b>N</b>
Will the project involve any subdivision or merger of current lot(s)?	<b>Y</b>						
Borough	<b>MANHATTAN</b>	Block	<b>01399</b>	Lot	<b>0050</b>	Tax Class	<b>1</b>
Base Year AV	<b>\$288,000.00</b>	GEA	<b>Y</b>	REMIC	<b>N</b>	NPP	<b>N</b>
Will the project involve any subdivision or merger of current lot(s)?	<b>Y</b>						



House Number **861** Street Name **Lexington Avenue** Zip Code Tentative Lot **50**

Are negotiable certificates being used to qualify a project located in a 421-a geographic exclusion area?	Y
Please enter the date on which the 421-a Written Agreement was executed.	11/21/1997
Will this project or any part of this project be receiving tax exemption or tax abatement under any other provision of state or local law?	N
Was this project site mapped as a public park or utilized for 10 or more consecutive years as a private park immediately prior to October 1, 1971?	N
Will any part of this project be used as a hotel or for single room occupancy ?	N
Does this project contain more than 20 dwelling units?	Y
Were there Class A residential units on the site one month prior to the start of construction?	N
Does the new project contain at least 5 dwelling units for each Class A dwelling unit on the site one month prior to the new construction?	N/A

**Section 40: Substantial Governmental Assistance and Affordability Restrictions**

Is the project being constructed with Substantial Governmental Assistance?	N
Is the Substantial Governmental Assistance pursuant to a program for the development of affordable housing?	N/A
Are at least 20% of the project's units subject to affordability restrictions?	N
There is a requirement that at least 20% of the onsite units be affordable to Low and Moderate Income households, as defined in 28 RCNY § 6-01 (c).	N/A
There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 80% of Area Median Income(AMI).	N/A
There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 60% of AMI.	N/A
There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 120% of AMI, and the average AMI does not exceed 90%.	N/A
There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 120% of AMI.	N/A
There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 125% of AMI.	N/A

**Section 41: Substantial Cost Information Lot No. 0050**

Did you purchase the lot within two (2) years prior to the start of construction?	Y
Please enter purchase price:	\$26,383,293.29
Did you purchase the lot more than two (2) years prior to the start of construction?	N/A
Please enter appraised value at the start of construction:	N/A
Is the lot being performed under a ground lease?	N
Please indicate monthly rent payable during period of construction:	N/A
Please indicate length of a ground lease in months:	N/A

Did you purchase the lot within two (2) years prior to the start of construction? **Y**  
Please enter purchase price: **\$0.00**

Did you purchase the lot more than two (2) years prior to the start of construction?  
Please enter appraised value at the start of construction: **N/A**

Is the lot being performed under a ground lease? **N**  
Please indicate monthly rent payable during period of construction: **N/A**  
Please indicate length of a ground lease in months: **N/A**

Total Construction Costs: **\$22,341,486.00**  
Total Builder's Fee/Developer's Profit: **\$0.00**  
Total Professional and Other Fees: **\$5,164,365.00**  
Total Marketing Expenses: **\$1,714,500.00**  
Total Financing and Other Charges: **\$542,625.00**  
Total Project Cost: **\$56,146,269.29**

**Section 1A - Building Specifications** **861 Lexington Avenue** **Manhattan, New York**

Did any portion of the building apply for the Industrial and Commercial Incentive Program (ICIP) **N**  
Does the building include new residential construction and the concurrent conversion, alteration or improvement of a pre-existing building or structure? **N**

Commencement of construction date **03/05/2009**  
DOB/BIS Job Number **110214438**  
Building Permit Type **New Building Permit**

Floor	Residential A.F.A.	#0 BR	#1 BR	#2 BR	#3 BR	#4 BR	#5 BR	#6 BR	#7 BR	#8 BR	# of Dwelling Units	# Rooms	Non-Residential A.F.A. and Ineligible Residential A.F.A.
9	3,969.00	0	0	1	1	0	0	0	0	0	2.00	10.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description 0													
15	2,424.00	0	0	0	0	0	0	0	0	0	0.00	0.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description 0													
14	2,503.00	0	0	0	0	0	1	0	0	0	1.00	7.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description 0													
13	2,469.00	0	0	0	1	0	0	0	0	0	1.00	5.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description 0													
12	3,117.00	0	0	0	1	0	0	0	0	0	1.00	5.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description 0													
11	3,939.00	0	0	0	0	1	0	0	0	0	1.00	6.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description 0													

10	3,969.00	0	0	1	1	0	0	0	0	0	2.00	10.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						0							
8	3,969.00	0	0	1	1	0	0	0	0	0	2.00	10.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						0							
5	3,969.00	0	0	1	1	0	0	0	0	0	2.00	10.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						0							
7	3,969.00	0	0	1	1	0	0	0	0	0	2.00	10.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						0							
6	3,969.00	0	0	1	1	0	0	0	0	0	2.00	10.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						0							
4	3,969.00	0	0	1	1	0	0	0	0	0	2.00	10.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						0							
3	3,969.00	0	0	1	1	0	0	0	0	0	2.00	10.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						0							
2	3,253.00	0	1	1	0	0	0	0	0	0	2.00	8.00	660.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						tenant lounge							
1	1,926.00	0	0	0	0	0	0	0	0	0	0.00	0.00	1,991.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						retail							
C	0.00	0	0	0	0	0	0	0	0	0	0.00	0.00	3,118.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						Retail							

**Parking Questions**

- |  |            |
|--|------------|
| 1. Will there be parking associated with this building?  | <b>N</b>   |
| 2. Is the parking applying for 421-a benefits?   | <b>N/A</b> |
| 3. Is the parking applying for 421-a benefits accessory to the residential portion of the building?    | <b>N/A</b> |
| 4. Is the parking applying for 421-a benefits inside the subject building?                             | <b>N/A</b> |
| 5. Is the parking applying for 421-a benefits located off-street?                                      | <b>N/A</b> |
| 6. Is the parking applying for 421-a benefits accessory to the commercial portion of the building?     | <b>N/A</b> |
| 7. Will this project contain parking or other spaces that will be subdivided into individual tax lots? | <b>N</b>   |

**Address: 861 Lexington Avenue**

**Tentative Lot: 50**

Floor	#0 BR	#1 BR	#2 BR	#3 BR	#4 BR	#5 BR	#6 BR	#7 BR	#8 BR	#Rooms	Residential A.F.A.	Non-Residential A.F.A. and Ineligible Residential
1	0	0	0	0	0	0	0	0	0	0.00	1,926.00	1,991.00
10	0	0	1	1	0	0	0	0	0	10.00	3,969.00	0.00

11	0	0	0	0	1	0	0	0	0	6.50	3,939.00	0.00
12	0	0	0	1	0	0	0	0	0	5.50	3,117.00	0.00
13	0	0	0	1	0	0	0	0	0	5.50	2,469.00	0.00
14	0	0	0	0	0	1	0	0	0	7.50	2,503.00	0.00
15	0	0	0	0	0	0	0	0	0	0.00	2,424.00	0.00
2	0	1	1	0	0	0	0	0	0	8.00	3,253.00	660.00
3	0	0	1	1	0	0	0	0	0	10.00	3,969.00	0.00
4	0	0	1	1	0	0	0	0	0	10.00	3,969.00	0.00
5	0	0	1	1	0	0	0	0	0	10.00	3,969.00	0.00
6	0	0	1	1	0	0	0	0	0	10.00	3,969.00	0.00
7	0	0	1	1	0	0	0	0	0	10.00	3,969.00	0.00
8	0	0	1	1	0	0	0	0	0	10.00	3,969.00	0.00
9	0	0	1	1	0	0	0	0	0	10.00	3,969.00	0.00
C	0	0	0	0	0	0	0	0	0	0.00	0.00	3,118.00

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Totals:      16      0      1      9      10      1      1      0      0      0      113.00      51,383.00      5,769.00

# Dwelling Units:      22  
# Rooms:      113.00

Commercial, etc. area in excess of 12%      0.00%



Total Square Feet of Finished Space	51,383.00
Total Square Feet of Balcony Space	0.00
Total Square Feet of Unfinished Space	0.00
Average Square Feet Per Dwelling Unit	1,799.43
Total Net SF of Dwelling Units	41,387.00

To qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the start of construction (i.e. "Operative Date"). In order to determine if your project qualifies for 421-a benefits, this section of the application will take you through a number of questions which will determine your site eligibility. You must complete this section for each of the lots for which you are applying for 421-a benefits. Please enter the information as of the Operative Date.

Commencement of Construction Date:	3/5/2009
Operative Date:	03/06/2006
Total land area of lot (Square Feet):	2,753.60
Square footage of site:	4,073.60

**Test 1: The question below will test your site's eligibility based on vacant lot.**

Actual Assessed Valuation of improvements on the lot in the Fiscal Year in which the Operative Date falls:	\$152,065.00
--	--------------

This site is ineligible based on this test because the actual assessed valuation of the improvements on the lot was not less than or equal to \$2,000. Please move on to the next site eligibility test.

**Test 2: The questions below will test your site's eligibility based on a vacant portion of the former lot as of the Operative Date.**

Is there an existing building that will not be demolished and will remain on the lot?	N
---	---

Is the new multiple dwelling being constructed on a vacant portion of the lot as of the Operative Date?

This site is ineligible based on this test because the land that you are building on is not vacant. Please move on to the next site eligibility test.

**Test 3: The questions below will test your site's eligibility based on predominantly vacant land as of the Operative Date.**

Length of footprint of improvement (sq ft):	34.42	Width of footprint of improvement (sq ft):	52.00
Total area of footprint of improvement on lot (sq ft):	1,789.84	Total land area of lot (sq ft):	2,752.60

This site is ineligible based on this test because the area of the footprint of the improvement is not less than or equal to 15% of the land area of the lot. Please move on to the next site eligibility test.

**Test 4: The questions below will test your site's eligibility based on underutilized buildings as of the Operative Date.**

Was there a building(s) on the lot on the Operative Date?	Y
---	---

What was the tax class of the lot on the Operative Date?	1
--	---

**Test 5: The questions below will test your site's eligibility based on underutilized former residential building(s) (A.F.A test).**

	Length	Width	# Stories	Total
House Story:	34.42	52	4	7,159.36



Garage Story:	0	0	0	0.00
Shed Story:	0	0	0	0.00
Other Story:	0	0	0	0.00
Total (AFA of former residential building(s)):				7,159.36
Square footage of site:	4,073.60	Square footage of lot:		2,753.60
AFA of the new multiple dwelling, pro-rated:				38,632.59
70% of the AFA of the New Multiple Dwelling:				27,042.81

This site has passed this 421-a eligibility test. When you complete this electronic application please submit a survey to HPD in addition to other required documentation.

**Site Eligibility - Lot No. 0151**

To qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the start of construction (i.e. "Operative Date"). In order to determine if your project qualifies for 421-a benefits, this section of the application will take you through a number of questions which will determine your site eligibility. You must complete this section for each of the lots for which you are applying for 421-a benefits. Please enter the information as of the Operative Date.

Commencement of Construction Date:	3/5/2009
Operative Date:	03/06/2006
Total land area of lot (Square Feet):	1,320.00
Square footage of site:	4,073.60

**Test 1: The question below will test your site's eligibility based on vacant lot.**

Actual Assessed Valuation of improvements on the lot in the Fiscal Year in which the Operative Date falls: **\$62,000.00**

This site is ineligible based on this test because the actual assessed valuation of the improvements on the lot was not less than or equal to \$2,000. Please move on to the next site eligibility test.

**Test 2: The questions below will test your site's eligibility based on a vacant portion of the former lot as of the Operative Date.**

Is there an existing building that will not be demolished and will remain on the lot? **N**

Is the new multiple dwelling being constructed on a vacant portion of the lot as of the Operative Date?

This site is ineligible based on this test because the land that you are building on is not vacant. Please move on to the next site eligibility test.

**Test 3: The questions below will test your site's eligibility based on predominantly vacant land as of the Operative Date.**

Length of footprint of improvement (sq ft):	16.50	Width of footprint of improvement (sq ft):	80.00
Total area of footprint of improvement on lot (sq ft):	1,320.00	Total land area of lot (sq ft):	1,320.00

This site is ineligible based on this test because the area of the footprint of the improvement is not less than or equal to 15% of the land area of the lot. Please move on to the next site eligibility test.

**Test 4: The questions below will test your site's eligibility based on underutilized buildings as of the Operative Date.**

Was there a building(s) on the lot on the Operative Date? Y  
 What was the tax class of the lot on the Operative Date? 4

**Test 7: The questions below will test your site's eligibility based on underutilized former non-residential building.**

Did work commence on or after May 12, 2000? Y  
 Is lot located in the Borough of Manhattan on either side or south of 110th Street? Y  
 Is lot located in the outer boroughs or in Manhattan north of 110th Street? N

**Test 8: The questions below will test your site's eligibility based on underutilized former non-residential building in Manhattan on either side or south of 110th Street (assessed valuation test).**

Actual assessed valuation of building in the Fiscal Year in which the Operative Date falls \$62,000.00  
 Actual assessed valuation of land in the Fiscal Year in which the Operative Date falls: \$513,000.00  
 50% of the assessed valuation of the land on the Operative Date is: \$256,500.00  
 This site has passed this 421-a eligibility test.

**421-a Eligible (Summary)**

Lot	Square Feet	421-a Eligible
0050	2753.6	Pass
0151	1320	Pass

Because the Project meets the requirements of §421-a(12), the Project is exempt from the Exemption Cap of §421-a(9).

**421-a Eligible (Summary)**

Part A: Contact Information for Certifying Professionals

Architect's/Engineer's Certification to be provided by:

Name **H. Thomas O'Hara**  
 Business Name **H. Thomas O'Hara Architect PLLC**  
 House No **370**  
 Street **7 Avenue**  
 City **New York**  
 State **NY**  
 Phone Number **(212) 695-3117**

Opinion of Counsel to be provided by:

Name Paul Korngold  
Business Name Tuchman, Korngold, Weiss, Lippman & Gelles LLP  
House No 6  
Street East 45 Street  
City New York  
State NY  
Phone Number (212) 687-3747

- RP604 Form
- Submit the most recent approved building plans. However, if the most recent approved building plans were already submitted to HPD as part of an earlier Architect's/Engineer's Certification, you do not need to re-submit the building plans.
- Surveys
- Proof of receipt of Notice to Community Board
- Copy of 421-a negotiable certificates or 421-a Affordable Housing Written Agreement and contract to purchase certificates.
- Architect's/Engineer's Certification
- Opinion of Counsel

**Please Keep a Copy of this Application for Your Records.**



## Special Instructions Regarding Owner's Affidavit and Opinion of Counsel

### Owner's Affidavit:

If you are re-filing a 421-a application and no longer hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application, you must also check box 1b in the Owner Affidavit to certify that you have been authorized to make the Application on behalf of all current owners or lessees.

### Opinion of Counsel

#### Individual Owner:

If you are not attaching a title report and currently hold fee title to or a leasehold interest under a ground lease of the real property identified in the Application, your attorney must check box 2a in the Opinion of Counsel (not box 2b). If you are not attaching a title report, are re-filing a 421-a application and no longer hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application, your attorney must check box 2c in the Opinion of Counsel (not box 2d) to indicate that you held fee title to or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing.

#### Entity Owner:

If you are not attaching a title report and currently hold fee title to or a leasehold interest under a ground lease of the real property identified in the Application, your attorney must check box 5a in the Opinion of Counsel (not box 5b). If you are not attaching a title report, are re-filing a 421-a application and no longer hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application, your attorney must check box 5c in the Opinion of Counsel (not box 5d) to indicate that you held fee title to or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing.

State of New York )

) ss.:  
County of KINGS )

**David Von Spreckelsen**, being duly sworn, under penalty of perjury, deposes and says:

1. **David Von Spreckelsen, Division President, Toll Lexington LLC**, am making this application for a Preliminary Certificate of Eligibility for 421-a Partial Tax Exemption (the "Application").
2. I have read and understand the requirements for 421-a Partial Tax Exemption.
3. I have reviewed the Application and I swear that all information set forth in the Application is true and correct and I submit the Application to induce the City of New York to grant 421-a Partial Tax Exemption.
4. The multiple dwelling will be owned as a cooperative or condominium, and is not required to be registered with the State of New York Department of Housing and Community Renewal. However, if the prospective cooperative or condominium plan has not been declared effective for filing at a time fifteen months after issuance of a Final Certificate of Eligibility for 421-a Partial Tax Exemption, these rental units must be registered with the New York State Division of Housing and Community Renewal no later than fifteen calendar days after such fifteen month period or, if the building is not occupied, such units must be registered prior to initial occupancy, and proof of registration submitted.
5. As required pursuant to §11-245.8 of the Administrative Code of the City of New York and §6-05(d)(1) of Chapter 6, Title 28 of the Rules of the City of New York, whenever any household appliance in any dwelling unit, or any household appliance that provides heat or hot water for any dwelling unit in the multiple dwelling, is installed or replaced with a new household appliance on or after December 19, 2006, such new appliance shall be certified as Energy Star, unless either (A) an appropriately-sized Energy Star certified household appliance is not manufactured, such that movement of walls or fixtures would be necessary to create sufficient space for such appliance, and/or (B) an Energy Star certified boiler or furnace of sufficient capacity is not manufactured.

[For purposes of this paragraph, (A) "household appliance" shall mean any refrigerator, room air conditioner, dishwasher or clothes washer, within a dwelling unit in the multiple dwelling that is provided by the owner, and any boiler or furnace that provides heat or hot water for any dwelling unit in the multiple dwelling, and (B) "Energy Star" shall mean a designation from the United States Environmental Protection Agency or Department of Energy indicating that a product meets the energy efficiency standards set forth by the agency for compliance with the Energy Star program.]

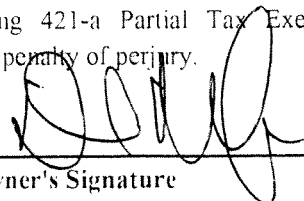
6. As required pursuant to § 421-a(8) of the Real Property Tax Law and § 6-05(d)(1)(ix) of Chapter 6, Title 28 of the Rules of the City of New York, I understand that either (a) all building service employees employed or to be employed at the multiple dwelling shall receive the applicable prevailing wage for the duration of such multiple dwelling's 421-a Partial Tax Exemption, or (b) such multiple dwelling shall contain less than 50 dwelling units, or (c) at initial occupancy of the dwelling units in such multiple dwelling, at least 50% of such dwelling units shall be affordable to individuals or families with a gross household income at or below 125% of the area median income and that any such rental units shall remain affordable for the entire period during which such multiple dwelling receives the 421-a Partial Tax Exemption.

I understand that if the City of New York finds that the Application and/or supporting documents, including but not limited to, proof of delivery of the Application to the local Community Board; the most recent Department of Buildings approved building plans; the survey; and the RP-604 approved and executed by the Department of Finance contain incorrect or misleading information of a substantial nature, or have omitted information of a material nature, and in the event that such breach or omission is not cured within ninety (90) days of notice thereof, the Department of Housing Preservation and Development shall advise the Department of Finance that the 421-a Certificate of Eligibility has been revoked or that the amount of 421-a Partial Tax Exemption has been reduced, and the Department of Finance shall retroactively or prospectively withdraw or reduce 421-a Partial Tax Exemption and reinstate the amount of taxes which would have been exempted and charge interest at the rate prescribed by the New York City Administrative Code to be calculated from the day on which such taxes would have been payable but for the 421-a Partial Tax Exemption.

I understand that in order to qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the commencement of construction (i.e., "Operative Date"). The site eligibility statements and/or calculations stated in Section 7 of the Application accurately reflect the conditions at the site on the Operative Date and confirm that the real property identified in the Application meets the site eligibility requirement for 421-a benefits.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.



---

Owner's Signature

*David Von Spreckelsen*

---

Owner's Name

*Division President*

---

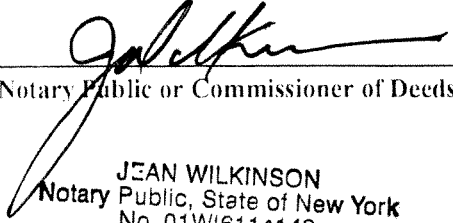
Owner's Title

*Toll Lexington LLC*

---

Owner's Affiliation

Sworn to me before this 26 day of September, 2011

  
\_\_\_\_\_  
Notary Public or Commissioner of Deeds

**JEAN WILKINSON**  
Notary Public, State of New York  
No. 01WI6114149  
Qualified in Kings County  
Commission Expires: 08/09/2012

City of New York  
Department of Housing Preservation and Development  
Office of Development  
Division of Housing Incentives  
Tax Incentive Programs Unit  
421-a Partial Tax Exemption Program  
100 Gold Street, 3-Y4  
New York, NY 10038

**Architect's / Engineer's Certification**  
**In Support of Preliminary Application for 421-a Partial Tax Exemption**

Re: Online Application Submission Confirmation # **46121**

Docket # \_\_\_\_\_

Address(es) / Tentative Lot (s)

**Building 1: 861, Lexington Avenue, 50**

Borough **MANHATTAN** Block **01399**

Lot(s) **0050, 0151.**

Total Number of Buildings **1**

**H. Thomas O'Hara**, being duly sworn, under penalty of perjury, deposes and says:

1. I am a Registered Architect or Professional Engineer licensed to practice by and in good standing with the New York State Department of Education. As such, I certify to the truth of the matters set forth below in connection with the above pending application (the "Application") for 421-a Partial Tax Exemption.
2. I am the architect or engineer for the above Project. The annexed Building Plans, each page of which is initialed and dated by me as of this date, are a true copy of the most recent plans approved by the New York City Department of Buildings (hereinafter, "Plans").
3. The calculations in Section 6 of the Application are a true and accurate reflection of the layout and dimensions of the Plans, and the room count and dwelling unit count as shown in Section 6 of the Application are in compliance with Section 6-01(c) of Chapter 6 of Title 28 of the Rules of the City of New York (the "421-a Rules").
4. The calculations of Aggregate Floor Area and Floor Area of Commercial Community Facilities and Accessory Use Space of the building(s) applying for 421-a Partial Tax Exemption in Section 6 of the Application are in compliance with Sections 6-01(c) and 6-06(b) of the 421-a Rules and the guidance provided in the latest edition of Department of Housing Preservation and Development's Frequently Asked Questions, dated 6/17/04.



The annexed survey, dated 09/12/08, as prepared by John J. Vida, a licensed land surveyor of True North Surveyors P.C. (name of company, if applicable) is a true copy of the survey used to determine the eligibility of the site for 421-a Partial Tax Exemption. The site eligibility statements and/or calculations stated in Section 7 of the Application accurately represent the conditions at the site on the Operative Date (i.e. 36 months prior to the commencement of construction) and the current lot or lots indicated on the Application are eligible for 421-a Partial Tax Exemption.

The attached RP-604 executed and approved by the New York City Department of Finance Property Division - Survey Unit, dated June 24, 2008, accurately reflects the Project's tentative lot changes to the current New York City Tax Map.

5. I have read the specific sections of the 421-a Rules applicable to this Project and understand them. I have relied upon this understanding for purposes of the representations I am making in this affidavit. 3/5/2009 is the accurate date of "commencement of construction," (i.e., the date upon which excavation and construction of initial footings and foundations commenced in good faith), for the above-referenced project and is consistent with the definitions of "commencement of construction" in Section 6-01(c) and "commence" in Section 6-09(a) of the 421-a Rules, as applicable.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.

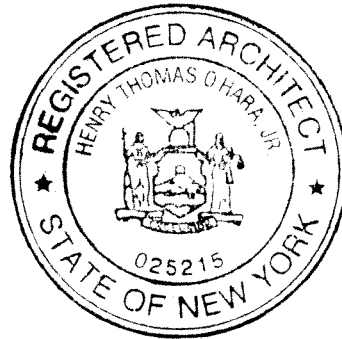
I understand that if the Department of Housing Preservation and Development finds that any of the statements are incorrect, I may, in HPD's sole discretion, be prevented from certifying any future projects with HPD. Furthermore, I understand that submission of a false certification shall be deemed to be professional misconduct pursuant to Section 6509 of the Education Law.

Sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public or Commissioner of Deeds

[OR  
Dated: \_\_\_\_\_, 20\_\_\_\_

Seal of RA or PE]



*[Handwritten signature]*

\_\_\_\_\_  
Architect / Engineer Signature

***H. Thomas O'Hara***

\_\_\_\_\_  
Architect / Engineer Name

*H.T.O. Architect, PLLC*

\_\_\_\_\_  
Business Name

***370 7 Avenue New York, NY***

\_\_\_\_\_  
Business Address

***(212) 695-3117***

\_\_\_\_\_  
Phone Number



## Special Instructions Regarding Owner's Affidavit and Opinion of Counsel

### Owner's Affidavit:

If you are re-filing a 421-a application and no longer hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application, you must also check box 1b in the Owner Affidavit to certify that you have been authorized to make the Application on behalf of all current owners or lessees.

### Opinion of Counsel

#### Individual Owner:

If you are not attaching a title report and currently hold fee title to or a leasehold interest under a ground lease of the real property identified in the Application, your attorney must check box 2a in the Opinion of Counsel (not box 2b). If you are not attaching a title report, are re-filing a 421-a application and no longer hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application, your attorney must check box 2c in the Opinion of Counsel (not box 2d) to indicate that you held fee title to or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing.

#### Entity Owner:

If you are not attaching a title report and currently hold fee title to or a leasehold interest under a ground lease of the real property identified in the Application, your attorney must check box 5a in the Opinion of Counsel (not box 5b). If you are not attaching a title report, are re-filing a 421-a application and no longer hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application, your attorney must check box 5c in the Opinion of Counsel (not box 5d) to indicate that you held fee title to or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing.

TUCHMAN, KORNGOLD, WEISS, LIPPMAN & GELLES, LLP

COUNSELORS AT LAW

6 EAST 45TH STREET, NEW YORK, N. Y. 10017

(212) 687-3747

FAX: (212) 599-4459

BERT TUCHMAN  
PAUL J. KORNGOLD  
ERIC S. WEISS  
MICHAEL R. LIPPMAN

BRETT J. GOTTLIEB  
YUHTYNG TSUEI

WALTER R. GELLES (RET.)  
JENNIFER POLOVETSKY  
COUNSEL

Date: 10/31/2011

Director, 421-a Programs  
The City of New York  
Department of Housing Preservation and Development  
100 Gold Street Room 3-Y4  
New York, New York 10038

Re: Online Application Submission Confirmation # 46121

Docket # \_\_\_\_\_

Address(es) / Tentative Lot (s)

**Building 1: 861, Lexington Avenue, 50**

Borough **MANHATTAN** Block **01399**

Lot(s) **0050, 0151.**

Total Number of Buildings **1**

**Paul Korngold**, an attorney admitted to practice in the Courts of the State of New York, affirms the following to be true under the penalties of perjury pursuant to Civil Practice Law and Rules 2106:

1. I have acted as legal counsel to **Toll Lexington LLC** ("Owner") in connection with its above referenced application for a partial real property tax exemption pursuant to Section 421-a of the Real Property Tax Law (the "Application").

2. I have reviewed all of the organizational documents of the Owner and such other certificates and instruments as necessary for the purpose of this opinion.

3. Owner is a **Limited Liability Company (LLC)**, which is duly formed and validly existing under the laws of the State of NY.

4. **David Von Spreckelsen** is duly authorized to execute and deliver the Application to the City of New York Department of Housing Preservation and Development on behalf of the Owner and to make the representations and warranties contained in the Application.

X 5a. Owner holds fee title to the real property identified in the Application.

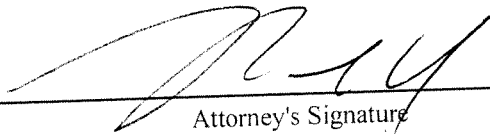
\_\_\_\_ 5b. I have attached a title report from \_\_\_\_\_, dated \_\_\_\_\_, which indicates that Owner holds fee title to the real property identified in the Application.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.

I understand that if the Department of Housing Preservation and Development finds that any of the statements herein are incorrect, I may, at HPD's sole discretion, be prevented from delivering any certification or legal opinion to HPD in connection with any future project. Furthermore, I understand that any false statement may be deemed to be professional misconduct pursuant to Section 90 of the Judiciary Law.

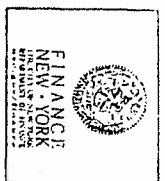
Sincerely,



\_\_\_\_\_  
Attorney's Signature

**Paul Korngold**

\_\_\_\_\_  
Attorney's Name



**NEW YORK CITY DEPARTMENT OF FINANCE  
PROPERTY DIVISION - SURVEYOR UNIT  
Request for Tentative Lot Numbers**

**DRAW SKETCH TO SCALE  
1" = 50', IF POSSIBLE.  
INDICATE NORTH ARROW.**

BOROUGH: MANHATTAN  
DATE: 06-24-08

SEC.: 5 VOL.: 4  
BLOCK: 1399  
PRESENT LOT NO.: 50, 151

TENTATIVE LOT NUMBERS: 50

(FOR DEPARTMENT OF BUILDINGS FILING ONLY)

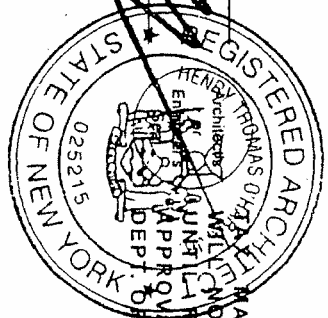
OFFICIAL CHANGE WILL BE MADE ON TAX MAP ONLY UPON PRESENTATION OF REQUIRED DOCUMENTS. SEE SURVEYOR CHECKLIST

DEPT. OF BLDGS. 110214438  
Job Number  
Scan Code  
SC080127002

Owner's Name: Maurice Bendritem

Signature of Architect: Thomas O'Hara

06/24/08



MAP CHANGE WILL NOT BE MADE WITHOUT RECEIPT OF APPROVAL BY THE DEPT. OF BUILDINGS

Assistant Surveyor: A. Ortiz  
Date: 6/24/08

PRINTED ON LINEMARK PAPER - HOLD TO LIGHT TO VIEW FOR ADDITIONAL SECURITY FEATURES SEE BACK

0068095

11-24

CASHIER'S CHECK

6809501492

Office AU #

1210(8)

Operator I.D.: pa001645

August 29, 2011

PAY TO THE ORDER OF \*\*\*NYC DEPARTMENT OF FINANCE\*\*\*

\*\*\*One hundred dollars and no cents\*\*\*

\*\*\$100.00\*\*

WELLS FARGO BANK, N.A.  
250 BLAIR MILL RD  
HORSHAM, PA 19044  
FOR INQUIRIES CALL (480) 394-3122

VOID IF OVER US \$ 100.00

*Richard Levy*  
CONTROLLER

⑈6809501492⑈ ⑆121000248⑆4861 509586⑈



**New York Metro**  
(800) 433-4698  
(800) 853-4803  
(800) 433-4699  
www.stewart.com  
NYSE: STC

September 16<sup>th</sup>, 2011

Toll Lexington LLC  
c/o Toll Brothers City Living  
16 Court Street, Suite 2400  
Brooklyn, NY 11201

Re: Transfer Taxes Paid at Closing  
Premises: 859 Lexington Avenue, New York, New York

To Whom It May Concern:

The New York State Transfer Tax and New York City Real Property Transfer Tax was calculated based on the contract purchase price of \$22,000,000.00 plus the fair market value of the retail unit to be built by the Purchaser on behalf of the Seller, which was established by a broker's appraisal at \$4,120,000.00. The Contract of Sale provided that Toll Lexington LLC was obligated to pay one-third of the New York State and New York City transfer taxes. Therefore, Toll Lexington LLC was required to pay the transfer taxes on \$8,706,666.66 plus the grossed up tax because they are paying part of the Seller's tax obligation. Toll Lexington LLC paid one third of the transfer taxes based on the grossed up purchase price of \$8,970,044.66. The total consideration reflected on the New York State Tax form TP-584 and the New York City Real Property Transfer Tax form is the total of the contract purchase price, the fair market value of the retail unit and the grossed up portion of the transfer taxes that were paid by Purchaser, which totaled \$26,383,293.29.

Please do not hesitate to contact me if you have any questions regarding this matter.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Gerard F. Canavan".

Gerard F. Canavan



THE CITY OF NEW YORK  
 DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT  
 OFFICE OF DEVELOPMENT  
 RPTL Section 421-a Affordable Housing Program  
 100 Gold Street, Room 9-23  
 New York, NY 10038

**\*NEGOTIABLE CERTIFICATE OF ELIGIBILITY\***

DOCKET NUMBER LIH # 23 DATE OF ISSUANCE OF THIS CERTIFICATE November 23, 2010  
 SITE OF AFFORDABLE UNITS 902 Drew Street, Brooklyn DATE OF EXECUTION OF WRITTEN AGREEMENT June 26, 1989  
 BLOCK (S) 4515 LOT (S) 1 DATE OF ISSUANCE OF (TEMPORARY) C OF O FOR AFFORDABLE UNITS \_\_\_\_\_  
 APPLICANT Spring Creek Associates L.P. NUMBER OF MARKET RATE UNITS ELIGIBLE\* 14  
 \*If average size of units exceeds 1,200 sq. ft., see Section 6-08(b) (6) of the Rules  
 APPLICANT'S ADDRESS 909 Third Avenue, 10th Floor, New York, NY 10022  
 BENEFIT TRANSFEROR Lex 65 LLC BENEFIT TRANSFEREE Toll Lexington LLC

Whereas, the Department of Housing Preservation and Development has determined that the above-referenced Applicant has completed the construction, rehabilitation, or conversion of affordable dwelling units in accordance with the §421-a Affordable Housing Written Agreement between the City of New York's Department of Housing Preservation and Development and the Applicant;

The Commissioner has determined, therefore, that one or more eligible multiple dwellings containing the above-referenced number of units in the Geographic Exclusion Area is eligible to receive a 421-a partial Tax Exemption.

This certificate is transferable, and may be conveyed or sold only by the Benefit Transferor named above, and only to the Benefit Transferee named above. This Certificate cannot be used to transfer benefits to any person or entity other than the named Benefit Transferee. Unused Certificates should be returned to HPD for voiding and reissuance. The transfer of this Certificate to the Benefit Transferee is accomplished by the Benefit Transferor endorsing and notating this certificate in the place indicated below: After the initial endorsement and notarization by the Benefit Transferor, subsequent transfers of this Certificate or any portion hereof by the Benefit Transferee may be accomplished by written request to HPD accompanied by this original Certificate.

BENEFIT TRANSFEROR:

Lex 65 LLC

By: [Signature]

Sworn to me before this

1 day of Nov 20 11

[Signature]  
 Notary Public

BENEFIT TRANSFEREE:

Toll Lexington LLC

By: [Signature]

Sworn to me before this

1 day of Nov 20 11

[Signature]  
 Notary Public

PAUL J. KORNGOLD  
 Notary Public, State of New York  
 No. 02KO4772550  
 Qualified in Westchester County  
 Commission Expires April 30, 2014

PAUL J. KORNGOLD  
 Notary Public, State of New York  
 No. 02KO4772550  
 Qualified in Westchester County  
 Commission Expires April 30, 2014

[Signature]  
 Jennifer Breines, Director  
 Inclusionary Housing/421-a Affordable Housing Program

Inclusionary Housing/  
 421-a Affordable Housing  
 Program Seal

THE CITY OF NEW YORK  
 DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT  
 OFFICE OF DEVELOPMENT  
 RPTL Section 421-a Affordable Housing Program  
 100 Gold Street, Room 9-Z3  
 New York, NY 10038

**\*NEGOTIABLE CERTIFICATE OF ELIGIBILITY\***

DOCKET NUMBER LIH # 55 DATE OF ISSUANCE OF THIS CERTIFICATE November 23, 2010

SITE OF AFFORDABLE UNITS 2500 Frederick Douglass Boulevard, Manhattan DATE OF EXECUTION OF WRITTEN AGREEMENT November 21, 1997

BLOCK(S) 1939 LOT(S) 63 DATE OF ISSUANCE OF (TEMPORARY) C OF O FOR AFFORDABLE UNITS October 1, 1988

APPLICANT 2500 Eighth Avenue, L.P. NUMBER OF MARKET RATE UNITS ELIGIBLE\* 13

APPLICANT'S ADDRESS 15 Verbena Avenue, Suite #100, Floral Park, NY 11001 \*If average size of units exceeds 1,200 sq. ft., see Section 6-08(b)(6) of the Rules

BENEFIT TRANSFEROR Lex 65 LLC BENEFIT TRANSFEREE Toll Lexington LLC

Whereas, the Department of Housing Preservation and Development has determined that the above-referenced Applicant has completed the construction, rehabilitation, or conversion of affordable dwelling units in accordance with the §421-a Affordable Housing Written Agreement between the City of New York's Department of Housing Preservation and Development and the Applicant;

This certificate entitles the above-referenced number of market rate units at the above-referenced Benefit Transferee's address in the Geographic Exclusion Area to receive a 421-a partial tax exemption.

This certificate is transferable, and may be conveyed or sold only by the Benefit Transferor named above, and only to the Benefit Transferee named above. This Certificate cannot be used to transfer benefits to any person or entity other than the named Benefit Transferee. Unused Certificates should be returned to HPD for voiding and reissuance. The transfer of this Certificate to the Benefit Transferee is accomplished by the Benefit Transferor endorsing and notarizing this certificate in the place indicated below. After the initial endorsement and notarization by the Benefit Transferor, subsequent transfers of this Certificate or any portion hereof by the Benefit Transferee may be accomplished by written request to HPD accompanied by this original Certificate.

BENEFIT TRANSFEROR: Lex 65 LLC BENEFIT TRANSFEREE: Toll Lexington LLC

By: [Signature] By: [Signature]

Sworn to me before this Nov 20 11 day of Nov 2011

Sworn to me before this Nov 20 11 day of Nov 2011

Notary Public Notary Public

Inclusionary Housing/  
 421-a Affordable Housing  
 Program Seal

[Signature]  
 11/21/11

[Signature]  
 Jennifer Brekkes, Director  
 Inclusionary Housing/421-a Affordable Housing Program

Notary Public  
**PAUL J. KORNGOLD**  
 Notary Public, State of New York  
 No. 02KO4772550  
 Qualified in Westchester County  
 Commission Expires April 30, 2014

Notary Public  
**PAUL J. KORNGOLD**  
 Notary Public, State of New York  
 No. 02KO4772550  
 Qualified in Westchester County  
 Commission Expires April 30, 2014

THE CITY OF NEW YORK  
 DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT  
 OFFICE OF DEVELOPMENT  
 RPTL Section 421-a Affordable Housing Program  
 100 Gold Street, Room 921  
 New York, NY 10038

**\*NEGOTIABLE CERTIFICATE OF ELIGIBILITY\***

DOCKET NUMBER 06-09 DATE OF ISSUANCE OF THIS CERTIFICATE October 28, 2011  
 SITE OF AFFORDABLE UNITS 950 Westchester Avenue, Bronx DATE OF EXECUTION OF WRITTEN AGREEMENT April 28, 2006  
 BLOCK(S) 2703 LOT(S) 1001, 1002, 1003, 1004, formerly known as 34, 40, 46, 48 DATE OF ISSUANCE OF (TEMPORARY) C OF O FOR AFFORDABLE UNITS June 19, 2008  
 APPLICANT Westchester Intervale Limited Partnership NUMBER OF MARKET RATE UNITS ELIGIBLE\* 8  
 APPLICANT'S ADDRESS c/o The Aker Companies  
15 Verbena Avenue, Suite #100, Floral Park, NY 11001  
 BENEFIT TRANSFEROR Whipponwill, L.P. BENEFIT TRANSFEREE Toll Lexington LLC

Whereas, the Department of Housing Preservation and Development has determined that the above-referenced Applicant has completed the construction, rehabilitation, or conversion of affordable dwelling units in accordance with the §421-a Affordable Housing Written Agreement between the City of New York's Department of Housing Preservation and Development and the Applicant;

The Commissioner has determined, therefore, that one or more eligible multiple dwellings containing the above-referenced number of units in the Geographic Exclusion Area is eligible to receive a 421-a partial Tax Exemption.

This certificate is transferable, and may be conveyed or sold only by the Benefit Transferee named above, and only to the Benefit Transferee named above. This Certificate cannot be used to transfer benefits to any person or entity other than the named Benefit Transferee. Unused Certificates should be returned to HPD for voiding and reissuance. The transfer of this Certificate to the Benefit Transferee is accomplished by the Benefit Transferee endorsing and notarizing this certificate in the place indicated below. After the initial endorsement and notarization by the Benefit Transferee, subsequent transfers of this Certificate or any portion hereof by the Benefit Transferee may be accomplished by written request to HPD accompanied by this original Certificate.

BENEFIT TRANSFEROR:  
 Whipponwill, L.P.  
 By: RL  
 Sworn to me before this  
 1 day of Nov 2011

Paul J. Korngold  
 Notary Public  
 PAUL J. KORNGOLD  
 Notary Public, State of New York  
 No. 02KO4772550  
 Qualified in Westchester County  
 Commission Expires April 30, 2014

BENEFIT TRANSFEREE:  
 Toll Lexington LLC  
 Inclusionary Housing/  
 421-a Affordable Housing  
 Program Seal

Miriam Colon  
 Miriam Colon  
 Assistant Commissioner  
 Housing Incentives