NEW YORK STATE SENATOR

Liz Krueger

Testimony Before the Industrial Development Agency (IDA) Regarding Bank of America's Proposed $42 Million Benefits Package on February 5, 2004

LIZ KRUEGER July 12, 2010

Good morning, I am State Senator Liz Krueger and I represent the 26th Senatorial District, which includes Midtown and the East Side of Manhattan. I want to thank the IDA for allowing me the opportunity to make a statement regarding concerns that I have with the proposed One Bryant Park Land Use Improvement Project and Bank of America's (BoA) proposed $42 million benefits package. While the project offers several valuable amenities and sets a standard for the development of "Green" buildings, it also raises serious questions regarding the use of eminent domain, corporate subsidies, and New York's overall strategy for economic development.

Our economic development strategy has been a defensive policy that reacts to individual companies' threats to leave, and has resulted in an overemphasis on the finance and real estate industries. In fact, with the overwhelming majority of retention deals being in the financial services, banking, and insurance industries, they have almost exclusively focused on Manhattan's central business districts. According to a recent report issued by Center for an Urban Future entitled *Engine Failure*, these policies have destabilized the city's economy, ignored the employment needs of most residents, and failed to develop a comprehensive workforce development strategy. We need to foster an economic development strategy that focuses on a more diverse economy and a broader geographic base.

As such, New York City should reassess the commonplace usage of discretionary funding and subsidies for corporate retention deals. Over the past six years, more than $2 billion of New York City and New York State funds have gone to some of the world's most profitable companies in the name of job retention. Time and time again, New York City has given tax breaks and incentives to corporations, such as Merrill Lynch, Paine Webber, Chase Manhattan Bank, Citicorp and Viacom, only to be thanked by mergers and layoffs. In fact, this is not the first time that BoA has received tax subsidies for a corporate retention deal. In 1993, BoA asked for $12 million in sales-tax abatements in exchange for a promise to retain 1,700 employees at the World Trade Center. A few years later, the sales-tax deal was terminated when BoA merged with Security Pacific National Bank and laid off 800 employees.

This brings us to the present matter at hand, which is the $42 million benefits package that BoA has applied for. The package is comprised of $6 million in sales tax exemptions for job retention; $32.5 million in sales tax exemptions that can be earned by adding jobs; and $3.5 million in energy discount savings. BoA plans to retain 2,995 employees and projects that it can create 2,896 new jobs over the 25-year term of the deal. This proposal comes on the heels of a state-brokered deal that exempts the Durst organization and BoA from paying state real property taxes, mortgage recording tax and sales & use taxes from 2008 until 2028. While they will be required to disburse payment in lieu of taxes (PILOT), New York City will ultimately lose out on millions of dollars in potential tax money. Many studies have highlighted that this model of corporate welfare and job retention does not work. Furthermore based on BoA's past record of having once broken the terms of an extremely lucrative job retention deal, they should not be eligible for another parallel deal.

With these significant reservations in mind, I also believe the use of Liberty Bonds to broker this type of deal is a misallocation of this funding. This bond issue would be the biggest yet under the Liberty Bond program, which gave New York State and New York City the right to sell $8 billion in tax-exempt securities to spur development after the World Trade Center tragedy. Durst and BoA have obtained preliminary approval for $650 million in Liberty Bonds, which will cover 65% of the project costs. Considering that the purpose of Liberty Bonds is to stimulate business throughout New York City, I believe that it is inappropriate for such a large sum of money to go towards one project.   New York State should not be functioning like a real estate speculator on behalf of large corporations and developing a midtown office building in spite of the current glut of office space in New York City.

An interesting footnote is that BoA recently merged with FleetBoston. According to the Cost/Benefit Analysis, all FleetBoston employees are excluded from the retention deal and BoA will assume all obligations of the existing IDA transactions with regard to the employment and operations of Quick & Reilly/Fleet Securities Inc. In 2000, FleetBoston was granted a 15 year corporate retention deal in which they received $4.8 million in municipal tax incentives and promised to retain 1,085 jobs and create 901 jobs. So far, they have only managed to create 65 jobs. Will this merger ultimately result in layoffs to employees of FleetBoston? Will this influx of FleetBoston employees serve to inflate BoA's employee numbers through department transfers, while ultimately decreasing the total number of employed New Yorkers?

The current system for corporate tax expenditure deals, so commonly used in our city, has raised many questions and concerns by the public and elected officials. Hence, I have introduced the State Corporate Accountability for Tax Expenditures Act. The ultimate goal of the Act is to provide a comprehensive record of all economic development incentives that are entered into between state entities and businesses in order for the Legislature and the Governor to make well informed decisions about tax expenditures. The bill requires that state economic assistance provided by any state agency, public authority or public benefit corporation, as an incentive to a business organization must be based on the terms of a written incentive agreement between the department and the business organization. Most importantly, the Act mandates that if a business organization either fails to make the requisite level of capital investment in the project or fails to create or retain the specified number of jobs within the specified time frame, the business organization shall be deemed to no longer qualify for the State economic assistance. I believe that similar standards should be applied to the BoA project.

Once again, thank you for the opportunity to comment on this project.