

March 20, 2012

GOVERNMENT AFFAIRS COMMITTEE
REPORT NO. 4

ALL MEMBERS PRESENT.

CHAIR GRANT PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 5E-4 (2012)
COUNTY EXECUTIVE: "Issuance of Executive Order Nos. 7-9"
(6-0)
 - b. COMM. 5D-2 (2012)
COUNTY ATTORNEY: "Transmittal of New Claims Against EC"
(6-0)
 - c. COMM. 5M-13 (2012)
ESSEX COUNTY BOARD OF SUPERVISORS: "Copy of Resolution Calling on All Counties to Unite to Bring About Real & Meaningful Mandate Relief in NYS"
(6-0)
2. COMM. 3E-23 (2012)
COUNTY EXECUTIVE AS AMENDED
WHEREAS, Erie County, and other municipalities have recognized the need to address the growing region-wide issue of tax delinquent, vacant, abandoned, and foreclosed properties; and

WHEREAS, the Erie County Executive, the Department of Environment and Planning, and the Department of Real Property Tax Services are working collaboratively with the City of Buffalo and other Municipalities to address this issue; and

WHEREAS, in July 2011 in recognition of the growing vacant property problem, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any foreclosing governmental unit (FGU) to create a land bank to return tax delinquent, vacant, abandoned, and foreclosed properties to productive use; and

WHEREAS, the Land Bank Act allows FGUs and municipalities to enter into a partnership to create a land bank; and

WHEREAS, pursuant to the Land Bank Act, it is necessary to adopt a resolution authorizing the County Executive of the County of Erie to execute an Intergovernmental Cooperation Agreement with

other foreclosing government units within Erie and Niagara Counties for the creation and operation of a Land Bank.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive of the County of Erie is hereby authorized to execute an Intergovernmental Cooperation Agreement with other foreclosing government units within Erie and Niagara Counties for the creation and operation of a Land Bank, known as the Buffalo Erie Niagara Land Improvement Corporation, and to execute and file such other documents necessary to establish said Land Bank; and be it further

RESOLVED, that the Articles of Incorporation for said Land Bank are attached to this resolution and that said Articles shall be filed with the Secretary of State in accordance with the New York State Land Bank Act; and be it further

RESOLVED, that the initial Board of Directors shall consist of eleven (11) members; and be it further

RESOLVED, that the initial individuals to serve as members of the board of directors are as follows:

1. Brendan R. Mehaffy, Executive Director of Strategic Planning of the City of Buffalo 920 City Hall Buffalo, New York 14202
2. Timothy A. Ball Corporation Counsel of the City of Buffalo 1100 City Hall Buffalo, NY 14202
3. James Comerford, Jr. Commissioner of Permit and Inspection Services of the City of Buffalo 324 City Hall Buffalo, NY 14202
4. Janet Penksa Commissioner of Administration, Finance, Policy and Urban Affairs for the City of Buffalo 203 City Hall Buffalo, NY 14202
5. David P. Comerford General Manager, Buffalo Sewer Authority 1038 City Hall Buffalo, NY 14202

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| 6. | Maria R. Whyte
Commissioner of Erie County Department
of Environment and Planning | Edward A. Rath Building
95 Franklin Street, 10th Floor
Buffalo, New York 14202 |
| 7. | Joseph L. Maciejewski
Director, Erie County Department of Real
Property Tax Services | Edward A. Rath Building
95 Franklin Street, 1st floor, Room 100
Buffalo, New York 14202 |
| 8. | Michael A. Siragusa, County Attorney
Erie County Department of Law | Edward A. Rath Building
95 Franklin Street, Suite 1634
Buffalo, New York 14202 |
| 9. | Frank E. Krakowski, City Assessor-City of
Lackawanna | Lackawanna City Hall
714 Ridge Road
Lackawanna, New York 14218 |
| 10. | Joseph M. Hogenkamp
City Treasurer
City of Tonawanda | City of Tonawanda
200 Niagara Street
Tonawanda, New York 14150 |
| 11. | Christina Orsi
Empire State Development – Western New
York Regional Director | 95 Perry Street
Suite 500
Buffalo, New York 14203 |

and be it further

RESOLVED, that as indicated in the Certificate of Incorporation and the NY Land Bank Act, the board may consist of eleven directors. The qualification and manner of appointment of the Board of Directors shall be as follows:

1. The Executive Director of Strategic Planning of the City of Buffalo;
2. The Corporation Counsel of the City of Buffalo;
3. The Commissioner of Permit and Inspection Services of the City of Buffalo
4. The Commissioner of Administration, Finance, Policy and Urban Affairs for the City of Buffalo;
5. General Manager, Buffalo Sewer Authority;
6. The Commissioner of Erie County Department of Environment and Planning;
7. Director, Erie County Department of Real Property Tax Services;
8. The Erie County Attorney (Erie County Department of Law);
9. The City Assessor of the City of Lackawanna;
10. The City Treasurer of the City of Tonawanda;

11. Western New York Regional Director, Empire State Development Corporation.
and be it further

RESOLVED, that members of the Board of Directors shall serve by virtue of office and they shall serve so long as he or she shall hold the office. For those members of the Board of Directors appointed by the Members of the Corporation, they will serve until the conclusion of the next annual meeting of the Members of the Corporation, or until his or her successor shall have been duly appointed and qualified; and be it further

RESOLVED, that all members of the Board of the Land Bank shall be residents of the County of Erie except such member who serves as an officer of foreclosing governmental units located outside of Erie County shall be residents of the County in which the foreclosing governmental unit is located; and be it further

RESOLVED, that the intergovernmental agreement shall include provisions for dissolution of such land bank; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive; the Commissioner of the Erie County Department of Environment and Planning; and the Erie County Director of the Department of Real Property Tax Services.

CERTIFICATE OF INCORPORATION OF

BUFFALO ERIE NIAGARA LAND IMPROVEMENT CORPORATION

Under Section 402 of the Not-for-Profit Corporation Law

The undersigned incorporator, being over the age of eighteen years, for the purpose of forming a corporation pursuant to Section 402 of the Not-for-Profit Corporation Law of New York, does hereby certify:

1. The name of the Corporation is Buffalo Erie Niagara Land Improvement Corporation.
2. The Corporation is a corporation as defined in subparagraph (a) (5) of Section 102 of the Not-for-Profit Corporation Law.
3. The Corporation shall be a Type C corporation under Sections 201 and 1603 (f) of the Not-for-Profit Corporation Law.

4. The purposes for which the Corporation is formed are exclusively charitable, scientific or educational within the meaning of Section 501 (c) (3) of the United States Internal Revenue Code, as it may be amended from time to time (the "Code"). Subject to that limitation and the limitations stated in subsequent paragraphs of this Certificate, its purposes shall include the following:

(a) To confront and alleviate the problems caused by vacant, abandoned, tax-delinquent, and tax foreclosed properties and to turn vacant spaces into vibrant places in Erie County and Western New York.

(b) To lessen the burdens on the governments of Erie County and Western New York of acquiring and maintaining vacant, abandoned, tax-delinquent, and tax-foreclosed properties.

(c) To combat community deterioration and urban decay caused by vacant, abandoned, tax-delinquent, and tax foreclosed properties by taking remedial action to eliminate the physical, economic, and social causes of such deterioration.

(d) To serve as a land bank pursuant to Article 16 (the Land Bank Act) of the Not-for-Profit Corporation Law.

(e) To demonstrate the feasibility of a land bank and to encourage both other foreclosing governmental units and non-foreclosing municipalities and school districts to enter into intergovernmental cooperative agreements with the foreclosing governmental units in Erie County and/or the Corporation when they determine it to be in the interest of their residents to do so.

(f) To pursue and to cooperate with and assist other organizations to pursue any one or more of the above-mentioned purposes.

(g) Any other purpose which shall assist the Corporation in the furtherance of the above-stated purposes which can be performed by a corporation as defined by subparagraph (a) (5) of Section 102 of the Not-for-Profit Corporation Law.

5. The lawful public objectives which each purpose of the Corporation will serve are to lessen the burdens of government and combat community deterioration by performing those functions permissible under the New York Land Bank Act.

6. Notwithstanding any other provision of this Certificate, the purposes of the Corporation do not extend to or include any of the purposes mentioned in Section 404 of the Not-for-Profit Corporation Law.

7. Notwithstanding any other provision of this Certificate, the purpose and powers of the Corporation shall be limited as follows:

(a) The Corporation shall not engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes within the meaning of Section 501 (c) (3) of the Code.

(b) The Corporation shall not devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise.

(c) The Corporation shall not directly or indirectly participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.

(d) Upon dissolution of the Corporation, its assets shall be distributed for one or more exempt purposes within the meaning of Section 501 (c) (3) of the Code, and none of the assets shall be distributed to any non-exempt person or organization.

(e) No part of the net earnings of the corporation shall inure to the benefit of any member, trustee, director, officer of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation) and no member, director, officer of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation.

(f) The Corporation shall not carry on any other activities not permitted to be carried on (i) by a corporation exempt from federal income tax under Section 501 (c) (3) of the Code or (ii) by a corporation, contributions to which are deductible under Section 170 (c) (2) of the Code.

(g) If at any time or times the corporation is a private foundation within the meaning of Section 509 of the Code, then during such time or times:

(1) The corporation shall distribute its income for each taxable year at such time and in such manner as not to subject the corporation to tax under Section 4842 of the Code;

(2) The corporation shall not engage in any act of self-dealing, as defined in Section 4941 (d) of the Code;

(3) The corporation shall not retain any excess business holdings, as defined in Section 4943 (c) of the Code;

(4) The corporation shall not make any investments in such manner as to subject the corporation to tax under Section 4944 of the Code; and

(5) The corporation shall not make any taxable expenditures as defined in Section 4945 (d) of the Code.

8. The duration of the Corporation is perpetual.

9. The office of the Corporation is to be located in Erie County, New York.

10. The Corporation may be authorized by resolution of the Board of Directors to accept subventions from members or non-members on terms and conditions not inconsistent with the Not-for-Profit Corporation Law, and to issue certificates therefor.

11. The names and addresses of the persons constituting the initial Board of Directors of the Corporation are:

1. Brendan R. Mehaffy, Executive Director of Strategic Planning of the City of Buffalo 920 City Hall Buffalo, New York 14202
2. Timothy A. Ball Corporation Counsel of the City of Buffalo 1100 City Hall Buffalo, NY 14202
3. James Comerford, Jr. Commissioner of Permit and Inspection Services of the City of Buffalo 324 City Hall Buffalo, NY 14202
4. Janet Penksa 203 City Hall

Commissioner of Administration, Finance, Policy and Urban Affairs for the City of Buffalo Buffalo, NY 14202

5. David P. Comerford General Manager, Buffalo Sewer Authority 1038 City Hall Buffalo, NY 14202

6. Maria R. Whyte Commissioner of Erie County Department of Environment and Planning Edward A. Rath Building 95 Franklin Street, 10th Floor Buffalo, New York 14202

7. Joseph L. Maciejewski Director, Erie County Department of Real Property Tax Services Edward A. Rath Building 95 Franklin Street, 1st floor, Room 100 Buffalo, New York 14202

8. Michael A. Siragusa, County Attorney Erie County Department of Law Edward A. Rath Building 95 Franklin Street, Suite 1634 Buffalo, New York 14202

9. Frank E. Krakowski – City Assessor City of Lackawanna Lackawanna City Hall 714 Ridge Road Lackawanna, New York 14218

10. Joseph M. Hogenkamp City Treasurer City of Tonawanda 200 Niagara Street Tonawanda, New York 14150

11. Christina Orsi Empire State Development – Western New York Regional Director 95 Perry Street, Suite 500 Buffalo, New York 14203

12. The Secretary of State of the State of New York is designated as agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary shall mail a copy of any process against it served upon him or her is:

The County Executive of Erie County
Edward A. Rath Building
95 Franklin Street
Buffalo, New York 14202

IN WITNESS WHEREOF, I have signed this Certificate this _____ day of March,
2012.

Mark C. Poloncarz, County Executive
County of Erie
Edward A. Rath Building
95 Franklin Street
Buffalo, New York 14202

STATE OF NEW YORK)
)
ss.: COUNTY OF ERIE)

On this ___ day of March, 2012, before me personally came MARK C. POLONCARZ, to me known and known to me to be the person described in and who executed the foregoing Certificate of Incorporation, and he duly acknowledged to me that he executed the same.

Notary Public

(6-0)

THOMAS J. MAZUR
CHAIR