

May 14, 2013

GOVERNMENT AFFAIRS COMMITTEE
REPORT NO. 6

ALL MEMBERS PRESENT.

CHAIR GRANT PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 8D-1 (2013)
COUNTY ATTORNEY: “Notice of Claim”
(6-0)
 - b. COMM. 8M-2 (2013)
TIOGA COUNTY LEGISLATURE: “Copy of Resolution Opposing Proposed Amendments to the Election Law”
(6-0)
 - c. COMM. 9D-1 (2013)
COUNTY ATTORNEY: “Notice of Claims Against Erie County”
(6-0)
 - d. COMM. 9M-6 (2013)
ASSIGNED COUNSEL PROGRAM: “Quarterly Report for First Quarter of 2013”
(6-0)
2. INTRO 9-7 (2013)
MAZUR AS AMENDED

WHEREAS, it has come to the attention of the Erie County Legislature by the Erie County Director of Real Property Tax Services and the Erie County Assessors’ Association that the New York State Office of Real Property Tax Services has utilized a recent judicial decision in the First Department of the Appellate Division of New York State; and

WHEREAS, in the case of RCN New York Communications versus City of New York, the First Department of the Appellate Division upheld a lower court decision to remove fiber optic cable from the Outside Plant assessment; and

WHEREAS, for more than 25 years, utilities, telecommunications companies and the NYS Office of Real Property Services have correctly viewed and included the value of fiber optic cable as part of the Outside Plant assessment; and

WHEREAS, communities across Upstate New York are outside the jurisdiction of the First Department of the Appellate Division, yet the NYS Office of Real Property Tax Services asserts that the aforementioned decision has statewide impact; and

WHEREAS, although fiber optic cable has remained in the Special Franchise assessment, the New York City court decision may open the door to continued and costly legal challenges to fiber optic cable assessments by mega-corporations (utilities and telecommunications companies); and

WHEREAS, statewide, there could be a potential loss of hundreds of millions of dollars in the real property tax assessments of utilities and telecommunications companies, shifting a greater real property tax burden onto homeowners and small businesses across New York State or, in the alternative, destabilizing the budgets of counties, cities, towns, villages and school districts – particularly in Upstate New York; and

WHEREAS, it is in the best interests of the taxpayers of New York State that the utility and telecommunications tax base be maintained as it has for nearly three decades in terms of properly assessing the value of fiber optic cable in both Outside Plant and Special Franchise Assessment.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature join with the Erie County Director of Real Property Tax Services and the Erie County Assessors’ Association in calling for an immediate state legislative remedy for the potential loss of millions of dollars in assessed real property value as the result of the Appellate Division, First Department Decision in RCN New York Communications vs. City of New York; and be it further

RESOLVED, that this Honorable Body request that the NYS Office of Real Property Services recognize the limited jurisdiction (to wit, Manhattan and the Bronx) of the Appellate Division, First Department and allow all other communities in New York State to continue assessing fiber optic cable in a manner consistent with the practice of assessors for nearly three decades; and be it further

RESOLVED, that certified copies of this resolution be conveyed to Governor Andrew Cuomo; Speaker of the Assembly Sheldon Silver; Leader of the Republican Majority Conference of the State Senate Dean Skelos; Leader of the Independent Democrat Conference of the State Senate Jeff Klein; the WNY Delegation to the State Legislature, County Executive Mark Poloncarz; Joseph Maciejewski, Director of the Erie County Office of Real Property Services; the Erie County Assessors’ Association and all others deemed necessary and proper.
(5-0) Legislator Rath not present for vote.

3. COMM. 9E-12 (2013)

COUNTY CLERK

WHEREAS, the Erie County Legislature previously authorized the Erie County Clerk to act as a retail sales agent for the NYS Thruway Authority in the sale of E-Z Pass Tags (Comm. 12E-17/2012); and

WHEREAS, the sale of these tags has been met with great enthusiasm from the public that visit the County Clerk's Auto Bureau and Clerk's Registrar Office; and

WHEREAS, the Erie County Clerk purchases E-Z Pass Tags at a unit price of \$21.00 and is authorized to sell them to the public at \$25.00 per tag, with the County retaining \$4.00 in revenue for every tag sold; and

WHEREAS, no additional resources are necessary to offer these tags for sale; and

WHEREAS, the Clerk's 2013 Budget needs to be adjusted to allow for the unanticipated increase in the sale of these tags.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby authorize the following budgetary adjustment in the 2013 Budget:

Erie County Clerk's Office, Fund 110
Fund Center 11310

Revenue

415185 E-Z Pass Tag Sales \$8,400

Expense

507000 E-Z Pass Supplies \$8,400

and be it further

RESOLVED, that certified copies of this resolution be sent to the County Clerk, the Director of Budget and Management and the County Comptroller.

(6-0)

**THOMAS J. MAZUR
CHAIR**