

January 14, 2016

FINANCE & MANAGEMENT COMMITTEE  
REPORT NO. 1

ALL MEMBERS PRESENT.

1. RESOLVED, the following items are hereby received and filed:
  - a. COMM. 1E-5 (2015)  
**COMPTROLLER:** "Audit of Correctional Health Services and Inmate Medical Costs for Period January 2011-December 2013"  
(5-0)
  - b. COMM. 1D-10 (2015)  
**COMMISSIONER, DEPARTMENT OF HEALTH:** "County Executive's Response to Comptroller's Audit Concerning Correctional Health Services"  
(5-0)
  - c. COMM. 2M-15 (2015)  
**PARTNERSHIP FOR THE PUBLIC GOOD:** "Statement on Requiring Inmates to Make Medical Co-Payments"  
(5-0)
  - d. COMM. 3E-5 (2015)  
**COMPTROLLER:** "Report on Motor Fuel Tax in Erie County"  
(5-0)
  - e. COMM. 4D-12 (2015)  
**COUNTY ATTORNEY:** "Co-Pays for Inmates in the Custody of the Erie County Sheriff"  
(5-0)
  - f. COMM. 19M-9 (2015)  
**EC RIGHTS COALITION:** "Letter Regarding Changing the Closing Time of Erie County Bars"  
(5-0)
  - g. COMM. 20E-19 (2015)  
**MILLER-WILLIAMS:** "Buffalo Place Inc Resolution Regarding Support for Earlier Bar Closings in EC"  
(5-0)

- h. COMM. 21E-12 (2015)  
**COUNTY EXECUTIVE:** "Memo from Central Police Services - Stop DWI Program Regarding Potential Change of Closing Time of Bars"  
(5-0)
- i. COMM. 21E-13 (2015)  
**MILLER-WILLIAMS:** "Correspondence Received Regarding Potential Change of Closing Time of Bars"  
(5-0)
- j. COMM. 21M-5 (2015)  
**JAMES & NICOLE PUSKAS:** "Letter Regarding Opposition to the Proposed Change of Bar Closing Time"  
(5-0)
- k. INTRO. 25-3 (2015)  
**MILLER-WILLIAMS:** "Handling of Unclaimed Funds Received by Erie County Comptroller as a Result of Foreclosure Sales by the City of Buffalo"  
(5-0)
- l. COMM. 25D-9 (2015)  
**COMPTROLLER'S OFFICE:** "Notice of Audit of EC Clerk's Office Registrar Division Regarding the Mortgage Transfer Tax- NFTA for Period Apr-Sept 2015"  
(5-0)
- m. COMM. 25D-10 (2015)  
**DEPARTMENT OF BUDGET & MANAGEMENT:** "Budget Monitoring Report for Period Ending Oct 31, 2015"  
(5-0)
- n. COMM. 25M-10 (2015)  
**TOWN OF ELMA:** "Town Resolution Regarding the Refugee Resettlement"  
(5-0)
- o. COMM. 1E-8 (2016)  
**COMPTROLLER:** "Review of the Trinity Services Group LLC - Food Services Contracts at the Youth Detention Facility - Oct. 1, 2014-Mar. 31, 2015"  
(5-0)
- p. COMM. 1E-9 (2016)

**COMPTRROLLER:** “Report for Apportionment and Distribution of Net Collections from the 4.75% Sales and Compensating Use Tax for Sept., Oct. and Nov. 2015”  
(5-0)

q. COMM. 1M-7 (2016)  
**EC AUDIT COMMITTEE:** “Annual Report for Year Ended Dec. 31, 2014”  
(5-0)

2. COMM. 1D-9 (2015)  
**EC REAL PROPERTY TAX SERVICES AS AMENDED**

WHEREAS, the Erie County Director of Real Property Tax Services has received applications for corrected tax billings and / or refunds for taxes previously paid in accordance with New York State Real Property Tax Law sections 554 and 556; and

Recommendation to ECL regarding the Level 3RP-554 and RP-556 Applications Petitioners, Level 3 Communications, LLC and Broadwing Communications filed Applications for Refund and Credit of Real Property Taxes on form RP-556 (attached) relative to the various properties listed below for various years. Each Application purportedly applies to “fiber optic cables and inclosures on private rights of way”. The petitioner alleges, in addenda attached to each Application, that the assessments in issue were made upon personal property excluded from taxable real property because the fiber optic cable at issue is “not for electrical conductors and therefore they cannot be taxed under RPTL”. They base this assertion on a holding in *Matter of RCN*, a First Department case, whose holding has been rejected by a recent decision in our Judicial District, *Level 3 Communications, LLC vs. County of Erie et al* (copy attached). The addenda further allege that the taxes at issue were assessed based upon an “unlawful entry” pursuant to RPTL §550(7)(c). That section of the RPTL provides that an assessment is unlawful where it has been made by a person or body without the authority to make the assessment.

I have conducted an investigation of each Application and have determined that pursuant to *Level 3 Communications, LLC vs. County of Erie et al*, the fiber optic cable at issue is taxable as real property pursuant to RPTL 102(12)(f). Additionally, the assessors each had the authority to make such an assessment and therefore, the assessments were not “unlawful entries” pursuant to RPTL §550(7)(c). Accordingly, it is my recommendation that this Honorable Body deny each of the Applications based upon the foregoing.

NOW, THEREFORE, BE IT

RESOLVED, that petitions numbered 215206 through 215226, inclusive be hereby denied based upon the recommendation of the Director of Real Property Tax Services and be charged back to the applicable towns and/or cities.

FISCAL YEAR	2010	Petition No.	215,206.00
	OWNER	Refund	\$999.69
S-B-L	Multiple	Multiple	145801 NORTH COLLINS
	Acct. No. 112		\$0.00 County
	Acct. No. 132		\$999.69
	Town/SpecialDist/School		
	<u>Charge To :</u>	145801 NORTH COLLINS	\$999.69
	Relevy Village	\$999.69	Village of NORTH

COLLINS  
RPTL550(2): Fiberoptic not taxable  
Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR	2011	Petition No.	215,207.00
	OWNER	Refund	\$1,019.79
S-B-L	Multiple	Multiple	145801 NORTH COLLINS
	Acct. No. 112		\$0.00 County
	Acct. No. 132		\$1,019.79
	Town/SpecialDist/School		
	<u>Charge To :</u>	145801 NORTH COLLINS	\$1,019.79
	Relevy Village	\$1,019.79	Village of NORTH

COLLINS  
RPTL550(2): Fiberoptic not taxable  
Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR	2012	Petition No.	215,208.00
	OWNER	Refund	\$1,052.78
S-B-L	Multiple	Multiple	145801 NORTH COLLINS
	Acct. No. 112		\$0.00 County
	Acct. No. 132		\$1,052.78
	Town/SpecialDist/School		

Charge To : 145801 NORTH COLLINS \$1,052.78  
 Relevy Village \$1,052.78 Village of NORTH  
 COLLINS  
 RPTL550(2): Fiberoptic not taxable  
 Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR 2010 Petition No. 215,209.00  
 OWNER Refund \$774.34  
 S-B-L 555.000-75-1.1 144000 EDEN  
 Acct. No. 112 \$0.00 County  
 Acct. No. 132 \$774.34  
 Town/SpecialDist/School  
Charge To : 144000 EDEN \$774.34  
 Relevy School \$774.34 144001 EDEN

CENTRAL  
 RPTL550(2): Fiberoptic not taxable  
 Refund to be issued to Level 3 Communications, LLC.  
 FISCAL YEAR 2011 Petition No. 215,210.00  
 OWNER Refund \$770.23  
 S-B-L 555.00-75-1.1 144000 EDEN  
 Acct. No. 112 \$0.00 County  
 Acct. No. 132 \$770.23  
 Town/SpecialDist/School  
Charge To : 144000 EDEN \$770.23  
 Relevy School \$770.23 144001 EDEN

CENTRAL  
 RPTL550(2): Fiberoptic not taxable  
 Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR 2012 Petition No. 215,211.00  
 OWNER Refund \$788.28  
 S-B-L 555.00-75-1.1 144000 EDEN  
 Acct. No. 112 \$0.00 County  
 Acct. No. 132 \$788.28  
 Town/SpecialDist/School  
Charge To : 144000 EDEN \$788.28  
 Relevy School \$788.28 144001 EDEN

CENTRAL  
 RPTL550(2): Fiberoptic not taxable  
 Refund to be issued to Level 3 Communications, LLC.  
 FISCAL YEAR 2010 Petition No. 215,212.00  
 OWNER Refund \$7,709.07  
 S-B-L Multiple Multiple 145889 NORTH COLLINS  
 Acct. No. 112 \$0.00 County  
 Acct. No. 132 \$7,709.07  
 Town/SpecialDist/School  
Charge To : 145889 NORTH COLLINS \$7,709.07  
 Relevy School \$7,709.07 145801 NORTH

COLLINS CENT  
 RPTL550(2): Fiberoptic not taxable  
 Refund to be issued to Level 3 Communications, LLC.  
 FISCAL YEAR 2011 Petition No. 215,213.00  
 OWNER Refund \$0.00  
 S-B-L Multiple Multiple 145889 NORTH COLLINS  
 Acct. No. 112 \$0.00 County  
 Acct. No. 132 \$0.00  
 Town/SpecialDist/School

Charge To: 145889 NORTH COLLINS \$0.00

RPTL550(2): Fiberoptic not taxable  
Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR 2012 Petition No. 215,214.00

S-B-L Multiple OWNER Cancel \$8,116.65  
Multiple 145889 NORTH COLLINS

Acct. No. 112 \$0.00 County  
Acct. No. 132 \$8,116.65  
Town/SpecialDist/School

Charge To: 145889 NORTH COLLINS \$8,116.65  
Relevy School \$8,116.65 145801 NORTH

COLLINS CENT

RPTL550(2): Fiberoptic not taxable  
Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR 2010 Petition No. 215,215.00

S-B-L 609.00-99-760.70 OWNER Refund \$906.52  
140900 LACKAWANNA

Acct. No. 112 \$906.52 County  
Acct. No. 132 \$0.00  
Town/SpecialDist/School

Charge To: 140900 LACKAWANNA \$0.00

RPTL550(2): Fiberoptic not taxable  
Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR 2011 Petition No. 215,216.00

OWNER Refund \$961.02  
S-B-L 609.00-99-760.70 140900 LACKAWANNA

Acct. No. 112 \$961.02 County  
Acct. No. 132 \$0.00  
Town/SpecialDist/School

Charge To: 140900 LACKAWANNA \$0.00

RPTL550(2): Fiberoptic not taxable  
Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR 2012 Petition No. 215,217.00

S-B-L 609.00-99-760.70 OWNER Refund \$942.35  
140900 LACKAWANNA

Acct. No. 112 \$942.35 County  
Acct. No. 132 \$0.00  
Town/SpecialDist/School

Charge To: 140900 LACKAWANNA \$0.00

RPTL550(2): Fiberoptic not taxable  
Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR 2010 Petition No. 215,218.00

S-B-L 666.00-65-9 OWNER Refund \$42,872.78  
140200 BUFFALO

Acct. No. 112 \$42,872.78 County  
Acct. No. 132 \$0.00  
Town/SpecialDist/School

Charge To: 140200 BUFFALO \$0.00

RPTL550(2): Fiberoptic not taxable

Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR	2011	Petition No.	215,219.00	
	OWNER	Refund	\$42,676.40	
S-B-L	666.00-65-9	140200 BUFFALO		
	Acct. No. 112	\$42,676.40	County	
	Acct. No. 132	\$0.00		
<u>Charge To :</u>	Town/SpecialDist/School			
	140200 BUFFALO		\$0.00	

RPTL550(2): Fiberoptic not taxable  
Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR	2012	Petition No.	215,220.00	
	OWNER	Refund	\$39,247.38	
S-B-L	666.00-65-9	140200 BUFFALO		
	Acct. No. 112	\$39,247.38	County	
	Acct. No. 132	\$0.00		
<u>Charge To :</u>	Town/SpecialDist/School			
	140200 BUFFALO		\$0.00	

RPTL550(2): Fiberoptic not taxable  
Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR	2010	Petition No.	215,221.00	
	OWNER	Refund	\$684.56	
S-B-L	666.00-65-1	140200 BUFFALO		
	Acct. No. 112	\$684.56	County	

	Acct. No. 132	\$0.00	
<u>Charge To :</u>	Town/SpecialDist/School		
	140200 BUFFALO		\$0.00

RPTL550(2): Fiberoptic not taxable  
Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR	2011	Petition No.	215,222.00	
	OWNER	Refund	\$497.00	
S-B-L	666.00-65-1	140200 BUFFALO		
	Acct. No. 112	\$497.00	County	
	Acct. No. 132	\$0.00		
<u>Charge To :</u>	Town/SpecialDist/School			
	140200 BUFFALO		\$0.00	

RPTL550(2): Fiberoptic not taxable  
Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR	2012	Petition No.	215,223.00	
	OWNER	Refund	\$457.06	
S-B-L	666.00-65-1	140200 BUFFALO		
	Acct. No. 112	\$457.06	County	
	Acct. No. 132	\$0.00		
<u>Charge To :</u>	Town/SpecialDist/School			
	140200 BUFFALO		\$0.00	

RPTL550(2): Fiberoptic not taxable  
Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR	2010	Petition No.	215,224.00	
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S-B-L	666.00-65-10	OWNER	Refund	\$108.82	
			140200 BUFFALO		
		Acct. No. 112		\$108.82	County
		Acct. No. 132		\$0.00	
		Town/SpecialDist/School			
<u>Charge To :</u>		140200 BUFFALO			\$0.00

RPTL550(2): Fiberoptic not taxable  
 Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR	2011	Petition No.	215,225.00
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S-B-L	666.00-65-10	OWNER	Refund	\$81.77	
			140200 BUFFALO		
		Acct. No. 112		\$81.77	County
		Acct. No. 132		\$0.00	
		Town/SpecialDist/School			
<u>Charge To :</u>		140200 BUFFALO			\$0.00

RPTL550(2): Fiberoptic not taxable  
 Refund to be issued to Level 3 Communications, LLC.

FISCAL YEAR	2012	Petition No.	215,226.00
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S-B-L	666.00-65-10	OWNER	Refund	\$81.19	
			140200 BUFFALO		
		Acct. No. 112		\$81.19	County
		Acct. No. 132		\$0.00	
		Town/SpecialDist/School			
<u>Charge To :</u>		140200 BUFFALO			\$0.00

RPTL550(2): Fiberoptic not taxable  
 Refund to be issued to Level 3 Communications, LLC.

and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Director of Real Property Tax Services.  
 (5-0)

3. COMM. 1D-9 (2015)  
**EC REAL PROPERTY TAX SERVICES AS AMENDED**

WHEREAS, the Erie County Director of Real Property Tax Services has received applications for corrected tax billings and / or refunds for taxes previously paid in accordance with New York State Real Property Tax Law sections 554 and 556; and

WHEREAS, the Director has investigated the validity of such applications (see attached listing).

NOW, THEREFORE, BE IT

RESOLVED, that petitions numbered 215228 through 215234, 215245 through 215247, inclusive be hereby approved or denied based upon the recommendation of the Director of Real Property Tax Services and be charged back to the applicable towns and/or cities.

FISCAL YEAR	2015	Petition No.	215,228.00
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S-B-L	28.00-1-69	ASSESSOR	Refund	\$9.57	
		2270 Hopkins Rd	142289 AMHERST		

		Acct. No. 112		\$0.00	County
		Acct. No. 132		\$9.57	
		Town/SpecialDist/School			
<u>Charge To :</u>		142289 AMHERST			\$9.57
		Relevy School		\$9.57	142203

WILLIAMSVILLE CENT

RPTL550(3): Ownership Incorrect  
 Refund to be issued to Bernice Fiegl

FISCAL YEAR	2014	Petition No.	215,229.00
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	ASSESSOR	Refund	\$238.80	
S-B-L	47.07-2-16.11/R7	7 Randy Dr	145601 AKRON	
	Acct. No. 112		\$0.00	County
	Acct. No. 132		\$238.80	
	Town/SpecialDist/School			
<u>Charge To :</u>		145601 AKRON	\$238.80	
		Relevy School	\$238.80	145601 AKRON

CENTRAL

RPTL550(2): Failed to apply basic STAR exemption  
 Refund to be issued to Jennifer M. Drozdowski

FISCAL YEAR	2015	Petition No.	215,230.00
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	ASSESSOR	Refund	\$59.98	
S-B-L	163.05-3-4.2	3520 Transit Rd	146089 ORCHARD PARK	
	Acct. No. 112		\$0.00	County
	Acct. No. 132		\$59.98	
	Town/SpecialDist/School			
<u>Charge To :</u>		146089 ORCHARD PARK	\$59.98	

RPTL550(2): Incorrect special district charge  
 Refund to be issued to John A And Sandy A Giannicchi

FISCAL YEAR	2014	Petition No.	215,231.00
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	ASSESSOR	Refund	\$35.46	
S-B-L	163.05-3-4.2	3520 Transit Rd	146089 ORCHARD PARK	
	Acct. No. 112		\$0.00	County
	Acct. No. 132		\$35.46	
	Town/SpecialDist/School			
<u>Charge To :</u>		146089 ORCHARD PARK	\$35.46	

RPTL550(2): Incorrect special district charge  
 Refund to be issued to John A and Sandy A Giannicchi

FISCAL YEAR	2013	Petition No.	215,232.00
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	ASSESSOR	Refund	\$35.36	
S-B-L	163.15-3-4.2	3520 Transit Rd	146089 ORCHARD PARK	
	Acct. No. 112		\$0.00	County
	Acct. No. 132		\$35.36	
	Town/SpecialDist/School			
<u>Charge To :</u>		146089 ORCHARD PARK	\$35.36	

RPTL550(2): Incorrect special district charge  
 Refund to be issued to John A and Sandy A Giannicchi

FISCAL YEAR	2015	Petition No.	215,233.00
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	ASSESSOR	Refund	\$363.70	
S-B-L	216.00-4-19.1	7146 Olean Rd	145000 HOLLAND	
	Acct. No. 112		\$0.00	County
	Acct. No. 132		\$363.70	
	Town/SpecialDist/School			
<u>Charge To :</u>		145000 HOLLAND	\$363.70	
		Relevy School	\$363.70	145001 HOLLAND

CENTRAL

RPTL550(2): Error in calculating exemption  
 Refund to be issued to Christine U Fronckowiak

FISCAL YEAR	2015	Petition No.	215,234.00
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	ASSESSOR	Refund	\$1,082.00	
S-B-L	134.56-2-24	263 Wimbledon Ct	146800 WEST SENECA	

	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$1,082.00	
	Town/SpecialDist/School		
<u>Charge To :</u>	146800 WEST SENECA	\$1,082.00	146801 WEST
SENECA CENT	Relevy School	\$1,082.00	

RPTL550(2): Failed to apply enhanced STAR  
Refund to be issued to Brian Herman

FISCAL YEAR	2016	Petition No.	215,245.00
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	ASSESSOR	Cancel	\$58.44
S-B-L	163.05-3-4.2	3520 Transit Rd	146089 ORCHARD PARK

	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$58.44	
	Town/SpecialDist/School		
<u>Charge To :</u>	146089 ORCHARD PARK	\$58.44	

RPTL550(2): Incorrect special district charge  
New tax bill to be issued

FISCAL YEAR	2015	Petition No.	215,246.00
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	ASSESSOR	Refund	\$466.00
S-B-L	71.00-3-28./52	4614 Leytonstone	143200 CLARENCE

	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$466.00	
	Town/SpecialDist/School		
<u>Charge To :</u>	143200 CLARENCE	\$466.00	
CENTRAL	Relevy School	\$466.00	143201 CLARENCE

RPTL550(2): Failed to apply enhanced STAR

Refund to be issued to Rock Oak Phase III LLC

FISCAL YEAR	2016	Petition No.	215,247.00
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	ASSESSOR	Cancel	\$66.53
S-B-L	226.01-7-26	7928 Hywood Dr	142600 BOSTON

	Acct. No. 112	\$66.53	County
	Acct. No. 132	\$0.00	
	Town/SpecialDist/School		
<u>Charge To :</u>	142600 BOSTON	\$0.00	

RPTL550(2): Failed to apply cold war exemption  
New tax bill to be issued

and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Director of Real Property Tax Services.  
(5-0)

**JOSEPH C. LORIGO  
CHAIR**