January 28, 2016

FINANCE & MANAGEMENT COMMITTEE REPORT NO. 2

ALL MEMBERS PRESENT. CHAIR MILLS PRESENT AS EX-OFFICIO MEMBER.

- 1. RESOLVED, the following item ishereby received and filed:
- a. COMM. 2D-5 (2016) **DEPARTMENT OF BUDGET & MANAGEMENT**: "Budget Monitoring Report for Period Ending Nov. 30, 2015"

 (6-0)
- 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

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

NOW, THEREFORE, BE IT

RESOLVED, that petitions numbered 216001 through 216009, 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 2016 Petition No. 216,001.00

ASSESSOR Cancel \$309.21

S-B-L 96.00-3-41 12080 Walden Ave 142089 ALDEN

Acct. No. 112 \$192.11 County

Acct. No. 132 \$117.10

Town/SpecialDist/School

Charge To: 142089 ALDEN \$117.10

RPTL550(2): Incorrect assessment

New tax bill to be issued

FISCAL YEAR 2016 Petition No. 216,002.00

ASSESSOR Cancel \$261.30

S-B-L 96.00-3-40 12100 Walden Ave 142089 ALDEN

Acct. No. 112 \$162.34 County

Acct. No. 132 \$98.96

Town/SpecialDist/School

<u>Charge To:</u> 142089 ALDEN \$98.96

RPTL550(2): Incorrect assessment

New tax bill to be issued

FISCAL YEAR 2016 Petition No. 216,003.00

ASSESSOR Cancel \$400.68

S-B-L 118.18-5-7 531 Briarwood Ct 142089 ALDEN

Acct. No. 112 \$248.92 County

Acct. No. 132 \$151.76

Town/SpecialDist/School

<u>Charge To:</u> 142089 ALDEN \$151.76

RPTL550(2): Incorrect assessment

New tax bill to be issued

FISCAL YEAR 2016 Petition No. 216,004.00

ASSESSOR Cancel \$711.59

S-B-L 128.00-4-28.11 Town Linw Rd 145289 LANCASTER

Acct. No. 112 \$288.41 County

Acct. No. 132 \$423.18

Town/SpecialDist/School

145289 LANCASTER \$423.18 Charge To: RPTL550(2): Duplicate parcel Delete parcel from the tax roll FISCAL YEAR 216,005.00 2016 Petition No. ASSESSOR Cancel \$38.75 S-B-L 28.00-1-69 Millersport Hwy 142089 ALDEN Acct. No. 112 \$2.65 County Acct. No. 132 \$36.10 Town/SpecialDist/School 22028 GETZVLE FIRE PROTECTION \$0.40 Charge To: 142089 ALDEN \$35.70 RPTL550(2): Incorrect assessment New tax bill to be issued 216,006.00 FISCAL YEAR 2016 Petition No. ASSESSOR Cancel \$605.96 S-B-L 69.17-5-3 81 Evans St 142201 WILLIAMSVILLE Acct. No. 112 \$299.43 County Acct. No. 132 \$306.53 Town/SpecialDist/School Charge To: 142201 WILLIAMSVILLE \$306.53 RPTL550(2): Error calculating aged exemption New tax bill to be issued FISCAL YEAR 2016 Petition No. 216,007.00

ASSESSOR Cancel \$184.89 68.07-1-4.1/11 142289 AMHERST S-B-L 85 Mapleton Dr \$95.45 County Acct. No. 112 Acct. No. 132 \$89.44 Town/SpecialDist/School 142289 AMHERST \$89.44 Charge To: RPTL550(2): Failed to apply vet exemption New tax bill to be issued FISCAL YEAR 2016 Petition No. 216,008.00 **ASSESSOR** Cancel \$260.21 1125 Youngs Rd Un 142289 AMHERST S-B-L 56.15-2-1./6B Acct. No. 112 \$148.72 County Acct. No. 132 \$111.49 Town/SpecialDist/School **142289 AMHERST** \$111.49 Charge To: RPTL550(2): Failed to apply aged exemption New tax bill to be issued FISCAL YEAR 2016 Petition No. 216,009.00 ASSESSOR Cancel \$29.37 S-B-L 183.17-14-3 4175 Walker Pl **144889 HAMBURG** Acct. No. 112 \$29.37 County Acct. No. 132 \$0.00 Town/SpecialDist/School \$0.00 Charge To: **144889 HAMBURG**

RPTL550(2): Error calculating aged exemption

New tax bill to be issued

and be it further

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

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

NOW, THEREFORE, BE IT

RESOLVED, that petitions numbered 215235 through 215244, inclusive be hereby denied based upon the recommendation of the Director of Real Property Tax Services.

Recommendation to ECL regarding the Level 3 RP-556 Applications

Petitioners, Level 3 Communications, LLC 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 <u>Level 3 Communications</u>, <u>LLC vs. County of Erie et al</u>, the fiber optic cable at issue is taxable as real property pursuant to RPTL 102(12)(f). Additionally, the assessor 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.

Property	Tax Levying Body	Tax Year
609.00-99-760.7/1881	City of Lackawanna	2013/14

555.00-75-1.1		Eden Central School District			2013
555.00-75-1.2	Lakeshore Central School District		2013		
658.001-9999-710./1	882	North Co	North Collins Central School District		2013
658.001-9999-717./1	North Co	North Collins Central School District			
658.001-9999-760.7/	1882	North Co	North Collins Central School District		
658.089-9999-710./1	882	North Co	North Collins Central School District		
658.089-9999-717./1	882	North Co	North Collins Central School District		
658.089-9999-760.7/	1882	North Co	North Collins Central School District		
658.001-9999-710./1	882	Village o	of North Collin	S	2014
658.001-9999-717./1	882	Village o	of North Collin	s	2014
658.001-9999-760.7/	1882	Village o	of North Collin	S	2014
666.00-65-9	Erie Cou	Erie County Tax Collector			
609.00-99-760.7/188	Erie Cou	Erie County Tax Collector			
555.00-75-1.1			Erie County		2015
555.00-75-1.2			Erie County		
658.001-9999-710./1	882	Erie Cou	•		2015
658.001-9999-717./1	882	Erie Cou	•		2015
658.001-9999-760.7/	1882	Erie Cou	•		2015
658.089-9999-710./1	882	Erie Cou	•		2015
658.089-9999-717./1	882	Erie Cou	•		2015
658.089-9999-760.7/1882		Erie Cou	Erie County		2015
FISCAL YEAR	2013	Pe	tition No.	215,235.00	
OWNER C	Cancel		\$802.96		
S-B-L 555.00-75	-1.1 Fi	ber optics	14400	0 EDEN	
Acct. No. 112	\$0.00			County	
Acct. No. 132 Charge To:	\$802.9	96 - 144000 El		cialDist/School	\$802.96
Relevy School	\$802.96		,	N CENTRAL	φου2.90
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RPTL550(2): Fiber optic cables and inclosures are not taxable New tax bill to be issued

Petition No.

215,236.00

2013

FISCAL YEAR

OWNER Ca S-B-L 555.00-75-	ancel 1.2 Finer opti	\$323.97 ic 144000 ED	DEN	
Acct. No. 112 Acct. No. 132 <u>Charge To:</u> Relevy School		Town/SpecialD 0 EDEN 401 LAKE SHORE CE	\$323.97	,
RPTL550(2) New tax bill		es and inclosures are no	ot taxable	
FISCAL YEAR	2013	Petition No.	215,237.00	
OWNER Ca S-B-L Multiple	ancel Multiple	\$1,702.93 145801 NO	ORTH COLLINS	
Acct. No. 112 Acct. No. 132 Charge To: Relevy School		Town/SpecialD 1 NORTH COLLINS 801 NORTH COLLIN	\$1,702.93	
RPTL550(2): Fiber optic cables and inclosures are not taxable New tax bill to be issued				
FISCAL YEAR	2013	Petition No.	215,238.00	
OWNER Ca S-B-L Multiple	Multiple Acct. No. 112 Acct. No. 132		ORTH COLLINS \$0.00 County \$6,519.08	
Charge To:	Town/Special 145889	9 NORTH COLLINS	\$6,519.08	;

Relevy School \$6,519.08 145801 NORTH COLLINS CENT

RPTL550(2): Fiber optic cables and inclosures are not taxable New tax bill to be issued

FISCAL YEAR 2014 Petition No. 215,239.00

OWNER Cancel \$1,074.14

S-B-L Multiple Multiple 145801 NORTH COLLINS

Acct. No. 112 \$0.00 County

Acct. No. 132 \$1,074.14 Town/SpecialDist/School
Charge To: 145801 NORTH COLLINS \$1,074.14

Relevy Village \$1,074.14 Village of NORTH COLLINS

RPTL550(2): Fiber optic cables and inclosures are not taxable New tax bill to be issued

FISCAL YEAR 2015 Petition No. 215,240.00

OWNER Cancel \$6,975.61

S-B-L 666.00-65-9 Fiber optic 140200 BUFFALO

Acct. No. 112 \$6,975.61 County

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

\$0.00

RPTL550(2): Fiber optic cables and inclosures are not taxable New tax bill to be issued

FISCAL YEAR 2015 Petition No. 215,241.00

OWNER Cancel \$908.93

S-B-L 609.00-99-760.70 Fiber Optic 140900 LACKAWANNA

Acct. No. 112 \$908.93 County

Acct. No. 13 Charge To		\$0.00 Town/SpecialDist/School 140900 LACKAWANNA			
RPTL550(2): Fiber optic cables and inclosures are not taxable New tax bill to be issued					
FISCAL YE	EAR	2015	Petition No.	215,242.00	
OWNER S-B-L M	Ca Aultiple	nncel Multiple	\$624.21 e 144000 ED	EN	
Acct. No. 13 Acct. No. 13 Charge To	32	\$328.95 \$295.26 1440	Town/SpecialDi 000 EDEN	County ist/School	\$295.26
RPTL550(2): Fiber optic cables and inclosures are not taxable New tax bill to be issued					
FISCAL YE	EAR	2015	Petition No.	215,243.00	
OWNER S-B-L M	Ca Iultiple	ancel Multiple	\$838.66 e 145801 NO	RTH COLLINS	
Acct. No. 13 Acct. No. 13 58050 Charge To	32 ERIE CO	\$448.06 \$390.60 SEW DST 2 1458	Town/SpecialDi \$108.71 301 NORTH COLLINS	County ist/School	\$281.89
RPTL550(2): Fiber optic cables and inclosures are not taxable New tax bill to be issued					
FISCAL YE	EAR	2015	Petition No.	215,244.00	
OWNER	Ca	ancel	\$3,663.26		

S-B-L

Multiple

Multiple

145889 NORTH COLLINS

 Acct. No. 112
 \$1,715.21
 County

 Acct. No. 132
 \$1,948.05
 Town/SpecialDist/School

 Charge To:
 145889 NORTH COLLINS
 \$1,948.05

RPTL550(2): Fiber optic cables and inclosures are not taxable 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. (6-0)

3. COMM. 1E-18 (2016)

SAVAGE AS AMENDED

RESOLVED, the Erie County Executive is hereby authorized to sign a Two (2) Year Lease Agreement with 1701 Hertel Ave LLC (Rosanne Frandia & Jim Van Oss) for Legislative office space for Peter J. Savage III, located at 1701 Hertel Ave, First Floor, Buffalo, New York for a monthly rate of \$675. (5-0-1) Legislator Savage abstained.

4. COMM. 2E-33 (2016)

COUNTY EXECUTIVE

WHEREAS, the Director of Real Property Tax Services has recommended the transfer of surplus county owned landlocked parcel described as SBL # 104.70-2-7; and

WHEREAS, the landlocked parcel has been owned by the County since 1989 and measure 65.12'x 97.5 (irregular); and

WHEREAS, the parcel was reviewed and deemed surplus by the Erie County Advisory Review Committee.

NOW, THEREFORE BE IT

RESOLVED that SBL # 104.70-2-7 in the Village of Depew, Town of Lancaster, be sold to Peter and Lisa Florczak for Three Hundred Dollars (\$300.00); and be it further;

RESOLVED, that the Erie County Executive is hereby authorized and directed to execute a quit claim deed conveying any and all interest of the County of Erie in the above described property to the aforesaid purchasers; and be it further;

RESOLVED, that certified copies of this resolution be forwarded to the County Executive, the Office of the County Comptroller, the County Attorney, Department of Environment and Planning, and the Department of Real Property Tax Services.

(6-0)

JOSEPH C. LORIGO CHAIR

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