



COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

July 15, 2013

The Honorable Andrew M. Cuomo
Governor of New York State
New York State Capitol Building
Albany, New York 12224

**Re: Amendments to the New York State Land Bank Act
Bill Numbers A-7245A and S-5167A**

Dear Governor Cuomo:

As you are aware, in 2011 you signed into law the New York State Land Bank Act as Article 16 of the Not-for-Profit Corporation Law as a means for New York State's counties and municipalities to address the problem of vacant, abandoned, distressed, and tax delinquent properties. Under the Act, municipalities were invited to submit applications to Empire State Development for the formation of local land banks. Erie County and the Cities of Buffalo, Tonawanda, and Lackawanna submitted a successful application in June 2012 and the Buffalo Erie Niagara Land Improvement Corporation ("BENLIC") was formed.

As Erie County began the process of identify properties for the land bank in 2013, we became aware that the Act unintentionally limited certain land banks from bidding on properties at municipally-ordered foreclosure auctions because the Act only allows land banks the power to bid at those auctions that are conducted under New York State Real Property Tax Law ("RPTL"). In a handful of cases, tax foreclosure auctions are not conducted under the RPTL but under local law or charter. This is the case in Erie County as these actions are performed pursuant to the Erie County Tax Act (being Chapter 812, Laws of 1942, as amended, of the State of New York). As such, BENLIC and other similar land banks are unable to exercise their power to bid the back taxes and acquire the property.

The Assembly and Senate each passed a bill, A-7245A and S-5167A, respectively, amending the Land Bank Act. The amendments permit land banks to bid the back taxes at municipal foreclosure auctions conducted under both the RPTL and any local law or charter.

Land Bank Amendments Letter to Governor Andrew M. Cuomo

July 15, 2013

Page 2 of 2

Your signature on this bill is greatly needed to allow BENLIC to bid on properties at Erie County's October 2013 foreclosure auction.

Additionally, BENLIC was incorporated with 11 Board Members, the maximum number permitted under the Act. Since that time, discussions have taken place with the City of Niagara Falls regarding joining BENLIC. Niagara Falls is a foreclosing governmental unit and as such is required to have a seat on the Board of Directors. In order for the City of Niagara Falls to join BENLIC, the amendments before you also changed the maximum number of board seats from 11 to 15.

On behalf of the members of the BENLIC and the County of Erie, I thank you for your leadership on this issue, your continuing support of the Land Bank Act and greatly appreciate your consideration of these necessary amendments to the law.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Mark C. Poloncarz", with a long, sweeping underline that extends to the right.

Mark C. Poloncarz
Erie County Executive

cc: BENLIC Board of Directors
Hon. Byron W. Brown
Hon. Ronald Pillozzi
Hon. Geoffrey Szymanski
Hon. Paul Dyster
Hon. Mary Holtz