Intro 9-7

ECLEG MAY07'13 PM10:37

A RESOLUTION TO BE SUBMITTED
BY LEGISLATOR MAZUR

RE: Calling on the NYS Legislature and Governor to Update the Real Property Tax Law to Clearly Include Fiber Optic Cable in the Value of Outside Plant for the Purposes of Maintaining Current Revenue Assessments on Corporate Property

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 Joseph Maciejewski, Director of the Erie County Office of Real Property Services, attend the next meeting of the Government Affairs Committee to discuss this matter of great urgency to the taxpayers of Erie County; 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.

FISCAL IMPACT: None for resolution.