



ERIE COUNTY COMPTROLLER

HON. STEFAN I. MYCHAJLIW

March 14, 2018

Hon. Peter J. Savage, III
Chairman of the Erie County Legislature
92 Franklin Street – Fourth Floor
Buffalo, New York 14202

**RE: Request for Independent Investigation of Sexual Assault Claims Against Erie County
Pursuant to Article II, Section 202-8 of Erie County Charter**

Dear Chairman Savage:

In the recent notice of claim served against the County of Erie, serious allegations have entered the public domain from the unidentified county employee accusing former Social Services Commissioner Albert Dirschberger of rape. Mr. Dirschberger was indicted on charges of rape on January 22, 2018. The accusations accuse the County of Erie of knowing troubling information about the former Social Services Commissioner prior to his alleged rape of a woman that reported to him, and not acting on this information.

As you are aware, as Chairman of the Erie County Legislature, you and the body are vested with specific powers in Article II, Section 202-8, to investigate allegations made against the County of Erie regarding "Jane Doe's" allegation against the County of wrongful, negligent and careless acts that may have enabled former Commissioner Dirschberger to harass, sexually assault and repeatedly rape an employee in his charge.

Specifically, Article II, Section 202-8 authorizes the Chairman & the Legislature:

"To make such studies and investigations as it deems to be in the best interest of the County, and in connection therewith to obtain professional and technical advice, appoint temporary advisory boards of citizens, subpoena witnesses, administer oaths and require the production of books, papers and other evidence, deemed necessary or material to the study or inquiry."

Given the serious nature of the allegations, and the subsequent civil action commenced against the County of Erie, it is clearly in the best interests of the County to appoint an independent investigation in this matter.

As other organizations and governments have recently undertaken, Erie County needs to contract to conduct a truly independent investigation to examine these allegations for their accuracy and, if founded, examine the organizational culture which would allow such actions to occur. Again, given the severity of the allegations in this particular matter, the investigation must not be an internal one, but rather a group not charged with creating the policies, procedures and supervision as they currently exist. Transparency and independence are imperative to regaining the public's trust regarding this matter.

SUSPENSION

Specifically, the scope of the independent investigation should include an examination of the following claims against Erie County:

- Negligence in hiring and supervision of Al Dirschberger;
- Being aware of sexual harassment and/or abuse by Al Dirschberger while he was employed by Erie County, and negligently allowing said conduct to continue unabated
- Negligently failing to protect employees from Al Dirschberger
- Negligently failing to alert the Claimant to the danger of Al Dirschberger
- Having actual or constructive notice of the prior actions of Al Dirschberger, specific to sexually harassing and or abusing county employees

In the spirit of transparency and truth, the independent investigation should, like other independent investigations recently conducted regarding similar accusations, be led by an attorney or public prosecutor with no political, personal or financial ties to the County Executive, Erie County Legislature, Erie County Department of Law, Erie County Department of Social Services or Erie County Personnel Department.

I look forward to working with you on this independent investigation that will review the allegations made by the alleged rape victim, as well as make recommendations on how to improve current policies and procedures that protect county employees.

Thank you for your anticipated leadership on this issue and your prompt attention to this very serious matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Stefan I. Mychajliw', with a long horizontal line extending to the right.

STEFAN I. MYCHAJLIW
Erie County Comptroller

cc: Hon. Robert M. Graber – For Official Clock In
Hon. April N.M. Baskin, Majority Leader
Hon. Joseph C. Lorigo, Minority Leader
Mr. Michael Siragusa, Erie County Attorney