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County of Erie

MARK C. POLONCARZ
COMPTROLLER

January 26, 2011

Honorable Members
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Report on Mortgage Tax Collection

Dear Honorable Members:

Enclosed please find a report issued by my office regarding mortgage tax receipts collected in Erie County for 2010 compared to the prior three (3) years. As noted by the report, mortgage tax receipts have dropped significantly during the past year.

While the County derives very little revenue from the collection of mortgage tax, due to the impact mortgage tax receipts may have on city, town and village budgets, the drop in receipts collected could have a significant impact on these local governments. As such, a copy of this report was provided to every local government mayor, supervisor and administrator.

I am available to answer any questions that you may have on this matter. Thank you in advance for your consideration.

Sincerely yours,

A handwritten signature in black ink, reading "Mark C. Poloncarz".

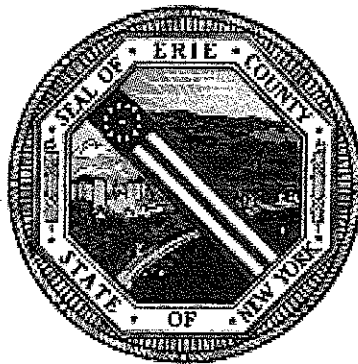
Mark C. Poloncarz, Esq.
Erie County Comptroller

MCP/nr
Enclosure

cc: Hon. Christopher C. Collins
Erie County Fiscal Stability Authority
Buffalo Niagara Association of Realtors

January 2011

**A REPORT ON
MORTGAGE TAX COLLECTION IN
ERIE COUNTY FOR 2010
COMPARED TO PRIOR YEARS**



**MARK C. POLONCARZ
ERIE COUNTY COMPTROLLER**

Lorne Steinhart, MBA
Deputy Comptroller - Accounting & Cash Management

January 25, 2011

To the Honorable Erie County Legislature:

The Erie County Comptroller's Office ("Office") has completed its reconciliation of all mortgage taxes collected by Erie County ("County") in 2010 and has reported its findings to the Office of the New York State Comptroller ("NYS Comptroller") pursuant to Article 11 of the New York State Tax Law. Mortgage Tax is collected by the Erie County Clerk's Office ("Clerk") pursuant to specific formulas as detailed herein, and the collected tax is forwarded to our Office for final reconciliation, reporting to the NYS Comptroller and distribution of applicable amounts to the cities, towns and villages. This report is provided as an indicator of the County's economic condition during the past year, comparing it to the three (3) previous years as it pertains to the County's real estate market.

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I. Introduction

New York State Tax Law Article 11 (Sections 250 – 267) provides that a tax may be imposed against the value of "every mortgage or deed of trust which imposes a lien or affects the title to real property, notwithstanding that such property may form a part of the security for the debt or debts secured thereby."¹ In effect, the mortgagee and mortgagor of real property are assessed a fee for entering into said mortgage agreement and filing said agreement in the applicable county clerk's office. New York law provides some exemptions to the above general imposition, as well as varying determination on the amount of tax to be collected depending on the type and location of the real property.

In the County, the mortgage tax is one percent (1.0%) of the total mortgaged amount, except in the case of a single or double residential dwelling, which is that amount minus twenty-five dollars (\$25.00). However, the formula for determining who pays what portion of the mortgage tax depends on the type of property being secured by the mortgage. Under the current law, the tax to be paid for a parcel of mortgaged real property in the County is as follows:

¹ New York State Tax Law § 250(2)(a).

Single or Double Residential Dwelling:

- By Mortgagor: $\frac{1}{2}$ of 1% of \$10,000 of total amount secured and $\frac{3}{4}$ of 1% of entire amount over \$10,000.
- By Mortgagee: special additional tax, $\frac{1}{4}$ of 1% of total amount secured.

Multiple Dwellings (three to six residences):

- By Mortgagor: $\frac{3}{4}$ of 1% of total amount secured.
- By Mortgagee: $\frac{1}{4}$ of 1% of total amount secured.

Part Residential (six or fewer units), Part Commercial:

- By Mortgagor: $\frac{3}{4}$ of 1% of total amount secured.
- By Mortgagee: $\frac{1}{4}$ of 1% of total amount secured.

More than six Residential Dwellings, or All Commercial Property, or Vacant Land:

- By Mortgagor: 1% of the total amount secured; total amount secured is rounded off to the next hundred (if mortgage is \$10,050.00, tax is computed on \$10,000. If mortgage is \$10,050.01, tax is computed on \$10,100.00).

Each quarter the Clerk certifies to our Office and, as a result, to the NYS Comptroller the total amount of real estate mortgages closed during that period and the amount of mortgage tax collected on those mortgages. Our Office then performs a reconciliation on the amount of mortgage tax collected during the quarterly reporting period, and then the County Comptroller reports and certifies to the NYS Comptroller on the amount of mortgage tax collected during said period. A copy of the latest certification filed by the County Comptroller as of January 24, 2011 is attached as Exhibit "A."

Each month, the County retains \$36,543.91 of mortgage tax revenue as a fee for processing mortgage tax transactions. Twice each year (June for the period of October through March, December for the period of April through September), the County makes distributions of mortgage tax receipts to the three (3) cities, twenty-six (26) towns and sixteen (16) villages located in the County. The distributions are determined by the amount of total mortgages entered into for each municipality during the applicable period. These distributions provide a very good, though not exact, indication on the real property purchase and sale market for each municipality, and in total for the County.

II. 2010 Mortgage Taxes are the Lowest of the Past Four Years and Over \$5 Million Less than 2007

Based on reports provided to our Office by the Clerk, on January 24, 2011, the County Comptroller certified to the NYS Comptroller on the amount of mortgage tax collected in the County in the 4th Quarter of 2010. As such, our Office can report on the total amount of

mortgage tax collected in 2010 and compare that to prior years. Total amounts collected for each year, listed by quarter, are indicated on the below Table 1.²

Table 1 - Mortgage Tax Collection by quarter 2007 - 2010

	2007	2008	2009	2010
1st Quarter	3,827,744.33	3,406,268.48	2,988,218.87	2,253,117.26
2nd Quarter	4,948,697.58	4,019,277.39	4,178,151.88	3,315,269.99
3rd Quarter	4,795,713.15	3,701,009.53	4,193,093.90	3,102,309.99
4th Quarter	3,954,905.40	2,800,214.50	3,552,649.20	3,661,717.49
Total	17,527,060.46	13,926,769.90	14,912,113.85	12,332,414.73

Currently mortgage tax collections in Erie County are at their lowest point since the national economic recession began in the second half of 2008. In fact, 2010 mortgage tax collections were \$2.6 million less than 2009, \$1.6 million less than 2008 and almost \$5.2 million less than 2007. Moreover, except for the 4th Quarter of 2010, every quarter of 2010 was less than the corresponding quarter for 2009.

The reduction in mortgage tax for the first three (3) quarters of 2010 is surprising as many published reports note the rush by first time home buyers to (1) sign a purchase agreement for real property by April 30, 2010 and (2) close said purchase no later than September 30, 2010 to take advantage of the federal government's first time homebuyers tax credit program (the "Program"). While the initial Program was passed in 2008 to offer a tax credit up to \$7,500, and amended in 2009 to offer a tax credit up to \$8,000, it was expected that increased home sales would occur during the final months of the Program as there was a rush to close sales by the original deadline of June 30, 2010, and then extended to September 30, 2010 deadline. Ultimately it does not appear the Program helped spur real estate sales secured by mortgages in an amount greater than 2009, or 2008 for that matter.

As noted in Table 2 below, while there was a \$240,685.23 increase in mortgage tax collected for the month of June 2010, the original deadline of the Program, compared to June 2009, May 2010 collections were \$440,389.86 less than 2009 and April 2010's collections were \$663,177.26 less than 2009. Furthermore, July 2010's collections were \$389,387.23 less than 2009, August 2010's collections were \$452,061.35 less than 2009, and September 2010's collections, the last month to close a transaction to take advantage of the Program, were \$249,335.33 less than 2009.

² Quarterly amounts as identified in the quarterly reports filed by the Erie County Comptroller's Office with the New York State Comptroller's Office for the periods of 2007-2010.

Table 2 - Mortgage Tax Collection by Month 2007-2010

	2007	2008	2009	2010
January	1,414,598.57	949,978.73	942,160.97	761,163.49
February	941,943.51	1,378,769.73	923,610.05	644,991.89
March	1,471,202.25	1,077,520.02	1,122,447.85	846,961.88
April	1,820,290.08	1,449,118.57	1,640,174.40	976,997.14
May	1,453,940.76	1,294,188.18	1,366,855.55	926,465.69
June	1,674,466.74	1,275,970.64	1,171,121.93	1,411,807.16
July	1,520,198.31	1,276,497.62	1,296,866.08	907,478.85
August	1,646,582.69	1,386,857.57	1,310,980.73	858,919.38
September	1,628,932.15	1,037,654.34	1,585,247.09	1,335,911.76
October	1,412,093.49	1,134,268.91	1,125,557.75	1,120,795.64
November	1,488,104.84	819,325.36	1,339,032.73	1,161,446.08
December	1,054,707.07	846,620.23	1,088,058.72	1,379,475.77
Total	17,527,060.46	13,926,769.90	14,912,113.85	12,332,414.73

Though the collected numbers for 2010 are distressing and indicate a weakening of the real estate market in 2010, there is reason for optimism: 4th Quarter 2010 collections were greater than 2009 because December 2010 mortgage tax collections surpassed all prior December collections for the past four (4) years. December 2010 collections were \$291,417.05 greater than 2009, \$532,855.54 greater than 2008, and \$324,768.70 greater than 2007. While monthly collections can fluctuate, December 2010 collections are the strongest recorded for the past four years and possibly indicate a strengthening of the local real estate market.

III. Decreases in Mortgage Tax Revenues Can Negatively Impact Local Governments' Budgets

As noted above, mortgage tax revenues are distributed to local cities, towns and villages based on the total transactions closed for each municipality. Any reduction in mortgage tax revenues can adversely impact these municipalities, especially if municipal budgets included increases in mortgage tax revenue as compared to the prior year.

On June 15, 2009, Comptroller Poloncarz sent warning letters out to all municipal administrators noting the reduction in mortgage tax revenues. The latest figures reinforce the overall warning contained in the 2009 letter that "these lower receipts will negatively impact nearly every city, town and village and may further exacerbate existing budget shortfalls in local governments."

Table 3 below identifies the amount distributed to each city, town and village in 2007 through 2010.

Table 3 Municipal Mortgage Tax Disbursements 2007 – 2010

Municipality	2007	2008	2009	2010	Total all Years
City of Buffalo	2,589,813.61	2,288,132.51	1,726,684.91	1,616,994.50	8,221,625.53
City of Lackawanna	160,452.34	128,784.78	99,200.10	103,661.94	492,099.16
City of Tonawanda	184,418.85	162,369.75	129,576.92	179,056.31	655,421.83
Town of Alden	144,538.71	131,705.04	147,443.24	122,877.59	546,564.58
Town of Amherst	3,732,574.85	2,561,149.10	2,783,654.67	2,189,618.52	11,266,997.14
Town of Aurora	307,258.15	286,622.01	273,289.84	227,411.39	1,094,581.39
Town of Boston	202,792.17	138,517.19	174,681.67	136,659.21	652,650.24
Town of Brant	37,738.77	27,785.78	27,112.27	24,041.10	116,677.92
Town of Cheektowaga	1,904,347.85	1,357,842.26	881,252.35	887,998.20	5,031,440.66
Town of Clarence	1,210,128.12	1,076,593.94	1,040,515.68	928,844.26	4,256,082.00
Town of Colden	77,501.65	70,554.17	56,224.73	65,300.20	269,580.75
Town of Collins	36,197.50	34,758.98	48,998.96	33,057.67	153,013.11
Town of Concord	97,983.58	105,912.60	94,720.74	73,848.18	372,465.10
Town of Eden	150,187.38	136,018.31	145,995.81	115,511.63	547,713.13
Town of Elma	349,497.25	262,867.43	285,369.11	250,837.98	1,148,571.77
Town of Evans	302,711.94	280,347.34	221,069.12	168,129.10	972,257.50
Town of Grand Island	505,917.48	593,236.42	614,250.74	456,906.37	2,170,311.01
Town of Hamburg	1,174,131.23	962,979.12	980,302.90	869,542.21	3,986,955.46
Town of Holland	62,535.28	66,037.34	79,426.87	57,953.07	265,952.56
Town of Lancaster	943,053.77	1,012,254.12	807,905.30	697,201.48	3,460,414.67
Town of Marilla	124,395.42	93,404.16	88,460.17	69,137.40	375,397.15
Town of Newstead	124,961.38	121,358.53	124,811.15	93,503.34	464,634.40
Town of North Collins	51,100.57	40,701.95	36,104.47	32,127.72	160,034.71
Town of Orchard Park	1,003,639.80	864,903.16	762,627.94	702,960.80	3,334,131.70

Town of Sardinia	47,387.08	50,351.42	51,372.35	53,654.20	202,765.05
Town of Tonawanda	1,165,687.00	998,374.02	1,147,578.75	843,566.22	4,155,205.99
Town of Wales	75,920.21	61,758.32	59,424.10	53,640.57	250,743.20
Town of West Seneca	733,929.43	662,288.09	693,220.67	650,406.72	2,739,844.91
Village of Akron	21,615.63	20,610.40	21,134.48	15,700.46	79,060.97
Village of Alden	16,287.48	14,877.60	16,606.36	13,800.16	61,571.60
Village of Angola	15,155.31	13,461.95	10,466.22	7,978.36	47,061.84
Village of Blasdell	21,559.30	17,259.82	17,174.39	15,183.94	71,177.45
Village of Depew (Lan.)	68,644.27	73,199.26	57,214.88	47,660.95	246,719.36
Village of Depew (Chk.)	98,247.32	69,185.33	45,240.55	45,432.60	258,105.80
Village of East Aurora	82,112.62	75,951.09	71,529.72	59,667.54	289,260.97
Village of Farnham	2,346.17	1,639.99	1,358.69	1,214.59	6,559.44
Village of Gowanda	4,699.93	4,505.28	6,312.47	4,238.81	19,756.49
Village of Hamburg	98,826.68	80,504.50	81,193.22	71,864.24	332,388.64
Village of Kenmore	78,950.81	68,288.62	79,120.81	58,147.21	284,507.45
Village of Lancaster	102,679.57	109,517.83	86,003.80	73,090.71	371,291.91
Village of North Collins	6,885.22	5,403.22	4,744.74	4,130.65	21,163.83
Village of Orchard Park	51,023.19	43,576.64	37,766.38	34,898.73	167,264.94
Village of Sloan	22,945.03	16,114.79	10,332.16	10,248.06	59,640.04
Village of Springville	32,197.01	35,067.67	31,156.74	24,290.84	122,712.26
Village of Williamsville (Amh.)	69,097.91	47,003.68	51,821.76	40,096.12	208,019.47
Village of Williamsville (Chk.)	259.45	182.08	114.7	114.66	670.89
	<u>18,294,334.27</u>	<u>15,273,957.59</u>	<u>14,210,567.60</u>	<u>12,232,206.51</u>	<u>60,011,065.97</u>

Note: 2007 disbursements include monies collected in October, November and December 2006. Mortgage tax revenues collected in October, November and December 2010 will not be disbursed to the municipalities until June 2011.

As noted above, only the Town of Sardinia experienced an annual increase in revenues derived from the mortgage tax from 2007 to 2010. Every other town, city and village has realized a reduction in mortgage tax revenues received in 2010 compared to 2007, though it should be noted that some municipalities experienced growth in 2008 and/or 2009, only to see significant reductions in 2010.

The reductions did not discriminate based on municipal size or location. For example, two (2) of the County's largest towns realized some of the largest reductions as (1) the Town of Amherst's 2007 mortgage tax revenues of \$3,732,574.85 decreased to \$2,189,618.52 in 2010, or approximately 41% and (2) the Town of Cheektowaga 2007 revenues of \$1,904,347.85 decreased to \$887,998.20 in 2010, or approximately 53%, while the Village of Angola, one of the County's smaller municipalities, recognized a reduction of over 47% as 2007 revenues of \$15,155.31 decreased each year and were \$7,978.36 in 2010.

Even "growing" municipalities such as Lancaster and Clarence experienced a reduction in their mortgage tax revenues decrease when compared from 2007 to 2010. In Lancaster mortgage tax

revenues increased in 2008 from 2007, \$1,012,254.12 as compared to \$943,053.77, respectively, but then decreased to \$807,905.30 in 2009 and subsequently dropped to \$697,201.48 in 2010. In Clarence, mortgage tax revenues decreased each year: in 2007 revenues were \$1,210,128.12, then decreased to \$1,076,593.94 in 2008, then \$1,040,515.68 in 2009 and finally \$928,844.26 in 2010.

The same result occurred for the three (3) cities in the County: Buffalo, Lackawanna and Tonawanda although the City of Tonawanda's revenues have almost rebounded to its 2007 level (\$184,418.85 in 2007 compared to \$176,056.31 in 2010).

While the County derives very little revenue from the mortgage tax, depending on the municipality, revenues derived from mortgage taxes may make up a significant portion of a municipality's budget, and any decrease could have a serious negative impact.

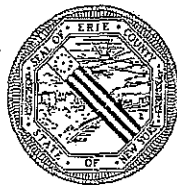
IV. Conclusion

Unlike other portions of our country, Erie County did not experience a boom real estate market. As such, when the worldwide recession of 2008 hit, the County's real estate market did not falter as other areas did; however, the recession did negatively impact the market, and as a result, local governments. In addition to the significant reduction in sales tax revenues derived during the recession (the County shares roughly 46% of all sales tax revenues with local governments and other entities), almost every local government experienced a large decrease in revenue derived from mortgage taxes. As such, our office recommends that all local government administrators continue to conservatively budget for future mortgage tax revenues.

ERIE COUNTY COMPTROLLER'S OFFICE

cc: Mayors, Supervisors and Administrators of Erie County Cities, Towns and Villages
Hon. Christopher C. Collins, County Executive
Erie County Fiscal Stability Authority
Buffalo Niagara Association of Realtors

EXHIBIT "A"



County of Erie


MARK C. POLONCARZ
COMPTROLLER

To the Comptroller of the State of New York:

I hereby report that under article 11 of the General Tax Law which requires the payment of a tax for recording mortgages in this State, I have received from the County Clerk of the County of Erie as follows:

For the Month of	Date Received	Amount Received
October, 2010	November, 2010	\$1,120,795.64
November, 2010	December, 2010	\$1,161,446.08
December, 2010	January, 2011	\$1,379,475.77
Received from County Clerk		\$3,661,717.49
Received Interest on bank deposits		\$0.00
Total amount received		\$3,661,717.49
Expenses allowed by State Tax Commission		\$0.00

Respectfully submitted,


Mark C. Poloncarz
Erie County Comptroller

Dated at Buffalo, NY, January 24, 2011

G/L Account
Company Code

220100
1000

MORTGAGE TAX

DATE	DESCRIPTION	DEBIT	CREDIT	TYPE	DATE	PK	AMOUNT	LOCAL CUR	TYPE
<input type="checkbox"/> JUNE 11		400118270	113	ZO	11/16/2010	50	1,120,795.64		COC: MORTGAGE TAX
<input type="checkbox"/> JUNE 11		40011983	113	ZO	12/15/2010	50	1,161,448.08		COC: MORTGAGE TAX
<input type="checkbox"/> JUNE 11		400121082	113	ZO	01/14/2011	50	1,379,475.77		COC: MORTGAGE TAX
* JUNE 11							3,661,717.49		
** Account 220100							3,661,717.49		

MT-4 (12/96)

To: The Commissioner of Taxation and Finance:
and

The Commissioner of Finance or County Treasurer:

I hereby transmit this statement of mortgages recorded, together with the receipts under the mortgage tax law and disbursements approved for the month shown, except taxes to be apportioned by the Commissioner of Taxation and Finance which I have listed on the back of this statement.

Signature of Recording Officer

Ruth C. Hsieh

County

Number of Mortgages Recorded

2689

Office of the Commissioner of Finance or the
County Treasurer, dated

November 4, 2010

Received from the Recording Officer of above

County: \$ *1,120,795.⁶⁴*
vouchers in the form of approved expense
statement and certified copies of refund and
adjustment orders covering above disbursements
were also duly received.

Signature of Commissioner of Finance or County Treasurer

Louise H. Fendall

Month: *October* Year: *2010*

Statement of Mortgages Recorded

Interest received on bank deposits
Interest to be retained by county
Total interest to be distributed
in columns (a) - (e)
Taxes collected on mortgages covering property
in one tax district only
Taxes released by apportionments including taxes
received from other counties as per case numbers
shown

	(a) Basic Tax	(b) Local	Receipts (c) Additional Tax	(d) Transportation Authority Special Assistance Fund	(e) Special Additional Tax to SONYMA
Case No.					
<i>249047</i>	<i>1137835.⁰⁰</i>		<i>519450.⁵⁰</i>	<i>1453712.⁰⁰</i>	<i>76628.²⁵</i>
<i>249048</i>	<i>1185.⁰⁰</i>		<i>592.⁵⁰</i>	<i>592.⁵⁰</i>	
<i>249068</i>	<i>700.⁵⁰</i>		<i>325.⁵⁰</i>	<i>350.⁵⁰</i>	
	<i>86.⁰⁷</i>		<i>28.⁰²</i>	<i>43.⁰³</i>	
Sub-Total	<i>1137806.⁰⁷</i>		<i>520396.⁰²</i>	<i>454228.⁰³</i>	<i>76628.²⁵</i>
Expenses previously approved	<i>19010.⁴³</i>		<i>8679.⁵¹</i>	<i>7575.⁹¹</i>	<i>1278.⁰⁰</i>
Refunds and adjustments ordered by the Commissioner of Taxation and Finance (per case numbers shown)					
Sub-Total	<i>1,120,795.⁶⁴</i>		<i>571,716.⁵⁸</i>	<i>446152.¹⁴</i>	<i>75,350.⁶⁴</i>

Amount of basic and local tax paid to Commissioner of Finance or County Treasurer - (columns a + b) \$ *1,120,795.⁶⁴*

Amount of additional tax paid to Transportation Authority, NYS Comptroller or County Treasurer and, where applicable, amount of special
additional tax paid to Transportation Authority - (columns c + d) Comm. *958,368.⁷⁰*

