



COPY

COUNTY OF ERIE

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July 6, 2011

Via Hand Delivery

Erie County Fiscal Stability Authority
295 Main Street, Suite 946
Buffalo, New York 14203

RE: Article 78 Budget Litigation

Dear Members of the Authority:

I attended the Authority's June 13, 2011 meeting. With respect to the County's four year plan, the Authority essentially asked Mr. Gach if the County was able to pay \$8 million if required to do so as a result of the "budget litigation." I write to clarify an apparent misunderstanding concerning the litigation.

Summary of "Budget Litigation"

Several Legislators filed a Verified Petition on December 14, 2010 ("the Petition") that sought as relief:

(1) to enjoin the Legislature from taking further action on the proposed Budget; and

(2) declaratory judgment that

(A) the County Executive "acted in excess of his authority when declaring actions of the Erie County Legislature 'null and void'; in objecting to rather than simply vetoing additions to the 2011 budget made by the Legislature" and

(B) the "Amendments to the Erie County Budget were proper."

Ver. Pet. ¶ 17 (Index No. 2010-12480).

The Petition was assigned to Justice Glowonia, who heard argument on December 14. Justice Glowonia issued an Order that denied the requested temporary restraining order and granted declaratory relief. This was all the relief that was requested. Petitioners did not ask for a taxpayer rebate. The Petition simply challenged the County Executive's budget veto message

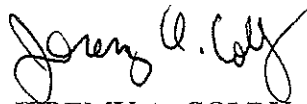
declaring certain reductions "null and void."¹ As a result, there is no pending legal proceeding that prays for relief that would require the County to pay \$8 million.

The County Does Not Owe \$8 million

Since the Petition was filed on December 14, 2010, it does not (and cannot) challenge events that occurred later. Accordingly, acts that occurred in 2011 after the Article 78 proceeding are not issues properly before Justice Glownia. Subsequent acts that are not before Justice Glownia include: Chairwoman Miller-Williams' signature of the tax warrants confirming the County Executive and Finance Director's calculations on January 3, 2011 and the subsequent mailing of tax bills, which became due February 16, 2011. There has been no challenge to the tax levy.

Mr. Gach indicated that the County is in a position to pay \$8 million if ordered to do so. Mr. Gach, however, merely responded to a hypothetical question based on the Authority's assumption that such relief is possible. As noted, however, the Petition does not seek such relief.

Very truly yours,



JEREMY A. COLBY
Erie County Attorney

JAC/dkw

cc: Hon. Chris Collins
Erie County Legislature ✓
Mr. Greg Gach

¹ This Order is subject to a pending appeal.