MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

July 24, 2013

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	*Turner, Donald v. County of Erie*
Document Received:	Notice of Claim
Name of Claimant:	Donald Turner 997 E. River Road Grand Island, New York 14072
Claimant's attorney:	Michael G. Wolfgang, Esq. 69 Delaware Avenue, Suite 707 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle Parker
Michelle M. Parker
First Assistant County Attorney

MMP:dld

Enclosure

ERIE COUNTY DEPARTMENT OF LAW

Turner, Donald v. COE (DPW/Highways) – issue re: staircase on COE ROW

NOC – MMP 7/23/2013

Caption : Turner, Donald v. COE (DPW/Highways) – issue re: staircase on COE ROW

Related matter: Turner, Donald v. COE (DPW/Highways) – 13-20050018

Area of law : General Property Damage

Type : Litigation

Assigned attorney(s) : Ericka B.

Department : DPW/Highways

Date of incident : 11/16/2012

Case description : There was an ongoing litigation arising from the claimant's assertion that the County's installation of guardrails on County right-of-way abutting his property amount to a taking, since it reduced the parking available to his tavern. During the litigation, it came to Ericka B's attention that the plaintiff installed a covered staircase on the County ROW as a means of egress for the tavern. She sent a "cease-and-desist" letter. Claimant Turner responded by filing a NOC. There was an attempt to conclude this and the other matter which failed. On the other matter, the Court found in favor of the claimant that the guardrails were a taking which appears to be error as a matter of law. We are opening this file to deal with the separate issue of the staircase built on County property without permission and without an easement.

Danette: To do: Open in ProLaw

Letter to legislature

File to MMP first (then she will give it to Ericka B.)

IN THE MATTER OF THE CLAIM OF
DONALD TURNER

NOTICE OF CLAIM

against

THE COUNTY OF ERIE

To the County of Erie:

PLEASE TAKE NOTICE that Donald Turner has a Claim against the County of Erie for damages arising out of the following facts:

1. The post office address of the Claimant is 997 E. River Road, Grand Island, New York 14072.

2. The name of the attorneys for Claimant is Wolfgang & Weinmann, LLP, 69 Delaware Avenue, Suite 707, Buffalo, New York 14202.

3. That at or before the times herein after mentioned, the Claimant was and still is the owner of lands and buildings situated at 997 E. River Road, Town of Grand Island, New York; said improvement consisting of a restaurant and bar situated on the Niagara River and a satellite parking lot across E. River Road.

4. On or about the 30th day of November 2012, the County of Erie issued a Cease and Desist Order to Claimant preventing the use of a stairwell to access Claimant's property, thus rendering the property at 997 E. River Road, Grand Island, New York to become land-locked without any access and such action to constitute a defacto taking of said property.

5. By reason of the facts aforesaid, the Claimant has suffered significant damage and presents this Claim in demand for adjustment in payment and notify you that unless same is paid within the time provided by law from the date of presentation to you, it is the intention of the undersigned to commence an action thereon.

Dated: Buffalo, New York
December 4, 2012

Michael G. Wolfgang, Esq. of
Wolfgang & Weinmann, LLP
Attorneys for Claimant
69 Delaware Avenue, Suite 707
Buffalo, New York 14202
(716) 855-0600