COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

July 1, 2014

The Honorable
Erie County Legislature
92 Franklin Street
Buffalo, New York 14202

Re: Buffalo Erie Niagara Land Improvement Corporation Preemptive Bid Powers and subsequent repayment agreement for City of Lackawanna Foreclosure Sale

Dear Honorable Members:

Please find attached a resolution and accompanying memorandum authorizing the Director of Real Property Tax Services to enter into agreements with the Buffalo Erie Niagara Land Improvement Corporation ("BENLIC"). For the purpose of outlining the obligations of the Land Bank.

Should your Honorable Body require further information, I encourage you to contact the Director of Real Property Tax Services and the Executive Director of the Buffalo Erie Niagara Land Improvement Corporation. Thank you for your consideration on this matter.

Sincerely yours,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/mc
Enclosure

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Real Property Tax Services
Re: Buffalo Erie Niagara Land Improvement Corporation Preemptive Bid Powers and subsequent repayment agreement for City of Lackawanna Foreclosure Sale
Date: July 1, 2014

SUMMARY

It is anticipated that the Buffalo Erie Niagara Land Improvement Corporation will exercise its preemptive bid powers at the upcoming City of Lackawanna tax sale. Therefore, agreements between the County and the Buffalo Erie Niagara Land Improvement Corporation are necessary to outline the obligations of the land bank and the expected repayment, if any, of the County taxes which were the basis for the judgment.

FISCAL IMPLICATIONS

Positive. The Land Bank will rehabilitate and sell properties, and net proceeds if available will be returned to the County.

REASONS FOR RECOMMENDATION

It is the mission of the Buffalo Erie Niagara Land Improvement Corporation to confront and alleviate the problems distressed properties cause to communities by supporting municipal and regional revitalization efforts and strategically acquiring, improving, assembling, and selling distressed, vacant, abandoned, and/or tax-delinquent properties.

BACKGROUND INFORMATION

Section 1616(i) of the New York Not-for-Profit Corporation Law provides that New York Land banks, including the Buffalo Erie Niagara Land Improvement Corporation, may tender a preemptive bid at In Rem tax sales in an amount equal to the total amount of all municipal claims and liens which were the basis for the judgment and in the event of such tender by a land bank, the property shall be deemed sold to the land bank regardless of any bids by any other third parties

CONSEQUENCES OF NEGATIVE ACTION

The Director of Real Property Tax Services, will not be able to enter into an agreement with the Buffalo Erie Niagara Land Improvement Corporation which outline the obligations of the Land bank and the expected repayment, if any, of the County taxes which were the basis for the tax certificates.

STEPS FOLLOWING APPROVAL

The Director of Real Property Tax Services, will enter into an agreement with the Buffalo Erie Niagara Land Improvement Corporation which outline the obligations of the Land bank and the expected repayment, if any, of the County taxes which were the basis for the tax certificates. Following the foreclosure, the Buffalo Erie Niagara Land Improvement Corporation will acquire title pursuant to Article 16 of the New York Not-for-Profit Corporation Law. After which the Land Bank will cause to rehabilitate and/or sell the property pursuant to its property disposition guidelines. The Land bank shall reimburse the County such amounts in accordance with agreement consistent with the Property Tax and Maintenance/Foreclosure Cost Recapture Policy

A RESOLUTION SUBMITTED BY:
REAL PROPERTY TAX SERVICES

Re: Buffalo Erie Niagara Land Improvement Corporation Preemptive Bid Powers and subsequent repayment agreement for City of Lackawanna Foreclosure Sale

WHEREAS, it is the mission of the Buffalo Erie Niagara Land Improvement Corporation to confront and alleviate the problems distressed properties cause to communities by supporting municipal and regional revitalization efforts and strategically acquiring, improving, assembling, and selling distressed, vacant, abandoned, and/or tax-delinquent properties; and

WHEREAS, section 1616(i) of the New York Not-for-Profit Corporation Law provides that New York Land banks, including the Buffalo Erie Niagara Land Improvement Corporation, may tender a preemptive bid at tax sales in an amount equal to the total amount of all municipal claims and liens which were the basis for the judgment and in the event of such tender by a land bank, the property shall be deemed sold to the land bank regardless of any bids by any other third parties; and

WHEREAS, the bid of the land bank shall be paid as to its form, substance, and timing according to such agreement as is mutually acceptable to the plaintiff and the land bank wherein the obligation of the land bank to perform in accordance with such agreement shall be deemed to be in full satisfaction of the municipal claim which was the basis for the judgment.

WHEREAS, it is anticipated that the Buffalo Erie Niagara Land Improvement Corporation will exercise its preemptive bid powers at the upcoming City of Lackawanna tax foreclosure sale; and

WHEREAS, agreements between the City of Lackawanna and the Buffalo Erie Niagara Land Improvement Corporation are necessary to outline the obligations of the land bank and the expected repayment, if any, of the City and County taxes which were the basis for the judgment; and

NOW, THEREFORE, BE IT

RESOLVED, that the County, through its Director of Real Property Tax Services, is hereby authorized to enter into agreements with the Buffalo Erie Niagara Land Improvement Corporation (BENLIC) which outline the obligations of the Land bank and the expected repayment, if any, of the County taxes which were the basis for the judgment consistent with the Property Tax and Maintenance/Foreclosure Cost Recapture Policy for the City of Lackawanna tax sale; and be it further

RESOLVED, that to the extent that such agreement results in the repayment of county taxes in the amount less than the amount of County taxes which were the basis for the judgment, pursuant to Section 12-1.0 of the Erie County Tax Act the Director of Real Property Tax Services is hereby authorized to cancel such past due real property taxes

RESOLVED, that certified copies of this resolution be forwarded to the County Executive, Erie County Comptroller, County Attorney, City of Lackawanna, Director of Real Property Tax Services and the Buffalo Erie Niagara Land Improvement Corporation.