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

August 21, 2014

Mr. Scott W. Kroll, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Mr. Kroll:

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:	*Erie Wind, LLC v. Assessor for the Town of Hamburg, the Board of Assessment Review for the Town of Hamburg and the Town of Hamburg*
Document Received:	Verified Petition
Name of Petitioner:	Erie Wind, LLC
Petitioner's attorney:	Stephen A. Sharkey Bond, Schoeneck & King, PLLC 40 Fountain Plaza, Suite 600 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

MAS:dld
Enc.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF Erie

In the Matter of the Application for a Review under Article 7 of the Real Property Tax Law, by

Erie Wind, LLC,

Plaintiff/Petitioner,

- against -

Assessor for the Town of Hamburg, The Board of Assessment Review for the Town of Hamburg and the Town of Hamburg in the County of Erie, New York,

Defendant/Respondent.

Index No. 808508/2014

FILED IN THE TOWN CLERK'S OFFICE HAMBURG, N.Y.
2014 AUG 1 PM 2 1
TOWN CLERK

NOTICE OF COMMENCEMENT OF ACTION SUBJECT TO MANDATORY ELECTRONIC FILING

PLEASE TAKE NOTICE that the matter captioned above, which has been commenced by filing of the accompanying documents with the County Clerk, is subject to mandatory electronic filing pursuant to Section 202.5-bb of the Uniform Rules for the Trial Courts. This notice is being served as required by Subdivision (b) (3) of that Section.

The New York State Courts Electronic Filing System ("NYSCEF") is designed for the electronic filing of documents with the County Clerk and the court and for the electronic service of those documents, court documents, and court notices upon counsel and self-represented parties. Counsel and/or parties who do not notify the court of a claimed exemption (see below) as required by Section 202.5-bb(e) must immediately record their representation within the e-filed matter on the Consent/Represent page in NYSCEF. Failure to do so may result in an inability to receive electronic notice of document filings.

Exemptions from mandatory e-filing are limited to: 1) attorneys who certify in good faith that they lack the computer equipment or (along with all employees) the requisite knowledge to comply; and 2) self-represented parties who choose not to participate in e-filing. For additional information about electronic filing, including access to Section 202.5-bb, consult the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: efile@nycourts.gov; mailing address: 60 Centre Street, New York, New York 10007).

Dated: August 1, 2014

(Signature)

Stephen A. Sharkey, Esq. (Name)

Bond, Schoeneck & King, PLLC (Firm Name)

40 Fountain Plaza, Suite 600 (Address)

Buffalo, New York 14202

(716) 566-2825 (Phone)

ssharkey@bsk.com (E-Mail)

To: Town Clerk of Town of Hamburg

Superintendent of Frontier Central School District

County Treasurer of County of Erie

STATE OF NEW YORK
SUPREME COURT COUNTY OF ERIE

In the Matter of the Application for a Review under Article 7 of the Real Property Tax Law, by

ERIE WIND, LLC,

Petitioner,

- against-

ASSESSOR FOR THE TOWN OF HAMBURG, THE BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF HAMBURG AND THE TOWN OF HAMBURG IN THE COUNTY OF ERIE, NEW YORK,

Respondents.

NOTICE OF VERIFIED PETITION

Index No.:
RJI No.:

Justice Presiding:

Oral Argument Not Requested

Parcel ID Nos.:
150.00-1-1.18./A
150.00-1-1.111/A

Tax year: 2014/2015

FILED IN THE TOWN CLERK'S OFFICE HAMBURG, N.Y.
2014 AUG 1 PM 2 12
TOWN CLERK

PLEASE TAKE NOTICE that upon the attached Verified Petition of Erie Wind, LLC (the "Petitioner"), verified July 29, 2014, an application will be made at a Special Term of the Supreme Court, Erie County, to be held at the Erie County Courthouse at 25 Delaware Avenue, Buffalo, New York, 14202, on September 11, 2014, at 9:30 in the forenoon on that day or as soon thereafter as the parties may be heard, for the review under Article 7 of the Real Property Tax Law of the State of New York, of the assessment for the year 2014/2015 of certain real properties of the Petitioner situated in the Town of Hamburg, County of Erie, State of New York and appearing upon the assessment roll for the year 2014/2015, which properties are more particularly described in the attached Verified Petition, and for such other and further relief as to the Court may seem just and proper.

Dated: July 29, 2014

ERIE WIND, LLC

By:_____

Stephen A. Sharkey, Esq.
Kevin R. MacLeod, Esq.
BOND, SCHOENECK & KING, PLLC
Attorneys for Petitioner
Key Center
40 Fountain Plaza, Suite 600
Buffalo, New York 14202-2200
(716) 566-2825

TO: TOWN CLERK
Town of Hamburg
Town Hall
6100 South Park Avenue
Hamburg, NY 14075

SUPERINTENDENT
Frontier Central School District
5120 Orchard Avenue
Frontier Educational Center
Hamburg, NY 14075

COUNTY TREASURER
County of Erie
95 Franklin Street
Buffalo, New York 14202

STATE OF NEW YORK
SUPREME COURT COUNTY OF ERIE

In the Matter of the Application for a Review under Article 7 of the Real Property Tax Law, by	**VERIFIED PETITION**
ERIE WIND, LLC,	Index No.: RJI No.:
Petitioner,	Justice Presiding:
- against-	
ASSESSOR FOR THE TOWN OF HAMBURG, THE BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF HAMBURG AND THE TOWN OF HAMBURG IN THE COUNTY OF ERIE, NEW YORK,	Oral Argument Not Requested Parcel ID Nos.: 150.00-1-1.18./A 150.00-1-1.111/A
Respondents.	Tax year: 2014/2015

TO THE SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF ERIE:

The Petitioner above named, by its attorneys, respectfully shows and alleges as follows:

1. At all times hereinafter mentioned, Petitioner was, and still is, the owner of real property in the Town of Hamburg ("Town"), County of Erie, State of New York, described on the assessment roll of the Town as follows: (1) Lakeshore Road, Parcel No. 150.00-1-1.111/A; and (2) Woodlawn Avenue, Parcel No. 150.00-1-1.18./A (the "Properties").

2. Respondents are the assessor for the Town; the Board of Assessment Review of the Town, which Board is charged with the duty of reviewing the assessments of real properties within the Town for the purpose of taxation; and the Town, a municipal corporation (collectively, the "Respondents").

3. Upon information and belief, during the month of May, 2014, the assessor for the Town ("Assessor") prepared and completed a tentative assessment roll for all real properties in the Town for the tax year 2014/2015. Upon information and belief, the Assessor thereafter filed this tentative assessment roll with the Town Clerk so that it might be seen and examined.

4. Petitioner's Properties were tentatively assessed on such assessment roll as follows:

Tax Map Parcel No.: 150.00-1-1.111/A Land - $0 Total - $5,481,000

Tax Map Parcel No.: 150.00-1-1.18./A Land - $0 Total - $1,827,000

5. On or before the Town's grievance day, Petitioner protested the tentative assessments of its Properties by timely filing with Respondents written complaints for the review and correction of its assessments. The complaints were received by Respondents without objection and within the time fixed by law for the making and hearing of complaints. These complaints included statements under oath which specified the respects in which the assessments were: (1) unequal, in that they had been made at a higher proportionate valuation than the assessments of other real properties on said assessment roll of the Town made by the same officers for the tax year 2014/2015 (the instances in which inequality exists being the assessments of all real properties made by the same officers in the Town for the aforesaid tax year); (2) excessive, as the assessments are greater than the fair market value of the Properties; and (3) potentially unlawful and/or illegal as the Assessor and/or the Board of Assessment Review included within the Properties' assessment non-assessable and/or non-real property items, among other things, in violation of the Real Property Tax Law

and the New York State Constitution. Lastly, Petitioner's complaints included requests for reduction of the assessments on the Properties. Copies of these complaints are on file with Respondents.

6. Upon information and belief, Respondents thereafter made their final determinations on Petitioner's complaints. In doing so, Respondents failed and refused to make such reductions in the assessments as requested in Petitioner's complaints. Thus, the assessments on the Properties remain unequal, excessive, illegal and/or unlawful.

7. On or about July 1, 2014, the assessment roll for the Town for tax year 2014/2015 was finally completed and filed by Respondents. Upon information and belief, Respondents gave notice of the completion and filing of the assessment roll on or about the same date.

8. The assessments on Petitioner's Properties as they appeared on the final assessment roll as completed and filed was $5,481,000 for Parcel 150.00-1-1.111/A and $1,827,000 for Parcel 150.00-1-1.18./A.

9. Upon information and belief, the full market value of the Properties was, and is, not more than $4,500,000 for Parcel 150.00-1-1.111/A and $1,500,000 for Parcel 150.00-1-1.18./A.

10. Upon information and belief, the general ratio of assessed values of real properties to full values of real properties in the Town for the year 2014/2015 was 56.6 percent at the time Petitioner filed its complaints.

11. Upon information and belief, the assessments upon the Properties of the Petitioner, and for which they will be required to pay taxes, is at a percentage substantially in excess of 56.6 percent.

12. Upon information and belief, in order to be equal and proportionate with the assessments of other real properties in the Town, the assessments on Petitioner's Properties should be reduced to $2,547,000 for Parcel 150.00-1-1.111/A, and $849,000 for Parcel 150.00-1-1.18./A, which is arrived at by applying the Town's 56.6 percent equalization rate to the Properties' estimated full market value of $4,500,000 for Parcel 150.00-1-1.111/A and $1,500,000 for Parcel 150.00-1-1.18./A.

13. Petitioner is aggrieved and will be injured by the unequal, excessive and unlawful (illegal) assessments because Petitioner will be compelled to pay a larger portion of the Town's taxes than is its fair and proportionate share, and which it would not be required by law to pay if their assessments had been made correctly and properly.

14. Thirty (30) days have not elapsed since the final completion of the final assessment roll and the filing and posting of notice thereof, and no previous application to review Petitioner's assessments for the year under review have been made by Petitioner.

15. Attached are letters authorizing Bond, Schoeneck & King, PLLC to verify and file this Verified Petition.

WHEREFORE, Petitioner requests that the Court (1) review the foregoing assessments of its Properties as provided in Article 7 of the Real Property Tax Law and reduce the assessments and values thereon as set forth in paragraphs 9 and 12 of this

Petition, so that they will be set at values proportionate to the other assessments of other real property assessed on the same roll for the same tax year made by the same officers, and so that equality of assessment will result, together with all appropriate refunds and interest, and (2) grant to the Petitioner such other and further relief as to the Court may seem just and proper, including attorney's fees, disbursements and costs.

Dated: July 29, 2014

ERIE WIND, LLC

By: _____

Stephen A. Sharkey, Esq.
Kevin R. MacLeod, Esq.
BOND, SCHOENECK & KING, PLLC
Attorneys for Petitioner
Key Center
40 Fountain Plaza, Suite 600
Buffalo, New York 14202-2200
(716) 566-2825

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

STEPHEN A. SHARKEY, being duly sworn, under penalty of perjury, deposes and states:

I reside in Erie County within the State of New York. I am a member with Bond, Schoeneck & King, PLLC, agents and attorneys for the Petitioner in this proceeding. I have read the foregoing PETITION and know the contents of it and it is true to my knowledge except as to those matters stated to be alleged upon information and belief, and, as to those matters, I believe them to be true.

I certify that all statements made in this PETITION are true and correct to the best of my knowledge and belief and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relevant to the making and filing of false instruments.

My knowledge and belief is based upon a review of Petitioner's files and reports received by me from Petitioner, Petitioner's representatives and agents in reference to the matters at issue, said representatives and agents having knowledge of the matter at issue. I am authorized to verify this PETITION because my client's principal offices are outside the county in which my office is located and, as per the grant of permission to do so from Petitioner in the attached authorization letters.

Stephen A. Sharkey

Sworn to before me this
29th day of July, 2014.

Notary Public

ROSE M. HYNES
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 03/05/2015

Rebecca M. Speno, Esq.
Bond, Schoeneck & King, PLLC
One Lincoln Center
Syracuse, New York 13202

Re: *Real Property Tax Assessment – Town of Hamburg, Erie County*
Erie Wind, LLC

Dear Rebecca:

This letter is to authorize Bond, Schoeneck & King, PLLC to act as agents and attorneys on behalf of the undersigned with respect to the 2014 real property assessment on property owned by Erie Wind, LLC in the Town of Hamburg, County of Erie, State of New York.

Bond, Schoeneck & King, PLLC is further authorized to verify and file any complaints, grievances, petitions or other documents that may be necessary to review and challenge the assessment on Erie Wind, LLC's property, and to include this letter in any such documents.

Sincerely,

ERIE WIND, LLC

BY: HURON HOLDINGS, LLC, its member

Date: 4/14/14, 2014

Print Name: Michele Beasley

Title: Secretary

Parcel No.: 150.00-1-1.111/A

2285546.1

Rebecca M. Speno, Esq.
Bond, Schoeneck & King, PLLC
One Lincoln Center
Syracuse, New York 13202

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Bond, Schoeneck & King, PLLC
One Lincoln Center
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Re: *Real Property Tax Assessment – Town of Hamburg, Erie County*
Erie Wind, LLC

Dear Rebecca:

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Bond, Schoeneck & King, PLLC is further authorized to verify and file any complaints, grievances, petitions or other documents that may be necessary to review and challenge the assessment on Erie Wind, LLC's property, and to include this letter in any such documents.

Sincerely,

ERIE WIND, LLC

BY: HURON HOLDINGS, LLC, its member

Date: 4/14, 2014

Print Name: Michele Healy

Title: Secretary

Parcel No.: 150.00-1-1.18/A

2285546.1