

JANUARY 2014

**PARKS, RECREATION AND FORESTRY
AUDIT OF THE PARK RESIDENCES
FOR THE PERIOD
JANUARY 1, 2012 THROUGH JUNE 30, 2013**

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**STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER**

**HON. STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER'S OFFICE
DIVISION OF AUDIT & CONTROL
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202**



January 28, 2014

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

Dear Honorable Members:

The Erie County Comptroller's Office has completed an audit of the residences operated by the Department of Parks, Recreation and Forestry (Parks).

We conducted this audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our objectives were to: (1) evaluate procedures associated with the repairs and maintenance of the residences; (2) evaluate the rental process and cash handling procedures, and (3) test compliance with applicable laws, rules and regulations.

County management is responsible for establishing and maintaining a system of internal control. The objectives of such a system are to provide management with reasonable but not absolute, assurance that transactions are executed in accordance with management's authorization and are properly recorded. Because of inherent limitations in any system of internal control, errors and irregularities may nevertheless occur and not be detected.

In our opinion, except for the lack of restrictive endorsements and the delay in depositing the rental checks, the internal controls over cash handling were adequate.

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Background

Erie County (County) owns and maintains nearly 11,000 acres of land throughout the County at thirty-eight separate locations that are operated by the Parks Department. These sites consist of:

- Eleven multi-purpose parks;
- Five undeveloped parks;
- Thirteen forestry lots;
- Seven special purpose parks; and
- Two multi-use recreational trails.

Prior to 1970, houses were constructed within or adjacent to several of the County Parks and Forests. The eleven County Park Houses are:

- Akron Falls Park (*Akron*);
- Chestnut Ridge Park (*Orchard Park*);
- Como Lake Park (*Lancaster*);
- County Forest (*Sardinia*);
- Ellicott Creek Park (*Tonawanda*);
- Elma Meadows Park and Golf Course (*Elma*);
- Emery Park (*South Wales*);
- former 4-H Camp (*Sardinia*);
- Hunters Creek/Sgt. Mark A. Rademacher Park (*East Aurora*);
- Sprague Brook Park (*Glenwood*); and
- Wendt Beach (*Evans*)

Rental rates for each property can be found in Appendix I and pictures of each of the County Park Houses can be found in Appendix II.

Six of the eleven houses are currently rented. Four of the houses are rented by County employees (Akron Falls, County Forest, Hunters Creek, and Wendt Beach) and two by non-County employees (Chestnut Ridge and Ellicott Creek). The remaining five houses (Como Lake Park, Elma Meadows Park and Golf Course, Emery Park, former 4-H Camp, and Sprague Brook Park) are currently uninhabitable. All of these houses would require extensive repairs. The cost of repairs will be evaluated by Parks and demolition is being considered on many of these houses.

The current Parks Commissioner (Commissioner) was appointed January 1, 2012. Since assuming leadership of the department he has instituted a number of policies and procedures that have increased the transparency in the tenant selection process as well as protect the County's interests. Some of these improvements include:

- Establishment of *Protocol for Filling Vacancies at County Park House*;
- Utilization of a *Conditions of Occupancy* agreement (a lease agreement) at all rented properties;
- Tenant responsibility for utility payments;
- Requirement of an annual inspection of all rentable Park Houses; and
- Completion of a Condition, Valuation, and Rental Rates Report in conjunction with the Real Property Tax Services Department (See Appendix III) on rentable properties.

Executive Summary

- ❖ Rental checks received are not timely deposited and restrictively endorsed.
- ❖ There is a lack of defined criteria for selection of tenants.
- ❖ There are instances of non-compliance with the documentation requirements of the Conditions of Occupancy agreements.
- ❖ Parks lacks a formalized plan for the demolition or renovation of the Parks residences.

Audit Findings

I. Checks Not Restrictively Endorsed When Received nor Timely Deposited

Rent payments are received by check through the mail or in person. Checks are maintained in a locked cabinet until they are processed by remote deposit – which is not always done on the same day. The checks are not restrictively endorsed until the time of deposit and then someone other than the depositor posts the payments to SAP. The absence of an immediate restrictive endorsement provides the opportunity for someone to obtain the check and deposit it into their own account.

In order to enhance control and prevent mishandling of the checks, **WE RECOMMEND** that Parks restrictively endorse checks immediately upon receipt and deposit checks more frequently. As a result of our audit, Parks has implemented new procedures whereby checks are now being logged, restrictively endorsed upon receipt and deposited weekly.

II. Lack of Criteria for Tenant Selection

The Commissioner has implemented a "Protocol for Filling Vacancies at County Park Houses" (Protocol). It states: *"If the Commissioner of Parks determines that one of the candidates is seemingly a responsible person and can adhere by the 'Conditions of Occupancy' he will offer that County Employee that specific house."* If an interested or responsible County employee does not exist, Parks will advertise for a private tenant. The Protocol does not define what constitutes a "responsible person" and it does not define specific criteria that a potential tenant must meet in order to be considered to rent one of the Park houses. Failure to perform due diligence on perspective tenants could lead to unsuitable tenants who fail to pay rent timely and damage the property resulting in lost or delayed revenue and unnecessary repairs.

WE RECOMMEND that Parks enhance their background screening process for potential tenants. At a minimum this should include contacting references and/or former landlords as well as conducting a credit check. Specific criteria for rental such as a positive reference from a former landlord and a specific credit score should be included in the tenant selection policies with the results documented in the tenant file. If these criteria are not followed, the reason(s) for

deviation should be noted in the tenant's file. Parks management has informed us that they will take steps to obtain references when reviewing new applications when housing vacancies exist.

III. Absence of a Formal Lease Agreement

As recommended previously, Parks did not implement a leasing agreement for housing properties as is the industry standard. Instead Parks utilizes a Conditions of Occupancy Agreement (COA) which is not in alignment with industry standards. Additionally, the COA was created internally and is not a formal Lease Agreement which would contain sufficient language as to mitigate potential financial loss due to lack of payment, damage to property, or the right to evict tenants, and is subject to the review and approval by the Erie County Legislature. For a copy of the COA please see Appendix IV.

WE RECOMMEND that Parks develop a standard formal Lease Agreement for Parks housing to be reviewed and approved by the County Attorney and any other applicable bodies. This Lease Agreement should have sufficient language to protect the County from potential financial liabilities from lack of payment, damage to property, and eviction rights.

IV. Non-Compliance with Documentation Requirements of the Conditions of Occupancy Agreement

The COA requires that "Immediately upon taking up residence, the occupant is responsible for changing over utilities (natural gas, propane and electric) into his/her name. Those utilities are the responsibility of the employee during the entire length of residency. Proof of this transfer or responsibility must be submitted to the Commissioner of Parks, Recreation and Forestry within ten (10) days of residing at County Facility. Annual verification (copies of bills) will be requested and subsequently required to be submitted to the office of the Commissioner of Parks, Recreation and Forestry." This transfer is necessary to ensure that the County is not responsible for these utility bills. The file for Hunters Creek/Sgt. Mark A. Rademacher Park was missing evidence of the utility transfer the electric and propane delivery.

As a result of our interim audit memorandum issued October 3, 2013, the Commissioner confirmed with the electric company that the utility transfer did occur with the Hunters Creek property. Steps were also taken for Hunters Creek to ensure that any propane delivered to that address would not be billed to the County.

It was noted during the exit conference by the Commissioner of Parks that an agreement was in place stating the tenant at the rental property at Hunters Creek/Sgt. Mark A. Rademacher Park was not subject to paying utilities until a new lease was signed in September 2013. However the COA which was signed by the tenant in 2012 for this property included the language above which stated the requirements for utilities to be changed over by the tenant. Due to the ambiguity in the COA the County is not adequately covered for potential loss as seen contradiction evidenced here. Please see the recommendation in Finding III.

Additionally, the COA also requires tenants to execute a tenant homeowner's insurance policy (renter's insurance) with a minimum coverage of \$100,000 listing Erie County as an additional insured. While all six occupied property files had current evidence of the insurance policy, the Akron Falls Park tenants' policy did not list the County as an additional insured contrary to the COA. As a result of inquiry, the Commissioner was advised by the County's insurer that listing

the County as an "additional insured" is not necessary and subsequently this provision has been removed. For a copy of the COA please see Appendix IV.

WE RECOMMEND that Parks obtain evidence of the utility name transfer from the applicable tenants as soon as possible. **FURTHER WE RECOMMEND** that Parks filing system should include a monitoring checklist to ensure that all property files have all of the required documentation upon the initial signing of the COA's and annual updates. As a result of our audit, Parks has implemented a new checklist to monitor all documentation regarding parks housing.

V. Lack of a Current Plan for Parks Residences

In 2003, Erie County published a the Erie County Parks Master Plan¹ (Master Plan) which was *intended to establish the framework for preservation, restoration and enhancement of the parks over the next 15-20 years*. The Commissioner informed us that the plan was prepared at a time when the County was in a better position with staffing and finances. It is now only used as a "guide and a reference tool".

Many of the structures mentioned in the Master Plan are in a state of deterioration. The Commissioner has stated that several of the structures are being considered for demolition; however nothing has been formalized. In the 2010 release of the Comptroller's Report on the Rental and Refurbishment of County Parks and Residences² (2010 Comptroller's Report) it was noted that the Como Lake Park and former 4-H Camp houses were slated for demolition, however three years later both buildings are still standing. Restoration is being considered for other structures, but nothing has been formalized for these structures either.

The future costs of demolition or rehabilitation increase the longer these houses remain vacant. Because the houses are subject to the effects of the vacancy, potential liability and safety issues arise should an individual sustain injuries at any of these locations due to the existing state of disrepair.

WE RECOMMEND that Parks in conjunction with County management initiate and complete a formal plan for the use of all residences located within our County Parks System. The Commissioner indicated that he intends to request a 2015 Capital Project for such a project.

WE FURTHER RECOMMEND that the possible use of State and Federal grant funds for the completion of a Plan and for the restoration and maintenance of the other County Parks' buildings and structures be explored.

¹ <http://www2.erie.gov/environment/index.php?q=ParksMasterPlan>

² Review is available at: http://www.erie.gov/comptroller/pdfs/Parks_Housing_Report_with_Appendices_2010.pdf

Auditor's Comments

I. Follow-up on Previous Findings

The following findings were noted in the 2010 Comptroller's Report. The report from 2010 contained findings however only two recommendations were made for corrective action regarding those findings. Because of this, in the course of this review the auditors were unable to determine whether any corrective actions were taken. As such we have included a summary in Exhibit 1 below, where we summarize the 2010 findings and noted any changes during our current audit period in regards to those findings.

Exhibit 1: Implementation of Prior findings

Previous Report Finding	Current Status
The process used to seek tenants was flawed.	There is currently a written Protocol for filling vacancies followed. During the audit period, two of the previously vacant homes were rented (both tenants are County employees). Please see Finding II above for concerns regarding the current process.
During the previous review in 2010, Parks conducted significant capital work on parks houses in order to rent them. It was noted in our review that the County Legislature was not notified about the work being performed. No remediation actions were recommended.	During the audit period, no capital projects were initiated nor completed.
There were no rental agreements for the Park houses – resulting in a control and a liability problem for the County as well as a potential fiscal issue. This review recommended that there be written lease agreements.	Signed Conditions of Occupancy agreements exist for all six tenants in County houses. Please see Findings III and IV above for concerns regarding the current process.
Parks estimates of rental income are inconsistent.	Parks estimates income based on Full Occupancy of all properties. In 2012 and 2013 there were vacancies of several properties for several months. These vacancies lead to the rental income being less than the budgeted revenue figure for the Park employee subsistence account.
A check for rental for a property was returned for insufficient funds and not followed-up on by Parks. Previously, there was a recommendation that called for eviction in the event of a bounced check.	During the audit period, there were no NSF checks noted.

II. Operating Costs

There are several operating costs involved in Parks' upkeep of the housing at the various locations including annual building inspections, general repair and maintenance, and a periodic report on the condition, valuation and rates for rental. General repair and maintenance on the residences is performed as needed. This work is completed by County employees when possible otherwise outside vendors are utilized. Significant work is performed in accordance with their Protocol which states: *when a County Park House becomes vacant and work is required, the amount of work, financial commitment and specific location of particular house will be considered.*

In addition, there are annual building inspections for all residences (both occupied and vacant) conducted by Parks and Department of Public Works employees. At the request of Parks a periodic inspection is also performed by the Department of Real Property Tax Services on the condition, valuation and rental rates for the occupied Parks residences.

WE RECOMMEND Parks continue to consider the feasibility of cost to repair and suitability for rental whenever extensive maintenance, repair, or capital work is required.

III. Outstanding Receivable

Since 2007, Parks has had an outstanding receivable for the rental of the Wendt Beach residence. Over the past six years, this employee has only paid \$450 of the \$784 that is outstanding.

Working with the County Attorney, Parks is demanding payment for the \$334 still outstanding. We commend them for this long overdue action and **RECOMMEND** that Parks keep Audit apprised of their progress in this matter. We were informed at the Exit Conference that this employee has signed a repayment agreement for the amount outstanding.

Results of Exit Conference

On January 22, 2014, an exit conference was held with the Commissioner for Parks, Recreation and Forestry and a representative from the office of Budget and Management. We discussed the contents of the report and the auditee was in general agreement with our findings and recommendations.

In accordance with the County's Audit Response System and Procedures, we request that Parks prepare a written response to the County Executive concerning the findings and recommendations by February 28, 2014. We further request that the County Executive forward copies of the written response to the Comptroller's Office, the Erie County Legislature and the Erie County Fiscal Stability Authority by March 14, 2014.

We wish to thank the Commissioner and his office for their assistance afforded our audit staff during the course of the audit.

ERIE COUNTY COMPTROLLER'S OFFICE

cc: Honorable Mark C. Poloncarz, County Executive
Troy P. Schinzel, Commissioner, Parks, Recreation and Forestry
Robert W. Keating, Director, Budget and Management
Erie County Fiscal Stability Authority

Appendix I – Rental Rates for Residences

Location	2012	2013
Akron Falls	\$550.00	\$550.00
Chestnut Ridge	\$650.00	\$650.00
Ellicott Creek	\$550.00	\$550.00
Elma	\$550.00	vacant
Emery	\$550.00	vacant
Forestry	\$550.00	\$550.00
Hunter's Creek	\$429.50	\$429.50
Wendt Beach	\$650.00	\$650.00/\$900.00*

*--Change effective June 2013

Appendix II – Picture of the County Park Houses

Akron Falls Park (*Village of Akron*)



Chestnut Ridge Park (*Town of Orchard Park*)



Como Lake Park (Village of Lancaster)



County Forest (Town of Sardinia)



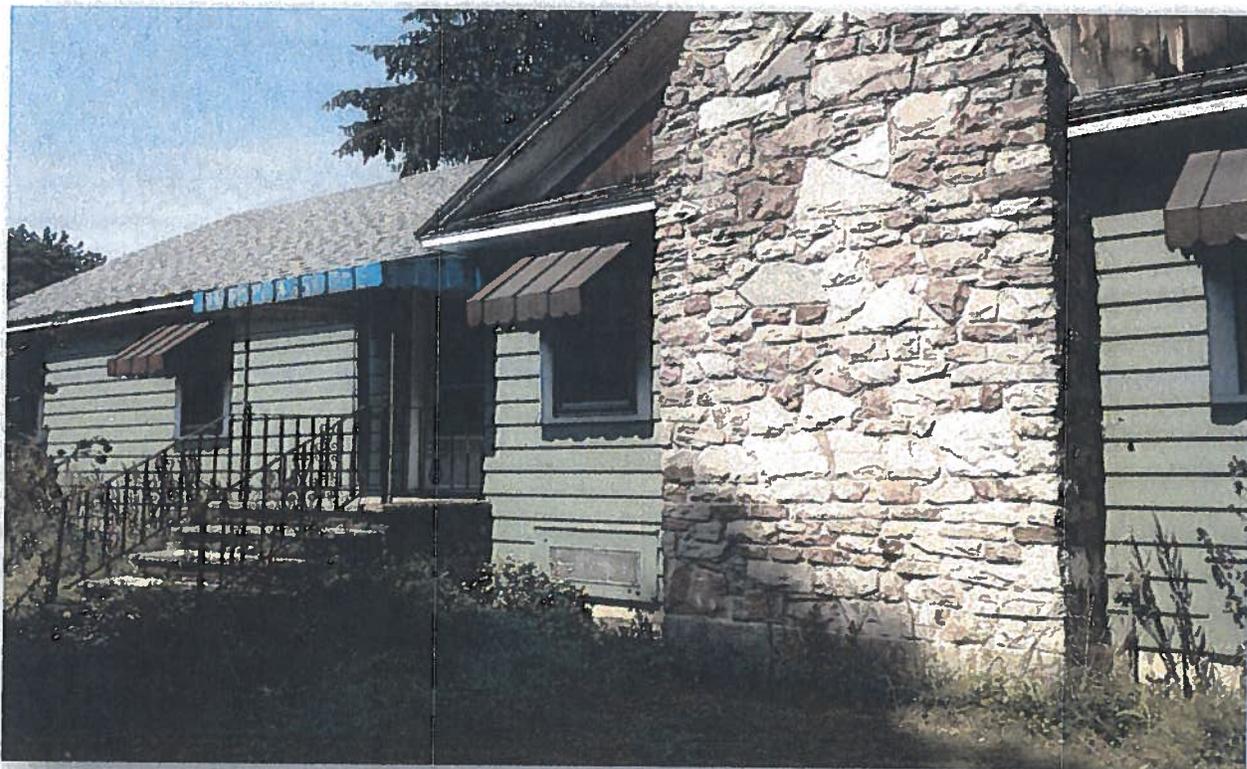
Ellicott Creek Park (Town of Tonawanda)



Elma Meadows Park and Golf Course (Town of Elma)



Emery Park (Hamlet of South Wales)



Former 4-H Camp (Town of Sardinia)



Hunters Creek/Sgt. Mark A. Rademacher Park (Village of East Aurora)



Sprague Brook Park (Hamlet of Glenwood)



Wendt Beach (Town of Evans)



Appendix III – Real Property Tax Evaluation of Park Houses

In June 2013, Real Property Tax evaluated the Condition, Valuation, and Rental Rates for the rentable Park houses. The results of the evaluation are as follow:

Location ³	Style	Age (years)	Size (sq ft)	Condition	Occupancy	Market Value	Recommended Rent ⁴	
							To County Employee	To Private Occupant
Akron Falls	Ranch	60	1,250	Good	County Employee	\$115,000	\$600	\$750
Chestnut Ridge	2-Story	100+	1,800	Average	Private Tenant	\$120,000	\$700	\$850
Como Lake	2-Story				Vacant			
County Forest	Raised Ranch	60+	1,300	Good	County Employee	\$100,000	\$600	\$750
Ellicott Creek	2-Story	70+	2,000	Average	Private Tenant	\$120,000	\$600	\$750
Elma Meadows	Ranch				Vacant			
Emery Park	2-Story				Vacant			
former 4-H Camp	Ranch				Vacant			
Hunters Creek	2-Story	60+	1,380	Fair	County Employee	\$80,000	\$450	\$600
Sprague Brook	Ranch				Vacant			
Wendt Beach	Ranch	50	2,295	Very Good	County Employee	\$160,000	\$900	\$1,050

³ Vacant properties were not evaluated by Real Property Tax at this time. They will be evaluated after repairs are made and are in a rentable condition.

⁴ Applicable recommended rental rates were implemented as of September 1, 2013. The difference in rent between County and non-County employees exist due to the fact that County employees have Park responsibilities while residing in the Park House.

Appendix IV – Conditions of Occupancy Agreement



ERIE COUNTY CONDITIONS OF OCCUPANCY

• FOR EMPLOYEES OF THE PARKS, RECREATION AND FORESTRY DEPARTMENT WHO RESIDE IN COUNTY PARK SYSTEM HOUSING

The County of Erie (hereinafter referred to as "owner") does hereby accept the following regulations concerning all Management/ Supervisory employees that have been authorized to live on County-owned parkland (hereinafter referred to as "employee").

1. The employee is required to respond and render immediate assistance to the public as may be needed and to take appropriate action in a timely fashion to address visitor safety, park security and maintenance needs as they arise.
2. The employee is to only occupy or have use of buildings and structures as specifically approved and assigned by owner.
3. The employee is responsible for the behavior and actions of minors and visiting guests to the residency.
4. The employee or other occupants are not to interfere with the management, operation and use of County parklands, buildings and facilities.
5. The employee acknowledges that established dwelling monthly maintenance rates are subject to an annual review. Each dwelling monthly maintenance fee must be paid by the first day of each month.
6. Immediately upon taking up residence, the employee is responsible for changing over utilities (natural gas, propane and electric) into his/her name. Those utilities are the responsibility of employee during the entire length of residency. Proof of this transfer or responsibility must be submitted to the Commissioner of Parks, Recreation and Forestry with ten (10) days of residing at County Facility. Annual verification (copies of bills) will be requested and subsequently required to be submitted to the Office of the Commissioner of Parks, Recreation and Forestry.
7. The employee shall not assign or sublease the premises or any part thereof.

8. No portion of the premises shall be used to house persons other than the employee, his or her spouse or domestic partner and their dependent children.
9. Other members of the employee's immediate family may be housed only upon prior written approval of the Commissioner of Parks, Recreation and Forestry or his designee.
10. No structure, building or surrounding grounds shall be used as a place of business or for any commercial purpose.
11. The employee shall keep all buildings, structures, and adjacent grounds in a neat and orderly condition at all times, and shall keep his/ her walks free of snow and debris. Any items to be stored temporarily or permanently within or upon County- owned parklands must be approved in advance in writing by the Commissioner of Parks, Recreation and Forestry or his designee.
12. The employee shall maintain the required park residence/ assistance sign in the designated location in full public view to clearly indicate where assistance is available.
13. If applicable, the employee shall regularly monitor and inspect fire extinguishers, smoke detectors and carbon monoxide detectors and other safety related equipment as may be required by code.
14. The employee shall provide a tenant homeowner insurance policy which shall insure for the employee the loss of personal property and liability insurance, providing \$100,000 minimum coverage, covering the employee for injury and loss to others caused by negligence in and around his or her residence. The County of Erie must be listed on this policy as an additional insured. A current certificate of insurance shall be provided annually to the Commissioner of Parks, Recreation and Forestry or his designee.
15. All repairs, structural changes and alterations must be approved in advance by the Commissioner of Parks, Recreation and Forestry or his designee. The employee is expected to report any and all structural and maintenance problems in a timely fashion to the Commissioner of Parks, Recreation and Forestry or his designee.
16. All structures, fixtures or additions of a permanent nature, affixed, built or installed at the expense of the employee, shall become the property of the owner upon vacating the premises. This includes, but is not limited to: partitions, cabinets, electrical or plumbing installations, landscaping and plant materials.

17. The employee shall thoroughly clean the premise, including the stove, refrigerator, plumbing fixtures, and remove all belongings prior to vacating the premises or will be subject to the forfeiture of any security deposits that may have been collected.

18. The Commissioner of Parks, Recreation and Forestry or his designee may terminate all rights to occupancy by the employee at any time, for any reason. Upon notice by the owner, the employee shall have 30 days to vacate the premises. In addition, all rights to occupancy are terminated upon the employee's termination of employment with Erie County. Upon termination, the *former* employee will have up to 30 days to vacate the premises from his last day of work.

19. The employee shall notify the Deputy Commissioner of Parks, Recreation and Forestry of any planned absence in excess of 72 hours.

20. Failure to abide by the above regulations may result in termination of the employee's right of occupancy.

I, _____, hereby acknowledge the receipt of a copy of the Erie County Conditions of Occupancy Policy. I acknowledge that I have been requested to read this policy thoroughly.

EMPLOYEE SIGNATURE:

DATE: