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# COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE

June 15, 2015

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 with Erie County**

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 – aka the “Land Bank”) for the purpose of outlining the obligations of the Land Bank.

Should your Honorable Body require further information, I encourage you to contact the Department of Real Property Tax Services. Thank you for your consideration on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark C. Poloncarz", is written over a faint, larger version of the same signature.

Mark C. Poloncarz, Esq.  
Erie County Executive

# 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 with Erie County  
Date: June 15, 2015

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## **SUMMARY**

It is anticipated that the Buffalo Erie Niagara Land Improvement Corporation ("land bank") will exercise its preemptive bid powers at the upcoming County In Rem 163 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 as the Land Bank sell's property, 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

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 for In Rem 163.

## **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.

Comm. 13E-4

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**A RESOLUTION SUBMITTED BY:  
REAL PROPERTY TAX SERVICES**

**RE: Buffalo Erie Niagara Land Improvement Corporation Preemptive Bid Powers and subsequent repayment agreement with Erie County**

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 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; 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 County In Rem 163 tax sale; and

WHEREAS, 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; 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 In Rem 163 to be held on September 23, 2015; 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, Director of Real Property Tax Services and the Buffalo Erie Niagara Land Improvement Corporation.