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COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

July 5, 2019

Erie County Legislature
92 Franklin Street
Buffalo, New York 14202

RE: Buffalo Erie Niagara Land Improvement Corporation (BENLIC) Pre-emptive Bid Powers and subsequent repayment agreement with Erie County, In Rem 167

Honorable Members:

Please find attached a resolution and accompanying memorandum authorizing the Erie County to enter into agreements with BENLIC for the purpose of outlining the obligations of the Land Bank's pre-emptive bid powers and subsequent repayment agreement with Erie County, In Rem foreclosure #167.

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 yours,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/cw
Enclosure

cc: Department of Real Property Tax Services

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Department of Real Property Tax Services
Re: Buffalo Erie Niagara Land Improvement Corporation (BENLIC) Pre-emptive Bid Powers and subsequent repayment agreement with Erie County, In Rem 167
Date: July 5, 2019

SUMMARY

It is anticipated that BENLIC will exercise its pre-emptive bid powers at the upcoming County In Rem 167 tax sale. Therefore, agreements between the County and BENLIC 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 BENLIC 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 BENLIC, may tender a pre-emptive 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

Erie County, will not be able to enter into an agreement with 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 tax certificates.

STEPS FOLLOWING APPROVAL

Erie County, acting by and through its Department of Real Property Tax Services, will enter into an agreement with BENLIC which outlines 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, BENLIC 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 167.

A RESOLUTION SUBMITTED BY:
REAL PROPERTY TAX SERVICES

RE: Buffalo Erie Niagara Land Improvement Corporation (BENLIC) Pre-emptive Bid Powers and subsequent repayment agreement with Erie County, In Rem 167

WHEREAS, it is the mission of BENLIC 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 BENLIC, may tender a pre-emptive 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; and

WHEREAS, it is anticipated that BENLIC will exercise its pre-emptive bid powers at the upcoming County In Rem 167 tax sale; and

WHEREAS, agreements between the County and BENLIC 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.

NOW, THEREFORE, BE IT

RESOLVED, that Erie County, acting by and through its Department of Real Property Tax Services, is hereby authorized to enter into agreements with 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 167 to be held on September 25, 2019 at the Buffalo Niagara Convention Center;

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 Department of Real Property Tax Services is hereby authorized to cancel such past due real property taxes; and be it further

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