



ECLEG APR09'13 HCL0-09

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

April 9, 2013

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

Re: 1815 Eggert Road, Amherst, NY
Temporary Incidence of Ownership

Dear Honorable Members:

Enclosed please find a memorandum and proposed resolution pertaining to the taking of a Temporary Incidence of Ownership on 1815 Eggert Road, Amherst, New York. The land control document allows public access to the site for environmental testing.

Should your honorable body require further information, I encourage you to contact Deputy Commissioner Thomas J. Dearing at the Department of Environment and Planning. Thank you for your consideration on this matter.

Sincerely yours,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/cw
Enclosure

Cc: Maria R. Whyte
Thomas J. Dearing
Joseph Maciejewski

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Erie County Department of Environment and Planning
Re: 1815 Eggert Road, Amherst, NY – Temporary Incidence of Ownership
Date: March 21, 2013

SUMMARY

The resolution authorizes the County Executive to execute a Temporary Incidence of Ownership relative to 1815 Eggert Road in the Town of Amherst following commencement of foreclosure proceedings.

FISCAL IMPLICATIONS

There are no monies required to obtain the abovementioned land control document.

REASONS FOR RECOMMENDATION

The Town of Amherst has requested that Erie County obtain a Temporary Incidence of Ownership on 1815 Eggert Road. The .25 acre parcel is abandoned and represents a potential blighting influence on surrounding properties. An interest has been expressed by Town officials in determining if the site contains hazardous materials and, if so, pursue appropriate cleanup measures. Given that the parcel is in private ownership, public access to the site is not possible and thus environmental testing cannot occur.

New York State law allows counties to obtain a Temporary Incidence of Ownership on property deemed potentially hazardous. This provides access to the site by officials from the New York State Department of Environmental Conservation (DEC). Subsequent testing would then be undertaken to determine the presence of contaminated material.

BACKGROUND INFORMATION

The property was formerly used as a dry cleaner and possibly gas station. Erie County property tax records note the owner as Long Valley Enterprises, Inc. The latter is delinquent on \$100,000 in back taxes extending over a period greater than three years. It is thus a candidate for foreclosure action. Representatives from DEC have indicated that they have the resources to undertake a site investigation. Upon completion the Temporary Incidence of Ownership would be lifted and cease to exist.

CONSEQUENCES OF NEGATIVE ACTION

DEC representatives would be unable to access the site to determine the presence of hazardous materials. The blighting character of the property could worsen causing negative impacts on the surrounding neighborhood.

STEPS FOLLOWING APPROVAL

The Erie County Department of Law, working with the Division of Real Property, will commence the necessary actions to obtain a Temporary Incidence of Ownership on the property.

**A RESOLUTION SUBMITTED BY
DEPARTMENT OF ENVIRONMENT AND PLANNING**

**RE: 1815 Eggert Road, Amherst, NY
Temporary Incidence of Ownership**

WHEREAS, the Town of Amherst via Town Board resolution 212-54 dated June 18, 2012 has requested that the County of Erie undertake the necessary steps required by Environmental Conservation Law Section 56-0508 to obtain Temporary Incidence of Ownership on the land parcel identified as 1815 Eggert Road, Amherst New York; and

WHEREAS, said land parcel has been abandoned and may require brownfield cleanup action due to its prior use as a dry cleaning business and gasoline station; and

WHEREAS, said parcel is over three years delinquent on County Taxes with a past due amount in excess of \$100,000; and

WHEREAS, prior to obtaining a Temporary Incidence of Ownership it is necessary for Erie County to commence foreclosure proceedings; and

WHEREAS, a Temporary Incidence of Ownership will allow access to the site by representatives from the New York State Department of Environmental Conservation to determine the presence of contaminated material and to conduct environmental remediation of the site.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Attorney and the Erie County Director of the Division of Real Property are hereby authorized to commence foreclosure proceedings with respect to 1815 Eggert Road, Amherst, New York; and be it further

RESOLVED, that upon commencement of foreclosure proceedings the Erie County Executive is hereby authorized to obtain and execute all necessary documents and complete all necessary actions to secure a Temporary Incidence of Ownership in 1815 Eggert Road, Amherst, New York, for the purpose of allowing access to the site by appropriate environmental inspection officials to conduct necessary environmental testing and remediation activity; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Office of the County Executive; the Commissioner of the Department of Environment and Planning; the Director of the Division of Real Property; the Director of the Division of Budget and Management; the Comptroller's Office; the County Attorney; and Hon. Barry A. Weinstein, the Amherst Town Supervisor.