

January 28, 2016

FINANCE & MANAGEMENT COMMITTEE
REPORT NO. 2

ALL MEMBERS PRESENT.
CHAIR MILLS PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following item is hereby received and filed:
 - a. COMM. 2D-5 (2016)
DEPARTMENT OF BUDGET & MANAGEMENT: "Budget Monitoring Report for Period Ending Nov. 30, 2015"
(6-0)
2. COMM. 1D-9 (2015)
EC REAL PROPERTY TAX SERVICES AS AMENDED
WHEREAS, the Erie County Director of Real Property Tax Services has received applications for corrected tax billings and / or refunds for taxes previously paid in accordance with New York State Real Property Tax Law sections 554 and 556; and

WHEREAS, the Director has investigated the validity of such applications (see attached listing).

NOW, THEREFORE, BE IT

RESOLVED, that petitions numbered 216001 through 216009, inclusive be hereby approved or denied based upon the recommendation of the Director of Real Property Tax Services and be charged back to the applicable towns and/or cities.

FISCAL YEAR	2016	Petition No.	216,001.00
S-B-L	96.00-3-41	ASSESSOR Cancel 12080 Walden Ave 142089 ALDEN	\$309.21
		Acct. No. 112	\$192.11 County
		Acct. No. 132	\$117.10
		Town/SpecialDist/School	
		<u>Charge To:</u> 142089 ALDEN	\$117.10

RPTL550(2): Incorrect assessment
New tax bill to be issued

FISCAL YEAR	2016	Petition No.	216,002.00
S-B-L	96.00-3-40	ASSESSOR Cancel 12100 Walden Ave 142089 ALDEN	\$261.30
		Acct. No. 112	\$162.34 County
		Acct. No. 132	\$98.96
		Town/SpecialDist/School	
		<u>Charge To:</u> 142089 ALDEN	\$98.96

RPTL550(2): Incorrect assessment
New tax bill to be issued

FISCAL YEAR	2016	Petition No.	216,003.00
S-B-L	118.18-5-7	ASSESSOR Cancel 531 Briarwood Ct 142089 ALDEN	\$400.68
		Acct. No. 112	\$248.92 County
		Acct. No. 132	\$151.76
		Town/SpecialDist/School	
		<u>Charge To:</u> 142089 ALDEN	\$151.76

RPTL550(2): Incorrect assessment
New tax bill to be issued

FISCAL YEAR	2016	Petition No.	216,004.00
S-B-L	128.00-4-28.11	ASSESSOR Cancel Town Linw Rd 145289 LANCASTER	\$711.59
		Acct. No. 112	\$288.41 County
		Acct. No. 132	\$423.18
		Town/SpecialDist/School	

Charge To: 145289 LANCASTER \$423.18

RPTL550(2): Duplicate parcel
Delete parcel from the tax roll

FISCAL YEAR 2016 Petition No. 216,005.00

ASSESSOR Cancel \$38.75
S-B-L 28.00-1-69 Millersport Hwy 142089 ALDEN

Acct. No. 112 \$2.65 County
Acct. No. 132 \$36.10

Town/SpecialDist/School

22028 GETZVLE FIRE PROTECTION \$0.40

Charge To: 142089 ALDEN \$35.70

RPTL550(2): Incorrect assessment
New tax bill to be issued

FISCAL YEAR 2016 Petition No. 216,006.00

ASSESSOR Cancel \$605.96
S-B-L 69.17-5-3 81 Evans St 142201 WILLIAMSVILLE

Acct. No. 112 \$299.43 County
Acct. No. 132 \$306.53

Town/SpecialDist/School

Charge To: 142201 WILLIAMSVILLE \$306.53

RPTL550(2): Error calculating aged exemption
New tax bill to be issued

FISCAL YEAR 2016 Petition No. 216,007.00

ASSESSOR Cancel \$184.89
S-B-L 68.07-1-4.1/11 85 Mapleton Dr 142289 AMHERST

Acct. No. 112 \$95.45 County
Acct. No. 132 \$89.44

Town/SpecialDist/School

Charge To: 142289 AMHERST \$89.44

RPTL550(2): Failed to apply vet exemption
New tax bill to be issued

FISCAL YEAR 2016 Petition No. 216,008.00

ASSESSOR Cancel \$260.21
S-B-L 56.15-2-1/6B 1125 Youngs Rd Un 142289 AMHERST

Acct. No. 112 \$148.72 County
Acct. No. 132 \$111.49

Town/SpecialDist/School

Charge To: 142289 AMHERST \$111.49

RPTL550(2): Failed to apply aged exemption
New tax bill to be issued

FISCAL YEAR 2016 Petition No. 216,009.00

ASSESSOR Cancel \$29.37
S-B-L 183.17-14-3 4175 Walker Pl 144889 HAMBURG

Acct. No. 112 \$29.37 County
Acct. No. 132 \$0.00

Town/SpecialDist/School

Charge To: 144889 HAMBURG \$0.00

RPTL550(2): Error calculating aged exemption

New tax bill to be issued

and be it further

WHEREAS, the Erie County Director of Real Property Tax Services has received applications for corrected tax refunds for taxes previously paid in accordance with New York State Real Property Tax Law sections 556; and

WHEREAS, the Director has investigated the validity of such applications (see attached listing).

NOW, THEREFORE, BE IT

RESOLVED, that petitions numbered 215235 through 215244, inclusive be hereby denied based upon the recommendation of the Director of Real Property Tax Services.

Recommendation to ECL regarding the Level 3 RP-556 Applications

Petitioners, Level 3 Communications, LLC filed Applications for Refund and Credit of Real Property Taxes on form RP-556 (attached) relative to the various properties listed below for various years. Each Application purportedly applies to "fiber optic cables and inclosures on private rights of way". The petitioner alleges, in addenda attached to each Application, that the assessments in issue were made upon personal property excluded from taxable real property because the fiber optic cable at issue is "not for electrical conductors and therefore they cannot be taxed under RPTL". They base this assertion on a holding in Matter of RCN, a First Department case, whose holding has been rejected by a recent decision in our Judicial District, Level 3 Communications, LLC vs. County of Erie et al (copy attached). The addenda further allege that the taxes at issue were assessed based upon an "unlawful entry" pursuant to RPTL §550(7)(c). That section of the RPTL provides that an assessment is unlawful where it has been made by a person or body without the authority to make the assessment.

I have conducted an investigation of each Application and have determined that pursuant to Level 3 Communications, LLC vs. County of Erie et al, the fiber optic cable at issue is taxable as real property pursuant to RPTL 102(12)(f). Additionally, the assessor had the authority to make such an assessment and therefore, the assessments were not "unlawful entries" pursuant to RPTL §550(7)(c). Accordingly, it is my recommendation that this Honorable Body deny each of the Applications based upon the foregoing.

Property	Tax Levying Body	Tax Year
609.00-99-760.7/1881	City of Lackawanna	2013/14

555.00-75-1.1	Eden Central School District	2013
555.00-75-1.2	Lakeshore Central School District	2013
658.001-9999-710./1882	North Collins Central School District	2013
658.001-9999-717./1882	North Collins Central School District	2013
658.001-9999-760.7/1882	North Collins Central School District	2013
658.089-9999-710./1882	North Collins Central School District	2013
658.089-9999-717./1882	North Collins Central School District	2013
658.089-9999-760.7/1882	North Collins Central School District	2013
658.001-9999-710./1882	Village of North Collins	2014
658.001-9999-717./1882	Village of North Collins	2014
658.001-9999-760.7/1882	Village of North Collins	2014
666.00-65-9	Erie County Tax Collector	2015
609.00-99-760.7/1881	Erie County Tax Collector	2015
555.00-75-1.1	Erie County	2015
555.00-75-1.2	Erie County	2015
658.001-9999-710./1882	Erie County	2015
658.001-9999-717./1882	Erie County	2015
658.001-9999-760.7/1882	Erie County	2015
658.089-9999-710./1882	Erie County	2015
658.089-9999-717./1882	Erie County	2015
658.089-9999-760.7/1882	Erie County	2015

FISCAL YEAR	2013	Petition No.	215,235.00
OWNER	Cancel	\$802.96	
S-B-L	555.00-75-1.1	Fiber optics	144000 EDEN
Acct. No. 112	\$0.00		County
Acct. No. 132	\$802.96		Town/SpecialDist/School
Charge To :		144000 EDEN	\$802.96
Relevy School	\$802.96	144001 EDEN CENTRAL	

RPTL550(2): Fiber optic cables and inclosures are not taxable
New tax bill to be issued

FISCAL YEAR	2013	Petition No.	215,236.00
OWNER	Cancel	\$323.97	
S-B-L	555.00-75-1.2	Finer optic	144000 EDEN
Acct. No. 112	\$0.00		County
Acct. No. 132	\$323.97		Town/SpecialDist/School
<u>Charge To:</u>		144000 EDEN	\$323.97
Relevy School	\$323.97	144401 LAKE SHORE CENTRAL	

RPTL550(2): Fiber optic cables and inclosures are not taxable
New tax bill to be issued

FISCAL YEAR	2013	Petition No.	215,237.00
OWNER	Cancel	\$1,702.93	
S-B-L	Multiple	Multiple	145801 NORTH COLLINS
Acct. No. 112	\$0.00		County
Acct. No. 132	\$1,702.93		Town/SpecialDist/School
<u>Charge To:</u>		145801 NORTH COLLINS	\$1,702.93
Relevy School	\$1,702.93	145801 NORTH COLLINS CENT	

RPTL550(2): Fiber optic cables and inclosures are not taxable
New tax bill to be issued

FISCAL YEAR	2013	Petition No.	215,238.00
OWNER	Cancel	\$6,519.08	
S-B-L	Multiple	Multiple	145889 NORTH COLLINS
	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$6,519.08	
<u>Charge To:</u>		Town/SpecialDist/School	
		145889 NORTH COLLINS	\$6,519.08

Relevy School \$6,519.08 145801 NORTH COLLINS CENT

RPTL550(2): Fiber optic cables and inclosures are not taxable
New tax bill to be issued

FISCAL YEAR	2014	Petition No.	215,239.00
OWNER	Cancel	\$1,074.14	
S-B-L	Multiple	Multiple	145801 NORTH COLLINS
Acct. No. 112	\$0.00		County
Acct. No. 132	\$1,074.14		Town/SpecialDist/School
<u>Charge To:</u>		145801 NORTH COLLINS	\$1,074.14
Relevy Village	\$1,074.14	Village of NORTH COLLINS	

RPTL550(2): Fiber optic cables and inclosures are not taxable
New tax bill to be issued

FISCAL YEAR	2015	Petition No.	215,240.00
OWNER	Cancel	\$6,975.61	
S-B-L	666.00-65-9	Fiber optic	140200 BUFFALO
Acct. No. 112	\$6,975.61		County
Acct. No. 132	\$0.00		Town/SpecialDist/School
<u>Charge To:</u>		140200 BUFFALO	\$0.00

RPTL550(2): Fiber optic cables and inclosures are not taxable
New tax bill to be issued

FISCAL YEAR	2015	Petition No.	215,241.00
OWNER	Cancel	\$908.93	
S-B-L	609.00-99-760.70	Fiber Optic	140900 LACKAWANNA
Acct. No. 112	\$908.93		County

RESOLVED, that certified copies of this resolution be forwarded to the County Executive, the Office of the County Comptroller, the County Attorney, Department of Environment and Planning, and the Department of Real Property Tax Services.
(6-0)

JOSEPH C. LORIGO
CHAIR