

May 21, 2015

FINANCE & MANAGEMENT COMMITTEE  
REPORT NO. 7

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

1. RESOLVED, the following items are hereby received and filed:
  - a. COMM. 10E-20 (2015)  
**COMPTROLLER:** "Savings From Borrowing Through the ECFSA"  
(5-0) Legislator Miller-Williams not present for vote.
  - b. COMM. 10E-21 (2015)  
**COMPTROLLER:** "EC Interim Financial Report Ending March 31, 2015"  
(5-0) Legislator Miller-Williams not present for vote.
  - c. COMM. 10M-5 (2015)  
**NYS DEPARTMENT OF TAXATION AND FINANCE:** "Certified 2015 Class Equalization Rates - Cities of Buffalo and Lackawanna"  
(5-0) Legislator Miller-Williams not present for vote.
  - d. COMM. 10M-6 (2015)  
**NYS DEPARTMENT OF TAXATION AND FINANCE:** "Certified 2015 State Equalization Rates - Cities of Buffalo and Lackawanna"  
(5-0) Legislator Miller-Williams not present for vote.
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 215089 through 215091 , 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	2015	Petition No.	215,089.00
	ASSESSOR	Cancel	\$211.19
S-B-L	196.05-4-6	52 Highland Ave	144803 HAMBURG
	Acct. No. 112		\$0.00 County
	Acct. No. 132		\$211.19
	Town/SpecialDist/School		
	<u>Charge To :</u>	144803 HAMBURG	\$211.19
Relevy Village	\$211.19	Village of HAMBURG	
RPTL550(2): Failed to apply veterans exemption			
New tax bill to be issued			

FISCAL YEAR	2015	Petition No.	215,090.00
	ASSESSOR	Cancel	\$376.99
S-B-L	666.00-65-2	Outside Plant	142001 ALDEN
	Acct. No. 112		\$291.29 County
	Acct. No. 132		\$85.70
	Town/SpecialDist/School		
	<u>Charge To :</u>	142001 ALDEN	\$85.70

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

FISCAL YEAR	2015	Petition No.	215,091.00
	ASSESSOR	Cancel	\$5,333.15
S-B-L	666.00-65-5	Outside Plant	142089 ALDEN
	Acct. No. 112		\$1,013.23 County
	Acct. No. 132		\$4,319.92
	Town/SpecialDist/School		
	<u>Charge To :</u>	142089 ALDEN	\$4,319.92

Relevy Village \$3,697.68 Village of ALDEN  
 RPTL550(2): Duplicate entry  
 Delete parcel from the roll

and be it further

WHEREAS, the Erie County Director of Real Property Tax Services has received applications for corrected tax billings in accordance with New York State Real Property Tax Law sections 554; and

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

NOW, THEREFORE, BE IT

RESOLVED, that petitions numbered 215092 through 215099, inclusive be denied based upon the recommendation of the Director of Real Property Tax Services.

Recommendation to ECL regarding the Level 3 RP-554 Applications

The applicant, Level 3 Communications, LLC filed Applications for Corrected Tax Roll on form RP-554 (attached) relative to the various properties listed below for the year of 2014. Each Application purportedly applies to “fiber optic cables and inclosures on private rights of way”. The applicant 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
555.00-75-1.1	Eden Central School District – Town of Eden	2014
555.00-75-1.2	Lakeshore Central School District – Town of Eden	2014
658.089-9999-717./1882	North Collins Central School District – Town of North Collins	2014
658-089-9999-760.7/1882	North Collins Central School District – Town of North Collins	2014
658.089-9999-710./1882	North Collins Central School District – Town of North Collins	2014
658.001-9999-760.7/1882	North Collins Central School District – Town of North Collins	2014
658.001-999-710./1882	North Collins Central School District – Town of North Collins	2014
658-001-9999-717./1882	North Collins Central School District – Town of North Collins	2014

FISCAL YEAR 2014 Petition No. 215,092.00

OWNER Cancel \$819.53  
 S-B-L 555.00-75-1.1 Fiberoptics 144000 EDEN

Acct. No. 112 \$0.00 County  
 Acct. No. 132 \$819.53  
 Town/SpecialDist/School  
Charge To : 144000 EDEN \$819.53  
 Relevy School \$819.53 144001 EDEN

CENTRAL

RPTL550(2): Fiber optics and inclosure on private ROW  
 Application denied: fiber optic cable is taxable

FISCAL YEAR 2014 Petition No. 215,093.00

OWNER Cancel \$336.66  
 S-B-L 555.00-75-1.2 Fiberoptics 144000 EDEN

Acct. No. 112 \$0.00 County  
 Acct. No. 132 \$336.66  
 Town/SpecialDist/School  
Charge To : 144000 EDEN \$336.66  
 Relevy School \$336.66 144401 LAKE

SHORE CENTRAL

RPTL550(2): Fiber optics and inclosure on private ROW  
Application denied: fiber optic cable is taxable

FISCAL YEAR	2014	Petition No.	215,094.00
	OWNER	Cancel	\$539.07
S-B-L	658.089-9999-710 45889	145889 NORTH COLLINS	
	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$539.07	
	Town/SpecialDist/School		
<u>Charge To :</u>	145889 NORTH COLLINS	\$539.07	
	Relevy School	\$539.07	145801 NORTH

COLLINS CENT

RPTL550(2): Fiber optics and inclosure on private ROW  
Application denied: fiber optic cable is taxable

FISCAL YEAR	2014	Petition No.	215,095.00
	OWNER	Cancel	\$601.35
S-B-L	658.089-9999-717	145889 NORTH COLLINS	
	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$601.35	
	Town/SpecialDist/School		
<u>Charge To :</u>	145889 NORTH COLLINS	\$601.35	
	Relevy School	\$601.35	145801 NORTH

COLLINS CENT

RPTL550(2): Fiber optics and inclosure on private ROW  
Application denied: fiber optic cable is taxable

FISCAL YEAR	2014	Petition No.	215,096.00
	OWNER	Cancel	\$154.63

S-B-L	658.001-9999-710	145801 NORTH COLLINS	
	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$154.63	
	Town/SpecialDist/School		
<u>Charge To :</u>	145801 NORTH COLLINS	\$154.63	
	Relevy School	\$154.63	145801 NORTH

COLLINS CENT

RPTL550(2): Fiber optics and inclosure on private ROW  
Application denied: fiber optic cable is taxable

FISCAL YEAR	2014	Petition No.	215,097.00
	OWNER	Cancel	\$5,616.47
S-B-L	658.089-9999-760	145889 NORTH COLLINS	
	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$5,616.47	
	Town/SpecialDist/School		
<u>Charge To :</u>	145889 NORTH COLLINS	\$5,616.47	
	Relevy School	\$5,616.47	145801 NORTH

COLLINS CENT

RPTL550(2): Fiber optics and inclosure on private ROW  
Application denied: fiber optic cable is taxable

FISCAL YEAR	2014	Petition No.	215,098.00
	OWNER	Cancel	\$55.84
S-B-L	658.001-9999-717	145801 NORTH COLLINS	
	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$55.84	
	Town/SpecialDist/School		
<u>Charge To :</u>	145801 NORTH COLLINS	\$55.84	
	Relevy School	\$55.84	145801 NORTH

COLLINS CENT

RPTL550(2): Fiber optics and inclosure on private ROW  
Application denied: fiber optic cable is taxable

FISCAL YEAR	2014	Petition No.	215,099.00
	OWNER	Cancel	\$1,554.59
S-B-L	658.001-9999-760	145801 NORTH COLLINS	
	Acct. No. 112	\$0.00	County
	Acct. No. 132	\$1,554.59	
	Town/SpecialDist/School		
<u>Charge To:</u>	145801 NORTH COLLINS	\$1,554.59	
COLLINS CENT	Relevy School	\$1,554.59	145801 NORTH

RPTL550(2): Fiber optics and inclosure on private ROW  
Application denied: fiber optic cable is taxable

and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Director of Real Property Tax Services.  
(5-0) Legislator Miller-Williams not present for vote.

3. INTRO. 9-2 (2015)

**LORIGO**

WHEREAS, for years Explore & More Children's Museum has been located in East Aurora and has been a highly valued organization; and

WHEREAS, early this year Explore & More, based on its track record of growth and sustainability, was selected by the Erie Canal Harbor Development Corporation to be an anchor attraction on Buffalo's waterfront; and

WHEREAS, to effectuate its move to construct the new location, Explore & More needs \$10 million in capital funding; and

WHEREAS, the Erie County Legislature recently met with representatives of Explore & More and viewed a presentation that stated Explore & More has reached over 60% of its \$10 million goal; and

WHEREAS, the move downtown will be a boon to the waterfront development and residents of the entire county; and

WHEREAS, the county's undesignated fund balance is anticipated to top \$100 million, far exceeding the mandatory minimum of \$50 million; and

WHEREAS, it is also expected that, despite the increased costs of the November Storm and our brutal winter, the county will have a large surplus from the 2014 fiscal year; and

WHEREAS, the county should make every effort to return reasonable amounts of those funds to the taxpayers and residents of Erie County, including assisting organizations, such as Explore and More that benefit the entire community; and

WHEREAS, helping the Explore & More Museum expand will be a benefit to the City of Buffalo, the development of Canalside and the Buffalo waterfront, and the residents of the County of Erie.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body encourages the County Executive efficiently allocate the generous surplus the county will have from 2014; and, be it further

RESOLVED, that pending a large surplus for the 2014 fiscal year, this honorable body hereby requests that the County Executive transfer \$2 million to Explore & More to fund its capital campaign; and, be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive, the Department of Environment and Planning, the Department of Budget and Management, Nancy Montone the Director of Development at the Explore & More Museum, and all other parties deemed necessary and proper.

(5-1) Legislator Hardwick voted in the negative.

**JOSEPH C. LORIGO**  
**CHAIR**