

BUFFALO ERIE NIAGARA LAND IMPROVEMENT CORPORATION

MEMORANDUM

TO: Board of Directors, Buffalo Erie Niagara Land Improvement Corporation
FROM: Brendan Mehaffy, Chairperson
SUBJECT: **Resolution #2016-40** Authorization of BENLIC-City of Buffalo Pre-Emptive Bid Agreement with Authorization to Exercise BENLIC Preemptive Bid on Certain Properties
DATE: October 6, 2016

DISCUSSION:

BENLIC, as a New York State Land Bank, possess a “pre-emptive” bid authority. BENLIC may tender a bid for a property at public tax foreclosure auction and have its bid be preferred amongst all other bids. Recent law has enhanced the pre-emptive bid authority by allowing BENLIC to *assign* the *right* of its bid to the foreclosing governmental unit making the action to foreclose on a tax lien. The City of Buffalo, in partnership with BENLIC, has expressed interest in having BENLIC use its pre-emptive bid power at the City’s annual tax foreclosure auction to bid on properties, and then assign its bid rights over to the City. The assignment would allow property to be deeded directly to the City. Pursuant to the New York State Land Bank Act, the authority of BENLIC to exercise a pre-emptive bid is created through a mutually-accepted agreement between BENLIC and the various municipal tax lien-holders, including the City of Buffalo, as well as the County of Erie, the Buffalo Sewer Authority, and the Buffalo Water Board. The Property Tax and Maintenance and Foreclosure Proceeds Distribution Policy for City of Buffalo 2016 is the policy that memorializes such authority to exercise pre-emptive bidding.

The agreement details how the City shall provide BENLIC a list of all properties the City desires BENLIC to tender the preemptive bid. Additionally the agreement details the process to assign the bid rights, a BENLIC option to retain up to 10% of properties for particular revitalization efforts and the payment or cancellation of certain taxes by the City.

The City of Buffalo is interested in having BENLIC bid and then assign nearly 800 properties at the October 2016 In Rem Foreclosure Sale. The City of Buffalo’s Mayor’s Office of Strategic Planning and Division of Planning have identified one- and two-unit residential and vacant lot properties through a particular selection process. Pursuant to the terms of the agreement whose approval is sought, the City shall provide to BENLIC the prior to the last BENLIC Board meeting preceding the City’s In Rem Foreclosure Sale. If, after the approval of the total detailed list of properties is made, there is any election by the City to remove and not preemptively bid on any approved properties only, the BENLIC Board Chair shall provide to BENLIC Staff a short list of such removed properties in writing at least one day prior to the applicable date at which the properties would be auctioned.

ACTION:

RESOLVED, that the BENLIC Board of Directors hereby approves of the BENLIC-City of Buffalo Pre-Emptive Bid Assignment Agreement attached hereto and made part hereof, and be it further

RESOLVED, that attached to this Resolution and made a part hereof is the detailed list of all properties on which the City desires BENLIC to tender the BENLIC Preemptive Bids; and be it further,

RESOLVED, that should the City elect to remove and any approved properties from BENLIC’s bid list, the BENLIC Board Chair shall provide to BENLIC staff a full list of the properties less such removed properties in writing at least one day prior to the applicable date at which the properties would be auctioned; and be it further,

RESOLVED, that the BENLIC Board of Directors hereby waives Sections II(4)(ii)(f), II(4)(ii)(g), and II(4)(iii)(c) of its Rules and Procedures; and be it further,

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RESOLVED, that BENLIC authorizes BENLIC staff to attend the 2016 City of Buffalo In Rem auction and bid the amount of back taxes on the slate of approved properties; and be it further,

RESOLVED, that copies of this Resolution shall be provided to the City of Buffalo.