BUFFALO ERIE NIAGARA LAND IMPROVEMENT CORPORATION

FREEDOM OF INFORMATION POLICY

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1. Designation of records access officer:

(a) Buffalo Erie Niagara Land Improvement Corporation is responsible for insuring compliance with the regulations herein, and designates the following person(s) as records access officer:

Jason Knight, AICP – Community Planning Coordinator
95 Franklin Street, Room 1016
Buffalo, New York 14202

(b) The records access officer is responsible for insuring appropriate agency response to public requests for access to records. The designation of a records access officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.

The records access officer shall insure that Buffalo Erie Niagara Land Improvement Corporation:

(1) Maintain an up-to-date subject matter list.

(2) Assist persons seeking records to identify the records sought, if necessary, and when appropriate, indicate the manner in which the records are filed, retrieved or generated to assist persons in reasonably describing records.

(3) Contact persons seeking records when a request is voluminous or when locating the records involves substantial effort, so that personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested.

(4) Upon locating the records, take one of the following actions:

(i) Make records available for inspection; or,
(ii) Deny access to the records in whole or in part and explain in writing the reasons therefor.

(5) Upon request for copies of records:

(i) Make a copy available upon payment or offer to pay established fees, if any, in accordance with Section 8; or,

(ii) Permit the requester to copy those records.

(6) Upon request, certify that a record is a true copy ; and

(7) Upon failure to locate records, certify that;

(i) Buffalo Erie Niagara Land Improvement Corporation is not the custodian for such records, or
(ii) The records of which Buffalo Erie Niagara Land Improvement Corporation is a custodian cannot be found after diligent search.

Section 2 Location:

Records shall be available for public inspection and copying at:

Buffalo Erie Niagara Land Improvement Corporation
95 Franklin Street, 10th Floor
Buffalo, New York 14202

Section 3 Requests for public access to records:

(a) A written request is required.

(b) If records are maintained on the internet, the requester shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.

(c) A response shall be given within five business days of receipt of a request by:

(1) informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;

(2) granting or denying access to records in whole or in part;

(3) acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than twenty business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure within twenty business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or

(4) if the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within twenty business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgment specifying the reason for the inability to do so and a date certain, within a reasonable

period under the circumstances of the request, when the request will be granted in whole or in part.

(d) In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by Buffalo Erie Niagara Land Improvement Corporation, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.

(e) A failure to comply with the time limitations described herein shall constitute a denial of a request that may be appealed. Such failure shall include situations in which an officer or employee:

(1) fails to grant access to the records sought, deny access in writing or acknowledge the receipt of a request within five business days of the receipt of a request;

(2) acknowledges the receipt of a request within five business days but fails to furnish an approximate date when the request will be granted or denied in whole or in part;

(3) furnishes an acknowledgment of the receipt of a request within five business days with an approximate date for granting or denying access in whole or in part that is unreasonable under the circumstances of the request;

(4) fails to respond to a request within a reasonable time after the approximate date given or within twenty business days after the date of the acknowledgment of the receipt of a request;

(5) determines to grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request, but fails to do so, unless Buffalo Erie Niagara Land Improvement Corporation provides the reason for its inability to do so in writing and a date certain within which the request will be granted in whole or in part;

(6) does not grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request and fails to provide the reason in writing explaining the inability to do so and a date certain by which the request will be granted in whole or in part; or

(7) responds to a request, stating that more than twenty business days is needed to grant or deny the request in whole or in part and provides a date certain within which that will be accomplished, but such date is unreasonable under the circumstances of the request.

(f) An appointment, to inspect and copy records, may be made by contacting the records access officer.

Section 4 Subject matter list:

(a) The records access officer shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to subdivision two of Section eighty-seven of the Public Officers Law.

(b) The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.

(c) The subject matter list shall be updated annually. The most recent update shall appear on the first page of the subject matter list.

Section 5 Denial of access to records:

(a) Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the individual or body established to determine appeals, [who or which] shall be identified by name, title, business address and business phone number.

(b) If requested records are not provided promptly, as required in Section 5 of these regulations, such failure shall also be deemed a denial of access.

(c) The following person or persons or body shall determine appeals regarding denial of access to records under the Freedom of Information Law:

Chairperson of the Buffalo Erie Niagara Land Improvement Corporation
95 Franklin Street, 10th Floor
Buffalo, New York 14202

(d) Any person denied access to records may appeal within thirty days of a denial.

(e) The time for deciding an appeal by the individual or body designated to determine appeals shall commence upon receipt of a written appeal identifying:

(1) the date and location of requests for records;
(2) a description, to the extent possible, of the records that were denied; and
(3) the name and return address of the person denied access.

(f) A failure to determine an appeal within ten business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.

(g) The person or body designated to determine appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to:

Committee on Open Government
Department of State
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, NY 12231

(h) The person or body designated to determine appeals shall inform the appellant and the Committee on Open Government of its determination in writing within ten business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth subdivision (f) of this section.

Section 6 Fees:

(a) There shall be no fee charged for:

(1) inspection of records; or
(2) any certification pursuant to this part.

(b) Copies may be provided without charging a fee, at the discretion of the records access officer.

(c) Fees for copies may be charged, provided that:

(1) the fee for copying records shall not exceed 25 cents per page for photocopies not exceeding 9 by 14 inches. This section shall not be construed to mandate the raising of fees where agencies or municipalities in the past have charged less that 25 cents for such copies;

(2) the fee for photocopies of records in excess of 9 x 14 inches shall not exceed the actual cost of reproduction; or

(3) Buffalo Erie Niagara Land Improvement Corporation has the authority to redact portions of a paper record and does so prior to disclosure of the record by making a photocopy from which the proper redactions are made.

(d) The fee Buffalo Erie Niagara Land Improvement Corporation may charge for a copy of any other record is based on the actual cost of reproduction and may include the following:

(1) an amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill required to prepare a copy of the requested record, but only when more than two hours of the employee's time is necessary to do so; and

(2) the actual cost of the storage devices or media provided to the person making the request in complying with such request; or

(3) the actual cost to Buffalo Erie Niagara Land Improvement Corporation of engaging an outside professional service to prepare a copy of a record, but only when an Buffalo

Erie Niagara Land Improvement Corporation's information technology equipment is inadequate to prepare a copy, and if such service is used to prepare the copy.

(e) When Buffalo Erie Niagara Land Improvement Corporation has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, or when doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, Buffalo Erie Niagara Land Improvement Corporation shall be required to retrieve or extract such record or data electronically. In such case, Buffalo Erie Niagara Land Improvement Corporation may charge a fee in accordance with paragraph (d)(1) and (2) above.

(f) Buffalo Erie Niagara Land Improvement Corporation shall inform a person requesting a record of the estimated cost of preparing a copy of the record if more than two hours of an employee's time is needed, or if it is necessary to retain an outside professional service to prepare a copy of the record.

(g) Buffalo Erie Niagara Land Improvement Corporation may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.

(h) Buffalo Erie Niagara Land Improvement Corporation may waive a fee in whole or in part when making copies of records available.

Section 7 Public notice:

A notice containing the title or name and business address of the records access officers and appeals person or body and the location where records can be seen or copies shall be posted in a conspicuous location wherever records are kept and/or published on Buffalo Erie Niagara Land Improvement Corporation website.

Section 8 Severability:

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.