



Department of Law



John J. Ottaviano, Corporation Counsel

David E. Blackley, First Deputy Counsel
Matthew E. Brooks, Second Deputy Counsel
Michael E. Benedict, Third Deputy Counsel

Lockport Municipal Building
One Locks Plaza
Lockport, New York 14094
Phone (716) 439-6670

RECEIVED
NYSDEC - REGION 9

JUL 12 2013

FOIL
REL UNREL

July 2, 2013

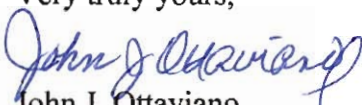
Gregory Sutton
New York State Department of
Environmental Conservation
625 Broadway
Albany, NY 12233

RE: In the Matter of the Foreclosure of Tax Liens
Property Address: 316 Willow Street, Lockport, New York 14094

Dear Sir:

Please take notice of entry of the enclosed order.

Very truly yours,


John J. Ottaviano
Corporation Counsel

JJO/lag

Enclosure: ORDER
Index No. 150116

At a Special Term of the Supreme Court of
The State of New York held in and for the
County of Niagara at

On the 27th day of June 2013

PRESENT: Hon. Richard C. Kloch, Sr.
Justice Presiding

ORIGINAL FILED

JUN 27 2013

WAYNE F. JAGOW
NIAGARA COUNTY CLERK

IN THE MATTER OF THE FORECLOSURE
OF TAX LIENS PURSUANT TO ARTICLE 11,
TITLE 3 OF THE REAL PROPERTY TAX
LAW BY THE CITY OF LOCKPORT

ORDER

Index No. 150116

The City of Lockport, New York having made a motion seeking temporary incidents of ownership of the above premises pursuant to the Environmental Conservation Law.

UPON reading and filing the Notice of motion dated May 2, 2013 together with the affirmation of John J. Ottaviano, Esq. Dated May 2, 2013 in support of said motion and upon due proof of service of the motion papers upon all interested parties and there being no papers filed in opposition thereto and upon hearing John J. Ottaviano attorney for the City of Lockport in support of said motion on the above date and there being no opposition thereto;

Now UPON MOTION OF John J. Ottaviano Attorney for the City of Lockport, New York it is:

ORDERED that the motion of the City of Lockport to obtain Temporary Incidents of Ownership pursuant to ECL 56-0508 of the parcel located at 316 Willow Street in the City of Lockport New York is hereby granted in order to perform an environmental restoration investigation project upon the Property; and it is further

ORDERED that the City of Lockport, New York State Department of Environmental Conservation agency and/or their consultants, agents, employees and contractors are granted authority to enter the Property for the purpose of performing an environmental investigation and remediation pursuant to ECL 56-0508; and it is further

ORDERED, that the fee owner of the property at 316 Willow Street in the City of Lockport and Patrick McFall, his agents, employees and representatives as well as any party holding any security interest in the property shall refrain from interfering or hindering in any way with the City of Lockport and the DEC's environmental investigation, testing, clean up and restoration on the property; and it is further

ORDERED that the foreclosure proceeding against the property shall be stayed until the environmental restoration investigation has been completed, the clean up completed and the final investigation report has been filed with the Court or such other time as the Court determines upon appropriate application; and it is further

ORDERED that this order does not affect any other parcels in the City of Lockport's foreclosure petitions and the foreclosure proceeding against the other parcels shall remain uninterrupted; and it is further

ORDERED, that within thirty days of completion of the environmental investigation, testing, clean up and restoration receipt by the City of Lockport of the final report of the investigation and clean up of the property, the City of Lockport shall file the final report with the Court on notice to all interested parties; and it is further

ORDERED that upon the City of Lockport filing the final investigation report with the Court the stay of the foreclosure proceeding on the property shall be lifted; and it is further

ORDERED that the City of Lockport's temporary incidents of ownership shall continue pending further order of this Court

S / RICHARD C. KLOCH SR. AJSC
Justice of the Supreme Court

GRANTED

JUN 27 2013

S / BY J. Vacanti
JUDY A. VACANTI
COURT CLERK

IN THE MATTER OF THE FORECLOSURE
OF TAX LIENS PURSUANT TO ARTICLE 11,
TITLE 3 OF THE REAL PROPERTY TAX
LAW BY THE CITY OF LOCKPORT

Index No. 151

Year 2013

Attorney for

CITY OF LOCKPORT CORPORATION COUNSEL
City of Lockport

COPY
ORDER

Office, Post Office Address and Telephone
ONE LOCKS PLAZA
LOCKPORT, NEW YORK 14094
(716) 439-6665

Personal Service of the within and of the notice (if any)
hereon endorsed, is admitted this day of , 19

.....
Attorney(s) for

Sir —Please take notice

NOTICE OF ENTRY

that an of which the within is a copy, was duly granted in the
within entitled action on the day of , 19 , and duly entered in the office of the Clerk
of the County of on the day of , 19

To **CITY OF LOCKPORT CORPORATION COUNSEL**
Attorney(s) for Attorney for

Sir:—Please take notice

NOTICE OF SETTLEMENT

that an order

of which the within is a true copy will be presented for settlement to the Hon.
one of the judges of the within named Court, at
on the day of , 19

To **CITY OF LOCKPORT CORPORATION COUNSEL**
Attorney(s) for Attorney for

STATE OF NEW YORK, COUNTY OF

SS.:

AFFIDAVIT OF SERVICE BY MAIL

being duly sworn, deposes and says; deponent is not a party to the action.

is over 18 years of age and resides at

On , 19 deponent served the within

upon

attorney(s) for in this action, at

the address, designated by said attorney(s) for that purpose by depositing a
true copy of same enclosed in a post-paid properly addressed wrapper, in—a post office—official depository under the exclusive care and custody
of the United States Postal Service within the State of New York.

Sworn to before me, this day of , 19

STATE OF NEW YORK, COUNTY OF

SS.:

Initial

☐ Certification
by Attorney

The undersigned attorney certifies that the within
has been compared by the undersigned with the original and found to be a true and complete copy.

Initial

☐ Attorney's
Affirmation

The undersigned, an attorney admitted to practice in the courts of New York State, shows: that deponent is
the attorney(s) of record for
in the within action; that deponent has read the foregoing
and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters
therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be
true. Deponent further says that the reason this verification is made by deponent and not by

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated:

STATE OF NEW YORK, COUNTY OF

SS.:

Initial

☐ Individual
Verification

being duly sworn deposes and says that
he is (are) the in this action; that he read the foregoing
and knows the contents thereof; that the same is true
to the knowledge of deponent, except as to the matters therein stated to be alleged on information and belief,
and that as to those matters he believe(s) it to be true.

Initial

☐ Corporate
Verification

being duly sworn, deposes and says that he is the
of
the corporation named in the within entitled action; that he has read the foregoing
and knows the contents thereof; and that the same is true
to his own knowledge, except as to the matters therein stated to be alleged upon information and belief,
and as to those matters he believes it to be true.
Deponent further says that the reason this verification is made by deponent and not by
is because the said
is a corporation and the grounds of deponent's belief as to all matters in the said
not stated upon his own knowledge, are investigations which deponent has caused to be made con-
cerning the subject matter of this and information
acquired by deponent in the course of his duties as an officer of said
corporation and from the books and papers of said corporation.

Sworn to before me this

day of , 19

STATE OF NEW YORK, COUNTY OF

SS.:

AFFIDAVIT OF PERSONAL SERVICE

being duly sworn, deposes and says, that deponent is not a party to the action.

is over 18 years of age and resides at

That on the day of , 19 at approx. M. at No.

deponent served the within

upon

the

herein, by delivering a true copy thereof to personally. Deponent knew the person so served to be the person men-
tioned and described as follows: therein.

<input type="checkbox"/> Male	<input type="checkbox"/> White Skin	<input type="checkbox"/> Black Hair		<input type="checkbox"/> 14-20 Yrs.	<input type="checkbox"/> Under 5'	<input type="checkbox"/> Under 100 Lbs.
<input type="checkbox"/> Female	<input type="checkbox"/> Black Skin	<input type="checkbox"/> Brown Hair	<input type="checkbox"/> White Hair	<input type="checkbox"/> 21-35 Yrs.	<input type="checkbox"/> 5'0"-5'3"	<input type="checkbox"/> 100-130 Lbs.
	<input type="checkbox"/> Yellow Skin	<input type="checkbox"/> Blond Hair	<input type="checkbox"/> Balding	<input type="checkbox"/> 36-50 Yrs.	<input type="checkbox"/> 5'4"-5'8"	<input type="checkbox"/> 131-160 Lbs.
	<input type="checkbox"/> Brown Skin	<input type="checkbox"/> Gray Hair		<input type="checkbox"/> 51-65 Yrs.	<input type="checkbox"/> 5'9"-6'0"	<input type="checkbox"/> 161-200 Lbs.
	<input type="checkbox"/> Red Skin	<input type="checkbox"/> Red Hair		<input type="checkbox"/> Over 65 Yrs.	<input type="checkbox"/> Over 6'	<input type="checkbox"/> Over 200 Lbs.

Other identifying features:

MILITARY
SERVICE

☐

I asked the person spoken to whether defendant was in active military service of the United States or the State of New York in any
capacity whatever and received a negative reply. Defendant wore ordinary civilian clothes and no military uniform. The source of
my information and the grounds of my belief are the conversations and observations above narrated.

Upon information and belief I aver that the defendant is not in the military service of New York State or of the United States as that
term is defined in either the State or in the Federal statutes.

Sworn to before me, this day of , 19

Signature of Server