
NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

PUBLIC HEARING FOR ONE NIAGARA, LLC

December 1, 2011
4:00 P.M.

Taken at: Niagara Falls City Hall
745 Main Street, Room 117
Niagara Falls, New York 14302

DAWN SITERS - COURT REPORTER

(716) 566-8057

PRESENT FOR NCIDA:

HENRY SLOMA, Chairman.

SAMUEL FERRARO, Executive Director.

SUSAN LANGDON, Director of Project Development,
Serving as Hearing Officer.

REPORTED BY: Dawn M. Sifers,
Court Reporter.

PUBLIC ATTENDANCE NOTED ON ATTACHED SIGN-IN SHEET.

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1 MS. LANGDON: All right. I
2 think we'll get started. It's four o'clock. Would
3 everyone please sign the attendance sheet on the end
4 of the table there, even if you don't wish to speak.

5 Good afternoon. My name is Susan
6 Langdon, Director of Project Development for the
7 Niagara County Industrial Development Agency. I
8 will be serving as hearing officer for this public
9 hearing. It is now 4:02 P.M. ,

10 The purpose of this hearing is to
11 solicit comments, both written and oral, on the One
12 Niagara, LLC project. For your review, I have
13 copies at the end of the table of the project
14 summary, the application, the cost/benefit analysis,
15 and the public hearing notice for your review.

16 Briefly, the proposed project
17 entails sales tax and property tax abatements for
18 renovations and improvements to a building located
19 at 360 Rainbow Boulevard South in the City of
20 Niagara Falls to serve as a tourism destination.

21 Please be advised that this is not
22 a debate, or a question and answer session. We're
23 here to record your comments, and present a

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1 transcript of these proceedings to the Niagara
2 County Industrial Development Agency Board of
3 Directors for their consideration in their decision
4 relative to this project.

5 I will now read the Notice of
6 Public Hearing.

7 Notice is hereby given that a
8 public hearing pursuant to Article 18-A of the New
9 York General Municipal Law will be held by the
10 Niagara County Industrial Development Agency (the
11 "Agency") on the 1st day of December, 2011 at 4:00
12 P.M. local time in Room 117 at City Hall, 745 Main
13 Street, Niagara Falls, New York in connection with
14 the following matter.

15 One Niagara, LLC, a New York
16 liability company, with offices at 3116 Military
17 Road, Niagara Falls, New York 14304, for itself, or
18 on behalf of an entity formed, or to be formed (the
19 "Company"), has submitted an application to the
20 Agency, a copy of which is on file at the office of
21 the Agency, requesting that the Agency consider
22 undertaking a project (the "Project") consisting of:
23 (A) the acquisition or retention by the Agency for

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1 fee title to, or other interest in, an approximately
2 2.25-acre parcel of land located at 360 Rainbow
3 Boulevard South in the City of Niagara Falls, New
4 York (the "Land"), and the existing improvements
5 located thereon, consisting principally of an
6 approximately one hundred eighty-six thousand square
7 foot, nine-story tourist amenity center (the
8 "Existing Improvements"); (B) the renovation of the
9 Existing Improvements including, but not limited to,
10 updating HVAC systems and computer systems,
11 construction of build-outs for tenants, and
12 landscaping and pavement installation (the
13 "Improvements"); and (C) the acquisition and
14 installation in, on, and around the Existing
15 Improvements and the Improvements of various
16 machinery, equipment and personal property (the
17 "Equipment", and together with the Land, the
18 Existing Improvements and the Improvements, the
19 "Facility").

20 The Agency will acquire, or retain
21 title to, or a leasehold in, the Facility, and lease
22 the Facility back to the Company. The Company will
23 operate the Facility during the term of the lease.

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1 At the end of the lease term, the Company will
2 purchase the Facility from the Agency, or if the
3 Agency holds a leasehold interest, the leasehold
4 interest will be terminated. The Agency
5 contemplates that it will provide financial
6 assistance (the "Financial Assistance") to the
7 Company for qualifying portions of the Project in
8 the form of sales and use tax exemptions and a
9 mortgage recording tax exemption for financing
10 related to the Project, consistent with the policies
11 of the Agency, a partial real property tax
12 abatement, and a mortgage recording tax exemption
13 with respect to a certain payment-in-lieu-of-tax
14 agreement mortgage.

15 A representative of the Agency
16 will be at the above-stated time and place to
17 present a copy of the Application, and hear and
18 accept written and oral comments from all persons
19 with views in favor of, or opposed to, the proposed
20 Financial Assistance.

21 This public hearing is being
22 conducted in accordance with Subdivision 2 of
23 Section 859-a of the New York General Municipal Law.

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1 Dated: November 14, 2011; Niagara
2 County Industrial Development Agency; by Samuel M.
3 Ferraro, Executive Director.

4 I will now open the hearing for
5 comments. Please remember to give your name,
6 address and organization you represent. Direct all
7 comments to the Chair. Your comments should be made
8 on this project only. And since we have a large
9 crowd, I would appreciate it if you could keep your
10 comments to three minutes or less. And we're going
11 to have the speakers speak over in this area where
12 this chair is, so that Dawn can hear clearly.

13 If anyone would like to speak,
14 please come up.

15 MR. GIRASOLE: My name is
16 Anthony Girasole, and I live at 265 South 4th Street
17 in Lewiston, New York. I'm a property owner of the
18 Power City buildings in downtown Niagara Falls on
19 Old Falls Street.

20 I'm here as a concerned citizen
21 and a taxpayer. I'm in favor of any development in
22 the downtown area. I'm in favor or any group
23 getting a benefit to promote development.

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1 However, I'm not in favor of
2 having to pay more taxes as a commercial property
3 owner because other properties are tax exempt. It
4 puts the taxpaying property owners, like our
5 building, at a disadvantage. We have a building
6 that's been vacant for two and a half years, and
7 we've dutifully paid the taxes on that building for
8 two and a half years, making no complaint, either
9 about the assessment, or the amount of taxes paid.
10 And I would hope that other taxpayers in the
11 downtown area would do the same.

12 I would like to see equity among
13 all downtown property owners; and not just singling
14 out one property owner for a benefit. However, I
15 would like to see some way to help these people
16 develop the property, but I'm not in favor of any
17 complete tax exemption at all.

18 The current property tax
19 assessment on that property has been lowered
20 considerably. As I remember, it was five or six
21 million, and it's down to perhaps three million
22 dollars now. It has a hundred and eighty-six
23 thousand square feet. On a square-foot basis, it's

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1 assessed for half per square foot of what our
2 building is assessed for. We're already inequal --
3 unequal.

4 But I don't want to be against
5 things to be against things; I want to -- I would
6 like to see parody. Thank you very much.

7 MS. LANGDON: Thank you.
8 Anyone else?

9 MR. SMITH: I'm Richard
10 Smith; 1021 96th Street. I'm chairman of the City
11 Planning Board.

12 I'm here to express my displeasure
13 with this application. If you entertain this
14 position, you'll set a precedent not only in the
15 city, but in the county. People will say I don't
16 have to pay my taxes, when a property goes In Rem, I
17 can go to the IDA and get a pilot program, they'll
18 bail me out of this predicament. I think any
19 property in any city or county should be brought
20 into compliance, back taxes paid, before an
21 application is made to the IDA for any pilot program
22 to be entertained.

23 I think it's a bad idea; and as

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1 chairman of the Planning Board, I'm opposed. Thank
2 you.

3 MS. LANGDON: Next speaker?

4 MR. DESTINO: My name is
5 Johnny Destino; 621 Vanderbilt Avenue, Niagara
6 Falls, New York. I'm a resident of the City of
7 Niagara Falls.

8 I'm here to say that I am in favor
9 of this project moving forward. I think this
10 situation is unique, that the property has undergone
11 some terrible management in the past, failed
12 projects. I think that the leadership of the IDA,
13 under Chairman Sloma, in moving forward with this,
14 they may be able to finally turn this property out,
15 so that it's, in the long-term, very profitable for
16 the city. And I hope that that can move forward.
17 Thank you.

18 MS. LANGDON: Thank you.

19 MR. KERR: Hi. My name
20 is Tom Kerr. I'm president of Cataract Tours. We
21 operate a tour business out of One Niagara.

22 I think with this project, under
23 the new management, I've seen a lot of plans since

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1 I've been here. I'm not a Niagara Falls resident,
2 but I have a business here. We've invested over a
3 quarter million dollars ourselves. And the new
4 management has made a tremendous difference.
5 Anybody in this room that's gone by can obviously
6 see the changes taking place. And this project is a
7 well-worth project to continue. Niagara Falls needs
8 development. We need this building restored.
9 Thanks.

10 MS. LANGDON: Thank you.
11 Any others?

12 MS. LAIBLE: Sorry if I
13 have my back to you. Hi. My name is Karen Laible,
14 1118 Pasadena Avenue, Niagara Falls, New York. And
15 I'm a citizen and a taxpayer.

16 I'm against this for a few
17 reasons. One; the group went in, they knew what
18 they had to do to refurbish this building, what the
19 cost would be, they knew what the taxes were, and
20 the assessed value. I don't think it's fair to any
21 property owner anywhere in the City of Niagara Falls
22 or Niagara County to have paid their taxes, and have
23 somebody come in that has not paid taxes.

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1 Now, I look at it this way; One
2 Niagara has not been able to secure money from a
3 bank, financing, and that means they're not
4 credit-worthy. Why? Because they haven't paid
5 taxes, and there's other multiple reasons. If a
6 bank will not assume any risks, why should the
7 taxpayers of this city assume the risk?

8 As far as I'm concerned, that six
9 and a half million dollars, that's basically three
10 hundred and ninety thousand dollars for seventeen
11 jobs. These people will be making, according to
12 this motion, twenty-some thousand. Let me tell you
13 something; for a family of four, that's below
14 poverty. So even the jobs they're creating, it's
15 just -- and as far as the vendors go, I applaud
16 them. The building is dirty. I went in there.
17 And if they have that much pride -- if the new
18 management has that much pride in the building, they
19 should bring in somebody that really knows how to
20 clean.

21 The vendors should go to the IDA
22 and say we have a business plan, a business model;
23 we'd like the funding. Because apparently, their

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1 business model is blank, and that's why the bank
2 won't give them money. Thank you.

3 MS. LANGDON: Thank you.

4 Next speaker?

5 MR. JOHNSON: May I?

6 MS. LANGDON: Yes.

7 MR. JOHNSON: My name is

8 Craig Johnson. I'm Corporation Counsel in the City
9 of Niagara Falls. The mayor is out of town today,
10 and I'm making these comments on his behalf, please.

11 The city was surprised and shocked
12 to learn that the NCIDA recently accepted an
13 application from One Niagara, LLC for financial
14 assistance for the building it owns, known as the
15 One Niagara Building.

16 Notwithstanding the acceptance of
17 the application by the NCIDA, the city asks that at
18 such time as the application for assistance comes
19 before the entire board, the board will do the right
20 thing; and that is to support the interests of all
21 the county taxpayers, which is to reject the
22 application for assistance.

23 During the last four years, the

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1 city has had a history of being business-friendly,
2 and has a track record to demonstrate that
3 business-friendly attitude. That track record
4 includes the developing of the Norampac/Greenpac
5 project, Globe Metallurgical, and three Meranni
6 family hotel projects.

7 While the city would like to
8 demonstrate that business-friendly attitude in the
9 direction of the One Niagara Building, it is not
10 able to consider any request of that nature because
11 of one simple fact; One Niagara, LLC owes the city,
12 the county, and the school district a combined total
13 of one million four hundred ninety-four thousand and
14 fifty-nine dollars for tax years 2006 partial, 2007,
15 2008 and 2009. One Niagara, LLC has chosen not to
16 pay the tax bills that it owes. And nonpayment of
17 taxes owed is why the city included the building in
18 its current In Rem Property Tax Foreclosure
19 Proceeding.

20 The last payment of taxes made by
21 One Niagara, LLC on its building was in 2008, and
22 that was a partial payment of back taxes owed for
23 2006. That payment of three hundred and eleven

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1 thousand one hundred and five dollars was only
2 enough to keep the building out of the city's
3 previous In Rem proceedings.

4 It must also be pointed out that
5 One Niagara, LLC has not paid the city, the county,
6 or the school district any taxes for years 2009,
7 2010, and 2011. Those amounts total five hundred
8 and ninety-three thousand, two hundred and
9 fifty-seven dollars. While those tax years are
10 under challenge, this does not excuse the payment of
11 these taxes.

12 Altogether, One Niagara, LLC owes
13 the various taxing authorities the whopping amount
14 of two million eighty-seven thousand three hundred
15 and sixteen dollars. Unpaid taxes are a debt and a
16 liability that is transferred to, and paid for by,
17 all other taxpayers. The fact that NCIDA would
18 accept and consider this application for an
19 abatement of One Niagara, LLC's property taxes going
20 forward is an insult to county taxpayers.

21 The city has certain policies that
22 it requires of an applicant for a city grant, or a
23 loan, to comply with in order for the city to

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1 consider an application for such a grant or a loan.
2 Among those policies is the requirement that the
3 applicant be current with any and all real property
4 taxes. Likewise, every other fiscally-responsible
5 public financing agency has basic prerequisite
6 policies in place to protect taxpayer investments
7 made to private, for-profit businesses. It's
8 remarkable that the NCIDA is considering this
9 application.

10 The city is also opposing NCIDA
11 consideration of assistance not only because of the
12 unpaid taxes, but also because of the lack of
13 clarity of ownership of the building. This problem
14 has existed for some time, and numerous ownership
15 claims involving litigation and liens are concerns
16 which much be addressed before any application for
17 NCIDA assistance is considered.

18 The city cautions the NCIDA that
19 by accepting this application and choosing to
20 proceed, it could create a very dangerous precedent
21 favoring the nonpayment of taxes as a business
22 strategy, without consequences. Further, relying on
23 claw backs after the fact as a protection of the

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1 public purse is a poor substitute for financial due
2 diligence, and is, in itself, an admission of the
3 vague nature of the business proposal in the
4 application.

5 Therefore, the city, on behalf of
6 all its tax-paying residents and businesses, must
7 strongly recommend that the NCIDA honor the city's
8 concerns before any application for tax incentives
9 for this business are considered for public
10 assistance. The city opposes the acceptance and
11 consideration for approval of the One Niagara
12 application, and reserves the right to make
13 additional written comments, and will do so in a
14 timely fashion. Thank you.

15 MS. LANGDON: Thank you.

16 MR. GAWEL: Michael Gawel;
17 8121 Valley Drive, Apartment A-3, Niagara Falls, New
18 York. I'm also a taxpayer and a concerned citizen
19 here in Niagara Falls, but I am in favor of
20 development, and I am in favor of this project. And
21 like Mr. Girasole, I also pay my property taxes on
22 both my properties.

23 But I would support this project

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1 in two ways. One, if ownership of the property was
2 made clear to the IDA, and to the City of Niagara
3 Falls; and that some agreement was reached on those
4 taxes that are due to the City of Niagara Falls,
5 County of Niagara, and the school district.

6 I don't think there's any plan to
7 abate any taxes that were due prior to this
8 agreement being made or being reached here. And
9 that any -- the liability for past-due taxes would
10 still be out there, and still be outstanding. So I
11 think that One Niagara, or the new group that's
12 going to be involved, would have to make an
13 agreement with the city and the county to support
14 that.

15 For three years I worked for
16 Smokin Joe's, and I was in charge of downtown
17 development. And I actually had worked for One
18 Niagara for about six months. And if the management
19 that was in place at that time was the management
20 now, then I would oppose this plan.

21 But they have a great management
22 team in place. They've worked very hard to turn
23 this building around. And one of the important

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1 things of this building is it's probably the first
2 building that people see coming over the bridge,
3 over the Rainbow Bridge, into the United States.
4 It's a large building. It should be the gateway, an
5 inviting gateway, to the City of Niagara Falls. And
6 I think that's why it's important that we develop
7 this property, that the new owners develop this
8 property, and that the county IDA gives the property
9 some assistance.

10 And again, I think you mentioned
11 caution, and you're a tough guy to follow; but I
12 think that the IDA will proceed with caution, that
13 they will be very clear on who the owner of this
14 property is. And I'm sure they'll make a very good
15 plan for repayment of their loan and the taxes for
16 Niagara Falls. Thank you.

17 MS. LANGDON: Thank you.
18 Anyone else?

19 MR. KORYL: Hi. My name
20 is Robert Koryl; 701 Pine Avenue, Niagara Falls, New
21 York. I'm here on behalf of Incredible Investments,
22 Limited. As some of you may or may not know,
23 Incredible Investments, Limited is a one-half

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1 partner in One Niagara, LLC, along with Whitestar
2 Development Corporation.

3 One Niagara -- I'm sorry.
4 Incredible Investments, Limited was unaware of the
5 application for the IDA assistance.

6 In addition to that, there's
7 litigation presently pending in three separate
8 courts involving irregularities involving revenue
9 from the One Niagara operation. There's millions of
10 dollars involved, extensive litigation, no
11 discovery, no turning over of income tax returns, or
12 other documents that are required by a court order
13 by Judge Caruso on November 4th. All of those were
14 supposed to be delivered to us well before today; it
15 still hasn't occurred.

16 Incredible Investments is
17 definitely opposed to the application.

18 MS. LANGDON: Thank you.

19 MR. ABRAMOWITZ: My name is
20 Philip Abramowitz. I'm an attorney. I represent
21 Altissima, Limited. I'm at 69 Delaware Avenue, Suite
22 1003, Buffalo, New York 14202.

23 On behalf of Altissima, Limited,

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1 which is a corporation that has a mortgage filed in
2 the Niagara County Clerk's Office, which we believe
3 today has a value that exceeds seventeen million
4 dollars, we certainly are opposed to this proposal.

5 We would point out several things,
6 and they are in my letter of December 1, 2011. And
7 since I've incorporated everything in that, I'll
8 just hit some of the highlights of the letter.

9 Number one, as Mr. Koryl said,
10 there is presently ongoing litigation in three
11 separate courts regarding this property. There's
12 discovery which has been ordered, that has not been
13 provided. And we believe that there has just been
14 delay, delay, delay in this matter.

15 Further, there's so many
16 inconsistencies with this management here, that I
17 think it should give the IDA pause in this instance.
18 And just to give one or two of them. For example,
19 in his application dated July 13, 2011, Mr. Grenga,
20 who signed on behalf of One Niagara, stated at page
21 six that One Niagara has twenty full-time, and forty
22 part-time employees. However, in an affidavit which
23 he submitted to the New York State Supreme Court

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1 dated September 13, 2011, which was two months after
2 he filed this application, he stated in paragraph
3 23(C)(i), quote, One Niagara employs no W-2
4 employees; the sole employee is its president, and
5 he is not a W-2 employee. So what it is? Are there
6 twenty full-time and forty part-time, or is there
7 only one person who is an employee?

8 I'd also point out that Whitestar
9 is allegedly a fifty percent owner of the property.
10 They say they haven't got money to pay taxes. They
11 say they don't have money, they need money from the
12 taxpayers. But we have an accountant's affidavit
13 attached to our papers where he says -- Steven
14 Sanders, a highly-regarded CPA in Buffalo -- that
15 Whitestar has siphoned off no less than four point
16 five million dollars since 2008. They haven't paid
17 taxes; yet, somehow, Whitestar is able to get this
18 money. And Mr. Sanders has told me this is only
19 part of it, he doesn't have all the funds that were
20 deposited.

21 For these reasons, and all the
22 reasons stated by the previous speakers, and
23 certainly Mr. Koryl, and for all the reasons stated

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1 in my letter of December 1, 2011, I ask that this
2 application be denied.

3 I also agree with the Corporation
4 Counsel when he said, what really has happened here
5 is One Niagara has chosen not to pay its taxes. It
6 has the money, it's choosing not to pay its taxes.
7 It's an absolute disgrace that the IDA would even
8 consider this application. Thank you.

9 MS. LANGDON: Anyone else?
10 Does anyone else want to speak?

11 MR. GIBAS: Hi. My name
12 is Rick Gibas.

13 My family was one of the first
14 tenants at One Niagara in 2005. We started off with
15 a couple of card tables with T-shirts, and we've
16 built our business up significantly off the
17 foundation that our parents started for us. Right
18 now, presently, my whole family makes their living
19 off of a souvenir gift shop that we have inside that
20 building. We occupy over five thousand square feet,
21 and our gross sales are approaching a million
22 dollars this year.

23 By approving this request, not

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1 only will it offer, you know, my family the security
2 that it would need for years to come, it would also
3 help us honor our parents, who just recently passed
4 away in the last few years. It would allow us to
5 build off the foundation that they've built for me
6 and my family.

7 So you know, there is something
8 real that is happening down there. There are
9 families that are making a living; there are
10 families that, you know, do need One Niagara to make
11 a living. And this isn't, you know, some kind of
12 situation where they're trying to get a break, or
13 anything like that. I mean, we're real, my fellow
14 tenants are real, and we just ask that this request
15 be approved. That's all I have.

16 MS. LANGDON: Thank you.

17 Does anybody else wish to speak? Is there anyone
18 else wishing to speak?

19 Okay. It's now 4:25 P.M., and I
20 will close the hearing. Thank you to everyone for
21 your comments.

22
23 * * * *

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NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Niagara County Industrial Development Agency (the "Agency") on the 1st day of December, 2011 at 4:00 p.m., local time, in room 117 at City Hall, 745 Main Street, Niagara Falls, New York, in connection with the following matter:

ONE NIAGARA, LLC, a New York limited liability company, with offices at 3116 Military Road, Niagara Falls, New York 14304, for itself or on behalf of an entity formed or to be formed (the "Company"), has submitted an application to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") consisting of: (A) the acquisition or retention by the Agency of fee title to or other interest in an approximately 2.25-acre parcel of land located at 360 Rainbow Boulevard S. in the City of Niagara Falls, Niagara County, New York (the "Land") and the existing improvements located thereon, consisting principally of an approximately 186,000 square foot, nine-story tourist amenity center (the "Existing Improvements"); (B) the renovation of the Existing Improvements including, but not limited to, updating HVAC systems and computer systems, construction of build-outs for tenants, and landscaping and pavement installation (the "Improvements"); and (C) the acquisition and installation in, on and around the Existing Improvements and the Improvements of various machinery, equipment and personal property (the "Equipment" and, together with the Land, the Existing Improvements and the Improvements, the "Facility").

The Agency will acquire or retain title to, or a leasehold interest in, the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Company will purchase the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company for qualifying portions of the Project in the form of sales and use tax exemptions and a mortgage recording tax exemption for financing related to the Project, consistent with the policies of the Agency, a partial real property tax abatement and a mortgage recording tax exemption with respect to a certain payment-in-lieu-of-tax agreement mortgage.

A representative of the Agency will be at the above-stated time and place to present a copy of the Application and hear and accept written and oral comments from all persons with views in favor of or opposed to the proposed financial assistance.

This public hearing is being conducted in accordance with Subdivision 2 of Section 859-a of the New York General Municipal Law.

DATED: November 14, 2011

**NIAGARA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____


Samuel M. Ferraro
Executive Director

PUBLIC HEARING SIGN IN SHEET

One Niagara, LLC

December 1, 2011 4:00 p.m.

City Hall, Room 117 Niagara Falls, NY

Name	Address	Affiliation	Do you Wish to Speak?
Karen & Gary Laible	1118 Pasadena Ave NF, NY 14304	N.F. TAX PAYERS	yes
Philip Abramowitz	69 Delaware Ave Suite 1003 Buffalo, NY 14202	Attorney at Law	yes
John M. Caputo	1108 Ridge Rd. 14297	Employ. One Via.	No.
Richard D Smith	1021 - 96 th St NF, NY 14304	N.F. PLANNING CHAIR	YES
GERRY GIMONDI	PO BOX 408 NF, NY 14303 2507 15th St	ALLEGANY POL. MGMT.	NO.
Dwain [unclear]	Niagara Falls NY 14305	N.F.P.D. # 4th District Leg Elect	NO
Ron Andeekuh	PO Box 2796 NF NY 14302	Niagara St. Bus Assoc	No
Steve Fournier	986 23rd NF	City Councilman	no
Robert Koyle	701 Pine Ave NF NY	Incumbent Affinity for Investment	yes

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One Niagara, LLC

December 1, 2011 4:00 p.m.

City Hall, Room 117 Niagara Falls, NY

Name	Address	Affiliation	Do you Wish to Speak?
Henry Scoma		IDA	No
Mark Scheer	310 Niagara Street	Niagara Gazette	No
San Ferrans	6311 Inwood Circle Dr	Niagara I/OA	No
see Peterson	403 Main St Buffalo NY	Maison + Oshe	no
Joe Collora	747 Main St	Cof of NF	No.
Craig A Johnson	745 Main St N. Falls, NY 14303	CITY of NF	Yes
Tony + Betty Guaido	265 Sycamore Leeds, N.Y.	COUNCILMAN	yes
Thomas Kerr	E. Amhurst 29 Caddbrook Ct. N.Y.	CATARACT TOURS	
Johnny Destino	621 Vanderbilt Ave. NF	Resident NF	Yes

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One Niagara, LLC

December 1, 2011 4:00 p.m.

City Hall, Room 117 Niagara Falls, NY

Name	Address	Affiliation	Do you Wish to Speak?
Michael Gawel	8121 Valle Dr A-3 Niagara Falls NY	Local - CPA	Yes
MISER BUTT	1408 MAIN ST N.F. NY 14305	HALAL FOOD	
MOHAMMED			

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THE SENATE
STATE OF NEW YORK



MARK GRISANTI
 SENATOR, 60TH DISTRICT

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November 30, 2011

Niagara County Industrial Development Agency
 6311 Inducon Corporate Drive
 Sanborn, NY 14132-9099

To whom it may concern,

Please be advised that I fully support the application from One Niagara for participation in a PILOT program with the Niagara County Industrial Development Agency. I personally know the principals of One Niagara, including managing partner Paul Grenga and President Tony Farina, and believe in their commitment to making their project into a positive economic engine for downtown Niagara Falls.

One Niagara has made great strides in the last several months in developing their entire project, and I have witnessed firsthand their support to the community, including their substantial donation to Make-A-Wish of which I was pleased to be a participant.

I strongly urge the Niagara IDA to approve their application for a PILOT program and I believe that it is in the best interests of all parties to get moving on this important downtown parcel and create the jobs and economic activity so necessary to building a strong Niagara Falls in the future. I have also been reassured that One Niagara, while continuing to contest its assessment as unfair, will eventually resolve its outstanding tax issues with the City of Niagara Falls as part of the current process.

Once again, I support One Niagara's application and urge the IDA to help get this projet moving in the right direction and help downtown Niagara Falls begin to realize its full economic potential.

If you have any questions or need further information, please do not hesitate to contact me.

Sincerely,

Mark Grisanti
 New York State Senator - 60th District

cc: Niagara Falls Mayor Paul Dyster

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EMAIL: PABRAMOWIT@AOL.COM

December 1, 2011

Niagara County Industrial
Development Agency
6311 Inducon Corporate Dr. Suite One
Sanborn, NY 14132-9099

Re: Application of One Niagara LLC for tax relief and PILOT

Dear Sir:

Please be advised that I represent Altissima Ltd., which holds the first mortgage filed in the Niagara County Clerk's Office that covers the property which is the subject of the instant application. The value of that mortgage presently exceeds \$17,000,000.

Please be further advised that Altissima Ltd. is opposed to the application by One Niagara LLC and refuses, and will refuse, to subordinate its mortgage to the Niagara County Industrial Development Agency or any of its assignees.

There is ongoing litigation pending in three (3) separate courts concerning this property, and the court-ordered discovery (and lack of production of said ordered discovery) that has been received refutes and calls into serious question the verified application submitted by One Niagara.

For example, the Supreme Court has directed that One Niagara LLC turn over records used for the preparation of its 2008, 2009 and 2010 income tax returns, but none have been provided.

Further, there are serious questions raised which include the number of full-time and part-time employees of One Niagara, the actual funds generated by the applicant, and even the true ownership of Whitestar Development Corp.

For example, in his application dated July 13, 2011, Mr. Grenga states that One Niagara has 20 full-time and 40 part-time employees (see page 6 of One Niagara's "Application for Assistance"). However, in an affidavit which he submitted to the New York State Supreme Court dated September 13, 2011, he stated in paragraph 23(c)(i) "One Niagara employs no 'W-2' employees. The sole 'employee' is its President and he is not a 'W-2 employee'" (see affidavit of Paul Grenga dated September 13, 2011, which is attached hereto).

Niagara County Industrial Development Agency
December 1, 2011
Page 2

I also incorporate the attached affidavit of Steven Sanders, CPA dated November 30, 2011 that shows as best as we can determine (without the court ordered documents and any meaningful cooperation from One Niagara) that Whitestar Development Corp., which is listed as a 50% owner of One Niagara in the Application for Assistance, has siphoned off no less than \$4,500,000 since 2008. Please note that Mr. Sanders did not include all the funds that were deposited into the Whitestar accounts.

One Niagara LLC's Application for Assistance should be denied.

Respectfully yours,



Philip B. Abramowitz

/PBA

Attachments

SANDERS AFFIDAVIT

November 30, 2011

Steven Sanders being duly sworn deposes and says.

I am a certified public accountant with offices at 401 Maryvale Dr., Cheektowaga, NY, and have been practicing as a CPA for 16 years.

I have reviewed the following records: the Summary of Bank Deposits, net of wire transfers and the Summary of Bank Transfers & Wires both prepared by the accounting firm Chiampou, Travis, Besaw & Kershner LLP. I checked the mathematical accuracy of the workpapers and on test basis traced the deposits and transfers to bank statements for Whitestar Development Corp and WhiteStar at 360 Operations LLC.

Based on these documents, I can identify \$4,595,469.23 in deposits and net transfers into the Whitestar entities' accounts during the calendar years 2008, 2009 and 2010.

At-a

I, Sharon Aikens Dzioba, a Notary Public of Erie County, New York, hereby certify that Steven Sanders personally known to me to be the affiant in the foregoing document, personally appeared before me this day and having been by me duly sworn deposes and says that the facts set forth in the above document are true and correct.

Witness my hand and official seal this the 30 day of Nov., 2011.

Sharon Aikens Dzioba

Notary Public

My Commission expires:

11/31/2015

SHARON AIKENS DZIERBA
NOTARY PUBLIC STATE OF NEW YORK
ERIE COUNTY
LIC. #01DZ6234981
COMM. EXR 1/31/2015

GRENGA AFFIDAVIT

September 13, 2011

STATE OF NEW YORK
SUPREME COURT : COUNTY OF NIAGARA

FRANK PARLATO, JR., Individually and
As Manager of ONE NIAGARA, LLC and as
President of WHITESTAR DEVELOPMENT
CORP. and WHITESTAR DEVELOPMENT CORP.

PLAINTIFF'S
SUPPORTING
AFFIDAVIT AND REPLY

PLAINTIFF,

INDEX NO.: 130869

VS.

INCREDIBLE INVESTMENTS LIMITED,
SHMUEL SHMUELI and ONE NIAGARA, LLC,

DEFENDANT.

STATE OF NEW YORK)
COUNTY OF NIAGARA) SS:

PAUL A. GRENGA, being duly sworn, deposes and says:

1. I am the president of Whitestar Development Corporation,
the managing member of One Niagara LLC and an attorney of record
having appeared extensively in this action of counsel to
Roschetti & DeCastro, P.C. As such I am fully familiar with the
circumstances underlying this motion.

2. Defendants' instant motion is yet another waste of
judicial resources and is simply a continuation of Shmueli's and
Incredible Investments Limited (Defendant's) attempts to harass
Plaintiffs while doing an "end run" around this Court's
preliminary injunction.

3. Contrary to Shmueli's assertions of the Operating

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CETTI & DeCASTRO
P.C.
790 MAIN STREET
NIAGARA FALLS, NY
14301-1773

Agreement, this Court has already imposed an extensive reporting system upon the Plaintiff's operations when the Court issued the Preliminary Injunction limiting Defendant's interference. Since that time One Niagara's tenants have operated under the watchful eye of a Court sanctioned Defendant's, Incredible Investments Limited, "monitor", currently Kassim Mohamed.

4. On Niagara, LLC., has, and will continue, to cooperate with the monitor's daily review of every dollar received at One Niagara.

5. On the other hand, Incredible Investments Limited, and Shmueli are not the managing members and have no right to review individual expenses, to muck about in the company's operations or in its checking accounts, and certainly should not be involved with the personal business of its employees (by virtue of having access to payroll records names, addresses and social security numbers).

6. Having delivered in excess of 19 banker boxes of records plus voluminous bank records subpoenaed by Defendants, at worst, their accountants have stated that they cannot verify with absolute certainty that the tax returns they reviewed are accurate.

7. The absurdity of this is that no account and that I know would say that even returns prepared by themselves, let alone by

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CETTI & DECASTRO
P.C.

730 MAIN STREET

NIAGARA FALLS, NY

14301-1723

others, can be verified with absolute certainty for accuracy. Accounting demands.

8. Shmueli already has "gross receipts and operating expenses" in the for of the Profit and Loss Statements and Balance Sheets prepared by One Niagara's tax return preparers for the years 2005, 2006 and 2007. Since my acquisition of the Managing Member of One Niagara I have been working with our staff, a CPA and a independent tax preparer to complete returns for 2008, 2009 & 2010. My anticipated completion date is October 15, 2010.

9. IIL's "share of profits...or loss" are reported in the K-1 portion of the tax returns. Computer Hard drives.

10. IIL and Shmueli failed to do what they were required to do last time that they asked for hard drives. IIL's failure to engage a "computer expert" remained pending from the time of the original motion to Mr. Burke's motion to withdraw for non-payment of counsel fees.

11. One Niagara maintains no seperate computer other than the DVR surveillance system. The balance of computers in One Niagara's facilities are those of tenants or that of my law office.

12. These hard drives contain privileged materials and

information personal to the users (such as social security numbers, passwords, personal schedules, personal email addresses, personal credit card records, utility bills, etc.).

13. Notwithstanding that they are not One Niagara's, such discovery is always subject to having first established an effective understanding as to how privacy will be protected.

14. As was the case in the IIL's prior aborted attempt at obtaining this material for delivery directly into Shmueli's hands, this motion would put the litigants (and non-litigants alike) and the judicial system at risk of having divulged a wealth of personal information without any protective process in place. Considering the multiple litigations and the nature of same had to date, this is not an unrealistic concern.

15. IIL's, disregarding this Court's prior direction, failed to retain "D4" as a forensic expert, did not produce its engagement letter, and ignored it's own responsibility to first propose search terms.

16. Instead, what was then proposed by Shmueli was a standard form of Confidentiality Agreement prepared by Mr. Banas, not an e-discovery plan or engagement letter. This motion simply seeks to place IIL and Shmueli's counsel in the position of holding all the personal information of Shmueli's opponet (and others) and them not being able to release them to Shmueli.

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NIAGARA FALLS, NY

14301-1773

This will necessarily result in even more litigation between Shmueli and his attorneys. To ignore the hostile relationship that he has developed with every prior firm representing him to date (except Mr. Bloom) would be ill advised.

17. In any case, an attorney's confidentiality agreement is not adequate for an independent forensic computer expert's third-party review under any e-discovery model. E-discovery is not usually made by the expert directly to its own client. Rather, results are reported to our attorneys so that they can either disclose the material the search reported as existing or they move for a protective order.

18. The moving party normally includes a forensic experts engagement letter with such a motion. E-discovery orders are not normally issued, and of course hard drives never turned over to an opponent, until such engagement letter is in place.

19. Such engagement letters, as is the norm, would address at least the following issues, to wit:

a. Qualifications: including certifications and a curriculum vitae (CV). Should the forensic expert not have a "EnCE" certification (EnCase Certified Forensic Examiner), other vendor-neutral certifications, years of computer forensics experience and/or courts in which the expert has been previously qualified must be disclosed.

b. Confidentiality: As to the confidentially portion of an engagement letter, the confidentiality provisions run solely to the hard drive owner, in that it is their material (subject to inspection (including people unrelated to this litigation) and would subject the expert to specific penalties if violated.

c. Software: The engagement letter should define what software that will be employed for duplication, searching and retrieval (e.g., EnCase proprietary software, FastBloc, etc.).

d. Scope of Analysis: Defined time periods for the examination and proposed search terms for targeting evidence are always included. This does not include the negative search terms or "limiters" which are usually addressed after the expert is engaged.

e. Time-lines. Time frames for or the experts review; then for confidentially turning over paper and electronic search results for our first review (for determinations of relevancy, attorney-client materials, propriety materials, personal materials and purported "redacted" materials subject to spoliation charges), are always included.

20. Having stated the foregoing, it is only after all this is resolved does the Court normally issue a further order establishing the mechanism for turning over the hard drives and

further scheduling the resulting disclosure of the electronic search by the expert to our counsel to allow us turn over copies of the results or to make any necessary protective motions.

21. To date, with the prior motion regarding hard drives, IIL and Shmueli have failed to proceed in all respects. They failed to engage an expert, failed to submit an engagement letter, failed to provide us with a list of IIL's and Shmueli's search terms, failed to give us an opportunity to propose limiters and proposed no time lines. IIL and Shmueli, frankly, did absolutely nothing but make the motion.

22. For these reasons alone this motion should be denied, and the plaintiffs awarded costs and attorney fees. Absent some adverse consequence to these repeatedly useless and harassing motions such conduct will continue.

23. Specifically, we address the individual issues raised in Shmueli's affidavit:

- a. "cash receipt journals...": Mohamed maintains these records himself pursuant to this Court's Preliminary Injunction Order. This request is moot, made for the sole purpose of harassment and annoyance, and will result in yet another waste of the company resources.
- b. "copies of daily logs or journals...": Our response is the same as above.

c. "copies of payroll taxes, including W-2 forms..":

i. One Niagara employs no "w-2" employees. The sole "employee" is it's President and he is not a "W-2 employee". Allowing Shmueli direct access to the President's personal information is, of course, made for the sole purpose of harassment and annoyance and constitutes an unwarranted invasion of privacy while serving no accounting purpose. Impact of this expense will be properly recorded in the company federal tax returns.

ii. All others employed at One Niagara are the employees of tenants or contractors, none of whom are parties to this action.

d. "supporting documentation for all cash disbursements made during the period of December 8th, 2004 through December 31, 2010":

i. In the context of the discovery responses made here and in the related cases (including an exhaustive disclosure by M&T bank in 2011 in addition to the 19 banker boxes already produced by us) - all of which this Court is aware - this request is actually scantionable. And again, all this information is addressed in tax returns. See f. below.

ii. More important, neither One Niagara, nor any named Plaintiff herein, receives cash or expends it as part of its operations at the One Niagara's site:

e. "copies of trial balances, general ledgers and

general journal entries...": Again, these instruments are used for income tax purposes and will be duly reported in income tax returns pursuant to the federal reporting requirements. This in accordance with Operating Agreement section 11.1 which specifically states that "...all methods of accounting and treating particular transactions shall be in accordance with the methods of accounting employed for Federal income tax purposes.". Upon completion of pending returns, same will be delivered to the Defendants as has been the practice.

f. "copies of signed and filed tax returns for One Niagara LLC...": All filed returns have been provided to defendants on multiple occasions. I do not have possession of "signatures". The process to obtain the actual filed copies is underway pursuant to our last Court appearance and this Court's directions. We plan to file returns for 2008, 2009 and 2010 on or before October 15th, 2011. They too will be provided to the defendants.

g. "k-1 statements...": Same response as above.

24. The balance of Shmueli's affidavit is a mere reiteration of the same hogwash that he has been spouting in every jurisdiction in Western New York. Yet he has failed to

prevail on one single substantive point, in any such action.

25. The balance of this affidavit addresses Shmueli's rambling and sworn diatribe and also certain matters he fails to disclose.

M&T Bank Subpoenas

26. Shmueli fails to disclose in his affidavit that he has caused yet another subpoena be issued to M&T Bank. This is at least the third such subpoena, some of which have required court appearances in federal court with M&T's attorney. Prior subpoena he issued to other banks resulted in the banking institutions termination of the company's banking relationship. It is only a matter of time before Plaintiffs run out of banks that will do business with it, let alone will One Niagara ever be able to develop a stable, beneficial long term relationship with a bank and or any lender as a result of defendants' constant harassment.

27. The last subpoena he issued to M&T bank resulted in extensive Federal Court proceedings brought by the bank because of the overbreadth of all that he demanded.

28. By virtue of the newly subpoenaed documents, Shmueli seeks to obtain intrusive information that, as can be seen below, he is not entitled to or already has.

29. Such disclosure sought is palpably improper; not

relevant to the case; seeks proprietary and confidential information based upon purely speculative and unsupported allegations; is overbroad, excessive, unnecessary and is a fishing expedition. Moreover, as must now be apparent to this Court, such conduct is made to harass or unduly burden the plaintiff and/or, it is sought as an "end run" around the reporting requirements that this Court has already imposed upon us.

30. For these reasons, as more fully addressed below, Plaintiffs are entitled to a protective order - including cancellation of non-party witness document subpoenas - to curb the defendants abusive conduct.

Gross receipts.

31. The gross receipts defendants continually demand are those of tenants, not One Niagara.

32. Gross tenant receipts have nothing to do with "distributions" to One Niagara's members.

33: The managing member is solely responsible for determining when "distributions are to made" (see Operating Agreement, paragraph 7.1, Defendant's affidavit Exhibit 1: "The Managers shall periodically determine the amount of cash of the Company which is not required for the operation or the reasonable working capital and other reserve requirements of the

Company...". To my knowledge, no distribution has been made to any member and no distribution is planned. Until such a distribution is made, this point is moot and not yet ripe for judicial review..

34. Gross receipts of tenants are relevant to "rent" only, not distributions. Shmueli has the gross receipt information pursuant to this Court's prior Preliminary Injunction. At a minimum, only upon a determination of the full impact of the real estate tax issues (which is the subject of ongoing litigation between One Niagara and the taxing jurisdictions), the impact of the indemnification provisions in the Operating Agreement (par. 5.6), and a determination of necessary cash reserves will "distributions" of One Niagara's rental income be at issue. Again, this point is moot and not ripe for judicial review, and is made for the sole purpose of harassment and annoyance
Ownership of Whitestar.

35. This Court has already reviewed the Whitestar purchase transaction documents which this deponent produced in camera after this issue was first raised in mid-2010. The Court then determined that said transaction was a bona fide arms length transaction resulting in deponent's ownership of Whitestar. Again, this issue is repetitive and moot.

36. On the other hand, no one has looked into Shmueli's role with respect to IIL and that purported purchase, appointment or other underlying transaction. All we were told in Court when we asked this question specifically, was that Incredible Investments Limited was owned by "someone in Australia."

IIL's rights

37. IIL has the monitoring rights that this Court imposed upon Plaintiffs, newly imposed "rights" which actually expanded IIL's membership benefits as provided for under the Operating Agreement. That monitoring has been ongoing. IIL and Shmueli again seek to expand their "rights" beyond the Preliminary Injunction and even into the operations of non-parties to this suit.

38. Again, upon completion of federal and state income tax returns, IIL will be entitled to review same. And again, completion of such returns is anticipated for October 15, 2011.

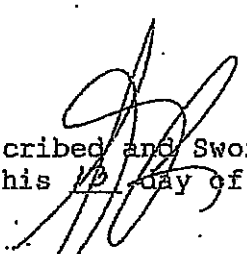
On going interference by IIL and Shmueli

39. Pending completion of the tax returns and pending a company distribution, all the issues raised by Shmueli have been raised multiple times before and previously addressed by this Court.

40. Shmueli's constant repetition of the same falsities will never make them true. In the interium, motions, such as this continue to interfere with the Company's operations and made solely for that purpose.



~~Paul A. Grenga~~



Subscribed and Sworn to before
me this 10 day of September, 2011

JAMES C. ROSCETTI
Notary Public, State of New York
Qualified in Niagara County
Commission Expires Sept. 30, 20 14

The City of Niagara Falls, New York (the "City") was surprised and shocked to learn that the Niagara County Industrial Development Agency ("NCIDA") recently accepted an application from One Niagara LLC for financial assistance for the building it owns located at 360 Rainbow Boulevard, Niagara Falls, New York (the "One Niagara Building"). Notwithstanding the acceptance of the application by the NCIDA, the City asks that at such time as the application for assistance comes before the entire NCIDA Board, that Board will do the right thing to support the interests of all county taxpayers, which is to reject that application for assistance.

During the last four years, the City has a history of being "business friendly" and has a track record to demonstrate that business-friendly attitude. That track record includes: The developing Norampac/Greenpac project, Globe Metallurgical and the three (3) Meranni family hotel projects.

While the City would like to demonstrate that "business-friendly" attitude in the direction of the One Niagara Building, it is not able to consider any request of this nature because of one simple fact. That fact is that One Niagara LLC owes the City of Niagara Falls, the County of Niagara, and the Niagara Falls School District a combined total of \$1,494,059 for tax years 2006 (partial), 2007, 2008 and 2009. One Niagara LLC has chosen not to pay the tax bills that it owes. Non-payment of taxes owed is why the City included the One Niagara Building in its current In Rem Property Tax Foreclosure Proceeding. The last payment of taxes made by One Niagara LLC on its building was in 2008 and that was a partial payment of back taxes owed for 2006 (partial). That payment of \$311,105 was only enough to keep the building out of the City's previous In Rem Property Tax Foreclosure Proceeding and was made for that purpose.

It must also be pointed out that One Niagara LLC has not paid the City, the County of Niagara or the Niagara Falls School District any taxes for years 2009 (partial), 2010 and 2011. Those amounts total \$593,257. While the assessments

for those tax years are under challenge, this does not excuse the payment of the taxes. All together, One Niagara LLC owes the various taxing jurisdictions the whopping amount of \$2,087,316. Unpaid taxes are a debt and liability that is transferred to and paid for by all the other taxpayers. The fact that the NCIDA would accept and consider this application for an abatement of One Niagara LLC's property tax bills going forward is an insult to all County taxpayers.

The City has certain policies that it requires of an applicant for a City grant or loan to comply with in order for the City to consider an application for such a grant or loan. Among those policies is a requirement that the applicant be current with any and all real property taxes. Likewise, every other fiscally responsible public financing agency has basic pre-requisite policies in place to protect taxpayer investments made to private for-profit businesses. It is remarkable that the NCIDA alone does not.

The City is also opposing NCIDA consideration of assistance not only because of the unpaid taxes, but also because of the lack of clarity of ownership of the Building. This problem has existed for some time and numerous ownership claims involving litigation and liens are concerns which must be addressed before any application for NCIDA assistance is considered.

The City cautions the NCIDA that by accepting this application and choosing to proceed, it would create a very dangerous precedent favoring the non-payment of taxes as a business strategy without consequence. Further, relying on "claw backs" after-the-fact as a protection of the public purse, is a poor substitute for financial due diligence and is itself an admission of the vague nature of the business proposal contained in the application. Therefore, the City, on behalf of all its tax paying residents and businesses, must strongly recommend that the NCIDA honor the City's concerns before any application for tax incentives for this business are considered for public assistance. The City opposes the acceptance and consideration for approval of the One Niagara LLC application.

The City reserves the right to make additional written comments and will do so in a timely fashion.