SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

THE LANDMARKS SOCIETY OF GREATER UTICA, JOSEPH BOTTINI, #NOHOSPITALDOWNTOWN, BRETT B. TRUETT, JAMES BROCK, JR., FRANK MONTECALVO, JOSEPH CERINI, AND O'BRIEN PLUMBING & HEATING SUPPLY, a division of ROME PLUMBING AND HEATING SUPPLY CO. INC.,

Petitioners-Plaintiffs

For a Judgment pursuant to Article 78 and Section 3001 of the Civil Practice Laws and Rules,

against-

PLANNING BOARD OF THE CITY OF UTICA, NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION, ERIK KULLESEID, ACTING COMMISSIONER, DORMITORY AUTHORITY OF THE STATE OF NEW YORK AND MOHAWK VALLEY HEALTH SYSTEM,

Respondents-Defendants.

AFFIRMATION OF KATHLEEN M. BENNETT, ESQ.

Index No. 02797-19

Assigned Judge:
Hon. Michael Mackey, J.S.C.

KATHLEEN M. BENNETT, an attorney duly admitted to practice law in the State of New York, affirms under penalty of perjury pursuant to CPLR § 2106 as follows:

1. I am a member of the law firm of Bond, Schoeneck & King, PLLC, attorneys for Respondent Mohawk Valley Health System ("MVHS") in the above captioned matter.

2. I have personally represented MVHS in connection with its proposal to construct a new Health Care Campus in the City of Utica, including the acquisition of property, the environmental review process, and land use approval and eminent domain processes. As such, I am familiar with the facts, circumstances and proceedings in this case.

3. I respectfully submit this Affirmation in opposition to the Article 78 proceeding filed by the Petitioners challenging the environmental review of the hospital project by the City of Utica Planning Board.

4. MVHS is proposing to construct a new Health Care Campus in the City of Utica. The proposed Health Care Campus includes a 670,000± sf hospital, central utility plant, parking

facilities (one municipal parking garage and multiple surface lots), medical office building (by private developer), campus grounds, utility/pedestrian bridge (over Columbia Street) and helipad (the "Project").

5. On February 2, 2018, MVHS submitted an application to the Oneida County Local Development Corporation (OCLDC) requesting certain financial assistance related to the Project.

6. The MVHS application to OCLDC included Part 1 of the full Environmental Assessment Form (EAF), pursuant to the New York State Environmental Quality Review Act (SEQRA).

7. Based on its review of the EAF, the OCLDC determined the Project to be a Type I action under SEQRA, thereby requiring establishment of a Lead Agency that would conduct a coordinated review. However, the OCLDC felt that it had limited jurisdiction over the Project and opted not to act as Lead Agent.

8. The full EAF submitted by MVHS to OCLDC identified the City of Utica Planning Board (Planning Board), which must issue site plan approval for the Project, as an Involved Agency making it eligible to act as the Lead Agency.

9. Given the professional planning staff at its disposal and the knowledge base required to properly conduct coordinated review for the Project, OCLDC expressed a desire for the Planning Board to act as Lead Agent.

10. At its February 22, 2018 Meeting, the Planning Board declared its intent to serve as Lead Agency and sent notice of that intention to all other involved and interested agencies.

11. After providing additional time for objections and having received no objections, on May 7, 2018, the Planning Board declared itself lead agency, identified the Project as a Type I action, and issued a Positive Declaration requiring the preparation of an environmental impact statement to assess potential adverse environmental impacts and to identify possible mitigation and/or alternatives to avoid or minimize those potential impacts.

12. On May 17, 2018, MVHS submitted a draft scoping document to focus the draft environmental impact statement on potentially significant adverse impacts and to eliminate consideration of those impacts that are irrelevant or nonsignificant.

13. The Planning Board held a duly noticed public scoping hearing on June 7, 2018 and accepted written comments on the draft scoping document until June 20, 2018.

14. The Planning Board adopted a final scoping document on July 19, 2018.

15. MVHS submitted a draft environmental impact statement (DEIS) to the Planning Board on October 26, 2018.

16. At a regular meeting of the Planning Board held on November 15, 2018, the City of Utica Economic and Urban Development staff and the Board members discussed the scope and content of the DEIS using the final scoping document and the standards contained in Section 617.9 of the Regulations to pass a resolution accepting the DEIS, dated October 2018, as adequate with respect to its scope and content for the purpose of commencing public review.

17. The Planning Board held a public hearing on the DEIS, pursuant to 6 NYCRR 617.8(f), on December 6, 2018, at 5:00 p.m. at the New York State Office Building, 207 Genesee St., Utica, NY, and accepted written public comments until December 27, 2018.

18. Based on the comments received from the public, at the request of the Planning Board, MVHS's environmental and engineering consultants prepared a Final Environmental Impact Statement ("FEIS"), dated March 2019 in accordance with the Regulations for review by the Board, acting as SEQRA lead agency for the Project.

19. At its regular meeting on March 21, 2019, the Planning Board, acting as the SEQRA lead agency for the Project resolved to accept the FEIS as accurate and adequate with respect to its scope and content pursuant to the standards contained in Section 617.9(b)(8) of the Regulations.

20. Notice of the Planning Board's acceptance of the FEIS was published in the Environmental Notice Bulletin and appears on the City of Utica website.

21. At its regular meeting on April 18, 2019, the Planning Board, acting as the SEQRA lead agency for the Project resolved to issue a written findings statement that found the Project in the downtown location as proposed by MVHS is the alternative that best minimizes impacts to the environment while providing significant beneficial impacts in terms of revitalizing a blighted area, secondary economic growth, and better serving the populations most in need of healthcare, as well as meeting MVHS's goals and objectives for the Project.

22. The SEQRA findings statement is a written document that is prepared following the acceptance of a final EIS that declares all SEQRA requirements for making decisions on an action have been met. Specifically, a positive findings statement, such as that issued by the Planning Board, means only that the Project can be approved, not that it actually will be approved.

23. Although issuance of the SEQRA findings statement concludes the environmental review process for the Planning Board, it was not the final action for the Planning Board, which still had to consider a site plan application for the Project.

24. Nevertheless, on May 8, 2019, Petitioners filed a hybrid petition/action claiming that the Letter of Resolution ("LOR") and Final Environmental Impact Statement ("FEIS") were defective. On June 12, 2019, MVHS moved to dismiss the Petition on ripeness grounds because the LOR and FEIS were not final determinations, and therefore not subject to review under CPLR Article 78.

25. On September 19, 2019, the City of Utica issued site plan approval for the project and filed that resolution with the City Clerk on September 20, 2019.

26. The Court held oral argument on the Respondents' motions to dismiss on October 31, 2019. During oral argument, I advised the Court that at the time of filing the original pleading, it was not ripe for review since the Planning Board had another approval to issue. However, during the months between the submission of the motion to dismiss and the scheduled oral argument, the Planning Board issued its "final" approval and it was now too late to challenge that approval.

27. Undaunted by their tardiness, on November 4, 2019, Petitioners filed without leave an "Amended Verified Petition and Complaint" (the "Amended Petition"), which purported to add a sixth cause of action challenging the final determination of the Partial Site Plan Approval ("Final Site Plan Approval") issued on September 19, 2019 by the City of Utica Planning Board ("Planning Board").

28. On November 21, 2019, MVHS moved to dismiss the Amended Petition on grounds that Petitioners had failed to timely challenge the Final Site Plan Approval within 30 days of the Planning Board's decision and had failed to seek permission to file a supplemental pleading.

29. By Decision and Order entered December 26, 2019, this Court dismissed the first, second and sixth causes of action of the Amended Petition, including the claims challenging the site plan approval. See Exhibit 1.

30. Accordingly, MVHS has a valid site plan approval that cannot be overturned at this point.

Formal Condemnation Proceedings Have Not Been Commenced

31. Petitioners spend a great deal of time in their papers making claims about the use of eminent domain to acquire property for the hospital.

32. However, MVHS is a private, not-for-profit corporation, that even though it serves the public health, safety and welfare, lacks the power of eminent domain.

33. Moreover, since MVHS owns all the real property located within the hospital footprint, eminent domain is not required.

34. Four of the property owners who have not reached voluntary sale agreements with MVHS are located in the footprint of the proposed parking garage. Although the parking garage is related to the hospital project, the parking garage is being undertaken by Oneida County. As a result, Oneida County has commenced negotiations to acquire the remaining parcels voluntarily. Although eminent domain is available to Oneida County for a parking garage, it is not known at this time whether and/or when Oneida County would undertake acquisition by eminent domain.

35. The remaining two property owners who have not reached voluntary sale agreements with MVHS are located in the footprint of the proposed medical office building and/or surface parking. Since these parcels are located with the City of Utica's Urban Renewal Area, the City of Utica's Urban Renewal Agency would be authorized to acquire the properties by eminent domain. However, the City of Utica's Urban Renewal Agency has not undertaken any steps to acquire these two parcels either voluntarily or through eminent domain. It is not known at this time whether and/or when the City of Utica's Urban Renewal Agency would undertake acquisition by eminent domain.

36. Moreover, to the extent that Petitioners make eminent domain an issue in this proceeding, they have failed to include necessary parties, ie the County of Oneida and the City of Utica Urban Renewal Agency.

Petitioner Brett Truett Lacks Standing

37. Brett Truett owns the property located at 442 LaFayette Street in the City of Utica. A copy of the deed into Mr. Truett is attached as Exhibit A.

38. According to the deed, Mr. Truett did not acquire title to this property until March 20, 2018.

39. This was after MVHS had made an offer to acquire the property from its previous owner, David Redmond.

40. This was also after the SEQRA review for the Project had commenced.

41. There can be no dispute that Mr. Truett purchased the property for the sole purpose to acquire standing to challenge the new hospital.

42. Under these circumstances, the courts have found that standing does not exist.

43. Therefore, Mr. Truett lacks standing and must be dismissed from the proceeding.

Largest Population Center in Oneida County

44. Public Health Law (PHL) Section 2825-b established the Oneida County Health Care Facility Transformation Program (OCHCFTP) to be jointly administered by the New York State Department of Health (NYSDOH) and the Dormitory Authority of the State of New York (DASNY).

45. The law made $300,000,000 available for capital grants to general hospitals for projects located in the largest population center in Oneida County that consolidated multiple licensed health care facilities into an integrated system of care.

46. Oneida County is located in Central New York and had a population of 231,190 in 2016. According to the most recent Census data, the City of Utica is the largest population center in Oneida County with a 2015 population of 61,628. R. 1149, 4617.

47. Therefore, the funds were restricted to sites within the City of Utica. R. 4617.

48. Petitioners have attempted to include "expert" opinion evidence on this issue by submitting the Affidavit of Joseph Minicozzi. However, this evidence was never submitted to the Planning Board and is not part of the Record that is before this court. Petitioners have also failed to qualify Mr. Minicozzi as an expert. As a result, Respondent MVHS has submitted a separate motion to strike this Affidavit and any reference to it in the Petitioners' papers.

SEQRA Review

49. Judicial review of the SEQRA record is governed by the "hard look" test: the court must "determine whether the agency identified the relevant areas of environmental concern, took a hard look at them, and made a 'reasoned elaboration' of the basis for its determination." Jackson, 67 N.Y.2d at 417. The standard is not whether the agency was right or wrong, but whether the "agency has given due consideration to pertinent environmental factors." Akpan, 75 N.Y.2d at 571 (emphasis added). If the agency "consider[s] the data and give[s] a reasoned response," the judicial inquiry is at an end. Mobil Oil Corp. v. City of Syracuse Indus. Dev. Agency, 224 A.D.2d 15, 21, 646 N.Y.S.2d 741 (4th Dep't 1996), app. den., 89 N.Y.2d 811, 657 N.Y.S.2d 403 (1997).

50. Just because Petitioners disagree with the Planning Board's conclusions does not provide a basis to overturn the Planning Board's reasoned elaboration with respect to historic and archeological impacts, cumulative impacts or alternative sites.

<u>Historic and Archeological Resources</u>

51. A review of the record demonstrates that the Planning Board took the appropriate hard look at historic and archeological impacts.

52. There is no basis for the Petitioners' claim that the Planning Board deferred data collection necessary to fully determine the extent of the Project's impact on historic and archeological resources.

53. It is also wholly disingenuous for Petitioners to assert that internal inspections of the historical properties was necessary in order to take a hard look at these impacts, when Petitioners were the owners who were denying MVHS access to their properties. Petitioners cannot have their proverbial cake and eat it to in this regard.

54. The Record before the court demonstrates that the Planning Board had a Phase 1A Archeological Investigation and a Phase 1A Architectural Inventory prepared by Panamerican Consultants, Inc., who are experts in cultural resources management. These reports were appended to the DEIS.

55. Section 3.6 of the DEIS provides an overview of these investigations, which includes identifying all architectural and archeological resources in the Project area (3.6.1) and the specific impacts on those resources (3.6.2). These impacts included disturbance of archeological impacts and demolition of historic resources.

56. Section 3.6.3 of the DEIS identifies proposed mitigation measures for the demolition/disturbance of historic/archeological impacts. Those mitigation measures include the recordation and preservation of information related to the architectural and archeological resources within the Project area.

57. Those mitigation measures also include consulting with SHPO pursuant to the terms of a Letter of Resolution (LOR) that is discussed in the FEIS and attached thereto. Again, this consultation, which is required by law, is not being done as a means to further identify and assess potential impacts – those impacts are known and have been assessed by the Planning Board. Instead, following through with the consultation process as required in the LOR provides a method for those known impacts to be mitigated by gathering and storing in a New York State database relevant information about the known historic and archeological resources that are being removed or disturbed as a result of the Project.

58. Moreover, in its Findings Statement, the Planning Board does not blindly rely on the LOR, but rather states that it reviewed the LOR and determined that the mitigation proposed therein was also acceptable to the Planning Board. This type of reliance on an expert agency is permitted as recognized in the Brander v. Town of Warren Town Bd. decision cited in Petitioners' Memorandum of Law. Brander v. Town of Warren Town Bd., 18 Misc.3d 477 (Onondaga Cty. 2007).

59. Petitioners most egregious oversight is their complete failure to inform the Court that the Planning Board made additional findings with respect to historic and archeological resources - findings that were not based on consultation with SHPO or the LOR. Specifically, the Planning Board concluded in the Findings Statement that

> the Columbia-Lafayette neighborhood is not a vibrant, historically and culturally significant neighborhood. Instead, the neighborhood is a documented blighted area, located in a HUB zone; in a former Empire Zone; designated as a potential EJ area; and in the Urban Renewal Plan Utica Downtown Development Project Area. Despite revitalization of surrounding areas over the years, there has been little development in this area for almost 30 years.
>
> MVHS provides a well-funded project that can address the features that have blighted this portion of the City for decades while providing important public benefits in accordance with the Urban Renewal Plan and the City's Master Plan. MVHS has indicated, and the Planning Board agrees that reuse of these existing buildings for medical, or any other purpose, is not feasible, which is further evidenced by the fact that there has been no redevelopment or revitalization of this urban area for decades despite the availability of many programs to incentivize such revitalization. Accordingly, to allow for transformative economic revitalization in an area that has been blighted and underutilized for decades as envisioned by the Urban Renewal Plan and the City Master Plan and consistent with other revitalization efforts, **demolition of these buildings is necessary and the social and economic benefits of the Project outweigh the long term adverse impact associated with demolition of these buildings.**

60. Accordingly, Petitioners' claims that the Planning Board deferred its obligation to assess the impacts on architectural and archeological resources, or blindly relied on the conclusions of OPRHP – the state agency with expertise in the area – with respect to mitigation of those impacts are negated by the Record before the Court.

61. Instead, it is patent that the Planning Board identified the relevant areas of environmental concern, took a hard look at them, and made a 'reasoned elaboration' based on substantial evidence and expert advice, which was uncontroverted in the record.

62. Simply because Petitioners' disagreed with the Planning Board's conclusions relative to historic and archeological resources is not a sufficient basis to overturn the Planning Board's Findings Statement.

Cumulative Impacts

63. Petitioners allege that the FEIS is fatally defective because it fails to adequately consider cumulative impacts from traffic from special events at the Nexus Center, which is currently under construction in downtown Utica.

64. The assessment of cumulative impacts (like direct impacts) should be limited to consideration of reasonably foreseeable impacts, not speculative ones.

65. During preparation of the FEIS, additional information regarding the NEXUS project became available and was provided by the NEXUS project sponsor.

66. As a result, the anticipated traffic generated by the NEXUS project was incorporated into the Future No-Build Condition analysis for the TIS Addendum prepared for MVHS, and that was appended to the FEIS (Appendix D). The estimated anticipated typical AM and PM peak period traffic generated by the Nexus project was also included in the TIS Addendum. The off-peak or special events associated with the Nexus Center project were not included, because it was determined in consultation with the NYSDOT that they are not expected to impact typical commuter peak periods.

67. Contrary to Petitioners' assertions, the effect of off-peak or special events was neither ignored nor disregarded. Instead, such impacts were considered and further evaluation was deemed unnecessary.

68. This is not fatal to the FEIS or the Findings Statement because "not every conceivable environmental impact, mitigating measure or alternative must be identified and addressed before a FEIS will satisfy the substantive requirements of SEQRA." Friends of P.S. 163, Inc. v. Jewish Home Lifecare, Manhattan, 30 N.Y.3d 416, 430 (2017) (internal quotation marks and citation omitted); Jackson, 67 N.Y.2d at 417.

69. Finally, the Planning Board was entitled to rely NYSDOT's conclusions in support of its Findings Statement because the regulations provide for and strongly encourage such reliance. See Matter of Halperin v. City of New Rochelle, 24 A.D.3d 768 (2d Dept 2005).

Alternatives

70. Petitioners' Fifth Claim for Relief alleges that the FEIS is "fatally defective" because it purportedly "fails to evaluate viable alternatives in sufficient detail." Pet. ¶¶ 124-144.

71. To the contrary, the Findings Statement, the FEIS, and the DEIS contain detailed analyses about potential alternative Project sites, as well as the "no action" alternative and alternatives for Project magnitude, design, and timing. See Findings Statement at 42-46, FEIS § 3.3, and DEIS at 18-34 and Appendix D.

72. The Record before this Court clearly demonstrates this claim has no basis in fact.

73. An EIS must include a discussion of "reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor" including the "no action alternative." 6 NYCRR § 617.9(b)(5)(v).

74. To be meaningful, the assessment must be based on an awareness of all reasonable options other than the proposed action, but "the degree of detail with which each alternative must be discussed will, of course, vary with the circumstances and nature of each proposal." Id.

75. MVHS is a private applicant and it previously evaluated a reasonable range of alternatives to determine which sites, and other alternatives, would achieve its objectives. See DEIS, Appendix D. The information and conclusions in the Selection Process Memo led MVHS to propose the Downtown Site for the Project location.

76. At no point in the alternative site analysis were sites eliminated from consideration based on statutory language under Public Health Law 2825-b and Petitioners' contentions to the contrary have no merit.

77. That the sites were initially evaluated without regard to Public Health Law 2825-b was not in any way an acknowledgement that St. Luke's was (or is) a viable alternative location.

78. Rather, the sites were carefully evaluated based on engineering, constructability, environmental, and socio-economic factors, all of which were proper considerations in this analysis. Once the sites were scored using those criteria, then MVHS was free to consider the impact of Public Health Law 2825-b in its overall decision making process.

79. The Planning Board's SEQRA review detailed the objectives and capabilities of MVHS that are the central parameters for evaluating the range of reasonable and feasible alternatives under SEQRA. See 6 NYCRR 617.9(b)(5)(v). See Jackson v. N.Y. State Urban Dev. Corp., 67 N.Y.2d 400, 417 (1986).

80. Contrary to Petitioners' baseless assertions, the Planning Board made detailed comparisons to St. Luke's site, but found that site does not meet the goals and objectives of MVHS due to numerous feasibility problems including the improper and/or inadequate configuration of patient facilities and deficiencies in the HVAC, communication and pressurization systems that would be suboptimal at best to upgrade. FEIS § 3.3., Response 26.

81. In addition, the Planning Board explained that adjacent residential neighborhoods and zoning districts were a concern for the St. Luke's site (and the Pysch Center site). FEIS § 3.3, Response 22. Those uses were considered incompatible with the Project. In comparison, the Downtown Site has no single-family residential uses adjacent nor any residential zoning districts. FEIS § 3.3, Response 22.

82. "[I]t is not the role of the courts to weigh the desirability of any action or choose among alternatives" (Jackson, 67 N.Y.2d at 416) or to "second-guess thoughtful agency decisionmaking" (Riverkeeper, Inc. v. Planning Bd. of Town of Southeast, 9 N.Y.3d 219, 232 (2007)).

83. Moreover, that Petitioners disagree with the conclusions resulting from these thorough analyses provides no basis to overturn the Planning Board's rationale and well-supported determination.

84. The SEQRA record clearly demonstrates that the Planning Board carefully considered a myriad of relevant factors to assess each alternative site, giving due regard for the Project sponsor's objectives and capabilities. The Planning Board took a hard look at Project alternatives, including St. Luke's site as potential Project location, and the Planning Board's well-reasoned conclusion finding the Downtown site the most appropriate site must be upheld.

The Remaining SEQRA Claims Are Untimely

85. Petitioners' third, fourth and fifth causes of action seek to invalidate the Planning Board's SEQRA findings, detached from any viable challenge to the final determination of the Planning Board.

86. The SEQRA claims are the means to an end of invalidating Final Site Plan Approval, but Petitioners have no claim concerning Final Site Plan Approval.

87. "Where the challenged action relates to SEQRA review, the limitations period commences with the filing of a decision which represents the final determination of SEQRA issues." McNeill v. Town Bd. of the Town of Ithaca., 260 A.D.2d 829, 830 (3d Dept. 1999), lv. denied, 93 N.Y.2d 812 (1999); Wassaic Watershed & Viewshed Prot. Project v. Town of Amenia Town Bd., 2016 N.Y.Misc. LEXIS 7028 (Sup. Ct. Dutchess Cty. June 21, 2016).

88. Here, the Petitioners failed to challenge Final Site Plan Approval within the statute of limitations and therefore cannot pursue any SEQRA claims.

89. If Petitioners wanted to take the position that the SEQRA challenge was now ripe for review because Final Site Plan Approval occurred on September 19, 2019, then they could have, and should have, timely commenced a challenge to Final Site Plan Approval by way of seeking permission to supplement the Petition on or before October 20, 2019.

90. Having failed to do so, they should not be permitted to flout the statute limitations and pursue the SEQRA claims, especially when no relief can be granted without invalidating the Final Site Plan Approval.

91. Accordingly, the SEQRA claims are not viable and must be dismissed.

The SEQRA Claims are Moot

92. The SEQRA causes of action raised by the Petitioners should be denied as moot because they no longer serve any practical purpose.

93. Despite Petitioners' passionate blustering about preserving the so-called "Columbia-LaFayette Neighborhood," Petitioners never even attempted to obtain preliminary injunctive relief to preserve the status quo.

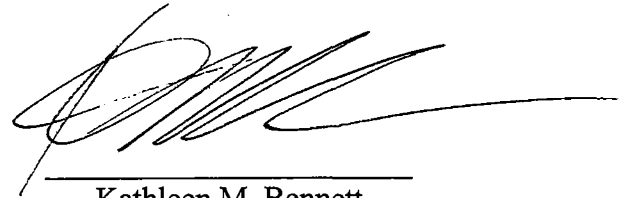
94. As a result, MVHS continued to move forward with the Project relying on its valid and unchallengable site plan approval and, now, much of the so-called "Columbia-LaFayette Neighborhood" has been demolished pursuant to properly granted demolition permits.

95. Thus, since the neighborhood and many of the resources or structures that Petitioners sought to protect through their SEQRA claims no longer exists, those claims must be denied because they are now moot.

Conclusion

96. For the reasons set forth in this affirmation, in the Affidavit of Steven Eckler, in the Affidavit of Robert Scholefield, in the Affidavit or Eric Lints, in the Verified Answer and in the Memorandum of Law, Respondent respectfully requests that the Petition be denied in its entirety, with prejudice.

Dated: February 14, 2020



Kathleen M. Bennett

ONEIDA COUNTY – STATE OF NEW YORK
SANDRA J. DEPERNO COUNTY CLERK
800 PARK AVENUE, UTICA, NEW YORK 13501

COUNTY CLERK'S RECORDING PAGE
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INSTRUMENT #: 2018-004108

Receipt#: 2018832905
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Rec Date: 03/28/2018 01:49:22 PM
Doc Grp: RP
Descrip: DEED
Num Pgs: 3

Party1: REDMOND DAVID B
Party2: TRUETT BRETT
Town: UTICA

Recording:

Cover Page	20.00
Number of Pages	15.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
RP5217 - County	4.50
RP5217 - County Clerk	4.50
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Sub Total:	140.00
Total:	450.00

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****
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Transfer Tax
Consideration: 35000.00

Transfer Tax	140.00
Total:	140.00

Record and Return To:

RICHARD G PARKER ESQ
587 MAIN ST
NEW YORK MILLS NY 13417

WARNING***
I hereby certify that the within and foregoing was recorded in the Oneida County Clerk's Office, State of New York. This sheet constitutes the Clerks endorsement required by Section 316 of the Real Property Law of the State of New York.

Sandra J. DePerno
Oneida County Clerk

THIS INDENTURE, made the 20th day of March, Two Thousand Eighteen

BETWEEN

David B. Redmond, 442 LaFayette St, Utica, NY

Grantor,

FILED
MAR 28 2018
Department of Assessment & Taxation Utica, NY

and

Brett Truett, 10 Liberty St Utica, ~~Ilion~~, NY

Grantee,

WITNESSETH that the Grantor, in consideration of One and 00/100 Dollar ($1.00) lawful money of the United States, and other good and valuable consideration paid by the Grantee, does hereby grant and release unto the Grantee, his and assigns forever,

All that tract or parcel of land situate in the City of Utica, County of Oneida and State of New York, bounded and described as follows: Beginning in the northerly line of LaFayette St. 131 feet easterly from the point where the easterly line of State St. intersects said northerly line of LaFayette St., thence easterly on said line of LaFayette St. 27½ ft. to the westerly line of a lot conveyed to Brown H. Williams by deed recorded in Oneida County Clerk's Office in Book of Deeds 182, at page 397 and later owned by Addison C. Miller, thence northerly at right angles with LaFayette St. and about 136 ft. on west line of said lot conveyed to said Williams to the lane or street called Carton Avenue, formerly known as Rome St., thence westerly on the south line of said lane or street about 27½ ft. to the easterly line of a lot formerly owned by William D. Broadway, thence southerly on said Broadway's line on a line at right angles with LaFayette St. to the place of beginning.

Being the same premises conveyed to Grantor herein by Warranty Deed from Sadie Sierak dated June 28, 1996 and recorded in the Oneida County Clerk's Office on July 2, 1996, in Book of Deeds 2743 at Page 494.

SUBJECT to and together with all enforceable easements, covenants and restrictions of record, if any, affecting said premises.

TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the Grantee and his assigns forever.

AND the said Grantor agrees as follows:

That the said Grantor will forever WARRANT the title to said premises, and that this conveyance is subject to the trust fund provisions of Section 13 of the Lien Law.

2018832905 Clerk: GA

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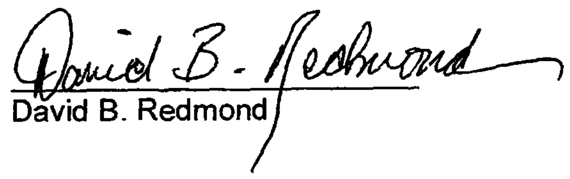
3 Pages
Sandra J. DePerno, Oneida County Clerk

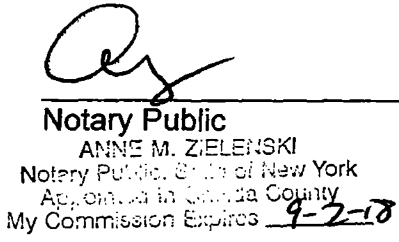
IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal the day and year first above written.



David B. Redmond

STATE OF NEW YORK)
)ss:
COUNTY OF ONEIDA)

On the 20th day of March, 2018, before me, the undersigned, personally appeared David B. Redmond, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public
ANNE M. ZIELENSKI
Notary Public, State of New York
Appointed in Oneida County
My Commission Expires 9-2-18

Please record and return to:

Richard G Parker Esq
587 Main St
N.Y. Mills NY
13417