



TOWN OF WEST SENECA

TOWN SUPERVISOR
SHEILA M. MEEGAN
TOWN COUNCIL
EUGENE P. HART
WILLIAM P. HANLEY, JR.

TO: The Honorable Town Board

FROM: John J. Fenz, Esq.
Town Attorney

DATE: February 4, 2016

RE: Application of Genergy Property, LLC v.
Town of West Seneca
Request for Authority to Execute Consent Order

Kindly approve and authorize the Town Attorney to execute the Consent Order to resolve the real property tax assessment challenge of Genergy Property, LLC against the Town of West Seneca.

This is a matter involves an application of an owner of commercial property in the Town to have his assessment reduced. After deliberation with counsel and the Town Assessor, it has been determined that it is in the best economic interest of the Town to resolve this litigation pursuant to the terms of the attached consent order.

Please let me know if you have any questions.

At a Special Term of the Supreme Court, Erie County, held at 25 Delaware Avenue, Buffalo, New York, on the _____ day of _____, 2015.

PRESENT: HON. SHEILA A. DITULLIO, A.J.S.C.
Presiding

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE APPLICATION UNDER
ARTICLE 7 OF THE REAL PROPERTY TAX LAW

BY

GENERGY PROPERTY, LLC,

Petitioner,

v.

TOWN OF WEST SENECA

Respondent,

AND

WEST SENECA CENTRAL SCHOOL DISTRICT

Intervenor.

CONSENT ORDER

Index No.: 808402/2014

FOR REVIEW OF THE 2014-2015 TAX ASSESSMENT OF CERTAIN
REAL PROPERTY IN THE SAID TOWN OF WEST SENECA, NEW YORK

The above-entitled special proceedings involving real property tax certiorari for the premises owned by Petitioner in the Town of West Seneca, New York, known as 5029 Clinton Street, West Seneca, New York, S.B.L. # 126.17-1-7 for the tax year 2014-2015 having progressed for trial, and negotiations for settlement having been conducted, and said settlement having been approved and recommended by the Attorney for the Town of West Seneca, Attorney

for the West Seneca Central School District, and the Attorney for Petitioner, and it further appearing that the assessment of premises in the Town of West Seneca provides the basis for the imposition of ad valorem taxes assessed by the Town of West Seneca and the West Seneca Central School District, it is hereby

ORDERED, STIPULATED, AND ADJUDGED that the real property tax assessment for the tax year 2014-2015 for the premises at 5029 Clinton Street, West Seneca, New York be set at One Hundred Thousand Dollars (\$100,000.00) and it is further

ORDERED, STIPULATED, AND ADJUDGED that the provisions of Section 727 of the Real Property Tax Law shall apply for only the 2015-2016 assessment roll, and it is further

ORDERED, STIPULATED, AND ADJUDGED that said Petitioner in any instrument or agreement transferring any part or all of the subject property or any interest therein shall covenant with any grantee, transferee, and mortgagee and their respective distributees, successors and/or assigns that they shall be bound by the terms of this Consent Order and that such covenant shall be deemed to run with the land for the tax periods embraced by the terms thereof, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the fiscal officers of the Town of West Seneca, West Seneca Central School District, and any other taxing unit affected by the above assessment reductions shall issue adjusted tax bills based upon this Consent Order, and it is further

ORDERED, STIPULATED, AND ADJUDGED that the fiscal officers of the Town of West Seneca, West Seneca Central School District, and any other taxing unit affected by the above assessment reductions shall apply such adjusted assessment and determine any overpayment of taxes, and in the event of overpayment, refund the overpayment with statutory interest within 45 days by official check payable to the order of Nolan & Heller, LLP as attorneys and agents for Petitioner, accompanied by a calculation sheet, such attorneys to hold the proceeds as trust funds for appropriate distribution, and are to remain subject to the further jurisdiction of this Court relative to their attorney's lien pursuant to Judiciary Law Section 475, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Court shall retain jurisdiction over this proceeding pending the expiration of the periods herein recited, and that all applications to enforce any or all of the terms of this Consent Order shall be brought by motion before this Court, and it is further

ORDERED, STIPULATED, AND ADJUDGED that Petitioner shall have the right to seek specific enforcement of this Order, Stipulation and Judgment by all means provided by law, and it is further

ORDERED, STIPULATED, AND ADJUDGED that this Order, Stipulation and Judgment hereby constitutes and represents the entire understanding and agreement amongst the parties, and the full settlement of the tax certiorari herein; there are no costs or disbursements awarded to, by or against any party, and upon compliance with the terms of this Order,

Stipulation and Judgment, the proceedings herein shall be, and the same hereby are, settled and discontinued with prejudice.

HON. SHEILA A. DITULLIO, A.J.S.C.

GRANTED:

The parties consent to be bound by the terms of this Court Order by subscribing hereunto their names and legal authority:

**FOR PETITIONER
GENERGY PROPERTY, LLC**

**PETITIONER
GENERGY PROPERTY, LLC**

By: _____
JUSTIN A. HELLER, ESQ.
Attorney for Petitioner

By: _____
on behalf of Petitioner

Date: _____

Date: _____

**FOR RESPONDENT
TOWN OF WEST SENECA**

**FOR RESPONDENT,
TOWN OF WEST SENECA**

By: _____
RICHARD H. COLE, ESQ.
Attorney for Respondent

By: _____
JOHN J. FENZ, ESQ., Town Attorney.
Attorney for Respondent

Date: _____

Date: _____

**FOR INTERVENOR, WEST SENECA
CENTRAL SCHOOL DISTRICT**

**INTERVENOR, WEST SENECA
CENTRAL SCHOOL DISTRICT**

By: *J. Ryan White*
J. RYAN WHITE, ESQ.

By: *Janice Lewandowski*
JANICE LEWANDOWSKI
Asst. Manager Financial and Computer
Services.

Date: *September 14, 2015*

Date: *9/9/15*