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PUBLIC HEARING PURSUANT TO
ARTICLE 2 OF THE EMINENT DOMAIN PROCEDURE LAW
ACQUISITION OF PROPERTY FOR PROPOSED AGENCY PROJECT

Allegany County Industrial Development Agency
Great Lakes Cheese, Co., Inc.
Towns of Angelica and Amity, Allegany County, New York

HELD ON: February 22, 2021

TIME: 11:00 a.m.

HELD AT: Via conference call, (888) 850-7158

BEFORE: TONIA L. TINKER
Court Reporter

1 ***Note from Court Reporter***
2 The use of dashes (--) indicates an interruption or
3 an abrupt change in thought. It does not mean there
4 was a drop in the transcription.

4 MR. EWELL: Good morning, my name
5 is Richard Ewell. I'm the chairman of
6 the board of directors of the Allegany
7 County Industrial Development Agency.

8 Today we are holding this public
9 hearing pursuant to Sections 201 through
10 203 of the New York Eminent Domain
11 Procedure Law with respect to the
12 acquisition of certain parcels of real
13 property. I will entertain a motion to
14 open the public hearing.

15 MS. HOPKINS: I will motion it.

16 MR. SPITZER: Hang on a second.
17 Everybody needs to identify themselves
18 before they speak and so we know who
19 moved and who seconded. Thanks.

20 MS. VANDYKE: Okay. This is Paula
21 VanDyke and I will second.

22 MR. EWELL: Okay. Do we need a
23 board -- Dan, does it need to be a board
24 member who makes a motion, an IDA board

1 member?

2 MR. SPITZER: Sorry, I hit mute
3 there for a second. Yes, this is only
4 for IDA board members.

5 MR. EWELL: Okay.

6 MS. VANDYKE: Oh, okay.

7 MR. SHAYLOR: It's Randy Shaylor.
8 I will second the motion.

9 MR. EWELL: All right. Who made
10 the motion?

11 MR. SHAYLOR: Randy Shaylor.

12 MR. EWELL: Okay. It's the second.
13 Who made the original motion, though?
14 Judy?

15 MR. SPITZER: Judy did.

16 MR. EWELL: Okay. I have a motion
17 by Judy, a second by Randy. Thank you.
18 Any discussion? Okay.

19 I'm going to do a role call. Judy?

20 MS. HOPKINS: Here.

21 MR. EWELL: Doug?

22 MR. FRANK: Here.

23 MR. EWELL: This is a role call
24 vote, so yes or no. Judy?

1 MS. HOPKINS: Aye.

2 MR. FRANK: Aye.

3 MR. EWELL: Judy and Doug both said
4 aye. Randy?

5 MR. SHAYLOR: Aye.

6 MR. EWELL: Any other board members
7 present?

8 MR. JOHNSON: Yeah, I'm on, Rich.
9 It's Mike and I will vote aye.

10 MR. EWELL: Mike Johnson, aye. Any
11 others? Okay. And I vote yes. Okay.

12 I will now ask our attorney Dan
13 Spitzer to make a presentation regarding
14 the purpose, proposed location of the
15 public project and other relevant
16 information pursuant to Section 203 of
17 the Eminent Domain Procedure Law, which
18 we will hear from members of the public
19 -- after which we will hear from members
20 of the public.

21 So, Dan, if you could take over, I
22 would appreciate it.

23 MR. SPITZER: Thank you, sir. Good
24 morning, everybody. Due to the COVID-19

1 pandemic, this public hearing today is
2 being conducted via teleconference
3 platform in accordance with executive
4 orders issued by Governor Cuomo.

5 We ask that everyone mute your
6 phone until members of the public are
7 called on to speak. The meeting is
8 being recorded. It's also being
9 transcribed.

10 Notice of this public hearing was
11 duly served on the assessment record
12 billing owner and its counsel and was
13 published in accordance with Section 202
14 of the Eminent Domain Procedure Law.

15 In accordance with Section 203 of
16 the Eminent Domain Procedure Law, a
17 stenographic record will be made of this
18 hearing. Written comments admitted will
19 be included in the hearing record. This
20 material will be available on the
21 agency's website, www.acida.org, and as
22 required by law.

23 The agency has been accepting
24 written comments and will continue to do

1 so via email or regular mail through
2 5:00 p.m. on March 8th directed to the
3 agency's executive director, Craig
4 Clark. Craig's email is
5 clarkcr@alleganyco.com.

6 The purpose of this public hearing
7 is to assist the IDA in determining
8 whether or not to move forward with
9 potential combination of property in
10 support of an application for financial
11 assistance admitted to the agency.

12 The agency will consider in
13 determining whether or not to move
14 forward with condemnation the public use
15 benefit purpose to be served by the
16 proposed public project, the approximate
17 location of the proposed project and the
18 reasons for selection of that location,
19 the general effect of the proposed
20 project on the environment and residents
21 of the locality and such other factors
22 as they're considered relevant.

23 By way of introduction, this
24 project is the latest in a long series

1 of actions by Allegany County and the
2 IDA to address the long, undeveloped,
3 underutilized and blighted area known
4 generally as the Crossroads in the
5 hamlet of Belvedere.

6 As one county's historical web page
7 has noted, "There are no road signs
8 leading to Belvedere, but not that many
9 years ago it was a thriving community at
10 the Crossroads of mass transportation
11 and a candidate for the county seat.
12 Now its vine-covered rambling buildings
13 are a shadow of yesteryear."

14 Once important Crossroads, The
15 Three Railroads, that's the name, and
16 roadways with a couple hundred
17 population, it featured its own train
18 station, post office, three sawmills, a
19 church, a hotel, a saw and stave mill
20 and, yes, a cheese factory, many small
21 stores and mechanic shops and in other
22 factories that made, among other things,
23 bowling pins. All the long gone, but
24 the blighted remains.

1 There have been a number of
2 redevelopment steps prior to this
3 proposed action including investment by
4 the county and the construction of a
5 water line to serve the Crossroads area,
6 the acquisition of the abandoned and
7 contaminated truck stop for
8 redevelopment, suit of a landfill gas
9 agreement utilizing the now closed
10 landfill that dominates the district and
11 other efforts.

12 The Allegany County comprehensive
13 plan identifies, "Build out the
14 Crossroads area that is planned for
15 I-86, Route 19 and CR-20," as the number
16 one immediate priority.

17 The project at hand is the proposed
18 construction of a new cheese
19 manufacturing facility for Great Lakes
20 Cheese. The proposed facility is a
21 480,000-square-foot manufacturing
22 facility, 50,000-square-foot wastewater
23 treatment plant and supporting access
24 roads and infrastructure.

1 The company reviewed over 70 sights
2 of possible locations for maintaining
3 the facility in the region. The company
4 and the IDA focused their efforts on
5 sites within the town of Cuba.

6 Unfortunately no viable site emerged,
7 including the company's own current
8 holdings for a number of reasons,
9 including the specialized nature of the
10 manufacturing facility, which dictates
11 the size needed including areas for
12 future expansion.

13 The company has submitted to the
14 IDA an application for financial
15 incentives and the assistance requested
16 includes the potential acquisition of
17 all or part of three parcels of land in
18 the town of Amity and Angelica.

19 The three tax participates to be
20 acquired, which make up the subject
21 property, are as follows: One, Old
22 State Road, town of Amity, tax map
23 number 158.-1-2.1; two, Trianna Road,
24 that's T-R-I-A-N-N-A, Road, town of

1 Amity, 158.-1-31; and three, County Road
2 20, town of Angelica, 145.-1-5.1.

3 Parcel 158.-1-2.1 would be
4 subdivided into the smaller parcel on
5 the east side of County Route 20, part
6 of the project, and the remainder of the
7 parcel west of County Route 20, not part
8 of any acquisition. Total plant to be
9 acquired is approximately 210 acres.

10 The site is just south of the
11 Belmont exit of I-86. A map of the
12 subject property upon which the facility
13 would be constructed is available on the
14 agency's website at www.acida.org. You
15 access the map by clicking on
16 "Projects," selecting the Great Lakes
17 Cheese project and clicking -- can
18 everybody please mute their phone?
19 Thank you -- selecting the "Great Lakes
20 Cheese Project" and clicking on the
21 document entitled "SEQR packet and
22 project location map."

23 This map shows the adjacent
24 properties as well along with other

1 information related to the proposed
2 project. And as we continue to gather
3 information, including the transcript
4 today, any attachments, we will
5 certainly be posting those as well.

6 The new facility will contain the
7 entire cheese manufacturing process.
8 The main facility will include provision
9 for receiving raw materials by truck,
10 the manufacturing process, packaging,
11 shipping and distribution and office
12 space in a single-level, 40-foot tall
13 building except for approximately
14 130-foot tall multistage drawing tower,
15 truck scales, guard shacks, employee
16 parking and access roads, a water tower
17 and fire pump building and storm water
18 contained in basins.

19 In addition to a wastewater
20 treatment plant, including a treatment
21 building, tanks and impoundments for
22 manufacturing waste, a septic system
23 will serve the plant's employees. The
24 waste water would be charged to the

1 Genesee River. Construction would take
2 place over multiple years will the
3 project breaking ground the third
4 quarter of 2021, site and building
5 construction from that time through
6 third quarter 2023, equipment
7 installation through the startup from
8 second quarter 2022 through third
9 quarter 2024 with packaging operations
10 starting as early as 2/3 of 2024.

11 Cheese manufacturing testing will start
12 2/2 of 2024 and the plant should be
13 fully operational by January 1st of
14 2025.

15 The heart of the manufacturing
16 facility and the turnkey equipment
17 package, which effectively dictates the
18 size and shape of the property in which
19 the new facility can be located. As a
20 result, the sites available in the
21 region are almost all agricultural
22 properties.

23 The company examined, as I
24 mentioned, over 70 sites including

1 conducting Geotec and surveys on
2 alternative sites. The project site is
3 located in an elevation of approximately
4 134 feet above main sea level along
5 County Route 20, sloping to the
6 northeast. Road drainage on County
7 Route 20 flows north away from the site.
8 The Genesee River and tributaries are
9 present on the edge of the site and
10 there were no established drainage ways
11 on the site other than roadside storm
12 water ditches nor any surface water
13 features, other than the Genesee River.

14 Soiled map by the USDA are
15 primarily allard, that's A-L-L-A-R-D,
16 silt loam, gently sloping, .03 percent.
17 The soils are moderately well-drained
18 soils formed in glacial till with a
19 hydraulic soil base B and classified as
20 prime farmlands.

21 These soils are not subject to
22 flooding and have a depth of water table
23 of greater than 80 inches. Top soil is
24 likely impacted by past farming

1 activities. The site vegetation is
2 active agricultural fields. There would
3 be an irretrievable commitment of
4 agricultural lands if this project goes
5 forward.

6 There are no curbs from any access
7 to the site, however there is a small
8 ditch and drop off to the west side of
9 the site along County Route 20. There
10 are no additional fences on this site.
11 There's no public water service or
12 sanitary sewer currently available to
13 the site.

14 A new substation will be built as
15 part of the utility upgrade. There is
16 no gas service to the site. There are
17 trees mainly in the north, south and
18 east edge of the site adjacent to the
19 Genesee River. Minimal disturbance of
20 the treed areas is anticipated.

21 The eastern portion is located in
22 zone A and B FEMA flood zones.
23 Additionally, there may be a freshwater
24 wetland located in the center of the

1 site and the Genesee River is a class C
2 stream. The site does not contain any
3 state jurisdictional wetlands.

4 Turning to the purposes of why the
5 IDA is willing to consider this action
6 first with economic development. The
7 purpose of the acquisition would be to
8 promote economic development,
9 consistency with agency's statutory
10 purpose.

11 The Allegany County IDA was created
12 to promote economic, welfare and
13 prosperity of county inhabitation and to
14 actively promote, attract, encourage and
15 develop economically sound commerce and
16 industry, including projects that retain
17 and expand employment.

18 This project presents a significant
19 economic development opportunity and
20 will serve an underutilized area. The
21 IDA acknowledges that a private party
22 will benefit should the combination go
23 forward. And as part of its
24 deliberations, the agency will consider

1 whether or not the public purpose is
2 dominant.

3 There are significant economic
4 benefits directly and indirectly from
5 the project. According to the company,
6 it currently employs 229 full-time
7 equivalent jobs. Should this project
8 not go forward, the company will leave
9 the region as it is unable to stay in
10 its current plans and these jobs will be
11 lost.

12 The current payroll is
13 approximately \$12 million annually. The
14 company states that it will ramp up
15 production starting in January 2025 and
16 that a ramp up will eventually produce
17 200 new jobs within several years,
18 reaching an annual payroll additionally
19 of approximately \$9 million a year.

20 The county and the region have
21 recently lost significant numbers of
22 manufacturing jobs and the retention of
23 existing jobs and availability of new
24 manufacturing jobs presents a

1 significant potential benefit.

2 Pursuant to the IDA's labor policy,
3 the company is committed to using local
4 labor for construction and eventual
5 hiring of new jobs to the extent
6 possible. There has been no
7 construction project of this scale in
8 the county in recent memory. Further,
9 the most recent projects have been
10 public projects such as the county
11 courthouse and school upgrades.

12 The project would mean a \$30
13 million equity investment by the company
14 in the county with the remainder of the
15 project financed. The project is
16 expected to create an average of 240 new
17 construction jobs over the duration of
18 the project, peaking at about 480 mid
19 project. The total \$505 million
20 investment is a significant economic
21 benefit that will be felt across the
22 county.

23 The agricultural industry in the
24 county and the region will suffer

1 significant long-term harm if the
2 project does not go forward and the
3 company leaves the state in 2025.

4 The company currently purchases 2
5 million gallons of milk annually through
6 dairy cooperatives. This is one of the
7 largest food manufacturing operations
8 supporting local farms in the region.
9 The loss of this facility will have
10 significant negative impact on the
11 agricultural industry and the ability of
12 farms to maintain current levels of
13 dairy herds and contribute to the tax
14 base and workforce in the region.

15 Cornell Cooperative informs us that
16 the trend has been for a loss of dairy
17 farms in the region. The inability to
18 maintain this facility in the area may
19 well accelerate that term -- trend,
20 excuse me.

21 If the project goes forward, the
22 company expects to purchase an
23 additional 2 million pounds of milk
24 annually from dairy farms. This is

1 estimated to add 600 farm jobs.

2 Job retention and job creation have
3 multipliers which represent the jobs
4 that would be created by indirect
5 spending of employees and the company if
6 the project goes forward. According to
7 the New York State Department of Labor,
8 manufacturing has the multiplier of 3.04
9 jobs associated with each manufacturing
10 job and construction has a multiplier of
11 2.2 jobs indirectly created by
12 construction jobs. Thus, the retention
13 of jobs and additional jobs will have a
14 significant public benefit.

15 Next, blighted area. Part of the
16 reason the IDA is considering this
17 project is because the proposed location
18 is in a blighted area. As noted, the
19 IDA has previously purchased, using
20 money borrowed from the county, an
21 abandoned gas station, which was the
22 site of petroleum stalls and contained
23 among other -- excuse me. Contained
24 abandoned structures, underground gas

1 tanks, which were not being maintained.

2 The census track is dominated by
3 the now closed Allegany County landfill.
4 There are abandoned farm buildings
5 directly north of this site, the small
6 hamlet next to the site features a now
7 closed restaurant, several abandoned
8 homes. Just north of the highway, south
9 of the IDA office is a small repair
10 shop, which has used the area along the
11 highway as a junkyard. There are
12 numerous abandoned properties, including
13 across the street from the new
14 Quicklee's on the southwest corner of
15 State Route 19 and County Route 20.

16 The census track in which the
17 target property is located is in a
18 impoverished area. Families with
19 incomes below the poverty level
20 represent 19.9 percent of the population
21 compared to 11.7 percent for the county.

22 For families with related children
23 of household that are under 18 years,
24 32.8 percent are below the poverty level

1 compared to 20.3 percent in the county.
2 And for families with related children
3 of the household that are under five
4 years only, a staggering 55.3 percent
5 have incomes below the poverty level
6 compared to 18.2 percent for the county.

7 This employment rate at the time
8 this information was provided was almost
9 twice the county average of 8.5 percent
10 compared to 4.9 percent of the county.

11 Both economic development goals and
12 reduction of blight would be served by
13 the equipment to the area necessary to
14 serve this project, including the
15 upgrade to utilities. The redevelopment
16 of the area becomes economically
17 feasible with a number of new jobs
18 associated with this project. Property
19 values will be increased by the project.

20 That is some of the information
21 that we are considering. Obviously, the
22 record is still open and no decisions of
23 any kind have been made on the
24 environmental review, on the financial

1 incentives or on the proposed
2 acquisition.

3 At this time, I want to open the
4 hearing to the public for comment and we
5 will hear from the members of the
6 public.

7 As I mentioned, I will allow
8 Mr. McNamara to go first. If you wish
9 to speak, please unmute your line and
10 ask to be recognized. This takes a
11 cooperative effort; so let's all
12 cooperate with each other to do that.

13 Once have you been recognized to
14 speak, please state your name, address
15 and affiliation, if any, for the record
16 prior to your remarks. Speakers may
17 also provide written statements to the
18 agency's executive director Craig Clark
19 at clarkcr@alleganyco.com or by mail to
20 the agency until 5:00 p.m. March 8th.

21 The purpose of the public hearing
22 is not to field questions, but to
23 solicit public comments on the project.
24 With that, I will start the public

1 hearing by turning things over to
2 Mr. McNamara, who hopefully is still
3 there.

4 MR. McNAMARA: I am. Thank you
5 very much, Mr. Spitzer. My name is Mark
6 McNamara. I'm an attorney with the law
7 firm Barclay Damon. We are counsel to
8 Charlie Bare's and Marsh Acres, LLC.
9 Mr. Bare is a managing member, Marsh
10 Acres is the owner of the real property
11 which Mr. Spitzer just described, the
12 three parcels with the SBL numbers, two
13 of which are in the town of Amity and
14 one of which is in Angelica. And going
15 forward, I will just refer to that
16 collectively as the Marsh Acres
17 property, the entire 320 acres, some or
18 all of which is at issue in this Eminent
19 Domain Procedure Law public hearing.

20 And I say some or all of which
21 appears to be at issue because it is
22 unclear, despite the statement of 210
23 acres, it's unclear from the project
24 documents and the notice for this

1 hearing as to how much of the Marsh
2 Acres property the agency, the Allegany
3 County Industrial Development Agency,
4 which I will refer to as the agency, has
5 targeted for acquisition.

6 Again, Mr. Spitzer has described
7 the nature of the Great Lakes Cheese
8 manufacturing plant project, which I
9 will call the project throughout my
10 remarks so I won't repeat that.

11 An industrial development agency's
12 power to seize private real property
13 over that owner's strenuous objection is
14 as extraordinary as it is brutal.
15 Accordingly, the law imposes a variety
16 of very specific constitutional and
17 statutory limitations and requirements
18 on the exercise of that power.

19 Marsh Acres, LLC and Charlie Bare
20 object to the proposed taking of his
21 property by the agency as violating, and
22 it's detailed further below, the 5th and
23 14th amendments to the United States
24 Constitution, Article 1, 6 and 7 of the

1 New York State Constitution, the Eminent
2 Domain Procedure Law, the General
3 Municipal Law, the state -- it's a
4 little early perhaps on the State
5 Environmental Quality Review Act, but I
6 want to reserve our objection there, and
7 then, each of the comprehensive plans
8 for the towns of Amity and Angelica.

9 The irony here is that in addition
10 to being unsupported by law, the
11 agency's proposed taking is at odds with
12 its own mission statement goal, its
13 decade-long policy of promoting
14 agricultural development and agritourism
15 and each of the comprehensive plans, as
16 I mentioned, of the towns of Amity and
17 Angelica while at the same time harming
18 the town of Cuba.

19 To state the obvious, whether there
20 are constitutional and statutory
21 limitations on the agency's exercise of
22 its powers, there is no practical nor
23 legal limitation on Great Lakes Cheese
24 simply negotiating and purchasing

1 whatever property it concludes is best
2 for the development of this facility.

3 According to Forbes Magazine, as of
4 November 2020, Great Lakes Cheese had
5 annual revenues of \$3.3 billion, over
6 3,000 employees and is the 139th largest
7 private company in the United States.
8 Surely it can afford to negotiate with
9 the private landowner to purchase the
10 property it needs for a \$500 million
11 project without relying on a
12 governmental agency to forcibly take
13 that property.

14 The agency stepping in to do so on
15 the behest of Great Lakes Cheese is at
16 odds with the notion of public purpose
17 and let alone basic fairness. The
18 background here with respect to the
19 property is, again, it's identified as
20 those three parcels that Mr. Spitzer
21 went through, which total approximately
22 328 acres and are an integral part of
23 one of the largest dairy farm operations
24 in New York State, and the largest in

1 this area.

2 Marsh Acres, LLC and Mallards Dairy
3 manage a heard of 3,000 cows, over 6,000
4 acres, produce 200,000 pounds of milk a
5 day and employ 40 people. A dairy farm
6 operation of this size requires
7 substantial land for agriculture
8 production and recycling the nutrients
9 produced by the Mallards Dairy herd and
10 to satisfy the New York Agricultural and
11 Markets regulatory permitting
12 requirements.

13 Charlie Bares and his partner have
14 farmed the Marsh Acres property for over
15 25 years and the loss of this acreage by
16 the agency taking it and Great Lakes
17 Cheese will have a direct and
18 substantial negative impact on Mallards
19 Dairy operations.

20 As Dan Spitzer said in his opening,
21 this is prime farmland, which is exactly
22 how this property is being used now as
23 an integral part of Mallards Dairy
24 operation. It is the exact opposite of

1 being blighted.

2 The agency's method of conducting
3 -- we are objecting to the agency's
4 method of conducting this hearing
5 because it's violates EDPL 201. The
6 EDPL is how I will refer to the Eminent
7 Domain Procedure Law. If 201 requires
8 that prior to acquisition, the condemnor
9 shall conduct a public hearing at a
10 location reasonably close to the
11 property which may be acquired for the
12 project.

13 According to its notice, the agency
14 determined to hold this hearing by
15 telephone conference call on the basis
16 of the governor's executive orders
17 202.1, 202.10 and 202.15 banning large
18 gatherings due to the pandemic.

19 A telephone conference call for an
20 unlimited number of people is in no way
21 a substitute for the statutory
22 requirement of a public hearing as
23 provided by EDPL.

24 This would make clear the quality

1 of and the complaints with respect to
2 the agency's February 9, 2021 General
3 Municipal Law financial assistance
4 public hearing. The governor's issuance
5 of these executive orders does not
6 excuse the strict requirements of the
7 EDPL.

8 This is particularly so when other
9 alternatives via video platforms are
10 readily available and the GML, General
11 Municipal Law, 857 specifically
12 requires, "The agency shall, to the
13 extent practicable, stream all open
14 meetings and public hearings on its
15 website in realtime and then post video
16 recordings of all meetings and public
17 hearings on its website."

18 The agency failed to comply with
19 GML 857 by not streaming the public
20 hearing on February 9th. In this era --

21 MR. SPITZER: Mark, can you hold on
22 one second? Can people please show
23 respect for Mark and mute their phones?
24 Thank you.

1 I'm sorry, Mark. Please continue.

2 MR. McNAMARA: Sure. In this era
3 of Zoom, Webex and Microsoft Teams
4 platforms, it is no defense to rely on
5 the, quote, "to the extent practicable
6 excuse" found in 857. Even if for
7 purposes of argument, the governor's
8 suspension of an EDPL Article 2 public
9 hearing is legally valid, the agency's
10 reliance on the executive order is
11 unsupported because it's, at best,
12 unclear whether by their own terms they
13 have expired.

14 In addition, the reliance on
15 Executive Order 202.10 is misplaced
16 since this is not even applied to
17 statutorily required hearings rather it
18 states "Nonessential gatherings of
19 individuals of any size for any reason
20 (for example, parties, celebrations or
21 other social events) are canceled or
22 postponed at this time."

23 Clearly this hearing does not
24 qualify as a party, celebration or

1 social event of any kind, so 202.10 is
2 irrelevant.

3 Finally the agency has insisted on
4 going forward with this hearing despite
5 the public's objection to the quality of
6 the February 9, 2021 conference call and
7 those objections were made
8 contemporaneously at the hearing and in
9 writing afterwards.

10 The agency's justification that,
11 "The public hearing notice was already
12 --" meaning for this hearing, this
13 February 22nd hearing, "The public
14 hearing notice was already published and
15 therefore cannot be altered," as
16 Dr. Clark stated in his February 17,
17 2021 letter response to Jenny Bilotta.
18 It's simply wrong.

19 A public hearing notice can always
20 be republished for a scheduled date,
21 particularly as explained below when the
22 agency's notice is already defective.
23 The agency failed to comply with the
24 EDPL Article 2 public hearing notice

1 requirements for both the public and the
2 property owner.

3 EDPL 202 provides specific and
4 stringent notice requirements. I think
5 Dan mentioned those earlier in his
6 presentation to both the public at large
7 and the owner of the property whose
8 acquisition the condemnor is purportedly
9 considering.

10 In this case, the agency failed to
11 both substantively and procedurally with
12 respect to the public and the property
13 owner. EDPL 202 requires the condemnor
14 to give notice to the public of the
15 purpose, time and location of the
16 hearing, setting forth the proposed
17 location or any alternative locations of
18 the project at least ten, but no more
19 than 30, days before the hearing.

20 Such notice must be published in at
21 least five successive issues of an
22 official daily newspaper if there is one
23 designated in the locality and in at
24 least five successive issues with the

1 daily newspapers or general circulation
2 available in the locality.

3 If the only newspaper available is
4 a weekly publication, then the notice
5 must be published in that newspaper in
6 at least two successive issues. The
7 agency did neither. The only notice of
8 today's public hearing was the single
9 publication by the agency in the
10 February 10-16, 2021 edition of the Cuba
11 Patriot.

12 And despite clear statutory
13 requirements of EDPL 202, the agency
14 failed to publish notice of this EDPL
15 Article 2 public hearing in at least two
16 successive issues of the weekly
17 newspapers, let alone five successive
18 issues of the newspaper of general
19 circulation.

20 Accordingly, the agency failed to
21 meet the minimum statutory requirements
22 set forth in EDPL 202 and the notice of
23 this hearing is fatally deficient and
24 defective.

1 With respect to the property owner,
2 EDPL 202(C) requires the condemnor
3 provides notice of the purpose, time,
4 date and location of the EDPL Article 2
5 public hearing for the record owner of
6 the property either by personal service
7 or certified mail, return receipt
8 requested.

9 COURT REPORTER: Hi, it's the court
10 reporter. I need everyone to mute
11 besides the one person speaking.

12 MR. SPITZER: Would you all please
13 mute your phones? Would you all please
14 mute your phones? Thank you.

15 Mark, please continue.

16 MR. McNAMARA: Sure. The agency's
17 notice letter was on the letterhead of
18 its counsel, Hodgson Russ. The letter
19 heading indicated it was sent via
20 certified mail, return receipt
21 requested, to Marsh Acres, LLC. It was
22 not.

23 If the agency's February 8, 2021
24 notice letter was placed in the Marsh

1 Acres, LLC mailbox at 7017 Fadale Road,
2 Ellicottville, Marsh Acres never signed
3 for the letter as required for certified
4 mail.

5 While this is a technicality, and I
6 recognize it is a technicality, the EDPL
7 is all about precision and scrupulous
8 compliance with the technical
9 requirements of the law because of what
10 is at stake, the governor exercising its
11 very serious power to seize the private
12 property from this unwilling seller.

13 The public hearing notice, the 202
14 public hearing notice is substantively
15 defective. The notice of the public
16 hearing is fatally deficient in terms of
17 the interest the agency is proposing to
18 acquire and the purported public purpose
19 for its acquisition.

20 EDPL 202(A) provides the condemnor
21 must give notice again of the purpose,
22 time, et cetera of the hearing, setting
23 forth the proposed location of the
24 public project including any proposed

1 alternative locations. Here there is no
2 indication at all of any proposed
3 locations despite a variety of them
4 having been available.

5 The agency's notice of this hearing
6 states it's considering the acquisition
7 of an interest in certain parts of the
8 property, which it then lists the three
9 parcels that Mr. Spitzer identifies in
10 the beginning of his remarks. A clear
11 reading of the language is the agency is
12 considering the acquisition of all 320
13 acres of the Marsh Acres property, not
14 just the 210 acres, which are referenced
15 in other places and, again, which Dan
16 Spitzer mentioned.

17 Project application, that section,
18 Roman Numeral II-B and its attached
19 short form -- or short environmental
20 assessment form as part one identifies,
21 "All or some of the three tax map
22 parcels as the project location."

23 The full environmental assessment
24 form submitted by the agency with its

1 notice of intent to act as lead agency
2 states the project will be located, "on
3 a 100-acre parcel in the towns of Amity
4 and Angelica." Contrary to the notice
5 for today's hearing, the agency's
6 February 9, 2021 public hearing states
7 the project will include "The
8 acquisition of an interest in the
9 portion of several parcels of land
10 totaling 210 acres," again which is
11 identified as the three parcels making
12 up the Marsh Acres property.

13 While EDPL 202 does not require the
14 condemnor to provide every detail of its
15 intended project, the property owner in
16 particular and the public in general are
17 legally entitled to some specificity as
18 to the location and amount of the
19 property the condemnor intends to
20 acquire for the project.

21 The 6th and 14th amendment to the
22 Unites State Constitution provided no
23 persons shall be deprived of their
24 property without due process. Article

1 1, Section 6 of the New York
2 Constitution provides the same.

3 Due process in the context of an
4 EDPL 203 public hearing fundamentally
5 includes the notice of the nature of the
6 taking. The contradictions between the
7 agency varies official notices and
8 project documents are such that its
9 notice is substantively and fatally
10 defective.

11 There is no public use benefit or
12 purpose for the proposed date. A trust
13 of the agency's stated public purpose
14 for this project is economic development
15 and maintaining jobs with respect to the
16 Allegany County dairy industry.

17 Arming the largest dairy producer
18 in the area, to effect that proposed
19 public purpose is more than ironic. It
20 defeats the agency's supported economic
21 development public purpose for the
22 project itself.

23 Erie and the agricultural
24 operations of Mallards Dairy, again, are

1 spread over 6,000 acres, they manage
2 3,000 cows, employ 40 people and
3 produce over 200,000 pounds of milk per
4 day. The Marsh Acres property targeted
5 by the agency is, by nature and size,
6 critical for Mallards Dairy to continued
7 operations. Qualitatively there is no
8 better agricultural land in Allegany
9 County. The quality of its soil and
10 its top-level topography make it ideal
11 for growing crops and recycling the
12 nutrients produced by the Mallards dairy
13 herd and essential to its continued
14 compliance with the New York
15 Agricultural and Markets Regulatory and
16 Permitting requirements for a dairy
17 operation of this size.

18 The agency's proposed acquisition
19 of some or all of the property will harm
20 my client's dairy business and, in turn,
21 Allegany County's dairy industry, which
22 is the exact opposite of an economic
23 development based public use, benefit or
24 purpose.

1 This reality is highlighted by the
2 fact this project is described later in
3 my presentation is at odds with each of
4 the comprehensive plans developed and
5 adopted by the towns of Amity and
6 Angelica where the proposed project
7 should be located.

8 It's also at odds with the agency's
9 own mission statement. The stated goals
10 are "manage growth and development,
11 conserve rural and scenic areas and
12 protect agricultural resources."

13 The acquisition of prime and
14 essential agricultural land from the
15 largest dairy producer in the area does
16 violence to those goals and undermines
17 any claim of public purpose.

18 As detailed in the February 9th,
19 2021 letter to the agency from Jenny
20 Bilotta, Great Lakes Cheese already owns
21 substantial land in the town of Cuba
22 providing a variety of alternatives to
23 develop a new facility.

24 Dr. Clark's February 17, 2021

1 letter set forth the agency's response
2 to Ms. Bilotta, the public at large and
3 apparently my client, the property
4 owner, to, quote, "Please keep in mind
5 only GLC, Great Lakes Cheese, makes the
6 final determination of final site
7 selection."

8 Respectfully, the agency should
9 keep in mind that only it can forcibly
10 take property for the project and the
11 constitutional and statutory
12 requirements behind the exercise of that
13 power should make considerations of the
14 existing acreage in Cuba and the impacts
15 on that community relevant to its
16 determination of public purpose.

17 It is no answer to say the agency
18 must follow the dictates of a private
19 company in exercising its power of
20 eminent domain, which is the case here.
21 Again, like I said earlier, there's no
22 practical nor legal limitation on Great
23 Lakes Cheese, as one of the largest
24 private companies in the country, to

1 negotiate and purchase what property it
2 determines is best for the development
3 of existing or future facility.

4 With its resources, it can surely
5 afford to negotiate an appropriate deal
6 if it's desperately -- if this is
7 absolutely the place it needs to be,
8 then it should be able to negotiate with
9 the property owner as a sophisticated
10 entity to acquire that property.

11 The agency stepping in to do so on
12 the behest of Great Lakes Cheese, again,
13 is at odds with the notion of public
14 purpose and basic fairness.

15 In the response to Ms. Bilotta's
16 letter, the agency states the proposed
17 pilot agreement will, quote, "Have no
18 immediate impact on taxes or taxpayers,"
19 because the agency is exempting a
20 company from future taxes on a facility
21 that has not yet been built.

22 This statement that a pilot
23 agreement on a \$505 million project
24 facility, which provides a \$170 million

1 real property tax abatement over a
2 20-year period, including a 100 percent
3 abatement of property taxes for the
4 first 15 years, is at least nonsensical,
5 perhaps disingenuous and, in any event,
6 wrong.

7 The agency's position ignored both
8 the impact of the dramatic drop in taxes
9 resulting from the closing of the
10 existing Great Lakes Cheese facility in
11 Cuba and the future demand on municipal
12 services and infrastructure supported by
13 property taxes, or at least everybody
14 else's property taxes, resulting from
15 the proposed \$500 million facility.

16 Finally, while New York law
17 recognizes the exercise of the power of
18 eminent domain where there's an
19 incidental private benefit to a company,
20 so long as there is a dominant public
21 use, benefit or purpose such is not the
22 case here. Here it's reversed. The
23 private benefit is dominant and any
24 public benefit that is the private

1 benefit to Great Lakes Cheese is
2 dominant and any public benefit is
3 incidental.

4 In short, the agency has failed to
5 identify any public purposes to support
6 the exercise of its power of eminent
7 domain in acquiring the Marsh Acres
8 property for the project and such
9 acquisition by eminent domain should not
10 be allowed.

11 Proposed projects conflicts with
12 the objective and goals of each of the
13 comprehensive plans of the towns of
14 Amity and Angelica. The town of Amity's
15 comprehensive plan was drafted with the
16 intent of protecting agricultural
17 property located throughout the town.

18 As required by the New York State
19 Farmland Protection Act, Allegany County
20 offers agricultural districts as an
21 optional program for landowners. There
22 are up to 87 parcels with these
23 districts within the town's boundaries.
24 This program offers protection to

1 agricultural lands against unwanted
2 development of farmland.

3 Amity's comprehensive plan is based
4 on the goal of keeping agricultural
5 lands in use while allowing for
6 development in the area of the town near
7 the intersection of the New York State
8 Route 19 and I-86. Physically, the
9 plant states on page 18, "The area near
10 the intersection of New York State Route
11 19 and I-86 is presently an agricultural
12 use."

13 Most people understand that this
14 location is likely to be the next dairy
15 growth in the county. The remainder of
16 the land that borders the Genesee River,
17 New York State 19 corridor should be
18 carefully planned to allow a mixed use
19 of mostly agriculture with a narrow
20 corridor directly along New York State
21 Route 19. No other large tracks should
22 be taken out of farm use for
23 development.

24 The Marsh Acres property the agency

1 now seeks to acquire for industrial
2 development and the subject of this
3 hearing is mostly located between Old
4 State Road, County Route 20 and the
5 Genesee River in exactly the area which
6 the Amity comprehensive plan provides
7 should continue to be mostly
8 agricultural.

9 It is an understatement to say that
10 a 480,000-square-foot manufacturing
11 facility with a 50,000-square-foot water
12 treatment plant is inconsistent with the
13 goals and specific provisions of the
14 Amity comprehensive plan. The Marsh
15 Acres property is located in the, quote,
16 "remainder of the land that borders the
17 Genesee River, New York State Route 19,"
18 which should remain agricultural
19 pursuant to that plan.

20 In short, locating this project on
21 the Marsh Acres property contradicts the
22 town's goals and objectives and the
23 provisions of the comprehensive plan.

24 Similar to Amity, the town of

1 Angelica's comprehensive plan is
2 targeted as protecting and promoting
3 agricultural land. Specifically at page
4 Roman Numeral IV-IV, the plan states
5 that a key town goal is to promote
6 agriculture as a desirable use of land
7 and protect farmland by recognizing the
8 unique role that agriculture can play in
9 supporting economic prosperity and
10 protecting and preserving Angelica's
11 rural heritage.

12 The strategies in support of this
13 goal and its supporting objective is
14 detailed in the Angelica comprehensive
15 plan on page IV-IV are to consider land
16 use regulations, quote, "that protect
17 and promote farming," closed quote.
18 Research the feasibility of a
19 conservation easement program to provide
20 tax relief to large landowners and farms
21 and support local farmers and encourage
22 agritourism, establishing a farmers
23 market.

24 There is no reference, whatsoever,

1 that promoting or even considering
2 large-scale industrial development as a
3 goal or objective in the town of
4 Angelica. To do so would be directly at
5 odds with the rest of this comprehensive
6 plan. Proposed project is directly in
7 conflict with the goals contained in
8 Angelica's comprehensive plan. And that
9 is to destroy farmland rather than
10 protecting it and promoting agricultural
11 land use.

12 The agency's exercise of its power
13 of eminent domain is furtherance of a
14 project which violates the comprehensive
15 plan for the two towns in which the
16 project is proposed to be located as
17 unlawful and, again, at odds with a
18 notion of a public purpose.

19 Excess taking. It is a well
20 established principal that a condemnor
21 has no right to condemn real property in
22 excess of what is needed for the public
23 purposes of this proposed project. The
24 agency seeks to acquire substantially

1 more property than what is needed for
2 the project.

3 As noted earlier, the notice of
4 this EDPL 202 hearing states, "The
5 agency considering the acquisition of an
6 interest in certain parcels of
7 property," which it then lists the Marsh
8 Acres property. Again, the clear
9 reading is the entire 320 acres. I
10 won't repeat the contradictions that I
11 went through with respect to the other
12 parcels, including that it will be
13 100-acre parcel in the towns of Amity
14 and Angelica.

15 Despite the confusion as to what
16 exactly it -- or how much acreage is
17 intended to be acquired, no matter what
18 it is, it's too much. The project is
19 described as, again, 480,000-square-foot
20 manufacturing plant and
21 50,000-square-foot wastewater treatment
22 plant, these buildings improvements
23 cover approximately 12 acres.

24 The needed additional land

1 necessary for an industrial operation
2 and generally utility in such a large
3 facility, the confused area being
4 targeted for acquisition is in excess of
5 what is necessary to accomplish the
6 purported public purposes claimed by the
7 agency based on the size, scale and
8 needs of the project and, as such, the
9 proposed acquisition would be an
10 unconstitutional excess taking.

11 And, Dan, I assure you I'm almost
12 done here.

13 Just compensation. Pursuant to the
14 United States and New York Constitution
15 and the EDPL, the agency is required to
16 pay just compensation for any property
17 interest it acquires with respect to the
18 property and to the project.

19 And, in fact, in the February 9th
20 hearing there was a fair amount of
21 discussion with respect to the agency's
22 commitment to do exactly that. I think
23 Mr. Spitzer was saying it.

24 The determination of just

1 compensation is, ultimately, a judicial
2 function independent of what the
3 condemnor's opinion as to the amount of
4 damages causes by the taking. Most
5 critically, just compensation has been
6 interpreted by New York courts to mean
7 sure and certain compensation.

8 That is -- a mechanism is in place
9 to guarantee there is a source of funds
10 from which to pay the ultimately -- the
11 ultimate judicially-determined just
12 compensation damages. Here there is no
13 such mechanism to guarantee payment of
14 just compensation.

15 There is no evidence the agency
16 will be able to provide a sure and
17 certain, quote, unquote, "source of
18 compensation" and, in fact, the evidence
19 is to the contrary. The agency, unlike
20 the municipality of the state, has no
21 power to tax. Its only revenue source
22 is project fees and there are a limited
23 number of projects listed on its
24 website.

1 Its financial statements are
2 identified on its website, but the links
3 to the statements do not work. With
4 respect to the project at issue here,
5 Great Lakes Cheese is the project
6 applicant, but there is no preferred --
7 at least no preferred developer
8 agreement has been disclosed and, in any
9 event, the property owner can legally
10 look only to the agency for just
11 compensation.

12 In short, there's no evidence the
13 agency has the financial resources to
14 satisfy its obligation to pay just
15 compensation for taxes on the Marsh
16 Acres property and the damages to the
17 remainder and no other mechanism is in
18 place to guarantee payment.

19 This, by definition, is not, quote,
20 "sure and certain," close quote,
21 compensation. Accordingly, the proposed
22 taking of the property for the project
23 is in violation of the 5th and 14th
24 Amendment of the Unites States

1 Constitution, Article 1, Section 7 of
2 the New York State Constitution and EDPL
3 Articles 1, 3, 4 and 5.

4 The agency violated GML859-a by
5 failing to provide the required notice
6 for its February 9, 2021 financial
7 assistance public hearing. GML 859
8 requires the agency give at least ten
9 days public notice of any public hearing
10 held pursuant to 859.

11 The agency published its notice of
12 the February 9, 2021 public hearing in
13 the Cuba Patriot & Free Press and in the
14 February 3-9, 2021 edition of this
15 weekly publication, well short of the
16 ten-day requirement. The IDA has thus
17 failed the minimum requirements of
18 notice under GML 859-a-3.

19 Finally, the State Environmental
20 Quality Review Act. Charlie Bares and
21 Marsh Acres reserve their rights to
22 challenge the agency's SEQR review. To
23 date, the agency has stated its
24 environmental review of the project is

1 ongoing and incomplete.

2 The agency has classified the
3 project as a type one action and
4 submitted a full environmental
5 assessment form with its notice of
6 intent to act as lead agency.

7 According to the agency's
8 environmental assessment form, the
9 project includes a 50,000-square-foot
10 wastewater treatment plant, the creation
11 of storm water and wastewater retention
12 ponds, holding 7.3 million gallons to
13 the surface area of two-and-a-half
14 acres, a disturbance of 80 acres of land
15 along the Genesee River, the disturbance
16 of wetlands, the generation of 706,000
17 gallons of liquid waste per day, 27,000
18 tons of methane per year will result in
19 an a substantial increase of traffic
20 with 200 semi trailers and 15 delivery
21 trucks per day.

22 The project will clearly result in
23 a number of significant adverse
24 environmental impacts and require, we

1 assume, the preparation of an
2 environmental impact statement.

3 Once the agency has completed its
4 environmental review, Mr. Bares and
5 Marsh Acres will comment and submit
6 whatever input it has as appropriate.

7 And with that, I thank you for your
8 patience. I recognize that's a long
9 presentation, but it is important and,
10 again, I appreciate your patience.

11 Mr. Spitzer, I'm through.

12 MR. SPITZER: Thank you.

13 MR. McNAMARA: I will submit a
14 statement along with the variety of
15 attachments to it to Dr. Clark and to be
16 made part of the record. I will do that
17 before whatever your deadline was.

18 MR. SPITZER: March 8th.

19 MR. McNAMARA: I will do it in the
20 next few days.

21 MR. SPITZER: Thank you,
22 Mr. McNamara. For those of you who
23 might be wondering, one of the few
24 provisions that Mr. McNamara did mention

1 in the EPL is that if you as a potential
2 target of condemnation have an
3 objection, you need to state that
4 objection at the public hearing. And if
5 you don't, you potentially lose the
6 right to bring it up in any later
7 litigation if we're not able to do, of
8 course, what everybody wants to do,
9 which is deny our condemnation.

10 Therefore, it was important to give
11 Mr. McNamara time to express any
12 concerns he had as well as reserve his
13 right towards anything that's not yet
14 final and we appreciate his doing so.

15 What I would like to do now is open
16 the meeting up to others. We are not
17 going to place a time limit on speakers
18 yet, I don't think we have that many
19 people tonight -- today, excuse me, it's
20 not tonight yet, but I would ask that
21 you avoid repeating comments that are
22 previously made, that you identify
23 yourself, state your name and your
24 address so that the stenographer has it

1 and we will do our best to get to
2 everybody.

3 Try to limit your comments to three
4 minutes, but hopefully we will get
5 everybody in and if we don't get
6 everyone in, we will try to come back at
7 the end. And, again, you have until
8 March 8th to put anything in in writing.
9 As you have seen from Dr. Clark's
10 responses, we pay very close attention
11 to written comments and we respond to
12 all of them.

13 So with that in mind, who would
14 like to speak next?

15 MR. JOHNSON: Dan, it's Mike
16 Johnson.

17 MR. SPITZER: Yes, sir.

18 MR. JOHNSON: Just a question for
19 Rich, Rich Ewell. Rich, if it's
20 necessary for me to drop off, do you
21 still have a quorum?

22 MR. EWELL: I do not think we do.

23 MR. JOHNSON: Are there any votes
24 that require a quorum coming up?

1 MR. SPITZER: Well, we should have
2 a quorum of the board through the whole
3 hearing for it to be a valid hearing,
4 Mike.

5 MR. JOHNSON: Okay. Fair enough.
6 I will stick it out. Thanks.

7 MR. SPITZER: I appreciate that.

8 MR. JOHNSON: Thank you.

9 MR. SPITZER: Next up, who would
10 like to talk, if anyone?

11 MS. VANDYKE: This is Paula VanDyke
12 and I would like to talk.

13 MR. SPITZER: Okay. Paula, state
14 your name and address for the record,
15 please.

16 MS. VANDYE: Paula VanDyke, I live
17 at 5874 County Route 20 West, Belmont.
18 I live in Belevedere and eminent domain
19 -- and I'm sorry. I'm so damn emotional
20 I can't stand this. Eminent domain
21 sucks. If there is a piece of property
22 that someone feels is important enough
23 to claim, they should be willing to pay
24 for it.

1 This is prime, and I understand
2 prime, I have some prime land and I have
3 some not prime land, these people should
4 not be made to give up what they own and
5 the property that they need.

6 One derelict building, which is an
7 old barn, which I'm not sure why they
8 haven't torn down, it's nothing but a
9 collection place for derelict people,
10 does not make it a derelict property.
11 Our property is clean. This area is
12 clean aside from a very few spots.

13 You are listing people who live in
14 Belevedere next to the restaurant who
15 definitely do not have money the way the
16 rest of us do. That's not their fault.
17 They have lived on a system and they
18 expect the system is going to protect
19 them the rest of their lives.

20 We need to not let this happen. As
21 a county, we need to not let property
22 have someone say, "Oh, we are taking
23 it." Certainly if the people who want
24 to put -- I don't have a problem with

1 the business much, except for the
2 traffic and the upkeep and the water and
3 they don't have electric facilities when
4 RG&E just did a new substation down
5 there.

6 We really need to think about this,
7 but think about it the right way. Don't
8 claim eminent domain first and then go
9 from there. And, I guess, I'm done.

10 MR. SPITZER: Thank you. Who would
11 like to speak next?

12 MS. JAMES: This is Lee James, town
13 of Cuba supervisor, 86 West Main Street,
14 Cuba, New York. My objection, again, is
15 to the type of the hearing and how it
16 was presented. I know you have asked
17 several times for people to mute their
18 phones and whatnot, but it really is not
19 a good forum for this type of meeting
20 with something that's so important. And
21 with that, I'm done.

22 MR. SPITZER: Who would like to
23 speak next?

24 MR. CROWLEY: This is Dave Crowley

1 in Cuba, 44 South Street, Cuba, New
2 York, Cuba town historian. I understand
3 from your opening remarks that the SEQR
4 process has started.

5 MR. SPITZER: That's correct,
6 David.

7 MR. CROWLEY: Okay. And who are
8 notified -- where are those notices sent
9 to for the inquiries such as a possible
10 infringement upon archeological sites,
11 et cetera, et cetera, as I mentioned in
12 the previous hearing?

13 MR. SPITZER: This is not really a
14 question-and-answer period, but because
15 SEQR is so important, with the chair's
16 permission, I will give an overview of
17 where the SEQR stands.

18 The SEQR notice of intent and who
19 it was sent to is on the website and
20 SHPO was among the people who were
21 contacted, so was the New York State
22 Department of Environmental
23 Conservation.

24 The SHPO review is looking at

1 archeological and the SEQOR review is
2 also looking at threatened and
3 endangered species. The SEQOR review is
4 looking, obviously, at traffic and it's
5 also looking at, as I mentioned in the
6 prior comments, what would be an
7 irretrievable and permanent commitment
8 of farmland to another person.

9 So all of those items can be found
10 under the SEQOR review. As we get items
11 in, we will be adding them to the
12 website. No determination has been made
13 as to the environmental impact. No
14 determination has been made to lead
15 agency other than the classification of
16 it as a type 1 project. It is ongoing
17 and if you have any other comments or
18 other concerns, we have passed your
19 concerns from the last hearing onto
20 Clark Patterson Lee, which is leading
21 the SEQOR review, but you can find all of
22 the information you requested on the
23 website. Thank you very much Dan, I
24 appreciate it.

1 Who would like to speak next?

2 MS. GOWISKI: Dan, this is Cindy
3 Gowiski from Birdsall, New York. I'm
4 also known as Cindy Ungermann from Cuba,
5 New York. And Cuba Cheese has been in
6 the town of Cuba forever and I just find
7 it interesting that 380-some-odd acres
8 of already owned property by GLC in
9 Cuba, I can't imagine that -- I realize
10 it's partially a big hill, but I can't
11 imagine the cost of developing that land
12 would be more than what it's going to
13 take in legal fees for eminent domain
14 and utility costs to get that plot of
15 land in Belevedere serviced.

16 We are talking, last I knew, \$30 to
17 \$40 million just for utility costs alone
18 and lord knows what kind of legal fees
19 for eminent domain and time frame. And
20 I thought this project was supposed to
21 be, like, the sooner, the better on
22 GLC's side and this could be tied up for
23 a year or two more in court and a lot of
24 legal expenses. To me, I just can't

1 fathom why they can't develop the
2 already existing land.

3 MR. SPITZER: Would everyone please
4 mute their phones? Although, I suspect
5 this is not accidental.

6 Cindy, please go on.

7 MS. GOWISKI: I'm, pretty much,
8 done. I don't know what that little
9 thing is that happened. It wasn't on my
10 end.

11 MR. SPITZER: No, it wasn't. Thank
12 you, Cindy.

13 Anyone who would like to speak
14 next? Would anyone like to speak next?

15 Obviously, someone has put their
16 phone on hold in such a way it's
17 designed to disrupt the hearing, which
18 I'm --

19 MS. VANDYKE: We know it's Craig
20 Clark. We know that's Craig Clark.
21 There's no other --

22 MR. SPITZER: Well, I hope it's
23 not.

24 MS. VANDYKE: Oh, it has to be.

1 Who else would be advertising Alfred
2 State College right now, which is a
3 great college, but why else?

4 MR. SPITZER: Yeah.

5 MS. VANDYKE: He doesn't want this
6 at all to be important, and it is.

7 MR. CLARK: I'm on mute.

8 MR. SPITZER: Yeah, I don't think
9 Dr. Clark would want to disrupt the
10 public hearing.

11 MS. VANDYKE: No, I think he would.

12 COURT REPORTER: Can I ask who the
13 female was that was just speaking?

14 MS. VANDYKE: This is Paula
15 VANDYKE.

16 COURT REPORTER: Thank you.

17 MS. VANDYKE: And I don't have a
18 problem saying that.

19 MS. ZLOMAK: This is Barb Zlomak.
20 I would like to make an objection.

21 MR. SPITZER: Please go ahead,
22 Barb.

23 MS. ZLOMAK: Okay. Barb Zlomak,
24 5557 Cemetery Hill Road, Belmont, New

1 York and I'm on the town of Amity
2 planning board. And my main objection
3 is the taking of prime farmland and
4 especially by eminent domain. And my
5 second objection is for the very
6 generous pilot that's being offered to
7 Great Lakes. That's it. Thank you.

8 MR. SPITZER: Thank you, Barb.

9 Who would like to speak next?

10 Going once, going twice, at this time I
11 would ask a member of the board to make
12 a motion to close the public hearing.

13 MR. JOHNSON: This is Mike Johnson.
14 I will make the motion.

15 MR. SPITZER: Is there a second?

16 MR. SHAYLOR: Second.

17 MR. SPITZER: Mr. Ewell, I didn't
18 know whether you were still on or had
19 dropped off, but you can take the roll
20 call vote of the motion.

21 MR. EWELL: Sir, any discussion?

22 Okay. I will take a roll call.

23 Mike Johnson?

24 MR. JOHNSON: Aye.

1 MR. EWELL: Randy Shaylor?

2 MR. SHAYLOR: Aye.

3 MR. EWELL: Judy Hopkins?

4 MS. HOPKINS: Aye.

5 MR. EWELL: And Doug Frank?

6 MR. FRANK: Aye.

7 MR. EWELL: Any other board members
8 on this call? Okay. I vote yes and the
9 meeting is adjourned. Thank you very
10 much everybody.

11 MR. SPITZER: Thank you everybody.
12 The transcript will be posted to the
13 website. We look forward to any written
14 comments. Thank you.

15 (Hearing concluded.)

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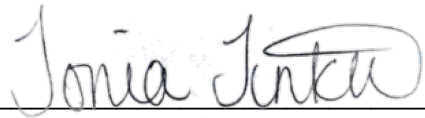
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CERTIFICATION:

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the above cause and that this is a correct transcript of the same to the best of my ability.



TONIA L. TINKER