

RESOLUTION NO. 724 -2011, AUTHORIZING THE DISTRIBUTION OF PROCEEDS FROM AUCTION SALE PURSUANT TO SUFFOLK COUNTY ADMINISTRATIVE CODE SECTION 42-4(L) MARY MICHAELIS (SCTM NO. 0200-421.00-04.00-030.000)

WHEREAS, the COUNTY OF SUFFOLK acquired the following described parcel:

ALL, that certain plot, piece or parcel of land, with any buildings and improvements thereon erected, situate, lying and being in the Town of Brookhaven, County of Suffolk, and State of New York, described on the Tax Map of the Suffolk County Real Property Tax Service Agency as District 0200, Section 421.00, Block 04.00, Lot 030.000 (the "Premises"), and acquired by tax deed on March 29, 2001, from John Cochrane, the County Treasurer of Suffolk County, New York, and recorded on March 29, 2001, in Liber 12110, at Page 677; and

WHEREAS, the County was issued said tax deed to the Premises for failure to pay real property taxes for the 1996/97 tax year; and

WHEREAS, Mary Michaelis (the "Claimant") and her husband, William Michaelis were the owners of the Premises, as tenants by the entirety, at the time the tax deed was issued to the County; and

WHEREAS, the Premises was sold to the Claimants son, John Ryan at the surplus property auction held by the County on October 15, 2007 for the sum of THREE HUNDRED THOUSAND and 00/100 DOLLARS (\$300,000.00) with the closing on said auction sale taking place on June 27, 2008; and

WHEREAS, the Claimant has met the requirements of Suffolk County Administrative Code §42-4(L) qualifying her for a distribution from the auction sale of the Premises, as she was the owner and occupier of the Premises for at least a five (5) year period prior to the tax deed being issued to the County on March 29, 2001; and

WHEREAS, on or about March 31, 2009 Claimant, as the sole owner of the Premises and surviving spouse of William Michaelis who died on December 30, 2008, filed an application with the Division of Real Property Acquisition and Management for a distribution from the proceeds of the auction sale, pursuant to Suffolk County Administrative Code §42-4(L); and

WHEREAS, the County, pursuant to the aforementioned application filed by Claimant, prepared an appraisal of the Premises showing its value to be ONE HUNDRED NINETY-FIVE THOUSAND and 00/100 DOLLARS (\$195,000.00) as of the date the tax deed was issued to the County on March 29, 2001; and

WHEREAS, the proceeds subject to distribution are defined in Suffolk County Administrative Code §42-4(L) as "the amount of the sale at auction or the amount of an appraisal made as of the date which the County took title, whichever amount is less."; and

WHEREAS, the County and Claimant agree that the proceeds used to calculate the distribution to which Claimant is entitled will be ONE HUNDRED NINETY-FIVE THOUSAND and 00/100 DOLLARS (\$195,000.00); and

WHEREAS, in order to determine the distribution from auction proceeds to which Claimant is entitled the County, pursuant to Suffolk County Administrative Code §42-4(L), must deduct from the proceeds all sums set forth in Suffolk County Administrative Code §42-3(F), and all “valid liens, judgments or encumbrances which existed on the date that the county took title to the subject parcel”; and

WHEREAS, the Suffolk County Treasurer has computed the statutory deductions set forth in Suffolk County Administrative Code §42-3(F) to equal NINETY-SIX THOUSAND ONE HUNDRED EIGHTEEN and 39/100 (\$96,118.39), a copy of which is annexed hereto. Moreover, Claimant has provided the County with a title report showing that all previous mortgages filed against the property have been satisfied and has provided an affidavit in which Claimant represents that a 1992 judgment against “William Michaelis” shown in said title report was not a judgment filed against her husband but rather a judgment filed against someone with the same or similar name; and

WHEREAS, as a result of the foregoing the parties agree that the Claimant is entitled to a distribution from the proceeds of the auction sale in the amount of NINETY-EIGHT THOUSAND EIGHT HUNDRED EIGHTY-ONE and 61/100 DOLLARS (\$98,881.61); now, therefore be it

1st **RESOLVED**, this Legislature, being the State Environmental Quality Review Act (SEQRA) Lead Agency, hereby finds and determines that adoption of this law is not an action within the meaning of the State Environmental Quality Review Act and the regulations adopted thereto. See 6 N.Y.C.R.R. Section 617.2(b) (2). The Legislature further finds and determines that even if the adoption of the local law is an action within the meaning of SEQRA, the adoption of law is a Type II action constituting a legislative decision in connection with routine or continuing agency administration and management, not including new programs or major reordering of priority. See 6 N.Y.C.R.R. Section 617.13(d) (15) and (21). As a Type II action, the Legislature has no further responsibilities under SEQRA 6 N.Y.C.R.R. Section 617.5(a)(1); and be it further

2nd **RESOLVED**, that the County Executive and/or his designee is authorized and empowered to execute the agreement settling this claim in similar form as attached hereto; and be it further

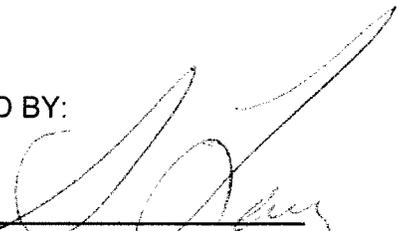
3rd **RESOLVED**, in accordance with Suffolk County Administrative Code § 42-4 (L), the Director of the Division of Real Property Acquisition and Management is authorized to execute a reimbursement of an equity share of auction proceeds previously remitted to the Suffolk County Treasurer (through Trust and Agency Claim No. 3780, dated July 30, 2008) in the amount of NINETY-EIGHT THOUSAND EIGHT HUNDRED EIGHTY-ONE AND 61/100 DOLLARS (\$98,881.61); and be it further

4th **RESOLVED**, that the County Comptroller and County Treasurer are hereby authorized to reserve and to pay NINETY-EIGHT THOUSAND EIGHT HUNDRED EIGHTY-ONE and 61/100 DOLLARS (\$98,881.61) to Claimant, Mary Michaelis from Fund 001, Agency FIN, ORG 1325 BS Account 1051; and be it further

5th **RESOLVED**, the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with the law.

DATED: August 16, 2011

APPROVED BY:



County Executive of Suffolk County

Date: **AUG 1 9 2011**

“distribution from the proceeds of the auction sale”, pursuant Suffolk County Administrative Code §42-4(L); and

WHEREAS the County, pursuant to the aforementioned application filed by Claimant, prepared an appraisal of the Premises showing its value to be ONE HUNDRED NINETY-FIVE THOUSAND and 00/100 DOLLARS (\$195,000.00) as of the date the tax deed was issued to the County on March 29, 2001;

NOW, THEREFORE, the parties hereby stipulate and agree to settle this claim for distribution from the proceeds of the auction sale of the Premises on the following terms and conditions:

1. The Claimant represents that she has met the requirements of Suffolk County Administrative Code §42-4(L) qualifying her for a distribution from the auction sale of the Premises, to wit: she was the owner and occupier of the Premises for at least a five (5) year period prior to the tax deed issued to the County on March 21, 2001.

2. The parties hereby agree that the “proceeds” subject to distribution are defined in Suffolk County Administrative Code §42-4(L) as “the amount of the sale at auction or the amount of an appraisal made as of the date which the County took title, whichever amount is less.” As such the “proceeds” used to calculate the distribution to which Claimant is entitled will be ONE HUNDRED NINETY-FIVE THOUSAND and 00/100 DOLLARS (\$195,000.00).

3. The parties hereby agree that in order to determine the distribution from auction proceeds to which Claimant is entitled the County, pursuant to Suffolk County Administrative Code §42-4(L), must deduct from the “proceeds”, as determined above, all sums set forth in Suffolk County Administrative Code §42-3(F), and all “valid liens,

judgments or encumbrances which existed on the date that the county took title to the subject parcel". As such, the Suffolk County Treasurer has computed the statutory deductions set forth in Suffolk County Administrative Code §42-3(F) to equal NINETY-SIX THOUSAND ONE HUNDRED EIGHTEEN and 39/100 (\$96,118.39). A copy of said computation is annexed hereto as Exhibit A. Moreover, Claimant has provided the County with a title report showing that all previous mortgages filed against the property have been satisfied. In addition, Claimant represents in the affidavit annexed hereto as Exhibit B that the 1992 judgment against "William Michaelis" shown in said title report was not a judgment filed against her husband but rather a judgment filed against someone with the same or similar name.

4. As a result of the foregoing the parties hereby agree that the Claimant is entitled to a distribution from the proceeds of the auction sale in the amount of NINETY-EIGHT THOUSAND EIGHT HUNDRED EIGHTY-ONE and 61/100 DOLLARS (\$98,881.61), said amount calculated as follows:

\$195,000.00	Proceeds of Auction Sale
- <u>96,118.39</u>	Statutory Deductions pursuant to §42-3(F)
<u>\$ 98,881.61</u>	Total Distribution Due Claimant

5. The parties further acknowledge that each party and their counsel have reviewed the Agreement and that the language in all parts of the Agreement shall be construed, in all cases, according to its fair meaning, and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party is inapplicable herein and shall not be employed in the interpretation of this Agreement.

6. In consideration of the covenants and agreements made in this Agreement the Claimant, on behalf of herself and her heirs, executors, administrators, successors and assigns agrees to release, discharge and hold harmless the County, its agents, officers, employees, and administrators, from all actions, causes of action, suits, controversies, agreements, promises, damages, judgments, claims, and demands whatsoever, in law or equity of any kind or any nature whatsoever which were raised, or could have been raised in this matter and will execute a General Release to that effect.

7. This Agreement and the County's obligations hereunder are conditioned upon and subject to the passage of a resolution by the Suffolk County Legislature authorizing the Suffolk County Comptroller and the Suffolk County Treasurer to pay the sum of NINETY-EIGHT THOUSAND EIGHT HUNDRED EIGHTY-ONE and 61/100 DOLLARS (\$98,881.61) to Claimant in full satisfaction of her claim for distribution from auction proceeds.

8. This Agreement may not be changed without the express written approval of the parties hereto.

9. This Agreement may be executed in counterparts and becomes effective only upon the full execution by all parties.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto.

IN PRESENCE OF:

COUNTY OF SUFFOLK

By: _____

Mary Michaelis
MARY MICHAELIS, Claimant

Name: _____

Title: Deputy County Executive

Date: _____

Approved as to Legality:

CHRISTINE MALAFI
County Attorney

APPROVED:

Michael A. Amoroso
By: MICHAEL A. AMOROSO
Bureau Chief
Real Estate/Condemnation

By: PAMELA J. GREENE
Division Director
Division of Real Property Acquisition
and Management

STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)

On the 17th day of FEBRUARY, in the year 2010, before me, the undersigned, personally appeared Mary Michaelis, 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.

Scott J. Salimando
Signature and Office of Individual
Taking Acknowledgment

SCOTT J. SALIMANDO
Notary Public, State of New York
No. 02SA4745830
Qualified in Suffolk County
Commission Expires June 30, 2011

STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)

On the _____ day of _____, in the year 2008, before me, the undersigned, personally appeared _____, 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.

Signature and Office of Individual
Taking Acknowledgment

1659

COMPUTATION BY SUFFOLK COUNTY TREASURER

<u>DISTRICT</u>	<u>SECTION</u>	<u>BLOCK</u>	<u>LOT</u>
0200	421.00	04.00	030.000

A. PRINCIPAL AMOUNT DUE ON ALL UNPAID TAXES:

1996/97	7499.24
1997/98	7120.85
1998/99	3807.95
1999/00	4595.59
2000/01	5190.98
2001/02	5499.37
2002/03	4631.18
2003/04	5123.47
2004/05	5751.55
2005/06	8322.11
2006/07	9360.30
2007/08	5656.88

TOTAL: 72559.47

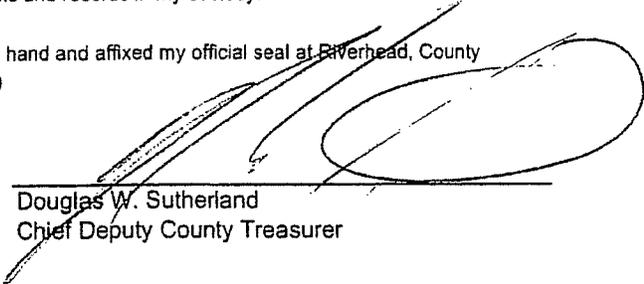
B. INTEREST DUE	18981.85
C. TOTAL	91541.32
D. 5% LINE C	4577.07
E. FEE	
F. MISC	
G. MISC	

H. TOTAL DUE \$96,118.39

CERTIFICATION BY COUNTY TREASURER

I, Douglas W. Sutherland, Chief Deputy County Treasurer of the County of Suffolk, in the State of New York, do hereby certify that the above monies are now due and owing upon the real property sought to be redeemed and that such sums are applied by law and taken from official books and records in my custody.

IN TESTIMONY WHEREOF, I have hereunder set my hand and affixed my official seal at Riverhead, County of Suffolk and State of New York. 06-May-10



Douglas W. Sutherland
Chief Deputy County Treasurer

** Interest and penalty computed to and including 07/21/08

DZ

COMPUTATION BY SUFFOLK COUNTY TREASURER
Adjustments to Treasurers Computation

1.)	Line H. Total Due	\$100,580.88
2.)	Credits due purchaser-6/27/08	\$ 4,249.99
3.)	Line (D) 5%	<u>\$ 212.50</u>
4.)	Total Credits Due Purchaser	\$ 4,462.49
5.)	Line 1 (H) minus line 4	\$ 96,118.39
6.)	New Computations of Treasurer	\$ 96,118.39

AFFIDAVIT

STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)

Mary Michaelis, being duly sworn deposes and says:

- 1). That I am the surviving spouse of William Michaelis who died on December 30, 2008.
- 2). That at the time the County of Suffolk was issued a tax deed on March 29, 2001 to the premises located at 59 Hunter Lane, Centereach, New York 11720 and identified as SCTM No. 0200-421.00-04.00-030.000, my late husband and I had been residing there for at least five (5) years.
- 3). That I have not been known by any other name within the last ten (10) years and there no judgments or liens currently filed against me in any jurisdiction, nor were there any filed against me on March 29, 2001.
- 4). That the 1992 judgment against "William Michaelis" shown in the judgment/lien search prepared by Fidelity National Title Insurance Company of New York was not against my late husband, but rather against a person with the same or similar name.
- 5). That I make this affidavit knowing that the County of Suffolk and its Division of Real Property Acquisition and Management will rely upon the truth of the statements made herein.

Mary Michaelis
Mary Michaelis

Sworn to before me this 17th
day of February, 2010

Scott J. Salimando
Notary Public, State of ~~Maine~~ New York

SCOTT J. SALIMANDO
Notary Public, State of New York
No. 02SA4745830
Qualified in Suffolk County
Commission Expires June 30, 2011

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on August 16, 2011 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the Legislature

Intro. Res.

1659

Res. No.

724

August 16, 2011

Motion:

Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:

Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:

Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R	
1	Edward P. ROMAINE						
2	Jay H. SCHNEIDERMAN						
3	Kate M. BROWNING						
4	Thomas MURATORE						
6	Sarah S. ANKER						
7	Jack EDDINGTON						
9	Ricardo MONTANO						
10	Thomas CILMI						
11	Thomas F. BARRAGA						
12	John M. KENNEDY, JR.						
13	Lynne C. NOWICK						
14	Wayne R. HORSLEY						
15	DuWayne GREGORY						
16	Steven H. STERN						
17	Lou D'AMARO						
18	Jon COOPER						
5	Vivian VILORIA-FISHER, D.P.O.						
8	William J. LINDSAY, P.O.						
	Totals	18					

MOTION
<input checked="" type="checkbox"/> Approve
Table: _____
Send To Committee
Table Subject To Call
Lay On The Table
Discharge
Take Out of Order
Reconsider
Waive Rule _____
Override Veto
Close
Recess
APPROVED <input checked="" type="checkbox"/> FAILED _____
No Motion _____ No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
NOT ADOPTED

Tim Laube

Tim Laube, Clerk of the Legislature

Roll Call _____ Voice Vote