

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY EXECUTIVE

Steve Levy  
COUNTY EXECUTIVE

September 4, 2008

Presiding Officer William J. Lindsay and  
Members of the Suffolk County Legislature  
William H. Rogers Legislative Building  
725 Veterans Memorial Highway  
Smithtown, New York 11787

**RE: RESOLUTION NO. 646 -2008, CANCELING AUCTION SALE  
OF PROPERTY (SUFFOLK COUNTY TAX MAP NO. 0500-441.00-02.00-  
044.000)**

Dear Presiding Officer Lindsay and Members of the Legislature:

I am returning herein **Resolution No. 646-08 CANCELING AUCTION SALE OF PROPERTY (SUFFOLK COUNTY TAX MAP NO. 0500-441.00-02.00-044.000)** vetoed in its entirety because the auction sale of the subject parcel for a bid of \$500,000 occurred on October 16, 2007 and was authorized by resolution adopted by the County Legislature on March 4, 2008. The reason stated to cancel the sale is that the title is uninsurable as a result of an exception raised in the title report that the County failed to give the prior owner notice of the unpaid taxes for the tax year cited in the tax deed taken by the County in 1997.

The prior owner stopped paying property taxes in 1990 and the taxes have gone unpaid ever since. The County provided the title company with proof of notice to the prior owner for the non-payment for the 1990-91 taxes and the 1991-92 taxes. The tax deed could have been taken for the non-payment of taxes for either of those two years, but the tax deed cited that it was being taken for the non-payment of the 1994-95 taxes. The County did provide proof (Affidavit of Publication) of proper notice for the tax deed being taken for non-payment of the 1994-95 taxes and the requisite redemption notice.

The County has been in title for over eleven years and has paid the taxes on the property for eighteen years. The total County investment is over \$540,000. The fear raised by the purchaser, who is trying to get out of his contract to purchase, is that the prior owner may retain some right to redeem its interest in the property for not having received notice for the tax year cited in the tax deed. This is disingenuous because the prior owner was a corporation that ceased to exist more than 13 years ago. If some

successor entity did come forward and was able to establish a right to redeem, the prior owner would be required to pay the County almost \$550,000 in back taxes and expenses and the property would be subject to mortgage liens terminated by the County's tax deed.

The rules adopted by the County Legislature for the 2007 auction requires the County to deliver title that can be insured by a reputable title insurance company licensed in New York State. If the purchaser's title company raises an objection to title which renders title uninsurable, then the County has up to eighteen (18) months to clear said objection or the County may elect to require the purchaser to accept title from an equally qualified company that is willing to insure the title. In this instance, the purchaser's title company, Fidelity National Title, agreed to omit the objection to title originally raised in its report and issue a title insurance policy for the property.

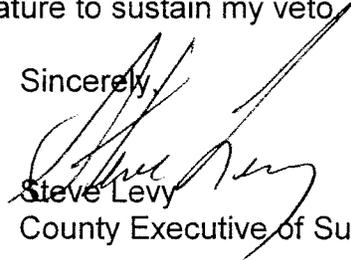
Once Fidelity had received all of the information, they evaluated the potential risk involved in insuring the title and made a business decision based upon its assessment of the likelihood that the prior owner may resurrect itself and make application to redeem title. Fidelity determined it to be a safe bet that even if the prior owner could be found, they would more likely decide to run the other way. It seems as if that decision to abandon the property was made in the early 90's.

Many of the legislators were convinced this notice issue would forever be a cloud on title if the purchaser was "forced" to close and that would be bad policy for the Legislature to adopt. In fact, and as you may be aware, title companies must make decisions every day as to whether to insure title. Once they insure title over an exception, the title company, its successors and/or assignees are obligated to indemnify any future insurer on that issue. Indemnification letters are issued and exchanged constantly between title companies nationwide. If Fidelity, the title company that the purchaser had sought to insure title, is willing to assume the obligation to insure this title, I see no basis for the County to elect to cancel the sale.

Finally, this abandoned property has been an eyesore for too long. It's time to get the property rejuvenated and back on the tax rolls and the revenue back to the County.

For the reason stated above, I urge the Legislature to sustain my veto.

Sincerely,



Steve Levy

County Executive of Suffolk County

SL:bc

cc: All Suffolk County Legislators  
Tim Laube, Clerk of the Legislature  
Christine Malafi, Esq., Suffolk County Attorney  
Lynne A. Bizzarro, Esq., Chief Deputy County Attorney  
James A. Morgo, Chief Deputy County Executive  
Frederick B. Pollert, Deputy County Executive for Finance and Management  
Jeffrey W. Szabo, Deputy County Executive and Chief of Staff  
Ben Zwirn, Deputy County Executive  
Connie Corso, Budget Director  
Dan Aug, Director of Communications  
Mark Smith, Deputy Director of Communications

**RESOLUTION NO. 646 -2008, CANCELING AUCTION SALE  
OF PROPERTY (SUFFOLK COUNTY TAX MAP NO. 0500-  
441.00-02.00-044.000)**

**WHEREAS**, Gerard Pallotta was the successful bidder for County owned land, Suffolk County Tax Map No. 0500-441.00-02.00-044.000, at the auction conducted by the County of Suffolk on October 16, 2007; and

**WHEREAS**, Resolution No. 128-2008 authorized the sale of the subject parcel to Gerard Pallotta; and

**WHEREAS**, a title search of the subject parcel identified problems regarding the chain of title; as a result, Mr. Pallotta's title company has advised the Division of Real Property Acquisition and Management that they are unable to deliver insurable title to Pallotta; and

**WHEREAS**, Gerard Pallotta was required to leave a \$100,000 deposit and pay related auction fees at the time he bid on the property; and

**WHEREAS**, the Division of Real Property Acquisition and Management has, to date, failed to cancel the sale of the subject parcel or return Gerard Pallotta's deposit; and

**WHEREAS**, Gerard Pallotta has communicated to the County of Suffolk that his inability to timely close on the subject parcel, and the County's refusal to return his deposit is causing a hardship; and

**WHEREAS**, the County's auction rules specifically allow for the cancellation of a sale in the event insurable title cannot be conveyed; now, therefore be it

**1st RESOLVED**, that the Department of Environment and Energy, Division of Real Property Acquisition and Management, is hereby authorized, empowered, and directed to cancel the sale of a parcel (Suffolk County Tax Map No. 0500-441.00-02.00-044.000) to Gerard Pallotta, which occurred at the County's auction on October 16, 2007, and which was previously approved by Resolution No. 128-2008; and be it further

**2nd RESOLVED**, that pursuant to Suffolk County's duly approved auction rules, the Department of Environment and Energy, Division of Real Property Acquisition and Management, is hereby authorized, empowered, and directed to return the down payment and all other monies paid by Gerard Pallotta in connection with this cancelled transaction; and be it further

**3rd RESOLVED**, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20), (21) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and 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 this resolution.

DATED: August 19, 2008

APPROVED BY:

**VETOED**  
\_\_\_\_\_  
County Executive of Suffolk County

Date: 9-4-08 -

Intro. Res. 1747 Res. No. 646

August 19, 2008

**Motion:**  
 Romaine, Schneiderman, Browning, Beedenbender, Losquadro  
 Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,  
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

**Co-Sponsors:**  
 Romaine, Schneiderman, Browning, Beedenbender, Losquadro  
 Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,  
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

**Second:**  
 Romaine, Schneiderman, Browning, Beedenbender, Losquadro  
 Eddington, Montano, Alden, Lindsay, Viloría-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	Brian BEEDENBENDER			/		
6	Daniel P. LOSQUADRO	/				
7	Jack EDDINGTON	/				
9	Ricardo MONTANO	/				
10	Cameron ALDEN		/			
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	16	1	1		

**MOTION**

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  FAILED \_\_\_\_\_

No Motion \_\_\_\_\_ No Second \_\_\_\_\_

**RESOLUTION DECLARED**

ADOPTED

NOT ADOPTED

  
 \_\_\_\_\_  
 Tim Laube, Clerk of the Legislature

Roll Call \_\_\_\_\_ Voice Vote

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY EXECUTIVE

STEVE LEVY  
COUNTY EXECUTIVE

September 3, 2008

Mr. Timothy Laube  
Clerk of the Legislature  
Suffolk County Legislature  
Veterans Memorial Highway  
Hauppauge, New York 11788

SEP 4 11:54 AM '08

**RE: - August 19, 2008 - Legislative Meeting**

**Vetoed 2008 Resolution with letter: 646-2008, Canceling Auction Sale of Property (Suffolk County Tax Map No. 0500-441.00-02.00-044.000)**

Dear Mr. Laube:

Attached please find the above resolutions, which have been acted upon as indicated.

Very truly yours,

Ben Zwirn  
Deputy County Executive

Received by A. Pastore Date 9/4/08 Time 11:54

BZ:gg  
Enclosure