

BRIAN HIGGINS  
27TH DISTRICT, NEW YORK

COMMITTEE ON HOMELAND SECURITY  
SUBCOMMITTEE ON  
BORDER AND MARITIME SECURITY  
SUBCOMMITTEE ON COUNTERTERRORISM  
AND INTELLIGENCE

COMMITTEE ON FOREIGN AFFAIRS  
SUBCOMMITTEE ON THE  
MIDDLE EAST AND SOUTH ASIA  
SUBCOMMITTEE ON TERRORISM,  
NONPROLIFERATION AND TRADE

REVITALIZING OLDER CITIES  
TASK FORCE  
Co-CHAIR

December 10, 2012

Kimberley A. Minkel  
Executive Director  
181 Ellicott Street  
Buffalo, NY 14203

**Re: De minimis transfer of waterfront property**

Dear Ms. Minkel:

I concur with the broad policy being pursued by the Authority to divest itself of its assets on the Buffalo waterfront so that it can continue to focus on its core transportation mission. I write today, however, to convey my strenuous disagreement with the point of view expressed by some members of the Authority's board that the transfer should be conducted at more than a *de minimis* cost. This disagreement is based on these three considerations:

- 1) The Authority's claim, in the *Buffalo News*, that "these [state] laws require us to conduct a competitive process when selling public property to obtain the property's 'estimated fair market value' when we transfer to a public entity," is simply wrong. I refer you to Section 2897.7(i) of the Public Authorities Law. While it is true that an authority cannot generally make a gift of public funds by transferring property to private ownership without payment, transfers among public entities are specifically, expressly allowed. There are several recent examples of *de minimis* transfers among the state's authorities and constituent municipalities<sup>11</sup>
- 2) The Authority itself acquired the land for \$2 in 1957. Copies of the front pages of pertinent documents from the deed books are attached.
- 3) The Authority's RFP to private developers failed to produce a viable purchase. This indicates that the property, in reality, has negative value. One factor contributing to this negative actual value is that, according to the Authority's own consultants, the property requires in excess of \$30 million improvements in order to bring it up to a state of good repair.

---

<sup>11</sup> E.g., 1) In October of this year, the Griffis Local Development Corporation filed a notice with the NYS Authority Budget Office that it planned to transfer of part of the former Griffis AFB to the County of Oneida, 2) the transfer of NYPA's former ice boom storage site to ECHDC on 6/13/11 for \$1 (date of ECHDC board action), 3) In September of last year, the Canal Corporation transferred property appraised at \$549,800 to the Town of Perinton.

Congress of the United States  
House of Representatives  
Washington, DC 20515-3227

WASHINGTON OFFICE:  
2459 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-3306  
(202) 226-0347 (FAX)

WESTERN NEW YORK OFFICES:  
LARKIN BUILDING  
726 EXCHANGE STREET  
SUITE 601  
BUFFALO, NY 14210  
(716) 852-3501  
(716) 852-3929 (FAX)  
FENTON BUILDING  
2 EAST 2ND STREET  
SUITE 300  
JAMESTOWN, NY 14701  
(716) 484-0729  
(716) 484-1049 (FAX)  
higgins.house.gov

I hold you, the directors and the other executives of the Authority in the highest regard. I support your important transportation mission; over the past two years alone, I have been pleased to work with to secure in excess of \$116.8 million in federal funding to advance your that mission. I look forward to continuing to work with you and your colleagues toward that goal, but I cannot let this opportunity pass to object to proposals to devote waterfront resources to purposes other than those for which they were intended.

Sincerely,

A handwritten signature in blue ink that reads "Brian Higgins". The signature is stylized and cursive, with a long horizontal stroke at the end.

Brian Higgins  
Member of Congress

102

THIS INDENTURE

MADE the 27<sup>th</sup> day of DECEMBER, Nineteen Hundred  
and Fifty-seven

BETWEEN

THE CITY OF BUFFALO

a domestic municipal corporation, with  
its principal office and place of busi-  
ness in the City Hall, No. 65 Niagara  
Square, in the City of Buffalo, County  
of Erie, and State of New York,

party of the first part,

AND

NIAGARA FRONTIER PORT AUTHORITY

a body corporate and politic, constit-  
uting a public benefit corporation, or-  
ganized pursuant to the Public Authori-  
ties Law of the State of New York, with  
its principal office and place of busi-  
ness in the City Hall, No. 65 Niagara  
Square, in the City of Buffalo, County  
of Erie, and State of New York,

party of the second part,

WITNESSETH:

THAT the party of the first part in consideration  
of ONE AND NO MORE DOLLARS (\$1.00 & no more), lawful money  
of the United States, paid by the party of the second part,  
does hereby remise, release and forever quitclaim unto the  
said party of the second part, its successors and assigns,  
forever:

ALL THAT TRACT OR PARCEL OF LAND, situate in  
the City of Buffalo, County of Erie and State of  
New York, being part of the "Ogden Gore" tract,  
more particularly bounded and described as follows:

BEGINNING at the point of intersection of the  
south line of lands conveyed to the Merchants Re-  
frigerating Company as recorded in the Erie County  
Clerk's Office in Liber 1951 of Deeds at page 1  
and the harbor line as established by the United  
States Government, March 27, 1899, said point being

# This Indenture

Made the 27<sup>th</sup> day of DECEMBER Nineteen Hundred and Fifty-Seven

**Between The City of Buffalo,** a domestic municipal corporation, with its principal office and place of business in the City Hall, No. 65 Niagara Square, in the City of Buffalo, County of Erie and State of New York,

and NIAGARA FRONTIER PORT AUTHORITY, a body corporate and politic, constituting a public benefit corporation, organized pursuant to the Public Authorities Law of the State of New York, with its principal office and place of business in the City Hall, No. 65 Niagara Square, in the City of Buffalo, County of Erie, and State of New York,

party of the first part,

party of the second part,

## Witnesseth:

THAT the party of the first part in consideration of

-----ONE AND NO MORE DOLLARS -----

(\$ 1.00 & no more), lawful money of the United States, paid by the party of the second part, does hereby remise, release and forever quitclaim unto the said party of the second part, its successors -heirs-and assigns forever,

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie, and State of New York, being part of Outer Lots #2, 43, 44 and 45 of the Holland Land Company's Survey of the Village of New Amsterdam, and lands lying under the waters of Lake Erie west of the described uplands, and being more particularly described as follows:

BEGINNING at a point in the west line of lands taken by the City of Buffalo for sealwall purposes and known as the Sea Wall Strip, said point being also the southeast corner of lands as conveyed by the Union Terminal Railroad Company and the Connecting Terminal Railroad to the City of Buffalo as recorded in the Erie County Clerk's Office by Liber 1365 of Deeds at Page 11; thence westerly along the south line of lands as so conveyed and extended westerly and along the southerly boundary of under water grants from the State of New York, recorded under Liber 1586 of Deeds at Page 22, the remaining grant of which is being applied for by the City of Buffalo from the State of New York to the United States Government Harbor Line as established March 27, 1899; thence northerly and along the United States Government Harbor Line as so established for a distance of 945.63 feet more or less to the northwest corner of lands as conveyed by the Estate of Alice R. Perew and others to the City of Buffalo recorded in the Erie County Clerk's Office by Liber 1721 of Deeds at page 406; thence easterly along the north line of lands as so conveyed to the said west line of the sea wall strip as above mentioned; thence southerly and along the west line of the said sea wall strip to the place of beginning.

EXCEPTING from the above described premises lands appropriated by the State of New York for the construction of the High Level Bridge, so-called.

SAID PREMISES being designated by § 1301, Subdivision 13 of the Public Authorities Law as "BUFFALO MUNICIPAL PIERS PROJECT,"