

BRIEF SYNOPSIS OF DETERMINATION AND FINDINGS PURSUANT TO ARTICLE 2 OF THE NEW YORK STATE EMINENT DOMAIN PROCEDURE LAW

The Village of Sodus Point (the "Village") shall acquire a 10-foot permanent easement over certain real property in the Village of Sodus Point, Wayne County owned by the Elmira and Lake Ontario Railroad Company, or its successor in interest, for the purpose of restoring an existing public right of way from the Village to the Lakeview subdivision, to the bay front, to the pier, to the beach and to the lakefront in general. Copies of the determination and findings will be forwarded upon written request, without cost.

Property to be Acquired

The property over which the permanent easement shall be acquired or condemned is a 20-foot wide strip of land owned by the Elmira and Lake Ontario Railroad Company or its successor and erroneously identified as part of Tax Map Parcel Nos 71119-18-482237 (McNaney/8508 Wickham Blvd), 71119-18-477235 (DePew/8504 Wickham Blvd), and 71119-18-487239 (Berretta/8510 Wickham Blvd), by the Town of Sodus, Wayne County, New York (the "Land"). In 1899, the Elmira and Lake Ontario Railroad Company conveyed a 20-foot right-of-way to the United States of America over the Land along Sodus Bay, in Wayne County, New York, for the "use of the officers, agents, and servants in going to and from its pier ... and for the use and convenience of the public generally ... either on foot or with teams." The right-of-way to the United States was recorded in the Wayne County Clerk's office in Book of Deeds Liber 181, page 419.

The general public had used this right-of-way openly and regularly to access the waterfront from the Village and to move safely on foot from the Lakeview neighborhood, pier, beach, lakefront and bayfront to and from the Village. This right-of-way remained open for the convenience of the public generally, as intended by its original terms, from 1899 until 2022 when one of the abutting property owners constructed a fence across the right-of-way, thereby defeating one of the original purposes for the grant of the right-of-way.

The 10-foot permanent easement will be over the same right-of-way area that was conveyed to the United States of America. In effect, the Village plans to co-locate its permanent easement with the Federal Government's right-of-way. The Village is not acquiring any right, title, or interest in real property held by the United States of America. Nor is the Village acquiring any right that is contrary to or inconsistent with the rights held by the United States of America. Instead, the Village is ensuring that the original purpose and intent of the 1899 right-of-way for the use and convenience of the public at large is restored.

Procedural History

Village Law Sections 1-102 and 4-412 and General Municipal Law Section 74 states that the Village may acquire land by eminent domain to serve any public use or purpose, which includes any use that would contribute to the health, safety, general welfare,

convenience or prosperity of the community. The purpose for the proposed condemnation is to restore an existing public right of way from the Village to the Lakeview subdivision, to the bay front, to the pier, to the beach and to the lakefront in general.

Pursuant to the Eminent Domain Procedure Law ("EDPL"), the Village conducted a public hearing on October 18, 2023 to determine the need to obtain the Property. Notices of the public hearing were published and mailed as required under the EDPL. At the hearing site, copies of the map of the Property to be acquired by the Village were posted and made available to the public. All oral and written comments received during the public hearing have been reviewed, made part of the record and given due consideration by the Village.

Public Need, Use and Purpose

The acquisition of the Permanent Easement will serve a legitimate public purpose. The proposed use of the Permanent Easement will preserving the historic existing right-of-way as a public walkway or path along the waterfront from the Village to the Lakeview subdivision, to the bay front, to the pier, to the beach and to the lakefront in general. Access to the historic right-of-way has been blocked by a fence denying the general public's right-of-way and defeating the purpose and intent of the original 1899 easement. Re-opening the right-of-way for continued use by the general public will result in safe, continuous pedestrian accommodations along the waterfront for non-motorized transportation; to provide better connectivity for pedestrians between the Village businesses and the Lakeview subdivision, the pier, the bay, the beach and the lakefront generally; to reduce the dependence on automobile travel; and to promote and enhance recreational and scenic opportunities within the Village for both residents and tourists.

Location and Reasons for Selection

The Village concludes that the Land is the appropriate location for the permanent easement because it is co-locating its easement over an existing easement for the same purpose. Accordingly, acquisition of the Property is necessary and unavoidable.

Environmental and Locality Effects

The Village thoroughly evaluated the environmental impacts associated with the acquisition of the permanent easement and found that there was no significant adverse environmental impact. Since the proposed acquisition is seeking to retain and reopen an existing walking path, there would be no environmental impacts as a result of the acquisition. Relying on the Environmental Assessment Form, the Village concluded that the acquisition would not have a significant adverse impact on the environment and issued a Negative Declaration.

Determination

The foregoing represents a synopsis of the Village's Determination and Findings under Section 204(B) of the EDPL. The acquisition of the Permanent Easement is needed to restore an existing public right of way from the Village to the Lakeview subdivision, to the

bay front, to the pier, to the beach and to the lakefront in general. Therefore, the Village is satisfied that, as required under Section 204(B) of the EDPL (1) the public use, benefit, or purpose of the acquisition of the Permanent Easement has been established in the record; (2) the location of the Land has been established and an explanation of the reasons for the selection of that location has been provided; and (3) the general effect of the acquisition of the Permanent Easement on the environment and the residents of the locality has been comprehensively examined. Accordingly, the Village finds that the necessary justification exists to proceed to condemn the Permanent Easement. Copies of the determination and findings will be forwarded upon written request, without cost.

Legal Rights
ANY PERSON AGGRIEVED BY THE DETERMINATION AND FINDINGS WHO WISHES TO CHALLENGE AND SEEK JUDICIAL REVIEW THEREOF MUST DO SO, IF AT ALL, (1) BY FILING A PETITION, IN ACCORDANCE WITH NEW YORK EMINENT DOMAIN PROCEDURAL LAW § 207, IN THE APPELLATE DIVISION, FOURTH DEPARTMENT, M. DELORES DENMAN

COURTHOUSE, 50 EAST AVENUE, SUITE 200, ROCHESTER, NEW YORK 14604 (SAID COURT BEING THE EXCLUSIVE VENUE FOR JUDICIAL REVIEW OF THE DETERMINATION AND FINDINGS UNDER EDPL §§ 207 AND 208), NO LATER THAN THIRTY (30) DAYS AFTER THE COMPLETION OF THE VILLAGE'S PUBLICATION OF ITS SYNOPSIS OF DETERMINATION AND FINDINGS PURSUANT TO EDPL § 204, OTHERWISE ANY SUCH CHALLENGE OR JUDICIAL REVIEW MAY BE TIME BARRED, AND (2) BY SERVING DEMAND, IN ACCORDANCE WITH NEW YORK STATE EMINENT DOMAIN PROCEDURE LAW § 207, UPON THE VILLAGE TO FILE A WRITTEN TRANSCRIPT OF THE RECORD OF THE PROCEEDING BEFORE IT AND THE UNDERLYING DETERMINATION AND FINDINGS. THE APPELLATE DIVISION MAY CONSIDER THE PUBLIC USE, BENEFIT OR PURPOSE TO BE SERVED BY THE PROPOSED ACQUISITION AND THE OTHER MATTERS SET FORTH IN NEW YORK EMINENT DOMAIN PROCEDURE LAW § 207. ANYONE WISHING TO CHALLENGE THE DETERMINATION AND FINDINGS IS ADVISED TO CONSULT AN ATTORNEY PROMPTLY.