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September 23, 2022

**VIA FEDERAL EXPRESS**

Hon. Lisa LeCours  
Clerk of the Court  
Court of Appeals of the State of New York  
20 Eagle Street  
Albany, New York 12227

**Re: St. Lawrence County, et al. v. City of Ogdensburg, et al.**  
**APL-2022-00118**

Dear Ms. LeCours:

This Firm represents the City Respondents (hereinafter, the “City”) in the above-referenced appeal. I write for the dual purpose of (1) responding to Appellants’ (hereinafter, the “County”) request for a calendar preference pursuant to Rule 500.17 (b) of the Court’s Rules of Practice; and (2) providing a Jurisdictional Response to supplement’s the Court’s Jurisdictional Inquiry into this appeal. Also included herewith is the City’s response to the County’s motion for a stay of Supreme Court’s Decision, Order and Judgment during the pendency of this appeal.

**Response to the County’s Request for a Calendar Preference**

As an initial matter, in the County’s September 13, 2022 letter to the Court requesting a calendar preference pursuant to Rule 500.17 (b) of this Court’s Rules of Practice, the County makes two assertions that require clarification.

First, the County mischaracterizes the history of the expedited proceedings in this case. The City never agreed to expedite the proceedings before Supreme Court. Rather, the County commenced the action by Order to Show Cause, which necessitated the submission of responsive papers and the holding of oral argument on an accelerated schedule. Furthermore, while the City did agree to the County’s request for a calendar preference before the Third Department, in granting that branch of the County’s motion, the court absolutely did not recognize that “the City’s Local Law No. 2 has an unprecedented, dramatic, and financially devastating effect on the [c]ourt’s taxpayers” as the County suggests (*Compare* Letter to Court dated 9/13/2022 at 1, *with* Cortese Aff., Exhibit A, Third Department’s 1/14/22 Order on County’s motion, included herewith). In

Re: St. Lawrence County, et al. v. City of Ogdensburg, et al.  
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fact, the Third Department denied the County's application for a stay during the pendency of its appeal of Supreme Court's determination confirming the validity of the City's Charter amendments, which transfer enforcement authority of the City's delinquent real property taxes to the County (*see Cortese Aff.*, Exhibit A).

Second, the County alleges that the City is acting outside the scope of the Charter amendments and Supreme Court's Decision, Order and Judgment by remitting delinquent City taxes to the County from tax year 2021. This allegation is misguided, inasmuch as it fails to take into consideration the fact that when the Charter amendments became effective on January 1, 2022, the City abrogated its status as an RPTL Article 11 "tax district", which means that it no longer has the authority to collect and enforce its own delinquent taxes. Thus, all unpaid City taxes, including unpaid taxes from 2021, fall under the County's delinquent tax enforcement authority by operation of law (*see Cortese Aff.* ¶¶ 11-12 and Exhibit B).

As to the County's request for a calendar preference before this Court, Rule 500.17 (b) requires that the movant's letter request for the same include "opposing counsel's position on the request". The County's letter does not include our position, because I was never contacted about it. Accordingly, I offer our position here.

The City is open to a calendar preference, provided that each party has ample time to perfect this appeal and complete all briefing, and further provided that the Court has sufficient time to review the Record on Appeal and the parties' briefs prior to oral argument. In our opinion, the practical realities of the time required to accomplish all of the above, combined with the impending holiday season, make the scheduling of oral argument at any time before the Court's February 2023 term infeasible. Accordingly, the City opposes the granting of any calendar preference before that term. Ideally, however, if a calendar preference were granted, the City would prefer that the Court refrain from scheduling oral argument until the March 2023 term, at the earliest.

Regarding the possibility of participating in the alternate appeal procedure pursuant to Rule 500.11, the City defers to the Court's determination as to the appropriateness of that procedure for the resolution of this appeal.

### **The City's Jurisdictional Response**

As for a Jurisdictional Response, the City takes no position on the Court's retention of jurisdiction with respect to the dispute between the County and the City in this case. Specifically, the County disputes whether the City validly amended its Charter to shift the enforcement of delinquent City taxes to the County. Supreme Court and a majority of the Appellate Division, Third Department, agreed that the enactment was valid.

Accordingly, the City will defer to and accept the outcome of the Court's Jurisdictional Inquiry with respect to the dispute between the County and the City.

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Regarding the dispute between the City School District and the City, that is, whether the City also had the ability to shift delinquent school tax enforcement authority to the County, the City respectfully submits that the Court does not have jurisdiction to hear an appeal as of right with respect to the Third Department's ruling that this issue was rendered moot by the City's enactment of Local Law No. 1 of 2022 (*see* Cortese Aff. at ¶¶ 13-17 and Exhibit C, included herewith).

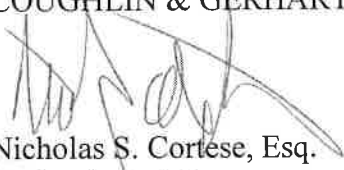
Unlike the Third Department's 3-2 split on the validity of the City's Charter amendments with respect to the County, all five justices on the panel unanimously agreed that Local Law No. 1 of 2022, which expressly affirmed the City's continuing obligation to collect and enforce delinquent City School District taxes pursuant to RPTL Article 13, rendered moot any outstanding issues between the School District and the City (*see* Murad Aff., dated September 13, 2022, Exhibit 2 at p. 2 n 1 [Lynch, J., for the majority], and p. 11 [Garry, P.J., dissenting]).

As this Court has previously held with respect to a dissent that partially agrees with the majority's position, "[o]nly when the minority has given appellant the benefit of its vote, as well as the benefit of its views, may it be said that there is actual disagreement sufficient to indicate the existence of a debatable law issue" (*Christovao v Unisul-Uniao de Coop. Transf. de Tomate Do Sul Do Tejo, S.C.R.L.*, 41 NY2d 338, 339 [1977]). Here, there is no doubt that the Third Department minority declined to give the County the benefit of its vote or its views on the discrete question of mootness. It is also worth noting that, at oral argument before the Third Department, opposing counsel admitted that this issue had been rendered moot.

In light of the foregoing, it is submitted that the Court should not retain jurisdiction over any issue between the City School district and the City, as the Third Department unanimously agreed that those issues are now moot. Thus, the County has no ground for an appeal as of right on that question of law, as the court expressed no difference of opinion on the matter.

Thank you for your time and consideration in these matters. Should the Court have any questions, please feel free to contact me.

Respectfully submitted,  
COUGHLIN & GERHART, LLP

By:  Nicholas S. Cortese, Esq.  
Senior Associate

NSC:gmt

cc: Alan J. Pierce, Esq., Hancock Estabrook, LLP (*via FedEx*)  
Kate I. Reid, Esq., Bond, Schoeneck & King, PLLC (*via FedEx*)

STATE OF NEW YORK  
COURT OF APPEALS

---

ST. LAWRENCE COUNTY and RENEE COLE, in her capacity as the duly elected Treasurer for the County of St. Lawrence,

Plaintiffs-Appellants,

-against-

CITY OF OGDENSBURG, OGDENSBURG CITY SCHOOL DISTRICT, JEFFREY M. SKELLY, in his official capacity as Mayor for the City of Ogdensburg, and STEPHEN JELLIE, in his official capacity as the City Manager for the City of Ogdensburg,

Defendants-Respondents.

St. Lawrence County  
Index No.: EFCV-21-161083

Appellate Division  
Case/Docket No.: 534539

**ATTORNEY  
AFFIRMATION**

---

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

**NICHOLAS S. CORTESE, ESQ.**, affirms the following under the penalties of perjury:

1. I am an attorney at law duly licensed to practice before the courts of this State and am an associate in the law firm of Coughlin & Gerhart, LLP, attorneys for Defendants-Respondents the City of Ogdensburg, Jeffrey M. Skelly, as Mayor of the City of Ogdensburg and Stephen Jellie, as City Manager of the City of Ogdensburg (collectively, the "City").

2. I am familiar with the facts and circumstances herein, and I make this affirmation in opposition to the motion of Plaintiffs-Appellants St. Lawrence County and Renee Cole, as County Treasurer (collectively, the “County”), for a stay of the enforcement of Supreme Court’s Decision, Order & Judgment on appeal pursuant to CPLR 5519 (a), (c) or the Court’s inherent discretionary power to impose a stay.

**Procedural Background Relevant to the County’s Motion**

3. On September 27, 2021, the City Council unanimously adopted Local Law No. 2 of 2021 (hereinafter “Local Law 2-2021”), which took effect on January 1, 2022. The object of Local Law 2-2021 was to, among other things, amend certain provisions of the Ogdensburg City Charter (hereinafter, the “Charter”) and the City’s Administrative Regulations in order to absolve the City of its Charter-based authority to handle the collection and enforcement of delinquent City real property taxes and to shift that authority to the County pursuant to Article 11 of the Real Property Tax Law (hereinafter, “RPTL”).

4. In response to the adoption of the Charter amendments, the County commenced the underlying hybrid action/proceeding seeking a declaratory judgment that, among other things, Local Law 2-2021 violates the New York State Constitution insofar as it allegedly impairs the powers of the County. The County also sought relief pursuant to CPLR Article 78 sounding in mandamus to compel the

City Defendants to continue to enforce their own delinquent real property taxes, as well as in prohibition to prevent the City from doing otherwise.

5. The City moved to dismiss the County’s petition/complaint pursuant to CPLR 3211 (a) (2) and (a) (7) to the extent that it challenged the City’s ability to amend its Charter to shift its former authority to collect and enforce delinquent City real property taxes to the County.

6. Ultimately, Supreme Court (Farley, J.) agreed with the City’s position and issued a Decision, Order & Judgment entered December 10, 2021, which, among other things, “**DEN[IED]** the County’s Petition as against the City” and “**DECLAR[ED]** pursuant to C.P.L.R. § 3001 Local Law §§ 2 (City Charter § C-80), 3 (City Charter § C-81), 4 (deleting former City Charter § C-83), and 6 (effective date) to be valid and enforceable” (*see* Murad Aff., Exhibit 4, Decision at 9 [capitalization and emphasis in original]).

7. Significantly, Supreme Court’s Decision, Order & Judgment did not affirmatively direct the parties on how the new tax enforcement dynamic between the City and the County must proceed, it simply answered the question of whether the Charter amendments changing that dynamic are constitutional and valid, and correctly confirmed that they are.

8. The County then appealed to the Appellate Division, Third Department, which, by Memorandum and Order entered August 11, 2022 affirmed, by a 3-2

majority, Supreme Court's ruling that the Charter amendments are valid and enforceable (*see id.* at Exhibit 2).

9. Notably, prior to perfecting its appeal to the Third Department, the County made a motion to that court virtually identical to the instant motion, in which, it requested, among other things, a stay of Supreme Court's Decision, Order & Judgment during the pendency of the appeal. The Third Department denied the motion by Decision and Order entered January 14, 2022, a true copy of which is attached hereto as Exhibit A.

10. Following the Third Department's Memorandum and Order, the County filed a Notice of Appeal to this Court, dated August 18, 2022, and now moves, as it did unsuccessfully before the Third Department, for an Order granting a stay of the enforcement of Supreme Court's ruling during the pendency of the instant appeal pursuant to CPLR 5519, or pursuant to the Court's inherent power to do so, under certain circumstances.

11. However, for the reasons stated below, the County is not entitled to a stay. Thus, the City submits that the County's motion should be denied.

**Responses to the County's Factual Allegations Regarding Developments Since Appearing Before the Appellate Division, Third Department**

12. Initially, in its motion papers, the County makes certain factual allegations about supposed "important changes" that have occurred since this case was argued before Third Department that require clarification.

13. First, the County alleges that the City is acting outside the scope of Supreme Court’s Decision, Order & Judgment by remitting to the County delinquent City taxes from tax year 2021 because “Local Law 2 . . . on its face applies only to 2022 taxes” (Murad Aff. at ¶ 10). However, nowhere in Local Law 2-2021 is there a specific reference to any tax years that are included or excluded from the Charter amendments. A true copy of Local Law 2-2021 is attached hereto as Exhibit B.

14. Furthermore, in basic terms, the legal effect of the Charter amendments is to abrogate the City’s status as an RPTL Article 11 “tax district”, which means that it no longer has the authority to collect and enforce its own delinquent taxes. Thus, as of the effective date of Local Law 2-2021 (*i.e.*, January 1, 2022), all unpaid City taxes fall under the County’s delinquent tax enforcement authority by operation of law. Naturally, this includes still unpaid City taxes from tax year 2021.

15. Second, the County challenges the Third Department’s ruling that “any challenge to the impact of Local Law No. 2 upon delinquent school taxes has been rendered moot” by virtue of the City’s enactment of Local Law No. 1 of 2022 (hereinafter “Local Law 1-2022”), which expressly affirms the City’s continuing obligation to collect and enforce delinquent City School District taxes (*see* Murad Aff., Exhibit 2 at 2 n 1).

16. Specifically, the County refers to a press release by City Manager Stephen Jellie, which it interprets to mean that the City will require the County to



handle delinquent school tax enforcement as well (*see* Cole Aff. at ¶¶ 9-10). This is categorically false.

17. As Local Law 1-2022 states, “The City Comptroller shall be responsible for the enforcement of delinquent City School District taxes for properties located within the boundaries of the City in accordance with Article 13 of the Real Property Tax Law and other applicable law.” A true copy of Local Law 1-2022 is attached hereto as Exhibit C.

18. It is my understanding the City has no plans to do anything other than comply with Local Law 1-2022. The City will continue to collect and enforce delinquent school taxes, and will continue to make the City School District whole for the same pursuant to RPTL Article 13. All delinquent taxes that the City remits to the County for enforcement are, and will be, delinquent taxes that are due and owing to the City alone.

19. Thus, the Third Department (both the majority and the dissent) correctly ruled that any dispute over the collection and enforcement of delinquent City School District taxes was rendered moot by the enactment of Local Law 1-2022.

**The County is not Entitled to an Automatic or a Discretionary Stay of Supreme Court’s Decision, Order & Judgment**

20. In its memorandum of law in support of its motion for a stay pursuant to CPLR 5519,<sup>1</sup> the County argues that Supreme Court’s determination and the Third Department’s subsequent affirmation, both of which held that the Charter amendments are valid and enforceable, “impose a mandatory obligation on the County” because it requires the County “to collect the City’s delinquent taxes and make whole the City for all delinquent, unpaid City taxes for 2021 and 2022” (County’s MOL at 2-3).

21. The County claims that this so-called “mandatory obligation” imposed by Supreme Court triggers the automatic stay provided by CPLR 5519 (a) (1), which “stays all proceedings to enforce the judgment or order appealed from pending the appeal or determination on the motion for permission to appeal where . . . the appellant or moving party is the state or any political subdivision of the state”. However, the County’s argument misconstrues the scope and intended effect of the automatic stay, a fact that the Third Department recognized when the court denied an identical motion by the County earlier in these proceedings (*see* Exhibit A hereto).

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<sup>1</sup> The County repeatedly refers to CPLR 5501 throughout its memorandum of law as the statute governing its request for a stay. The City assumes that these are typographical errors, as CPLR 5519 is the operative statute here.

22. Courts have repeatedly interpreted the above-cited language to mean that CPLR 5519 (a) (1) “has the effect of automatically staying all proceedings to enforce executory directives in the order or judgment appealed from. Executory directives are those which direct the performance of a future act” (*State of N.Y. v Town of Haverstraw*, 219 AD2d 64, 65 [2d Dept 1996]; see *Matter of Pokoik v Department of Health Servs. of County of Suffolk*, 220 AD2d 13, 15 [2d Dept 1996]). “[T]he stay does not extend to matters which are not commanded but which are the sequelae of granting or denying relief” (*Matter of Pokoik v Department of Health Servs. of County of Suffolk*, 220 AD2d at 15; accord *Matter of Kar-McVeigh, LLC v Zoning Bd. of Appeals of Town of Riverhead*, 93 AD3d 797, 799 [2d Dept 2012]).

23. The above distinction is critical here, as it limits the scope of the automatic stay provided by CPLR 5519 (a) (1) to holding in abeyance the enforcement of a court order that affirmatively directs the performance of some particular act. It does not, however, stay the occurrence of an event that is “a consequence of [a court] order, but is not directed by it” (*Matter of Pokoik v Department of Health Servs. of County of Suffolk*, 220 AD2d at 15).

24. In light of the foregoing, it is clear that the portion of Supreme Court’s Decision, Order & Judgment on appeal declaring Local Law No. 2 of 2021 to be valid and enforceable is not “exactly the type of executory directive covered by CPLR 5519 (a) (1)”, as the County claims (County’s MOL at 3). To the contrary,

nowhere in its ruling does Supreme Court affirmatively direct the County to collect and enforce the City's unpaid real property taxes or make the City whole for the same. Rather, the holding simply affirms that the City validly enacted a Local Law, the practical consequence of which is to transfer delinquent tax enforcement authority from the City to the County (*compare* County's MOL at 3 [citing cases in which actual, executory directives were subject to automatic stay]).

25. Under *Matter of Pokoik*, Supreme Court's Decision, Order & Judgment and the Third Department's affirmance thereof are not the types of rulings that fall within the scope of the automatic stay provided by CPLR 5519 (a) (1). Accordingly, it is submitted that the Court should deny the County's request for the same, inasmuch as it is inapplicable under the circumstances presented here.

26. While the County does mention in its memorandum of law the idea of a discretionary stay pursuant CPLR 5519 (c) (*see* County's MOL at 4), it does not appear to make an actual argument that the Court should impose one. This makes sense, inasmuch the County is not entitled to a CPLR 5519 (c) discretionary stay for the same reasons it is not entitled to a 5519 (a) (1) automatic stay.

27. Just like the statutory language describing the scope of the automatic stay, the discretionary stay allows courts to "stay all proceedings to enforce the judgment or order appealed from pending an appeal" (CPLR 5519 [c]). This has led courts to observe that "the scope of this discretionary stay is 'coextensive' with the

automatic stay, and applies only to provide non-governmental parties with the opportunity to stay proceedings to enforce the judgment or order appealed from pending the appeal” (*Tax Equity Now NY LLC v City of New York*, 173 AD3d 464, 465 [1st Dept 2019]; see *Schwartz v New York City Hous. Auth.*, 219 AD2d 47, 48 [2d Dept 1996] [holding that the CPLR 5519 (c) discretionary stay affects “a stay of enforcement proceedings only, not a stay of acts or proceedings other than those commanded by the order or judgment appealed from”]).

28. Thus, because the County is not entitled to the automatic stay under the present circumstances, it is also not entitled to the discretionary stay, inasmuch as CPLR 5519 (c) does not expand or change the scope of the CPLR 5519 (a) (1) automatic stay. Moreover, CPLR 5519 (c) is intended for the benefit of private individuals and organizations – not governmental parties – who seek to stay the enforcement of a court’s executory directives while an appeal is pending.

29. With respect to the County’s argument that the Court should exercise its inherent discretionary power to grant a stay of Supreme Court’s Decision, Order & Judgment, it is submitted that the Court’s discretion in this regard is not unlimited, and this is not an appropriate case in which it should be exercised in the County’s favor.

30. It has long been held that courts have an “inherent power in a proper case to restrain the parties before it from taking action which threatens to defeat or

impair its exercise of jurisdiction” (*Schneider v Aulisi*, 307 NY 376, 384 [1954]; *see Schwartz v New York City Hous. Auth.*, 219 AD2d at 48 [stating use of inherent stay power appropriate where “acts or proceedings, which, although not commanded or forbidden by the order appealed from, will disturb the status quo and tend to defeat or impair [the Court’s] appellate jurisdiction”]; *Matter of Pokoik v Department of Health Servs. of County of Suffolk*, 220 AD2d at 16 [stating application for inherent power discretionary stay appropriate where non-executory future acts “may nevertheless have the effect of changing the status quo . . . thereby defeating or impairing the efficacy of the order which will determine the appeal.”]).

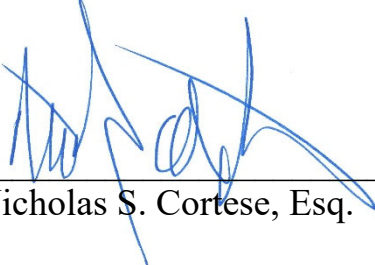
31. As the foregoing makes clear, an appellate court’s grant of a discretionary stay pursuant to its inherent powers is only appropriate where abiding by the underlying order during the pendency of the appeal therefrom would change the status quo in such a way that it would destroy the court’s appellate jurisdiction or render ineffectual an eventual decision of the court.

32. Here, to whatever extent that not granting a stay of Supreme Court’s Decision, Order & Judgment confirming the validity of the City’s Charter amendments might have the practical consequence of changing the status quo between the parties, any such change would do nothing to “defeat or impair” the Court’s jurisdiction (supposing the Court determines that it has jurisdiction over this matter in the first instance) or the efficacy of its ultimate disposition of this case.

33. It is beyond dispute that the County’s challenge to the validity of the Charter amendments will remain a live issue for this Court to resolve on appeal irrespective of the delinquent tax enforcement dynamic that may exist between the City and the County between now and the time the Court issues its decision in this case (*compare Schneider v Aulisi*, 307 NY at 383-384 [holding that stay of imminent trial pending determination of motion for inspection of grand jury minutes was proper exercise of court’s inherent power to issue stay where ruling on motion for inspection “would have been valueless without a stay”]).

34. For the foregoing reasons, it is respectfully submitted that the Court should deny the County’s motion for a stay of Supreme Court’s Decision, Order & Judgment during the pendency of this appeal, together with such other or further relief, which to the Court seems just and proper.

Dated: September 23, 2022  
Binghamton, New York



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Nicholas S. Cortese, Esq.

## PRINTING SPECIFICATIONS STATEMENT

I hereby certify pursuant to 22 NYCRR 1250.8(j) that the foregoing brief was prepared on a computer using Microsoft Word.

*Type.* A proportionally spaced typeface was used, as follows:

Name of typeface: Times New Roman

Point size: 14 (*body*)  
12 (*footnotes*)

Line spacing: Double (*body*)  
Single (*footnotes, headings and quotations exceeding 50 words*)

*Word Count.* The total number of words in this brief, inclusive of point headings and footnotes and exclusive of pages containing the table of contents, table of citations, proof of service and this Statement is 2,665.

Dated: September 23, 2022

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# EXHIBIT A

Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: January 14, 2022

In the Matter of ST. LAWRENCE  
COUNTY et al.,

Appellants,

v

DECISION AND ORDER  
ON MOTION

CITY OF OGDENSBURG et al.,  
Respondents.

Motion for preference and to confirm or grant stay of enforcement.

Upon the papers filed in support of the motion and the papers filed in response to the motion for a preference and in opposition to the motion to confirm or grant a stay of enforcement, it is

ORDERED that the motion for a preference is granted, without costs, and the appeal is set down for the May 2022 term of this Court. The record on appeal and appellants' brief shall be filed and served on or before February 28, 2022. The respondents' briefs shall be filed and served on or before April 8, 2022. The reply brief, if any, shall be filed and served on or before April 15, 2022. It is further

ORDERED that the motion to confirm a stay of enforcement is denied, without costs (see CPLR 5519 [a] [1]; Matter of Pokoik v Department of Health Servs. of County of Suffolk, 220 AD2d 13, 15 [1996]), and it is further,

ORDERED that the motion to grant a stay of enforcement is denied, without costs.

Garry, P.J., Egan Jr., Lynch and Clark, JJ., concur.

ENTER:



Robert D. Mayberger  
Clerk of the Court

# EXHIBIT B

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

FILED  
STATE RECORDS

OCT 01 2021

County  City  Town  Village  
(Select one.)

DEPARTMENT OF STATE

of Ogdensburg

Local Law No. 2 of the year 20<sup>21</sup>

A local law to amend the City Charter and Administrative Regulations to relinquish the City's tax  
(Insert Title)  
foreclosure responsibility with the intent of all foreclosure responsibility defaulting  
to St. Lawrence County.

Be it enacted by the City Council of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Ogdensburg as follows:

See attached

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2021 of the ~~(County)(City)(Town)(Village)~~ of Ogdensburg was duly passed by the Ogdensburg City Council on September 27 2021, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the ~~(County)(City)(Town)(Village)~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the ~~(County)(City)(Town)(Village)~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the ~~(County)(City)(Town)(Village)~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

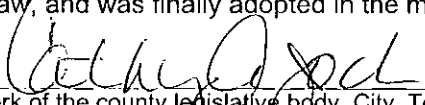
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: September 28, 2021

(Seal)

LOCAL LAW #2 of 2021

AMENDING THE OGDENSBURG CITY CHARTER AND  
ADMINISTRATIVE REGULATIONS TO RELINQUISH THE CITY'S TAX  
FORECLOSURE RESPONSIBILITY WITH THE INTENT OF ALL  
FORECLOSURE RESPONSIBILITY DEFAULTING TO  
ST. LAWRENCE COUNTY

A Local Law providing for changes in the Ogdensburg City Charter and Administrative Regulations to relinquish the City's tax foreclosure responsibility with the intent of all foreclosure responsibility defaulting to St. Lawrence County.

Be it enacted by the City Council of the City of Ogdensburg as follows:

SECTION 1. Article XVII, §C-68 of the City Charter of the City of Ogdensburg entitled Complaints Concerning Assessments be and the same is amended as follows:

A. The Real Property Tax Law of the State of New York shall govern complaints concerning assessments by any person or a corporation who or which owns or has an interest in taxable real property in the City of Ogdensburg.

B. The date for hearing on any complaints concerning assessments shall be as provided by the Real Property Tax Law of the State of New York.

SECTION 2. Article XVII, § C-80 of the City Charter of the City of Ogdensburg entitled Recovery of unpaid taxes shall be deleted in its entirety and replaced with the following:

§ C-80 Unpaid Taxes

The County shall be responsible for the enforcement of delinquent City taxes in accordance with Article 11 of the Real Property Tax Law

SECTION 3. Article XVII, §C-81 of the City Charter of the City of Ogdensburg entitled Sale of Property for Nonpayment of Tax shall be deleted in its entirety and replaced with the following:

§ C-81 Unpaid Taxes

In case any City taxes remain unpaid or uncollected upon the thirty-first day of December succeeding the delivery of the warrant, the City Comptroller shall make and deliver to the County Treasurer or county officer performing the functions of a County Treasurer an account of taxes paid and unpaid, subscribed and affirmed as true. The County Treasurer shall, if satisfied that such account is correct, credit the City with the amount of such unpaid delinquent taxes.

SECTION 4. Article XVII, §C-83 of the City Charter of the City of Ogdensburg entitled Remittance of County Tax shall be deleted in its entirety.

SECTION 5. Article VI, §199-43 of the Administrative Regulations of the City of Ogdensburg entitled Collection to be Enforced Pursuant to the City Charter shall be deleted in its entirety.

SECTION 6. EFFECTIVE DATE. This local law shall take effect January 1, 2022.



# EXHIBIT C

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Ogdensburg

FILED  
STATE RECORDS

JAN 19 2022

DEPARTMENT OF STATE

Local Law No. 1 of the year 2022

A local law providing for changes in the Ogdensburg City Charter to affirm the City's  
(Insert Title)  
responsibility for the enforcement of delinquent City School District taxes.

Be it enacted by the City Council of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Ogdensburg as follows:

See attached

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2022 of the ~~(County)(City)(Town)(Village)~~ of Ogdensburg was duly passed by the Ogdensburg City Council on January 10 2022, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 2022, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local *(Elective Chief Executive Officer\*)* law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

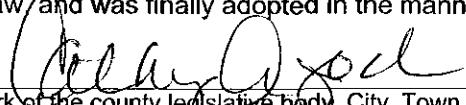
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law and was finally adopted in the manner indicated in paragraph 1 above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 1/11/2022

(Seal)

LOCAL LAW #1 of 2022

AMENDING THE OGDENSBURG CITY CHARTER TO AFFIRM  
THE CITY'S RESPONSIBILITY FOR THE ENFORCEMENT OF  
DELINQUENT CITY SCHOOL DISTRICT TAXES

A Local Law providing for changes in the Ogdensburg City Charter to affirm the City's responsibility for the enforcement of delinquent City School District taxes.

Be it enacted by the City Council of the City of Ogdensburg as follows:

SECTION 1. Article XVII, § C-80 of the City Charter of the City of Ogdensburg entitled Unpaid Taxes shall be amended as follows:

§ C-80 Unpaid Taxes

The County shall be responsible for the enforcement of delinquent City taxes in accordance with Article 11 of the Real Property Tax Law. The City Comptroller shall be responsible for the enforcement of delinquent City School District taxes for properties located within the boundaries of the City in accordance with Article 13 of the Real Property Tax Law and other applicable law.

SECTION 2. EFFECTIVE DATE. This local law shall take effect upon filing with the New York State Secretary of State.

STATE OF NEW YORK  
COURT OF APPEALS

ST. LAWRENCE COUNTY and RENEE COLE, in her capacity as the duly elected Treasurer for the County of St. Lawrence,

Plaintiffs-Appellants,

-against-

CITY OF OGDENSBURG, OGDENSBURG CITY SCHOOL DISTRICT, JEFFREY M. SKELLY, in his official capacity as Mayor for the City of Ogdensburg, and STEPHEN JELLIE, in his official capacity as the City Manager for the City of Ogdensburg,

Defendants-Respondents.

St. Lawrence County  
Index No.: EFCV-21-161083

Appellate Division  
Case/Docket No.: 534539

**AFFIDAVIT OF SERVICE**

I, Katherine M. Trumbach, being duly sworn, deposes and says: I am not a party to the within action and I am over 18 years of age. On September 23, 2022, I served the within **ATTORNEY AFFIRMATION IN OPPOSITION** to the following:

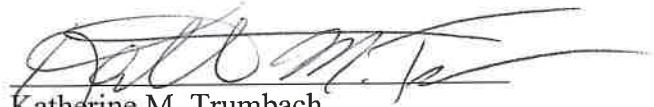
**Tracking No. 7700 2191 4027**

Alan J. Pierce, Esq.  
Hancock Estabrook, LLP  
1800 AXA Tower I  
100 Madison Street  
Syracuse, NY 13202

**Tracking No. 7700 2202 6504**

Kate I. Reid, Esq.  
Bond, Schoeneck & King, PLLC  
One Lincoln Center  
Syracuse, NY 13202

via FedEx Overnight Delivery by depositing a true copy of the same enclosed in an envelope addressed as shown above, into the custody of Federal Express for overnight delivery, prior to the latest time designated by that service for overnight delivery.

  
Katherine M. Trumbach

Sworn to before me this  
23<sup>rd</sup> day of September, 2022

  
Notary Public

