



COUNTY OF ERIE

MICHAEL P. KEARNS
COUNTY CLERK

April 4, 2019

Sister Denise A. Roche
Chair, Board of Commissioners
Niagara Frontier Transportation Authority
181 Ellicott Street
Buffalo, New York 14203

Re: Buffalo Niagara International Airport
Cancellation of Chick-fil-A Concession

Dear Sister Denise:

Earlier this week, I became concerned when plans to upgrade the concession options at the Buffalo Niagara International Airport (the "BNIA") with a Chick-fil-A restaurant were shelved following public statements of New York State Assemblyman Sean Ryan criticizing the actions of the Niagara Frontier Transportation Authority (the "NFTA") by approving the national chain to locate at a taxpayer funded facility. Last evening, I became further concerned when I read the letter of Peter Kirsanow, Commissioner of the United States Commission on Civil Rights, which excoriated the actions of the NFTA and Assemblyman Ryan.

As the elected Erie County Clerk, I oversee an office which garners revenue primarily from recording, filing and processing legal records and documents. The fees associated with these transactions are collected and then apportioned among government entities and agencies. In 2018, the Erie County Clerk's Office transmitted to the NFTA \$16,072,071 in fees generated from the recording of mortgages resulting from real estate transactions. Since 2009, the Erie County Clerk's Office collected and transmitted \$134,883,446 which solely benefitted the NFTA.

Upon reading the letter from a Commissioner of the United States Commission on Civil Rights, which indicated that the NFTA would likely be subjected to legal action for its handling of the Chick-fil-A plans, I became alarmed to think that the funds generated by this Office would likely become a funding source to hire counsel to defend the NFTA against manifestly avoidable litigation. Based upon the words of the Commissioner, it seems probable that those funds could ultimately be used to pay, what I understand could be, hefty damages for violating the Constitutional rights of a potential concessionaire.

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Notwithstanding the financial implications, I'm disappointed that the NFTA was effectively held hostage when Assemblyman Ryan, who has been a recent funding ally to the NFTA in Albany, "strongly urged" the NFTA to reverse its decision. While it is understandable that the NFTA would want to maintain a positive relationship with the Assemblyman, it should certainly not be done in a manner which would subject the Authority to expend taxpayer dollars on defense counsel costs and the awarding of damages.

I kindly request that the NFTA reconsider its responsibilities to the taxpayers while approaching this preventable conflict. The Erie County Clerk's Office will continue to uphold its duty to collect and transmit those funds received from mortgage transactions, but it also implores the NFTA to take actions which do not violate the Constitutional rights of others, especially in those instances where the taxpayers bear the financial burden of such missteps.

Sincerely,



Michael P. Kearns
Erie County Clerk

Cc: Commissioner/Vice-Chairman Peter G. Demakos
Commissioner/Secretary Charles L. Gurney
Commissioner/Treasurer Bonita R. Durand
Commissioner LaVonne E. Ansari, Ph.D.
Commissioner Joan G. Aul
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