

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

In the Matter of the Application of

DANIEL R. SACK,

Petitioner/Plaintiff

For a Judgment pursuant to CPLR Article 78,
GML §51 and CPLR §3001,

- against -

CITY OF BUFFALO COMMON COUNCIL,

Respondent/Defendant,

TM MONTANTE DEVELOPMENT LLC,

Additional Respondent/Defendant.

**VERIFIED PETITION/
COMPLAINT**

Index No. _____

Assigned to:

Hon. _____

Petitioner/plaintiff (hereinafter, “petitioner”) DANIEL R. SACK, by his attorney, Arthur J. Giacalone, Esq., for his petition and complaint (hereinafter, “petition”) in this combined CPLR Article 78 proceeding and General Municipal Law §51 taxpayer suit against respondents/defendants (hereinafter, “respondents”) CITY OF BUFFALO COMMON COUNCIL and TM MONTANTE DEVELOPMENT LLC, respectfully alleges and states:

INTRODUCTION

1. This combined CPLR Article 78 proceeding and General Municipal Law §51 taxpayer suit is brought to annul and set aside the April 16, 2019 resolution of respondent City of Buffalo Common Council which designated, pursuant to Article 16 of New York’s General Municipal Law Article, the “Linwood Lafayette Urban Development Action Area” (hereinafter, at times, “Linwood Lafayette UDAA”); Article 16 is found at GML Sections 690 to 698, and is known as the “Urban Development Action Area Act”

(hereinafter, at times referred to as “Article 16”).

2. Respondent Common Council’s resolution approving designation of the Linwood Lafayette UDAA, the boundaries of which include a significant portion of the former Millard Fillmore Gates Circle Hospital campus, all of Gates Circle, and the adjacent rights-of-way on Delaware Avenue, Lafayette Avenue and Linwood Avenue, contains the following finding:

...
Now, Therefore Be It
Resolved that the City of Buffalo Common Council –

...
(2) Finds that the present status of the area encompassed within the proposed Linwood Lafayette Urban Development Action Area tends to impair the sound growth and development of the City of Buffalo and the designation of the area as a [sic] Urban Development Action Area is consistent with the policies and purposes stated in Section 691 of Article 16 of the New York General Municipal law [sic] in that the area is at significant risk of deterioration and blight and will continue to be substandard, unsanitary, deteriorated or deteriorating;

...
[Attached hereto as **Exhibit A** is a map depicting the boundaries of the Linwood Lafayette UDAA.]

PARTIES

3. Petitioner Daniel R. Sack (“Sack”) resides in and owns real property commonly known as 105 Lancaster Avenue in the City of Buffalo, County of Erie, State of New York; 105 Lancaster Avenue is located less than one-half block and approximately one thousand feet (1,000’) to the west of the western boundary of the Linwood Lafayette UDAA; the assessment for 105 Lancaster Avenue exceeds one thousand dollars (\$1,000.00), and petitioner Sack has paid taxes on such assessment to the City of Buffalo within one year of the commencement of this action/proceeding, and remains liable to pay future taxes on such assessment to the City of Buffalo.

4(A). Respondent Common Council of the City of Buffalo (hereinafter, "Common Council") is the legislative body of the City of Buffalo, County of Erie, State of New York, possessing the powers and duties of a common council pursuant to the laws of the State of New York, including the authority under Article 16 to designate Urban Development Action Areas, having an office for the conducting of business in the County of Erie at City Hall, 65 Niagara Square, Buffalo, New York 14202.

4(B). Upon information and belief, respondent TM Montante Development LLC ("Montante") is a domestic limited liability company, and the site developer of real property within the Linwood Lafayette UDAA, with an office for the conducting of business at 2760 Kenmore Avenue, Tonawanda, New York 14150.

FACTUAL AND LEGAL ASSERTIONS

5. Upon information and belief, respondent Montante was selected in late 2013 by Kaleida Health to redevelop the site of the former Millard Fillmore Gates Circle Hospital campus, took down some of the old buildings mechanically, imploded the 10-story main hospital building in late 2015, and allowed an estimated 7,000-ton pile of crushed concrete and demolition debris to remain on site through early April 2019.

6. Upon information and belief, in May 2017, respondent Montante received approval from the City of Buffalo to construct a six-story, mixed-use residential and retail building as part of its plans to create a major development it calls "Lancaster Square" at the former Millard Fillmore Gates Circle Hospital site.

7. Respondent Montante's website provides the following description of the "Lancaster Square" project:

ABOUT LANCASTER SQUARE

The site of the former Millard Fillmore Gates Circle Hospital will be redeveloped into Lancaster Square, a vibrant, mixed-use, urban place featuring street-level retail, modern apartment living, commercial office space, food service, and an existing 750-space parking garage. At the heart of this development will be a central square that will function as a gathering place for pedestrians and a hub of activities of all types.

A key feature of the project will be the extension of Lancaster Avenue through the site from Delaware Avenue to Linwood Avenue. This will open up the site, creating a tree-line boulevard flanked by ground floor retail and commercial uses, which in turn will connect neighborhoods to the east and west with a walkable, attractive urban streetscape.

8. Upon information and belief, the “existing 750-space parking garage” referred to above as part of the “Lancaster Square” project is currently owned by the City of Buffalo, and, prior to April 16, 2019 and its designation of the Linwood Lafayette UDAA, respondent Common Council approved the sale of the city-owned parking facility to respondent Montante (or, an affiliated company) for a reported \$1.7 million.

9. As part of its promotion for the “Lancaster Square” project, respondent Montante’s website provides the following description of the adjoining Elmwood Village neighborhood, which includes the Lancaster Avenue block between Elmwood Avenue and Delaware Avenue where petitioner and his wife reside:

Located in a premier urban, mixed-use neighborhood that the American Planning Association has selected as one of the 10 best neighborhoods in America.

10. The neighborhood in which petitioner Sack lives immediately to the west of the Linwood Lafayette UDAA is neither blighted or deteriorating, nor at risk of deterioration and blight, but is a popular and highly-desired residential area listed on the State and National Register of Historic Places, which includes prestigious mansions on Chapin Parkway, well-kept and restored Victorian and Colonial residences on Lafayette,

Lancaster and Auburn avenues, and stately Delaware Avenue apartment buildings, constructed circa 1935, which abut directly on the western boundary of the newly-designated UDAA.

11. Upon information and belief, respondent Montante has encountered unanticipated complications in progressing its “Lancaster Square” project, and has found itself underfinanced and unable to proceed with its plans for the site.

12. Upon information and belief, as a result of its financial difficulties, respondent TM Montante Development LLC requested designation of the “Linwood Lafayette Urban Development Action Area” pursuant to Article 16 so that it could take advantage of the enhanced tax incentives and other financial assistance made available through the Urban Development Action Area Act.

13. General Municipal Law Article 16 was enacted and has been in effect since July 10, 1979. (See Laws of New York 1979, Chapter 505, Section 1.)

14. Upon information and belief, despite Article 16’s existence for nearly four decades, respondent Common Council, with perhaps one exception in or around 1997, has never considered or approved a designation of an Article 16 urban development action area [“UDAA”] in the City of Buffalo.

15. Upon information and belief, prior to the enactment of Article 16, a city desiring to dispose of municipally-owned property to a private person or entity had limited options: to dispose of such property by public auction, or by transferring the property to a housing development fund company pursuant to Article 11 of the Private Housing Finance Law.

16. By its enactment, Article 16 established additional procedures governing

disposition of municipally-owned properties which it had acquired pursuant to urban renewal, *in rem* or abandonment proceedings. [See, Lee v. NYC Dept. of Housing Preservation & Development, 162 Misc.2d 901 (Sup. Ct., NY Co. 1994) (“General Municipal Law §§ 690 to 698, known as the Urban Development Action Area Act (UDAAA), provides municipalities with the power to dispose of abandoned buildings that have been acquired through tax and other forfeitures ‘to provide incentives for the ... clearance, replanning, reconstruction, redevelopment, rehabilitation, restoration or conservation’ of such buildings through ‘the undertaking of public and private programs ... and the encouragement or participation [in] these programs by private enterprise.’”)].

17. The intent of Article 16 was succinctly summarized in the Governor’s

Approval Memorandum for the legislation:

This bill adds a new Article 16 to the General Municipal Law entitled the “Urban Development Action Area Act” to permit municipalities with a population of 100,000 or more, including the City of New York, to foster through the use of tax incentives, the development and redevelopment of blighted and deteriorated buildings and land in areas which have previously been acquired by such municipalities through urban renewal powers, tax foreclosure proceedings or any similar process by which a municipality assumes ownership of abandoned land or buildings.

This legislation will stimulate private enterprise and enable minority businesses to construct, reconstruct and develop one and two family low rise residential structures in such areas, thereby not only improving such areas but also expanding and creating employment and economic growth and eventually restoring such areas to full tax rolls of the municipalities involved.

NYS Legislative Annual – 1979, p. 311.

18. The State Comptroller Edward V. Regan, in a July 3, 1979 report to the Governor by James L. Magavern, Esq., Counsel to the Comptroller, described the proposed Article 16 in a similar fashion:

This bill ... would add a new Article 16 entitled “Urban Development Action

Area Act”. The bill would enable cities having a population of 100,000 or more to dispose more readily of large numbers of municipally-owned properties acquired by tax foreclosure, condemnation pursuant to urban renewal, and abandoned building procedures. Subject to a number of safeguards, cities could offer specified tax incentives to eligible sponsors to induce them to develop such property within a definite period of time and in accordance with project plans approved by their governing bodies.

...

See Bill Jacket for L. 1979, c. 505. [Emphasis added.]

19. The specific focus and purpose of GML Article 16 – to provide New York’s larger cities with an additional tool for disposing of municipally-owned properties acquired by urban renewal powers, tax foreclosure or similar processes – is evident from the opening sentence of its “policy and purposes” section, which states, in pertinent part:

§ 691. Policy and purposes of article. *There exist in many municipalities within this state municipally-owned areas which were acquired pursuant to the urban renewal powers delineated in article fifteen of this chapter or through condemnation for projects now abandoned or as a direct result of previous landowners' failure to meet in full their real estate tax or other obligations or through proceedings relating to abandoned multiple dwellings or which consist of municipal facilities no longer needed for public purposes. These areas are residential, non-residential, commercial, industrial, municipal facilities or vacant areas, and combinations thereof, which are slum or blighted, or which are becoming slum or blighted areas because of substandard, insanitary, deteriorated or deteriorating conditions, factors, and characteristics, with or without tangible physical blight. The existence of such areas constitutes a serious and growing menace, is injurious to the public safety, health, morals and welfare, contributes increasingly to the spread of crime, juvenile delinquency and disease, necessitates excessive and disproportionate expenditures of public funds for all forms of public service and maintenance and constitutes a negative influence on adjacent properties impairing their economic soundness and stability, thereby threatening the source of public revenues.*

In order to protect and promote the safety, health, morals and welfare of the people of the state and to promote the sound growth and development of our municipalities, *it is necessary to provide incentives for the correction of such substandard, insanitary, blighted, deteriorated or deteriorating conditions, factors, and characteristics* by the clearance, replanning, reconstruction, redevelopment, rehabilitation, restoration or

conservation of such areas, the undertaking of public and private improvement programs related thereto *and the encouragement and participation in these programs by private enterprise.*

...

GML §691; see Lee, *supra*.

20. Despite the express policy and purposes of Article 16, respondent Common Council has used the authority to designate an Urban Development Action Area, not to correct blight and substandard conditions at city-owned properties which had been acquired through the urban renewal or tax foreclosure process, but, to the contrary, in an effort to bail out respondent Montante.

21. The following four documents, which were, upon information and belief, each prepared by officials or agents of the City of Buffalo, constituted the primary documentation submitted to respondent Common Council in furtherance of the request to designate the proposed Linwood Lafayette UDAA:

(a) A document on “The City of Buffalo Common Council” letterhead which references a March 26, 2019 hearing, refers to Agenda Item 19-252, and contains the following title: “Linwood Lafayette Urban Development Action Area Designation (Hrg 3/26)” [hereinafter, “Common Council’s UDAA request document”].

(b) A memorandum dated February 14, 2019 from the City of Buffalo Urban Renewal Agency (“BURA”) with the following “Re” line: “Recommendation to certify an Urban Development Action Area (UDAA)” [hereinafter, “BURA’s February 14, 2019 memorandum”].

(c) A “Proposed Resolution” submitted to the City of Buffalo Planning Board by BURA in which said Planning Board “certifies its unqualified approval of the Linwood Lafayette Urban Development Action Area” [hereinafter, “proposed Planning Board

resolution”].

(d) A proposed “Resolution of the City of Buffalo Common Council” in which respondent Common Council designates the Linwood Lafayette UDAA [hereinafter, “proposed Common Council resolution”].

[Attached hereto as **Exhibit B** is a copy of each of the above-identified documents.]

22. Not one of the four documents identified above acknowledges, expressly or implicitly, that Article 16, as expressed in GML Section 691’s policy and purposes provision, seeks to correct substandard, insanitary, blighted, deteriorated or deteriorating conditions in “municipally-owned areas acquired pursuant to the urban renewal powers delineated in article fifteen of this chapter or through condemnation for projects now abandoned or as a direct result of previous landowners’ failure to meet in full their real estate tax or other obligations...” [GML Section 691]

23. To the contrary, the Common Council’s UDAA request document expressly states:

The present condition of the **privately owned real property** in the area impairs the growth and development of the City of Buffalo municipality because the area is at significant risk of further deterioration and blight and will continue to be substandard, unsanitary, deteriorated or deteriorating, without the option for assistance from the City to provide incentives to correct these conditions. [Emphasis added.]

24. Similarly, the proposed Planning Board resolution, which, upon information and belief, was approved verbatim by the City Planning Board on March 11, 2019, expressly states that the City of Buffalo Planning Board:

...
Finds that the present condition of the **privately owned real property** in the area impairs the growth and development of the City of Buffalo because the area is at significant risk of further deterioration and blight. [Emphasis added.]

25. Upon information and belief, any existing blight or deterioration of the privately owned real property in the Linwood Lafayette UDAA, or any significant risk of further deterioration or blight of such private property, is the result of the actions or omissions of respondent Montante or its agents, or was in existence at the time respondent Montante acquired the properties from their prior owner, Kaleida Health, and is not the result of the condition of the city-owned property included in the Linwood Lafayette UDAA.

26. Not one of the four documents identified above quotes, paraphrases, or otherwise provides a full and accurate expression of the policy and purposes of Article 16, as set forth at GML Section 691, or uses Section 691's phrase, "*municipally-owned areas acquired pursuant to the urban renewal powers ...*," despite the fact that Section 694(4)(c) of Article 16 requires respondent Common Council, as the City of Buffalo's governing body, to "find" that "the area designation is consistent with the policy and purposes stated in section six hundred ninety-one of this article."

27. To the contrary, the Common Council's UDAA request document includes conclusory statements, such as, "The Linwood Lafayette Action Area is consistent with the policy and purposes of Article 16," and, "... [T]he designation of that Action Area is consistent with the policies stated in Section 691 of Article 16 of the General Municipal Law in that the area is at significant risk of deterioration and blight and will continue to be substandard, unsanitary, deteriorated or deteriorating."

28. Similarly, the proposed Common Council resolution (which, upon information and belief, was approved verbatim by respondent Common Council on April 16, 2019) contains the conclusory statement, "... [T]he designation of that area as a [sic]

Urban Development Action Area is consistent with the policies and purposes stated in Section 691 of Article 16 of the New York General Municipal Law in that the area is at significant risk of deterioration and blight and will continue to be substandard, unsanitary, deteriorated or deteriorating.”

29. The Common Council’s UDAA request document makes the assertion that, “Article 16 **requires** the designated Action Area to include both private and public owned real property, thus the proposed Action Area is comprised of over sixty percent (60%) public owned real property.” [Emphasis added.]

30. Article 16 does not “require” that an urban development action area include privately-owned real property; it requires that “at least sixty percent” of the UDAA be owned by the municipality. [GML §§ 693, 692(3) & (5)]

31. In addition to the requirement that “at least sixty percent” of the UDAA be owned by the municipality, the land included in the UDAA must be “appropriate for urban development,” and the area designation must be “consistent with the policy and purposes stated in section six hundred ninety-one” of Article 16. [GML §§ 692(3) & (5), 694(4)(c)]

32. The Common Council’s UDAA request document makes the following assertion: “Article 16 requires that at least 60% of the land in the proposed Action Area by City owned and for that reason the Area contains real property commonly known as Gates Circle, as well as the Parking Garage located in [the Linwood Lafayette UDAA map] as 1277 Delaware Avenue.”

33. In order to be consistent with the policy and purposes of a UDAA, as expressed at GML Section 691, the municipally-owned land included in the Linwood

Lafayette UDAA must have been “acquired pursuant to the urban renewal powers delineated in article fifteen of this chapter or through condemnation for projects now abandoned or as a direct result of previous landowners’ failure to meet in full their real estate tax or other obligations or through proceedings relating to abandoned multiple dwellings or which consist of municipal facilities no longer needed for public purpose.”

34. Upon information and belief, neither Gates Circle, nor the rights-of-way on Delaware Avenue, Lafayette Avenue, and Linwood Avenue, were acquired by the City of Buffalo pursuant to the urban renewal powers delineated in article fifteen of the General Municipal Law, or through condemnation for projects now abandoned or as a direct result of previous landowners’ failure to meet in full their real estate tax or other obligations or through proceedings relating to abandoned multiple dwellings or which consist of municipal facilities no longer needed for public purpose.

35. Gates Circle and the rights-of-way on Delaware Avenue, Lafayette Avenue, and Linwood Avenue cannot rationally be considered “appropriate for urban development” as envisioned by the policy and purposes of Article 16, and remain needed as public streets.

36. Respondent Common Council included the parking garage located at 1277 Delaware Avenue as city-owned real property in the Linwood Lafayette UDAA without acknowledging its prior approval of respondent Montante’s offer to purchase the parking facility.

37. Upon information and belief, respondent Montante made its offer to purchase the aforementioned parking garage without requiring the incentives available through GML Article 16.

38. Removal of either Gates Circle, or the rights-of-way on Delaware, Lafayette, and Linwood avenues, or the parking garage at 1277 Delaware Avenue, from the Linwood Lafayette UDAA would result in less than sixty-percent of the area constituting city-owned real property.

39. Prior to respondent Common Council's April 16, 2019 approval of the resolution designating the Linwood Lafayette UDAA, the members of respondent Common Council, and, in particular, Ellicott District Councilmember and Council President Darius G. Pridgen, were made aware of the alleged inconsistencies between the policy and purposes of Article 16 and the proposed Linwood Lafayette UDAA, and of the inappropriateness of including Gates Circle and the rights-of-way on Delaware Avenue, Lafayette Avenue, and Linwood Avenue in the designated area.

40. At the April 9, 2019 meeting of respondent Common Council's legislation committee, Councilmember Pridgen, who is not a lawyer, after hearing comments from the public regarding the illegality of the proposed Linwood Lafayette UDAA, requested a written opinion from BURA's General Counsel concerning the consistency of the proposed designation with the policy and purposes of Article 16, and the appropriateness of inclusion of Gates Circle and the rights-of-way on Delaware Avenue, Lafayette Avenue, and Linwood Avenue in the designated area, and stated that he would not vote in favor of the proposed UDAA without such a written opinion.

41. Upon information and belief, Councilmember Pridgen did not receive the requested written opinion from BURA's General Counsel prior to respondent Common Council's April 16, 2019 vote on the resolution challenged in this proceeding, but, nonetheless, voted in favor of the resolution, stating that he and his staff had researched

the issues and reached the conclusion that the proposed Linwood Lafayette UDAA was proper.

42. As a result of the proximity of his residence at 105 Lancaster Avenue to the Linwood Lafayette Urban Development Action Area, that is, its location less than one-half block and approximately one thousand feet (1,000') to the west of the UDAA, petitioner Sack will be harmed in a way that is different in kind and degree than residents and property owners in the City of Buffalo generally, to wit:

(a) Respondent Common Council's finding that the present status of the area encompassed within the Linwood Lafayette UDAA "tends to impair the sound growth and development of the City of Buffalo," and that "the area is at significant risk of deterioration and blight and will continue to be substandard, unsanitary, deteriorated or deteriorating," jeopardizes the property values and sound growth and development of the adjoining neighborhood.

(b) Respondent Common Council's designation of the Linwood Lafayette UDAA stigmatizes the adjoining neighborhood and community, as demonstrated, for example, in a column written by Rod Watson and published in *The Buffalo News* on-line on April 17, 2019, and in the print version of Western New York's largest newspaper on April 18, 2019, which states, under the headline, "*Who knew Gates Circle was such a 'blighted' area?*":

News flash: The Gates Circle area of North Buffalo, once thought of as one of the city's better neighborhoods, is now a "slum or blighted" area that "constitutes a serious and growing menace." In fact, the neighborhood "contributes increasingly to the spread of crime, juvenile delinquency and disease."

At least that's the criteria in a bailout program the city is invoking to grant financial incentives to a prominent developer.

...

(c) Given respondent Montante’s plans to extend Lancaster Avenue through its proposed “Lancaster Square” project site from Delaware Avenue to Linwood Avenue, petitioner Sack and his Lancaster Avenue neighbors will experience the brunt of the traffic, noise, fumes, and diminution in privacy that will result from the construction and operation of any future projects made financially feasible by the tax benefits and financial incentives made available by the UDAA designation.

**PETITIONER’S FIRST CLAIM BASED ON
GENERAL MUNICIPAL LAW ARTICLE 16**

43. Petitioner repeats and realleges each and every allegation contained in paragraphs “1” through “42” of this petition, with the same force and effect as if set forth here at length.

44. By approving the April 16, 2019 resolution designating the Linwood Lafayette Urban Development Action Area, despite the express policy and purposes of Article 16 to correct blight and substandard conditions at city-owned properties which had been acquired through the urban renewal, tax foreclosure, or similar process, respondent Common Council has proceeded without or in excess of its jurisdiction, and has acted in a fashion that is contrary to law, arbitrary and capricious, and/or an abuse of discretion.

45. By inclusion of Gates Circle, and the rights-of-way on Delaware Avenue, Lafayette Avenue, and Linwood Avenue, as city-owned real property in the Linwood Lafayette UDAA in order to meet Article 16’s requirement that at least sixty percent of the UDAA constitute city-owned property, respondent Common Council has proceeded

without or in excess of its jurisdiction, and has acted in a fashion that is contrary to law, arbitrary and capricious, and/or an abuse of discretion.

46. Respondent Common Council’s interpretation of the requirements of Article 16, if allowed to stand, would violate the well-established rules of statutory construction that all parts of an act are to be read and construed together to determine legislative intent, that all parts should be harmonized with one another, and that statutes should not be construed so as to negate their own stated purposes. E.g., Levine v. Bornstein, 4 NY2d 241, 244 (1958); Tompkins County Support Collection Unit v. Chamberlin, 287 AD2d 138, 141 (AD3 2001); also see McKinney’s Consol. Laws of N.Y., Book 1, Statutes, §§ 97, 98.

47. For the above reasons, respondent Common Council’s April 16, 2019 resolution designating the “Linwood Lafayette Urban Development Action Area” should be annulled and set aside.

48. Petitioner has no adequate remedy at law.

**PETITIONER’S SECOND CLAIM BASED ON
GENERAL MUNICIPAL LAW SECTION 51 (TAXPAYER SUIT)**

49. Petitioner repeats and realleges each and every allegation contained in paragraphs “1” through “48” of this petition, with the same force and effect as if set forth here at length.

50. Pursuant to Section 51 of the General Municipal Law of the State of New York, petitioner, as a taxpayer who has paid taxes to the City of Buffalo on an assessment for 105 Lancaster Avenue that exceeds \$1,000.00, has standing to assert a cause of action against respondent Common Council, as officers, agents, commissioners or other persons who have acted on behalf of the City of Buffalo, to prevent any illegal official act on the

part of such officers or agents.

51. The acts and omissions of respondent Common Council set forth in detail above are illegal, deceptive, fraudulent, and imperil the public interests.

52. For the above reasons, respondent Common Council's April 16, 2019 resolution designating the "Linwood Lafayette Urban Development Action Area" should be annulled and set aside, and respondent Common Council should be enjoined from approving, granting, or otherwise authorizing tax incentives, loans, or other forms of financial aid pursuant to General Municipal Law Article 16 to respondent Montante or any other person, firm or corporation relating to an urban development action area project within the Linwood Lafayette UDAA.

WHEREFORE, petitioner demands judgment against respondents as follows:

A. Declaring that the Linwood Lafayette Urban Development Action Area designated by respondent Common Council of the City of Buffalo on April 16, 2019 is inconsistent with the policy and purposes stated in Article 16, Section 691 of the New York State General Municipal Law.

B. Annuling and setting aside respondent Common Council of the City of Buffalo's April 16, 2019 resolution designating the Linwood Lafayette Urban Development Action Area.

C. Permanently enjoining respondent Common Council of the City of Buffalo from approving, granting, or otherwise authorizing tax incentives, loans, or other forms of financial aid pursuant to General Municipal Law Article 16 to respondent TM Montante Development LLC or any other person, firm or corporation relating to an urban

development action area project within the Linwood Lafayette Urban Development Action Area.

D. Granting such other and further relief, as to the Court may seem just and proper, together with the costs and disbursements of this proceeding/action.

Dated: April 30, 2019
Buffalo, New York

/s/ Arthur J. Giacalone
ARTHUR J. GIACALONE
Attorney for Petitioner
17 Oschawa Avenue
Buffalo, NY 14210
(716) 436-2646
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VERIFICATION

STATE OF NEW YORK)

SS.:

COUNTY OF ERIE)

DANIEL R. SACK, being duly sworn, deposes and says: he is the petitioner/ plaintiff in the within proceeding; that he has read the foregoing petition/complaint and knows the content thereof; that the same is true to his own knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

/s/ Daniel R. Sack
DANIEL R. SACK

Sworn to before me this
30th day of April, 2019

/s/ Artur J. Giacalone
ARTHUR J. GIACALONE
Notary Public, State of New York
Qualified in Erie County
My commission expires 05/31/2019.