



# County of Albany

Harold L. Joyce  
Albany County Office  
Building  
112 State Street - Albany,  
NY 12207

## Legislation Text

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File #: TMP-4085, Version: 1

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### REQUEST FOR LEGISLATIVE ACTION

Description (e.g., Contract Authorization for Information Services):

Resolution to cancel and charge back unenforceable delinquent City of Albany property taxes

Date: 2/21/2023  
Submitted By: Michael McGuire  
Department: Real Property Tax Service Agency  
Title: Director  
Phone: 518-487-5292  
Department Rep.  
Attending Meeting: Michael McGuire

#### Purpose of Request:

- Adopting of Local Law
- Amendment of Prior Legislation
- Approval/Adoption of Plan/Procedure
- Bond Approval
- Budget Amendment
- Contract Authorization
- Countywide Services
- Environmental Impact/SEQR
- Home Rule Request
- Property Conveyance
- Other: (state if not listed) Resolution to declare delinquent taxes as unenforceable

#### CONCERNING BUDGET AMENDMENTS

Increase/decrease category (choose all that apply):

- Contractual
- Equipment
- Fringe
- Personnel

- Personnel Non-Individual
- Revenue

Increase Account/Line No.: Click or tap here to enter text.  
Source of Funds: Click or tap here to enter text.  
Title Change: Click or tap here to enter text.

**CONCERNING CONTRACT AUTHORIZATIONS**

**Type of Contract:**

- Change Order/Contract Amendment
- Purchase (Equipment/Supplies)
- Lease (Equipment/Supplies)
- Requirements
- Professional Services
- Education/Training
- Grant

Choose an item.

Submission Date Deadline Click or tap to enter a date.

- Settlement of a Claim
- Release of Liability
- Other: (state if not listed) Click or tap here to enter text.

**Contract Terms/Conditions:**

Party (Name/address):  
Click or tap here to enter text.

Additional Parties (Names/addresses):  
Click or tap here to enter text.

Amount/Raise Schedule/Fee: Click or tap here to enter text.  
Scope of Services: Click or tap here to enter text.

Bond Res. No.: Click or tap here to enter text.  
Date of Adoption: Click or tap here to enter text.

**CONCERNING ALL REQUESTS**

Mandated Program/Service: Yes  No   
If Mandated Cite Authority: Click or tap here to enter text.

Is there a Fiscal Impact: Yes  No   
Anticipated in Current Budget: Yes  No

County Budget Accounts:

Revenue Account and Line: Click or tap here to enter text.  
Revenue Amount: Click or tap here to enter text.

Appropriation Account and Line: Click or tap here to enter text.  
Appropriation Amount: Click or tap here to enter text.

Source of Funding - (Percentages)

Federal: Click or tap here to enter text.  
State: Click or tap here to enter text.  
County: Click or tap here to enter text.  
Local: Click or tap here to enter text.

Term

Term: (Start and end date) Click or tap here to enter text.  
Length of Contract: Click or tap here to enter text.

Impact on Pending Litigation

If yes, explain: Yes  No   
Click or tap here to enter text.

Previous requests for Identical or Similar Action:

Resolution/Law Number: Click or tap here to enter text.  
Date of Adoption: Click or tap here to enter text.

**Justification:** (state briefly why legislative action is requested)

The three-year time limit to use the ordinary correction of errors process has expired, therefore, enclosed for your review is a resolution. In reviewing the 2002 List of Delinquent Taxes, it became apparent that a property tax bill was imposed on a property owned by the City of Albany in error. Parcels 65.65-1-13 and 65.65-1-14 were conveyed to the City of Albany by deed 2676-341. The deed was recorded with the Albany County Clerk on 2/28/2001. Pursuant to RPTL §406 (1) property owned by a municipal corporation and located within the corporate limits of said municipality is exempt from real property taxation. As a matter of law the properties should have been wholly exempt on the 2001 assessment roll.

Given the information provided, I am requesting that the County Legislature adopt a resolution canceling the unenforceable lien on 217 & 219 Third Street pursuant to RPTL §1138 (6). Additionally, I am requesting that said resolution authorize a chargeback of all amounts credited or guaranteed to the City of Albany. The total amount of the chargeback is \$219.36.

00/00/23

**RESOLUTION NO. \_\_\_\_\_**

**AUTHORIZING CANCELLATION OF CERTAIN UNENFORCEABLE DELINQUENT REAL PROPERTY TAX LIENS ON 217 THIRD STREET AND 219 THIRD STREET IN THE CITY OF ALBANY AND CHARGE BACK OF THE AMOUNTS CREDITED IN CONNECTION WITH SAID LIENS**

Introduced: 00/00/23

By Audit and Finance Committee:

WHEREAS, the Commissioner of the County Department of Management and Budget as Enforcing Officer ("Enforcing Officer") of the County of Albany, New York, Tax District ("Tax District") acting upon the advice of the County Department of Law has pursuant to RPTL 1138 (subds. 1 and 2) duly issued and filed with the County Clerk a Certificate of Withdrawal of the following parcels of real property from a proceeding brought by the Tax District pursuant to RPTL Article Eleven, Title 3, to foreclose the following delinquent real property tax liens affecting said parcels held by the Tax District on the ground there is a legal impediment to the enforcement of said liens:

<u>CITY OF WATERVLIET</u>				
<u>Parcel Location</u>	<u>Tax Map No.</u>	<u>Tax Lien Year and Type</u>	<u>Charge Back Amount</u>	<u>Legal Impediment</u>
217 Third St, City of Albany	65.65-1-13	2002 Property Tax	\$117.49	This parcel is owned by the City of Albany, a municipal corporation, and located within the corporate limits of the City of Albany. Pursuant to RPTL §406 (1) the property is exempt from real property taxation
219 Third St, City of Albany	65.65-1-14	2002 Property Tax	\$101.87	This parcel is owned by the City of Albany, a municipal corporation, and located within the

				corporate limits of the City of Albany. Pursuant to RPTL §406 (1) the property is exempt from real property taxation
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, and

WHEREAS, the County Legislature in its capacity as the governing body of the Tax District has upon the advice of the Enforcing Officer determined as required by RPTL 1138 (subd.6 (a)) that under the circumstances there is no practical method to enforce the collection of said liens against said parcels, and that a supplementary proceeding to enforce their collection would not be effective, now, therefore be it

RESOLVED, that pursuant to RPTL 1138 (subd.6 (a)) said liens on said parcels are hereby cancelled and the Enforcing Officer is directed to issue and within 10 days thereafter file with the County Clerk a Certificate of Cancellation of said liens, and, be it further

RESOLVED, that the Enforcing Officer is pursuant to RPTL 1138 (subd. 6(c)) hereby authorized to upon filing said Certificate of Cancellation of said liens with the County Clerk charge back to those municipal corporations within which said parcels are located any and all amounts credited or guaranteed to such corporations by the Tax District in connection with said cancelled liens, and, be it further

RESOLVED, That the Clerk of the County Legislature is hereby directed to file a copy of this Resolution with said Enforcing Officer and to forward certified copies thereof to the other appropriate County Officials.

RECEIVED

2023 FEB 17 AM 5:09

ALBANY COUNTY CLERK

# CERTIFICATE OF WITHDRAWAL

(Real Property Tax Law, §1138 (subds. 1, 2, and 3))

Index No. 5835-04

TO THE ALBANY COUNTY CLERK:

PLEASE TAKE NOTICE that the following parcel of real property included on the List of Delinquent Taxes for the "In Rem" delinquent tax lien foreclosure proceeding filed by the County of Albany, New York, Tax District in your Office under the above Index No. on January 6, 2006 covering the City of Albany in Albany County:

PARCEL No. 5835-04-0000388

OWNER(S) The Commons LLC

ADDRESS 217 Third Street

City of Albany

TAX MAP No. 06506500010130000000

is hereby **WITHDRAWN** from said foreclosure proceeding by me for one or more of the following reasons (*check all that apply*):

There is reason to believe that there may be a legal impediment to the enforcement of the tax lien(s) affecting said parcel.

The tax lien(s) on said parcel has/have been canceled or is/are subject to cancellation pursuant to section 558 of the Real Property Tax Law.

The enforcement of the tax lien(s) on said parcel has/have been stayed by the filing of a petition pursuant to the Bankruptcy Code of 1978 (Title 11 of the United States Code).

If the Tax District were to acquire said parcel, there is significant risk that it might be exposed to a liability substantially in excess of the amount that could be recovered by enforcing said tax lien(s).

The owner of said parcel has entered into an agreement to pay said tax lien(s) in installments pursuant to section 1184 of the Real Property Tax Law and has not defaulted thereon.

Said parcel was included in the Petition for Foreclosure in said proceeding, but it has since been demonstrated to my satisfaction as Enforcing Officer that said parcel is residential or farm property, and as such, said parcel is not yet subject to inclusion of such a Petition.

The facts which render said parcel eligible for withdrawal from said proceeding are as follows: \_\_\_\_\_

RPTL §406 (1) the property is exempt from real property taxation

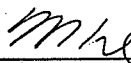
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**PLEASE TAKE FURTHER NOTICE** that pursuant to Real Property Tax Law, §1138 (sub. 2 (b) you are therefore required and directed to upon the filing of this Certificate of Withdrawal in your Office enter on said List of Delinquent Taxes the word "withdrawn" and the date of such filing opposite the description of said parcel.

**PLEASE TAKE FURTHER NOTICE** that pursuant to Real Property Tax Law, §1138 (subd. 3)) the filing of this Certificate of Withdrawal has no effect upon the delinquent real property tax lien(s) against said parcel, or upon the notice of pendency of said proceeding as to said parcel, unless such lien(s) are canceled and, if said lien(s) are not canceled, said proceeding may be reinstated against said parcel.

DATED: February 16, 2023

**TAX ENFORCING OFFICER  
COUNTY OF ALBANY, NEW YORK, TAX DISTRICT**

  
\_\_\_\_\_  
**M. DAVID REILLY Jr., Albany County  
Commissioner of Management and Budget**

RECEIVED

2023 FEB 17 AM 5:09

ALBANY COUNTY CLERK

# CERTIFICATE OF WITHDRAWAL

(Real Property Tax Law, §1138 (subds. 1, 2, and 3))

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TO THE ALBANY COUNTY CLERK:

PLEASE TAKE NOTICE that the following parcel of real property included on the List of Delinquent Taxes for the "In Rem" delinquent tax lien foreclosure proceeding filed by the County of Albany, New York, Tax District in your Office under the above Index No. on January 6, 2006 covering the City of Albany \_\_\_\_\_ in Albany County:

PARCEL No. 5835-04-0000389

OWNER(S) The Commons LLC

ADDRESS 219 Third Street

City \_\_\_\_\_ of Albany \_\_\_\_\_

TAX MAP No. 06506500010140000000

is hereby **WITHDRAWN** from said foreclosure proceeding by me for one or more of the following reasons (*check all that apply*):

There is reason to believe that there may be a legal impediment to the enforcement of the tax lien(s) affecting said parcel.

The tax lien(s) on said parcel has/have been canceled or is/are subject to cancellation pursuant to section 558 of the Real Property Tax Law.

The enforcement of the tax lien(s) on said parcel has/have been stayed by the filing of a petition pursuant to the Bankruptcy Code of 1978 (Title 11 of the United States Code).

If the Tax District were to acquire said parcel, there is significant risk that it might be exposed to a liability substantially in excess of the amount that could be recovered by enforcing said tax lien(s).



The owner of said parcel has entered into an agreement to pay said tax lien(s) in installments pursuant to section 1184 of the Real Property Tax Law and has not defaulted thereon.

Said parcel was included in the Petition for Foreclosure in said proceeding, but it has since been demonstrated to my satisfaction as Enforcing Officer that said parcel is residential or farm property, and as such, said parcel is not yet subject to inclusion of such a Petition.

The facts which render said parcel eligible for withdrawal from said proceeding are as follows: \_\_\_\_\_

RPTL §406 (1) the property is exempt from real property taxation

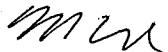
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**PLEASE TAKE FURTHER NOTICE** that pursuant to Real Property Tax Law, §1138 (sub. 2 (b) you are therefore required and directed to upon the filing of this Certificate of Withdrawal in your Office enter on said List of Delinquent Taxes the word "withdrawn" and the date of such filing opposite the description of said parcel.

**PLEASE TAKE FURTHER NOTICE** that pursuant to Real Property Tax Law, §1138 (subd. 3)) the filing of this Certificate of Withdrawal has no effect upon the delinquent real property tax lien(s) against said parcel, or upon the notice of pendency of said proceeding as to said parcel, unless such lien(s) are canceled and, if said lien(s) are not canceled, said proceeding may be reinstated against said parcel.

DATED: February 16, 2023

**TAX ENFORCING OFFICER  
COUNTY OF ALBANY, NEW YORK, TAX DISTRICT**



\_\_\_\_\_  
**M. DAVID REILLY Jr., Albany County  
Commissioner of Management and Budget**

# COUNTY OF ALBANY



## Real Estate Tax Statement

Parcel: 06506500010140000000

Location: 219 THIRD ST

Owner:  
THE COMMONS LLC  
95 LIVINGSTON AVE  
ALBANY NY 12207

Status: Square 0  
Land Valuation: 1,500  
Building Valuation: 0  
Exemptions: 0  
Taxable Valuation: 1,500  
Interest Per Diem: 210.87

Legal Description:

Deed Date: Book/Page: Interest Date: 01/31/2023

Year	Type	Bill			
2002	TL-1	1504			
Inst	Charge	Billed	Principal Due	Interest Due	Total Due
1	ALB LIENS	101.87	101.87	208.83	310.70
		101.87	101.87	208.83	310.70
<b>Year Totals</b>		101.87	101.87	208.83	310.70
<b>Grand Totals</b>		101.87	101.87	208.83	310.70

PARTIAL PAYMENTS ARE NOT ACCEPTED WITHOUT AN INSTALLMENT AGREEMENT  
IF ANY PARCEL REMAINS SUBJECT TO ONE OR MORE DELINQUENT TAX LIENS,  
THE PAYMENT YOU HAVE MADE WILL NOT POSTPONE THE ENFORCEMENT OF THE  
OUTSTANDING LIEN OR LIENS. CONTINUED FAILURE TO PAY THE ENTIRE  
AMOUNT OWED WILL RESULT IN THE LOSS OF THE PROPERTY(IES).

PAYMENT MADE TO:

ALBANY COUNTY DIVISION OF FINANCE  
112 STATE ST. ROOM 1340  
ALBANY, NY 12207  
TEL: 447-7082

\$35.00 WILL BE CHARGED FOR ANY RETURNED CHECK  
INTEREST WILL INCREASE ON THE 1ST OF THE MONTH

\*\* End of Report - Generated by Janiszak, Susan \*\*

# COUNTY OF ALBANY



## Real Estate Tax Statement

Parcel: 06506500010130000000

Location: 217 THIRD ST

Owner:  
THE COMMONS LLC  
95 LIVINGSTON AVE  
ALBANY NY 12207

Status: Square 0

Land Valuation: 2,900  
Building Valuation: 0  
Exemptions: 0  
Taxable Valuation: 2,900  
Interest Per Diem: 243.20

Legal Description:

Deed Date: Book/Page: Interest Date: 01/31/2023

Year	Type	Bill
2002	TL-1	1503

Inst	Charge	Billed	Principal Due	Interest Due	Total Due
1	ALB LIENS	117.49	117.49	240.85	358.34
		117.49	117.49	240.85	358.34

<b>Year Totals</b>		117.49	117.49	240.85	358.34
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<b>Grand Totals</b>		117.49	117.49	240.85	358.34
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PARTIAL PAYMENTS ARE NOT ACCEPTED WITHOUT AN INSTALLMENT AGREEMENT  
IF ANY PARCEL REMAINS SUBJECT TO ONE OR MORE DELINQUENT TAX LIENS,  
THE PAYMENT YOU HAVE MADE WILL NOT POSTPONE THE ENFORCEMENT OF THE  
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TEL: 447-7082

\$35.00 WILL BE CHARGED FOR ANY RETURNED CHECK  
INTEREST WILL INCREASE ON THE 1ST OF THE MONTH

\*\* End of Report - Generated by Janiszak, Susan \*\*

Q

RECEIVED  
REAL ESTATE  
FEB 28 2001  
TRANSFER TAX  
ALBANY  
COUNTY

004972

CLERK

**TRUSTEE DEED**

2001 FEB 28 P 1:11

**I, GREGORY G. HARRIS, ESQ., The Patroon Building, Five Clinton Square, Albany, New York 12207, duly qualified and acting Chapter 7 Trustee in bankruptcy of the estate of The Commons, LLC, the bankrupt, send greeting:**

**WHEREAS**, LIBER 2676 PAGE 341 by an Order made by the United States Bankruptcy Court for the Northern District of New York, by the Honorable Robert E. Littlefield, Jr., on the 22<sup>nd</sup> day of November, 2000, in bankruptcy proceedings pending in said court against the above-named bankrupt, I Gregory G. Harris, Esq., in my capacity as Trustee of the estate of said bankrupt, was duly authorized and empowered to sell the portion of the bankrupt's estate hereinafter described by private sale to The City of Albany. A copy of said Order is attached hereto as Exhibit "A".

**AND WHEREAS**, at the Hearing on the Trustee's Motion to Approve Sale on the 20<sup>th</sup> day of November, 2000, at the James T. Foley U.S. Courthouse, in the City and County of Albany, State of New York, no better offers for the said property were made.

**BEING** that it is the intent of the Trustee to convey all of the Trustee's right, title, and interest to the real property of **The Commons, LLC**, located at 165 Henry Johnson Boulevard, City of Albany, Albany County, State of New York; and 185 Henry Johnson Boulevard, City of Albany, Albany County, State of New York.

**AND BEING** that it is the intent of **The Commons, LLC**, to convey all its rights, title and interest to the real property located at 165 Henry Johnson Boulevard, County of Albany, State of New York; and 185 Henry Johnson Boulevard, County of Albany, State of New York.

**TO HAVE AND TO HOLD**, the above-bargained premises, to the said City of Albany, its heirs and assigns, to it and its use and behalf forever.

**IN WITNESS WHEREOF**, I, Gregory G. Harris, Esq., Trustee as aforesaid, have hereunto set my hand this 16<sup>th</sup> day of February, 2001.

**NOW THEREFORE, KNOW YE**, that I, Gregory G. Harris, Esq., The Patroon Building, Five Clinton Square, Albany, New York 12207, in my capacity as Chapter 7

LIBER 2676 PAGE 345

Trustee of the estate of **The Commons, LLC, 93-95 Livingston Avenue, Albany, New York 12207**, by virtue of power and authority in me vested as aforesaid, and in consideration of the sum of TWO MILLION ONE HUNDRED FIFTY THOUSAND DOLLARS (\$2,150,000.00), to me in hand paid by the said **CITY OF ALBANY**, the receipt of which is hereby acknowledged, do hereby GRANT and RELEASE unto the said **CITY OF ALBANY** its heirs and assigns forever,

*ALL that certain lot, piece or parcel of land situate in the City of Albany, County of Albany and State of New York more particularly bounded and described as follows:*

**165 Henry Johnson Boulevard**

*BEGINNING at a point on the west line of Henry Johnson Boulevard at its intersection with the North line of Second Street and running thence from said point of beginning westerly along the North line of Second Street 244.00 feet to a point at the intersection of the North line of Second Street and the East line of Oak Street; thence northerly along the East line of Oak Street and forming an interior angle of 90° 31' 00" with the last described boundary line 248.01 feet to a point at the intersection of the East line of Oak Street and the South line of Third Street; thence easterly along the South line of Third Street and forming an interior angle of 89° 29' 00" with the last described boundary line 158.24 feet to a point; thence southerly along the West line of lands now or formerly of Osmond E. Harris and forming an interior angle of 90° 00' 00" with the last described boundary line 48.00 feet to a point; thence easterly along the South boundary line of said lands now or formerly of Osmond E. Harris and forming an interior angle of 270° 00' 00" with the last described boundary line 89.64 feet to a point on the West line of Henry Johnson Boulevard; thence southerly along the West line of Henry Johnson Boulevard forming an interior angle of 89° 31' 47" with the last described boundary line 200.02 feet to the point and place of beginning, the last described boundary line along the West line of Henry Johnson Boulevard forming an interior angle of 90° 28' 13" with the first above described boundary line along the North line of Second Street.*

**185 Henry Johnson Boulevard**

*ALL that certain lot, piece or parcel of land situate in the City of Albany, County of Albany and State of New York more particularly bounded and described as follows:*

*BEGINNING at a point on the west line of Henry Johnson Boulevard at its intersection with the North line of Third Street and running thence from said point of beginning westerly along the North line of Third Street 249.41 feet to a point at the intersection of the North line of Third Street and the East line of Oak Street; thence*

LIBER 2676 PAGE 346

northerly along the East line of Oak Street and forming an interior angle of  $90^{\circ} 02' 24''$  with the last described boundary line 141.00 feet to a point; thence easterly along the South line of lands now or formerly of Henry Johnson Haven, a New York partnership and forming an interior angle of  $88^{\circ} 54' 37''$  with the last described boundary line 180.65 feet to a point; thence southerly along the West line of said lands now or formerly of Henry Johnson Haven, a New York partnership and forming an interior angle of  $90^{\circ} 22' 28''$  with the last described boundary line 2.10 feet to a point; thence easterly along the South boundary line of said lands now or formerly of Henry Johnson Haven, a New York partnership and forming an interior angle of  $269^{\circ} 37' 32''$  with the last described boundary line 26.60 feet to a point; thence southerly along the West boundary line of said lands now or formerly of Henry Johnson Haven, a New York partnership and forming an interior angle of  $90^{\circ} 22' 28''$  with the last described boundary line 3.50 feet to a point; thence westerly along the North boundary line of lands now or formerly of Mark A. Carter forming an interior angle of  $89^{\circ} 37' 32''$  with the last described boundary line 1.80 feet to a point; thence southerly along the West boundary line of said lands now or formerly of Mark A. Carter and forming an interior angle of  $272^{\circ} 20' 28''$  with the last described boundary line 39.41 feet to a point; thence easterly along the South boundary line of said lands now or formerly of Mark A. Carter and forming an interior angle of  $268^{\circ} 56' 00''$  with the last described boundary line 44.54 feet to a point on the West line of Henry Johnson Boulevard; thence southerly along the West line of Henry Johnson Boulevard forming an interior angle of  $89^{\circ} 06' 00''$  with the last described boundary line 92.42 feet to the point and place of beginning, the last described boundary line along the West line of Henry Johnson Boulevard forming an interior angle of  $90^{\circ} 40' 31''$  with the first above described boundary line along the North line of Third Street.

BEING the same premises which The Commons, LLC, acquired title to as follows:

165 Henry Johnson Boulevard

The Commons, LLC, a New York limited liability company, acquired title to 2 Oak Street by deed from Rachele Stewart and Gary Booker dated February 1, 1999 recorded March 24, 1999 in Liber 2625 cp 1107, to 4 Oak Street by deed from Marlene N. Skaarland dated February 1, 1999 recorded March 24, 1999 in Liber 2625 cp 1110, to 6 Oak Street by deed from Evelyn Wood dated April 27, 1999 recorded May 3, 1999 in Liber 2629 cp 160, to 8 Oak Street by deed from John Cali dated April 27, 1999 recorded May 3, 1999 in Liber 2629 cp 162, to 217 Second Street by deed from Joseph H. Andre dated February 8, 1999 recorded May 3, 1999 in Liber 2629 cp 157, to 219 Second Street, 223 Second Street and 161-167 Henry Johnson Boulevard by deed from Urban League of Northeastern New York dated April 27, 1999 recorded May 3, 1999 in Liber 2629 cp 188, to 225 Second Street by deed from Pearl McKinnon dated February 1, 1999 recorded March 24, 1999 in Liber

LIBER 2676 PAGE 347

2625 cp 1113, to 227 Second Street by deed from Otha Everett dated February 1, 1999 recorded March 24, 1999 in Liber 2625 cp 1115, to 229 Second Street by deed from Earline Leigh dated February 1, 1999 recorded March 24, 1999 in Liber 2625 cp 1117, to 231 Second Street by deed from St. Joseph's Housing Corp. dated January 27, 1999 recorded March 24, 1999 in Liber 2625 cp 1122, to 233 Second Street by deed from Willie Joe Roberson dated February 18, 1999 recorded March 24, 1999 in Liber 2625 cp 1126, to 222 Third Street by deed from William J. Perone, Sr. and Mary Lorraine Perone dated February 3, 1999 recorded March 24, 1999 in Liber 2625 cp 1120, to 224-226 Third Street by deed from Charles A. Commisso and Rosa A. Commisso dated April 26, 1999 recorded May 3, 1999 in Liber 2629 cp 171, to 228-232 Third Street by deed from Osmond E. Harris dated April 27, 1999 recorded May 3, 1999 in Liber 2629 cp 178, to 169 Henry Johnson Boulevard by deed from Roulyan Seth dated April 27, 1999 recorded May 3, 1999 in Liber 2629 cp 182, to 171 Henry Johnson Boulevard by deed from Roulyan Seth dated April 27, 1999 recorded May 3, 1999 in Liber 2629 cp 184, to 173 Henry Johnson Boulevard by deed from Homer Bosh dated July 21, 1999 and recorded July 23, 1999 in Liber 2635 cp 545, and to 175 Henry Johnson Boulevard by deed from William J. Lynch dated April 27, 1999 recorded May 3, 1999 in Liber 2629 cp 186.

**185 Henry Johnson Boulevard**

*The Commons, LLC, a New York limited liability company, acquired title to 217 Third Street by deed from Susan Jucius dated April 26, 1999 recorded May 3, 1999 in Liber 2629 cp 166, to 187 Henry Johnson Boulevard and 219-221 Third Street by deed from Odellia Womack dated May 17, 1999 recorded July 23, 1999 in Liber 2635 cp 547, and to 223-231 Third Street by deed from Micheli Contracting Corp. dated March 4, 1999 recorded May 3, 1999 in Liber 2629 cp 168.*

**TOGETHER** with the appurtenances and all of the estate and rights of the Trustee and the Debtor in and to said premises,

**TO HAVE AND TO HOLD**, the premises herein granted unto the City of Albany, it's heirs and assigns forever.

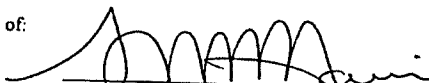
And the Trustee covenants as follows:

**FIRST**, that the City of Albany, shall quietly enjoy the said premises;

LIBER 2676 PAGE 348


SECOND, that The Trustee will forever Warrant the Title to said premises.

Signed and delivered in presence of:

  
 \_\_\_\_\_  
 Gregory G. Harris, Esq., Chapter 7 Trustee for  
 Bankruptcy Estate of The Commons, LLC  
 Chapter 7 Case No. 00-14748

State of New York )  
County of ALBANY )

On the 16<sup>th</sup> day of February, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Gregory G. Harris, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument

  
 \_\_\_\_\_  
 NOTARY PUBLIC  
 Hubert J. Snodgrass  
 Commission Expires 4-3-01  
 Qualified in Albany County



UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

LIBER 2676 PAGE 349

IN RE:

THE COMMONS LLC

Debtors.

Chapter 7  
Case No. 00-14748

**ORDER APPROVING SALE OF REAL PROPERTY**

Upon reading and filing the Order Shortening Notice and Chapter 7 Trustee's Application to Sell Real Property of the Estate pursuant to 11 United States Code Section 363 (b); and upon filing of proof of service; and upon the papers filed in support of and in opposition to the Trustee's Application; and upon the appearances of Chapter 7 Trustee, Gregory G. Harris, Esq.; the Office of the United States Trustee by Kim F. LeFebvre, Esq.; Troy Savings Bank by Hiscock and Barclay, Michael Smith, Esq., of counsel; The Petitioning Creditors by Crane Greene & Parente, by Clem Parente, Esq., and Patrick Greene, Esq., of counsel; Creditor Chris Dennis by Goldberg & Gotheim, Robert Gotheim, Esq., of counsel; City of Albany by Hon. Phil Calderone, Esq., Deputy Mayor and Gary Stiglmeier, Esq., Office of Albany Corporation Counsel; Creditor Vollmer Associates, LLP by Tobin & Dempf, Christopher Dempf, Esq., of counsel; Key Bank, NA, by Robert J. Qulia, Esq.; Creditor Anne Reynolds Copps, Esq., by Robert J. Rock, Esq.; Creditor Gomez Electrical Contractors, Inc., by Dennis Irwin, Esq. (David Golden, Esq., of counsel to Dennis Irwin); W. Haywood Burns Educational Center, Inc., by Aaron Mair; The Urban League of Northeastern New York by Hodgson, Russ, Andrews, Woods & Goodyear (Deborah Kelly, Esq., of counsel); Michael Walters, d/b/a Realty Solutions by Michael Walters; and Analytical Laboratories of Albany, Inc., and Michael Walters, d/b/a Realty Solutions having been served with a copy of the Trustee's Application after the deadline date for service set forth in the Order; and Michael Walters having individually and personally appeared and having consented to late service of the Trustee's Application and having consented to the relief requested therein; and Analytical Laboratories of Albany, Inc., having advised the Trustee through their attorney Michael Assaf, Esq., of their consent to late service of the Trustee's Application and to the relief herein Ordered by the Court; and Key Bank, NA, having withdrawn its objection to the Trustee's Application to sell; and New Covenant Charter School, by its attorney Whiteman, Osterman and Hanna, Margaret Cangolis Ruiz, Esq., of counsel, having withdrawn their objection to the Trustee's Application to sell; and the United States Trustee having withdrawn its objection to the sale; and the parties, or their counsel, who appeared in Court on November 20, 2000, having consented to the relief set forth herein; and the Court having duly deliberated and decided, it is hereby

**ORDERED**, that the Trustee be and hereby is authorized to sell the debtor's property commonly known as "The Commons" located on Henry Johnson Boulevard, Albany, New York, which property consists of a 20,000 square foot office building to the City of Albany for a purchase price of \$2,150,000, which price the Court finds to be the fair and reasonable value of said property; and it is further

**ORDERED**, that the property shall be conveyed by Trustee's Deed free and clear of liens with liens attaching to the proceeds of sale as more particularly set forth herein; and it is further

EXHIBIT A

**LIBER 2676 PAGE 350**

**ORDERED**, that at the closing on the sale of said premises, the real property taxes due and owing on said property shall be paid by the Troy Savings Bank; and it is further

**ORDERED**, that at the closing of the sale of said property the sum of \$150,000.00 shall be paid over to Gregory G. Harris, Esq., as Chapter 7 Trustee for The Commons LLC to be deposited in Trustee's Chapter 7 bank account for this debtor to be distributed only pursuant to further order of this Court; and it is further

**ORDERED**, that \$75,000.00 of the \$150,000.00 in funds to be paid over to the Trustee shall be paid, *pro rata*, to the creditors who had recorded liens filed on said property as follows:

- Lien Number 00-29 filed by Bast Hatfield, Inc.;
- Lien Number 00-31 filed by Gomez Electrical Contractors, Inc.;
- Lien Number 00-32 filed by Gomez Electrical Contractors, Inc.;
- Lien Number 00-34 filed by C.K. Dennis Architect, P.C.;
- Lien Number 00-35 filed by Vollmer Associates LLP;
- Lien Number 00-54 filed by North East Fire Protection Systems, Inc.;
- Lien Number 00-55 filed by Michael Walters (DBA) Realty;
- Lien Number 00-70 filed by Milton Home, Inc.;
- Lien Number 00-80 filed by R.J. Riccio, Inc.;
- Lien Number 00-134 filed by Analytical Laboratories of Albany, Inc.;
- Lien Number 00-135 filed by Analytical Laboratories of Albany, Inc.;
- Lien Number 00-186 filed by Milton Home, Inc.;

ALBANY COUNTY, NEW YORK  
 COUNTY OF ALBANY  
 Recorded in DEEDS  
 As Shown Hereon and  
 Exhibited  
 THOMAS G. CLINGMAN  
 ALBANY COUNTY CLERK

in an amount to be determined subject to the Trustee's further application to the Court to distribute said proceeds after consideration of any objection the Trustee may have to the validity of said lien, pursuant to applicable non-Bankruptcy Law or Bankruptcy Law and that the lien of all creditors listed herein shall attach only to \$75,000.00 of said proceeds; and it is further

**ORDERED**, that the remaining \$75,000.00 shall be distributed upon further Court Order, in accordance with the statutory and regulatory procedures applicable to Chapter 7 property distributions; and it is further

**ORDERED**, that this Order shall be served with notice of entry upon all parties previously noticed; and all parties who appeared in person or writing on November 20, 2000, the return date of Trustee's Application to Sell.

DATED: November 20, 2000.  
Albany, New York.

*Robert E. Littlefield, Jr.*

Hon. Robert E. Littlefield, Jr.  
United States Bankruptcy Judge

**DUPLICATE ORIGINAL**

h+h  
 City of Albany  
 Department of Law  
 City Hall  
 Albany NY 12207  
 Attention: Mr. G. Stiglmeier Esq.