

SUMMARY OF EVENTS SURROUNDING SHERMAN'S ACQUISITION

During the winter of 2014-2015, there was much activity in the Town of Caroga regarding the donation of a portion of the property known as Sherman's to the Town by George Abdella, Esq., President of Balboa Land Development. For an undisclosed period of time prior to the end of December 2014, Town Supervisor Ralph Ottuso and Mr. Abdella were in private negotiations about the donation of a portion of the Sherman's property to the town of Caroga. In late December 2014, the Donation Agreement and the deed were drawn up and were signed by Mr. Abdella and the Town Supervisor. On December 31, 2014, the deed transferring the subject property was filed in the Fulton County Clerk's Office. The town board did not vote on a resolution to accept this property prior to the supervisor's signing of the agreement. Mr. Ottuso did not have the legal authority to unilaterally accept the property. The supervisor announced the donation of Sherman's to the town at the town board meeting on January 14, 2015. The town board did not vote on a resolution to accept this property at the January meeting.

On February 6, 2015, Attorney Barbara S. Lee, a resident of West Caroga Lake, reviewed a copy of the signed Donation Agreement. On February 10, 2015, she wrote a letter to the Caroga Town Board outlining her concerns about the agreement. This letter was delivered to the Town Clerk, who read the letter into the minutes of the meeting. The letter expressed concerns about the legality of the Donation Agreement, about the restrictive and burdensome conditions in the Donation Agreement, about the lack of information regarding the property, and about the lack of information regarding the legal, financial, and practical ramifications to the townspeople of ownership of said property. As a result of the concerns expressed by the attendees at this meeting, a citizens committee was established by resolution of the town board. Kent Kirch, Shirley Holliday, Merryn Byrnes, Barbara Lee and Jeremy Manning volunteered to serve on the committee.

The citizens' committee held public meetings between the February and March 2015 town board meetings, meeting on February 17th, February 24th, and on March 5th and March 9th. The committee experienced resistance to the exploration of the terms of the Donation Agreement and the dissemination of information regarding this "gift". For example, on March 5th, the committee arrived for its duly scheduled and published meeting, only to discover that the supervisor had illegally called a town board meeting for the same date and time as the scheduled committee meeting. Despite being informed of the illegality of this meeting by a committee member, the supervisor refused to cancel this meeting, thereby forcing the committee to wait until he was finished conducting his illegal meeting to hold its public committee meeting. On March 9th, the committee met with the donor and the supervisor to review the changes to the agreement that were going to be recommended based upon the work the committee had done since February 11th.

The members of the committee prepared written reports to hand out to the board and the public at the March 11, 2015 town board meeting and prepared to give oral reports, as well, advising the town supervisor of its intent to make oral reports. When committee members arrived at the town hall prior to the meeting, the supervisor initially refused to allow the committee to deliver oral reports, then changed his mind. The committee delivered detailed reports addressing what had been identified as problems with the donation, and recommending changes to be made to the Donation Agreement. After the committee's reports were concluded, the supervisor called for a resolution to accept the donation of Sherman's to the town pursuant to the terms of the existing Donation Agreement, unless the donor was willing to alter the agreement to reflect some of the recommended changes, in which case the town board would accept the altered Donation Agreement. This resolution was passed unanimously. This meeting was well-attended, and when this resolution was passed, at least half the attendees got up and left, vocally dissatisfied by what had just happened.

Subsequent to the March 11, 2015 board meeting, members of the committee were approached by a number of residents of the town who expressed their displeasure at the action taken by the board to accept the Sherman's donation according to the terms of the unaltered Donation Agreement. In response

to the requests of these residents, committee members prepared a petition entitled "Petition for Permissive Referendum", which called for a public vote on whether or not to repeal the town board's acceptance of the current Sherman's Donation Agreement. Forty-five signatures were required to carry this Petition; over one hundred signatures were acquired.

The town supervisor indicated that, despite the petition, he would not bring the matter to a public vote. As a result of that public statement, approximately forty town residents joined together to file an Article 78 lawsuit against the Town Supervisor and Council Members in Fulton County Supreme Court, alleging that the supervisor had exceeded his legal authority in signing the Donation Agreement, and that the supervisor and the town council members had acted in an arbitrary and capricious manner in accepting the property without full disclosure and investigation.

The Town of Caroga hired Attorney Sal Ferlazzo to consult on these issues. At the May 7, 2015 Town Board meeting, at which there were over one hundred twenty members of the public in attendance, Mr. Ferlazzo met with the board in executive session. After the executive session, Mr. Ferlazzo informed the public that he was advising the board to rescind their previous resolution to accept the Donation Agreement signed by Mr. Ottuso and Mr. Abdella. Since the deed transferring the property neither made reference to nor incorporated or merged the language of the Donation Agreement, Mr. Ferlazzo advised the Town to keep the deed, as it provided ownership of the subject property free and clear of the terms of the Donation Agreement. The Town Board followed Mr. Ferlazzo's recommendation with a unanimous vote. Final acceptance of the property is still pending, and is dependent upon approval by the APA and the Town of Caroga Planning Board of subdivisions which were illegally created in the transfer.

Because the Caroga Town Board voted to rescind its previous resolution, thereby providing the relief that had been requested in the referendum petition, that petition is now moot, and there will be no public vote on this issue. It is contemplated at this point that the Article 78 lawsuit will be withdrawn without prejudice to refiling should the need and justification arise.

This is a very brief summary of the complicated issues surrounding the transfer of this property. For a more detailed history, please go to www.carogalakeny.com to access the transcripts of the monthly Town Board Meetings. You may also access the Facebook page entitled "Caroga Citizens Committee News" for more detailed information from the Citizens Committee and for links to newspaper articles and broadcast transcripts which have been published on this matter.

Also, in order to have a say in what happens in this community, please register to vote in the Town of Caroga if you have not already done so. You may have your election-related mail sent to any address which you designate on your registration form, and you may vote by absentee ballot if you are not in the area at election time. Voter registration forms can be obtained at the Fulton County Board of Elections at 2714 St. Hwy. 29, Suite 1, Johnstown, NY 12095 (518) 736-5526, and at the Town of Caroga Clerk's Office (518) 835-4211, extension 21.