



ERIE COUNTY WATER AUTHORITY
INTEROFFICE MEMORANDUM

April 9, 2019

To: Jerome D. Schad, Chair
Mark S. Carney, Vice Chair
E. Thomas Jones, Treasurer

Cc: Terrence D. McCracken, Secretary
Jacqueline Mattina, Associate Attorney
Karen A. Prendergast, Comptroller
Russell J. Stoll, Executive Engineer

From: Margaret A. Murphy, Attorney

Subject: Request for Information: Cell Tower Lease Consultants

The Erie County Water Authority (the “Authority”) has entered into multiple lease agreements with various cell phone providers, allowing them to place cellular equipment on three water tanks and on two towers. The Authority currently generates approximately \$3.2 million in revenues from these lease agreements, with an average escalation provision increasing these revenues each year by three percent (3%).

The New York Court of Appeals has recently held cellular equipment may be subject to real property taxes chargeable to the owner of the equipment. *T-Mobile Northeast, LLC v. DeBellis*, 32 N.Y.3d 594 (2018). Recently, the Legal Department has had several requests to renegotiate the terms and conditions of current cell lease agreements. We do not know whether this recent Court of Appeals decision is the catalyst for these requests to renegotiate or if this decision will have any impact on the value of such leases.

It appears to be the Authority’s past practice to accept the terms and conditions offered by these cell phone providers. There is no one within the Authority who has any knowledge or experience in valuing these leases or who can advise the Legal Department if the Authority is receiving full market rates for such leases.

The Legal Department, however, has found at least eight companies who act as cell tower lease consultants for property owners. Consequently, before the Legal Department enters into any subsequent cell lease agreement, it would like to

submit a request for information to these consultants to acquire information as to their scope of services and fee structure. Once the responses to this RFI are reviewed by the Comptroller, Legal and Engineering, we can report back to the Board with a recommendation as to whether the use of a consultant could benefit the Authority.