

Buffalo Fiscal Stability Authority

Resolution No. 04-07

DETERMINATION OF COVERED ORGANIZATION STATUS

WHEREAS, in June 2003, the New York State Legislature declared that a condition of fiscal difficulty had existed in the City of Buffalo (the “City”) for several years, that the City was in a state of fiscal crisis that is threatening the welfare of the inhabitants thereof, and that action should be taken to preserve essential services to City residents while ensuring that taxes remain affordable; and

WHEREAS, the Buffalo Fiscal Stability Authority (“BFSA”) was created by Chapter 122 of the Laws of 2003 to be a corporate governmental agency and instrumentality of the State of New York constituting a public benefit corporation to oversee the budget, financial and capital plans of the City and of “Covered Organizations” as defined in Section 3851(13) of the Buffalo Fiscal Stability Authority Act (the “Act”); and

WHEREAS, the New York State Legislature enacted the Act and provided BFSA with a broad range of financial control and oversight powers upon a finding that (i) “the city has repeatedly relied on annual extraordinary increases in State aid to balance its budget, and that the State cannot continue to take such extraordinary actions on the city’s behalf”, and that (ii) “the maintenance of a balanced budget by the city of Buffalo is a matter of overriding State concern requiring the legislature to intervene to provide a means whereby the long term fiscal stability of the city will be assured, the confidence of investors in the city’s bonds and notes is preserved, and the economy of the region and the State as a whole is protected”; and

WHEREAS, by letter dated August 20, 2003, the City advised BFSA that the Buffalo City School District, the Joint Schools Construction Board, the Buffalo Municipal Housing Authority, the Buffalo Urban Renewal Agency, the Erie County Industrial Agency, the Erie County Board of Elections and the Buffalo and Erie County Public Library were Covered Organizations; and

WHEREAS, the City provided BFSA a list of 76 entities that receive City Financial Support, comprised of not-for-profit corporations and public benefit corporations, public authorities, municipal corporations, governmental boards and taxing districts; and

WHEREAS, Covered Organizations are subject to financial control and oversight by BFSA because they “receive or may receive moneys directly, indirectly or contingently from the City”, which payment or possibility of payment by the City could materially affect the ability of the City to adopt and maintain a budget pursuant to the provisions of the Act; and

WHEREAS, BFSFA has analyzed the financial relationships of the governmental agencies, public authorities and public benefit corporations with relationships to the City to determine which should be classified as Covered Organizations within the meaning of the Act and therefore subject to BFSFA financial control and oversight powers under the Act; and

WHEREAS, BFSFA has determined that not-for-profit corporations with relationships to the City including but not limited to the Buffalo Economic Renaissance Corporation, Buffalo Neighborhood Revitalization Corporation and Development Downtown Inc. do not meet the definitional standard for a Covered Organization within the meaning of the Act; and

WHEREAS, by explicit reference in the Act, the Buffalo City School District Buffalo Municipal Housing Authority and the Joint Schools Construction Board are Covered Organizations under the Act; and

WHEREAS, BFSFA has determined that the Buffalo Sewer Authority, the Buffalo Urban Renewal Agency, the Buffalo Water Board, the Buffalo Water Finance Authority, the Buffalo and Erie County Public Library, the Erie County Industrial Development Agency, and the Erie County Board of Elections are governmental agencies, public authorities and public benefit corporations that each meet the definitional standard for a Covered Organization within the meaning of the Act; and

WHEREAS, BFSFA has determined that it is necessary and desirable to commence financial control and oversight of Covered Organizations as soon as practicable to effectuate its mandate under the Act; now, therefore, it is hereby

1. RESOLVED, that not-for-profit corporations with relationships to the City including but not limited to the Buffalo Economic Renaissance Corporation, Buffalo Neighborhood Revitalization Corporation and Development Downtown Inc. are not Covered Organizations within the meaning of the Act;
2. BE IT FURTHER RESOLVED, that the following entities are Covered Organizations within the meaning of the Act:

Buffalo City School District
Joint Schools Construction Board
Buffalo Municipal Housing Authority
Buffalo Sewer Authority
Buffalo Urban Renewal Agency
Buffalo Water Board
Buffalo Water Finance Authority
Buffalo and Erie County Public Library
Erie County Industrial Development Agency
Erie County Board of Elections;

3. BE IT FURTHER RESOLVED AND ORDERED, that under the authority granted to BFSA in Section 3851(13) of the Act to exempt Covered Organizations from the provision of the Act upon a finding that any exemption does not materially affect the ability of the City to adopt and maintain a budget pursuant to the provision of the Act, each of the respective operations and financial activities of the Buffalo Sewer Authority, the Buffalo Water Board, the Buffalo Water Finance Authority, the Buffalo and Erie County Public Library, the Erie County Industrial Development Agency, and the Erie County Board of Elections do not currently materially affect the ability of the City to adopt and maintain a budget pursuant to the provision of the Act and, accordingly, each is exempted from financial control and oversight by BFSA until such time as BFSA shall terminate any such exemption or exemptions upon a determination that the circumstances upon which an exemption was granted are no longer applicable.

This Resolution shall take effect immediately.

Approved January 21, 2004

/S/ Richard Tobe
Secretary