

CITY OF CANANDAIGUA
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Mr. Matthew Hankey, Chief Operating Officer
New Energy Equity, LLC
705 Melvin Avenue, Suite 100
Annapolis, MD 21401

By email: mhankey@newenergyequity.com

RE: access easement for 4520 County Road 46
Canandaigua, New York

Dear Mr. Hankey:

As part of the City's solar array project with New Energy, LLC, recent real property surveys and title searches were performed related to the City of Canandaigua's property located in the Town of Canandaigua on County Road 46. As a result of those searches the City has been recently informed that it does not appear to have a recorded easement to access its property from County Road 46. There appears to be a narrow strip of land between the City's property line and the public right-of-way. Unfortunately, the last owners of record for this strip of land are still identified as Misters Schwartz and Katz, as set forth in the last deed transfer from 1932. This lack of current owner makes any attempt by the City to obtain written access to its parcel a lengthy and complicated process.

This letter is meant to assure you that the City of Canandaigua has owned, occupied and accessed its property from County Road 46, across an established driveway, for over 50 years. While it is possible that an easement is already set forth in the recorded deeds but has simply failed to be mapped, I am confident regardless that the City of Canandaigua has a clear right of title to this land in order to access its property. Under New York State Law property cannot be landlocked; in the sense that a property owner has a right to access its property from the public roadway, even if such access is across the property of another. This right of prescriptive easement ensures that, if the City's ingress and egress is challenged by an unknown property owner, the City has legal grounds and support for the Courts to grant an easement for such continued and perpetual use. Alternatively, the City has clearly demonstrated a claim for adverse possession in that it was only recently made aware that it did not have recorded rights to this property but for the last 50 years has acted in all manners and use as if the property belonged to the City. Additionally, if necessary, and generally as a last resort, the City of Canandaigua could exercise its power of eminent domain if it establishes a public purpose for its continued use of this property.

I understand that the Town of Canandaigua Planning Board has requested that the City review this situation and document its understanding with respect to the unrecorded easement. Based on our research I have found the following details to be germane to the situation.

- The City acquired its existing property from a number of different transactions beginning in 1925 and ending in 1963.
- Those recorded deeds contain numerous easements that no longer appear on the most recent map dated April 27, 2016 and prepared by Hunt Engineers.
- The map prepared by Hunt Engineers shows a narrow strip of land owned by Herman Schwartz and Solomon Katz, such land existing between the City's parcel and County Road 46.
- Mistrs Schwartz and Katz obtained the properties in 1932 from the Ancillary Receivers of the properties formerly owned by New York State Railways. There have been no recorded actions with respect to this property since that 1932 transfer.
- Since the City believed it had acquired all the land adjacent to County Road 46, it has been openly and notoriously accessing its property across a paved driveway for over 50 years.

Based on the above, I am comfortable asserting that the City of Canandaigua has a valid legal claim and right of access to this property.

The City of Canandaigua is committed to working with you on this solar array project. If there is any additional information that we can provide or any other manner in which we may be of assistance, please do not hesitate to contact us.

Sincerely,



Michele O. Smith
Corporation Counsel

PC: Ted Andrzejewski, City Manager
James Sprague, Director of Public Works
City Council
Bob Raeman, Hunt Engineers