

Greater Syracuse Property Development Corporation

Enforcement Mortgages

APRIL 2017



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Contents

- Report Highlights 1**

- Enforcement Mortgages 2**
 - How Should Land Bank Officials Monitor Buyers' Compliance With Enforcement Mortgages?. 3
 - Officials' Monitoring of Compliance Was Not Always Timely. 3
 - Records of Enforcement Mortgages Need Improvement 6
 - What Do We Recommend? 6

- Appendix A: Response From Land Bank Officials. 8**

- Appendix B: Audit Methodology and Standards.12**

- Appendix C: Resources and Services14**

Report Highlights

Greater Syracuse Property Development Corporation

Audit Objective

Determine if Land Bank officials have established adequate procedures to monitor buyers' compliance with the redevelopment plan requirements for enforcement mortgages.

Key Findings

- Procedures to monitor buyers' compliance with the redevelopment plans exist, but monitoring was not always timely.
- Enforcement mortgage property records did not always contain work-in-progress status and an activity history was not retained for each.

Key Recommendations

- Monitor enforcement mortgage properties and communicate with buyers before the 12-month expected completion date to help identify buyer issues or concerns sooner to facilitate the timely return of properties to productive use.
- Document all communications with buyers to show the work-in-progress property status.
- Retain a historical activity record for each property after the enforcement mortgage has been discharged.

Land Bank officials generally agreed with our findings and recommendations and indicated they have taken, or plan to take, corrective action.

Background

The Greater Syracuse Property Development Corporation (Land Bank) is a not-for-profit corporation authorized by the New York State "Land Bank Act" and is considered a local authority for the purposes of New York State Public Authorities Law.

The Land Bank is governed by a five-member board of directors (Board) appointed by the City of Syracuse (City) and Onondaga County (County). The Board is responsible for approving the Land Bank's acquisition and disposition of properties. An appointed Chief Executive Officer (CEO) is responsible, along with other administrative staff, for the Land Bank's day-to-day management under the Board's direction. The Director of Operations¹ is responsible for ensuring properties with enforcement mortgages are redeveloped timely.

Quick Facts

2016 Budgeted Appropriations	\$6.63 million
Properties Acquired	684^a
Properties Sold	281^a
Property Sales	\$2.85 million^a

^a From January 1, 2015 to September 30, 2016

Audit Period

January 1, 2015 – September 30, 2016. We extended the audit period to November 30, 2016 to assess the mortgage monitoring timeliness.

¹ The Director's former title was Property Manager.

Enforcement Mortgages

The City and County entered into an agreement in March 2012 to establish the Land Bank, which is located in the City. The primary purpose of the Land Bank is to facilitate the return of vacant, abandoned, underutilized and tax-delinquent properties to productive use. The Land Bank acquires foreclosed properties from the City and County and sells them to responsible developers or owner-occupants (buyers) whose application to purchase property is approved by the Board. Property sales requiring significant renovation or improvement are subject to an enforcement mortgage² that secures a lien against the property.³

The Land Bank executes a Development Enforcement Note and Mortgage Agreement (Agreement) that sets the Land Bank's lien terms, or enforcement mortgage. As part of this Agreement, the buyer agrees to improve, develop and/or repair the property in accordance with a redevelopment plan, which addresses the scope of the renovations needed. Once the required renovations or improvements are complete, Land Bank officials discharge the mortgage and the property is considered to be back in productive use.

Pursuant to the Agreement, the buyer agrees to complete any agreed-upon work on the property within one year from the closing sale date (completion date). On or before the completion date, the buyer must provide the Land Bank with a certificate of adequacy from the respective local government's Code Enforcement Office showing that the property meets code requirements. Upon certificate receipt, the Land Bank officials inspect the property to determine if the buyer has met the terms of the Agreement and completed the redevelopment plan. If the agreed-upon improvements have been made, the Land Bank issues to the buyer a certificate of substantial compliance and a mortgage discharge document.

The buyer is then responsible for filing the discharge-of-mortgage document with the County Clerk for lien removal on the property. If a buyer does not achieve substantial compliance by the required completion date, the Land Bank may give the buyer a 30-day written notice to correct any deficiencies. If a notice is issued and insufficient action is taken by the buyer within the 30 days, the Agreement is considered in default and the Land Bank may begin foreclosure proceedings to take back the property. Before issuing a written notice, Land Bank officials sometimes extend the completion date for the buyer if unforeseen obstacles arise or if the Land Bank sees adequate evidence of redevelopment progress.

2 The Land Bank does not require an enforcement mortgage for all properties that are sold. The following properties are exempt: 1) properties sold to a local government, 2) properties that require minimal renovations, 3) properties sold to buyers who receive third-party funding from Home Headquarters (a federally funded program) and 4) properties that are considered side lots.

3 The County Clerk places a lien (on behalf of the Land Bank) on the property upon receipt of the agreement from the Land Bank.

Adequate procedures to effectively monitor compliance with the Agreements helps to secure the buyers' completion of their redevelopment plans and help the Land Bank meet its mission to eliminate vacant and abandoned properties, lessen the burdens they pose to local governments, improve quality of life for surrounding residents and grow the local property tax base.

How Should Land Bank Officials Monitor Buyers' Compliance With Enforcement Mortgages?

Land Bank officials should have procedures in place to monitor a buyer's progress before the 12-month completion date stipulated in the Agreement. The Director of Operations (Director) should communicate with buyers regularly to track the progress of work completed and follow up with buyers to request the certificate of adequacy and to promptly schedule a viewing inspection of the property to determine if the agreed-upon work has been performed. If the work has been completed, the Land Bank should issue a certificate of substantial compliance to allow for a timely mortgage discharge. Land Bank officials should also have adequate records to track the work-in-progress status of properties with enforcement mortgages before and after the mortgages are discharged. The records should include expected completion dates for each property's redevelopment, where required. If Land Bank officials choose to extend the completion date for any property, the Director should document the new completion date and the reasons the extension was granted and communicate the new date to the buyer.

Officials' Monitoring of Compliance Was Not Always Timely

The CEO told us procedures to determine whether buyers are complying with the redevelopment plans typically do not begin until the end of the 12 months, unless a buyer requests an inspection sooner. The CEO generates a monthly compliance spreadsheet from an electronic property management system to determine which properties have reached or exceeded the 12-month completion date. The Director uses this spreadsheet to determine which buyers to contact to conduct property inspections.

However, in some instances the Director or the Assistant Property Manager viewed the properties or conducted property inspections several months after the completion date and after receiving a certificate of adequacy from a buyer. If there is a problem with the inspection, the Director and CEO verbally discuss and assess whether to issue a 30-day written notice or extend the buyer's completion date based on the adequacy of work completed. However, the Director did not always document the work-in-progress property status.

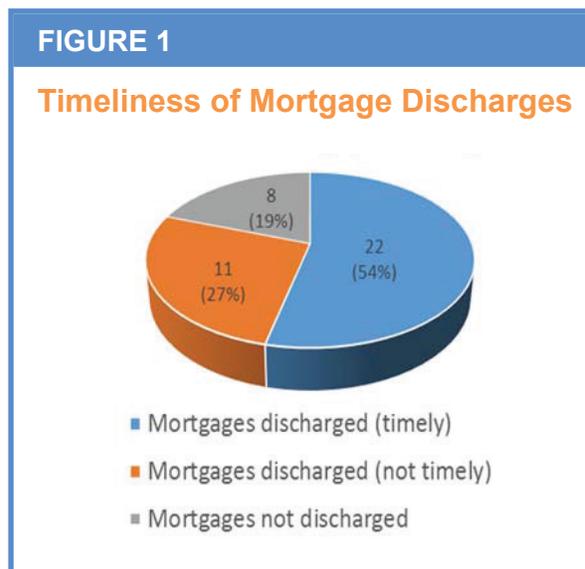
We requested a list of all properties sold with enforcement mortgages, but the CEO was unable to provide us with such a list. The Land Bank's electronic property management system identifies properties that currently have an enforcement mortgage but did not identify discharged enforcement mortgage properties. Therefore, we obtained a list of all properties sold from June 2014 through June 2015 and identified 84 properties that likely had enforcement mortgages.⁴ We then selected a random sample of 41 properties to determine whether buyers complied with the redevelopment plan requirements and to assess the Land Bank's monitoring process.

As of the end of our onsite fieldwork on November 30, 2016, the Land Bank issued certificates of substantial compliance and discharged mortgages for 33 of the 41 properties tested (80 percent); 22 of these discharges were timely.⁵ The remaining 11 mortgage discharges were not timely, averaging about five months late.

Mortgages Not Discharged – The eight mortgages not discharged were an average of 11 months past the expected completion dates. They were not discharged because the buyers had not satisfied their redevelopment plans' requirements.

Prior to our fieldwork, the Director completed inspections on two of these mortgages, but the Land Bank did not receive certificates of adequacy (to indicate local property code compliance) from the buyers. In addition, Land Bank officials had not adequately documented communications with buyers regarding the redevelopment status, reasons the required work was not done or whether the completion dates would be extended.

During our fieldwork, the Director inspected an additional two of these properties. Land Bank officials told us the buyers had not completed the required renovations and improvements on schedule for a variety of reasons. For example, one project was delayed due to zoning issues, other buyers lacked funds to complete the



⁴ See Appendix B for additional information on our audit methodology.

⁵ For testing purposes, we allowed 13 months (instead of 12) for the Land Bank to complete its procedures to inspect the property, issue a certificate of substantial compliance and discharge the mortgage.

work or had problems with contractors and one buyer was waiting for improved weather conditions.

The CEO told us the Land Bank plans to extend expected completion dates for seven of the eight properties not yet discharged, including the four above, because the buyers have made adequate redevelopment progress, and will issue a 30-day written notice to one buyer because no additional progress was made to improve the property.

We also reviewed the Land Bank's monthly compliance spreadsheet as of September 30, 2016, which listed 38 properties with current enforcement mortgages that have exceeded the 12-month expected completion date. The properties listed were between one day and 16 months (averaging four months) past the agreed-upon completion dates.

We judgmentally selected 15 properties to assess whether officials followed adequate procedures to monitor compliance with the redevelopment plans.⁶ Prior to our fieldwork, the Director completed an inspection on one property but had not completed inspections on the remaining 14 properties or received certificates of adequacy from the buyers. There were also no documented communications with buyers regarding the work-in-progress status on the properties. However, the Director followed up with buyers during our audit. As of the end of fieldwork, he had performed inspections on all but two properties and received certificates of adequacy for two. On average, the inspections were completed 65 days after the required completion date.

Land Bank officials told us that they have agreed to extend the expected completion date for 13 owners that have been making adequate progress. However, no work was performed by the buyers on the remaining two properties, so officials recently started the foreclosure process (in October and November 2016).

While officials have procedures to monitor buyers' compliance with the redevelopment plans after the one-year expected completion date, their actual monitoring was not always timely. The Land Bank is ultimately dependent on the buyers to complete the necessary renovations or improvements to the properties; when the required work is not completed timely, the Land Bank's ability to discharge a mortgage is delayed and the property cannot be returned to productive use.

To help facilitate buyers' compliance with the Agreement terms, Land Bank officials should contact buyers earlier in the one-year period to assess the status of work in progress prior to the expected completion date. This would reinforce

⁶ We excluded properties that were included in the random sample. See Appendix B for detail on our selection methodology.

the officials' expectation that buyers complete their obligations and would alert officials to potential issues sooner in order to take timely action if a buyer is making insufficient progress.

Records of Enforcement Mortgages Need Improvement

Enforcement mortgage property records did not always contain the work-in-progress status or the reasons completion date extensions were granted and approved by Land Bank officials. When officials grant a buyer additional time to complete the necessary renovations or improvements, there are no formal procedures in place to document the new completion date or reason for the extension. For example, for each of the 15 properties we selected from the monthly compliance spreadsheet for review, officials provided us with verbal explanations as to why extensions were granted, but their reasoning was not documented. Formally documenting updated completion dates and reasons for extensions will help keep all officials better informed of each property's status and what work remains to return the property back to productive use. In addition, the updated completion dates should be formally communicated to the buyers to make them aware of the new expected completion dates.

In addition, although officials kept enforcement mortgage property records prior to mortgages being discharged, the activity history for each property was not retained once the mortgage was discharged and the property returned to productive use. Keeping a historical record of enforcement mortgage properties will not only help officials track and monitor the status of the individual enforcement mortgages, but will also allow Land Bank, City and County officials to measure the Land Bank's overall performance on improving properties and meeting its goal to return the properties back to productive use.

Officials told us they are updating the electronic property management system to generate reports for evaluating properties in redevelopment with an enforcement mortgage and those with mortgages that have been discharged. These improvements to the records should also make it easier for Land Bank officials to establish and track performance measures related to buyers' compliance with the enforcement mortgage requirements.

What Do We Recommend?

Land Bank officials should:

1. Monitor enforcement mortgage properties and communicate with buyers before the 12-month expected completion date to help identify buyer issues or concerns to facilitate the timely return of properties to productive use.

-
2. Follow up with buyers to request certificates of adequacy, schedule inspections immediately following the 12-month deadline and take actions to recover properties, when appropriate.
 3. Document all communications with buyers to show the work-in-progress property status.
 4. Document all extended completion dates and extension reasons and formally communicate extended completion dates to buyers.
 5. Ensure that the property management system is updated in order to retain historical record activity of each property after the enforcement mortgage has been discharged.

Appendix A: Response From Land Bank Officials



April 21, 2017

Office of the State Comptroller
Division of Local Government and School Accountability
Syracuse Regional Office
Rebecca Wilcox, Chief Examiner
State Office Building, Room 409
333 E. Washington Street
Syracuse, NY 13202-1428

Re: **Audit Response and Corrective Action Plan**
Greater Syracuse Property Development Corporation
Enforcement Mortgages
2017M-39

Dear Ms. Wilcox:

On behalf of the Greater Syracuse Property Development Corporation (“Land Bank”), please accept this letter as the Land Bank’s response and corrective action plan to your Draft Audit Report referenced above.

Audit Response

While the Land Bank agrees with the facts stated in the audit, the following information is relevant to understanding the context of the Development Enforcement Mortgage in relation to the overall mission and purpose of the Land Bank.

Land Banks are created by local units of government to acquire vacant and abandoned properties and facilitate their return to productive use. Our mission is:

To address the problems of vacant, abandoned, or tax delinquent property in the City of Syracuse and the County of Onondaga in a coordinated manner through the acquisition of real property pursuant to New York Not-for-Profit Corporations Law section 1608 and returning that property to productive use in order to strengthen the economy, improve the quality of life, and improve the financial condition of the municipalities, through the use of the powers and tools granted to Land Banks by the Laws of the State of New York.

The moment the Land Bank returns a property to private ownership, the property is returned to taxable status. Now that the City of Syracuse is able to foreclose on tax-delinquent properties and turn those properties over to the Land Bank, the City has become a far better collector of delinquent taxes and, therefore, these properties will be less likely to become severely tax delinquent again.

431 E. Fayette Street, Suite 375; Syracuse NY 13202 | P: 315-422-2301
E: info@syracuselandbank.org | www.syracuselandbank.org

The Land Bank expects its buyers to renovate the acquired property and return it to occupied status as soon as reasonably possible. The Land Bank sells most of its properties in ‘as-is’ condition, requiring that buyers renovate within 12 months of taking title pursuant to a scope of work agreed upon at the time of sale. The Land Bank screens its buyers to ensure that they have the skills and financial capacity to complete the required renovations.

In order to enforce this renovation requirement and ensure outcomes consistent with our mission, buyers are required to enter into a “Development Enforcement Mortgage Agreement” which places a lien against the property until the completion of the agreed upon renovations within a specified period of time. The value of the lien is equal to either the assessed value at the time of sale or the cost of the planned renovations, whichever is greater. If the buyer fails to complete the renovations by the Completion Date stated in the Development Enforcement Mortgage Agreement, the buyer is then in default and the Land Bank may undertake enforcement proceedings, including foreclosure to regain title. While the property owner could pay off the value of the mortgage to avoid foreclosure, the Land Bank has set the lien figure at a point which strongly discourages such behavior and makes such a result unlikely.

The Land Bank’s primary objective is for buyers to complete the agreed upon renovations. Taking back the property by way of foreclosure and/or seeking monetary damages from a buyer do not directly further the mission and purpose of the Land Bank and, as such, remain secondary objectives. If a buyer demonstrates progress in completing the renovations, has a good reason for missing the Completion Date, and has a reasonable plan in place to finish the required renovations, the Land Bank has often granted extensions of time. In a few cases where no work has been done by the Completion Date and/or there is no reasonable plan in place to finish the work, the Land Bank has had to take enforcement action including the possibility of foreclosure. To date, the Land Bank has been able to regain title to non-complaint properties via a deed in lieu of foreclosure from cooperative property owners.

It is important to recognize that if the Land Bank does not promptly discharge a Development Enforcement Mortgage or promptly initiate a foreclosure proceeding upon a default, the lien associated with the Development Enforcement Mortgage remains on the property and the buyer will have to contact the Land Bank at some point to satisfy the lien before a sale or refinancing of the property is possible. While promptly following up and pursuing foreclosure on overdue Development Enforcement Mortgages ensures that the required renovations are completed in a timely manner, the failure to do so does not jeopardize the overall mechanism of enforcement.

Corrective Action Plan

Audit Recommendation:

Monitor enforcement mortgage properties and communicate with buyers before the 12-month expected completion date to help identify buyer issues or concerns to facilitate the timely return of properties to productive use.

Implementation Plan of Action:

Based on feedback during the audit fieldwork we decided to implement a more robust tracking system for enforcement mortgages within our property management software. This enables us to more quickly pull reports on outstanding enforcement mortgages and whether they are 1-year mortgages enforcing mandatory renovations or 5-year mortgages enforcing mandatory owner-occupancy.

Once per month our Director of Operations pulls this report and calls, emails, or sends a letter to property owners whose mortgages expire later that month, requesting that they schedule a final inspection.

Implementation Date:

This was implemented in fall 2016.

Person Responsible for Implementation:

The Land Bank's Director of Operations is responsible for implementation.

Audit Recommendation:

Follow up with buyers to request certificates of adequacy, schedule an inspection immediately following the 12-month deadline and take actions to recover properties, when appropriate.

Implementation Plan of Action:

When the Director of Operations pulls the report described above, they also send an 'overdue' letter to the property owners whose mortgages expired the prior month, but haven't yet completed their final inspection. If they don't respond to that 'overdue' letter within 30 days they are referred to our attorney's office.

Implementation Date:

This was implemented in fall 2016.

Person Responsible for Implementation:

The Land Bank's Director of Operations is responsible for implementation.

Audit Recommendation:

Document all communications with buyers to show the work-in-progress property status.

Implementation Plan of Action:

By developing a more robust tracking system within our property management database, there is a location to store notes on all communication with property owners and to attach letters, emails, and other documents. The Director of Operations is the primary point of contact with property owners, but other staff do communicate with them, as well, and the Assistant Property Manager often conducts progress inspections. All of these interactions are to be noted within the enforcement mortgage 'service' attached to that property.

Implementation Date:

This was implemented fall 2016.

Person Responsible for Implementation:

The Land Bank's Director of Operations is responsible for implementation and supervises other staff who are part of this process. He regularly reminds other staff of the importance of documenting all communication within the enforcement mortgage 'service.'

Audit Recommendation:

Document all extended completion dates and extension reasons, and formally communicate extended completion dates to buyers.

Implementation Plan of Action:

By developing a more robust tracking system within our property management database, there is a location for extension dates to be noted. Letters or emails granting these extensions are attached here, as well.

Implementation Date:

This was implemented fall 2016.

Person Responsible for Implementation:

The Director of Operations or the Executive Director has the authority to grant an extension. When an extension is granted they are to note it, and to note the reason for the extension, in the property management database.

Audit Recommendation:

Ensure that the property management system is updated in order to retain historical record activity of each property after the enforcement mortgage has been discharged.

Implementation Plan of Action:

Previous to this audit, once an enforcement mortgage was closed out, the property status in our property management database was changed from “compliance monitoring” to “disposed” and there was no record of the enforcement mortgage start or end dates in the database that could be queried in a report. Original copies of the mortgages are kept in hard copy, but cannot be queried.

By creating a ‘service’ for enforcement mortgages within our property management software, we can now query open enforcement mortgages and closed enforcement mortgages. We started by digitizing the active mortgages so that we could manage them better, and slowly worked to digitize older mortgages that had already been closed out. This work has now been completed and the entire history of enforcement mortgages issued to date can be queried.

Implementation Date:

This was implemented in spring 2017.

Person Responsible for Implementation:

This was implemented by our Program Manager.

Sincerely,

Katelyn Wright /
Executive Director

Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 16 of the New York State Not-for-Profit Corporation Law. To achieve the audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed Land Bank officials and employees and observed and reviewed the Land Bank's procedures to gain an understanding of the application, sales and agreement process for enforcement mortgage properties, including the redevelopment plans. We also obtained an understanding of how the Land Bank monitors buyers' compliance with agreements and the procedures for addressing properties not redeveloped by the completion date.
- We obtained a list of all properties sold from June 2014 through June 2015 to identify properties that likely had enforcement mortgages. We selected properties sold in this period to allow buyers the opportunity to complete redevelopment by the completion dates within our audit period and for officials to complete inspections within our audit period. We excluded the following properties/parcels that are exempt from enforcement mortgages: 1) properties sold to a local government, 2) properties that required minimal renovation, 3) properties sold to buyers who received third party funding from Home Headquarters (a federally funded program), and 4) properties that are considered side lots.
- From the remaining 84 properties sold, we randomly sampled 41 properties with enforcement mortgages to determine whether buyers complied with the requirements of the redevelopment plans and to assess the Land Bank's monitoring process. We used 13 months from the property sale dates of these properties to determine the timeliness of the redevelopment, inspection, issuance of the certificate of substantial compliance, and mortgage discharge. Land Bank officials confirmed that all 41 properties in our sample had enforcement mortgages.
- We reviewed 15 properties from the Land Bank's monthly compliance spreadsheet with sale dates up to September 30, 2015 (exclusive of our random sample of 41 properties) to allow officials 12 months to assess these properties during our audit period ending September 30, 2016. We selected properties that had no work-in-progress status documented on the spreadsheet and properties that were aged (sold in 2014). We inquired why properties remained on the list and assessed the reasonableness of Land Bank officials' responses.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective.

We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

Good management practices dictate that the Board has the responsibility to initiate corrective action. As such, the Board should prepare a plan of action that addresses the recommendations in this report and forward the plan to our office within 90 days.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/localgov/lgli/pdf/cybersecurityguide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/localgov/finreporting/index.htm

Research Reports / Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/localgov/academy/index.htm

Contact

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.state.ny.us

www.osc.state.ny.us/localgov

Local Government and School Accountability Help Line: (866) 321-8503

SYRACUSE REGIONAL OFFICE – Rebecca Wilcox, Chief Examiner

State Office Building, Room 409, 333 E. Washington Street, Syracuse, NY 13202-1428

Tel: (315) 428-4192 • Fax: (315) 426-2119 • Email: Muni-Syracuse@osc.state.ny.us

Serving: Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence counties



Like us on Facebook at facebook.com/nyscomptroller

Follow us on Twitter [@nyscomptroller](https://twitter.com/nyscomptroller)