

STATE OF NEW YORK
SUPREME COURT COUNTY OF ONONDAGA

In the Matter of the Claim of

NEW DIMENSIONS PROPERTIES, LLC,

Claimant,

NOTICE OF CLAIM

-against-

TOWN OF CICERO,

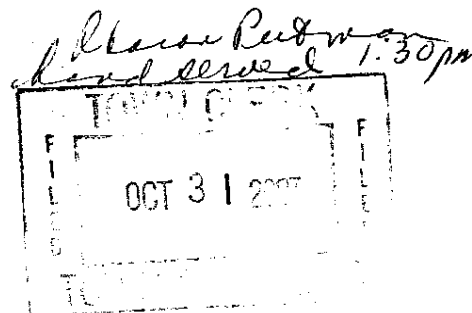
Respondent.

TO: TOWN OF CICERO

PLEASE TAKE NOTICE that New Dimensions Properties, LLC hereby makes the following claims for damages and injunctive relief against the Town of Cicero, as follows:

1. The name of the claimant is New Dimensions Properties, LLC ("Claimant"), having offices at 213 Rutger Street, Utica, New York 13501.
2. The name and address of the attorney for claimant is David G. Burch, Esq., Green & Seifter, Attorneys, PLLC, 110 West Fayette Street, One Lincoln Center, Suite 900, Syracuse, New York 13202.
3. The nature of the claims is for violations of the following: (a) 42 U.S.C. § 1983; (b) the Condemnation Clause of the 5th Amendment of the United States Constitution; and (c) the Due Process Clause of the 14th Amendment of the United States Constitution.
4. The claims arose between July 1, 2007, and the date of this Notice of Claim. The nature of the claims is such that the claims are ongoing.
5. The claims arose in the following manner:

cc. Superior
Assessor
Meadow Lane Farm
Haylor Freyer & Coon



- i. Claimant is the owner of certain real property in the Town of Cicero, County of Onondaga and State of New York with an address of 5575 Meltzer Court, and a Tax Map Number of 092.-01-03.1 (the "Property").
- ii. The Town of Cicero is a domestic municipal corporation existing under the laws of the State of New York and, upon information and belief, at all times hereinafter mentioned, Anita Barnello, was the duly appointed and acting Assessor of the municipal corporation, whose duties include the preparation and filing of its real property assessment rolls for the year.
- iii. Upon information and belief, the Board of Assessment Review (the "Board") is a board of assessment review organized and existing pursuant to the laws of the State of New York.
- iv. Upon information and belief, during the year 2007, the Assessor did take up and consider the taxable property and the names of the persons taxable with respect thereto to assess real property in the Town not exempt by law from taxation, and made, prepared, and completed the 2007 assessment rolls of the Town for the year 2008, and thereupon caused notice over her name and title to be published in the official newspaper of the municipal corporation, that copies of the assessment rolls might be seen for inspection and examination until May 22, 2007, and that on or after May 22, 2007, grievance days would commence to review and correct the assessment rolls upon application of persons deeming themselves aggrieved thereby.

- v. The assessment and description on the assessment rolls of real property owned by Petitioner, as the same appeared thereon after the completion thereof is as follows:

<u>Property</u>	<u>Tax Map Number</u>	<u>Total Assessed Value</u>	<u>Full Market Value</u>
5575 Meltzer Court	092.-01-03.1	\$371,790	\$7,290,000

- vi. The Level of Assessment in the Town of Cicero for Rate Year 2007 is 5.10 and the tentative State Equalization Rate for the Town of Cicero is 5.10.
- vii. Claimant duly protested the assessment and duly and timely filed with the Board of Assessment Review a statement of protest, under oath on the proper forms, specifying the respects in which the assessments should be corrected, revised, and reduced on the ground that the property was excessively assessed (the “Complaint on Real Property Assessment for 2007/2008”). The statements therein were then and are now true, but the Board of Assessment Review and the Assessor refused, and still refuse, to correct or reduce the assessment.
- viii. Upon information and belief, on or about July 1, 2007, the Assessor did finally complete the assessment rolls, verify and file the same and caused notice to be published according to law that the same had been finally completed and filed.
- ix. The assessments are both unequal and excessive because the Property is assessed at a rate far in excess of its fair market value and at a higher

percentage of value than the assessed value of other real property on the assessment roll.

- x. Upon information and belief, the valuation and assessment of the Property is erroneous by reason of an excessive assessment for the following reasons:
 - (a) The assessed value exceeds the full value of the Property;
 - (b) The full market value of parcel number 092.-01-03.1 does not exceed \$2,200,000, and the assessed value, as found by Respondent of parcel number 092.-01-03.1 was \$371,790 with a Level of Assessment of 5.10 and a tentative State Equalization rate of 5.10, resulting in a corresponding Full Market Value of \$7,290,000, so that the extent of the overvaluation is at least \$5,090,000; and
 - (c) The assessment is excessive in that, because the Property is not worth more than \$2,200,000, the value of the Property is grossly overstated.
- xi. By reason of the foregoing, Claimant is aggrieved and injured thereby and will be injured thereby and will be required to pay taxes which it would not be required to pay if the assessment had been lawfully, correctly, and properly made. Such excessive assessment will subject your Claimant to the payment of more taxes than it is legally required to pay.
- xii. Upon information and belief, Claimant is aggrieved by the aforesaid assessment and will be greatly injured by such overvaluation in that the tax that Claimant will be required to pay if such assessment is permitted to

remain as it is now an amount far greater than Petitioner would be required to pay if the Property were not overassessed.

- xiii. Upon information and belief, the method of computing the valuation of the land and taxable improvements on the Property is incorrect, inaccurate, unlawful, and illegal and the Property assessed at an excessive value.
- xiv. Upon information and belief, the assessment and the method of making the same deprive Petitioner, of its benefits, without due process of law and the assessment is excessive, unreasonable and/or inappropriate for the Property.
- xv. Upon information and belief, because of the excessive assessment, the improper method used by the assessor in making the assessment and because the assessment is excessive and unreasonable, the Property is overassessed as follows:

<u>Property</u>	<u>Tax Map Number</u>	<u>Overassessment</u>	<u>Amount Full Market Value Exceeds Actual Value</u>
5575 Meltzer Court	092.-01-03.1	\$259,590.	\$5,090,000.

- xvi. It is necessary that the assessment of the Property be reduced as follows so that it may be made commensurate with the value of the Property:

<u>Property</u>	<u>Tax Map Number</u>	<u>Amount of Assessment As Reduced</u>	<u>Amount of Full Market Value As Reduced</u>
5575 Meltzer Court	092.-01-03.1	\$112,200	\$2,200,000.

xvii. Upon information and belief, the Town was obligated to pay certain bonds on behalf of a prior unrelated owner. Upon information and belief, the Town was never reimbursed or compensated in any way for those payments.

6. As a result of the Town's actions, Claimant has sustained damages and will continue to sustain damages in an amount that exceeds the statutory minimum for the New York State Supreme Court.

7. Claimant hereby claims and demands payment for damages in an amount to be determined, together with interest, costs, expenses, and attorneys' fees for the violations summarized herein, and further claims and demands that the Town immediately reduce the assessed value of the Property to \$ 2,200,000 and discontinue all efforts to collect taxes due as a result of the overassessment.

NEW DIMENSIONS PROPERTIES, LLC

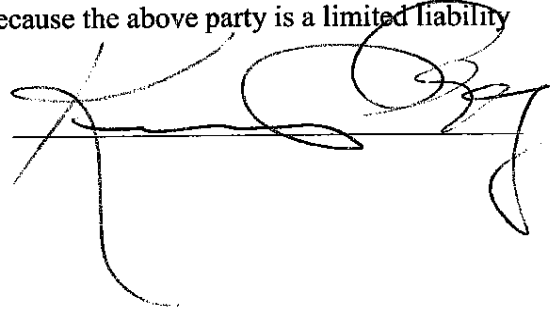
By: 

Kenneth P. Ray, Managing Member

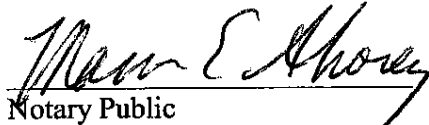
VERIFICATION

STATE OF NEW YORK)
COUNTY OF ~~ONONDAGA~~) ss.:
~~ONEIDA~~

Kenneth P. Ray, being duly sworn, deposes, and says that he is the Managing Member of New Dimensions Properties, LLC, has read the foregoing Notice of Claim and knows the contents thereof, that the same is true to the knowledge of deponent, except for the matters therein stated to be alleged upon information and belief, and as to those matters he believes them to be true. This verification is made by deponent because the above party is a limited liability company and he is a member thereof.



Sworn to before me this
29th day of October, 2007.


Notary Public

563966_1.DOC
MARIE E. SHOREY
Notary Public in the State of New York
Qualified in Oneida County
No.: 01GA6004135
My Commission Expires 3-16-10