



COUNTY OF ERIE

Mayor Sean M. Ryan
City of Buffalo
Office of the Mayor
Attn: Deputy Mayor Benjamin Swanekamp
65 Niagara Square
Buffalo, NY 14202

October 6, 2026

Re: Department of Social Services Lease and Operation of Emergency Shelter at 514-528 South Park Avenue

Dear Mayor Ryan:

The County of Erie ("County") Legislature ("Legislature") is considering entering into a lease with option to purchase property in the City of Buffalo ("City") at 514, 516, 518, 522, 528, and 534 South Park Avenue (the "Premises"), owned by J-P Group, LLC (a related entity to Ellicott Development) to serve as a permanent, affordable emergency housing shelter with ancillary support operations to assist homeless County and City residents (the "Emergency Shelter" or "Facility"). As you know, the County, in its own capacity, and the County Department of Social Services in its capacity as the Local District of the State Department of Social Services, have obligations to provide shelter and supporting services to their residents who are experiencing homelessness, and to establish Code Blue shelters in the winter months. As the City is also aware, the County has been engaged in a diligent effort to identify a permanent shelter site since 2023, but our service providers have been unable to secure the City authorizations to proceed with a permanent shelter location which can meet the needs of our homeless populations. The winter's imminent arrival now necessitates our urgency to secure a suitable permanent facility to meet the County's Code Blue obligations.¹

Now, the County has identified the Premises, with approximately .75 acres of land improved with two (2) vacant structures at 514 South Park Avenue and 528 South Park

¹ The Buffalo City Mission independently collected data on up to 330 street homeless individuals in the 2025-2026 Code Blue Season; and County-wide the Department of Social Services works to assist 600 households in placement each night.

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totaling 30,162 square feet of existing structures. These structures can be used immediately and in current condition to serve as a permanent, emergency housing shelter with ancillary support operations to assist homeless County and City residents. Notably, immediately to the west and one block north of the Premises, the Buffalo Municipal Housing Authority ("BMHA") is pursuing a +\$250 million mixed-use redevelopment of the Commodore Perry Homes featuring affordable apartments in walk-up residential towers, town-houses and integrated commercial space and greenspace to provide 21st century mixed use housing opportunities for no-income and low-income persons. Consistent with those goals, the County's operation of an Emergency Shelter in the area would be an additional municipal housing resource to meet demand and act as a critical bridge to more permanent housing. The County views the development of the Emergency Shelter at the Premises as an opportunity for continued cooperation and integration of City and County directed housing resources. The Department of Social Services intends to leverage the Facility as a central location to stabilize street homeless individuals and increase eligibility for shelter placement, permanent housing, or other residential treatment as necessary to meet the County's vital role and obligation to ensure care and public assistance for those in need.

I write now on behalf of the County to provide project information and seek input from the City on the County's implementation and operation of an Emergency Shelter at the Premises. Please find enclosed a copy of the draft resolution under consideration by the Legislature and a Short Environmental Assessment Form with project narrative and basic information required by the State Environmental Quality Review Act ("SEQRA"). Though, as set forth more fully below, the County respectfully asserts that it will not be subject to any City discretionary authorizations in connection with the Facility, the County nevertheless wishes to provide the City with sufficient information to offer an opportunity for the City's participation and substantive feedback on the Emergency Shelter that the City believes the County should consider and implement to ensure the Emergency Shelter is operated in a manner that is harmonious with the surrounding area and is protective of public health, safety, and welfare.

The Premises is in the City's N-2E Zone under the Green Code such that the Emergency Shelter would typically require certain discretionary authorizations from the City's

agencies.² In this case, however, the County respectfully asserts that the Emergency Shelter can proceed without formal zoning authorization or other permit review from the City's departments pursuant to the *Monroe* case, which provides that governmental entities, like the County, are immune from local regulation when the balance of public interests weighs in favor of immunity. *City of Rochester [County of Monroe]*, 72 N.Y.2d 338, 343 (1988). In addition, the County Department of Social Services when acting as a local District of the State Department of Social Services is also immune from local zoning restrictions when performing its critical Code Blue housing duties, *See Crown Comm'n New York, Inc. v. Dep't of Transp. of State*, 4 N.Y.3d 159, 165-68.

The factors evaluated under *Monroe* include: the nature and scope of the instrumentality seeking immunity; the kind of function or land use involved; the extent of the public interest to be served by the proposed action; the effect local land use regulation would have upon the proposed action; alternative locations/methods for the proposal; the impact upon legitimate local interests; and the extent of intergovernmental cooperation and opportunity to comment on the proposed action.

Here, the *Monroe* analysis demonstrates that the public interest weighs in favor of immunity from local zoning requirements for the Emergency Shelter primarily due to the County's and City's shared interests in the core governmental objective to provide emergency housing, and because after a diligent search the County has found there is no alternative location or less restrictive area for the proposal, and its important public benefits could be delayed or denied if subject to the City's discretionary permit review and hearing process. Further, the County is seeking the City's participation in the process of establishing the Emergency Shelter by including the City in its coordinated review pursuant to SEQRA and through this correspondence. As such, the County respectfully provides the information enclosed herein to provide the City with background information on the Facility and requests that the City consider the proposal

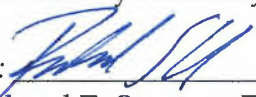
² Though the Emergency Shelter use is generally consistent with the Buffalo Green Code's regulations for the N2-E Zone and with the surrounding land use pattern, it is a specially permitted use in the zone and would typically require that a Special Use Permit be granted by the Common Council, after referral and recommendation from the City Planning Board, and after public hearing, per the Green Code Section 11.3.3. The Green Code also limits Emergency Shelters to 15 beds in the N2-E Zone and the Facility would exceed that limit, such that a variance from that density limit would be required, which would require an additional application and hearing process before the City's Zoning Board of Appeals.

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and advise of any feedback that it believes the County should consider. It is the County's intention to implement and operate the Facility in consideration of input received from the City regarding the Facility. The County also intends to create a mechanism to receive and respond to any public concerns expressed by neighborhood residents and/or the City on an ongoing basis for the duration of the Facility's operation, as well as a formal point of contact between the City and County on this matter.

We look forward to further discussion with the City and please do not hesitate to reach out to discuss any information presented here.

Very truly yours,
Jeremy C. Toth, Esq.
Erie County Attorney

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