



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
CHARITIES BUREAU

September 12, 2012

By Fax
(518) 270-5435

The Honorable Henry F. Zwack
Rensselaer County Courthouse
80 2nd Street, 3rd Floor
Troy, New York 12180

Re: *Schneiderman v. Lower Esopus River Watch, Inc. et al.*
Index No. 08-5067, Ulster County Supreme Court

Dear Judge Zwack:

I write to request a revision to the attached Order Authorizing Sale of Real Property entered on August 28, 2012 (the "Auction Order"). The Auction Order requires that the land owned by Lower Esopus River Watch, Inc. ("LERW") be sold at auction by September 21, 2012. Exhibit 1 to the Order is a Legal Notice which scheduled the auction for September 14, 2012 and which ran in The Kingston Daily Freeman and the Times Herald-Record over the last two weeks.

As noted in the attachments to the original Order to Show Cause, several of LERW's parcels of land are considered protected wetlands. We understand that one or more land-trust organizations may be interested in purchasing these parcels as a method of additional open space protection, but will not be able to complete their due diligence by this Friday.

We believe that a postponement of the auction to October 5, 2012 will enable any such organizations to complete their due diligence, maximize opportunity for all bidders and facilitate a more successful auction. I have spoken with representatives of the County and LERW and they do not object to the postponement. I have also e-mailed Mr. Fritschler for his comments, but have not received a response.

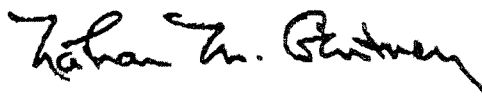
In order to publicize the postponement, the County will issue a press release and include a notice on the website of the County's Commissioner of Finance. In addition, the legal notice, attached as Exhibit 1 to the Auction Order, will be revised to include the

Hon. Henry F. Zwack
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new auction date and time and published in the Daily Freeman and Times-Herald-Record at least once prior to October 5, 2012. Finally, the Commissioner of Finance will take any other steps that he feels are necessary to adequately notify the public of the postponement of the auction.

As a result, we respectfully request that the Court so-order this letter to approve the adjournment of the auction date from September 14, 2012 to October 5, 2012. Thank you for the Court's time and consideration of this matter.

Respectfully Submitted,



Nathan M. Courtney
Assistant Attorney General

- cc. Frederick Fritschler, *pro se*, (by fax and by e-mail)
- Edward G. Williams, Esq., (by fax and by e-mail)
- Beatrice Havranek, Esq. (by fax and by e-mail)

SO ORDERED:



The Honorable Henry F. Zwack
Acting Justice Supreme Court

At a term of the Supreme Court of the State of New York held in and for the County of Ulster at Kingston, New York on the 27th day of August, 2012

P R E S E N T: HON. HENRY F. ZWACK, ACTING J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ULSTER

ERIC T. SCHNEIDERMAN, Attorney General of
the State of New York, on behalf of the People of
the State of New York,

Plaintiff,

- against -

LOWER ESOPUS RIVER WATCH, INC.,
FREDERICK FRITSCHLER, R. DIXON
ONDERDONK, DAVID B. STRAUS, BRUCE C.
DUFFY, JENNIFER A. MCLEROY and JOEL
SHUMAN,

Defendants.

FILED

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AUG 28 2012

Nina Postupack
Ulster County Clerk

**ORDER AUTHORIZING
SALE OF REAL
PROPERTY**

Index No. 08-5067
RJI No. 55-09-00729

UPON the Order to Show Cause in the captioned action returnable August 9, 2012; the affirmation of Assistant Attorney General Nathan M. Courtney, dated July 12, 2012; the Stipulation of Settlement herein entered December 3, 2009 (the "2009 Settlement") filed in support thereof; the proof of service upon the interested parties having been filed; and no opposition thereto having been filed; and upon due deliberation of all of the proceedings and other papers heretofore filed herein, pursuant to the provisions of Not-for-Profit Corporation Law § 1008, it is hereby

ORDERED, that the following real property owned by Lower Esopus River Watch, Inc. ("LERW"), shall be sold individually, "as-is" and "where-is," at a public auction (the "Auction") to be conducted prior to September 21, 2012:

Property Name & Tax Map Parcel #	Location
Lucas Avenue 62.2-3-1 ¹	Rosendale
Josephine Avenue 62.82-2-18	Rosendale
Main Street 62.82-5-22	Rosendale
Whiteport Road 63.5-1-25	Rosendale
Oregon Trail 98.4-1-26	Shawangunk
Rousner Lane 71.3-5-15	Esopus
Rousner Lane 71.3-5-16	Esopus
Rousner Lane 71.3-5-18	Esopus
Rousner Lane 71.3-5-20	Esopus
Rousner Lane 71.3-5-22	Esopus
Rousner Lane 71.3-5-23	Esopus
Rousner Lane 71.3-5-29	Esopus

and it is further,

¹ This parcel was incorrectly identified as 62.82-3-1 in the Order to Show Cause

ORDERED, that Burton Gulnick, Jr., Ulster County Commissioner of Finance, is hereby appointed auctioneer of the public sale (the "Auctioneer"), and shall serve without compensation except for reimbursement from LERW for the payment of his reasonable out of pocket expenses; and it is further

ORDERED, that notice of the Auction shall be made by (i) publication of the legal notice attached hereto as Exhibit "1" once per week for the two weeks immediately prior to the sale in The Kingston Daily Freeman and the Times Herald-Record, and (ii) by any other means deemed necessary by the Auctioneer to adequately provide public notice of the sale; and it is further

ORDERED, that the Auctioneer shall establish reasonable terms of sale, including, but not limited to, participation by qualified bidders only; and it is further

ORDERED, that Defendant Frederick Fritschler ("Fritschler"), or any entity controlled or affiliated with Fritschler or any of their representatives is prohibited from bidding at the Auction; and it is further

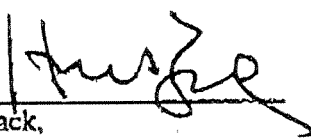
ORDERED, that Dixon Onderdonk, as president of LERW, is hereby directed to execute the appropriate documents of title, as may be necessary, to effectuate the transfer of right, title and interest of LERW's real property to (i) the Auction's successful bidder(s) or, (ii) if there are no bidders, to Ulster County (the "County"). The conveyances shall each be in the form of a quitclaim deed and shall be made, executed and delivered subject to the condition and covenant that LERW, the State of New York, the Attorney General and the County of Ulster shall in no event be or become liable for any defects in the title so conveyed for any cause whatsoever, and that no claim or demand of any nature shall ever be made against LERW, the State of New York, the Attorney General or the County of Ulster arising from such sale or any proceedings leading thereto; and it is further

ORDERED, that the winning bidder(s) pay the real estate and school taxes due and owing on the parcel(s) of property to be purchased, and, in the case of those parcels transferred to the County, directing that the transfer is subject to the assumption by the County of LERW's local real estate and school taxes; and it is further

ORDERED, that the proceeds of the public sale be deposited in an escrow account maintained by the Office of the Attorney General pending further Order of this Court pursuant to the terms of the 2009 Settlement, including a determination of the amount of reasonable attorneys' fees and reimbursement of expenses due to LERW's counsel, Stewart Occhipinti, LLP, Edward G. Williams, Esq., of counsel, and the amount due to the County of Ulster.

DATED: August 27th, 2012
Troy Newport

ENTER



Hon. Henry F. Zwack,
Acting Justice of the Supreme Court

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Nina Postupack
Ulster County Clerk

EXHIBIT "1"

PDF 10 2012 11:01
NOTICE IS HEREBY GIVEN, that, pursuant to the August ____, 2012 Order of the Ulster County Supreme Court in the matter of *Schneiderman v. Lower Esopus River Watch, Inc. et al.*, Index No. 08-5067, Burton Gulnick, Jr., Ulster County Commissioner of Finance, will sell at public auction the twelve (12) parcels of real property owned by Lower Esopus River Watch, Inc. ("LERW") at the Ulster County Legislative Chambers, 6th Floor, 244 Fair Street, Kingston, New York on **September 14th, 2012 at 10:00 A.M.**, said parcels described, with town, tax map parcel number, street name and acreage, as follows:

Town of Rosendale:

62.2-3-1, Lucas Avenue Ext, 8.20 acres
62.82-2-18, Josephine Avenue, .22 acre
62.82-5-22, Main Street, .14 acre
63.5-1-25, Whiteport Road, .40 acre; and

Town of Esopus:

71.3-5-15, Rousner Lane, 8.00 acres
71.3-5-16, Rousner Lane, 8.00 acres
71.3-5-18, Rousner Lane, 10.00 acres
71.3-5-20, Rousner Lane, 26.00 acres
71.3-5-22, Rousner Lane, 4.00 acres
71.3-5-23, Rousner Lane, 4.00 acres
71.3-5-29, Rousner Lane, 52.90 acres; and

Town of Shawangunk:

98.4-1-26, 128 Oregon Trail, .61 acre.

All parcels will be sold individually, "as-is," "where-is," without warranties as to title and subject to the payment by the winning bidder of the local real estate and school taxes owed by LERW and subject to the terms and conditions of the auction.

For a copy of the August ____, 2012 Order, the terms and conditions of the auction and for further information about the properties, please go to the following website: <http://www.ulstercountyny.gov/finance/index.html>. Questions can also be addressed to the office of the Ulster County Commissioner of Finance at 845-340-3297.