

The Burrous Building – What You May Not Know.

Accountability: More Questions Than Answers.

An editorial by James Dorsette
Owner of the Burrows Building

FOUR YEARS – Four long years of repetitive, unnecessary, endless bureaucratic red tape. Four long years of a commonly referred to, ironic cliché so often used by area residents of this county and our local community; **“Typical Small Town Politics.”**

Once upon a time, there was an ethically accepted belief that maintaining good faith in our local government administration officials was the correct and right thing to do. An essential, mutually co-existing understanding which cohesively bonds the community with our elected or appointed officials. This is better known as... ‘The Public Trust’.

What has transpired thus far regarding the entirety of the Burrous Building issue has yielded a stunning unfathomable adverse impact. It amounts to numerous unanswered questions of accountability and injustice, in defiance of fairness and justice. It may even surpass the criteria, which defines the infringement upon an individual’s Constitutional Rights. Among those are the pursuit of life, liberty and happiness – not their suppression.

During my recent two-hour interview with Regional Editor John Anderson and Reporter Brian Quinn, I asked Brian – “How many sides or versions of a story are there, to develop a full or more complete picture?” He thought for a moment and replied, “I believe there are two sides.” I then commented, “Every situation is different, unique to the circumstances and people involved. In my experience, I have found that there are often three sides to an issue... One side, possibly an opposing or different side of a story... and, what the Facts* point to.” The overriding goal is the ability to form the clearest picture of what happened, to determine the most appropriate conclusion, then move forward from there. What should usually be a straightforward process to find and identify answers may sometimes turn into something less honest than that. Determining responsibility may turn into an all too familiar scenario of musical chairs, aka: ‘The Blame Game’ or ‘Smoke & Mirrors’. It usually occurs when doubts are raised whether entrusted public officials act wrongfully in some capacity, or fail to act responsibly.

However, this issue isn’t some game. It is a matter of individual rights and the potential future of people’s livelihood, their investment in both property and an asset presence in the community; or any unlawful deprivation of those things. Every so often, it becomes a lengthy process to sort through. Competent judges and attorneys are well aware of this.

If you have a serious issue or legal problem and you bring it to the attention of a person with designated authority, such as an appropriate member of an administration, they are under the sworn duty of their public obligation to address the matter as fairly as possible. They are not supposed to brush aside actual facts, circumstances or aspects of applicable laws out of inconvenience, or to further push an adopted political agenda or referendum.

In light of the purpose of NYS Public Officers Law, with regard to a potential Breach of the Public Trust, it is fair to state; “We are not expecting perfection, to err is human. What is expected is the uncompromised duty to acknowledge, uphold and abide by the ethics of legal obligation, by maintaining Public Trust through honesty, fairness, accountability, responsibility, competency and consistency.” Further; “In this specific case instance regarding the billing, itemization and origination of taxes, in addition to aspects of the Burrous Building Public Safety Issue, none of these standards were either met or in practice.” Overall, it raises many compelling questions and genuine issues of fact. A tape measure of accountability is long overdue around the municipal building.

These questions remain centrally focused upon which side of this issue the pendulum of relevant facts will ultimately point to. It compels fair answers and amicable resolution. In order to prove something, the facts must be credible, true and substantiate what really occurred or resulted. We believe the relevant facts in this issue will firmly support our side of the story. The applicable laws or mandates that were either brushed aside or conveniently ignored would further substantiate how those in authority, failed to act.

We acquired the Burrous Building via a private purchase through a realtor in January of 2011. We did not buy this building at a tax lien foreclosure sale auction, nor did we ever have any intention to ‘flip’ this property and/ or resell it. The building was an investment by regular private people with good intentions to establish a livelihood through neighborhood small business and commitment within this community. This was initially a renovation project, which later became a reconstruction project after the partial collapse in May 2012. It became impractical to restore the building to its original condition and historic notoriety, due to almost two decades of neglect, erosion and deterioration. The controversy surrounding this issue has also overshadowed our previously expressed intentions to rebuild and allocate a section of the new building as an independent community resource center, providing assistance for employment, disabled people, the elderly, youth programs, general community bulletin board, event

listings and more. We had wonderful plans for the site, including a home-style inn with appealing amenities.

Let’s look at the Public Record, which is quite revealing. It evidences a succession of previous owners from the mid-1990’s up to the present day; also inclusive of Burrous Furniture business closing operations. A series of out of town absentee owners, coupled with the irrefutable fact that it was sold on two separate occasions via tax lien foreclosure auction sale in the brief span of a decade. Why weren’t any steps taken during this time period to address, intervene or prevent numerous potential safety hazard issues from developing as this building was in a continuous state of decay, less than a quarter mile from the front steps of the municipal building? Who had that responsibility? What village administration actions were taken between the years of the mid-1990’s up to 2011? There is no evidence found in the public record, of building code violations issued, or follow-up enforcement measures taken during such time. The Village of Wellsville certainly had ‘immediate jurisdictional authority’ via their buildings code enforcement unit. There was a longstanding undeniable failure by village officials to act accordingly in this situation.

As current owners, we stand-alone against the questionable intent of village officials, to levy fault for the building’s overall demise solely upon us. Village officials have refused to acknowledge Grievance Committee Hearing findings of May 2013, which rendered that only land is taxable (the building lost its sustained value), retroactive to January 2011. According to standards from NYS Public Officers Law, NYS Dept. of Taxation and Finance, under specific criteria of the Property Tax Assessor; “Properties in sub-optimal uses may generally not be assessed at market value; they must be assessed at their current use value.” The public record of this building unequivocally demonstrated negligence of inaccuracy, missing data, outdated valuations and unadjusted information inconsistent with a level of depreciation to fairly determine the building’s current worth.

Result: The property tax rate must be readjusted and substantially lowered to accurately reflect the building’s deterioration. It has been a struggle ever since then, to convince the property tax assessor and her supervisor to acknowledge these major discrepancies and correct them. An update on the tax situation following over a year of delays; the local property tax assessor made an effort to adjust tax rates with partial reduction, however, the margin of error with the original tax data was so excessive and disproportionate, they exceeded those preliminary corrections. We requested the public records for taxes and any building code citations and/ or violations so we could examine them ourselves. While the town supervisor complied with our request for records, he was unwilling to provide any explanation for why the tax data was completely void of accuracy. During a prior unproductive telephone conversation, he stated to the effect of, ‘I don’t owe you any explanation, we don’t do that here.’ I then replied, “You may have to explain your decline to comment before a judge.” He remarked, “Do what you have to do.” Really. Let’s look at this objectively; what would anyone do with an unresolved legitimate issue when stonewalled by a public official in the apparent instance of wrongdoing? I wonder if this is happening to us, how many others are being overtaxed? We strongly believe this is not just an isolated incident, but also potentially an ongoing, more widespread issue.

Allegany County has the highest taxes in NY, which is the highest taxed state in the US.

If for example, you are the mayor, or an official designated with decision-making authority, your public and ethical obligation should not include a policy or practice of non-disclosure or misdirection of apparent factual basis, or anything constituting that. It should not include a policy or practice of circumnavigating the law with selective acknowledgement or enforcement. We have been stating our case all along (in detail) to the mayor and village officials, namely Earl Johnson, Village of Wellsville Treasurer.

He maintained that the tax issue is irrelevant and insignificant, when it clearly is not. The tax issue is not separate. It is absolutely relevant and very significant. Aside from the tax issue, the important issue of safety has always been our priority. How often in the past, we have attempted to bring the point across and inform the village administration that unless the tax issue was resolved first, any steps taken to resolve the physical safety issue could be negated by a tax lien foreclosure. Essentially, our hands are tied. This is a catch-22 situation, as we find ourselves between the tax issue, which the County of Allegany presides over, and the safety issue regarding the affected building structure.

Throughout all the informal in-person meetings, email, written letter correspondence, phone calls, too numerous to count, we have tirelessly expressed our intent to have both the property tax issue and the safety issue resolved with an appropriate fairness. We have been keeping records of all this, our legal research and other relevant documentation on this matter since the very beginning. This matter has even been mentioned in a prior conversation between the Wellsville Mayor and the NYS Lt.

Governor. I was personally in contact with Senator Catharine Young (Rep, 57th District), who promptly returned a letter stating her dismay with the whole situation, and requested the Wellsville Mayor to reach out and call / contact us. We waited well over a year for a call that never came. In fact, when we were able to finally have a closed meeting with the Mayor, it was quite unproductive. We repeatedly stated to Earl Johnson (Village Treasurer) that we were willing to roll out a welcome mat of cooperation with the village, for any sensible recommendation/ or reasonable suggestions they may have for remedying this situation.

This extent of ‘our cooperation’ in turn, **was in their own words and defined by their own terms**, somehow presumed or misinterpreted that we should give up our property completely, and walk away from the whole thing so that the Village would have what they referred to as “Site Control”. What? Outrageous. At that meeting with the Mayor, which I will never forget, held on July 17, 2014, I asked the Mayor if there was any reasonable possibility of working together jointly in some capacity, based upon their experience and knowledge of community affairs, to alleviate the difficulty. To maybe advise, or point to a more productive direction or referral of government/ small business assistance programs. Her reply, “Absolutely not.” Instead, we were given an ‘offer’ resembling an ultimatum (with an ‘or else’), more than any solution, to immediately surrender and relinquish our rightful property ownership without compensation, any fair settlement, or anything I could define or measure by reasonable grounds. Unbelievable.

Question: Why should we have to pay for the mistakes or actions of others?

The property tax issue was also surfaced in that discussion. I asked the Mayor if the property tax assessor’s office was part of her administration. She stated that the village has little to do with that office, which is located in the same municipal building. To me, that sounded like the left hand does not know what the right hand is doing. It is quite challenging to rectify how the top pillar of a local government administration has such internal disconnect with another local administrative office branch and/ or department so close by in proximity. The village does benefit by appropriated revenue generated by the local property tax assessor, so any internal disconnect or lack of knowledge from one local administrative office with another could potentially be alarming. Is this how the Village of Wellsville does business and conducts their affairs? Our attorney’s consultation found the entire matter... “Wholly unconscionable and appalling.”

I had a final email with Earl Johnson sent on Sept. 29, 2014, which conveyed our understandable reluctance to surrender our property along with our Constitutional Rights relative to owning property and attempting to build a future living from that ownership. Our future, in jeopardy, from an administration that would certainly, hypothetically prefer a more bankrolled land developer to acquire our property through any resale after the village’s agenda has been met. Wait a second here; not withstanding us exercising our full legal entitlement to defend our rights, wherever that course may ultimately take us.

We openly admit we do not have the resources of a larger land developer with greater financial assets. Is that part of the reason the village now wishes to separate us from the right and lawful ownership of our property? You may as well categorically discredit or disqualify any individual or group who may be financially struggling at the middle class or economically challenged level, from ever having a dream of owning and building a business from scratch. The building collapse was undoubtedly beyond our control. So is the property tax issue. We do not work in the assessor’s office, nor are we designated with authority to conduct building inspections to insure that buildings, which comprise the heart of this community’s economic infrastructure, remain in good standing with preserved and habitable structural integrity. The situation is egregious and severe, as **red flags of accountability** underscore throughout the entirety of this issue. Are there elements of corruption within the municipal building? It’s a valid question to consider.

The emphasis of necessity exists to reiterate the irrefutable fact that for almost two decades and immediately preceding our ownership, examination of the public record reveals not a single building code violation was ever issued, a total lack of enforcement or follow-up measures ever took place while the Burrous Building was in a state of decay. Why is that? In other words, there was a failure to act. The Village of Wellsville has ‘immediate jurisdictional authority’ for inquiry or to intervene at any time (then or now), as to why the building was left unattended to deteriorate. The Burrous Building is within eyesight of the steps of the municipal building, yet no prior sequential village administrations did anything at all to prevent the ongoing neglect or deterioration that occurred there. It’s disgraceful what is going on here and warrants higher intervention.

The Village has conducted discussions and voted behind closed doors on a new and different course of action to either repossess our property, or have

it removed from our possession, (Reference; Daily Reporter Article dated Jan. 27, 2015), in yet another attempt by a legal loop-hole referendum means to deprive us of our right and lawful property ownership and hard-earned future livelihood. This is an apparent, blatant and inexcusable intent to alienate us from our Constitutional Rights. It’s reasonable enough to presume that since we own the property, **we would be consulted and entitled to attend** any of these ‘closed door sessions’ - not the case. The village has known our contact information for some time. We were not contacted in any manner, either by telephone call, email or postal registered letter. Whatever they ratified or agreed upon was willfully and intentionally done in our absence. There was no actual effort to contact or invite us.

How ethical or forthcoming is that?

After such a long period of our building’s historical public record of pass-the-buck, absentee patterned irresponsible ownership and overall demise, you would think the village would show or demonstrate some kind of benevolence, that for the first time in about two decades, this building has upstanding local, community based people, wholeheartedly attempting to restore new life to this building site, in the heart of Wellsville’s Economic District. To bring jobs, new opportunity, etc. To the contrary and overall, the village has refused to extend the level of understanding this situation and issue warrants.

What standard of ethics or legal responsibility applies here? What about the recurring question of **accountability?** Even if we are 50% correct in our version of events, we should certainly not be treated like this, pressured, intimidated or forced to give up and sacrifice our lawful rights to property ownership and our future livelihood. The majority of longstanding attributing causes evidenced by the public record and thorough lack of local government intervention were not our doing and beyond our control. The Village of Wellsville Administration has clearly taken a role of ‘kicking someone when they are down.’ The line is drawn where our Constitutional Rights have been infringed upon.

Across Main Street and directly opposite our building, is another three-story building with its entire rear east building wall completely missing. It’s been that way for years now. I remember attending my first balloon rally here some eight years ago. It was in a similar condition back then, with the same entire rear wall missing. Is this yet another instance of selective enforcement, or an apparent double standard? It surely looks like a safety issue, regardless of what anyone would call it, or who states otherwise. Is the village administration also attempting to remove possession from that building’s owner, who coincidentally sits on a committee at the County Level? It’s almost incomprehensible.

Another relevant issue is with our troublesome neighbor Hamar’s Pub. Our building’s structure shares a common wall area, or that part remaining. At one point dating back to August 2013, a formal letter sent through her attorney, alleges she sustained a “Total Loss” regarding the aftermath of the partial collapse of our building. It was an incendiary catalyst letter which placed the village on the defensive, accusing them of remaining idle and/ or failing to react by taking measures to insure public safety. In fairness, we disagree and that allegation was completely false. The village reacted swiftly and responsibly then, to insure public safety, with credit going to the Mayor for her crisis approval, the building code inspector at the time, Billy Braun and the Wellsville Department of Public Works.

The majority of statements made within that letter addressed to the mayor were surely questionable and untrue. In fact, there were over a dozen discrepancies written in that letter, with numerous unfounded allegations, which amount to a well-substantiated case of libel. The only relevant piece of information contained in that letter was a statement of common knowledge, that our building sustained a collapse. How can there be a claim of “Total Loss”, when her business has remained continuously open since the collapse occurred? **Fact:** The pub has openly advertised for business and upcoming events since then. **Fact:** There was no claim or insurance settlement for a total property loss. **Fact:** There was no resulting building code ‘Vacate Order’ condemning the pub premises or rendering them uninhabitable. **Fact:** Hamar’s Pub did not depreciate in property value according to the most recent property tax assessment or annual tax rolls. False claims? Will the truth please step forward? Apparently, Hamar’s owner is seeking any available opportunity for financial gain at our expense. The claims in her letter were without merit.

Interestingly enough through our own investigation, we have discovered there was a known structural defect in the front of her building, that was noticeable well before the partial collapse in the rear of our building occurred. The front right side of her building at its base, is clearly listing away at a slight angle where it is



adjoined to ours. The first floor bricks in the front of our building vertically stand near perfect, at a 90-degree angle. If these two instances were directly related, our building would also show a defect or flaw in that immediate lower front area where they are adjoined. Anyone can witness first-hand, that the front ground level of our building remains intact.

We believe village officials are currently engaged in overreacting to that letter to minimize a liability, which is not fully theirs. They have already done what was reasonably necessary (placement of barricades) to insure safety, back in May 2012.

We have publicly commended village officials before, for taking necessary steps to increase safety after the collapse. There are mitigating circumstances of outstanding unresolved property tax issues. Finding contractors with an established business record, who won’t overcharge for their services, was part of the overall issue. It is undoubtedly a circumstance and condition of great disadvantage, hardship and duress. We repeatedly informed village officials their expectations for us attempting to correct nearly two decades of building neglect, deterioration, administrative negligence and resulting irresponsibility was not an “Instant Fix” and unrealistic, considering limited resources and funding. Notably, the Belmont Hotel took approximately a decade to refurbish.

Another astonishing fact raising question is how we had to seek legal counsel outside Allegany County, in order to have our case and legal rights represented. Every single instance of attempting to retain an attorney based in this county ‘was not in a position to represent us’, due to – or some form of ‘conflict of interest’... because of reluctance or apprehension to challenge the County, Town or Village of Wellsville, as necessary. Reason given; they work and do business here. Problem? Definitely. They may believe their future livelihood would potentially be placed in jeopardy. Quite interesting.

Even though there were a few attorneys who understood the construct of our case merits and were in agreement with them, we could not even retain adequate legal representation, regarding the potentially entangled civil case (Real Property Tax Law, Torts Law, Civil Practice Law and Rules) regardless of how often we tried. Consider this... A criminal defendant in this county can get a public defender to represent them, while we cannot retain attorney services or obtain legal counsel to represent our overall rights. Shocking.

What is wrong with this picture, involving ethics to represent a legitimate serious legal matter in conflict with a local jurisdiction and/ or branch of government, that it would be so fraught with difficulty? How an experienced attorney who practices law in this county would seem discouraged, timid, apprehensive or even intimidated by its ramifications, to not handle such a case? It is beyond mind boggling to sensibly explain how that works.

County Level Officials have been helpful, in consideration of mitigating circumstances and tax evidence we have presented. The County Attorney’s Office has also been helpful, with our documentation under review. We believe the current Gabby Hayes Lane village referendum involving the State Environmental Quality Review Act (SEQRA) is a wrongful imposition and misappropriation of governmental policy. There is deliberate, purposeful intent to avoid and deflect accountability or responsibility, which attributed to the entirety of this issue from the very beginning. The Village Administration clearly aims to disingenuously separate us from our property through any manufactured means, **without accordance of Legal Due Process.** Is this the best that village officials can do?

Whatever happens concerning the eventual outcome of this issue, accountability will be emphasized in opposition to public officials acting with exemption or impunity. It is difficult to refute facts or lack thereof, contained in the public record. There is no Village of Wellsville Charter that supersedes the laws of New York State, or at the Federal Level.

The next two steps; resolve the tax issue, then remove the affected part of the opened structure of our building. Maybe then, we may finally move forward without hindrance, intimidation to surrender our property, or fear of being bullied. We seek fairness, a sense of justice that does not further infringe upon or deprive us of our rights and entitlement, or the future livelihood of our property we have worked so hard for. Small-town America shouldn’t resemble a controversial battleground, sometimes seen in larger cities. We are still hopeful for the charming appeal of living in Small-town America, having good faith in our community, and for the days when neighbors worked together for a greater good.