



City of Albany
Board of Zoning Appeals
Application

RECEIVED
5/3/13

This application must be filed with the Department of Development and Planning, Land Use Division at 200 Henry Johnson Boulevard, Albany, New York 12206, (518-445-0754). Applications are not considered to be complete until all supplemental documents and fees are received. (See attached instructions.) Planning Office staff shall determine the completeness of applications before scheduling the case before the Board of Zoning Appeals. Notice of public hearing shall be mailed to the applicant, adjacent property owners, and other interested parties. The applicant or his/her representative shall appear at the public hearing to substantiate the application.

REGARDING THE PREMISES AT 79 Spring Street, Albany, New York

APPLICANT Jay Harold Jakovic
ADDRESS 654 Madison Avenue CITY Albany STATE NY ZIP 12208
PHONE (518) 465-6537 EMAIL inlandabstract@verizon.net

I, the undersigned APPLICANT, hereby state that the information and facts set forth in this application are true to the best of my knowledge and belief.

SIGNED [Signature] DATE 5/2/13

AUTHORIZED AGENT
AFFILIATION
ADDRESS CITY STATE ZIP
PHONE EMAIL

I, the undersigned APPLICANT, hereby authorize the agent to bring the application herein before the Board of Zoning Appeals of the City of Albany.

SIGNED DATE

PROPERTY OWNER
ADDRESS CITY STATE ZIP
PHONE EMAIL

I, the undersigned OWNER, hereby authorize the applicant to bring the application herein before the Board of Zoning Appeals of the City of Albany.

SIGNED DATE

- REQUEST: SPECIAL USE PERMIT, USE VARIANCE, AREA VARIANCE, AMENDMENT, PARKING LOT PERMIT, INTERPRETATION, ADMINISTRATIVE APPEAL, EXTENSION

Is the property within 500 feet of a municipal boundary, State or County property, road, park or facility, or other recreation area? Yes No [X] If yes, the submission will require review by the Albany County Planning Board.

Does any state officer or any officer or employee of the City of Albany or County of Albany have any affiliation with or interest in the applicant or this application? Yes [X] No If yes, set forth the name, address, and nature and extent of the affiliation or interest of an officer / employee.

Susan Kimble, Assistant Commissioner, Department of General Services, One Connors Boulevard, Albany, New York 12204-2514 - Nature of interest - Respondent in opposition

INTERPRETATION / ADMINISTRATIVE APPEAL

The Board of Zoning Appeals (BZA) is empowered to interpret provisions of the Chapter 375 of the City Code, the Zoning Ordinance, and to hear and decide appeals of administrative determinations as otherwise specified within the City Code.

TYPE OF INTERPRETATION OR APPEAL SOUGHT

- The applicant seeks an INTERPRETATION to determine:
- The location of a district boundary;
 - The zoning classification of a particular property;
 - Whether a specific use is permitted in within a zoning district;
 - Whether an unlisted use is consistent with the enumerated uses in one or more zoning districts;
 - Whether a use qualifies as a legal nonconforming use;
 - Whether a proposed use may replace a nonconforming use;
 - Whether a home occupation not specifically listed as a permitted home occupation is consistent with the scope and intent of §375-106;
 - Other: _____
- The appeal seeks to APPEAL an administrative determination:
- An order, requirement, decision or determination of the Administrator relative to Chapter 375, Zoning;
 - A decision or determination pursuant to Chapter 111, Article VIII, Cabaret Licenses; Chapter 303, Sidewalk and Outdoor Cafés; or Chapter 246, Newsracks.
 - The rejection of a Storm Water Pollution Prevention Permit (SWPPP) pursuant to Chapter 133, Article XIV, Stormwater Management and Erosion Control.
 - An order pursuant to Chapter 151, Commercial Standards; Chapter 197, Fire Prevention; or Chapter 231, Housing;
 - Revocation or suspension of a public assembly inspector's license pursuant to §151-10 or an elevator inspector's license pursuant to §175-8;
 - A determination of the Department of General Services relative to the cost of abatement, as proscribed by §313-51.1;

DESCRIPTION OF REQUEST AND SUPPORTING DOCUMENTATION

Attach a detailed description of your request along with any supporting evidence or documentation. Any party wishing to file an appeal must do so within the time frame specified within the applicable code article. Include a copy of the administrative decision document or the City Code article sought to be interpreted.

Attachment to Board of Zoning Appeals Application

This appeal is from a decision of the Albany City Department of General Services Code Enforcement Committee which by Decision dated April 24, 2013 denied my request to rescind my bill dated March 13, 2013 for illegal trash.

The evidence presented at the hearing was not supported by the facts and the evidence presented at the hearing. The Department of General Services produced no witnesses and nothing in support of its position except to ask me to identify my building with bundles of wood tied together in front of it. My roofer was the only contractor working at 79 Spring Street and his testimony was that:

1. On January 17, 2013, I retained his firm to reroof the building at 79 Spring Street, Albany, pursuant to written contract;
2. his contract with me included the removal of all the trash he generated and that he did so;
3. in the course of his reroofing, the back wall of the building collapsed; that after the collapse, he obtained the necessary municipal permits from Albany's Bureau of Buildings and Codes and that he duly rebuilt the back wall of the building;
4. because of the emergency nature of the work, the trash generated from the collapse was piled in the rear yard of 79 Spring Street and was not removed until after the building was stabilized; however, he removed all of the trash and left the building clean of construction debris when his firm left the site. Furthermore, he testified that at the collapse of the back wall of the building, and for obvious reasons, he was the only contractor working in the building and remained so until he completed his work on the job.

At the introduction into evidence of Mr. Zeppetelli's dump receipts, Assistant Commissioner Susan Kimble inquired as to the date of the last dump receipt which Mr. Zepetelli testified was in March, 2013. Mr. Zeppetelli explained that the collapse of the wall lengthened the time his firm was working on the project to six weeks, well after the violation date of February 19, 2013 and that when he left the worksite, he left it clean, having removed his trash as required by contract. The only other testimony was my introduction of my tax bill establishing that 79 Spring Street is a two-family house which as such is eligible for Albany's Waste collection and recycling program and my identification of my building in answer to a question by Ms. Kimble.

The Committee's decision made on April 24, 2013 not to rescind the bill and the fine cannot be supported by the evidence introduced at the hearing which I have recounted to you supra. There was no other testimony offered on either side. In any event, the collection of residential construction debris for eligible buildings is part of the Albany's waste collection and recycling program and the subject premises were established to be an eligible building. Residential building material is not illegal trash.

Although not offered as a defense at the hearing because it is not an excuse for violating the law, you should be aware that I purchased 79 Spring Street from the County of Albany which acquired it as part of its In-Rem tax foreclosure proceedings; that when I purchased it, the building was in deplorable condition which was not remedied by the county who would not even patch the missing roof covering or send a plumber to stop the spraying water after thieves stole the copper out of the building last fall. The County refused to perform this work even though I offered additionally either to pay their contractors directly or to reimburse the county for their bills. Without my intervention, the building would have collapsed entirely removing all the improvements from the City tax rolls. My family have owned various buildings in the neighborhood continuously since the Victorian Era and have an especial connection to that block of Spring Street. The building is now stabilized, weather tight, secure and safe to enter and exit.

Copies of the original Citation dated March 13, 2013; Notice of Hearing dated March 19, 2013; Decision to be appealed from dated April 24, 2013 are attached. Also attached are a copy of a letter dated April 25, 2013 sent to Nicholas J. D'Antonio, Commissioner of the Department of General Services asking him to review the decision in question and the refusal dated April 29, 2013 by his Deputy.



CITY OF ALBANY
 DEPARTMENT OF GENERAL SERVICES
 ONE CONNERS BOULEVARD
 ALBANY, NEW YORK 12204-2514
 (518) 432-1144 FAX 427-7499
 WWW.ALBANYNY.GOV

GERALD D. JENNINGS
 MAYOR

NICHOLAS J. D'ANTONIO
 COMMISSIONER

March 13, 2013

Jay Harold Jakovic
 654 Madison Avenue
 Albany, NY 12208

RE: 79 Spring Street
 Parcel #: 06623
 Date of clean up: February 19, 2013
 Reason: Building material
 Violation #: T14119

Dear Jay Harold Jakovic,

Illegal debris, as defined in the Codes of the City of Albany, Sections 313-4, 313-5, 313-7, and 313-8, was removed by the City of Albany Department of General Services from the property, and on the date, indicated above. The penalty for violating the city code is a fine. The penalty for compensating the City for the cost of removing the trash is a bill. All questions, disputes, and requests for a hearing for these penalties must be submitted in writing to this office within thirty (30) days of the date of this communication.

You must remit payment to the Treasurer's Office, by check or money order, payable to the City of Albany. In the event no remittance is received, the City Treasurer will add this amount to the taxes on the referenced property. As per Section 258-2.B of the City of Albany Code. Your payment is due within thirty (30) days of the date of this communication and can be mailed or delivered to the City of Albany Treasurer's Office.

Bill:	\$107.45	Treasurer's Office
Fine:	\$100.00	First Floor, City Hall
		Eagle Street
Total Amount Due:	<u>\$207.45</u>	Albany, NY 12207

cc: Honorable Kathy Sheehan, City Treasurer

CITY CODE REMINDERS

(Code: 313-5 & 313-8) HOUSEHOLD TRASH & RECYCLING

The purpose of Albany's waste collection and recycling program is to collect normal weekly-generated household trash and recycling from residential properties with 4 units or less. Items should only be placed curbside the evening prior to your scheduled collection day not before 7 p.m. and/or dusk but before 12 midnight. Excessive quantities of trash and recycling placed curbside are subject to billing and a fine. Excessive is anything that is not manageable by 1 person, unable to be loaded into a collection vehicle and takes laborers more than 4 trips between the pile and the vehicle.

(Code: 313-4 & 313-8) PREPARATION AND PLACEMENT OF HOUSEHOLD REFUSE FOR COLLECTION

Prior to placement for collection, all waste containers and waste stored in plastic bags for weekly pickup must be stored in areas away from front yards, sidewalks, or other public rights of way affecting the visual and aesthetic character of city streetscape.

(Code: 313-47) MAINTENANCE REQUIREMENTS

All vacant lots within the City of Albany shall be kept clean and free of litter, debris and hazards. Ground cover shall be properly established and maintained. Heavy undergrowth shall be eliminated.

(Code: 313-51.1) RESPONSIBILITY OF PROPERTY OWNERS

All properties and/or adjoining public ways in the City of Albany must be maintained free of litter, debris and excessive accumulation of animal waste.

(Code: 313-4B) YARD WASTE

At no time should leaves, grass clippings and other yard waste debris be raked into the street. These items should be placed in a biodegradable paper bag and placed curbside the evening prior to your collection day. **NO PLASTIC BAGS**

(Code: 313-4 & 313-8) RESIDENTIAL CONSTRUCTION DEBRIS

Residential construction debris will be picked up curbside as long as it is neatly containerized, manageable by 1 person, able to be loaded into a collection vehicle and takes laborers no more than 4 trips between the pile and the vehicle. Building material should not be placed curbside more than twice a month.

(Code: 323-21/22) SNOW

It is the responsibility of all property owners' and/or residents to remove snow and ice from the sidewalks adjacent to their property within 24 hours of the end of a snowstorm. In no event shall snow, by anyone, be shoveled, plowed or blown into the city streets, carriageways, or crosswalks for removal.

VIOLATORS MAY BE SUBJECT TO A FINE UP TO \$625.00 PLUS CLEANUP COST
For a copy of our waste collection and recycling program brochure call 434-CITY



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DEPARTMENT OF GENERAL SERVICES
ONE CONNERS BOULEVARD
ALBANY, NEW YORK 12204-2514
(518) 432-1144 FAX 427-7499
WWW.ALBANYNY.GOV

GERALD D. JENNINGS
MAYOR

NICHOLAS J. D'ANTONIO
COMMISSIONER

March 19, 2013

Jay Harold Jakovic
662 Madison Avenue
Albany, NY 12208-3645

RE: 79 Spring Street (T14119)
Parcel #: 06623

Dear Jay Harold Jakovic,

In accordance with Section 313 of the Code of the City of Albany a hearing has been scheduled for April 18, 2013 at 1:30 pm at the Department of General Services, One Connors Boulevard in the City of Albany.

If you fail to appear on your scheduled date no further hearings will be scheduled.

For the Commissioner,

A handwritten signature in cursive script, appearing to read "Susan Kimble".

Susan Kimble, Assistant Commissioner
Department of General Services

cc:
Tara Wells
Ed Kindlon
Jackie Beattie

**2013 PROPERTY TAX BILL
CITY OF ALBANY, NEW YORK**

*For Fiscal Year 01/01/2013 to 12/31/2013 * Warrant Date 12/31/2012

Bill No.
Sequence No. **014667**
Page No. **01 OF 01**

MAKE CHECKS PAYABLE TO
City of Albany

PAY IN PERSON AT
Treasurer's Office
Room 110
City Hall, 24 Eagle Street
Albany, NY 12207
518-434-5035

SWIS S/B/L ADDRESS & LEGAL DESCRIPTION
010100 65.80-2-66

Address: **79Spring St**
School: **Albany**
NYS Tax & Finance School District Code: **1010**

Roll Sect. **1**

COUNTY OF ALBANY, N.Y.
112 STATE St
Albany, NY 12207

2 Family Res

Account No.: **06623**
Bank Code:

Estimated State Aid: CNTY **71,755,104**

Property Tax Payers Bill of Rights

The assessor estimates the Full Market Value of this property as of March 1, 2012: **139,065**
The Total Assessed Value of this property is: **148,800**
The Uniform Percentage of Value used to establish assessments in your municipality was: **107.00**

If you feel your assessment is too high, you have the right to seek a reduction in the future. For further information, please ask your assessor for the booklet "How to File a Complaint on Your Assessment." Please note that the period for filing a complaint on the above assessment has passed.

<u>Exemption</u>	<u>Value</u>	<u>Tax Purpose</u>	<u>Exemption</u>	<u>Value</u>	<u>Tax Purpose</u>	<u>Exemption</u>	<u>Value</u>	<u>Tax Purpose</u>
Property Taxes								
<u>Taxing Purpose</u>	<u>Total Tax Levy</u>		<u>% Change from Prior Year</u>	<u>Taxable Assess Value or Units</u>		<u>Rates per \$1,000 or per Unit</u>		<u>Tax Amount</u>
HOMESTEAD PARCEL								
County Tax	17,618,599		3.7	148,800.00		3.668490		545.87
City Tax	55,148,000		0.0	148,800.00		10.281500		1,529.89

City of Albany
Office of the Treasurer
PAID
JAN 31 2013

Payment Schedule	Penalty /Interest	Amount	Total Due	BASE TAX	
Pay By:					
01/31/2013	0.00	2,075.76	2,075.76		
02/28/2013	83.03	2,075.76	2,158.79		
03/31/2013	103.79	2,075.76	2,179.55		

Taxes Paid By _____ CH CA



Print

Subject 79 Spring Street

From: Jay Harold Jakovic <inlandabstract@verizon.net>

Sent: Apr 10, 2013 04:47:11 PM

To: tony@vardenbros.com

Tony - Thank you for agreeing to testify at my Department of General Services hearing for 79 Spring Street. The hearing will be held on Thursday, April 18, 2013 at 1:30 p.m. The location of the hearing will be 1 Connors Boulevard, Albany, New York. You will need to take along with you to the hearing your dumpster receipts to be presented as evidence.

Thank you again.

Jay Harold Jakovic
662 Madison Avenue
Albany, New York 12208-3604
(518) 465-6537

Varden Brothers Roofing Company, Inc.

80 Third Avenue • Albany, NY 12202 • (518) 434-0185

On Site Estimate or Contract

Job Name: Jalovic Date Called _____
79 Spring St. Date Promised: _____
 Job Location: _____ Date Completed: _____
 Work _____ Home _____

WORKED PERFORMED: Original of Project
Roof Project

Qty	MATERIALS USED			Qty	MATERIAL USED		
	Remove 4 Layers Roof				Copper Edging		
	Re-nail 5/4 Deck				3 sides	1200	—
	Repair Bad Areas						
	Redeck Entire Roof						
	4 new Ply wood	6500	—				
	Install New 2" Iso	4500	—				
	Board + Re-roof	920	—				
	Rebuild Chimney	2500	—				
	Additional 2' overhang						
	Re Deck 4 3/4 Ply wood &						
	2" Iso + Roof	1500	—				

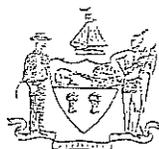
Total Material \$17,120 —

LABOR

Name	Date	Hours	Rate	TOTAL
Total Labor				

Material		
Labor		
Rental		
Sub Total		
Sales Tax		
TOTAL		

Customer's Signature _____ Date _____
 Drawing on Reverse Side Only



GERALD D. JENNINGS
MAYOR

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WWW.ALBANYNY.GOV

NICHOLAS J. D'ANTONIO
COMMISSIONER

April 24, 2013

Jay Harold Jakovic
662 Madison Avenue
Albany, NY 12208-3645

RE: Trash
Address: 79 Spring Street
Parcel #: 06623
Date of Cleanup: February 19, 2013
Violation #: T14119

Bill Amount: \$107.45 - Not Rescinded
Fine Amount: \$100.00 - Not Rescinded

Dear Jay Harold Jakovic,

This letter is in response to the hearing that was held on April 18, 2013 at the Department of General Services. This file was reviewed by the DGS Code Enforcement Committee.

Please see the results listed above for your results.

For the Commissioner,

A handwritten signature in cursive script, appearing to read "Susan Kimble".

Susan Kimble, Assistant Commissioner
Department of General Services

cc: Honorable Kathy Sheehan, City Treasurer

JAY HAROLD JAKOVIC
ATTORNEY AND COUNSELOR AT LAW
662 MADISON AVENUE
ALBANY, NEW YORK 12208-3645

TELEPHONE (518) 465-6537
FAX (518) 465-6566
E-MAIL: INLANDABSTRACT@VERIZON.NET

Via Fax to 427-7499 – Hard Copy to Follow

April 25, 2013

Hon. Nicholas J. D'Antonio, Commissioner
Department of General Services
City of Albany
One Conners Boulevard
Albany, NY 12204-2514

Re: 79 Spring Street
Parcel No. 06623
Date of Cleanup: February 19, 2013
Reason: Building Material
Violation No. T14119

Dear Commissioner D'Antonio:

This letter concerns a hearing held April 18, 2013 by the Department of General Services Code Enforcement Committee about premises 79 Spring Street, Albany. The alleged violation date was February 19, 2013 and the violation number is T-14119 – illegal debris.

At the hearing, although the notice was copied to Tara Wells, Ed Kindlon and Jackie Beattie who I understand are the relevant DGS crew, they were not present so I did not have the opportunity to confront my accusers, nor was there any testimony on behalf of your department. The main testimony was from my roofer, Tony Zeppetelli of Varden Brothers Roofing. His contract for roof replacement and his dump receipts were introduced into evidence. Mr. Zepetelli's testimony was that:

1. On January 17, 2013, I retained his firm to reroof the building at 79 Spring Street, Albany, pursuant to written contract;
2. his contract with me included the removal of all the trash he generated and that he did so;

3. in the course of his reroofing, the back wall of the building collapsed; that after the collapse, he obtained the necessary municipal permits from Albany's Bureau of Buildings and Codes and that he duly rebuilt the back wall of the building;
4. because of the emergency nature of the work, the trash generated from the collapse was piled in the rear yard of 79 Spring Street and was not removed until after the building was stabilized; however, he removed all of the trash and left the building clean of construction debris when his firm left the site. Furthermore, he testified that at the collapse of the back wall of the building, and for obvious reasons, he was the only contractor working in the building and remained so until he completed his work on the job.

At the introduction into evidence of Mr. Zeppetelli's dump receipts, Assistant Commissioner Susan Kimble inquired as to the date of the last dump receipt which Mr. Zeppetelli testified was in March, 2013. Mr. Zeppetelli explained that the collapse of the wall lengthened the time his firm was working on the project to six weeks, well after the violation date of February 19, 2013 and that when he left the worksite, he left it clean, having removed his trash as required by contract. The only other testimony was my introduction of my tax bill establishing that 79 Spring Street is a two-family house which as such is eligible for Albany's Waste collection and recycling program and my identification of my building in answer to a question by Ms. Kimble.

The Committee's decision made on April 24, 2013 not to rescind the bill and the fine cannot be supported by the evidence introduced at the hearing which I have recounted to you *supra*. There was no other testimony offered on either side. In any event, the collection of residential construction debris for eligible buildings is part of the Albany's waste collection and recycling program and the subject premises were established to be an eligible building. Residential building material is not illegal trash.

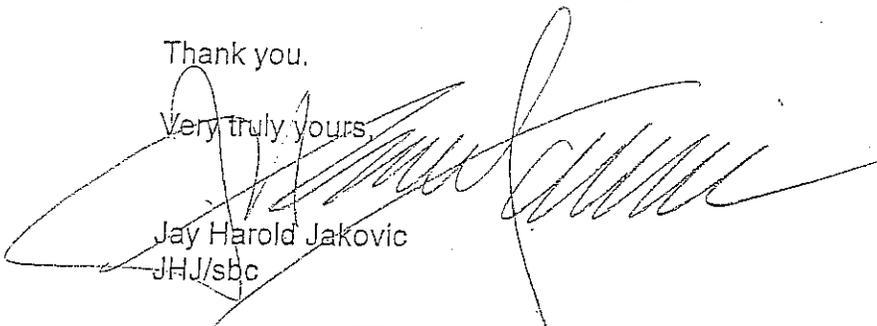
Although not offered as a defense at the hearing because it is not an excuse for violating the law, you should be aware that I purchased 79 Spring Street from the County of Albany which acquired it as part of its In-Rem tax foreclosure proceedings; that when I purchased it, the building was in deplorable condition which was not remedied by the county who would not even patch the missing roof covering or send a plumber to stop the spraying water after thieves stole the copper out of the building last fall. The County refused to perform this work even though I offered additionally either to pay their contractors directly or to reimburse the county for their bills. Without my intervention, the building would have collapsed entirely removing all the improvements from the City tax rolls. My family have owned various buildings in the neighborhood continuously since the Victorian Era and have an especial connection to that block of Spring Street. The building is now stabilized, weather tight, secure and safe to enter and exit.

It is anticipated that engineering review will be completed and plans submitted this summer for approval so that full renovation may commence this fall or winter. In any event, the building is back on the tax rolls with City taxes and water and sewer bills all paid to date.

I would ask you to review and rescind the Committee's decision and enclose for your reference, the violation and hearing notices and hearing decision.

Thank you.

Very truly yours,



Jay Harold Jakovic
JHJ/sbc

cc: Hon. Kathy Sheehan, City Treasurer



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GERALD D. JENNINGS
MAYOR

NICHOLAS J. D'ANTONIO
COMMISSIONER

April 29, 2013

Jay Harold Jakovic
662 Madison Avenue
Albany, NY 12208-3645

RE: 79 Spring Street
Parcel #: 06623

Dear Jay Harold Jakovic;

The DGS Code Enforcement Committee denied your request to rescind your bill dated March 13, 2013. If you wish to further contest this bill and fine please follow Section 313.51.1G. Appeal. Any person or persons aggrieved by a decision of the Commissioner or his designee may file an administrative appeal with the Board of Zoning Appeals in the manner prescribed in Article IV of Chapter 375 of the Code of the City of Albany, and thereafter in accordance with the provisions of Article 78 of the New York Civil Practice Law and Rules. The application fee will be \$250.00 please contact Bradley Glass at 445-0754.

For the Commissioner,

A handwritten signature in cursive script, appearing to read "Susan Kimble".

Susan Kimble, Assistant Commissioner
Department of General Services

JAY HAROLD JAKOVIC
ATTORNEY AND COUNSELOR AT LAW
662 MADISON AVENUE
ALBANY, NEW YORK 12208-3645

TELEPHONE (518) 465-6537
FAX (518) 465-6566
E-MAIL: INLANDABSTRACT@VERIZON.NET

May 2, 2013

Bradley Glass
City of Albany
Department of Development & Planning
Division of Planning, Zoning & Land Use
200 Henry Johnson Boulevard
Albany, New York 12210

Re: Premises: 79 Spring Street, Albany, New York
Parcel No. 06623
Appellant: Jay Harold Jakovic
Respondent: Susan Kimble, Assistant Commissioner
Department of General Services
Violation No. T14119

Dear Mr. Glass:

This letter will transmit to you my application to the Albany City Zoning Board of Appeals for an appeal from the April 24, 2013 Department of General Services Code Enforcement Committee decision in this case. Enclosed please find my check number 2981 dated May 2, 2013 for the filing fee.

Do not hesitate to contact me if anything further is required.

Thank you.

Very truly yours,

Jay Harold Jakovic

Cc: Hon. Kathy Sheehan, Albany City Treasurer
Hon. Susan Kimble, Assistant Commissioner,
Department of General Services