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Registration and the Re-empowerment of the Buffalo Housing Court

Abstract

There's not a single panacea that will cure Buffalo's myriad housing woes. A 2008 Buffalo News study found that Buffalo had the third highest rate of vacant housing among the 100 largest cities in the country. One estimate puts the number of vacant houses at over 10,000. There is no doubt, however, that one extremely important tool in combating the blight and decay that come along with scads of vacant houses is the Buffalo Housing Court. Problem properties that are in violation of city codes can be brought through Housing Court by the city inspectors. Once a property is in Housing Court, the Court is able to use the many tools available through his position to see that the property is properly maintained. Amongst those tools are the abilities to order repairs, sales or demolitions and levy fines.

Keywords

Buffalo, Housing/Neighborhoods, Housing Conditions and Repairs, Report, Other, PDF



Registration and the Re-empowerment of the Buffalo Housing Court

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Executive Summary:

Findings: Buffalo City Court is limited in its ability to serve out-of-county property owners by the New York State Constitution. While the Court's decision in *People v. Wells Fargo* is sound, the Court's finding should be codified in law. New York State laws permit city governments to pass laws providing for service of process for code violations.

Recommendation: Amend the Rental Registration Law to provide for service of process on an agent. An amendment reflects the legislative intent of that law and makes use of the tools the law already provides.

There's not a single panacea that will cure Buffalo's myriad housing woes. A 2008 Buffalo News study found that Buffalo had the third highest rate of vacant housing among the 100 largest cities in the country¹. One estimate puts the number of vacant houses at over 10,000². There is no doubt, however, that one extremely important tool in combating the blight and decay that come along with scads of vacant houses is the Buffalo Housing Court. Problem properties that are in violation of city codes can be brought through Housing Court by the city inspectors. Once a property is in Housing Court, the Court is able to use the many tools available through his position to see that the property is properly maintained. Amongst those tools are the abilities to order repairs, sales or demolitions and levy fines. The best possible scenario is to have a property in the hands of an owner who is willing to work with the court to make the necessary repairs and bring the property into compliance. Unfortunately, the best case scenario is not always the reality. Out-of-town owners, by shirking the City's rental registration law, are able to avoid the reach of the Housing Court. Without a solution to enable the Housing

¹ *Albany and Washington Shine Light on Buffalo Housing Blight*, The Buffalo News, 10/23/2009

² *Winging it in Buffalo*, Preservation Magazine, 9/7/2007

Court to obtain jurisdiction over these problem owners, these properties are left to rot - literally - while in line for demolition or auction and Buffalo's residents are the worse for it. With 7,000-8,000 properties, City Hall is Buffalo's single biggest landowner³ and is not the best equipped entity to deal with each and every problem property under its care; it has neither the resources nor the manpower to do so. The most effective - and most expedient - way to handle problem properties is through their owners. With out-of-town banks like Wells Fargo and Deutsche Bank taking title to thousands of properties in Buffalo⁴ via foreclosure and out-of-town investors buying up swaths of local properties, Buffalo Housing Court needs to be able to obtain jurisdiction over out-of-town property owners in order to more effectively address the city's vacant housing crisis.

Jurisdiction presents a real problem for Buffalo Housing Court. To start, it is the only court that can hear Building Code violations on Buffalo properties - violations that often result from the negligence and indifference of absentee property owners. Higher courts such as the Erie County Court or the state Supreme Court do not hear cases that fall below misdemeanors. Thus, if the Housing Court cannot obtain jurisdiction over a Building Code violator, no one else will. It has subject-matter jurisdiction over any property within its jurisdiction, but that jurisdiction is not always enough to turn around a problem property. A vacant house worth less than the cost of demolition is not much of an asset to the city. When it has thousands of properties under its ownership, the city can only move so fast in demolishing (or rehabilitating, had it the will and the funds) a given property and must assume the associated costs. Personal jurisdiction provides a greater tool for the Court to remedy problem properties. Amongst its powers, the Court may

³ *Albany and Washington Shine Light on Buffalo Housing Blight*, The Buffalo News, 10/23/2009

⁴ *Foreclosing Erie County: Erie County, NY Foreclosure Study, Years 2007-08*, WNYLC, 2009

impose stringent fines upon reluctant property owners over whom it has jurisdiction. This provides the figurative stick to compel those property owners to take measures to bring their properties up to city code. The court is limited, however, in its ability to obtain personal jurisdiction over property owners.

The Court's ability to obtain jurisdiction is first controlled by the New York State Constitution. Article VI of the NY Constitution details the state's unified court system and, with regards to jurisdiction, Section 1(c) thereof states that "(P)rocesses, warrants and other mandates of town, village and city courts outside the city of New York may be served and executed in any part of the county in which such courts are located or in any part of any adjoining county."⁵ The Housing Court is also controlled by the Buffalo City Court Act. In 1978, the state legislature amended the Buffalo City Court Act to create the Housing Court. The Buffalo City Court Act was repealed and replaced by the Uniform City Court Act in 1988⁶. The lone exception to this repeal was Article X of the Buffalo City Court Act, the part which established the Housing Court. This strange exception is referred to as an "anomaly in the law" because Article X is not published in the McKinney's Laws of New York⁷. The practical consequence of this unique circumstance is that guidance for the rules for service of process for the Housing Court are to be found in the repealed portion of the Buffalo City Court Act. Article X, §211, Service of Summons refers to "actions and proceedings" in its discussion of rules for service in Housing Court. The Buffalo City Court Act contained provisions for Civil both Jurisdiction and Procedure (Section II) and Criminal Jurisdiction and Procedure (Section III), each of which contained rules for service. The rules for actions and proceedings are

⁵ The Constitution of the State of New York, Article VI, Section 1(c)

⁶ *People v. Mancuso*, 10 Misc.3d 1055(A)

found within Section II of the Act, not Section III⁸. This is unique in that the Housing Court is a criminal court and yet the legislature in 1978 specifically referred to actions and proceedings so as to have civil and not criminal rules control its proceedings.

One might look to the Civil Practice Law and Rules, then, to find a way for the Court to obtain jurisdiction over out-of-town landlords. Section 302(4) of the CPLR states that "a court may exercise personal jurisdiction over any non-domiciliary, or his executor or administrator, who in person or through an agent...owns, uses or possesses any real property situated within the state."⁹ This clearly states that the Housing Court can obtain personal jurisdiction over its problem property owners. At the same time, however, the Court has no way to serve them because of the limitations by the New York State Constitution regarding service - the Court still cannot serve an out-of-town property owner if they are not in Erie County or one of its adjacent counties even if it is entitled to personal jurisdiction over them. One might also look to the Uniform City Court Act for guidance. Section 404 refers to personal jurisdiction by acts of non-residents. Just as the CPLR, it contains a subsection, §404(a)(3), that provides for personal jurisdiction over non-residents of a county who own, use or possess real property in that county. §404(b), however, limits service in the same way the State Constitution does - it must be made in the county or an adjoining county¹⁰.

How, then, can the court obtain the jurisdiction it is entitled to over non-resident owners of real property in Buffalo - owners who intentionally avail themselves of Buffalo law and in turn damage the city by allowing their properties to sit unoccupied and non-

⁷ Ibid.

⁸ *People v. Mancuso*, 10 Misc.3d 1055(A)

⁹ New York Civil Practice Law and Rules, §302(4)

¹⁰ New York Uniform City Court Act, §404(a),(b)

maintained? The Court considered just this in *People v. Wells Fargo*¹¹. In this case, the City of Buffalo had charged Wells Fargo with a violation of a New York State Property Maintenance Code. Relevant to this issue, after a judgment was entered against it in the maximum amount of \$13,500. Wells Fargo moved to have the judgment, sentencing and fine set aside and the Information dismissed in its entirety. Amongst the bases on which it relied in support of that motion was that the service of the Information was improper¹². In its discussion of the service issue, the Court looked to the Memorandum from the 1978 amendment to the Buffalo City Court act that created the Housing Court. The Court found that the legislative intent was, in part, to broaden the Court's jurisdiction so as to "improve the quality of Housing in the City of Buffalo by enabling stricter, more effective enforcement of housing standards." The Court further found that this intent was manifest in §211 of the Buffalo City Court Act. This was made evident by the provision for service at a "registered address", an address registered with the Buffalo Department of Permit and Inspection Services, as an alternative to service at an actual place of business of the owner¹³. The amendment also allowed for posting of service on the property being cited instead of posting at the place of business. Lastly, the same registered address could be used for mailing of service as an alternative to mailing to the last known registered address of the owner. The provision for these alternate methods of service, coupled with the expressly stated intent of broadening jurisdiction, show, according to the court, that the state legislature clearly contemplated the difficulty in serving a non-

¹¹ *People of the State of New York v. Wells Fargo Bank of Minnesota*, Buffalo City Court Docket No. H01390/06, [2009]

¹² Ibid.

¹³ Ibid.

resident property owner without a place of business in Buffalo¹⁴.

In its analysis of Wells Fargo's claim of improper service, the Court proceeds to consider the city's Rental Dwelling Unit Registration law¹⁵. This is because Article X, §211 refers to a registered address, as mentioned above. The requirements for registration are found in Chapter 264 of the Buffalo City Code. §264-3A states: "No person shall allow to be occupied, or rent to another for occupancy, any dwelling unit unless the owner has first obtained a rental dwelling unit registration certificate as hereafter provided." §264-3B provides exemptions for owner-occupied properties of two dwelling units or fewer as well as some other exemptions. §264-4A states that owners of applicable properties must "make written application to the Commissioner of Permit and Inspection Services for a Rental Dwelling Unit Registration Certificate". The same section then lists the requirements for a registration application. This includes §264-4A(7), which states that an owner must provide an address to which notices of violations are to be sent, and §264-4A(8) which states that if the owner does not reside within Erie County, the owner must provide the name, address and telephone number of a contact or agent who lives within Erie County¹⁶. In the case before the Court, Wells Fargo failed to comply with the rental registration requirements. This denied the City the ability to serve a person of suitable age and discretion or by posting and mailing. If the Court upheld Wells' Fargo's challenge, it would have had the effect of acknowledging that an out-of-state owner who violates the City's Building Code may avoid prosecution by also violating the Rental Dwelling Unit Registration law (a violation which, in turn, the City

¹⁴ *People v. Wells Fargo*, Buffalo City Court Docket No. H01390/06, [2009]

¹⁵ *Ibid.*

¹⁶ Buffalo City Code, Chapter 264, §3,4

would also be unable to prosecute)¹⁷. The Court continued its inquiry and found that the state constitution does not prohibit a defendant from consenting to other means of acquiring jurisdiction when it resides outside of a territorial limitation and cited several cases in which said had occurred¹⁸. It held that by failing to comply with the Rental Dwelling Unit Registration law, it implicitly consented to accept service beyond the territorial jurisdiction¹⁹. This case is currently on appeal; should it stand, the court will now have a means to serve non-resident property owners who fail to register and designate an agent located in Erie County.

Regardless of the ultimate result of that case, it is worth looking into alternate solutions to the problem of obtaining jurisdiction over non-resident property owners. There are is one obvious but impractical all-encompassing solution to this problem. That would be to amend the state constitution. An exception could be added to allow greater range of service in limited circumstances where the state presently has a blanket limitation on city courts' ability to serve outside of their home county and adjacent counties. This possible exception could allow city courts to serve any owners of real property regardless of residence for matters pertaining to that real property. Any amendment to the State Constitution, however, is a difficult and lengthy. Article XIX of the New York Constitution contains the amendment procedure. Amendments originate in the legislature and are subject to a majority vote by both bodies. If it survives that vote, the amendment is then referred to the next legislative session following the next election and voted on again. If a majority of both bodies again vote in support of the amendment,

¹⁷ *People v. Wells Fargo*, Buffalo City Court Docket No. H01390/06,[2009]

¹⁸ See: *Pohlars v. Exeter Mfg Co.*, 293 NY 274 [1944], *Daniel C Cox DC PC v. State Farm Gen. Ins.*, 23 Misc3d 628 [Buffalo City Ct 2009], *O'Rourke v. Ted's Ford*, 89 Misc2d 986, 987 [1977].

¹⁹ *People v. Wells Fargo*, Buffalo City Court Docket No. H01390/06,[2009]

it is taken to the people to be voted upon a third time. If it passes a majority popular vote, the amendment then takes effect on January 1st of the next year²⁰. The barriers to this solution are obvious. The proposed amendment would need the support of a first legislator to propose it, and then that legislator would need to win the support of a majority of both the New York Senate and Assembly. It seems unlikely that an amendment to allow Buffalo greater ability to address its housing crisis would have the eager support of legislators across the state. And even if that support is won both times necessary to get the amendment to the state's voters, a campaign would have to be mustered to win their support as well. This would cost money and manpower and potential sources thereof are not readily apparent. For those reasons, this route is not the best.

The best answer seems to be to close to the solution New York has for service on corporations. New York Business Corporation Law (BCL) §304a provides for service upon the Secretary of State. BCL §304b makes mandatory the designation of the Secretary of State as agent for service purposes as a pre-requisite for formation and doing business in the state²¹. Buffalo should adapt the Rental Dwelling Unit Registration law to include similar provisions with the necessary modifications to tailor the law to property ownership and not corporation formation. As it stands, the Rental Dwelling Unit Registration law is somewhat vague regarding to whom the law applies. It exempts owner-occupants of two-unit or fewer homes²². One might read that section to include non-owner-occupied single unit homes, but in *People v. Wells Fargo*, the Court described the law as applying to all non-owner-occupied two-unit homes. In order to include all

²⁰ The Constitution of the State of New York, Article XIX, §1

²¹ New York State Business Corporation Law, §304a,b

vacant and unused houses, §264-3A should read:

No person shall allow to be occupied, **possess or control and leave unoccupied**, or rent to another for occupancy, any dwelling unit unless the owner has first obtained a rental dwelling unit registration certificate as hereafter provided.

This addition would encompass all homes owned and left unused by non-resident property owners. "Possess or control" includes the possibility of a partially foreclosed home in which a bank has exerted some control over the home but has not yet taken title. One might consider including a minimum time period of non-occupancy so as to permit time to commence repairs or otherwise take action upon new ownership of a property, but the Court's discretion is a safeguard here. Allowing some sort of buffer time would give non-resident owners the ability to transfer title around in that timeframe to avoid falling under the category and becoming subject to the law. The court uses discretion in levying fines and gives owners every opportunity to bring a property into compliance; it would not pull a new property owner into court and immediately impose maximum fines per violation. This is sufficient protection for well-intentioned non-resident property owners. The expansion to include non-occupancy would not pose an additional burden to well-intentioned local property owners, either. The fee for registration is nominal and the broader range of properties included is only for the purpose of expanding the Court's ability to serve non-resident property owners. A local property owner can already be served in accordance with the limitations of the New York Constitution, so they would face no new impact from the change.

This change is does not warrant creation of an entirely new chapter of the City Code. As will be seen below, the Rental Unit Registration law has several useful

²² Buffalo City Code, Chapter 264, §3A

provisions already in place that can be modified or expanded upon. Moreover a non-occupied, vacant or abandoned home is at least in part being treated as if it were a rental property - an owner is possessing the property with no intent to reside there. Whether the owner intends to rent the property or not does not matter within the terms of the law. The law mandates registration mandatory for every dwelling unit that is not exempted and makes no mention of intent to rent.²³ The concerns expressed in the legislative intent of the law support registration being mandatory irrespective of intent to rent. The legislative intent not only states a desire to protect tenants' health and safety²⁴, but also includes the "protection of the character and stability of residential areas", the "enforcement of minimum standards for the maintenance of existing residential buildings and the prevention of slum and blight conditions", and the "preservation of the value of land and buildings throughout the City."²⁵ This proposed expansion of the law directly impacts each of those three concerns; providing a means for the Court to obtain jurisdiction over out-of-town property owners deters absentee ownership and, in turn, encourages maintaining properties to building and health codes. Maintaining properties to code then protects both the character of neighborhoods and house and land values.

§264-4A details the requirements for a registration application. This includes the provision for designation of an agent in §264-4A(8)²⁶. That specific provision should be expanded to resemble §305 of the BCL. To start, 4A(8) should read:

(8)If the owner does not reside within the County of Erie (New York State), the name address and telephone number of an agent who resides in the County of Erie (New York) **and upon whom process for violations of the City Charter and Ordinances, Building and Fire Prevention**

²³ Buffalo City Code, Chapter 264, §4A

²⁴ Buffalo City Code, Chapter 264, §1B,C,D

²⁵ Buffalo City Code, Chapter 264, §1A,E,F

²⁶ Buffalo City Code, Chapter 264, §4A(8)

Code and Erie County Health Laws may be served must be provided. Such agency information will be transferred Department of Permits and Inspection to the Department of Taxation and Assessment for its maintenance.

This now specifically provides for service of process and allows for the alternate methods of service permitted by §211 of the Buffalo City Court Act²⁷ (on a registered address in lieu of a last known address, etc.), and includes the violations with which the Housing Court deals. It also includes for the transfer of agency information and maintenance of said information by the Department of Taxation and Assessments, which will be explained further below. §264-4B lists the consequences for failure to register²⁸. It should now include two parts:

B. (1) Failure to provide such information shall be grounds to deny a rental dwelling unit registration certificate.

(2) Failure, refusal or neglect by an owner who does not reside within the County of Erie (New York State) to designate an agent as provided by A(8) above or failure, refusal or neglect give proper notice of change of agent or agent's address as provided by A(5) above, shall be deemed consent to service of process on the Department of Assessment and Taxation of the City of Buffalo as agent for service; Office of Department of Assessment and Taxation shall be considered "registered address".

This codifies and makes explicit what the Court finds to be implicit in *People v. Wells Fargo*²⁹, consent to an alternate form of service, but this time creates a method of service that still allows compliance with the limitations of the state constitution. This is fundamentally fair to non-resident property owners. Taking ownership of a house is taking ownership of a piece of Buffalo and every advantage entailed. To require consent to jurisdiction is a fair trade for that ownership. As mentioned at the onset of this

²⁷ L1978, Chapter 516, §211

²⁸ Buffalo City Code, Chapter 264, §4B

²⁹ *People v. Wells Fargo*, Buffalo City Court Docket No. H01390/06, [2009]

proposal, vacant and abandoned homes create a serious harm to this or any city and the ultimate end result of this law is to require some time of active involvement with any home purchased in Buffalo. That is not too much to ask of any owner. Similarly, it removes the incentive for an owner to disregard the registration requirement in order to thwart the City's ability to prosecute violations. To be thorough, this change provides protection against a scenario in which an agent is named but is not located at the address specified, either by intent to deceive or by legitimate but non-notified change in address. The Department of Assessment and Taxation is chosen as agent, acting in the same capacity as the Secretary of State in the BCL. This office is chosen because, according to Court Attorney/Referee Mark Doane, it is the office best equipped to handle this responsibility. Designating the Department of Permits and Inspections would create a serious question of fairness - the office which finds violations, issues notices and takes cases to court should not also be the agent for owners against whom they have already acted. Moreover, and again according to Mark Doane, The Department of Taxation and Assessment has the database capability and in fact already maintains similar records. A provision for the maintenance of this data is included in 264-4A(8), above.

BCL §306 should be the example for the rules for how service upon the Department of Taxation and Assessment should work and how that office should act once served. To that end, a new section should be inserted after §264-4 as §264-5 and then the number of each succeeding section should be moved up one. §264-5 would be titled

Service of Process and read:

(A) Service of process on a registered agent may be made in the manner provided by law for the service of a summons, as if the registered agent was a defendant.

(B)(1) Service of process on the Department of Taxation and Assessment

as agent of a non-resident dwelling unit owner shall be made by personally delivering to and leaving with any person authorized by the Department to receive such service, at the office of the Department, duplicate copies of such process. Service upon such non-resident owners shall be complete once served.

(2) The Department of Taxation and Assessment shall promptly send one of such copies by certified mail, return receipt requested, to such non-resident property owner at the last known address of such non-resident owner or principal place of business if such owner is a corporation. If no such address exists, copy shall be sent certified mail, return receipt requested to the address of the premises the subject of such notice.

This section will ensure the opportunity for a non-resident owner who has not complied with the Rental Dwelling Unit Registration law to appear in a proceeding for a violation by providing for a copy to be sent to the owner at that owner's last known address or to the address of the premises alleged to be in violation. This is a further attempt at maintaining fairness for a non-compliant owner.

The city has the ability and the authority to make these changes. Article X, §221, besides referring to a "registered address", also specifically mentions "section two hundred sixteen (216) of the housing and property code of the City of Buffalo" in its discussion of the registered address. As it turns out, that section, though since replaced, mandated that any owner or lessee of multiple housing and any agent or anyone controlling multiple housing registered an agent who lived in or was employed in the county for the purpose of accepting service.³⁰

Buffalo not only did have an agency provision at one time, but it is still able to do so now. First, in the New York Statute of Local Governments there is a general grant of powers to local governments which includes, "the power to adopt, amend and repeal ordinances, resolutions and rules and regulations in the exercise of its functions, powers

³⁰ Housing and Property Code of the Ordinances of the City of Buffalo, New York, §216-a

and duties".³¹ Next, under the state's General City Law, cities are granted the power to "regulate, manage and control its property and local affairs and is granted all the rights, privileges and jurisdiction necessary and proper for carrying such power into execution."³² This means that the city has the ability to pass ordinances to regulate its property and local affairs and also has the jurisdiction necessary to do so. General City Law §23 states that the powers granted by the act are to be "exercised by the officer, officers or official body vested with such powers by any other provision of law or ordinance" and that no local or special law can defeat or limit those powers³³. Most importantly and again in the state's General City Law, §20 lists many of a city's powers, including §20.35: "to adopt a local law or ordinance compelling the repair or removal of any building or structure that...endangers the health, safety or welfare of the public, providing for..." and then amongst the things for which such a law can provide, "the service of a notice upon the owner, and all persons having an interest in such property or structure".³⁴ Taken all together, this means that the City is able to pass laws pertaining to its real property, has the requisite jurisdiction to pursue those laws and can specifically pass a law that provides for service of process on an owner of property that endangers the health, safety or welfare of the public.

As amended, the Rental Dwelling Unit Registration law will allow the Housing Court to pursue its purpose as specified by the state legislature in its creation, namely to improve the quality of housing in the City of Buffalo. The changed sections of the Rental Dwelling Unit Registration law follow with changes in bold. A complete version of the

³¹ New York Statute of Local Governments, Article 2, §10.1

³² New York General City Law, §19.1

³³ New York General City Law, §23

³⁴ New York General City Law, §20.35b

existing law can be found at <http://www.ecode360.com/?custId=BU1237>.

PROPOSED AMENDMENTS TO THE BUFFALO RENTAL DWELLING UNIT

REGISTRATION LAW:

§264-3 Rental dwelling unit registration required; exemptions.

A. No person shall allow to be occupied, **possess or control and leave unoccupied**, or rent to another for occupancy, any dwelling unit unless the owner has first obtained a rental dwelling unit registration certificate as hereafter provided.

B. Exemptions. The provisions of this chapter shall not apply to owner-occupied properties containing two or fewer dwelling units; hotels; motels; bed-and-breakfast establishments; rooming or boarding houses; hospitals; nursing homes; or other dwelling units which offer or provide medical or nursing services if such units are subject to state or federal licensing or regulations concerning the safety of the users, patients or tenants. The provisions of this chapter shall not apply to buildings having an existing and valid certificate of occupancy.

§264-4 Application for registration.

A. Within 60 days after the effective date of this chapter, the owner of each dwelling unit existing on the effective date of this chapter shall make written application to the Commissioner of Permit and Inspection Services for a rental dwelling unit registration certificate. In addition, the owner of each dwelling unit constructed after the effective date of this chapter shall make written application to the building official for a rental dwelling unit registration certificate as herein provided prior to any initial occupancy. Such application shall be made on a form furnished by the commissioner and shall set forth the following information, in addition to other information required by the Commissioner from time to time which may be necessary to administer, enforce and insure compliance with the provisions of this chapter and the housing code.

(1) Name, principal residence address, principal business address and telephone number of the owner.

- (2) If the owner is an association, limited liability partnership, joint tenancy, tenancy in common or tenancy by the entirety, then each and every owner or general partner shall be indicated on the application and register an address in accordance with Subsection A(1) of this section.
- (3) If the owner is a corporation, the principal place of business of the corporation must be provided and the name, title and residence address of all officers, directors, managing or general agents must be included.
- (4) If the owner has designated an agent or managing company, then the name, principal residence address, principal business address and telephone number of such agent or managing company must be included in addition to that of the owner.
- (5) It shall be the responsibility of the owner to properly register any change of address, agent or other information which occurs after the filing of the application
- (6) For purposes of this section, a post office box shall not be accepted as the owner's address. Further, the building intended to be licensed shall not be accepted as the owner's address unless it is the principal place of business or residence of the owner.
- (7) The owner shall specify the address to which all notices of violation issued pursuant to 254-15 of this chapter and other violations of the housing codes and invoices for fees are to be forwarded.
- (8) If the owner does not reside within the County of Erie (New York State), the name address and telephone number of an agent who resides in the County of Erie (New York) **and upon whom process for violations of the City Charter and Ordinances, Building and Fire Prevention Code and Erie County Health Laws may be served** must be provided. **Such agency information will be transferred Department of Permits and Inspection to the Department of Taxation and Assessment for its maintenance.**

B. (1) Failure to provide such information shall be grounds to deny a rental dwelling unit registration certificate.

(2) **Failure, refusal or neglect by an owner who does not reside within the County of Erie (New York State) to designate an agent as provided by A(8) above or failure, refusal or neglect give proper notice of change of agent or agent's address as provided by A(5) above, shall be deemed consent to service of process on the Department of Assessment and Taxation of the City of Buffalo as agent for service; Office of Department of Assessment and Taxation shall be considered "registered address".**

264-5 Service of process.

(A) Service of process on a registered agent may be made in the manner provided by law for the service of a summons, as if the registered agent was a defendant.

(B)(1) Service of process on the Department of Taxation and

Assessment as agent of a non-resident dwelling unit owner shall be made by personally delivering to and leaving with any person authorized by the Department to receive such service, at the office of the Department, duplicate copies of such process. Service upon such non-resident owners shall be complete once served.

(2) The Department of Taxation and Assessment shall promptly send one of such copies by certified mail, return receipt requested, to such non-resident property owner at the last known address of such non-resident owner or principal place of business if such owner is a corporation. If no such address exists, copy shall be sent certified mail, return receipt requested to the address of the premises the subject of such notice.