

From: Michael Kalin
Sent: Saturday, November 29, 2014 9:47 AM
To: FahyP@assembly.state.ny.us
Subject: South Allen Street Park alienation

Dear Assemblymember Fahy,

This is an automatically generated email to alert you that the following message has been posted on the online contact form:

Name: Michael Kalin
Address: 510 West Lawrence St.
City: Albany
State: New York
Zip: 12208

Message: When you asked for my signature on your initial campaign petition my first impulse was to send you away like all the others. Instead I relented & signed, hoping this time representation would be different.

Different indeed, even worse than before. A statute you sponsored in the assembly last year led directly to the loss of our neighborhood's only public greenspace for a pittance to a former city hall functionary.

The bait & switch tactic employed was spearheaded by then Council Member Sano in behalf of James Googas, and required your participation in the form of silently alienating the park.

The bait (your statute verbatim -- my emphasis in caps) --

[Section 1] Subject to the provisions of this act, the city of Albany, located in the county of Albany, is hereby authorized, acting by and through its common council and upon such terms and conditions as determined by such common council, to discontinue the use as park lands the lands more particularly described in section two of this act and to transfer such lands, at fair market value, which are no longer needed for park purposes for use in connection with the development of property for INDEPENDENT SENIOR GARDEN APARTMENTS.

[Section 2] The authorization contained in section one of this act shall only be effective on the condition that the city of Albany acquire and dedicate as parklands the lands described in section four of this act, such land to be used for park purposes. If the replacement lands are less than the FAIR MARKET VALUE of the lands being alienated, the city of Albany must dedicate the difference for the acquisition of additional parkland and/or for capital improvements to existing parkland.

The switch --

1. An illegal rezoning by the planning board to allow the construction of two oversized structures that are unrelated to independent senior garden apartments in any way.

2. A sale price of \$1.05/SF, hardly more than a giveaway. No need to look far for a comparable. 261 S. Allen, contiguous on three sides, sold for \$2.67/SF in 1991, then regarded as fair market value. Real estate has not lost value in the interim.

Our neighborhood is reeling from the impact of unmitigated hospital expansion, characterized by ugly medical buildings crammed into what was once wide open space, packed so tight the power station was squeezed up against the sidewalk. The feeble berm does nothing to hide this eyesore from the street view. No berm could be large enough to hide the buildings planned for the greenspace we cherished and lost to a mean-spirited local developer with the connivance of a scheming council member, abetted by a pliable assembly member.

The only mystery in all this is whether Googas/Sano duped you also, or you went along with the sham eyes wide open. No uncertainty about your reaching out to the park area residents. You didn't do it.

A full recitation of the facts follows. A FOIL request to Albany for documents relative to "independent senior garden apartments" and "fair market value" for the parkland development is a month overdue. This is inexplicable. Either corporation counsel is in possession of a real estate appraisal or he is not. Nobody possesses a plan to build independent senior garden apartments.

1. In 10/2012 Common Council Member Sano who represented the surrounding South Allen Street Park neighborhood announced privately to a few community members a plan was underway to convert the parkland into a senior citizen housing project.

2. On 7/20/2013 a statute authorizing the parkland alienation passed both the New York State Assembly and Senate, for the purpose of building "independent senior garden apartments" on the South Allen Street lots.

3. The sale occurred pursuant to Common Council Ordinance 31.81.12, 10/7/2013, and the deed was recorded 11/19/2013. One of the grantees, James J. Googas, is a former city official. The other, Mary E. Googas, is James' wife. Despite the explicit restrictions imposed by the statute and referenced on page 933 of the deed, a search by Albany County Clerk failed to produce a restrictive covenant. None was filed.

4. On July 17, 2014, the City's Department of Planning approved a development plan for conventional residential housing, in no way resembling "independent senior garden apartments." This plan was based on a reclassification of the property by the Board of Zoning Appeals (BZA) following a rejection of a work application on 4/17/2014. BZA failed to give notice to adjacent property owners as required by City Code Chapter 375-19 A 3 Notice ("The Board shall attempt to notify nearby property owners of the public hearing by mail"). The board made no such attempt, held the hearing anyway, and approved the reclassification, demonstrating a complete lack of integrity and disregard for public opinion. Also, the Department of Planning was bound by state law in this matter, notwithstanding the city's negligence regarding the filing of a restrictive covenant, under which a plan to develop anything other than "independent senior garden apartments" was unauthorized and improper. Therefore, the approval was illegal.

5. The land, consisting of 2.05 acres of parkland plus Dale Place, a paper street 30' x 198' of similar quality and value, for a total 2.18 acres, is not an obscure interior lot. It has 420' of prime street frontage, but was sold to the Googases for the extremely low price of \$1.05/SF. Compare 261 S. Allen, contiguous on three sides, which sold for \$2.67/SF in 1991. Local real property has not lost value in the intervening years. Other properties confirm the fact that parkland was alienated for substantially less than fair market value. This is a violation of the statute passed on 7/20/2013, which required the parkland to be transferred "at fair market value."

This information will also be provided to you in an Excel spreadsheet at the end of the month.

Thank you.

From: Catherine Fahey <faheyc@assembly.state.ny.us>
Date: Tue, Dec 23, 2014 at 4:36 PM
Subject: South Allen Street Park alienation

Dear Mr. Kalin,

Thank you for bringing your concerns to my attention regarding the development project of former city owned park land on S Allen St. and Onderdonk St. The decision to re-zone the property was the culmination of a multi-year process by the City of Albany, which included a full evaluation of any impacts the re-zoning would have along with opportunities for public input. The City decided to move forward on the re-zoning based on the results of a lengthy evaluation. The evaluation and decision was reviewed and approved by the NYS Office of Parks and Recreation and Historic Preservation (NYSOPRHP). The state enabling legislation, requested by the City of Albany and sponsored by myself and Senator Breslin, was introduced and passed in both houses. It was signed into law by the Governor on July 12, 2013.

As required by state statute, the enabling legislation was introduced and passed only after careful examination and approval by the NYS Office of Parks and Recreation and Historic Preservation (NYSOPRHP). Further, as required by state law, the City also identified an equivalent parcel of city owned land to dedicate as park land. The state's role in this particular park land alienation process began in 2011 with a request by the City of Albany to my predecessor, Jack McEneny, to pass legislation that would permit them to proceed with re-zoning the land parcels on S Allen St and Onderdonk St. NYSOPRHP reviewed and approved the request and the legislation was subsequently passed during my tenure in 2103, thereby allowing the City of Albany's rezoning process to move forward.

The City of Albany and its Common Council reviewed the proposal over a three year period that included adhering to the mandates of the State Environmental Quality Review Act (SEQRA) with numerous opportunities for the public to give input at meetings held by the Council. A final public hearing on the proposed zone change was conducted on September 16, 2013. The hearing was noticed in the Times Union for two consecutive weeks and all property owners within 200 feet of the proposed rezone were sent notice of the hearing by mail as required by law. Only one individual appeared at the public hearing and this person was not against the zone change.

Again, thank you for your correspondence. Please contact me again if I can be of further assistance.

Sincerely,
Patricia Fahy

Member of NYS Assembly, 109th District
LOB Rm 452
Albany, NY 12248

From: Michael Kalin
Sent: Wednesday, January 14, 2015 3:22 PM
To: Catherine Fahey
Subject: Re: South Allen Street Park alienation

Dear Ms. Fahy --

Thank you for your reply, hoping your holiday season was pleasant. Joy would have been in the air here were it not for the daily pounding of power shovels and backhoes from 7AM on. To set the record straight Common Council did not issue the required notice ("all property owners within 200 feet of the proposed rezone were sent notice of the hearing by mail") before rezoning 241 South Allen Street. I did not get "an opportunity ... to give input."

What troubles me most is the sale price of \$100,000 (\$1.05/sq ft) for property that in its unconsolidated state was assessed an aggregate full market value of \$342,800, a huge depreciation! The City Assessor's Office informed me that around the time of the sale (2013) the full market value was reduced to \$114,187 on the basis of a commercial real property appraisal obtained by Corporation Counsel Patrick Jordan, which Mr. Jordan harbors to this day.

I had requested a copy of this document along with many others in my FOIL request to Records Access Officer Nala Woodard on 9/21/14. The reply is almost three months overdue. On 11/20 Mr. Woodard replied to my status inquiry, "Your FOIL request is currently in the possession of the Albany Corporation Counsel."

Is this man the sayer of the law in Albany, setting himself above legal requirements? Does he have access to a copy machine?

This document (a real property appraisal) is vital to my reconciliation with a horrible development scheme, for which our greenspace was traded to provide ancillary greenspace to one of the few areas of Albany not suffering from the absence thereof.

Corporation Counsel Jordan is also bound by law & statute.

Text of my FOIL request follows. Please help me get a response.

Sincerely,
Michael Kalin

Under the New York Freedom of Information Law, N. Y. Pub. Off. Law sec. 84 et seq., I am requesting an opportunity to obtain or inspect copies of public records that relate to the proposed development on 241 South Allen Street by 241 South Allen Street Holdings LLC. This is known to the City of Albany Department of Development and Planning as Case #5-14, 912. The requested records include but are not limited to, all public minutes, reports, studies, appraisals, correspondence, notes, discussions, applications, etc., relative to the alienation of park land located on South Allen Street, as authorized under state law by "AN ACT to authorize the city of Albany to discontinue the use of certain lands as park lands and to dedicate new park lands" (Senate bill 2342A, Assembly bill 4717-A -- Passed 2013-07-12 - chap.109), specifically with respect to compliance with Sections 1 and 2 of the statute, as follow: [Section 1] Subject to the provisions of this act, the city of Albany, located in the county of Albany, is hereby authorized, acting by and through its common council and upon such terms and conditions as determined by such common council, to discontinue the use as park lands the lands more particularly described in section two of this act and to transfer such lands, at fair market value, which are no longer needed for park purposes for use in connection with the development of property for independent senior garden apartments. [Section 2] The authorization contained in section one of this act shall only be effective on the condition that the city of Albany acquire and dedicate as parklands the lands described in section four of this act, such land to be used for park purposes. If the replacement lands are less than the fair market value of the lands being alienated, the city of Albany must dedicate the difference for the acquisition of additional parkland and/or for capital improvements to existing parkland. The reply should encompass (but is not limited to): 1. All development and site planning documents relative to the construction of "independent senior garden apartments" as required by section 1. 2. Real property appraisals, lists of comparables and all other documents relative to the determination of fair market values of both alienated and replacement lands as required by sections 1 and 2. 3. All public minutes, reports, studies, appraisals, correspondence, notes, discussions, applications, etc., relative to compliance with either section or both in the possession of the City of Albany and/or any of its subdivisions, including but not limited to the Common Council, Corporation Counsel, and all other municipal boards, departments & offices.

From: Catherine Fahey <faheyc@assembly.state.ny.us>
Date: Thu, Jan 15, 2015 at 12:09 PM
Subject: RE: South Allen Street Park alienation

To: Michael Kalin

Mr. Kalin,

We have contacted the City of Albany's Corporation Counsel and asked them to expedite your FOIL request. Please contact us again if we can be of further assistance.

Catherine M. Fahey
Chief of Staff
NYS Assemblymember Patricia Fahy, 109th Dist.
Legislative Office Building, Rm. 452
State St.
Albany, NY 12248
faheyc@assembly.state.ny.us

From: Michael Kalin
Date: Mon, Aug 17, 2015 at 1:14 PM
Subject: Re: South Allen Street Park alienation
To: Catherine Fahey <faheyc@assembly.state.ny.us>

Dear Assemblymember Fahy --

The facts are in. Your response of 12/23/14 relative to the appalling political skullduggery concerning the South Allen Street Park alienation is replete with error.

1. As previously noted no property owner within 200 feet received the required notice of the critical public hearing.
2. A FOIL request belatedly answered by the city contained a real property appraisal for the park land detailing a value of \$7500 per apartment unit. This equates to \$360,000 for the 48 unit aggregate monstrosities under construction, far sho[r]t of the actual sale price of \$100,000.
3. The legislation was co-sponsored by you not Jack McEneny, who did little the last years of his term beside drawing his retirement pension while sitting in the Assembly. The sale price violated the provision of your statute.
4. Per a FOIL request to the NYS Office of Parks and Recreation and Historic Preservation the alleged "careful examination" performed by NYSOPRHP consisted of an investigation into a superficial 16 point Municipal Information Form submitted by the city.

The Municipal Information Form contained two startling items --

14) "The parkland is not currently used for recreational purposes."

15) "There are several parks within walking distance that have more foot traffic."

To the credit of its investigator, NYSOPRHP determined the playground encompassed by the park indeed had recreational purpose. As to "several parks within walking distance" -- next time you pedal on New Scotland Avenue toward South Allen Street why not get off your bike and walk around? Let me know the distance to a nearby park on foot. The NYSOPRHP investigator could not locate one. Neither can you.

If you read the report you knew this, and yet you went ahead with your dastardly sponsorship of the alienation of our park for the benefit of a city hall crony. If you didn't read it your conduct was even more shameful, either way to the detriment of the quality of neighborhood life in this wretched city.

Sincerely,
Michael Kalin