

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

The Diocese of Buffalo, N.Y.,

Debtor.

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Case No. 20-10322

Chapter 11

**NOTICE OF APPLICATION FOR ORDER AUTHORIZING THE
RETENTION AND EMPLOYMENT OF KLV APPRAISAL GROUP, INC.
AS THE REAL ESTATE APPRAISER TO THE DIOCESE**

PLEASE TAKE NOTICE, that on June 3, 2022, The Diocese of Buffalo, N.Y. (the “Diocese”) filed the *Application for Entry of an Order Authorizing the Retention and Employment of KLV Appraisal Group, Inc. as the Real Estate Appraiser to the Diocese* (the “Application”) with the United States Bankruptcy Court for the Western District of New York (the “Court”).

PLEASE TAKE FURTHER NOTICE that any objections or responses to the Application must conform to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Western District of New York and be served in accordance with Local Rule 9013-1 upon the following parties: (i) counsel to the Diocese, Bond, Schoeneck & King, PLLC, One Lincoln Center, Syracuse, New York 13202, Attn: Stephen A. Donato, Charles J. Sullivan, and Grayson T. Walter, (ii) the Office of the United States Trustee for the Western District of New York, 300 Pearl Street, Suite 401, Buffalo, New York 14202. Attn: Joseph W. Allen, (iii) counsel to the Official Committee of Unsecured Creditors, Pachulski, Stang, Ziehl & Jones, LLP, 10100 Santa Monica Blvd., 13th Floor, Los Angeles, California, 90067-4003, Attn. James I. Stang, and 780 Third Avenue, 34th Floor, New York, New York, 10017-2024, Attn. Ilan Scharf, and (iv) those persons who have formally appeared and requested service in this case pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure.

PLEASE TAKE FURTHER NOTICE that a hearing to consider the Application and any objections related thereto will be held on **June 27, 2022 at 2:00 p.m.** (prevailing Eastern time), or as soon thereafter as counsel may appear and be heard, before the Honorable Carl L. Bucki, Chief United States Bankruptcy Judge for the Western District of New York, or such other judge as may be sitting in his stead in the Robert H. Jackson U.S. Courthouse, 2 Niagara Square, Buffalo, NY 14202.

Dated: June 3, 2022
Syracuse, New York

BOND, SCHOENECK & KING, PLLC

By: /s/ Charles J. Sullivan

Stephen A. Donato

Charles J. Sullivan

Grayson T. Walter

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Syracuse, NY 13202-1355

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Attorneys for The Diocese of Buffalo, N.Y.

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

The Diocese of Buffalo, N.Y.,

Debtor.

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) Case No. 20-10322 (CLB)

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**APPLICATION FOR ENTRY OF AN ORDER AUTHORIZING THE
RETENTION AND EMPLOYMENT OF KLW APPRAISAL GROUP, INC.
AS THE REAL ESTATE APPRAISER TO THE DIOCESE**

The Diocese of Buffalo, N.Y. (the “Diocese”), hereby submits this application (the “Application”) to the Court for entry of an order, substantially in the form attached hereto as *Exhibit A*, authorizing the Diocese to employ and retain KLW Appraisal Group, Inc. (“Appraiser”), as the real estate appraiser to conduct a valuation of the real property located at 208 N. 24th Street, Olean, New York 14760 (the “Property”).¹ In support of this Application, the Diocese relies on the *Declaration of Gregory C. Klauk in Support of the Application for Entry of an order Authorizing the Retention and Employment of KLW Appraisal Group, Inc. as the Real Estate Appraisal to the Diocese*, attached hereto *Exhibit B* (the “Klauk Declaration”). In further support of this Application, the Diocese respectfully represents as follows:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
4. The statutory and rule-based predicates for the relief requested herein are sections

¹ The Property includes several parcels of real property including: (a) 94.063-1-4.2, (b) 94.063-1-4.3; (c) 94.063-1-4.4; (d) 94.063-1-12; (e) 94.063-1-27.1; and (f) 94.063-1-4.1. For the purposes of this Application, each of these real property parcels shall be included in the definition of the Property.

327(a), 328(a), 329, 330, 503(b), 504 and 507(a)(2) of the Bankruptcy Code, Rules 2014, 2016, 5002, and 6003 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rules 2014-2 and 2016-1 of the Local Rules of Bankruptcy Procedure for the Western District of New York (the “Local Rules”).

BACKGROUND

5. On February 28, 2020 (the “Petition Date”), the Diocese filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (11 U.S.C. § 101 *et seq.*, the “Bankruptcy Code”) with the United States Bankruptcy Court for the Western District of New York (the “Court”), commencing the Diocese’s chapter 11 case (this “Chapter 11 Case”). The Diocese continues to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for a trustee or examiner has been made in this Chapter 11 Case.

6. On March 11, 2020, the Office of the United States Trustee appointed the Official Committee of Unsecured Creditors (the “Committee”) pursuant to Bankruptcy Code section 1102 [Docket No. 92].

7. Information regarding the Diocese’s history, business operations and structure, and the events leading up to this Chapter 11 Case is set forth in the *Affidavit of Rev. Peter J. Karalus Regarding Structure and Pre-Filing History of The Diocese of Buffalo and in Support of the Chapter 11 Petition and First Day Pleadings* and the *Affidavit of Charles Mendolera Regarding the Diocese’s Assets and Operations and in Support of the Chapter 11 Petition and First Day Pleadings*, each of which was filed on the Petition Date and is incorporated herein by reference [Docket Nos. 7, 8].

RELIEF REQUESTED

8. The Diocese seeks the entry of an order, substantially in the form attached hereto as *Exhibit A*, pursuant to sections 327(a), 328(a), 330, 503(b), 504 and 507(a)(2) of the Bankruptcy Code, authorizing the employment and retention of K LW Appraisal Group, Inc. as real estate appraiser to provide a value for the Property in accordance with the terms and conditions set forth in that certain Real Estate Appraisal Proposal entered into by the Diocese and the Appraiser dated May 29, 2022 (the “Engagement Agreement”), a copy of which is attached to this Application as *Exhibit C*.

A. The Diocese’s Need To Retain A Real Estate Appraiser

9. The Property consists of the real property and improvements that serve as the present campus of Archbishop Walsh High School and Southern Tier Catholic School in Olean, New York.

10. On May 22, 2020, the Diocese filed the *Motion of the Diocese for Entry of An Order Authorizing the Private Sale of Certain Real Property in Olean, New York* [Docket No. 328] (the “First Sale Motion”), seeking authorization to sell the Property to the Archbishop Walsh Foundation (“AWF”) through a private sale. See First Sale Motion, ¶ 16.

11. On June 11, 2020, the Committee filed an objection [Docket No. 386] to the First Sale Motion, arguing, among other things, that the proposed sale should be made subject to higher and better offers. The Diocese twice adjourned the First Sale Motion in an attempt to resolve the Committee’s concerns, and subsequently withdrew its request for approval of a private sale on July 15, 2020. [Docket Nos. 412, 443, and 450].

12. On December 21, 2021, the Diocese filed the *Motion for Entry of Orders (I)(A) Approving Bidding Procedures for the Sale of Certain Real Property in Olean, New York*;

(B) Authorizing and Approving the Form of Stalking Horse Bid Submitted by the Archbishop Walsh Foundation; (C) Scheduling an Auction; and (D) Approving the Form and Manner of Service of Notice of Auction and Sale Hearing; (II) Approving the Sale Free and Clear of Liens, Claims, Encumbrances and Other Interests; and (III) Granting Related Relief [Docket No. 1476] (the “Second Sale Motion”), seeking, among other things, to sell the Property to AWF for \$300,000 (subject to higher and better offers), free and clear of all Encumbrances pursuant to section 363(f) of the Bankruptcy Code.

13. On January 31, 2022, the Committee filed an objection to the Second Sale Motion [Docket No. 1550] (the “Second Sale Objection”), arguing, among other things that the Court should “only authorize the sale of the Property if it is properly marketed and the sale is subject to proper sale procedures.” Second Sale Objection, ¶ 1.

14. On March 11, 2022, the Court issued a written opinion and order denying the Second Sale Motion [Docket No. 1613] (the “Sale Opinion”), without prejudice, noting among other things, the lack of marketing with respect to the Property.

15. Concurrently herewith, the Diocese filed the *Application for Entry of an order Authorizing the Retention and Employment of Howard Hanna Professionals as the Real Estate Brokers to the Diocese* (the “Broker Application”), seeking among other things, to retain Howard Hanna Professionals (“Howard Hanna”) to assist with the marketing of the Property.

16. The Diocese files this Application in recognition and response to the Court’s comments in the Sale Opinion, and respectfully submits that a reliable valuation of the Property is necessary to assist Howard Hanna in marketing the Property, and ultimately help instruct the parties in interest with respect to the evaluation of proposed purchase offers.

B. Services To Be Provided

17. The Diocese and the Appraiser have agreed under the Engagement Agreement that the Appraiser will render, among other things, the following services:

- a. perform an appraisal of the Property;
- b. prepare and draft an appraisal report;
- c. conduct one or more inspections of the Property, if needed;
- d. perform all necessary due diligence, background investigation and preparation (including, for example, examination of comparable properties) that is customarily associated with the valuation of real property similar to the Property in order to determine the market value and liquidation value for this type of property;
- e. consult with the Diocese and its counsel concerning valuation matters generally; and
- f. testify, if necessary, before the Court concerning the valuation of the Property.

C. Professional Compensation

18. As set forth more fully in the Engagement Agreement, the Diocese agreed to pay the Appraiser a one-time fee of up to \$2,000 (the “Appraisal Fee”). Appraisers and valuation experts typically do not charge for their services on an hourly basis, and it is not the Appraiser’s general practice to keep detailed time records similar to those customarily kept by other professionals like attorneys and accountants. As such, the Diocese respectfully requests that the Appraiser not be required to maintain time records for conducting the appraisal of the Property contemplated herein.

19. However, in the event that the Appraiser is required to provide testimony related to this engagement, such time would be billed to the Diocese at an hourly rate of \$175. If testimony is required, the Appraiser will make proper application for such fees pursuant to Bankruptcy Code § 330 based upon contemporaneous time records.

20. The Diocese submits that in light of the unique nature of the Property, the Appraisal Fee proposed to be paid to the Appraiser is reasonable and necessary to support a sale of the Property for the benefit of the Diocese's estate.

D. The Appraiser's Disinterestedness

21. Based upon the Klauk Declaration submitted herewith and subject to the disclosures made therein, the Appraiser has informed the Diocese that, at this time and to the best of its knowledge, the Appraiser: (a) is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b); and (b) does not hold or represent an interest adverse to the Diocese's estates. However, the Appraiser has previously performed an appraisal of the Property for the Archbishop Walsh High School, the tenant of the Property.

22. If the Appraiser discovers any information that is contrary to or pertinent to the statements made herein, the Appraiser will promptly file a supplemental disclosure statement with the Court on notice to creditors and the United States Trustee.

E. Fee Application

23. As is customary, the Appraiser will be paid a flat fee at the conclusion of its appraisal of the Property. To that end, The Diocese respectfully requests that the Appraisal not be subject to submission of a fee application containing general time records for review and approval by the Bankruptcy Court. Rather, the Diocese requests that the terms of the Engagement Agreement, including the Appraisal Fee, be approved as reasonable under Section 328, and that the total amount of the Appraisal Fee earned by the Appraiser be approved in the order approving the Appraiser's retention. However, in the event that the Appraiser is required to provide testimony at an hourly basis, the Appraiser will make proper application for such fees pursuant to Bankruptcy Code § 330 based upon contemporaneous time records.

24. Based upon the foregoing and the information provided in the Klauk Declaration the Diocese believes that the Appraiser is well qualified to provide its services to the Diocese in an efficient and timely manner and that the employment and retention of the Appraiser would be in the best interest of the Diocese, its estate, and creditors.

BASIS FOR RELIEF

25. Section 327(a) of the Bankruptcy Code provides that a debtor, subject to court approval:

may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent to assist the [debtor] in carrying out the [debtor's] duties under [the Bankruptcy Code].

11 U.S.C. § 327(a).

26. Section 328(a) of the Bankruptcy Code provides, in relevant part, that a debtor “with the court’s approval, may employ or authorize the employment of a professional person under section 327 . . . on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingency fee basis. 11 U.S.C. § 328(a). Here, the Diocese is seeking to retain the Appraiser on a fixed fee basis. The Diocese respectfully submits that the terms and conditions of the Appraiser’s retention as described herein and in the Engagement Agreement, including the proposed compensation terms, are reasonable and consistent with engagements of this size and character both in and out of bankruptcy.

27. Bankruptcy Rule 2014(a) requires that an application for retention include:

[S]pecific facts showing the necessity for the employment, the name of the [firm] to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the [firm's] connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States

trustee, or any person employed in the office of the United States trustee.

Fed. R. Bankr. P. 2014(a).

28. Based on the foregoing, the Diocese submits that they have satisfied the requirements of the Bankruptcy Code and the Bankruptcy Rules to support entry of an order authorizing the Diocese to employ and retain the Appraiser as its real estate appraiser with respect to the Property, and that the employment of the Appraiser is in the best interests of the Diocese's estate.

WHEREFORE, the Diocese respectfully requests that the Court enter an order, effective May 29, 2022, granting the relief requested herein and granting such other and further relief as the Court deems appropriate.

Dated: June 3, 2022

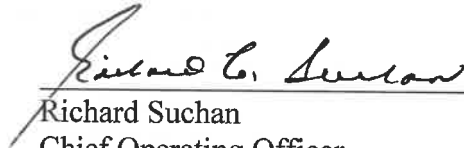

Richard Suchan
Chief Operating Officer

EXHIBIT A

Proposed Order

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

The Diocese of Buffalo, N.Y.,

Debtor.

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Case No. 20-10322 (CLB)

Chapter 11

ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT OF KLW APPRAISAL GROUP, INC. AS THE REAL ESTATE APPRAISER TO THE DIOCESE

Upon application (the “Application”)¹ of The Diocese of Buffalo, N.Y. (the “Diocese”) for entry of an order (this “Order”) authorizing the Diocese to employ and retain KLW Appraisal Group, Inc. (the “Appraiser”), as real estate appraiser for the Diocese, pursuant to sections 327(a), 328(a), 330, 503(b), 504 and 507(a)(2) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”); the Court having reviewed the Application and the *Declaration of Gregory C. Klauk in Support of the Application for Entry of an order Authorizing the Retention and Employment of KLW Appraisal Group, Inc. as the Real Estate Appraiser to the Diocese* (the “Klauk Declaration”); the Court finding that: (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (c) the Appraiser does not hold or represent any interest adverse to the Diocese’s estate, (d) the Appraiser is a “disinterested person” as contemplated under sections 101(14), 327 and 328 of the Bankruptcy Code and (e) employment of the Appraiser is necessary and in the best interests of the Diocese’s estate, creditors, and other parties in interest; the Court finding that notice of the Application given by the Diocese was sufficient under the circumstances; and the Court being fully advised in the premises and having determined that the legal and factual

¹ Each capitalized term used, but not otherwise defined herein, shall have the meaning ascribed to such term in the Application.

bases set forth in the Application, and the Klauk Declaration establish just cause for the relief herein granted, and after due deliberation and cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Application is granted as set forth herein.
2. All objections to the Application or the relief requested therein that have not been made, withdrawn, waived, or settled, and all reservations of rights included therein, are overruled on the merits.
3. The Diocese is authorized, pursuant to sections 327(a), 328(a), 330, 503(b), 504 and 507(a)(2) of the Bankruptcy Code, to engage the Appraiser as real estate appraiser for the Diocese in the above-captioned Chapter 11 Case, effective May 29, 2022. The Diocese shall pay the Appraiser a one-time fee of up to \$2,000 (the “Appraisal Fee”). In the event that the Appraiser is required to provide testimony related to this engagement, such time would be billed to the Diocese at an hourly rate of \$175. If testimony is required, the Appraiser will make proper application for such fees pursuant to Bankruptcy Code § 330 based upon contemporaneous time records. The terms of the engagement set forth in this paragraph and the Real Estate Appraisal Proposal attached to the Klauk Declaration as Exhibit 1, are reasonable and hereby approved.
4. The Appraiser shall be compensated in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and any other applicable orders of this Court.
5. Notwithstanding the possible applicability of Rules 6004, 7062 and 9014 of the Bankruptcy Rules, or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
6. The Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Order.

Dated: _____, 2022
Buffalo, New York

Hon. Carl L. Bucki
United States Bankruptcy Judge

EXHIBIT B

Declaration of Gregory C. Klauk

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

The Diocese of Buffalo, N.Y.,

Debtor.

Case No. 20-10322 (CLB)

Chapter 11

**DECLARATION IN SUPPORT OF DIOCESE’S APPLICATION FOR AN ORDER
AUTHORIZING EMPLOYMENT AND RETENTION OF KLW APPRAISAL
GROUP, INC. AS THE REAL ESTATE APPRAISER TO THE DIOCESE**

I, Gregory C. Klauk, a New York State certified general real estate general appraiser of KLW Appraisal Group, Inc. (the “Appraiser”), being duly sworn, state the following under penalty of perjury:

1. I am a licensed real estate appraiser with over 30 years of experience. The Appraiser is a residential, commercial and industrial real estate appraisal and consulting group to serve the appraisal, counseling and forensic litigation needs of financial institutions, local, state and federal government agencies, the legal community and the community at large, with an office located at 247 Cayuga Road, Suite 40 Buffalo, New York 14225.

2. I have been duly authorized to make and submit this Declaration on behalf of the Appraiser in accordance with sections 327(a), 328(a), 330, 503(b), 504 and 507(a)(2) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) and Rules 2014, 2016, 5002 and 6003 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and in support of the *Application for Entry of an order Authorizing the Retention and Employment of KLW Appraisal Group, Inc. as the Real Estate Appraiser to the Diocese* (the “Application”).¹

¹ Each capitalized term used, but not otherwise defined herein, shall have the meaning ascribed to such term in the Application.

3. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein and, if called as a witness, I would testify thereto.

Services To Be Rendered

4. The Diocese has agreed under that certain Real Estate Appraisal Proposal entered into by the Diocese and the Appraiser dated May 29, 2022 (the “Engagement Agreement”), that the Appraiser will provide the following services in connection with the real property located at 208 N. 24th Street, Olean, New York 14760 (the “Property”):²

- a. perform an appraisal of the Property;
- b. prepare and draft an appraisal report;
- c. conduct one or more inspections of the Property, if needed;
- d. perform all necessary due diligence, background investigation and preparation (including, for example, examination of comparable properties) that is customarily associated with the valuation of real property similar to the Property in order to determine the market value and liquidation value for this type of property;
- e. consult with the Diocese and its counsel concerning valuation matters generally; and
- f. testify, if necessary, before the Court concerning the valuation of the Property.

5. As set forth more fully in the Engagement Agreement, the Diocese agreed to pay the Appraiser a one-time fee of up to \$2,000 (the “Appraisal Fee”). Appraisers and valuation experts typically do not charge for their services on an hourly basis, and it is not the Appraiser’s general practice to keep detailed time records similar to those customarily kept by other professionals like attorneys and accountants.

² The Property includes several parcels of real property including: (a) 94.063-1-4.2, (b) 94.063-1-4.3; (c) 94.063-1-4.4; (d) 94.063-1-12; (e) 94.063-1-27.1; and (f) 94.063-1-4.1. For the purposes of this Declaration, each of these real property parcels shall be included in the definition of the Property.

6. I believe that the flat-fee compensation structure set forth in the Engagement Agreement (is comparable to those generally charged by commercial real estate appraisal firms of similar stature to the Appraiser for comparable engagements, both in and out of court.

7. It is standard in the Appraiser's industry for professionals providing services relating to the valuation of property to be compensated on a fixed fee basis, rather than on an incremental hourly basis, for such services. Therefore, I believe that it would be unduly burdensome and time-consuming for the Appraiser's professionals to record their hourly activities and both the Appraiser and the Diocese have agreed that, consistent with industry practice, and subject to the approval of this Court, the Appraiser will be compensated on a fixed fee as reflected in the Appraisal Fee. In the event that testimony is required, such a fee would be billed at my standard hourly rate, and subject to later Court approval through a fee application.

8. The Appraisal Fee is consistent with the Appraiser's typical fees for work of this nature. The Appraisal Fee is set at a level designed to compensate the Appraiser fairly for the work of its professionals and assistants and to cover fixed and routine overhead expenses. Indeed, I believe that the entire agreement set forth in the Engagement Agreement is common within the industry and reflects what is considered to be "market" both in and out of chapter 11 proceedings, in each case, in light of the Appraisal's experience with respect to the scope of work to be performed pursuant to his retention.

9. The Appraiser is willing to provide the Diocese with an unbiased analysis and opinion of the market value of the Property and subject itself to the jurisdiction and supervision of the Court. Additionally, he will coordinate with the other retained professionals in this Chapter 11 Case to eliminate unnecessary duplication or overlap of work.

Statement of Connections

10. The Appraiser has examined the list of interested parties in this Chapter 11 Case (the “Potential Parties in Interest”) and to the best of my knowledge and belief, except as otherwise provided herein, the Appraiser (a) is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b), and (b) does not hold or represent an interest adverse to the Diocese’s bankruptcy estate.

11. To the best of my knowledge, the Appraiser does not and has not represented any entity, other than the Diocese, in matters related to the Chapter 11 Case, except that the Appraiser was previously hired by the Diocese, and later by Archbishop Walsh High School, the tenant of the Property, to perform an appraisal of the Property.

12. The Appraiser has also provided appraisal services on unrelated matters to the following interested parties:

- a. Catholic Health System, Inc.
- b. City of Buffalo Water
- c. Dobmeier Janitor Supply Inc
- d. Erie County Water Authority
- e. First Student Inc
- f. Gibson, Mcaskill & Crosby LLP
- g. Goldberg Segalla LLP
- h. Gross Shuman
- i. Hodgson Russ, LLP
- j. HSBC Bank
- k. Internal Revenue Service
- l. KeyBank
- m. Lippes Mathias Wexler Friedman LLP
- n. Manufacturers and Traders Trust Co (M&T Bank)
- o. National Fuel
- p. National Grid
- q. New York State Office of Parks, Recreation and Historic Preservation
- r. New York State Department of Environmental Conservation
- s. New York State Office of the Attorney General
- t. NYSEG
- u. Samuel’s Grand Manor
- v. St. Leo The Great Roman Catholic Church, Amherst, NY

- w. St. Pius X Roman Catholic Church Society of Town of Amherst, NY
- x. State of New York
- y. Steven D. Roth
- z. The Buffalo News
- aa. Webster Szanyi LLP
- bb. West-Herr Automotive Group

However, the work performed by the Appraiser for the above clients was not in connection with the Diocese's chapter 11 case, and does not impact the Appraiser's disinterestedness in connection with this engagement. If the Appraiser discovers any information that is contrary to or pertinent to the statements made herein, the Appraiser will promptly file a supplemental disclosure statement with the Court on notice to creditors and the Office of the United States Trustee.

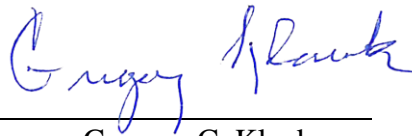
13. The Appraiser will be paid a one-time flat-fee for its services. If approved by the Court, the Appraiser shall not be subject to submission of a fee application containing general time records for review and approval by the Bankruptcy Court.

14. There is no agreement or understanding between the Appraiser and any other entity, other than an employee of the Appraiser or its affiliates for the sharing of compensation received or to be received for services rendered in connection with this case.

15. The foregoing constitutes the statement of the Appraiser pursuant to sections 327(a), 328(a), 329, 330, 503(b), 504 and 507(a)(2) of the Bankruptcy Code and Bankruptcy Rules 2014, 2016, 5002 and 6003.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 31, 2022.



Gregory C. Klauk

EXHIBIT C

Engagement Agreement

KLW Appraisal Group, Inc.

Real Estate Appraisers and Consultants



May 29, 2022

Mr. Steven Roth
Diocese of Buffalo
Catholic Center
795 Main Street
Buffalo, New York 14203

Email: sroth@buffalodiocese.org

**Re: *Real Estate Appraisal Proposal
Archbishop Walsh Academy School
Olean, Cattaraugus County NY***

Dear Mr. Roth:

By this letter I am acknowledging my engagement for an appraisal for an opinion of the current market value of the above captioned property. As you are aware I have previously appraised this property.

Prior to commencing the assignment I need to confirm the current condition of the property is similar to the conditions observed at the time of my last inspection on February 25, 2021. At your option this can be accomplished by my reinspecting the property or by a letter from the current occupant that the conditions at the property have not changed since my last inspection.

If I am required to reinspect those efforts will affect the pricing of my services.

Additionally, I will need to obtain current cost estimates for the roof and boiler repairs/replacements if they are available.

Also can you confirm that the lease affecting the property is still in full force and effect.

247 Cayuga Road • Buffalo, New York • 14225
Phone (716) 632-2100 • Fax (716) 632-1062
E-Mail klwgroup@klwgroup.com

The scope of the real estate assignment will encompass the investigations, research and analysis necessary to prepare the report in accord with (1) the intended use of the report, and 2) The Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation, including the competency provision.

I am proposing to prepare a supplement to my prior appraisal or a new *appraisal report* if necessary.

I anticipate using the direct sales comparison approach as the sole method for valuing the property.

The market value estimate(s) will be subject to the general limiting conditions and assumptions attached. The appraisal may also be subject to further extraordinary limiting conditions and assumptions; however, these are generally not apparent until the assignment is underway. Additional special conditions, if they arise, will be brought to your attention as soon as possible.

In order to facilitate the appraisal I am requesting the following documents and historical property information, if available:

- Updated engineering and contractors reports regarding the roof and boiler replacements and any additional deficiencies or repairs that have occurred since February 2021.
- Copy of any new leases and existing or prospective use restrictions (other than zoning).
- A copy of any listing or contracts for sale that occurred within the past five years.

My fee for undertaking this assignment will range From \$1,200 to \$2,000 depending on the need for a reinspection and consideration of any new issues or concerns.

In the event I am required to provide expert testimony and or related services in preparation for trial or hearing regarding this matter, there will be additional charges invoiced at the hourly of \$175.00.

As previously noted I can commit to completion of the assignment within 6 weeks of your authorization to proceed.

To avoid any misunderstanding and in order to meet this timetable, we do require receipt of the necessary documentation as soon as possible and written authorization to proceed. Below I have provided an acknowledgment that can serve as authorization to proceed.

After reviewing this proposal, if you have any questions, please do not hesitate to contact me at your convenience.

I sincerely thank you for considering us for this assignment, and we look forward to hearing from you in the near future.

Sincerely,

KLW Appraisal Group, Inc.



Gregory C. Klauk
President

GCK/pc

Bid/Job/Greg/Proposal 22-Diocese of Buffalo Walsh School Olean

ACKNOWLEDGMENT

The undersigned hereby agrees to engage the real estate appraisal services of KLW Appraisal Group, Inc. in accord with the scope of services outlined above and subject to the contingent and limiting conditions attached.

Signature: _____

Dated: _____

GENERAL LIMITING CONDITIONS AND ASSUMPTIONS:

1. That the date of value to which the opinions expressed in the report will apply will be the date of inspection unless otherwise agreed to. The appraiser assumes no responsibility for economic or physical factors occurring at some later date which may affect the opinions herein stated.
2. That no opinion is intended to be expressed for legal matters or that would require specialized investigation or knowledge beyond that ordinarily employed by real estate appraisers, although such matters may be discussed in the report.
3. That no opinion as to title will be rendered. Data on ownership and the legal description will be obtained from sources generally considered reliable. Title is assumed to be marketable; free and clear of all liens, encumbrances, easements and restrictions except those specifically discussed in the report. The property will be appraised assuming it to be under responsible ownership and competent management and available for its highest and best use.
4. That no engineering survey will be made by the appraiser. Except as specifically stated, data relative to size and area were taken from sources considered reliable, and no encroachment of real property improvements is assumed to exist.
5. Any maps, plats, and exhibits included in the appraisal are for illustration only, as an aid in visualizing matters discussed within the report. They should not be considered as surveys or relied upon for any other purpose.
6. That the projections included in the report are intended to assist in the valuation process and are based on current market conditions, anticipated short term supply and demand factors, and a continued stable economy. Therefore, the projections are subject to changes in future conditions that cannot be accurately predicted by the appraiser and could affect the future income or value projections.
7. That testimony or attendance in court or at any other hearing is not required by reason of rendering this appraisal unless such arrangements are made a reasonable time in advance.
8. That since a title report is not expected to be made available, no responsibility is assumed for such items of record not disclosed by normal investigation.
9. That no consideration will be given to personal property located on the premises, unless otherwise noted.
10. Unless otherwise stated in the report, the existence of hazardous substances, including without limitation asbestos, polychlorinated biphenyls, petroleum leakage, or agricultural chemicals, which may or may not be present on the property, or other environmental conditions, were not called to the attention of nor did the appraiser become aware of such during the appraiser's inspection. The appraiser has no knowledge of the existence of such materials on or in the property unless otherwise stated.

GENERAL LIMITING CONDITIONS AND ASSUMPTIONS: (Cont'd.)

11. Furthermore, the appraiser is not qualified to test for such substances or conditions. The presence of such substances (e.g. asbestos, urea formaldehyde foam insulation, or other hazardous substances or environmental conditions) may affect the marketability and/or value of the property. The opinions rendered in the report are predicated on the assumption there are no such conditions on or in the property or in such proximity thereto that would cause a loss in marketability and/or value. No responsibility is assumed for any such conditions, nor for any expertise or engineering knowledge required to discover them.
12. Regarding improved property, the Americans with Disabilities Act (ADA) became effective January 26, 1992. We have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the value of the property. Since we have no direct evidence relating to this issue, we do not consider possible non-compliance with the requirements of the ADA in estimating the value of the property.
13. The reader should note that if you are contemplating obtaining mortgage financing from a federally regulated institution and using this property as collateral, the lender or its agent is required to directly engage the appraiser.
14. The information within the report will be presented with the understanding that appraisals and reporting formats vary greatly, depending upon the client's individual needs, time constraints, the size and complexity of the property, and the intended use of the data. It should be clearly understood the appraisal proposed will be prepared subject to certain limitations as detailed in the scope of work detailed in the report.
15. The possession of the report shall not carry with it the right of publication or copying in whole or in part, and there is no accountability or obligation expressed or implied to anyone other than the "intended user(s)". If the report is placed in the hands of anyone other than the intended user, it is at your risk and obligation to make such party aware of all of the limiting conditions and assumptions of this assignment, and any of the related discussions. Furthermore, this appraisal report is to be used only in its entirety and may not be used for any purpose other than its intended use.