

ONEIDA TRIBE OF INDIANS OF WISCONSIN



'A DEMOLUM YATEHE
use of the help of
Oneida Chief in
entering a friendship
between the six nations
of the colony of
Pennsylvania, a new
nation, the United States
was made possible.

ONEIDA FINANCE OFFICE

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MEMORANDUM

DATE: November 13, 2013

FROM: Larry Barton, Chief Financial Officer

TO: Tina Danforth, Treasurer
Oneida Business Committee

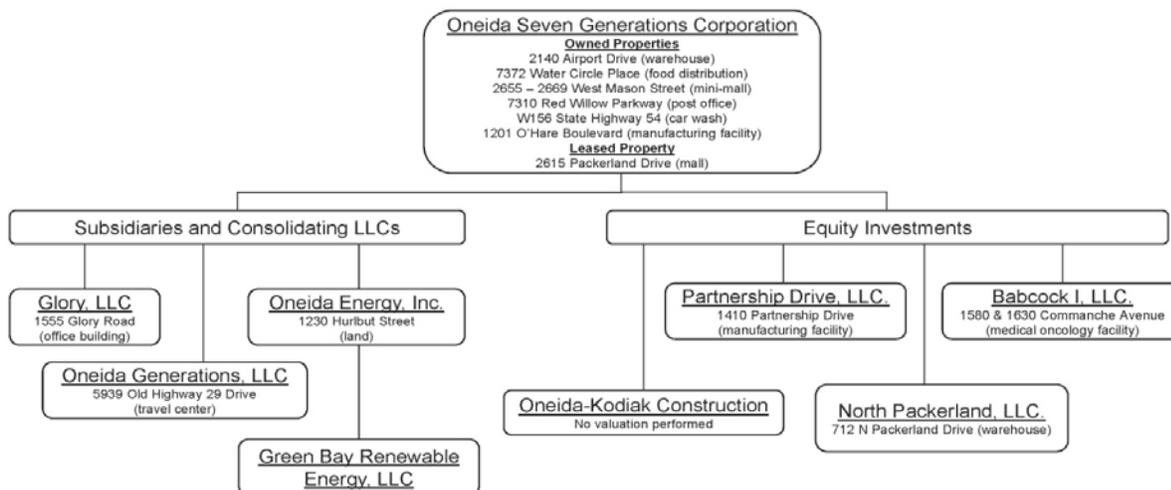
RE: **Financial Impact of Petition - Dissolution of Oneida Seven Generations Corporation**

I. Background

Under consideration is a Petition to the General Tribal Council submitted by Frank Cornelius which would direct the Business Committee to dissolve the Oneida Seven Generations Corporation. The petition had the requisite number of Tribal member signatures. The petition did not specify any detailed reasoning supporting its request for dissolution. The final dissolution decision will be subject to a vote by the members of the General Tribal Council.

II. Executive Summary of Findings

Corporate Structure of Oneida Seven Generations Corporation



Dissolution Process: Voluntary Transfers versus Involuntary Transfers

Careful legal analysis needs to be performed prior to the passing of a resolution of dissolution to ensure such a resolution would not trigger an involuntary transfer because of the following:

- OSGC does not have unilateral rights to transfer its interest in the business ventures.
- The operating agreements for each business venture have specific provisions governing the transfer and withdrawals of interests on both a voluntary and involuntary basis.
- The dissolution process must be conducted in a manner that does not trigger the involuntary transfer provisions of the LLC agreements.

<u>Entity</u>	<u>Book Value from Business Venture Balance Sheet</u>	<u>Fair Market Value Determined by McGladrey Business Valuation Group</u>	<u>Voluntary Transfer Price ("The Offer" or "Purchase Price")</u>	<u>Specified Involuntary Transfer Price ("The Offer" or "Purchase Price")</u>
Babcock I, LLC	(\$322,000)	\$9,614,000	Offer Price	Book Value
North Packerland, LLC	\$45,000	\$150,000	Offer Price	Book Value
Partnership Dr, LLC	\$449,000	\$1,033,000	Offer Price	80% of Fair Market Value

Based on the table above, if the dissolution is deemed to be an involuntary transfer, in the case of Babcock I, LLC, the OSGC would have to pay the Babcock partners \$322,000 and would lose the assets held by Babcock. This would result in a “loss” to OSGC of \$9,936,000 in an involuntary transfer scenario.

The book value represents OSGC’s percentage ownership of the historical basis of the respective entity less depreciation as of September 30, 2013. Depreciation that is attributable to the property is assigned to the partner. Because OSGC is a nontaxable entity, OSGC does not need the benefit of depreciation taken on the related property for tax purposes.

The fair market value represents OSGC’s percentage ownership of the current fair market value of the property as determined as of September 30, 2013.

A voluntary transfer would be a situation where two parties arrive at a mutually agreed upon price for the transfer.

An involuntary transfer would be a situation where the operating agreement stipulates that the transfer of assets would be at a specified price.

Debt Agreements

A majority of the loan agreements do not allow obligations to be transferred to another entity without lender consent. Out of thirteen loan agreements, eight loan agreements, totaling \$7.8 million contain specific provisions allowing the lender to accelerate and immediately call the

outstanding obligation. The remaining five loan agreements for OSGC and its entities total \$17.6 million.

Dissolution Timeline, Transaction and Other Costs

Assuming no litigation or other unforeseen events, the process of dissolution could take 10-12 months.

Transactional Costs (including, but not limited to) would relate to hiring outside legal counsel, financial, engineering, and environmental due diligence professionals, maintaining OSGC staff to assist through the dissolution process and various filing fees. Professional fees to third parties are estimated to exceed \$100,000 if the vote is to dissolve.

Other Costs (including, but not limited to) would related to the loss of corporate structure, loss of diversification and liability protection on the Tribe's own financial positions with OSGC dissolution, potential loss of ability to maintain rent control, the potential triggering of involuntary transfer provisions through the results of the dissolution.

III. Financial Impact

The minimum financial impact of a dissolution of Oneida Seven Generations Corporation would be the having to pay down the eight loan agreements which contain provisions which allow the lenders to accelerate the outstanding debt. This would be an immediate impact of \$7.8 million.

However, there is a potential of the Tribe being forced to pay down all debts of OSGC and its entities, which would be a total of \$25.4 million. Moreover, if the transfers of assets to partners is found to be an involuntary transfer, then OSGC would lose out on \$10,247,600 in the Fair Market Value of the underlying assets. There would also be expected fees to third party professionals in excess of \$100,000.

TOTAL ESTIMATED IMPACT: \$7.8 million - \$35,647,700 or more, depending on amount of professional fees.

IV. Recommendation

The Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of an action, so that General Tribal Council has sufficient information to render a decision.