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May 27, 2016

Melissa Ross, Delinquent Tax Collector  
Town of Hinesburg  
10632 Route 116  
Hinesburg, VT 05461

**COPY****RE: 2016 Hinesburg Tax Sales**

Dear Melissa:

You have asked Kohn Rath Danon & Lynch, LLP to conduct a tax sale for the Town of Hinesburg. We have reviewed a delinquent tax report on which you have indicated the property owners you propose to be included in the tax sale and have conducted a preliminary review. It does not appear that this law firm has an actual conflict of interest. You have provided us with a copy of the Town of Hinesburg delinquent tax policy and we have reviewed it. The Hinesburg Selectboard needs to retain this law firm to conduct the tax sale, and ultimately, the Town of Hinesburg will be responsible for our fees. Please forward to me minutes of the meeting where such a resolution is adopted by the Selectboard.

32 V.S.A. § 5258 provide for fees not exceeding fifteen percent of the uncollected tax "actually and reasonably incurred by the tax collector for legal assistance in the preparation for or conduct of said sale when authorized by the selectboard . . . ." The Hinesburg delinquent tax policy is consistent with this provision. Please note that a municipality is not compelled to handle attorney's fees in this manner (for example, a municipality may simply decide to compensate the law firm conducting the tax sale on an hourly rate basis without seeking compensation from the delinquent taxpayers as allowed by statute).

We understand that you would like this law firm to send final warning letters to the delinquent taxpayers prior to initiating the tax sale. This final warning letter will provide a deadline date after which the tax sale process will be initiated. The wording of 32 V.S.A. § 5258 is such that collection of attorney's fees is allowed only after the warrant and levy for delinquent taxes have been recorded in the land records. Accordingly, if Hinesburg would like to engage this law firm to send out final warning letters to each of the delinquent taxpayers, we will need to set up a structure for attorney's fees separate and apart from conducting the tax sale. If this is the way the

Town of Hinesburg would like to proceed, I would suggest that the attorney's fees payable to this firm be \$195.00 per delinquent account, but only for delinquent accounts that heed the notice and satisfy the delinquent taxes prior to starting the delinquent sale process. In the event a delinquent taxpayer does not respond to the notice and pay prior to the initiation of tax sale, I believe the services provided by this law firm producing the final warning letter fall within the scope of "legal assistance in the preparation from or conduct of" a tax sale and thus would be included in the fees of up to fifteen percent.

Vermont Supreme Court decisions and Vermont Statutes dealing with delinquent tax sales require documentation for collection of attorney's fees from delinquent taxpayers. This law firm maintains detailed time records for all services that it provides, regardless of whether those services are billed on an hourly rate basis, or otherwise. It is customary that law firms conducting delinquent tax sales charge and collect fifteen percent of the amount of taxes due for their services. Our past experience has indicated that there is a correlation between the amount of delinquent taxes due and the number of junior interests which must be identified and notified in the tax sale property. Similarly, our experience indicates that there is a correlation between the amount of taxes due and the number of inquiries that our firm must handle from prospective bidders. Accordingly, we believe that in many circumstances, as long as the difference in the amount of delinquent taxes due for the various delinquent accounts included in a tax sale is not too great, it is appropriate to allocate fees based on fifteen percent of the taxes due.

Our usual hourly rate fee for this type of matter is \$225.00 per hour for attorney time and \$75.00 per hour for paralegal time. We propose to waive our fee for any charges above 15% of the delinquent taxes on each parcel, but will charge a minimum of \$375.00 for any account. Please let me know whether this is acceptable to the Selectboard and you. This means that any accounts in which the delinquent taxes are less than \$2,500.00 will require a payment of a portion of a our fee by the Town of Hinesburg, rather than the delinquent tax payer. You should therefore decide which accounts, if any, you wish to give us which are under \$2,500.00.

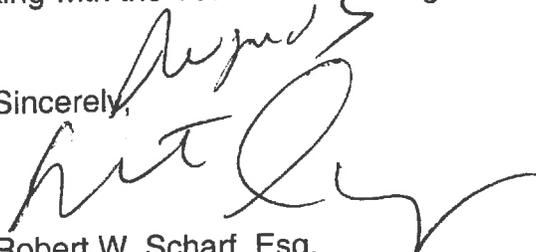
Please remember that the Selectboard should appoint an agent to bid on behalf of the Town at the tax sale. Although the Town is not required to purchase property at tax sale, it often does so. We caution against purchasing deteriorated mobile homes; often, mobile homes in poor condition cannot be resold, and there are substantial costs involved in disposition. Please note that although there is a brief examination of title for each delinquent account, we do not undertake any due diligence with respect to hazardous waste or other property conditions that could cause problems if the Town takes title after tax sale. We recommend that the Selectboard carefully consider

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whether they should conduct due diligence as to any particular property before making a decision to bid in the amount of delinquent taxes at tax sale.

This law firm looks forward to working with the Town of Hinesburg on this delinquent tax sale.

Sincerely,



Robert W. Scharf, Esq.

REK:mmc

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