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December 6, 2002

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WAYNE WHITTOW, CITY TREASURER
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CITY OF MILWAUKEE
RECEIVED
CITY ATTORNEY
02 DEC -6 PM 1:55

RE: REAL ESTATE TAX "PILOT PROGRAM"

Dear Grant and Wayne:

Consistent with your request during our meeting of November 20, 2002, I am writing to provide you with an updated status as to those real estate tax accounts in the "pilot program" that remain uncollected and eligible for "in personam" lawsuit.

Among all accounts that still show outstanding balances due, we have identified approximately 270 accounts that we, by this letter, are formally recommending for immediate "in personam" lawsuit. Please note that this figure will vary slightly as some accounts pay in full, while others break current payment plans. These accounts have been so identified by using the criteria we discussed at our meeting. Specifically:

- (1) non-owner occupied;
- (2) broken payment arrangement;
- (3) business entity as owner; and/or
- (4) other indicia of collectability.

You will recall that these criteria were established for the purpose of identifying those accounts and taxpayers against which "in personam" actions might be most effective. Unfortunately, there is no guarantee of successful collection in every instance.

As also discussed, the "out-of-pocket" court costs associated with such lawsuits would average about \$100.00 to \$120.00 per suit, which reflects a filing fee of \$75.00, process service fees of \$20.00 per defendant, and when the case goes to judgment, a docketing fee of \$5.00. Our firm would advance these costs and be reimbursed out of the general pool of monies recovered. Our fee for this "trial run" of lawsuits would be 20% of all monies collected, after first returning to the City, without a fee, the out-of-pocket costs on those files for which a recovery is made.

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On the issue of our fees, you also asked that we review our experiences and costs with regard to the pre-suit pilot program we are just completing, and formally set forth our "best offer" with regard to a contingent fee for future such pre-suit referrals. We have done so, and hereby propose a fee of 10% of recovery on all accounts having an initial balance under \$5,000.00, and 8% on those over \$5,000.00. While this does not contemplate a significant change from the initial arrangement, as most of the files referred have had balances under \$5,000.00, it does reduce possible "windfalls" in the recovery of larger balance accounts.

As we explained during the initial negotiation of our 10% fee for this year's pre-suit pilot program, and as reiterated during our most recent meeting, that figure is significantly lower than any industry standard, and lower than what we were initially inclined to offer. Although the results have admittedly justified this uniquely low rate, when combined with our other experiences and costs, they have not warranted offering an even lower percentage. For example, there have been more disputes and the need for attorney involvement than initially expected. In addition, the sheer volume of accounts has required significant expenditures of administrative time, postage and telephone costs, and the commitment of at least one full-time collector dedicated exclusively to these accounts. Finally, it is our belief that our "education" of the delinquent taxpayers during this year's pilot program will result in more timely payments prior to referral next year, meaning less "easy" collections to offset those truly "hard core" matters. All this being said, we are satisfied with the overall profitability of this relationship at the fee rate as quoted above, and certainly hope that the City decides to continue this program in future years.

We look forward to your prompt response, particularly as to our recommendation regarding the "in personam" lawsuits, as it is important to avoid allowing the location information on those accounts to become stale. Of course, if you have any questions or concerns, please feel free to contact me.

Sincerely,

KOHN LAW FIRM, S.C.


ROBERT E. POTRZEBOWSKI, JR.

REP/jdw