

Gentlemen,

As you are aware, you are here tonight to vote on my FOIL appeal because my FOIL request for a copy of the draft audit prepared by D'Arcangelo & Co. that was discussed at the May 10, 2017 town board meeting was denied by Supervisor Tyksinski.

According to town law, the town board is required to annually audit, or cause to be audited, the books, records, and documents of certain municipal officers and employees responsible for receiving and disbursing money.

Town Law 123 specifically lists three (3) options a municipality can utilize to be considered in compliance. Writings of the Association of Towns and the NYS Comptroller's office further underscores the necessity of complying with the legal requirements of Town Law 123.

Our town board has opted to follow the third option found in Town Law 123 which is to hire a CPA by January 20th each year. D'Arcangelo was hired on September 14, 2016, with the belief that work on the audit would begin in November or December of 2016.

However, this option in the town law also requires that the audit be completed within sixty (60) days of the close of the fiscal year. Town fiscal years are January 1 to December 31.

It was reported at the March 8, 2017 town board meeting that D'Arcangelo's field work was completed sometime toward the end of February which could imply that D'Arcangelo was performing their work in accordance with Town Law 123. The supervisor also stated at that meeting that D'Arcangelo only found two items that needed to be changed.

In response to my FOIL request of May 11, 2017, Supervisor Tyksinski stated he believes that the draft financial statements are considered D'Arcangelo's property the same as their work papers.

An article in yesterday's Observer Dispatch quoted Supervisor Tyksinski as saying, the document in question "is not even a complete draft".

If that is the case, the town board is in direct violation of Town Law 123 since it is now almost June....or, roughly 151 days from the close of the 2016 fiscal year; not the sixty (60) days required by law.

If the problem in releasing the financial statements is that D'Arcangelo is unable to produce a final and complete audit in accordance with Town Law 123, then the time is now to go out to bid for the 2017 audit and find another auditing firm that has the capability of complying with town law.

If the problem in making the 2016 financials public is due to Supervisor Tyksinski's unwillingness to accept the results of D'Arcangelo's financial audit, then it is the duty of this town board to publicly demand an explanation by Supervisor Tyksinski regarding D'Arcangelo's findings along with a discussion of the supervisor's objections to the findings.

At the last town board meeting on May 10th, this board approved a \$1.25 million bonding resolution and did so without any review of a draft or a completed 2016 audit. For that matter, I would doubt that any board member has a true understanding of where the town finances really stand. Shame on this town board!

Getting back to my FOIL appeal, the NYS Freedom of Information Law is a state law that was enacted for a very specific reason. Part of the law states:

“The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality. The legislature therefore declares that government is the public's business and that the public, individually and collectively and represented by a free press, should have access to the records of government in accordance with the provisions of this article.”

Section §87(2)(g) of the FOI Law specifically states that an external audit containing factual and statistical information cannot be withheld. The FOI Law further makes it clear that a document held by the town, particularly with factual and/or statistical information, is a record of the town and cannot be withheld under the guise of being called a draft or work papers.

As taxpayers in the Town of New Hartford, we are deeply concerned that the 2016 Financial Statements are being withheld for reasons that make absolutely no sense and are contrary to state and town law.

This town board should be just as concerned since town law makes it your duty to oversee the financial health of our town by calling for an audit of the town's records to be completed within sixty (60) days of the end of the fiscal year.

The 2016 Financial Statement prepared by D'Arcangelo in any form is clearly a record of the Town of New Hartford that should be released no matter what Supervisor Tyksinski “believes” or what words he chooses to use to describe them.

You now have the facts, gentlemen. The town currently is in non-compliance with state and town law. Will you choose to remain ambivalent to the release of the town audit, be it called a draft or otherwise, or will you stand up for the taxpayers you represent; the same people whose doors some of you may be knocking on next month as you seek their support for your re-election for another term to sit “at the table” come November?

Thank you, Gentlemen.