

To: Supervisor Pat Tyksinski
Town Attorney Herb Cully
Town Councilmen Don Backman, Paul Miscione, David Reynolds and Rich Woodland
Matt Bohn, Deputy Town Supervisor
Town Clerk, Gail Wolanin Young

From: Catherine Lawrence

Date: July 9, 2013

Subject: Assessment Database concerns

On February 13, 2013, I handed Supervisor Tyksinski and Town Attorney Herb Cully a memo with a list of eighty-eight (88) parcels that should be receiving an exemption from special district charges under Real Property Tax Law Section 490; however, as I explained in my memo, an error has resulted in these parcels being billed district charges every year.

One would have thought that someone would have asked why the Town of New Hartford was being sent tax bills for sewer and lighting district charges. Apparently no one asked or no one knew the answer. At any rate, the total amount of assessed value that will be exempted after Section 490 exempt properties are corrected will either require the budget for the Consolidated Sewer District to be adjusted downward or the district users will see an increase in their Consolidated Sewer District tax.

While the fix for this error has to be done by personnel in the Oneida County Finance Office, I would like to alert members of the town board to other problems that I see in conjunction with Section 490 exemptions.

1. Parcels exempt under RPTL 490 are also exempt from paying Operation & Maintenance cost of lighting districts. I am attaching a list of parcels that are tagged in the town's database as exempt under Section 490 and that should also be exempt from paying lighting district fees.

Just as the Consolidated Sewer District fees appear on tax bills as capital expenses, all lighting district fees are tagged on New Hartford tax bills as being capital expenses, not operation and maintenance; therefore, the exemption is not being applied to the parcels that qualify.

Of main concern is Lighting District LT093 which is in the area of Champlin Avenue. Currently there is about \$62,629,280 of assessed value in that district. After the exemptions are fixed, there will be about \$15,160,580 of assessed value left. That will eliminate about $\frac{3}{4}$ of the assessed value that will be used to determine the 2014 cost per thousand of assessed value for lighting in that district and will result in a significant increase in lighting costs for the parcels not exempt in that district. Other lighting districts with properties that are due the Section 490 exemption will not be as severely impacted.

2. 110 Paris Road, owned by Grace Church. This parcel is in the database with an exemption under RPTL Section 420-a – non profit. That automatically makes the parcel qualify for an exemption from special district charges under RPTL Section 490. However, because of the Section 490 problems, the parcel, like all other parcels due the exemption, is being billed for special district charges to include sewer and lighting.

However, after looking at the property record which is listed as a 210 – single family home plus after a quick search on Google, I believe that the property exemption code should be under RPTL

462 – residence of a clergy. Under that exemption, **Section 490 doesn't apply**. The application that should have been filed with the Assessor's Office is called "**APPLICATION FOR EXEMPTION FROM REAL PROPERTY TAXES FOR PROPERTY USED AS RESIDENCE OF OFFICIATING CLERGY [Form RP-462]**".

Instructions for the RP-462 exemption application state:

"Even though the owner of such property may be a religious body whose organizational purposes and activities make it eligible for exemption under section 420-a of the Real Property Tax Law, the taxable status of the property is governed by Section 462 of that law, not by section 420-a. Residential property use is not necessarily a religious use for the purposes of section 420-a. Thus, only those portions of a religious organization's property which can be shown to have an actual and exclusive religious use (such as the holding of worship services) are eligible for exemption under section 420-a."

RPTL 462 requires that the exemption be applied for **EACH** year. Is there a current year Section RPTL 462 application on file for this property? Was one **EVER** filed for this property? Exemptions need the approval of the Assessor...did he approve an exemption on the property under RPTL 420-a?

After the exemptions are fixed for the parcels that are tagged as exempt under RPTL 490 in the Town of New Hartford assessment database, the property at 110 Paris Road will no longer be billed for sewer and lighting district charges even though under RPTL 462 exempt properties **are not exempt** from paying sewer and light district fees. The exemption code needs to be fixed and the Section 490 tag removed so that the parcel continues to be billed for district charges as required.

3. **ALL** tax bills in the Consolidated Sewer District show the ad valorem sewer charges as a capital expense; that is the reason that the special district charges are being billed to exempt properties. However, we know by looking at the budget each year, the Consolidated Sewer District users are supposedly only paying for operation and maintenance; all bonds were retired by 2004 according to town board minutes.

According to town law, after consolidation of a sewer district, the charge to maintain the new sewer district is supposed to be on the same basis as before the consolidation. According to budget included in the 1992 town board minutes, prior to the consolidation there was only a unit charge for each parcel in each of the separate sewer districts similar to how the Higby Road Water District is now being billed to retire the bonding.

How did the ad valorem charge come about in the Consolidated Sewer District?

I have copies of the town board minutes regarding the consolidation of the sewer districts; the ad valorem does appear to be to pay off debt...the debt that was retired in 2004.

The Resolution dated October 4, 1995 reads:

Any indebtedness of said sewer districts and said improvements areas which shall be outstanding as of the effective date of such consolidation shall be assumed by said New

Hartford Consolidated Sewer District, and, to the extent that moneys therefor are not raised by sewer rents, there shall annually be assessed upon all the taxable real property in such Consolidated Sewer District at the same time and in the same manner as other town charges an amount sufficient to pay the principal and interest of the outstanding indebtedness of each of said sewer districts and improvements areas as the same shall become due and payable, just as if such indebtedness had been incurred after the establishment of said New Hartford Consolidated Sewer District, but if not paid from each such source, all the taxable real property within said Town shall be subject to the levy of ad valorem taxes without limitation as to rate or amount sufficient to pay the principal of and interest on said outstanding indebtedness.

State Comptroller audits of town records in the 1980s often cited the town's improper handling of special districts. One such audit says:

“Sewer district costs are required to be apportioned and assessed upon each parcel in the district in proportion to the benefit derived (Town Law, §§202, 202-a). Although the assessed valuation of each parcel may be taken into consideration, it should not be the sole criterion upon which the determination of benefit is based.”

The bulk of the charge for Consolidated Sewer District users is based on the assessed value of the property. I have to ask what the assessed value of property has to do with the amount of benefit to each parcel?

For example:

The assessed value of Attorney Cully's property is about double mine, therefore, his Consolidated Sewer District charge is twice what I pay. He does have ½ bath more than I do, a few hundred more feet of living space than I do, and he lives in a house that is about 10 years newer than mine. Does any one on this board think that Attorney Cully is receiving twice the benefit from being in the Consolidated Sewer District than I receive?

Next, below I have listed several parcels that contain information that is questionable and needs to be checked for accuracy:

1. Three (3) properties listed on the Section 8 – Wholly Exempt roll have an exemption code that would also entitle them to a Section 490 exemption. However, they do not seem to be tagged in the town's assessment database as a Section 490 so they will not receive the exemption even after the corrections are made for the other Section 490 parcels. The parcels are:

317.000-2-29 St. Lukes Mem. Hosp. Business Office...Non-Prof. 25130
328.015-5-52 St. Thomas Church... Non-Prof 25130
339.007-5-33 The Town of New Hartford...Town Prop 13500

2. One parcel, tax map 340.010-2-8, is listed in the Wholly Exempt Section 8 roll, but the owner is listed as Lewis Custom Homes, Inc. The parcel has a 13500 exemption code signifying that it is town property thereby making it fully exempt from taxes. It either has to be owned by Lewis Homes and taxable **OR** exempt if it is owned by the town...**it can't be both.**

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3. Tax Map 339.016-1-27.1 at 3946 Oneida Street, Adirondack Community Physicians owned by Faxton Hospital is listed on Roll Section 1 – **taxable**, Property Class 465, Professional Office, yet they also have an exemption code of 25130 [Non-profit organization-charitable] exempting them from paying taxes. They are also tagged as being exempt under Section 490.

It does not appear that the property class, roll section and tax exempt status are in sync with each other.

Even though the property is owned by Faxton Hospital, it isn't necessarily exempt under Section 420-a of the Real Property Tax Law. Additionally, Property Class 465, Professional Office is for Commercial - Property used for the sale of goods and/or services. The property class used in the assessment database suggests that it might be a doctor's building much like the building on the St. Elizabeth campus on Middlesettlement Road or the doctor's building on the St. Luke's campus on Champlin Ave; both which are fully taxable.

This property has been exempt for years. The current assessment on this building is \$858,000. Is the property taxable like all the other property class 465 in Roll Section 1 or is it exempt as a non-profit and it needs to be changed to a Roll Section 8? One cannot tell by looking at the information in the assessment record.

4. Tax Map 339.016-1-27.2 vacant land next to 3946 Oneida Street owned by Faxton Hospital is also listed on Tax Roll Section 1 – taxable, but has an exemption code of 25130 [Non profit organization-charitable] and they pay no taxes. Again, the Roll Section does not match the exemption...wholly exempt or taxable?
5. Tax Map 329.014-2-57 at 86 Genesee Street in the Village of New Hartford was formerly owned by St. Elizabeth Hospital and purchased by U-Peds Properties, LLC on 12/3/2012. The property class on this parcel is also 465 – Professional Office.

This parcel has been listed as a Section 8 - wholly exempt parcel with an exemption of 25130 [Non-profit organization, charitable] since it was purchased by St. Elizabeth in late 2005.

According to the 2013 tentative assessment database, the initial year of the exemption on this parcel is 2006; that's the year that St. Elizabeth Hospital purchased the property. Since U-Peds Properties, LLC didn't purchase the property from St. Elizabeth until 2012 how can the initial year of their exemption also be noted as 2006?

I checked...I didn't see U-Peds Properties, LLC listed as a 501(c)(3) charitable organization on Guidestar. I believe it was doctor's office building when St. Elizabeth Hospital owned it and may not have been taxable even then. Isn't it a physicians' office building just like the Middlesettlement Road property owned by St. Elizabeth that is fully taxable? Is there an application on file or did the assessor inspect the property and certify in writing that it satisfies all of the requirements for a 420-a exemption as is required by law? This property is currently assessed for \$931,000. It is probably worth checking to see if it really is supposed to be exempt!

6. 4401 Middlesettlement Road – tax map 328.000-2-38.60 This is the Doctor's office building owned by St. Elizabeth Hospital [part of the former Hartford Insurance building site]. It is fully taxable in the town assessment database; yet, there are no Consolidated Sewer or Fire District codes on this parcel therefore, no charges will be levied for these districts. I believe this property is in the Consolidated Sewer District and also in the New Hartford Fire District and should be billed accordingly.

Mistakes do occur; no one is perfect, but I believe that the assessment database program allows one to produce reports to locate and correct these errors. In fact, a quick check of the printed assessment roll was how I noticed the RPTL 490 problems.

While we are at it, here are some of my other concerns:

- I spoke to Rick Sherman regarding the 2011 and 2012 budget worksheets I recently FOILED and he told me that the money for the cost of repairs to Woodberry that have been budgeted for at least the last two years have not been spent.

By law, the sewer district users should only be assessed for the actual cost to maintain the sewer system each year plus a 10% contingency. Why are district users being billed for work that is not being performed?

As I have mentioned before, property in the Woodberry Sewer District and the Clinton Street Sewer District are not being properly billed. Woodberry, who only recently started paying the ad valorem operation and maintenance fee, is still not paying the unit charge and Clinton Street is paying twice for the ad valorem. This was brought to the attention of Paul Smith a couple of years ago; no correction has been made to these parcels.

- I also have other concerns that I brought to both Attorney Cully and Paul Smith a couple of years ago regarding parcels that are clearly part of the Consolidated Sewer District but are not being charged because the sewer district code in their record is SW024; there is no such sewer district as SW024. Parcels in the Consolidated Sewer District are only billed if they have SW073 and SW074 in their record. These corrections have not yet been made to the database.
- I would like to see the agreement that was supposedly signed with Applewood developers because I do not believe that any signed agreement would trump town law. Town law is clear that the operation and maintenance cost of a sewer district is a charge against all benefited plots and parcels.

Additionally, according to town law and the Town Law Manual available from the Association of Towns, sewer maintenance and operation charges are supposed to be based on the benefit received. Certainly one can agree that Applewood receives benefit from the sewer district and they should be paying their fair share of maintenance costs particularly since they are adding additional pads and there have been many repairs to the pump stations in Applewood.

Over the past few years, I have brought many errors in the town's assessment database to the attention of the town board; yet the Town of New Hartford Assessment Database is still fraught with errors. New Hartford residents are **required** to support this town with their hard-earned tax dollars; the very least they should be able to expect in return are tax bills based on accurate records to insure that they are being treated fairly and equitably in relation to their neighbors.

Attachment: Properties in lighting districts due a Section 490 exemption

RPTL Section 490 Exempt Properties Sorted by Lighting District

Light District	Exemption Code	Total Assessed Value	TAX MAP No.	PRIMARY_OWNER	Number	Street	Property Class	Roll Section
LT022	25400	151,700	349.016-1-50	Amer Legion Clonan Pt 1000	3454	Oneida St	632	8
LT022	25130	858,000	339.016-1-27.1	Faxton Hospital	3946	Oneida St	465	1
LT022	25130	8,500	339.016-1-27.2	Faxton Hospital		Oneida St	330	1
LT022	25130	24,000	350.000-3-52.2	Mohawk Valley Handicapped Ser		Elm St	322	8
LT022	13500	114,100	349.008-2-1.1	Town of New Hartford	3691-3695	Oneida St	652	8
LT022	26400	785,000	349.016-1-58	Willowvale Fire Company	3459	Oneida St	662	8
LT022	25300	175,000	349.020-1-22	Word of Life Christian Church	3354	Oneida St	620	8
LT023	25110	284,500	329.017-2-17	Grace Church Of Utica	110	Paris Rd	210	8
LT024	25130	65,400	317.012-3-27	Utica College	1449	Ney Ave	210	8
LT024	25120	74,100	317.012-3-36	Utica College	1467-69	Ney Ave	220	8
LT024	25120	82,800	317.012-3-42	Utica College	1480	Ney Ave	210	8
LT024	25120	10,000	317.012-3-43	Utica College	1476	Ney Ave	330	8
LT024	25120	55,600	317.012-3-45	Utica College	1472	Ney Ave	210	8
LT024	25120	54,800	317.012-3-46	Utica College	1470	Ney Ave	210	8
LT024	25120	50,400	317.012-3-47	Utica College	1468	Ney Ave	210	8
LT025	25400	1,700	329.006-3-8	New York Mills Fire Co		Campion Rd	330	8
LT038	13500	1,500	339.007-5-33	The Town of New Hartford		Woodberry La	311	8
LT093	25130	47,029,700	317.000-2-2.1	St Lukes Memorial Hosp	1656	Champlin Ave	641	8
LT093	25120	439,000	317.000-2-3	Utica College Foundation	1660	Champlin Ave	483	8
	TOTAL	50,265,800						