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** CIVIL TRIAL LAW
*** WORKERS' COMPENSATION LAW
**** MATRIMONIAL LAW

Daryn Cashin, *Tax Collector*
Township of Andover
134 Newton Sparta Road
Newton, NJ 07860

Re: Tax payments being applied to utilities
File No: 46908-(1) General

Dear Daryn:

Please accept this letter as my legal opinion relating to the issue raised in your email dated December 8, 2009.

I am specifically addressing the situation wherein a municipality has on its books a lien for water/sewer that has not been sold at a tax sale to a third party. Rather, it is still a municipal lien. For example, on or about July 1, the utilities collector certified to the municipal tax collector that there is a delinquency for water/sewer. The mortgage lender/bank has been escrowing money for taxes and sends a check to the municipality to pay the August 1st taxes. It is my understanding that some tax collectors will take a portion of these monies that have been specifically collected by the mortgage lender/bank for taxes and apply it to an unpaid delinquency for a utility that is older in time than the August 1st taxes.

It is my understanding based upon your email that there is language in Principals of Municipal Tax Collection II that indicates that this can be done "even if a bank or mortgage company is making the payment."

It is my legal opinion that this language should have been revised. If a mortgage lender/bank is escrowing money to be used for taxes and forwarding those monies to the municipality, the municipality should credit those monies towards taxes.

If you need any assistance on specifically how to rewrite the language, please do not hesitate to telephone me.

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PLEASE REPLY TO
NORTHFIELD

December 22, 2009

Daryn Cashin, *Tax Collector*
Township of Andover
December 22, 2009
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Furthermore, please note that I have spoken to Randy Bahr, the Chairman of the Technical Review Committee since I viewed this to be somewhat of an informal legal opinion and I wanted to clear this with him and he is in agreement with same.

If you need any additional information, please do not hesitate to telephone me.

Very truly yours,



KEITH A. BONCHI

KAB/lrf

Cc: Vince Belluscio, *Executive Director, TCTA*
Nancy Nichols, *President, TCTA*
Ron Zilinski, *TCTA*
Randy Bahr, *TCTA*