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August 2, 2010

Ms. Lavonne Bjergum
Winneshiek County Recorder
Winneshiek County Courthouse
201 W. Main
Decorah, IA 52101

**COPY FOR YOUR
INFORMATION FROM THE
WINNESHIEK COUNTY ATTORNEY**

Re: Audit Report Response / SF465 Compliance

Dear Lavonne:

I am writing with regard to concerns that have been expressed to me concerning certain practices in your office. I will attempt to identify the issues that have been expressed and why I view these issues as problems. I would like to hear from you within the next 14 days as to how you intend to address these issues.

I received word from Hacker Nelson & Co. following this past year's audit which included concerns about the accuracy of financial records maintained by your office. These concerns were described to me as follows:

"The bank accounts of the Recorder's office are not being reconciled to the bank statements in a timely manner. In fact, when we were given the bank statements for the year ended June 30, 2009 in October 2009, none of the statements had been reconciled. When the bank reconciliations were performed, the June reconciliation included two checks as outstanding that were not written until July. The June 2009 bank reconciliation for the revenue stamp account indicates a negative balance of \$27.95. Since the function of this fund is to collect and remit fees, the account should never be overdrawn. When the bank accounts were reconciled, we discovered the payments for use tax for January 2009 and the second quarter boat registrations had not yet been paid. It appears the delays in recording and depositing receipts results in inaccurate cutoff at month end and delays in remitting fees collected.

The Recorder is required to report quarterly to the Board of Supervisors the fees collected and remitted by the office. The reports for fiscal 2009 were all completed and filed more than 30 days after the end of the respective quarter. The quarterly reports filed did not include all activity of the office as the reported receipts and disbursements were less than the bank statement activity. Also, the quarterly reports indicated more funds paid out than were collected for the year. The summary of financial activity prepared by the Recorder for the audit did not reconcile with the financial activity in the bank statements. We believe the quarterly reports filed were inaccurate. We believe the

Recorder is not complying with Iowa Code Section 331.902 Collection and Disposition of Fees. Specifically Subsection 2 regarding quarterly reports was not complied with during fiscal year 2009."

While the auditors advised me that their audit procedures did not indicate material fraud or misuse of public money, they did have reservations about the timing and accuracy of the financial reports that come from your office.

As part of the audit process, the auditing firm asked you to submit a plan to avoid the problems noted in the audit. To this date you have not provided the auditors with a response to address the steps you will take to avoid the problems noted in the audit. You need to take immediate steps to devise and implement a plan to address the problems noted in the audit. If you need assistance in this regard, Hacker Nelson & Co. would be available to assist you in implementing procedures to address the deficiencies noted in the audit.

I have also been contacted by the president of the Iowa Recorders Association, who expressed concern regarding Winneshiek County's compliance with the mandates of SF465. One concern they have is that your office is not uploading recorded documents in a timely fashion.

As you are aware, SF465 provides: "Each county shall participate in the county land record information system and shall comply with the policies and procedures established by the governing board of the county land record information system." Iowa Code § 331.604(3)(a). The policy established by the governing board of the Iowa Land Record Information System is that all documents be uploaded within 72 hours of recording. Images of documents from your office have not been uploaded since February, 2010. Images of indexes from your office have not been uploaded since April, 2010. This is an issue that we have previously discussed. It is my understanding that Winneshiek County is one of the Counties that can be uploading historical information, so you could send older documents and indexes further back than 2010. This would certainly be of assistance to the bankers, realtors, attorneys and other members of the public who use these type of records on a regular basis.

The legislature, in SF465, also included a requirement that you collect \$3.00 per filed document to be used for the following purposes:

- (a) Maintaining the statewide internet website and the county land record information system.
- (b) Integrating information contained in documents and records maintained by the recorder and other land record information from other sources with the county land record information system.
- (c) Implementing and maintaining a process for redacting personally identifiable information contained in electronic documents that are displayed for public access through an internet website or that are transferred to another person.

Iowa Code § 331.604(3)(b)(2). Your office has been collecting this fee. Therefore, you also should be utilizing the processes available for redacting the personal information from the recorded documents. This cannot happen unless the images are uploaded so they can go through the redaction process. Iowa Code § 331.606A(3) provides:

3. Redaction from electronic documents. Personally identifiable information that is contained in electronic documents that are displayed for public access on a website, or which are transferred to any person, shall be redacted prior to displaying or transferring the documents. Each recorder that displays electronic documents and the county land record information system that displays

electronic documents on behalf of a county shall implement a system for redacting personally identifiable information. The recorder and the governing board of the county land record information system shall establish a procedure by which individuals may request that personally identifiable information contained in an electronic document displayed on a website be redacted, at no fee to the requesting individual. The requirements of this subsection shall be fully implemented not later than December 31, 2011.

When you collect \$3.00 per documents to go through a permanent redaction project, but do not uploading documents you are not using the fee for its authorized purpose. Failure to perform this duty as you are obligated by SF465 could constitute misconduct in office.

Additionally, if Winneshiek County is to be compliant with the redaction requirements by the December 31, 2011 deadline, our County's documents need to be submitted on a timely basis. You also need to consider how you will bring the redacted document back into your in-house system and the fee that Solutions will be charging for this. Because of SF465, documents cannot be sent electronically after July, 2011 without having gone through a permanent redaction project. Please consider the long term impact this could have on Winneshiek County. The fees for these services were sent out to you to include when preparing your budget. Have you included the fees for redaction in your budget?

I am sending a copy of this letter to the Board of Supervisors as I believe they need to be aware of the problems and concerns that have been identified. I am aware that in the past the Board has offered to fund additional support staff for your office. If staffing is the issue, they could help address that need. You may want to request that they fund additional training if that is necessary to address these problems. In any event, these are issues that require your immediate attention.

Please contact me if you have any questions concerning these matters.

Sincerely,



Andrew F. Van Der Maaten

cc: Board of Supervisors