

HORSEHEADS CENTRAL SCHOOL DISTRICT

December 4, 2015

TO: Board of Education

FROM: Conrad R. Wolan, Esq., School Attorney

SUBJECT: Settlement of L Enterprises, LLC v. William R. Torp, Assessor, Town of Big Flats, and the Board of Assessment Review for the Town of Big Flats (Tax Certiorari)

Pertinent Information

L Enterprises, LLC ("L Enterprises") initiated a tax certiorari proceeding earlier this year in Chemung County Supreme Court contesting the 2015 taxable assessment on its parcel located in the Town of Big Flats (Chemung County Index No. 2015-1954). The parcel is located at 3344 Chambers Road, Big Flats, designated on the Tax Map of the Town of Big Flats as 58.01-1-63.2, and commonly known as the former Chase-Pitkin site. While the proceeding is formally against the assessor and the municipality, the District did receive notice, as required by law, and filed a notice of intention to intervene in order to establish standing in the proceeding.

A tentative negotiated settlement has been reached between the taxpayer and the municipality, with the Town of Big Flats Town Board scheduled to formally vote on the matter at a meeting later this month. The proposed settlement will require the District to refund some taxes previously paid. The District's consent has been requested.

Evaluation/Analysis

L Enterprises requested that its assessment of \$4,081,000 be reduced to \$2,500,000. After negotiations, the Town of Big Flats tentatively has agreed to reduce the assessment to \$3,300,000 for 2015-2016. In exchange, the taxpayer's related entities will discontinue their 2015 tax certiorari proceedings concerning hotels located at 35 Arnot Road and 51 Arnot Road, Big Flats, which seek reductions in assessment from \$4,892,500 to \$4,200,000, and \$5,555,800 to \$4,000,000, respectively.

The District's primary concern is the need for a refund to the taxpayer for the school tax payment it made in September 2015 in light of the tentative agreement to reduce the assessment for the 2015-2016 school tax year. The Business Office has calculated that the reduced assessment would generate a refund of \$14,090.43 with respect to the September 2015 school tax payment. The District's auditor has advised that the refund should be treated as an overpayment in the current tax year, and should not be paid out of the District's tax certiorari reserve fund. Based on a review by the School Attorney, the District has no reason to object to the settlement reached between the taxpayer and the municipality.

Recommended Resolution

That the Board of Education hereby authorizes settlement of the above-referenced tax certiorari proceeding on the terms outlined above; authorizes a refund as required by law; authorizes the appropriation of sufficient funds to the extent necessary from the District's tax certiorari reserve account; and authorizes and directs the Board President, Superintendent, and School Attorney to take all actions necessary to effectuate the foregoing resolutions.