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 MERITAS LAW FIRMS WORLDWIDE

April 11, 2006

Margaret Wholean
First Selectman
Town of Woodstock
Woodstock Town Hall
415 Route 169
Woodstock, CT 06281-3039

Re: Proposition 46 Interpretation: Revaluation Year

Dear Margaret:

You have asked us to review the Town ordinance known as Proposition 46 (the "Ordinance") in connection with the calculation, during a revaluation year, of the maximum allowable increase in expenditures ("Maximum Increase") contained in the Town's combined annual budget (the "Budget").

By way of background, the Ordinance provides:

Resolved, the town shall limit the increase in the town's combined annual budget to revenue generated by growth in the Grand List, in State and Federal assistance, and in other income, except for increases, voted upon by town meeting, necessary to cover debt service on legal obligations, court judgments against the town, State mandated programs and emergency expenditures.

In the event of property revaluation, the actual dollar increase in the combined town budget shall be limited to the dollar amount of increase in the preceding year's budget or the average amount of increase over the preceding three years, which ever is lower.

Thus, the first paragraph of the Ordinance establishes a general rule for calculating the Maximum Increase, from year to year, in the Budget. Under this general rule, the Maximum Increase is calculated based on actual growth in revenue, and such growth, in turn, is calculated based on: (1) actual revenue increases generated by particular real and personal property additions to the Grand List ("Real Grand List Growth"); (2) actual revenue increases

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generated by additional State and Federal assistance; and (3) actual revenue increases generated by additional "other income." As we understand it, the general rule is designed to ensure that, apart from certain enumerated expenses (e.g., emergency expenditures) any increase in overall expenditures is offset by an actual increase in revenue and that, therefore, such increase in expenditures is tax burden neutral.

As you know, in revaluation years, there are two components to growth in the Grand List: (a) the Real Grand List Growth (which translates into real growth in revenue); and (b) an increase in the total Grand List figure attributable to revaluation ("Apparent Grand List Growth"). Although the first component (Real Grand List Growth) reflects an ability to increase expenditures without increasing the tax burden, the second (Apparent Grand List Growth) does not. Consequently, if the general rule set forth in paragraph one were to be applied in revaluation years, the Maximum Increase would not reflect actual increases in revenue based on Real Grand List Growth plus enumerated expenses such as emergency expenditures.

The second paragraph of the Ordinance establishes an exception to the general rule, applicable only in revaluation years, that appears to have been designed to preclude Apparent Grand List Growth from affecting the calculation of the Maximum Increase. As set forth in the second paragraph, in revaluation years, the Maximum Increase is calculated using "the dollar amount of increase" contained in the preceding year's budget or the average amount of increase over the preceding three years, whichever is lower.

To date, as we understand it, paragraph two has been read to require a calculation separate and distinct from that set forth in the general rule established in paragraph one. As a result of treating the two as separate and distinct, the Maximum Increase in revaluation years (which now occur every five years) is calculated using the overall budget increases in past years. Significantly, this approach does not merely address concerns related to the effect of Apparent Grand List Growth in a revaluation year, it also ignores any actual increase in state or federal assistance or any other actual increase in income.

Although at first glance, this approach may seem logical, we are concerned that a rule that requires the Town to ignore such actual revenues increases leads to an illogical, unworkable and potentially unlawful result. For example, under the separate approach to the two paragraphs, if the State were to increase the Town's ECS grant by \$1,000,000 in a revaluation year, the Maximum Increase would not reflect that new actual income and instead would be calculated using past overall budget increases. General Statutes § 10-262i (c), however, provides: "The budgeted appropriation for education in any town receiving an increase in [ECS] funds . . . shall be not less than the amount appropriated for education for the prior year plus such increase in funds." Conn. Gen. Stat. § 10-262i. Thus, because the Maximum Increase would not include the \$1,000,000, in order to comply with the law, the Town would have to decrease its noneducational expenditures to offset the difference between the increase in the proposed education budget and the full \$1,000,000 to accommodate the

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required increase in the educational expenditures – a potentially harsh and unworkable proposition.

Reading the two paragraphs of the Ordinance as a whole, rather than as separate and distinct rules, not only avoids such a result, it also comports with the intent of the Ordinance and the concern about Apparent Grand List Growth. The three categories of revenue listed in the Town's Budget (namely: (1) "Property Tax Revenues"; (2) "Intergovernmental Revenues"; and (3) "Other Income") match the sources of increased revenue set forth in paragraph one of the Ordinance (namely: (1) revenue increases derived from Real Grand List Growth; (2) state and federal assistance; and (3) other income). Compare Town Financial Statement for Year Ended June 30, 2005 at 38 with Ordinance at Paragraph One. Interpreting the phrase "actual dollar amount of increase" in the second paragraph of the Ordinance to refer to the first such category (i.e., the actual increase in property tax revenues derived from the growth in the Grand List as set forth in the Budget), would: (1) result in past actual property tax revenue increases being used as a proxy for Real Grand List Growth when, as a result of revaluation, such growth may otherwise include not only tax burden neutral Real Grand List Growth but also the problematic Apparent Grand List Growth; and (2) continue to allow tax burden neutral increases in the second and third categories (state and federal assistance and other income) to be included in the calculation of the Maximum Increase. Under such a reading of the Ordinance, the following would be the procedure for determining the Maximum Increase applicable in a revaluation year:

1. Use the formula set forth in paragraph two to calculate a figure to be substituted for an increase in the Grand List growth category in the general rule set forth in paragraph one. In particular: (a) determine the amount of Property Tax Revenues derived from the Grand List as set forth in the budgets for the past four years; (b) calculate the increase in such revenues applicable to each of the past three years; (c) calculate the average of those three figures; and (d) take the lesser of that average and the increase applicable to the preceding year. Hereinafter, we refer to this figure as the "Proxy for Increased Grand List Revenue."
2. Follow the general rule as set forth in paragraph one, but insert the Proxy for Increased Grand List Revenue in place of increased revenues actually derived from Real Grand List Growth. In other words, rather than adding in an increase based on the a revaluation year Grand List (which again, is problematic because it includes not just Real Grand List Growth but also Apparent Grand List Growth), use the Proxy for Increased Grand List Revenue.
3. Follow the same procedures used in non-revaluation years to add increases, voted upon by town meeting, necessary to cover increases in debt service on legal obligations, court judgments against the Town, state mandated programs and emergency expenditures. (See Exhibit A, Proposition 46 Worksheet, 2004-2005).

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This approach is consistent with the apparent intent of the Ordinance in that it excludes the problematic component, Apparent Grand List Growth, from the calculation of the Maximum Increase, and at the same time continues to include the tax burden neutral components -- actual revenue increases -- in the overall calculation. Thus, reading the Ordinance as a whole produces a result that is more workable than that which flows from reading paragraph two as separate and distinct from paragraph one. "It is . . . a rule of statutory construction that those who promulgate statutes or rules do not intend to promulgate statutes or rules that lead to absurd consequences or bizarre results. . . . [A] statute is passed as a whole and not in parts or sections and is animated by one general purpose and intent. . . . If there are two possible interpretations of a statute, we will adopt the more reasonable construction over one that is unreasonable. Ferrigno v. Cromwell Dev. Assocs., 244 Conn. 189, 201-202 (1998); Coley v. Camden Associates, Inc., 243 Conn. 311, 320 (1997); Turner v. Turner, 219 Conn. 703, 712-13 (1991). Given the unworkable result that potentially flows from reading the two paragraphs of the Ordinance as separate and distinct, it is our opinion that the more reasonable reading is that which allows actual increases in state and federal assistance and other income to be included in the calculation of the Maximum Increase allowable in revaluation years.

I trust this responds to your inquiry. If you need additional information, please let me know.

Very truly yours,



Robert M. DeGrescenzo, Esq.

RMDe/psm