



## LEGAL SERVICES DEPARTMENT

### Office of the City Attorney

100 North Appleton Street

Appleton, WI 54911

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**TO:** Members of the Finance Committee

**FROM:** Christopher R. Behrens, Assistant City Attorney

**DATE:** January 16, 2014

**RE:** Tax Refund Intercept Program (TRIP) Request for Appeal

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Attached to this memo please find a request for appeal submitted by Michael and Kay Amerson regarding their entry into the Tax Refund Intercept Program (TRIP). Mr. and Mrs. Amerson have received a Notice of Intent to Certify Debt for the City Rehabilitation Loan they received in 2010. For your information, following is a short background for this TRIP entry and appeal.

In March of 2010, Mr. and Mrs. Amerson received a City of Appleton Rehabilitation Loan in the amount of \$20,428.00 for their property located at 1002 North Oneida Street. At that time, the Amersons also had a first mortgage in the amount of \$125,112.00.

On February 5, 2013, the City of Appleton was named as a defendant in a foreclosure action filed by Wells Fargo Bank NA, the primary mortgage holder, against Mr. and Mrs. Amerson. The outstanding amount due was listed as \$125,014.96. The City responded to the Complaint by filing an Answer and Claim to Surplus.

In August, the City was contacted by an outside firm requesting that the City consider accepting \$2,500 to release our lien and then obtain a judgment on the balance of the outstanding amount. My concern with this approach was that the City would then be unable to obtain a deficiency judgment through the foreclosure process because there would not be a foreclosure and subsequent sheriff's sale. Instead, the City would have to file a new, separate action against the Amersons to collect the unpaid amount, incurring additional fees. City staff decided that this would not be in the best interest of the City taxpayers and declined the short sale offer. Foreclosure proceedings continued.

The property located at 1002 North Oneida Street was sold at Sheriff's Sale on September 4, 2013 for the amount of \$81,354.00, leaving a deficit of \$43,660.96 for the primary mortgage and the full \$20,428.00 of the City's mortgage unpaid. This sale was confirmed by Judge Krueger on October 8, 2013.

In an attempt to recover the outstanding amount, the City filed for a deficiency judgment, which was granted by Judge Krueger on December 5, 2013. This judgment was docketed on December 5, 2013 for the total amount of \$20,528.00, which represented the full amount of the loan plus \$100 in statutory attorney's fees.

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James P. Walsh  
*City Attorney*

Ellen Totzke  
*Deputy City Attorney*

Christopher R. Behrens  
*Assistant City Attorney*

Stacy Doucette  
*Assistant City Attorney*

On December 10, 2013 we sent letters to Mr. and Mrs. Amerson notifying them that the City was going to certify this debt to the Wisconsin Department of Revenue. As a result of this debt certification process, any tax refunds due to the Amersons will instead be directed to the City and applied against the judgment balance until it is paid in full. On December 17, 2013 our office received the attached letter appealing the City's decision to certify this debt to the Wisconsin Department of Revenue.

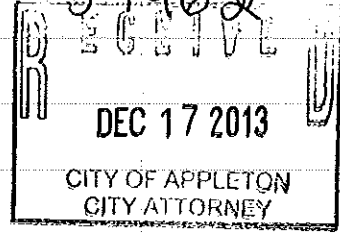
**RECOMMENDATION**

Deny the debt certification appeal filed by Mr. and Mrs. Amerson and affirm certification of the debt to the Wisconsin Department of Revenue.

Attachment

CRB;jls

AMERSON  
402 FRANKFORD ST  
OGDENSBURG, WI  
54962



city of Appleton  
city attorneys office  
100 N. Appleton St

To whom this may concern,  
In March, 2010, we were sent a letter stating that our siding was not up to par, and because we lived close to downtown Appleton we needed to fix it within one month, or be fined. We were working on the windows at that time, so they looked a little rough, but the siding was not bad, + comparable for the area. I called, as the letter said I had one month to do this. The person said "that's ridiculous, where did that letter come from." I said "your office". He then proceeded to tell me about the program available where work was done, + you didn't pay unless you sold the house. We really didn't have a choice, so we signed up. After when the problems came + renters left + I had to go on over

disability, plus our son's best friend killed himself in the basement; we realized we could not stay.

We tried to do everything we could to get out of the situation legally. Wells Fargo said they would lower our payments of \$300 - \$350 a month, and drop our interest rate also. After the whole process was done, they lowered our payments \$80, and took 10 years of equity away. We had paid over \$1,000,000 dollars; + had nothing.

We wanted to do the short sale, + the city refused, so we had no choice.

We feel that the new owners will benefit from the program because our heating bills were significantly lowered; Thus they should pay. The original process said "loan to be payed when the house was sold."

My husband has been hit  
over

by a car twice, + has had 26 surgeries. Our credit is terrible. We were thinking of working with Dept of vocational rehabilitation on a business, but this would prevent us because we could never make a profit from it.

We feel that because we were more or less forced into the program, and the fact that we have paid over \$100,000 already for the house; should allow us to be free and clear of this dept.

We have no 401K plans to speak of because of my husband's health through the years.

We were hoping to earn just a little money through a possible business to supplement our social security. We feel terrible about what all happened, but we just had no choice.

Thank you for your consideration in this matter. Sincerely  
Mike + Kay Amerson