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July 13, 2021

**CONFIDENTIAL & PRIVILEGED ATTORNEY-CLIENT COMMUNICATION**

**VIA EMAIL ONLY**

Tatia C. Gibbons, Esq.  
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Cook County Assessor's Office  
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**Re: Authority of Clerk and Treasurer in Accepting Certified Assessments**

Dear Ms. Gibbons:

You have asked the State's Attorney's Office for advice on whether the Cook County Clerk or Cook County Treasurer (in her *ex officio* capacity as the Cook County Collector) has discretion to accept certified assessments (as equalized and adjusted for homestead exemptions) before performing their duties under the Property Tax Code. Your specific question, our conclusions, and the reasons supporting our conclusions are provided below.

**QUESTION PRESENTED**

Whether the Clerk can refuse to calculate tax rates and extend taxes (and can the Collector similarly refuse to prepare and issue tax bills) on assessments that have been certified, equalized, and adjusted for homestead exemptions?

**CONCLUSION**

Under the Property Tax Code, the Clerk lacks authority to refuse to calculate rates and extend taxes on certified assessments that have been equalized and adjusted for homestead exemptions. The Collector similarly lacks authority to refuse preparing and mailing tax bills on the same certified assessments. Their duties are ministerial and mandatory.

## DISCUSSION

Under the Property Tax Code, the Clerk is responsible for calculating tax rates and extending taxes against all taxable properties in Cook County. 35 ILCS 200/16-155. The Collector receives the completed tax books from the Clerk and uses them to prepare and mail tax bills to individual property owners. 35 ILCS 200/20-5. Because the Collector's duties arise downstream in the process, our analysis begins with the Clerk.

In performing extensions and rate determinations, the Clerk uses the final equalized assessed value (or EAV) for all taxable property in Cook County. 35 ILCS 200/18-115. The final EAV is composed of three things: a certified assessment, an equalization factor, and homestead exemptions (if applicable). Certified assessments are created when the Assessor and Board of Review certify the assessment books for a tax year by attaching to them an affidavit in which they affirm that, in their "opinion," the books contain a "just and equal assessment" for each taxable property in the county. 35 ILCS 200/16-150. For equalization, the certified assessments are multiplied by a factor determined by the Illinois Department of Review, creating an "equalized assessed value" (the EAV) for each property. 35 ILCS 200/17-5; 35 ILCS 18-115. Finally, on residential properties, the EAV may be reduced after applying various homestead exemptions, such as the General Homestead Exemption or the Senior Citizens Assessment Freeze. *See* 35 ILCS 200/15-175 and 15-172. (Some homestead exemptions reduce assessments before equalization,<sup>1</sup> but these do not affect our analysis.) With one exception,<sup>2</sup> the Assessor determines a taxpayer's eligibility for an exemption. *See e.g.*, 35 ILCS 200/15-175. The certified assessments, as equalized and adjusted for homestead exemptions, are then used by the Clerk for calculating rates and extending taxes. 35 ILCS 200/16-155.

Your inquiry asks whether the Clerk can refuse to determine tax rates and extend taxes on certified assessments after they have been equalized and adjusted for homestead exemptions. Based on our review, the Clerk lacks this discretion.

The Property Tax Code provides that "the assessments of property after review by the [Board of Review]" — *i.e.*, after the assessments are certified — "shall be certified to the county clerk and shall be the basis of that clerk's reports of assessments to the Department and, as equalized, *shall* be used by the county clerk in ascertaining tax rates and extending taxes." 35 ILCS 200/16-155 (emphasis added). The use of "shall" generally indicates a legislative intent to make a law or provision mandatory. *Puss N Boots, Inc. v. Mayor's License Com.*, 232 Ill. App. 3d 984, 987 (1st Dist. 1992). "The indication of a mandatory intent is particularly strong when 'shall' is addressed to the actions of a public official." *Id.* That is the case here. The word "shall" is addressed to the Clerk (a public official) and her action of calculating rates and extending taxes on certified and equalized assessments. The Property Tax Code therefore

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<sup>1</sup> For example, the Disabled Veterans' Exemption exempts a portion of the assessed value, and the Homestead Improvements Exemption exempts a portion of market value. 35 ILCS 200/15-165 and 15-180.

<sup>2</sup> The Illinois Department of Veterans' Affairs determines the Disabled Veterans' Exemption. 35 ILCS 200/15-165.

places a mandatory duty on the Clerk to calculate rates and extend taxes on assessments that have been certified, equalized, and adjusted for exemptions.

This conclusion holds even if the Clerk believes an error may exist in the assessments. Our Supreme Court has long recognized that “[t]he county clerk is a mere ministerial officer, and no judicial acts are required of [her] in extending taxes. It is [her] duty, under the statute, to merely extend the taxes as they appear upon the books. [Sh]e has no right, nor is it h[er] duty, to determine whether taxes have been legally assessed or not.” *People ex rel. Kinsella v. Opel*, 207 Ill. 469, 471 (1904); *see also City of Rockford v. Gill*, 75 Ill. 2d 334, 343 (1979) (“The clerk’s duties in respect of the extension of taxes being purely ministerial, [she] may not refuse to extend a levy in an amount authorized by law on the ground that the levy is void for failure to comply with statutorily prescribed procedures.”); *People ex rel. Weber v. Crossfield Chems., Inc.*, 223 Ill. App. 3d 896, 898 (3d Dist. 1995) (“county clerk has no power to . . . determine whether taxes have been legally assessed and as such [her] duties in the extension of taxes are purely ministerial”). The Clerk therefore has no discretion in accepting certified assessments (as equalized and adjusted for exemptions) before carrying out her duty to determine rates and extend taxes, even if she believes the assessments may contain errors.

Similarly, the Property Tax Code places a mandatory duty on the Collector to prepare and mail tax bills. Section 20-5 of the Code provides that the county collector, “upon receiving the tax book or books, *shall* prepare tax bills showing each installment of property taxes assessed \* \* \* [and a] copy of the bill *shall* be mailed by the collector, at least 30 days prior to the date upon which unpaid taxes become delinquent, to the owner of the property taxed or to the person in whose name the property is taxed.” 35 ILCS 200/20-5 (emphasis added). As it did for the Clerk, the term “shall” expresses a mandatory obligation for the Collector, as it is directed at a public official and her duties under the statute. The Collector therefore is required to prepare and mail tax bills based on the tax books she receives.

Our analysis further recognizes that the Property Tax Code supplies a variety of remedies for erroneous assessments that do not involve or implicate the mandatory, nondiscretionary duties of the Clerk and Collector. Annually, assessments can be revised by the Assessor or the Board of Review before certification. *See* 35 ILCS 200/9-85 (allowing the Assessor to annually revise an assessment on complaint by the taxpayer); 35 ILCS 200/16-96 (authorizing the Board of Review to modify assessments upon complaint by a taxpayer or taxing district, or on motion by one or more members of the Board). Proposed equalization factors are subject to hearing and can be confirmed or revised based on evidence submitted by interested parties. 35 ILCS 200/17-20. And, if a homestead exemption was erroneously granted, the Property Tax Code empowers the Assessor to initiate an administrative action against the taxpayer to recoup tax deficiencies, along with interest and (in some cases) penalties. 35 ILCS 200/9-275. Each of these remedies indicates that the power to address potential assessment errors falls outside of the Clerk and Collector’s duties to determine rates, extend taxes, and issue tax bills.

In sum, the Clerk and Collector lack discretion in accepting certified assessments (as equalized and adjusted for homestead exemptions) before performing their respective duties of calculating tax rates, extending taxes, and issuing tax bills.

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Tatia C. Gibbons, Esq.

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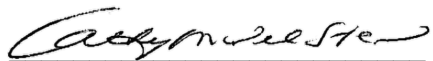
Please feel free to contact our office should you have any additional questions about this letter or the opinion sought. We condition this opinion upon the facts presented and may wish to revisit this matter should new information be made available.

Very truly yours,

KIMBERLY M. FOXX  
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By: /s/ Anthony O'Brien  
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APPROVED BY:



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