

# **Investigative Report**

## ***STATE OF IOWA CITIZENS' AIDE/OMBUDSMAN***



### **INVESTIGATION OF COUNTY TREASURERS' TAX-SALE REGISTRATION FEES**

TO: County Treasurers in Black Hawk, Bremer, Buchanan, Cerro Gordo,  
Des Moines, Linn, O'Brien, Polk, Pottawattamie, Scott, Webster and  
Woodbury counties

FROM: William P. Angrick II  
Citizens' Aide/Ombudsman

RE: Case File 0700082

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## **Role of the Ombudsman**

The Office of Citizens' Aide/Ombudsman (Ombudsman) is an independent and impartial investigative agency within the legislative branch of Iowa state government. Its powers and duties are defined in Iowa Code chapter 2C.

The Ombudsman investigates complaints against Iowa state and local government agencies. The Ombudsman can investigate to determine whether agency action is unlawful, contrary to policy, unreasonable, unfair, oppressive or otherwise objectionable. The Ombudsman may also decide to publish the report of the findings and conclusions, as well as any recommendations for improving agency law, policy, or practice. If the report is critical of the agency, the agency is given the opportunity to reply to the report, and the reply is attached to the published report.

## **Allegations**

On January 2, 2007, the Ombudsman received a complaint regarding the fee that county treasurers charge registrants at annual tax sales. The complainant said generally that many of the state's counties, especially larger ones, appeared to be charging higher fees than was thought to be allowed by law.

## **Investigation**

The investigation was conducted by Assistant Ombudsman Bert Dalmer. For purposes of this report, all investigative actions are ascribed to the Ombudsman.

In early 2007, the Ombudsman surveyed tax-sale registration fees in 10 of the state's 99 counties. Interviews of 10 county treasurers and/or some of their deputies were conducted. In addition, the Ombudsman researched the Iowa Code and relevant case law. The Ombudsman also consulted with the Iowa State Auditor and the president of the Iowa State County Treasurers Association.

## **Background**

Holding tax sales is solely the responsibility of county treasurers. The sales provide counties with the opportunity to recover delinquent property taxes in a timely fashion by soliciting tax-sale purchasers (also referred to in this report as "investors") to pay off the delinquent taxes. In return, the investors may charge the delinquent property owners 2 percent interest per month on the amount of the delinquent taxes until the debt is repaid or the property eventually is deeded to the investor.

Investor interest in county tax sales has increased dramatically in recent years as the financial benefits have become more widely known. Many county treasurers interviewed by the Ombudsman reported that registrations at their annual tax sales now number in the hundreds. In the case of some counties, there are as many registered investors as there are delinquent tax bills.

Under Iowa law, county treasurers may charge investors who wish to participate in the annual sale a “reasonable” registration fee. While the term “reasonable” is not explicitly defined, Iowa Code section 446.16(2) provides further guidance:

“The total of fees collected shall not exceed the total costs of the tax sale.”

The registration fees, once collected by a county treasurer, are to be placed in that county’s general fund. Counties’ general funds fall under the control of county supervisors, who appropriate monies from the fund to county departments, including the treasurer.

The annual tax sales are generally commenced and completed in a single day, or a portion of a single day, in June. The most populous counties sometimes require more than one day to complete the sale.

## **Findings and analysis**

### ***1. Tax-sale fees and fee collections***

The following were the tax-sale registration fees charged by 10 county treasurers in 2006:

Black Hawk	\$60
Buchanan	\$10
Des Moines	\$75
Linn	\$100
O’Brien	\$25
Polk	\$75-\$175 <sup>1</sup>
Pottawattamie	\$50
Scott	\$100
Webster	\$25
Woodbury	\$100

As attendance at county tax sales has increased, so have treasurers’ total collections of registration fees.

According to reports from the 10 treasurers surveyed, the sum of registration fees collected at their respective 2006 tax sales were:

Black Hawk	\$31,620
Buchanan	\$600
Des Moines	\$9,375
Linn	\$108,000
O’Brien	\$775

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<sup>1</sup> Early registration fees were \$75, late registration fees were \$100, and proxy bidders were charged an additional \$75.

Polk	\$111,225
Pottawattamie	\$10,350
Scott	\$123,100
Webster	\$2,500
Woodbury	\$18,000

In order to calculate whether the registration fees in each county were set in accordance with Iowa law, each county’s total collections must be compared with its expenses.

***2. Tax-sale expenses***

Only two of the county treasurers’ offices contacted by the Ombudsman in 2007 said they had calculated costs relating to their 2006 tax sales.<sup>2</sup>

**Thus, 8 of the 10 county treasurers questioned by the Ombudsman could not state with any certainty whether they substantially complied with Iowa Code section 446.16(2), which prohibits treasurers from charging more in registration fees than it costs to run the tax sale.**

Treasurers or their deputies in Linn, Scott, Des Moines and Webster counties acknowledged that their counties had profited or likely profited from their 2006 tax sales, although none could verify those statements with specific figures, since they had not calculated their office’s actual costs.

The two county treasurers whose offices did calculate tax-sale costs reported expenses of:

Black Hawk	\$19,252
Polk	\$160,693

***3. Comparison of fee collections and expenses***

A deputy for the Black Hawk County Treasurer’s office acknowledged that registration-fee collections at its 2006 tax sale exceeded the actual costs of running the sale. The deputy said the excess proceeds did not result from a disregard of the law, but from the unpredictability of the number of registrants at the sale.

In Black Hawk County, registration fees were set in advance of the tax sale based on a “best guess” of attendees. This was done so the treasurer could properly advertise the terms and conditions of the sale in advance of the event.

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<sup>2</sup> Two other county treasurers, in Pottawattamie and O’Brien counties, estimated their offices’ tax-sale costs after the Ombudsman’s initial inquiry.

Expressed as a mathematical equation, the Black Hawk County Treasurer's office set its registration fee using this methodology:

$$\frac{\text{Estimated costs of sale}}{\text{Expected number of registrants}} = \text{Registration fee}$$

To predict a likely number of registrants for the 2006 tax sale, the deputy averaged the total number of registrants from the county's previous two years' tax sales. The treasurer's expected attendance of 334 paying registrants at the 2006 sale was far exceeded by the actual number of 527. The unexpectedly high attendance drove the office's tax-sale collections well above its actual costs.

The deputy said she expects the Black Hawk County Treasurer to lower the registration fee at the 2007 tax sale due to last year's increase in registrations.

The Polk County Treasurer said her office collected less in tax-sale registration fees than it cost her office to run the 2006 sale.

#### ***4. Calculation of costs***

County treasurers' perception of what qualifies as a bona fide cost of the annual tax sale was generally consistent, with two notable exceptions.

The Webster County Treasurer insisted that her office incurred no direct cost to run its tax sale, since her staff is paid regardless of the event. "It doesn't cost me anything," she said. When the Ombudsman pressed the treasurer on whether there were other incidental costs, she ventured a few: "I furnish the coffee," she said. "Sometimes, I make cookies."

Conversely, the treasurer of a much larger jurisdiction, Linn County, said that his tax-sale workload is demanding and costly. The treasurer told the Ombudsman that he has a full-time deputy who devotes "80 percent of his time," year-round, to attend to tax sale duties.

While nothing in the law offers specific guidance on what costs may be considered in setting a registration fee, the Ombudsman believes the following expenses are justifiable:

- **Staff time**  
Tax sales rarely require the diversion of more than a handful of full-time office staff for more than a day. County treasurers report that some preparation time is needed to assemble the delinquent tax list and provide guidance to sale participants. However, any staff work that would be done regardless of the tax sale should not be figured into a treasurer's tax-sale costs.

- **Computer purchases, programming and support**  
Many treasurers utilize a computer program that randomly selects a winning buyer in competitive bidding situations. Additionally, the list of delinquent taxes is often catalogued and tracked on computer. However, any computer programming or tracking that would be done regardless of the tax sale should not be figured into a treasurer's tax-sale costs.
- **Facility rental**  
County courthouses are sometimes inadequately small for tax sales, especially in larger counties where participants number in the many hundreds. Some counties are obliged to rent space for the event.
- **Newspaper publication**  
By law, county treasurers must publish notice of the tax sale and a complete listing of the taxes to be sold.
- **Refreshments**  
In some cases, treasurers choose to provide food or drink to tax-sale participants due to the length of the proceedings.

There are other justifiable tax-sale costs that may legally be defrayed through separate fees or charges:

- **Notices to delinquent property owners**  
By law, county treasurers must notify property owners and their mortgage companies by mail of tax sales relating to their delinquencies. Under Iowa Code 446.10(2), treasurers may recoup this cost by imposing a service fee on the taxpayer (which is passed on to the investor) of up to \$4 per delinquent property.
- **Printing costs**  
Treasurers may provide lists of delinquent properties to tax-sale participants, on paper or compact disc. Treasurers may recoup the actual cost of producing those lists from requesters under Iowa's Open Records law, Iowa Code 22.3(2).

When the Ombudsman asked the O'Brien County Treasurer whether it was fair for her to charge a registration fee without first accounting for her office's costs, she said the following:

"I'm not concerned about the investor – I'm not worried about him and his legal rights at all," she said. "If it costs an investor some money to get the chance to earn 24 percent interest, he's got to pay. I'm not too concerned about that. They're only in it for the money."<sup>3</sup>

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<sup>3</sup> The O'Brien County Treasurer held a tax-sale training session for county treasurers at the annual Iowa State Association of Counties conference last March. The Treasurer told trainees only that fees had to be "reasonable." She did not instruct her colleagues that fees charged to registrants could not exceed the sum of the tax-sale costs, as Iowa Code section 446.16(2) mandates.

The Ombudsman does not believe that tax-sale buyers forfeit their legal rights because they may derive a profit from their activities.

As stated earlier in this report, the money that investors spend at county tax sales helps counties recoup delinquent taxes that would otherwise go uncollected. In that respect, counties are dependent upon private investors at tax sales to make their annual budgets whole.

### ***5. Additional legal consideration***

The amount of the fees collected by some of the county treasurers may present another legal problem. The Iowa Supreme Court has held that fees imposed on citizens by local governments must be "reasonably related" to the administrative expenses of providing a service. While a city's costs to provide a service need not be calculated to a mathematical certainty, the fee also must not be set arbitrarily. Any fee that is charged with the specific intention of creating revenue could be viewed by the courts as a tax, and likely, an illegal one. *Kragnes v. City of Des Moines*, 714 N.W.2d 632 (2006).

Although Iowa counties and cities are given home-rule authority to set fees, they are limited in their abilities to impose taxes. The Code of Iowa contains virtually identical restrictions on the tax-levying authority for both cities and counties:

**331.301(7):** "A **county** shall not levy a tax unless specifically authorized by a state statute." (Emphasis added)

**364.3(4):** "A **city** may not levy a tax unless specifically authorized by a state law." (Emphasis added)

The Court in *Kragnes* elaborated on this issue as it pertained to a franchise fee charged by the City of Des Moines on utility bills. Based on its analysis of previous cases, the Court concluded that fees designed to recoup administrative costs for a particular activity or transaction are not taxes. However, the Court said:

"If a fee charged by a city exceeds the amount necessary to inspect, license, supervise, or otherwise regulate the activity, it is nothing more than a tax levy, which the legislature has strictly prohibited."

The *Kragnes* ruling explicitly applies to fees imposed by cities. It is likely that the ruling would also apply to arbitrary or excessive fees imposed by counties, since the statutes that govern the two forms of government are similar.

Most of the county treasurers surveyed in this investigation acknowledged that they:

- 1) did not calculate costs to justify their tax-sale registration fee, and/or
- 2) charged a fee that exceeded their anticipated costs.

The Ombudsman believes the fee charged by those counties could be characterized and challenged as an illegal tax.



## **Recommendations**

On an annual basis, county treasurers should:

1. Determine what constitutes a reasonable cost that is directly related to the tax sale. Treasurers should not charge fees to recoup costs that are incurred as part of their office's normal course of business.
2. Estimate, based on recent years' tax sales, how many investors are likely to register for the current year's tax sale. Divide that number into the expected tax-sale costs to determine a reasonable registration fee.
3. Document those calculations in a report available for public inspection. If cost estimates are not made, there is no way of showing that the registration fee charged is legally justified.
4. Require staff involved in the tax sale to undergo training held by the Iowa State County Treasurers Association and the State Auditor on appropriate tax-sale procedures and practices. The Ombudsman believes that the Black Hawk County Treasurer's fee-calculation methodology is exemplary and is worthy of special recognition.

## **Additional findings**

During the course of its investigation of tax-sale fees, the Ombudsman discovered that county treasurers employ a variety of methods to award delinquent taxes in competitive situations.

Some of those variations are troublesome to the Ombudsman and may be contrary to law.

Under Iowa Code section 446.16(1), if more than one registered tax-sale buyer expresses his intention to pay off a delinquent tax, the dispute shall be settled by what treasurers refer to as a "bid-down."

In noncompetitive situations, a tax-sale buyer who pays off a delinquent property-tax bill has the eventual right to take ownership to the underlying property if the property owner fails to repay the taxes and interest within two years.

But under the terms of a bid-down, tax-sale participants may offer to pay the full amount of the delinquent taxes for less than 100 percent interest in the property. That can lead to a scenario in which competing tax-sale buyers try to underbid one another by offering to assume a lesser and lesser potential interest in the property.

However, the law allows a tax-sale buyer to *match* a competing low offer, rather than requiring him to underbid it. In cases where more than one buyer offers the lowest bid,

the dispute must be remedied with a random selection process, as prescribed in Iowa Code section 446.16(1):

“If two or more persons have placed an equal bid and the bids are the smallest percentage offered, **the county treasurer shall use a random selection process** to select the bidder to whom a certificate of purchase will be issued.” (Emphasis added)

County treasurers interviewed by the Ombudsman said they manage the random-selection process by assigning each registered buyer with a number that, if necessary, is placed in a drawing with the numbers of other buyers. The drawing of a winning number generally occurs through the use of a computer program, a card drawing or a bingo ball.

However, the Ombudsman has learned of at least two counties – Scott County and O’Brien County – where a single tax-sale buyer is allowed to pay for multiple registrations, and thus improve his chances by securing more “numbers” in the treasurer’s drawing.

The Ombudsman does not believe that such a system complies with the concept of a random drawing as required by Iowa Code section 446.16(1), since one or several bidders are allowed greater consideration than their competitors.

The practice also would seem to artificially increase the county’s sum total of registration fees, with little additional corresponding work for the treasurer. This again raises the question of whether the registration fees set by some county treasurers can be justified under the law.

Over the past year, the Ombudsman has also become aware of other circumstances where tax-sale disputes were settled without regard to randomness:

- In Cerro Gordo County, the treasurer settled low-bid disputes by awarding the delinquent taxes to the loudest bidder.
- In Bremer County, the treasurer held a random drawing *before* bids were solicited, then awarded the delinquent taxes to the first person who underbid the drawing’s winner.
- In Buchanan County, the treasurer sometimes awarded delinquent mobile-home taxes to the first interested bidder, with no bid-down, since the delinquent amounts were relatively small and were rarely purchased.

The Ombudsman believes that all three practices violate the randomness provisions of Iowa Code 446.16(1) since one or several bidders are allowed greater consideration than their competitors.

After the Ombudsman questioned the legality of the practices in Cerro Gordo, Bremer and Buchanan counties, each respective treasurer agreed to cease his or her past practices and award tax delinquencies to bidders using a random selection method.

**Additional recommendations**

1. Treasurers should not allow anyone participating as a tax-sale buyer to register more than once, in the interest of fairness.
2. Treasurers must allow for “bid-downs” on every delinquent property to ensure that the delinquent taxes are available to all buyers.
3. Treasurers should handle all equal low-bid situations with a random resolution method, in accordance with Iowa law. The Polk County Treasurer has developed a computer randomizer that is available to other county treasurers for a nominal cost.

Treasurers should require staff involved in the tax sale to undergo training held by the Iowa State County Treasurers Association and the State Auditor on appropriate tax-sale procedures and practices. n.

Auto dept  
319-352-0164  
M-F 8:00-4:30

Tax dept  
319-352-0242  
M-F 8:00-4:30

Drivers lic  
319-352-2615  
M-F 8:00-4:00

## **Bremer County Treasurer's Office**

**Sue Shonka, Treasurer**

**415 E Bremer Ave**

**Waverly, IA 50677**

**[www.iowatreasurers.org](http://www.iowatreasurers.org) \*[www.getyourtags.com](http://www.getyourtags.com)**

*June 1, 2007*

***Subject: Tax Sale***

***To Whom It May Concern:***

***I received a letter from the Citizen's Aide/Ombudsman on May 18, 2007 investigating county treasurers' tax sale registration fees and other tax sale disputes. I have not conducted a tax sale yet, since I was just sworn into office January 1, 2007, I have reviewed the tax sale laws and reviewed the bid down process. I understand if two or more investors place an equal bid at the lowest percentage offered a random selection process is used to decide which bidder would receive the certificate of purchase. I understand bid downs need to be done after announcing the parcel for sale but before a bidder's number is selected. Once a bidder number is selected no bid downs can take place.***

***I'm hoping the 2007 annual tax sale will be conducted according to the tax sale procedures and practices.***

***Thanks,  
Sue Shonka  
Bremer County Treasurer***



**[sshonka@co.bremer.ia.us](mailto:sshonka@co.bremer.ia.us)**

*Enclosed is a copy of the Terms & Conditions  
(they will be reviewed annually)*

**Bremer County Treasurer's Office**  
**Sue Shonka, Treasurer**  
**415 E Bremer Ave**  
**Waverly, IA 50677**  
***sshonka@co.bremer.ia.us***  
***www.iowatreasurers.org* \****www.getyourtags.com*****

**NOTICE TO TAX SALE PURCHASERS OF THE TERMS AND CONDITIONS GOVERNING THE ANNUAL TAX SALE OF JUNE 18, 2007 AND ADJOURNMENTS OR ASSIGNMENTS THEREOF**

The 2007 annual tax sale will be held by the Bremer County Treasurer in the meeting room, 1st floor of the Bremer County courthouse on the third Monday of June beginning at 10:00 a.m. and will continue as long as purchasers are present or until every parcel has been offered for sale.

The following information is provided to assist in the purchase of delinquent taxes during the tax sale or in obtaining an assignment of a tax sale certificate, either from a private certificate holder or from Bremer County.

**REGISTRATION**

All prospective bidders for the annual sale must register prior to 9:00 a. m. June 18, 2007 with the property tax department in the Treasurer's Office. By completing a bidder registration form, you are affirming that you will abide by the Terms and Conditions provided by the Bremer County Treasurer.

A registration fee of \$25.00 per registration is due at the time of registration. The registration fee is non-refundable and covers the 2007 annual sale and adjournments, thereof. Although a properly registered bidder is allowed to purchase tax sale certificates under multiple names and numbers, the bidder may only use one buyer number at a time. A federal identification number or social security number can only be used once.

An Authorization to Represent Bidder form must be filed with your registration or before 9:00 a.m. June 18, 2007, if you are designating an agent to bid on your behalf throughout the duration of the 2007 annual tax sale. All bidders, buyers and assignees must be 18 years or older on the day of the sale to bid or to be the owner of a Tax Sale Certificate. The Treasurers office may require bidders to show proof of identity.

We will not allow changes to the registration of tax sale buyer or assignee or the authorization to represent bidder forms once they are filed.

Registration is deemed complete when the forms provided by the Bremer County Treasurer's Office are properly completed and filed with the Bremer County Treasurer: Registration for Tax Sale Buyers form along with the registration fee paid; W-9; and Authorization to Represent Bidder (Only if using an agent).

Form W-9 Request for Taxpayer Identification Number and Certification form is required to issue an accurate 1099-INT form with the appropriate social security number or taxpayer identification number. If you earn over \$600.00 in interest in a year a 1099-INT will be filed with the IRS and a copy sent to you.

Please consult legal counsel to determine your right to bid and become a tax sale purchaser.

**BID SELECTION**

Bidder numbers will be handed out at the tax sale.

When more than one person offers to pay the total amount due, the person, who designates the smallest percentage of the parcel for the total amount due will obtain the tax sale certificate. Bids for less than 1% will not be accepted. A random selection process will be used in the case of tie bids if you have made the final bid in the bid down process and your number is drawn, you must purchase the certificate. If a tax sale deed is issued, it will be for the designated percentage undivided interest in the parcel with the owner(s) of record.

All bidder numbers will be eligible for random selection on each parcel. Once a number is drawn, the bidder has the option to respond pass or sold. If the bidder passes, another number will be drawn until either the parcel is sold or all have passed. The next parcel will then be offered for sale.

If you or the party you represent has a vested interest in the parcel you are not entitled to bid on that item at the tax sale. A tax sale certificate of purchase and/or a tax sale deed can be set aside by the courts if it is determined that the tax sale purchaser was ineligible to bid at tax sale. The general rule is that a tax sale purchaser or representative should never have an interest or lien in the parcel offered for sale. Prospective bidders should consult with legal counsel to determine their right to become a tax sale certificate holder, either through bid or through assignment.

## **SALE OF DELINQUENT TAXES**

Parcels with delinquent taxes will be published in the Sumner Gazette paper on June 1, 2007. You may contact them at 563-578-3351 or E-mail [sgazette@mchsi.com](mailto:sgazette@mchsi.com), or the Treasurer's office will furnish a copy of the delinquent tax list for a fee of \$10.00, the list will be mailed or e-mailed once the fee has been collected.

It is the bidder's responsibility to be prepared for the sale and to know the parcel(s) within each taxing district upon which to bid. Bidders are advised to research the parcel(s) prior to the day of the tax sale, to determine whether the property would be of sufficient use or value should a deed be obtained.

All electronic devices are to be turned off during the sale.

Regular sale parcels are those for which a tax delinquency is published and offered for sale for the first time. Public bidder sale parcels are those for which a tax delinquency is published and offered for sale for the second consecutive year. Parcels are offered or sold by item number in the order they are published. Regular sale parcels are offered for sale first followed by mobile homes and then public bidder parcels.

Each item will be offered for sale to all bidders, with an opening bid of 100% undivided interest. After the Treasurer announces the item to be sold, bidders may bid downward. This is called a "bid down" and means that the bidder is willing to pay the total amount due against the parcel for less than 100% undivided interest in the parcel. Bidders wishing to "bid down" must announce their intention immediately after the item number is announced. The bidder that offers to pay the total amount due against a parcel for the smallest undivided interest in the parcel will obtain the tax sale certificate. "Bid downs" will range in whole percentages with the lowest being 1%. The percentage designated gives the tax sale certificate holder upon issuance of a tax deed an undivided interest in the parcel with the owner of record.

If the Treasurer determines that there are no "bid downs" or the bid is a tie at 1% a bidder will be chosen by a random selection process. The bidder selected at random must immediately accept the purchase of the item by announcing "sold" or refuse the item by announcing "pass" in which case another bidder number will be chosen at random. A response of "sold" results in an obligation on the part of the bidder to pay for the certificate at the conclusion of the sale. Buyers are required to review all items listed on the bidder report provided prior to settlement and notify the County Treasurer's office staff of any discrepancy before making payment.

Payment is required at the conclusion of the sale. The amount collected will include all delinquent taxes; special assessments; interest; fees; rates or charges; service fees and a \$20.00 certificate fee for each Certificate of Purchase. Payments must be with U.S. funds and in the form of a personal or business check; money order; bank check or cash. We will not accept two-party checks. Failure to make payment the day of the sale will result in those parcels being re-offered at the next tax sale, if this happens the buyer will be prohibited from bidding on these parcels.

If a tax sale buyer's check does not clear the account drawn off of and is returned to the Treasurer's office NSF; account closed; etc., the buyer will have five business days following notification from the County Treasurer to repay with guaranteed funds or the tax sale certificate(s) will be canceled. A

\$15.00 service fees will be added for each check returned unpaid. If payment is cancelled on a tax sale all certificates purchased by that bidder will be cancelled and the parcel(s) will be offered for sale at the next adjourned sale. The buyer, as well as any associated entities, will be prohibited from bidding on these parcel(s).

For each parcel sold, the county treasurer is required to notify the titleholder of record within fifteen days from the date of sale that the parcel was sold at tax sale

## **CERTIFICATE OF PURCHASE**

Please allow 7 to 10 days to receive your certificate(s). This allows the Treasurer's staff time to complete posting of records, editing of certificates and balancing the proceeds received from the tax sale. It is the purchaser's responsibility to verify that the tax sale Certificate of Purchase received is correct for the parcel(s) purchased.

The certificates will be issued in the name and tax I.D. number on the bidder registration form.

The tax sale Certificate of Purchase does not convey title to the certificate holder. The title holder of record or other interested parties retain the right to redeem within the statutory period, depending on the type of tax sale. If the Certificate of Purchase remains unredeemed after the statutory period, the certificate holder may begin action to obtain a Tax Deed.

Purchasers are required to notify the Treasurer's office of any changes in an address or name.

If it is determined that any parcel was erroneously sold, the Certificate of Purchase will be cancelled. This includes web payments received before or on the day of sale. The certificate holder shall return the Certificate of Purchase and the County Treasurer will reimburse the principal amount of the investment. The County Treasurer will not pay interest.

If the original Certificate of Purchase has been lost or destroyed, a duplicate can be obtained from the Tax Division at a cost of \$20.00. A letter stating the Certificate of Purchase has been lost or destroyed and a duplicate need to be obtained signed by the investor and notarized. The letter needs to include the certificate number; date of sale; and the parcel number.

### **ABANDONED PARCEL AND VACANT LOT LAW**

Iowa law permits a county or city to purchase parcels offered for sale at the regular tax sale or require that a certificate be assigned to the county or city for vacant lots or for abandoned parcels if the county or city files a verified statement of abandonment with the County Treasurer (Iowa Code 446.19A)

### **ASSIGNMENT**

The tax sale Certificate of Purchase is assignable by endorsement of the certificate, payment of the assignment fee of \$100.00 and forwarding the certificate with the original signature endorsement to the County Treasurer for entry in the county system. An assignment is not considered valid until posted to the county system by the County Treasurer. The assignment fee will not be reimbursed at the time of redemption.

To obtain an assignment of a tax sale certificate that is held by Bremer County, contact the Treasurer's office, tax department. The terms and conditions set forth in this document apply to certificates obtained through assignment and certificates obtained directly through the tax sale.

The recorded assignment will vest in the assignee all the rights and title of the assignor. Except when a county held certificate is assigned the assignee has three years from the date the assignment is recorded the Bremer County Treasurer instead of from the date of the tax sale to qualify for a Tax Deed.

When a certificate holder requests the Bremer County Treasurer to record a change other than a mailing address; telephone number or e-mail address it is considered an assignment and the \$100.00 assignment fee will be charged. This includes a change in the certificate holder's name or federal identification number.

### **SUBSEQUENT TAXES**

A tax sale certificate holder may pay subsequent taxes and special assessments including rate or charges, on any parcel(s) on which he/she holds the tax sale certificate, beginning fourteen days following the date from which an installment becomes delinquent. Only items delinquent in the current fiscal year or prior years may be paid as a subsequent payment. Special assessments; rates or charges due in the future years cannot be paid until the fiscal year in which they become due and delinquent fourteen days.

The County Treasurer is required to collect a fee at a rate not to exceed \$2.00 per parcel for duplicate tax statements. The certificate holder may request a subsequent tax payment report of delinquent taxes from the County Treasurer. The request must include the tax sale certificate number and parcel number. The Bremer County Treasurer's office request the investor make out their check for the amount they want to apply for subsequent payment so it is properly paid and recorded as an addition to the tax sale certificate for the investor. After a subsequent tax payment has been received and applied by the County Treasurer's office, no refund will be given if the tax sale certificate holder decides that he/she did not want to pay taxes for a particular parcel.

Subsequent payments may not be paid online. If paid online the payment will be treated as a voluntary payment and will be omitted from redemption. If it is determined that a tax payment was made online prior to a subsequent payment, the subsequent payment will be refunded to the certificate holder.

Recorded subsequent tax payments will accrue interest at the rate of 2% per month beginning with the month the payment is posted into the county system to the month of redemption. Subsequent tax payments will not accept post mark dates to calculate interest.

### **90 DAY REDEMPTION**

Service is completed when the certificate holder files the 90 day Notice of Expiration of Right of Redemption Affidavit with the County Treasurer. It is a prohibited practice for the tax sale certificate holder to serve the 90 day Notice of Expiration of Redemption to individuals if the tax sale has already been redeemed.

If the tax sale Certificate of Purchase remains unredeemed after the statutory period, as shown below the certificate holder may begin action to obtain a Tax Deed to the parcel.

For regular tax sale parcels the 90 day Notice of Expiration of Right of Redemption may be served by the certificate holder one year and nine months from the date of sale.

For public bidder sale parcels the 90 day Notice of Expiration of Right of Redemption may be served by the certificate holder nine months from the date of sale

The 90 day Notice of Expiration of Right of Redemption must be served on all parties having an interest in the parcel; once served an Affidavit of Service with evidence of service, must be filed with the County Treasurer.

The 90 day Notice of Expiration of Right of Redemption shall be served by both certified mail and regular mail service upon the title holder(s) of record and the person(s) in possession at the person's last known address. All other persons having an interest of record as well as any city where the parcel is located shall be served by regular mail to the person's last known address.

Valid cost to serve the 90 day Notice of Expiration of Right of Redemption must be filed with the County Treasurer before they can be added to the redemption amount. The County Treasurer will need proof of the service. By statute the costs cannot be filed with the County Treasurer prior to filing the 90 day Notice of Expiration of Right of Redemption. Service is considered complete when the certificate holder files the 90 day Notice of Expiration of Right of Redemption with the County Treasurer.

The certificate holder is responsible for determining the status of a tax sale certificate before serving the 90 day Notice of Expiration of Right of Redemption to interested parties. The Bremer County Treasurer's office staff will not assist in completing the 90 day Notice of Expiration of Right of Redemption. The Bremer County Treasurer's staff is not responsible to verify that all parties of record have been properly served. It is strongly recommended that a certificate holder retain the service of legal counsel to complete this process.

### **TAX DEED**

The Tax Deed conveys title and interest in the property. Should a parcel not be redeemed within ninety days following the filing of the Affidavit of Service pursuant to Iowa law a Tax Deed will be issued. Tax Deeds will be issued independently for each tax sale certificate that qualifies. The fee for the issuance of a Tax Deed is \$25.00. Recording fees vary and will be determined at the time a deed is requested. Upon receipt of the tax sale Certificate of Purchase; deed issuance fees and recording fees the County Treasurer will record the deed with the Recorder prior to delivering the deed to the purchaser. After the deed is recorded the deed holder may file an Affidavit by Tax Title Holder with the Recorder.

### **CANCELLATION OF TAX SALE CERTIFICATES**

Failure to file the 90 day Notice of Expiration of Right of Redemption with the County Treasurer within the time allotted the tax sale certificate will be cancelled. The tax sale certificate holder is not entitled to a refund. If the filing of the affidavit of service is stayed by operation of law the time period for filing the affidavit shall not expire until the later of six months after the stay has been lifted or three years from the time of the tax sale.

### **REDEMPTIONS**



Redemptions will not be processed unless the redemption fees are received in the Treasurer's office prior to the close of business on the ninety day from the date of completed service pursuant to Iowa law. A redeemed tax sale will include the following

1. The original tax sale amount; including the certificate fee if paid by the purchaser at the time of sale.
2. Interest in the amount of 2% per month, calculated against the original tax sale amount. Each fraction of a month is counted as a whole month.
3. Subsequent tax payments paid by and properly reported by the purchaser as an addition to the sale, with interest at the rate of 2% per month from the month the subsequent payment was posted to the county system to the month of redemption. Each fraction of a month is counted as a whole month.
4. Valid cost incurred by the certificate holder and posted to the county system for actions taken toward obtaining a Tax Deed. Costs not filed with the County Treasurer before redemption shall not be collected by the County Treasurer. The certificate holder may pursue collection through court action against the parcel owner.

Written notice of the redemption is provided to the certificate holder. Upon surrender of the tax sale Certificate of Purchase the County Treasurer will issue a check for the redemption amount.

### **GENERAL INFORMATION**

This document has been prepared to provide general information and guidelines relative to the Bremer County Treasurer's tax sale. This is not to be construed as legal opinion of the statutes governing tax sale laws. We will not respond to any questions of law. Questions of this nature should be directed to your legal counsel.

The Bremer County Treasurer reserves the right to reject any or all bids and to waive irregularities which appear to be in the best interest of the Bremer County Treasurer representing Bremer County.

Announcements made the day of the sale will take precedence over these printed terms and conditions. This document is for the taxes sold between June 18, 2007 and May 31, 2008.

In the event you have been reimbursed for a certificate of redemption and the redeemer's check does not clear the bank, you will be required to return the funds received to the Bremer County Treasurer. The tax sale certificate of purchase will be returned to you and redemption canceled.

The tax sale will be reinstated as of the original sale date with any subsequent redemption calculated according to the law in effect at the time of the sale.

This document has been prepared to provide general information and guidelines relative to tax sale and tax sale redemption. It is not an all-inclusive listing of statutory requirements, procedures or policies, nor is it to be construed as a legal opinion of the statutes governing tax sale.

To protect your interest as a tax sale buyer and to determine your legal rights and remedies, please consult legal counsel.

The Code of Iowa can be accessed by going to [www.iowatreasurers.org](http://www.iowatreasurers.org)—click on resources -Iowa code. Sections 446, 447, 448 are available for further information.

## ***LET THE BUYER BEWARE***

*Sue Shonka*  
*Bremer County Treasurer*

[sshonka@co.bremer.ia.us](mailto:sshonka@co.bremer.ia.us)

Office of the  
**BUCHANAN COUNTY ATTORNEY**  
P.O. Box 68  
Independence, Iowa 50644  
Phone (319) 334-3710  
Fax (319) 334-6591



*Allan W. Vander Hart*  
COUNTY ATTORNEY

*Karl Moorman*  
ASST. CO. ATTORNEY

June 15, 2007

Bert Dalmer  
Office of Citizens' Aid/Ombudsman  
Ola Babcock Miller Bldg.  
1112 E. Grand Ave.  
Des Moines, Iowa 50319  
VIA FACSIMILE

RE: BUCHANAN COUNTY TAX SALE PROCEDURES

Dear Mr. Dalmer:

The letter dated May 16, 2007 to Buchanan County Treasurer Judy Harland from your agency and a copy of the draft report of your agency's investigation into tax sale practices followed by certain counties were sent to this office for review.

I read the draft report, focusing on those sections pertaining to Buchanan County. I would offer the following comments and reactions:

**Tax sale fees v. expenses.** Your draft report states that 4 county treasurers, including the Buchanan County Treasurer, acknowledged that their counties either profited or likely profited from their 2006 tax sales, meaning that the fees they collected from bidders would have exceeded the expenses of the sale. You noted that these treasurers could not verify their statements with specific figures, since they had not calculated their offices' actual costs.

It is noteworthy that of the 10 counties you investigated, Buchanan County had the lowest bidder fee. Treasurer Harland advises me that the fee for the 2007 tax sale will be \$20, a figure still less than the 2006 fees charged by any of the other nine counties.

In your analysis of Iowa Code section 446.16(2), you opined that "any staff work that would be done regardless of the tax sale should not be figured into a treasurer's tax-sale cost." However, it is not at all clear why this should be so and why inclusion of staff costs would be "unreasonable" within the meaning of that statute. There is no case law or attorney general opinion that supports this assertion.

According to information from Treasurer Harland, work associated with tax sales constitutes a significant portion of staff time in her office. She advises me that she personally spends approximately three weeks involved in work directly attributable to a tax sale. The deputy treasurer for the taxation division spends approximately 25% of her entire time in work directly involved with the tax sale. The custodians spend approximately three hours in setting up for the


tax sale and then taking the room down and cleaning it up. These personnel costs alone total well over \$11,500, without regard to other costs such as paper and other supplies needed for the sale.

In 2006, the Buchanan County Treasurer collected \$610 from 61 bidders. It is difficult to imagine that the County realized a "profit" under those circumstances.

**Improper bidding procedures.** You also criticized the Buchanan County Treasurer for her practice of awarding delinquent mobile home taxes to the first interested bidder, claiming that this practice violates Iowa Code section 446.16(1). Treasurer Harland has advised me, and apparently has advised you, that she will no longer follow this practice, rendering this criticism moot. However, I would note that Iowa Code section 446.16(1), which presupposes the presence of actual bids, is not applicable to her situation. Treasurer Harland's offering of delinquent taxes on a particular mobile home was done when none of the bidders had expressed any interest. In a somewhat last ditch effort to attract a bid, she would award the taxes to the first bidder indicating interest.

Despite these remarks, you may be assured that Buchanan County officials are anxious to perform their duties in conformity to Iowa law and in a manner consistent with the interests of the taxpayers who pay their salaries. They are open to any guidance that will enable them to do their jobs better.

Yours very truly,



Allan W. Vander Hart  
Buchanan County Attorney

AWV/smb

cc: Judy Harland



**County Treasurer**  
**Cerro Gordo County Courthouse**  
**Memorandum**

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TO: William P. Angrick II, Citizens' Aide/Ombudsman  
FROM: Michael J Grandon, Cerro Gordo County Treasurer  
SUBJECT: State of Iowa Citizens' Aide/Ombudsman Investigative Report  
DATE: May 17, 2007

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I have read the State of Iowa Citizens' Aide/Ombudsman Investigative Report concerning Iowa County Treasurers and the annual tax sale.

It is the intent of the Cerro Gordo County Treasurer to be in compliance with the reports recommendations.

Sincerely,

  
Michael J Grandon, Treasurer  
Cerro Gordo County

*Des Moines County Treasurer's Office*

Brenda A. Buck, Treasurer

PO Bx 248  
Burlington, Ia 52601  
Tax Phone 319-753-8252  
Vehicle Phone 319-753-8273  
Fax 319-753-8729



[www.iowatreasurers.org](http://www.iowatreasurers.org)    [www.getyourtags.com](http://www.getyourtags.com)

Deputies  
Tax - Debra Moore  
Tax - Julie Howe  
Vehicle - Michelle Reynolds  
Vehicle - Janelle Nalley-Londquist

June 15, 2007

To: William P. Angrick II, Citizens' Aide/Ombudsman

From: Brenda A. Buck, Des Moines County Treasurer    *B. B.*

Re: Investigative Report of County Treasurers' Tax Sale Registration Fees

In the phone conversation with Mr. Bert Dalmer from your office in early 2007 telling us that a complaint had been made concerning our tax sale registration fees, I informed him that we would be taking a look at those fees when we put together the new information and rules for the 2007 Tax Sale. It was never Des Moines County's intention to violate Iowa law and profit from the tax sales, only to be sure that our taxpayers did not have to incur the costs to prepare for and hold these annual sales.

We subsequently lowered our bidder registration fee to \$25.00 this year, down from the \$75.00 it had previously been. (We also set a fee of \$25.00 if an investor sends an agent, and a \$10.00 fee if that agent is changed at the last minute - these charges are to cover processing of the paperwork.) Our plan was to then average the two years' sales and evaluate more accurately where we stood on actual costs to determine future fees we would charge.

This year we ended up with 91 bidders registering, down from 125 last year. Bidder registration fees therefore decreased from \$9,375 to \$2,275. We had more parcels on our delinquent tax list this year, so our publication costs increased from \$3,020 last year to \$3,080 this year. I have included these figures only as an example of how costs vary year to year due to differing circumstances. In the future, Des Moines County will be more prudent to calculate and document all costs associated with our annual tax sales, and readjust bidder registration and other fees when necessary so as to not have the County realize a profit from subsequent sales.

**Notice of intent to reply**

Date sent: May 16, 2007  
Ombudsman file number: 0700082  
Re: Investigation of County Treasurers' Tax-Sale Registration Fees  
Name: Michael Stevenson


**Please check one of the choices below:**

- I DO NOT WISH TO REPLY TO THIS REPORT.  
 I WISH TO REPLY TO THIS REPORT AND REQUEST MY REPLY BE INCLUDED WITH THE REPORT IF IT IS PUBLISHED.

  
(Your signature)

**ATTENTION:** You must return this **Notice of Intent to Reply** to the Office of Citizens' Aide/Ombudsman's office *within seven days* of receiving the enclosed letter and report, pursuant to administrative rule 141 IAC 2.12(3)(b). Failure to do so will be understood to mean you are waiving your opportunity to reply to the report. Your response to this **Notice of Intent to Reply** may be faxed to our office at (515) 242-6007. If you have any questions or problems in meeting this deadline, please call our office at 515-281-3592 or 1-888-426-6283 (toll-free).

*Thank you for the Report. We have been keeping track of our time & expenses and will adjust our fees if we are not in compliance. Thanks again*

  
*Trim County Treasurer*

**MARY MALONEY**  
TREASURER OF POLK COUNTY



111 COURT AVENUE  
DES MOINES, IOWA 50309-2298

ADMINISTRATIVE DIVISION  
515-286-3041

FAX  
515-286-2225

May 23, 2007

Mr. William P. Angrick II  
Ombudsman  
Ola Babcock Miller Building  
1112 East Grand Avenue  
Des Moines, IA 50319

Re: Investigative Report – Tax Sale Registration Fees

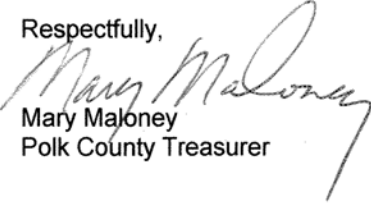
Dear Mr. Angrick:

My office has complied with Iowa Code section 446.16(2) which requires that the total fees collected are not to exceed the total costs of the tax sale. On an annual basis we complete a study of relevant costs and revenues. We estimate the number of bidders based on prior year history. Reasonable registration fees are then established so that registration fee revenues do not exceed the total costs of the tax sale. As correctly noted in your report the registration fees for the Polk County Tax Sale were within a range of \$75 to \$175. Calculation of registration fees using the mathematical equation noted in your report would have resulted in a registration fee of \$223 for the 2006 tax sale. Keeping the fees as low as possible, i.e., reasonable, provides equity for all investors, both small and large, to participate in the sale. Our goal is to collect all taxes outstanding for the benefit of all taxing authorities as opposed to discouraging participation.

The duration of the annual tax sale in Polk County varies from as few as two days to as many as four days. Each sale is unique in terms of the participants bidding techniques. Participants at some sales initiate the bid down process on hundreds of parcels while in other years relatively few bid downs occur. This has a direct relationship to the length of the sale (in days) and associated staff costs and facility rent. We do not provide refreshments to the participants of our tax sale. To comply with Iowa Code section 446.16(1) we use a computerized random selection process. In 1996 we engaged Deloitte & Touche LLP to complete an independent report of our software and processes. This software is available to any county treasurer at a nominal cost.

It is my position that I am in compliance with the recommendations of your report issued on May 16, 2007, case file 0700082. To provide you more insight, I would like to invite you and your staff to attend the Polk County Annual Tax Sale scheduled for June 18, 19 & 20, 2007, at the Polk County Convention Complex. Thank you for the opportunity to review and respond to the report prior to its final publication.

Respectfully,

  
Mary Maloney  
Polk County Treasurer

Learn more about the Polk County Treasurer's office:

Pay Property Tax / Forms:  
Pay Vehicle Registration Renewal (Tag) / Forms:  
General Polk County Information / Forms:

[www.IowaTaxAndTags.com](http://www.IowaTaxAndTags.com)  
[www.IowaTaxAndTags.com](http://www.IowaTaxAndTags.com)  
[www.PolkCountyIowa.gov/Treasurer](http://www.PolkCountyIowa.gov/Treasurer)

**BILL FENNELLY**  
**SCOTT COUNTY TREASURER**  
600 W. 4<sup>th</sup> Street  
Davenport, Iowa 52801-1030



[www.scottcountyiowa.com](http://www.scottcountyiowa.com)  
[www.iowatreasurers.org](http://www.iowatreasurers.org)  
[www.GetYourTags.com](http://www.GetYourTags.com)

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**MOTOR VEHICLE DIVISION**  
Scott County Administrative Center (563) 326-8664

**COUNTY GENERAL STORE**  
2162 West Kimberly Road  
Davenport, Iowa 52806  
(563) 386-AUTO (2886)

**PROPERTY TAX DIVISION**  
Scott County Administrative Center (563) 326-8670

May 18, 2007

William P. Angrick II  
Ola Babcock Miller Building  
1112 East Grand Avenue  
Des Moines, IA 50319

Dear William P. Angrick II,

This is my reply to the Ombudsman file number: 0700082 Investigation of County Treasurers' Tax-Sale Registration Fees. I am correcting the statement on page 9 indicating Scott County allows a single tax-sale buyer to pay for multiple registrations. We do not allow a single tax sale buyer to purchase multiple registrations. We do allow a single tax buyer to represent multiple entities. But each entity must provide their federal tax identification number and registration. There is only one bidder per tax identification number.

We asked our County Attorney to review this practice and he provided us with an opinion in a letter dated December 15, 2005 supporting this procedure. I am attaching a copy of this opinion.

Sincerely,

A handwritten signature in cursive script that reads "Bill Fennelly". The signature is written in black ink and is positioned above the typed name of the signatory.

Bill Fennelly, Scott County Treasurer



**WILLIAM E. DAVIS**  
**COUNTY ATTORNEY**  
Scott County Courthouse  
416 West Fourth Street  
Davenport, Iowa 52801-1187  
Telephone: (319) 326-8600  
Facsimile Transmission 319-326-8763



---

Theodore J. Priestler, Assistant County Attorney (319) 326-8239

December 13, 2005

Barb Vance  
Operations Manager  
428 Western Avenue  
Davenport, IA 52801

Re: Tax Sale Bidding Rules

Dear Barb:

Bill Davis asked that I respond to your letter dated July 12, 2005 wherein you are seeking a written opinion regarding your tax sale bidding policy. Specifically, you inquire as to the legal propriety of your policy that allows one individual to represent more than one bidder at the tax sale. You have pointed out that some counties may prohibit one individual from representing multiple bidders.

Chapter 446 of the Code of Iowa sets forth the statutory requirements and procedures governing tax sales. I find no provision in said Chapter that bears directly on the issue at hand. In the absence of any specific statutory protocol, it would be reasonable to conclude that county treasurers have residual authority to conduct their tax sales in a manner that will carry out the statutory mandate. Perhaps other county treasurers have adopted policies and/or procedures different than those of your office, but that should not be a matter of concern given the inherent latitude in the statute.

It is my opinion that there is no statutory prohibition that would disallow one individual from representing multiple bidders at the tax sale. Examples abound in the law whereby one individual may be given the legal right or authority to represent oneself and other additional parties in some transactional matter. A wife signing a mortgage in her own right and signing for a husband under power of attorney is one example that comes quickly to mind. Other examples would be a stockholder voting with the proxy of another stockholder, or even a lawyer representing a group of homeowners at a zoning meeting. Clearly there are inherent risks of conflict arising when one individual represents others with potentially competing interests, but in the context of a tax sale, such risks would be the private concern of the bidders themselves and should not impact the integrity of the tax sale process.

Please call me if you require any further input on this matter.

Respectfully,

Theodore J. Priestler  
Assistant Scott County Attorney

cc: William E. Davis

# WEBSTER COUNTY TREASURER

703 Central Avenue

Fort Dodge, Iowa 50501

JANICE F. HORTON, TREASURER

Judith M. Davis  
Tax Deputy  
(515) 573-2731

FAX  
(515) 573-2149

Jan Messerly  
Motor Vehicle Deputy  
(515) 576-4611

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June 17, 2007

Dear Bert,

I still feel that holding the tax sale is one of the duties of being the county treasurer. When I was elected to this office and became the county treasurer in 1995, I was very proud of my accomplishment. I was elected by the people of Webster County and that really meant a lot to me.

The tax sales have become a big investment to some of the investors. It seems like the sales keep getting bigger every year. They make 2% a month on their investment. I had one investor tell me that is how he makes his money. I know Polk Co. has to rent a bigger space but that should be figured in their budget. As I said before, my staff gets a salary and that is part of their job. We all work very hard getting ready for the tax sale. One of my staff called it **Job Security**. I know I will probably make some co treasurer's mad at me for saying what I did, but that is how I feel. That is our job. One of my staff said that goes along with the duties of the treasurer's office.

Yours truly,

Jan Horton  
Webster County Treasurer



**Woodbury County**

**TREASURER BOB KNOWLER** 620 DOUGLAS SIOUX CITY, IOWA 51101  
712 279-6495 [bknowler@sioux-city.org](mailto:bknowler@sioux-city.org)

30 May 2007

**William P. Angrick II**  
**Ombudsman**  
1112 East Grand Ave.  
Des Moines, Iowa 5110319

**RE: Tax Sale Bidder Fees.**

For an opener, I might mention that in paragraph 4 of your letter of May 16<sup>th</sup>, you state that “counties are dependent upon private investors at tax sales to make their annual budgets whole”. My office collects property taxes for 53 taxing bodies in Woodbury County, and the county’s portion of the taxes collected is about 17%. This applies to the monies collected at the tax sale, as well as all taxes paid during the taxing year.

The reason tax sales are held is to enable all 53 taxing bodies to make their budget whole, not just Woodbury County.

I’ll furnish tax sale income and expense number as near as possible, as some are variable.

**Income:** I charge \$100 per bidder, and have been averaging 200 bidders per auction. \$20,000 is the annual anticipated tax sale income from bidder fees. Two years ago I had 308 bidders, but back to 200 last year. The number of bidders is an unknown number at the time the bidder fee is fixed. Therefore, the total income can vary from \$20,000 to \$30,000.

**Cost to the city/county IT department to prepare for to conduct the sale...**

40 to 50 hours per year at \$50 per hour..... \$2,500  
Portion of the \$3M to \$4M hdw investment (1/10th of 1%?).....\$3,500  
(Numbers from the IT Director are attached.)

**Cost to Solutions for tax sale software (one time cost)..... \$4,000**

**Cost to Solutions for maintenance of software..... \$1,000**

This is a \$20,000 per year contract, so I would guess that about 5% of this can be directly charged to the tax sale

Rental of Sioux City Convention Center.....\$ 1,600  
Time cost of First Real Estate Deputy – 2 3/4 months @ \$4,498 .....\$ 12,369  
Covers the month of May, 2 weeks in June, 1 week following sale and 2 weeks  
in Oct and April on subsequent taxes.

Includes:

Checking items not to advertise.

Updating and preparing data sheet for investors.

Receiving and logging investor's names, SS # and address.

The time here varies because of the variance in the number of  
bidders.

Preparing bidding cards

Preparing tax sale certificates

Sending notices to investors

Preparing 1099s annually

Some of above is designated to other clerks, cost is included in First Deputy cost.

Collection of taxes and forwarding redemptions – 4 weeks per year.....\$ 4,498

Postage for above (est.).....\$ 150

Filing of 90 day notices for unredeemed tax sales.....\$ 1,125

Supplies (est.).....\$ 300

Extra staff for actual sale.....\$ 100

Treasurer cost (est. 1 full month per year for all functions).....\$ 6,250

County web site annual maintenance fee.....\$ 1,000

The total annual cost for the website is in the \$20,000 range. Again

Assuming 5% could be a direct cost of the tax sale, \$1,000 is very close.

**GRAND TOTAL – (My best estimate)..... \$38,392**

At this cost I would have to average 384 bidders, which I have never had happen.

Respectfully,



Bob Knowler

0

**From:** John Malloy  
**To:** Knowler, Bob  
**Date:** 5/30/2007 11:49 AM  
**Subject:** Re: numbers for Knowler

Hi Bob,

In looking at last years records, multiple staff accumulated between 35 - 40 hours "directly" attributable to the Tax Sale project - at ~\$50 per hour. That said, there our indirect costs associated with the Tax Sale process. Based on insurance numbers our System i Servers/Storage (the AS400's), where the origins of Tax Sale data is entered/generated/transformed have a value of \$1.5 to \$2M. We have another \$1.5 to \$2M in Network/Server Infrastructure. Granted only a portion of the aforementioned \$3M to \$4M could be traced back to the Tax Sale, nonetheless a percentage of millions could still be a substantial number.

Respectfully,  
John Malloy

>>> Bob Knowler 5/29/2007 8:43 AM >>>  
Just a reminder - cost to WCICC for tax sale.

Bob Knowler  
Treasurer of Woodbury County  
620 Douglas St. Suite 102  
Sioux City, Iowa 51101  
712 279-6495

Pay taxes; Look at your property; Renew Vehicle Registrations; Find Useful Forms and Information at:  
[www.treasurer@woodburyiowa.com](mailto:www.treasurer@woodburyiowa.com) ( <http://www.treasurer@woodburyiowa.com/> )  
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## **Ombudsman's comments**

The Ombudsman issued his draft report on May 16, 2007, to 12 county treasurers for their review. Along with the report, the Ombudsman enclosed a "Notice of Intent to Reply" form to the 12 county treasurers.

Iowa Administrative Rule 141-2.12(3)(b) directs the subject of an Ombudsman's report to notify the Ombudsman of his decision to make a reply within 7 days of receipt of the draft report. Four county treasurers did not timely return their Notice of Intent to Reply. When the Ombudsman phoned those four treasurers to remind them of their obligation, three of them verbally informed the Ombudsman that they did not intend to reply to the report.

Thus, no written replies to the Ombudsman's report were received from treasurers in Black Hawk, O'Brien and Pottawattamie counties.

### Ombudsman's response to Scott County Treasurer's reply to report

The Scott County Treasurer denies that he allows investors at his annual tax sale to pay for multiple registrations. Rather, he says, he allows investors to represent multiple entities, which in turn, pay for separate registrations.

The Ombudsman sees little difference in this distinction and believes the result of either registration practice is the same. The practice defies the concept of fairness embodied by the statutory language governing bids at the tax sale.

A legal opinion cited by the Treasurer, written by an Assistant Scott County Attorney, states that "there is no statutory prohibition that would disallow one individual from representing multiple bidders at the tax sale" and, therefore, the registration practice "should not be a matter of concern given the inherent latitude in the statute."

While the Ombudsman acknowledges that state law is not specific on whether investors may represent multiple bidders, he believes the Scott County Attorney overlooked the randomness provisions of Iowa Code section 446.16(1) in his analysis of the Treasurer's question. Iowa law establishes a random selection process at the tax sale *in the interest of fairness*.

By the County Attorney's line of reasoning, a single investor could establish 10 different corporations in order to afford himself the benefits of registering 10 times at a tax sale. While that investor could truthfully claim to represent 10 separately constituted corporations, the result is the same as if he had registered 10 times in his own name. That investor still would be allowed greater consideration in a random drawing than his competitors.

In that respect, the Ombudsman does not believe the Scott County Treasurer's registration process comports with the spirit or purpose of the randomness provisions, as explained earlier in this report.

Ombudsman's response to Buchanan County Treasurer's reply to report

Upon review of the Buchanan County Treasurer's reply to the Ombudsman's draft report, the Ombudsman recognized that he had misidentified the Buchanan County Treasurer as one of four treasurers who acknowledged that their counties had profited or likely profited from the tax sale. This final report has corrected that misattribution.