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August 12, 2016

Mr. Allan C. Alongi
Law Offices of Allan C. Alongi
3 Golf Avenue, Suite 1000
Clarendon Hills, IL 60514

Re: Township Clerk's IMRF benefits for the Current Term

Dear Mr. Alongi:

I wanted to send you correspondence to supplement our previous conversation regarding the apparent refusal of three of the Trustees on the Downers Grove Township Board to agree to approve and process the IMRF paperwork necessary to permit Township Clerk Laura Hois to participate in IMRF. It is my understanding that the township board will be considering a resolution authorizing IMRF for the town clerk for 2013-2017 on August 18, 2016. As I previously indicated, Ms. Hois would like to resolve this matter amicably without the need for judicial intervention.

We have pieced together the following related to the township clerks' eligibility for participation in IMRF. Most recently, the Clerk's IMRF participation was discussed at length in open session at the board's July 21, 2016 meeting (agenda item 11), and at the June 16, 2016 Board Meeting, (agenda item 10).

As you know, IMRF requires the resolution to enroll the Town Clerk in IMRF. Ideally, such a resolution would have been arranged by previous Town Clerk Konicek and approved by the then Board prior to commencement of the new Clerk's term in May, 2013. The Resolution 'relating to participation by elected officials in the Illinois Municipal Retirement Fund' states that elected officials may participate in the Illinois Municipal Retirement Fund if they are in positions normally requiring performance of duty for 1,000 or more hours per year. The Township adopted the annual 1,000 hour standard for IMRF participation by Resolution Number 110410 on November 4, 2010, excluding from participation in IMRF officials in positions normally requiring performance of duty for less than 1,000 hours a year.

At the open session of the July 21, 2016 meeting, Clerk Hois read a statement swearing and affirming that she works at least 1,000 hours per year as Town Clerk, and that the Town Clerk position requires 1,000 hours per year. She tendered this statement to you as Township counsel, marked "DRAFT." The Board directed her to produce a signed Affidavit for consideration at the August Board Meeting. Her signed Affidavit attesting to her hours worked

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as the Town Clerk during the 2013-2017 term is attached for advance review. If you have any suggested changes to this, please let me know.

Section 9(b) of article VII of the Illinois Constitution of 1970 provides:

'An increase or decrease in the salary of an elected officer of any unit of local government shall not take effect during the term for which that officer is elected.'

The Township Board's official minutes indicate that, twice in 2012, the Clerk's compensation was determined to include IMRF benefits for the 2013-2017 term. The Board cannot now change the Clerk's compensation during her term of office.

During Ms. Hois' term of Township Clerk from May 20, 2013 thru the present date, she has communicated to Supervisor Frank Wurster and Deputy Supervisor Christina West on no less than fifteen occasions commencing in June, 2013, that she was opting to participate in the Illinois Municipal Retirement Fund (IMRF). Yet, the Supervisor's office on each of these occasions politely declined her requests to be placed on IMRF, having failed to verify the Board decisions in 2012 which expressly included IMRF as part of the Town Clerk's compensation.

Notwithstanding her repeated requests to be placed on IMRF, and her insistence that she was indeed eligible to receive IMRF, the Township failed to enroll her in IMRF. It is unclear whether the Township simply does not understand its legal obligations or whether these actions are politically retaliatory.

Ms. Hois escalated her efforts for enrollment in IMRF after she attended quarterly meetings with the DuPage County Clerk's Association where she learned that all other Township Clerks in DuPage County were on IMRF, including those who had also become Town Clerks after 1/01/11.

We have now had a chance to review and verify the Township Board's decisions regarding elected official compensation finalized in 2012, as shown in the Board meeting minutes.

At both the July 5, 2012 and October 4, 2012 Board meetings, the Board determined that the clerk was entitled to be enrolled in and contributing to IMRF for the 05/20/13 to 05/19/17 term, provided the clerk met the hourly requirements.

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More detailed facts from official records of Downers Grove Township are highlighted as follows:

1. Downers Grove Township Regular Meeting Minutes of July 5, 2012:

The next order of business was the setting of Official's salaries for the next term of office. Supervisor Wurster made the following recommendations:

	05/2013 04/2014	05/2014 05/2015	05/2015 05/2016	05/2016 05/2017	IMRF	Health Ins. Dental Ins.
Supervisor	49,500	49,500	49,500	49,500	Yes	Yes
Clerk	27,500	27,500	27,500	27,500	Yes	No
Hwy. Comm.	90,500	90,500	90,500	90,500	Yes	Yes
Trustees	6,000	6,000	6,000	6,000	No	No
	2014	2015	2016	2017		
Assessor	95,000	95,000	95,000	95,000	Yes	Yes

Supervisor Wurster asked for a motion to freeze elected officials salaries, the Supervisor, Assessor and Highway Commissioner to receive health/dental insurance. Clerk will no longer receive health/dental insurance. Clerk will receive \$150 stipend for supplemental insurance. Supervisor, Clerk, Assessor and Highway Commissioner to participate in IMRF. Motion made by Trustee Swanston, second Trustee Del Sarto, all voting aye.

Supervisor Wurster asked for a motion to reduce from \$150 to \$100 the stipend the Trustees receive for supplemental insurance. Motion made by Trustee Swanston, second Trustee Abbate, all voting aye.

Supervisor Wurster asked for a motion giving the Highway Commissioner use of township truck for business and for the Supervisor to receive \$1,000 as Treasurer of the Highway Department. Motion made by Trustee Del Sarto, second Trustee Abbate, all voting aye. The salaries and benefits for the next term were set as described.

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2. Downers Grove Township Regular Meeting Minutes of August 2, 2012:

Minutes of July 5, 2012 were amended to show a reduction from \$150 to \$100 in the stipend paid to the Trustees for supplemental health insurance and to show the Clerk will no longer receive health/dental insurance but get a \$150 stipend for supplemental insurance. Motion to approve the amended minutes Trustee Abbate, second Trustee Swanston, all voting aye.

3. Downers Grove Township Regular Meeting Minutes of September 6, 2012:

Minutes of the August 2, 2012 were approved on a motion by Trustee Swanston seconded by Trustee DeSarto. Motion passed.

4. Downers Grove Township Regular Meeting Minutes of October 4, 2012:

	05/2013 04/2014	05/2014 05/2015	05/2015 05/2016	05/2016 05/2017	IMRF	Health Ins. Dental Ins.
Supervisor	49,500	49,500	49,500	49,500	Yes	Yes
Clerk	20,000	20,000	20,000	20,000	Yes	No
Hwy. Comm.	90,500	90,500	90,500	90,500	Yes	Yes
Trustees	4,800	4,800	4,800	4,800	No	No
	2014	2015	2016	2017		
Assessor	99,500	99,500	99,500	99,500	Yes	Yes

Supervisor to receive \$1,000 as Treasurer of the Highway Department.

Highway Commissioner to have use of Township vehicle for business purposes.

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The above reflects a reduction in the Clerk's salary of \$7,500 and a reduction in the Trustees' salaries of \$1,200. The stipend of \$150 for the Clerk and \$100 for the Trustees for supplemental insurance was eliminated. The assessor's salary was increased by \$4,500. After discussion Trustee Cuthbert made a motion to approve the amended salaries as reflected above, second Trustee Abbate. A roll call vote was taken with all voting aye.

5. Downers Grove Township Regular Meeting Minutes of November 1, 2012:

Minutes of October 4, 2012 were approved as presented, motion by Trustee Abbate, seconded by Trustee Del Sarto with all voting aye.

I understand that there is some concern about the accuracy of the July, 2012 minutes. Approximately five minutes prior to the start of the June 16, 2016 Board meeting, Trustee Cuthbert pulled Supervisor Wurster aside and told him he believed a video tape of Board meetings held in July, 2012 shows meeting minutes were "wrong" and recorded "in error." Then, during open session at the Township Board meeting June 16, 2016, Trustee Cuthbert alleged that unofficial videos of the 2012 Board meeting(s) would prove the minutes were incorrect, specifically regarding elected official IMRF compensation for the 2013-2017 term.

We have reviewed all video-tapes found on YouTube, which are edited versions of videos taken by members of the public who attended the July, October, and November 2012 Downers Grove Township Board meetings. As Trustee Abbate pointed out, the videos are not official records maintained by the Township. We have not located a video for the August, 2012 meeting.

The videos referenced by Trustee Cuthbert actually bolster, rather than diminish, Ms. Hois' claim for IMRF benefits for the 2013-2017 term. As explained below, the videos confirm without a doubt that no error was made by former Town Clerk Diane Konicek, who wrote the meeting minutes in July, August, October and November, 2012. The previous clerk correctly and accurately recorded all Board motions and decisions made in those meetings, and the Board approved them. Theresa Cockrell acted as Clerk and wrote the minutes of the 09/06/12 Township Board meeting as follows.

The 2012 Board acted on Supervisor Wurster's recommendations, which were *changes* to be made to elected official's compensation in various areas. Diane Konicek recorded the salary and benefits information to reflect those changes, specifically, among other things, to eliminate health/dental insurance for the Clerk, and to reduce the Clerk's salary from \$27,500

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to \$20,000. The former Clerk received IMRF benefits in the 2009-2013 term. In 2012, Supervisor Wurster did not mention IMRF among the proposed changes, therefore the Clerk's IMRF remained intact for the 2013-2017 term as shown in July and October minutes.

The most telling of all the videos from 2012, which are described below in pertinent detail, is the one from November 1, 2012. After the public comment portion of the agenda, Supervisor Wurster asked Trustee Mark Cuthbert if he was "O.K. with the IMRF thing." Trustee Cuthbert replied, "I think so, my only question was in the minutes (of October 4, 2012 meeting) when we do the summary of the compensation plan it talks about health insurance, dental, and IMRF we just didn't talk about that last time." Supervisor Wurster and Clerk Konicek replied that they did talk about that last time, all they did was amend the salaries. Trustee Cuthbert said it says we approved "the following changes." Clerk Konicek said, "The pages are listed here, the changes are listed here." Trustee Cuthbert said, "That is fine, I just didn't understand." Supervisor Wurster said, "I thought I had made that clear." Trustee Cuthbert said, "Yes you did, that was my only concern that we didn't talk about that, but I understand. Supervisor Wurster asked for any other concerns, adds, deletions (there were none), and then asked for a motion. Trustee Abbate made a motion to approve the minutes of the October 4, 2012 meeting as presented, which motion was seconded by Trustee Del Sarto, and *all voted aye*.

Trustee Cuthbert is arguing that "no mention of IMRF was made in those videos," but he knew in November, 2012 that the Board had approved IMRF for the elected officials and other items not mentioned at the October meeting, because they were not being changed for the new term.

The minutes were prepared by the then Clerk and carefully reviewed and discussed by Board members prior to approval. In this case, there was no error. As you know, a correction of the minutes is proper only when an error in recording has taken place, and one should not rewrite history under the guise of correcting minutes or to reflect a change in position or viewpoint that was changed after the meeting.

In July thru November 2012, the five-member Board of Trustees included Trustee Kathleen Abbate, Trustee Mark Cuthbert, Trustee Robert Del Sarto, Trustee William Swanston, and Supervisor Frank Wurster. The videos, based upon review and notes, reveal the following:

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A. Unofficial, edited Video of Downers Grove Township Regular Meeting July 5, 2012:

(i) Supervisor Wurster proposed eliminating the medical insurance for the next term 2013-2017 and accommodating that office by adding a \$150 stipend for health insurance expenses and that we eliminate the stipend at the end of the next term, in 2017. Supervisor Wurster proposed reducing the Trustee stipend for health insurance to \$100 per month, and to eliminate that stipend permanently at the end of the next term, in 2017. A motion was made to approve the proposals concerning these stipends, seconded, and all voted aye to approve the motion.

(ii) Supervisor Wurster discussed setting salaries for the next term. He asked for another motion to reduce the \$150 stipend for Trustees to \$100 per month, then said, "With regard to salaries for the next term for elected officials, we need to do several things. We need to set the salary and to make a motion to set health and dental insurance for the Supervisor, Highway Commissioner and the Assessor for those office, not necessarily the people in them. There is \$1,000 the Supervisor gets for being Treasurer of the Road District, and we have to approve the use of a truck for the Highway Commissioner. We can do all that in one motion." Supervisor Wurster recommended that all elected officials freeze salaries for the next term, with no exception. Trustee Del Sarto made a motion to approve everything stated above by Supervisor Wurster, seconded by Trustee Abbate, and all voted aye.

(iii) At the end of the meeting, a member of the public thanked the Board for the salary approvals (changes) made, and Supervisor Wurster commented that those decisions were unanimous.

B. Unofficial, edited Video Downers Grove Township Regular meeting October 4, 2012:

(i) Supervisor Wurster said, "In the July 5th meeting, we talked about salaries. We froze all the salaries for elected officials for the next 4 years. I'd like to revisit that meeting and talk about salaries again, and also the benefit for stipends that we discussed at the last meeting, discuss that this evening." Trustee Del Sarto said, "There have been changes in Trustee's duties in the last year, we meet only once a month instead of twice, I'd like to present the idea of lowering the Trustee salaries \$100 per meeting less, to \$4,600 (sic - \$4,800) per year, we streamlined our approval, also a stipend of \$150 per month, I believe we can eliminate that also to save money."

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(ii) Trustee Del Sarto said, "Supervisor Wurster before you make that motion, I'd like to lower the salaries for elected officials." He then asked you if they could do that all in one motion, and you indicated that they could as long as the Board agrees to do so. You stated that they had addressed this and they had voted on the salaries and it was approved unanimously and that the board can reconsider that, and that was what they were doing. Supervisor Wurster said, "The stipend was \$150 and we made it \$100 at the last meeting. Just to clarify, years ago we eliminated the health insurance for trustees and initiated the stipend. I don't think it is fair that two trustees receive the stipend and two don't, so it should be eliminated across the board, in addition to that the Clerk is at \$27,500. I would like to see that lowered to \$20,000 a decrease of \$7,500 annually, the Trustees would be at \$4,800 annually with a decrease from \$6,000 to \$4,800. I'd like to leave Supervisor the same, Highway Commissioner the same, I'd like to raise the Assessor salary by \$4,500. Allan said you could have a stepped program." The Supervisor indicated he would entertain a motion, one for the stipend benefit. Trustee Cuthbert made a motion to reconsider the stipend, seconded by Trustee Abbate, and all voted aye.

Trustee Abbate then made a motion for salaries as stated by Supervisor Wurster, to adjust the salaries, seconded by Trustee Cuthbert. You stated that the figures were, Supervisor \$49,500, Clerk \$20,000, Highway Commissioner \$90,500 for four years, Trustees \$4,800, no stipends. No medical insurance benefit for Clerk, Diane said that was already in there from the July meeting, deduction to Trustees is because we've gone from 2 meetings to 1 meeting, Trustee Swanston asked if that was the premise and discussion followed that the Trustees are not doing less. Supervisor Wurster said eliminate the \$100 and \$150 stipend for Clerk. A roll call vote was taken, Swanston yes, Del Sarto yes, Abbate yes, Cuthbert yes, Wurster yes.

C. Unofficial Video Township Regular meeting November 1, 2012: Described above.

Under these facts as I see it, Illinois case law and statutes, federal law and the Constitution all support the Town Clerk's vested legal right to receive IMRF benefits for 2013-2017 term. While the clerk would prefer to resolve this peacefully, she will consider her other options in the event that that Township Board attempts to change her compensation to eliminate IMRF benefits. Please let me know if you need any further information from the clerk.

ANCEL, GLINK, DIAMOND, BUSH, DiCIANNI & KRAFTHEFER, P.C.

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Very truly yours,

A handwritten signature in black ink, appearing to read "Keri-Lyn J. Krafthofer", with a long horizontal flourish extending to the right.

Keri-Lyn J. Krafthofer

cc: Hon. Laura L. Hois

Enclosure

**AFFIDAVIT OF LAURA HOIS
DOWNERS GROVE TOWNSHIP CLERK
AFFIDAVIT OF WORK HOURS NEEDED
TO CONFIRM IMRF ELIGIBILITY**

(MINIMUM OF 1,000 HOURS PER YEAR DEDICATED TO TOWN CLERK DUTIES)

AFFIDAVIT OF LAURA L. HOIS

I, **Laura L. Hois**, having been first duly sworn upon oath, state as follows:

1. My name is Laura L. Hois. I am the elected Township Clerk of Downers Grove Township for the term of office from May 21, 2013 to May 14, 2017.
2. I submit this affidavit both individually and in my official capacity as the elected township clerk.
3. Since being sworn into office as township clerk, I have worked at least 1,000 hours per year performing my duties as township clerk.
4. The position of Downers Grove Township Clerk position requires at least 1,000 hours per year to satisfactorily perform all required duties.
5. I am privileged to serve as Town Clerk. I have been, and will continue to faithfully fulfill hourly requirements in my performance as the Town Clerk.
6. My typical work hours are performed both inside the township office and outside of the township office.
7. My responsibilities as Town Clerk include preparation of agendas for regular meetings, special meetings and the annual town meeting; preparation of minutes for regular meetings, special meetings, closed sessions for regular and special meetings, and the annual town meeting; publishing and posting notices of meetings and other required notices; performing research; reviewing records; filing, maintaining and archiving documents; reviewing and responding to correspondence; records review; compiling board packets and backup information for upcoming meetings; responding to requests pursuant to the Freedom of Information Act; records retention, evaluation and coordination with the Local Records Commission for records disposal; execute Township Board directives; accept election petitions and nomination papers; certify ballot questions; report on status of matters; drafting ordinances/resolutions; reviewing statutes; ensure timely compliance; perform functions related to caucus; coordinating meetings; administering oaths; answering questions; serving as Road District clerk; attending regular meetings, special meetings, and annual town meetings; participating in annual training as required by law; participation in educational seminars about townships and township clerk functions; attendance at community events and township events; other duties as required by law, the Board or the public.

8. On a weekly basis, although the days and hours in the Township office do vary from week to week, the hours that I generally perform these functions inside and outside of the office are, as follows:
 - Monday or Tuesday 8:30 a.m. to 2:00 p.m. (5 1/2 hours)
 - Wednesday 1:30 p.m. to 4:00 p.m. (2 1/2 hours)
 - Thursday 9:00 a.m. to 2:30 p.m. (5 1/2 hours)
 - Friday 9:00 a.m. to 1:30 p.m. (4 1/2 hours)
 - Evenings, M-F, review and respond to phone calls and/or emails (1 to 2 hours per week).
9. In addition to those hours specified in paragraph 8 above, I participate in additional meetings and phone calls with Township Supervisor, Deputy Supervisor West, Staff and/or Highway Commissioner. I also attend bid openings as need arises from time to time, and I am generally available five days a week during non-scheduled hours to respond to requests, and by phone or email on weekends. Generally, this averages one to two hours each week.
10. In addition to those hours specified in paragraphs 8 and 9 above, I attend monthly township board meetings which generally run three to four hours each month. I also attend special board meetings, annual town meetings, Saturday meetings and meetings with township staff, which generally run two to four hours each.
11. I also represent the Township at Chamber, Village and community events (e.g. Grove Fest, Boy/Girl Scout meetings) averaging about two to five hours per month.
12. I also participate in quarterly Township Clerk Association meetings with fellow Clerks in DuPage County for educational purposes, averaging two to three hours each.
13. I also attend educational events with the Township Officials of Illinois locally and in Springfield. The hours for attending these events vary by location, from four to six hours to 48-56 hours per event, including travel.
14. My duties also include preparation for the Annual Town Meeting from January thru the meeting in April (two to three hours per week).
15. My duties include having to participate in the Attorney General's Electronic Training for FOIA Officers, completed annually (two to three hours each training and testing) and the Attorney General's Electronic Training for OMA Officers, completed annually (two to three hours each training and testing).

16. My duties as the Township Clerk include the duties of the Township's Freedom of Information Officer, which require me to review, evaluate and respond to Freedom of Information Act requests. The time involved varies depending on the response, from 1/2 hour to 25 hours or more if extensive documents are requested as was the case in several matters including electricity aggregation program, refuse collection program, threatened litigation with Road District, alleged OMA violations related to refuse committee meetings with residents, and meetings with requestor's counsel.

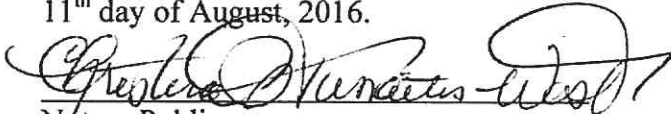
AFFIANT SAYS NOTHING FURTHER.

Under the penalties as provided by law, the undersigned certifies that the statements set forth in this instrument are true and correct.



Laura L. Hois
Downers Grove Township Clerk

Sworn and subscribed to by
Laura L. Hois before me this
11th day of August, 2016.



Notary Public

