

EXECUTIVE  
Brown County

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TOM HINZ

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February 5, 2008

Gerald L. Danforth, Chairman  
Oneida Tribe of Indians of Wisconsin  
P.O. Box 365  
Oneida, WI 54155

RE: Hobart Storm Water Assessments  
O'Hare Blvd. Special Assessments

Dear Chairman Danforth:

I have reviewed your letter dated January 31, 2008 to Brown County Treasurer Kerry Blaney and I have consulted with Brown County Corporation Counsel John Jacques. I agree with the Village of Hobart's legal position that special assessments and storm water management fees are permitted under federal law and authorized by state law.

In regards to tribal fee lands, Congress has enacted law that once tribal land is allotted and sold in fee simple, all restrictions on taxation, encumbrance and alienation are removed. See 25 U.S.C. §331, 24 Stat. 388 (1887); 25 U.S.C. §349, 34 Stat. 182 (1906). Such lands are subject to state and local taxation. The repurchase of such lands by an Indian tribe in fee simple does not change the lands' taxation status. The only legal mechanism available to remove such lands from state and local taxation is to place the land into trust under the provisions of the Indian Reorganization Act of 1934 (IRA), 25 U.S.C. §465, and the associated regulations under 25 C.F.R. Part 151, and under the recent decision of the United States Supreme Court in *City of Sherrill v. Oneida Indian Nation of New York*, 544 U.S. 197 (2005).

Automatic cancellation of local government special assessments merely because of repurchase by the tribe would render the IRA, an act of Congress, and the United States Supreme Court legal interpretations of the IRA, meaningless. There are no precedential legal authorities which support the claim that placing special assessments on tribal fee land are impermissible under federal law.

In regards to tribal trust lands, under federal and Wisconsin law the tax exempt status of a parcel does not shield any owners from paying storm water utility fees. This is true for tribal trust lands, charitable lands, state and federal lands, and other tax exempt lands. Storm water utility fees, as with special assessments placed upon tribal fee lands, are also valid charges against all lands located within that local government.

Sincerely,

A handwritten signature in cursive script that reads "Tom Hinz".

Tom Hinz  
Brown County Executive

cc: Kerry M. Blaney, Brown County Treasurer  
✓Richard Heidel, Village of Hobart President