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December 14, 2011



**Via E-Mail & U.S. First-Class Mail**

Anthony T. Plante, Town Manager  
Town of Windham  
8 School Road  
Windham, ME 04062-4899

Re: Council Appointments

Dear Tony:

This letter is intended to confirm various e-mails and telephone conversations we have had in regard to the Windham Town Charter requirements for filling the vacant North Windham Council seat. Specifically, the question that has been raised is, must the individual appointed to fill that seat be a resident in the North Windham district.

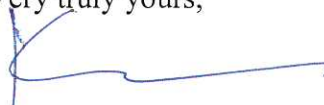
As you know, the Charter requires that any individual running for the North Windham Council seat be a resident of that district. However, it does not specifically state that any appointee to that seat be such a resident. Our analysis of the question leads us to conclude that any appointee would also need to be a resident of the seat. Specifically, Article II, Section 1 of the Charter states "that at least one member shall be a resident of each of the following areas of the Town" and then goes on to define the various districts, including the North Windham district. Therefore, although another member of the Council may live in North Windham, unless they were elected as the North Windham Councilor, they would be considered an at-large representative, leaving the North Windham seat vacant. Although Section 6 goes on to specify that the Council is the judge of the election and qualification of its members, that does not address this issue. Subsection (d) of Section 2 is silent except to note that the vacancy so filled shall expire at the next municipal election – thereby clearly implying that the individual appointed to the vacant seat must otherwise qualify to be elected to it. Since only individuals in the North Windham district could actually run for the seat, it is our conclusion that only an individual resident of the North Windham district can be appointed to it.

Jensen Baird  
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If there is any further you need from me in this regard, please let me know.

Very truly yours,



Kenneth M. Cole III

KMC/lts