Delinquent Tax Collectors Workshop

Developing a Collection Philosophy and a Collection Policy

Garrett Baxter, Senior Staff Attorney
Municipal Assistance Center

VERMONT LEAGUE OF CITIES & TOWNS

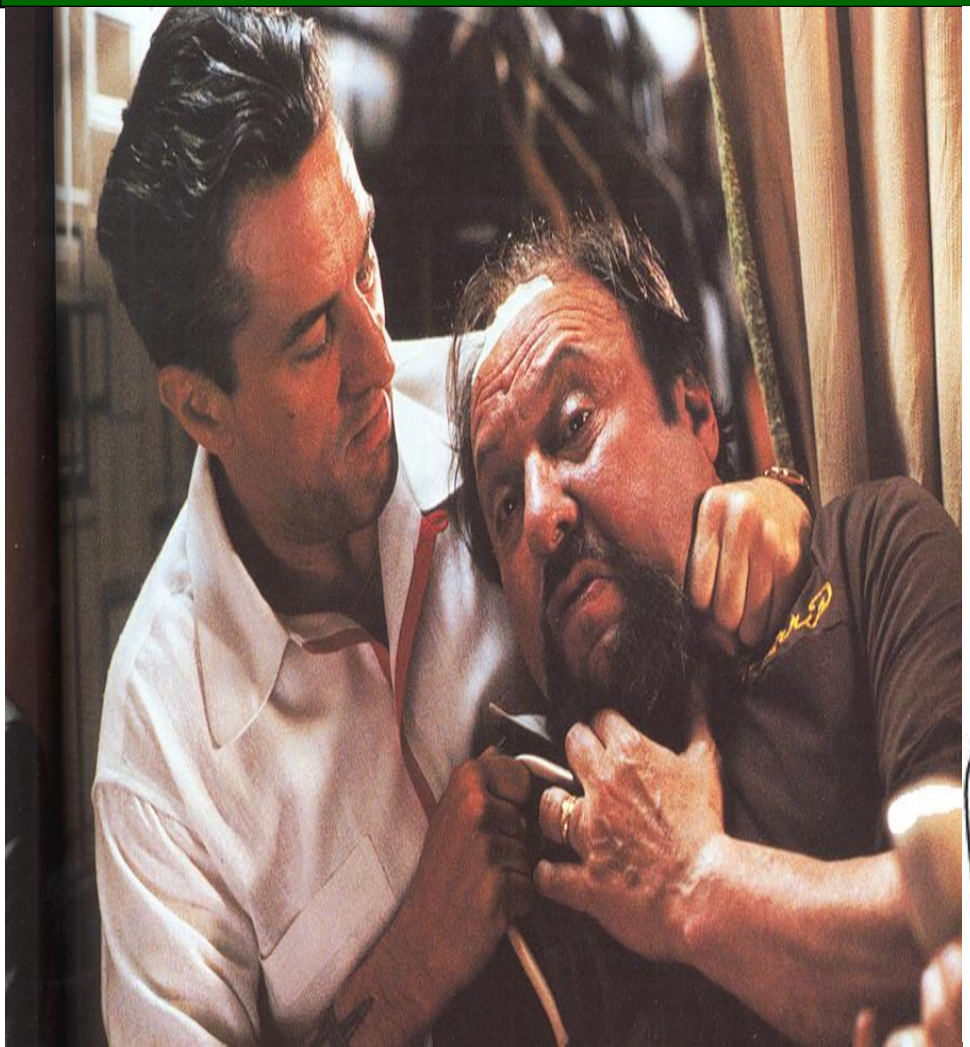
Developing A Collection Philosophy

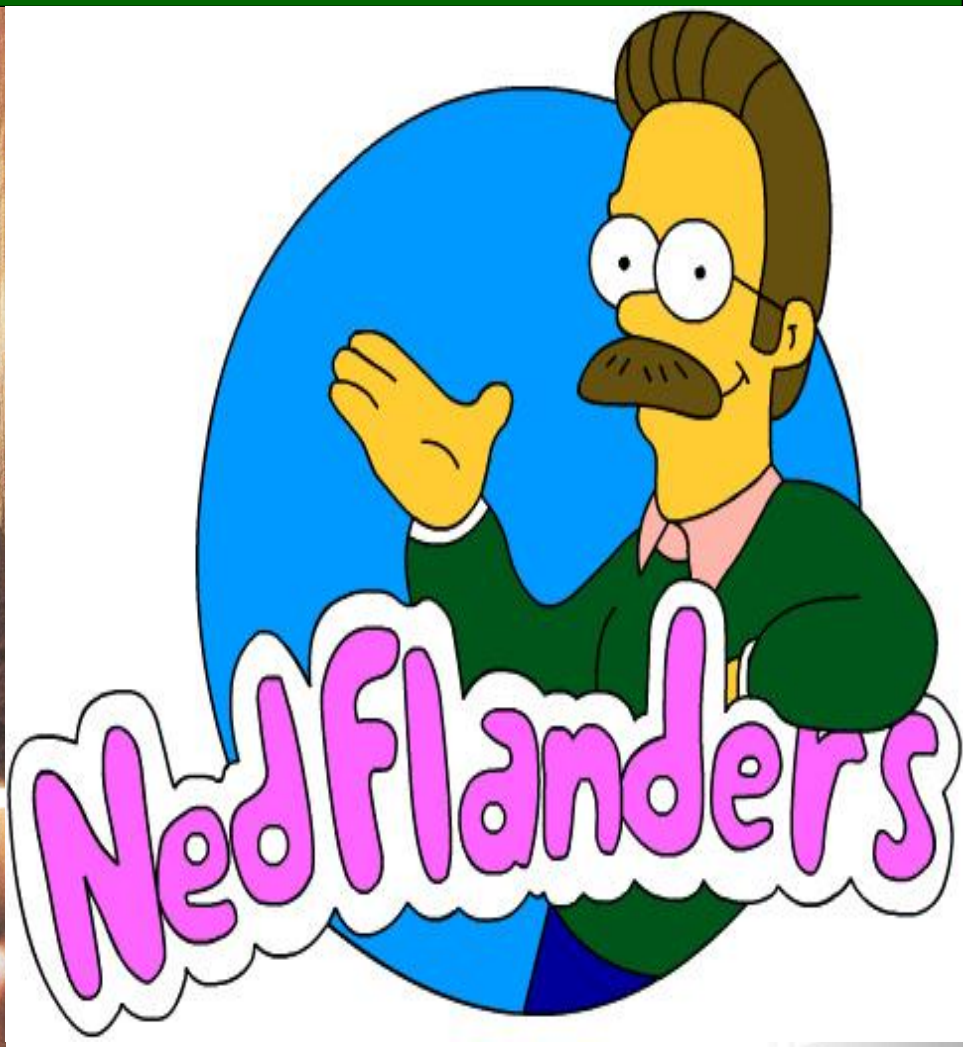
What is your job as a delinquent tax collector?

Developing A Collection Policy

To collect delinquent taxes.

Developing A Collection Philosophy





Developing A Collection Philosophy

- Your reputation in the community you work and live in;
- How you perceive the world and the struggles we all eventual face in it, how you perceive yourself; and how you want others to perceive you;
- Market forces;
- The frequency and percentage of delinquencies in your community;
- Internal/External market forces;
- Your internal sense of fairness;
- The expectations and support of your selectboard/ community;
- Reelection/employment (e.g. Town Manager, charter appointment);
- Whether you pay your own administrative costs.

VERMONT LEAGUE OF CITIES & TOWNS

Developing A Collection Philosophy

- Be honest;
- Be consistent but personal;
- Assume that no property owner sets out to fail to pay their property taxes;
- Be a resource/educate people;
- Recognize that setbacks happen, but don't let them get too deep;
- Communicate as if this person is your neighbor (they are) and touch base on a regular basis;
- Allow for realistic payment plans.

VERMONT LEAGUE OF CITIES & TOWNS

Developing A Collection Policy

Every delinquent tax collector should develop a written tax collection policy that explains how delinquent taxes will be collected.

Developing A Collection Policy

- **Vermont law affords delinquent tax collectors significant discretion to determine when and how delinquent taxes will be collected.**

- **Whenever a government official exercises discretion, there are Constitutional due process and equal protection issues at play.**

- **The policy tells taxpayers what to expect and reduces the likelihood of allegations that you are acting arbitrarily or treating taxpayers differently.**

Developing A Collection Policy

- **Informal collection: Methods used to get the delinquent taxpayer to pay before formal collection efforts are undertaken (e.g., phone calls, letters, payment agreements).**

- **Formal collection: Tax sale, action at law, foreclosure, distraint.**

VERMONT LEAGUE OF CITIES & TOWNS

Developing A Collection Policy

What factors do you consider?

- **How much time has passed;**
- **How responsive the delinquent taxpayer has been to your requests for payment.**
- **Their willingness to enter into a payment agreement;**
- **Previous delinquencies;**
- **Value of the collateral;**
- **Word on the street.**

VERMONT LEAGUE OF CITIES & TOWNS

Developing A Collection Policy

- **If you are an elected delinquent tax collector, this is your policy. Nevertheless, discuss it with the selectboard and treasurer and get their input. You have to work with these folks.**

- **If you are an appointed collector (e.g. Town Manager, charter employee), you should have the policy approved by the selectboard.**

VERMONT LEAGUE OF CITIES & TOWNS

Developing A Collection Policy

1. State the frequency with which taxpayers will be given notice of the delinquency.

"Within 15 days after the warrant for collection of delinquent taxes has been issued by the treasurer, and each month thereafter until taxes are paid in full, a notice will be sent to each delinquent taxpayer indicating the outstanding balance of taxes, interest and penalties owed."

Developing A Collection Policy

- Before any formal collection effort can be undertaken, written notice must be given to the delinquent taxpayer.
- The written notice must allow residents at least 10 days and nonresidents at least 20 days (but not more than 40) to pay the amount due before the collector will proceed with a tax sale or other collection action.
- The notice must specify the time and place of payment, amount owed, including taxes, fee and interest.
- 32 V.S.A. §§ 4842, 4874

VERMONT LEAGUE OF CITIES & TOWNS

Developing A Collection Policy

Recommendation: Give initial notice to the taxpayer as soon as possible, and thereafter send a monthly or quarterly statement to the delinquent taxpayer.

- **Send the notice in the form of a personalized letter.**
- **Include a copy of your policy and tax bill.**
- **Include in the notice the right of the delinquent to seek abatement of the delinquent tax.**

See Appendix G in the Handbook for Collectors of Delinquent Taxes for a good model.

VERMONT LEAGUE OF CITIES & TOWNS

Developing A Collection Policy

2. State when mortgage and other lien holders will be notified of the delinquency.

"Mortgage holders and lien holders will be notified of the delinquency 60 days after the first notice has been sent to the taxpayer and again prior to tax sale."

Developing A Collection Policy

- **Recommendation: There was some disagreement among attorneys regarding the propriety of notifying mortgage holders of delinquencies before a tax sale is initiated in order to get them to pay the delinquency.**

- **This is a regular practice in many towns. We have yet to see a lawsuit initiated on these grounds.**

- **If you are going to notify mortgage holders of delinquencies before tax sale is initiated, make sure it is reflected in your policy.**

Developing A Collection Policy

3. Explain how partial payments will be applied.

"Partial payments will be applied proportionally to the principal amount of the tax, interest and fee."

"Partial payments will be applied first to the interest portion of the amount due, and the remainder will be divided proportionately between the principal amount of the tax, and the 8 percent fee."

VERMONT LEAGUE OF CITIES & TOWNS

Developing A Collection Policy

- **Recommendation: Allocate partial payments proportionally to principal, interest and fee.**
- **This will result in the taxpayer accruing smaller amounts of interest on the declining principal amounts.**
- **Ensures that the next collector won't get stuck with an account in which there is outstanding principal and interest but no fee.**
- **If the taxpayer is delinquent for more than one year, it is up to the taxpayer to determine which year the payment should be applied. 32 V.S.A. § 4647**

VERMONT LEAGUE OF CITIES & TOWNS

Developing A Collection Policy

4. State the conditions under which tax sale or other formal collection methods will be utilized.

"If a payment agreement is not executed by the delinquent taxpayer, or if the terms of such a payment agreement are breached, the tax collector will initiate formal proceedings to collect the debt. Such proceedings may include tax sale, legal action to recover the debt, distraint of personal property, and/or foreclosure."

VERMONT LEAGUE OF CITIES & TOWNS

Developing A Collection Policy

5. Notify the taxpayer of the right to seek an abatement.

"NOTICE: You have the right to request an abatement of your delinquent property taxes under 24 V.S.A. § 1535. If you would like to schedule a meeting with the board of abatement, please contact the town clerk at_____."

VERMONT LEAGUE OF CITIES & TOWNS

Developing A Collection Policy

6. Notify the taxpayer of the right to request in writing, not less than 24 hours prior to the tax sale, that a portion of the property be sold, what must be included with such request and that if a portion can't be sold for what is owed then the entire property may be sold..

The request must clearly identify the portion of the property to be sold and must be accompanied by a certification from the District Environmental Commission and the town zoning officer that the portion of land identified can be subdivided and meets minimum lot size requirements.

VERMONT LEAGUE OF CITIES & TOWNS

Developing A Collection Policy

7. Explain what will happen if a tax sale is held and no one purchases the property.

"If a tax sale is held and the property is not purchased or if, in the judgment of the delinquent tax collector, proceeding with a tax sale is inadvisable, the tax collector shall collect the delinquent taxes using any method permitted by law."

VERMONT LEAGUE OF CITIES & TOWNS

Questions

VERMONT LEAGUE OF CITIES & TOWNS