



# Town of Berkshire Town Clerk

## Report of Examination

Period Covered:

January 1, 2013 — June 13, 2014

2014M-230



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

November 2014

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of Berkshire, entitled Town Clerk. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*

# Introduction

## Background

The Town of Berkshire (Town) is located in Tioga County (County) and has a population of 1,412. The Town provides general government support and a variety of services, including street maintenance and snow removal. The Town's expenditures are funded primarily from real property taxes and State aid. Budgeted general fund appropriations total approximately \$248,000 for the 2014 fiscal year.

The Town is governed by an elected five-member Town Board (Board), which consists of the Town Supervisor (Supervisor) and four Board members. The Town Clerk (Clerk) collects cash receipts for a variety of services provided by the Town, County and State, including fees for conservation, marriage and dog licenses as well as building permits. The Clerk also performs the functions of the Town tax collector. The Town's Code Enforcement Officer is responsible for issuing permits for construction and alteration projects within the Town's boundaries, and for ensuring that those permits are renewed according to local law.<sup>1</sup> The Code Enforcement Officer is also authorized by local law to collect fees set by the Board for building permits and remits them to the Clerk.

## Objective

The objective of our audit was to evaluate the Clerk's financial and records management. Because of the Code Enforcement Officer's involvement in this process for building permits, we also reviewed his financial and records management practices. Our audit addressed the following related question:

- Did the Clerk properly safeguard taxpayer funds?

## Scope and Methodology

We examined the records of the Town Clerk for the period January 1, 2013 through June 13, 2014.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix B of this report.

## Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

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<sup>1</sup> The Town's building code states that building permits shall expire 12 months following the date of issuance.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the New York State General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Town Clerk's office.

## Town Clerk

The Clerk collects cash receipts for a variety of services, including fees for conservation, marriage and dog licenses and building permits. The Clerk also performs the functions of the town tax collector. The Clerk is responsible for receiving, recording, depositing, disbursing and reporting all moneys collected in an accurate and timely manner. This requires maintaining complete and accurate accounting records, ensuring that moneys received are safeguarded, promptly depositing moneys received and disbursing those moneys to the appropriate parties. It is the Board's responsibility to provide adequate oversight of the Town's financial affairs and to audit, or cause to be audited, the books and records of the Clerk, as Clerk and as tax collector, on an annual basis.<sup>2</sup>

The Clerk did not properly safeguard taxpayer funds. As a result, we could not determine if the Clerk is receiving, recording, depositing, disbursing and reporting all the money owed to the Town or paid to her. The Clerk failed to issue duplicate receipts or record the form of payment for any moneys collected and stopped recording tax payments in her records after the second month of the five-month collection period. Further, she did not consistently report the monthly activity to the Supervisor, reconcile her bank accounts with her accounting records or reconcile the amounts she had collected with what was owed to various parties. Finally, the Clerk and Code Enforcement Officer failed to compare the money received for building permits with the building permits actually issued.<sup>3</sup>

Receipts – We reviewed revenue records for the Clerk<sup>4</sup> and found that the Clerk did not always properly account for or collect all fees, including building permits and real property taxes. Additionally, the Code Enforcement Officer, at times, also collected the fees for building permit applications without any reconciliation process or oversight. For example:

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<sup>2</sup> The Board is also required to audit, or cause to be audited, the books and records of the Code Enforcement Officer on an annual basis because he also collects money.

<sup>3</sup> The Code Enforcement Officer is responsible for issuing and renewing building permits and, under the authorization of a local law, for collecting building permit fees and remitting them to the Clerk. Because the Code Enforcement Officer and Clerk each can collect fees directly from residents, it is necessary for them to coordinate collections to ensure all moneys due are collected.

<sup>4</sup> See Appendix B for detailed cash receipts procedures

- Thirty-five dog tags were not recorded in the Clerk's records as issued and were missing from the Clerk's tag inventory. Additionally, the Clerk showed us a \$7 check dated two months prior that she received for a dog license; the associated dog tag was one of the 35 we could not find recorded. The Clerk did not know why the tags were missing or why they were not recorded as issued.
- Fees collected for four building permits were \$95 less than the Board-approved fees because the Clerk used an outdated fee schedule or made a mistake.<sup>5</sup> Two building permits were assessed \$70 more than necessary because of using the incorrect rate. Neither the Clerk nor the Code Enforcement Officer could explain why this happened.
- No fees were collected for eight building permits for initial issue or for renewal after expiration;<sup>6</sup> these fees should have been \$500. Two permits showed that the fees were waived for reconstruction after home disasters; however, the Board did not authorize the waiving of these fees. Neither the Clerk nor the Code Enforcement Officer were aware of who should have actually collected the fees for the other permits and renewals.

Disbursements – The Clerk did not disburse money in a timely manner and often did so without proper documentation and without reporting the disbursements to the appropriate parties. In addition, on numerous occasions, the Clerk disbursed more money than necessary. We reviewed the Clerk's disbursement records, bank reconciliations and monthly accountabilities.<sup>7</sup> While her Clerk fees and real property tax collection accounts should have had no money remaining after she settled with the Town Supervisor, County Treasurer and State agencies, as of the end of our fieldwork, \$722 remained in her Clerk fees account without an offsetting liability. The Clerk could not provide any support showing the source of these amounts or to where they were owed. Furthermore, our testing showed she still owes the Supervisor \$226 because she used the same monthly report twice and did not remit fees collected from 13 building permits. Another \$75 collected for three marriage licenses was not remitted to the appropriate parties.<sup>8</sup> Additionally, the Clerk remitted \$7,325 from the

<sup>5</sup> The fee schedule changed in January 2012. However, the Clerk did not obtain a copy of the new schedule from the Planning Board. The only change on the new schedule was that the cost of installing a wood stove, chimney or fireplace increased by \$25.

<sup>6</sup> The Town's building code states that building permits shall expire 12 months following the date of issuance.

<sup>7</sup> See Appendix B for detailed cash disbursements procedures

<sup>8</sup> The New York State Department of Health is owed \$67.50 and the Supervisor is owed the remaining \$7.50 for one of the three marriage licenses.

real property tax collection bank account to the Supervisor after the close of the tax collection period, without any awareness or support for what the money was for. While the numerous errors we found contribute to the balances in her two bank accounts, the Clerk's poor recordkeeping reduces the likelihood of completely determining the disposition of the remaining amounts.

These deficiencies happened and continue to take place because the Clerk and Code Enforcement Officer performed all of their duties without any segregation of duties or Board oversight. The Board does not annually audit the Clerk's or Code Enforcement Officer's books and records. Such an audit could have identified many of the deficiencies noted in our report, and the implementation of written policies and procedures could have helped increase the overall accountability of Town operations. As a result, the Clerk's and Code Enforcement Officer's records are inaccurate and incomplete, moneys were not properly accounted for, and errors and irregularities occurred and remained undetected.

## **Recommendations**

The Clerk should:

1. Issue duplicate receipts and record the forms of payment for all moneys received where no other form of receipt is available.
2. Deposit all moneys in the appropriate accounts in a timely manner.
3. Report all collected and disbursed moneys to the Town Supervisor in the monthly Clerk's report in an accurate and timely manner.
4. Reconcile bank accounts to the accounting records on a monthly basis.
5. Reconcile the amounts she has collected with what is owed to various parties on a monthly basis.
6. Periodically compare the money received for building permits with the building permits actually issued.
7. Charge all fees as prescribed by the Board-approved fee schedule.
8. Record (and report) all licenses issued, secure the tag stock and periodically compare the stock to licenses issued to ensure accountability.

9. Remit all collected fees to the Town Supervisor, County Treasurer and State agencies in a timely manner and in the appropriate amount.

The Code Enforcement Officer should:

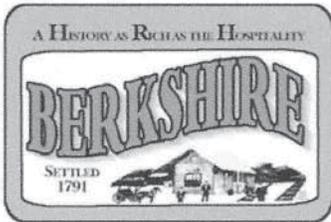
10. Reconcile building permits issued with fees collected.
11. Charge building permit fees as prescribed by the Board-approved fee schedule.
12. Enforce the collection of initial issue or renewal fees for building permits.

The Board should:

13. Adopt written policies and procedures for operations of the Code Enforcement Officer and clarifying the respective roles of the Clerk and Code Enforcement Officer with respect to issuance of building permits.
14. Annually audit, or cause to be audited, the books and records of the Clerk as Clerk and as tax collector, and the Code Enforcement Officer.

**APPENDIX A**  
**RESPONSE FROM LOCAL OFFICIALS**

The local officials' response to this audit can be found on the following page.



## Town Of Berkshire

18 Railroad Avenue  
Berkshire, NY 13736  
Ronald N McEwen, Supervisor  
(607) 657-2531 Fax (607) 821-0232

October 23, 2014

H. Todd Eames, Chief Examiner  
Office of the NYS Comptroller  
Binghamton Regional Office  
44 Hawley Street  
Binghamton, NY 13901-4417

Re: Town of Berkshire  
Town Clerk  
2014M-239

Dear Mr. Eames:

This letter is considered both our response and CAP to the above referenced audit.

In response to the findings, The Town Board and the Town Clerk have reviewed the findings and are in agreement with those findings.

With regard to the Corrective Action Plan (CAP), the following is our official action:

1. Duplicate receipt book has been purchased and is now in use by the Town Clerk for all funds received showing method of payment.
2. Items 2 through 9 recommendations will be followed by the Town Clerk starting immediately
3. Items 10 through 13 will be addressed through the implementation of a new code enforcement computer program being installed November 1, 2014. The software is provided by "Municipity" and is widely used in NYS.
4. Item 14 The Board will institute an annual review of the Town Clerk as outlined in the Financial Management Guide issued by the Comptroller.

It was a pleasure working with your staff and appreciated the courtesy they extended our officials and employees.

Very truly,

Ronald N. McEwen  
Town Supervisor

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

To accomplish our objective, we interviewed appropriate Town officials and employees, tested selected records and examined pertinent documents for the period January 1, 2013 through June 13, 2014. Our examination included the following:

- We interviewed Town officials and employees and reviewed monthly reports to the Board and Board minutes of monthly meetings to gain an understanding of Town operations.
- We attempted to compare the fees charged for a judgmental selection of five marriage licenses and five dog licenses to the Board approved fee schedule but could not, because the Clerk does not have duplicate receipts.
- We reviewed the monthly Clerk's reports for the scope period for completeness and accuracy, tracing to source documents including building permit applications, check images, marriage licenses and reports to various New York State agencies.
- We reviewed the Clerk's monthly report for three months to test that at least one marriage certificate was issued for each marriage license.
- We traced all revenues collected by the Clerk during February 2014 to bank statements to test whether the revenues were deposited intact and timely.
- We traced all 363 dog tags the Clerk did not have in her inventory to her computer system to verify that the dog tags were issued and recorded.
- We tested the completeness of the building permit records of the Clerk and the Code Enforcement Officer.
- We compared the fees charged for 20 building permits judgmentally selected for their high risk to the Board-approved fee schedule.
- We judgmentally selected a sample of 20 building permits issued more than one year before the end of our scope period and traced these to certificates of occupancy or completion in the Code Enforcement Officer's records.
- We attempted to perform bank reconciliations and performed monthly accountabilities for both the clerk fees and tax collection bank accounts for the months of December 2013 and May 2014.
- We performed a tax roll reconciliation for the 2014 collection period.

- We compared the number of marriage licenses reported and fee moneys disbursed to the New York State Department of Health with the number of marriage licenses recorded by the Clerk and the images of cleared checks written to the Department of Health.
- We traced all 43 disbursements from the clerk fees account totaling \$21,456 and all 18 disbursements from the tax collection account totaling \$1,877,660 for the audit scope period from bank statements to check images, to test whether the disbursements were for proper Town purposes.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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**DIVISION OF LOCAL GOVERNMENT**  
**AND SCHOOL ACCOUNTABILITY**

Andrew A. SanFilippo, Executive Deputy Comptroller  
Gabriel F. Deyo, Deputy Comptroller  
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