

To:
Mayor Angela Russell
City Council of Tontitown
235 E. Henri de Tonti Blvd.
Tontitown, AR 72770
Date: 9/27/2025

Re: Notice of Illegal Exaction – Improper Hiring of Environmental Counsel Without RFQ Process

Dear Mayor Russell and Members of the City Council:

Pursuant to **Article 16, Section 13 of the Arkansas Constitution**, which grants every taxpayer the right to challenge illegal exactions of public funds, I hereby submit this notice regarding the City of Tontitown’s unlawful engagement of outside legal counsel for environmental and appellate representation.

I. Applicable Law

1. **A.C.A. § 19-11-801 et seq.** requires that political subdivisions procure professional services (including legal services) **through a qualifications-based selection (RFQ/QBS) process**, and explicitly prohibits competitive bidding.
 2. **A.C.A. § 19-11-803(b)(1)** requires that cities evaluate statements of qualifications before contracting for such services.
 3. Arkansas courts have held that **contracts entered into contrary to state procurement law are void or voidable**.
 4. **Article 16, § 13 of the Arkansas Constitution** authorizes taxpayers to challenge unlawful expenditures of public funds (so-called “illegal exactions”).
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II. Factual Basis

- The City of Tontitown engaged **attorney Ross Noland** for **environmental legal work** concerning the Eco Vista landfill expansion.
 - Under his representation, the City has already suffered **two adverse rulings**:
 1. A loss before an **administrative law judge**.
 2. A loss before a **circuit court judge**.
 - Following the circuit court defeat, **Mayor Angela Russell has publicly stated that she will, or already has, engaged in discussions with Mr. Noland regarding further appeals**.
 - On **September 17, 2025**, I, **Mick Wagner**, submitted a **FOIA request to the City of Tontitown** seeking any **advertisement, Request for Qualifications (RFQ), or related documentation** issued before the hiring of Mr. Noland.
 - The City did **not provide any such records** in response to my FOIA request.
 - No public record has been identified that demonstrates the City complied with the RFQ/QBS requirements of **A.C.A. § 19-11-803** prior to contracting with Mr. Noland.
 - As a result, city funds have been or may be expended under a **contract made in violation of state law**, with further taxpayer money now at risk for appellate proceedings.
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III. Demand for Action

Accordingly, I respectfully request that the City of Tontitown:

1. Immediately cease further payments to attorney **Ross Noland** or any outside legal counsel hired without compliance with **A.C.A. § 19-11-801 et seq.**
 2. Place on the agenda for the next City Council meeting a resolution either:
 - (a) Rescinding the unlawful contract, or
 - (b) Directing that a lawful **RFQ for appellate and environmental legal services** be issued immediately.
 3. Provide a full public accounting of all funds already paid under this contract.
 4. Take all necessary steps to **seek reimbursement of public funds already paid to Mr. Noland**, consistent with the City's fiduciary duty to its taxpayers.
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IV. Notice of Potential Legal Action

Failure by the City to remedy this violation may compel me, as a taxpayer, to file an **illegal exaction lawsuit** in Washington County Circuit Court under **Article 16, § 13 of the Arkansas Constitution** to recover unlawfully expended funds and enjoin further payments.

Respectfully submitted,

Mick Wagner
Citizen and Taxpayer of Tontitown

Mick Wagner
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