

<u>CFO-98-7</u> Notice Number	New Jersey Department of Community Affairs Division of Local Government Services	<u>07/20/98</u> Date
Local Finance Notice		

Christine Todd Whitman Governor	Jane M. Kenny Commissioner	Stephen R. Sasala, II Acting Director
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Developer Escrow Reporting Practices

This Notice supplements information contained in previously issued Local Finance Notices (CFO-95-7 and CFO-97-2) explaining Developer Escrow requirements. The Division continues to receive phone calls and written correspondence, especially from developers/applicants. The following issues are primary areas of concern:

1) Some developers claim that they are not informed of what happens to their funds after they are deposited with the municipality.

Pursuant to N.J.S.A. 40:55D-53.1, escrow deposits in excess of \$5,000 must be placed in an interest bearing account, at a bank or savings and loan association in this State that is insured by the federal government. The municipality must notify the developer, in writing, of the name and address of the institution or depository in which the deposit is made, as well as the amount of the deposit.

It is also important to note that funds held in escrow by the municipality are the property of the developer/applicant. They are not public funds. They cannot be used to support any public purpose. They cannot be invested by the municipality nor can they be commingled with public funds for any reason. At project close-out, unspent escrow funds must be returned to the applicant, along with any interest that might be due, pursuant to "interest split" requirements specified in N.J.S.A. 40:55D-53.1.

Developers claim that they are not receiving informative reports on how the escrow funds are being spent.

Pursuant to N.J.S.A. 40:55D-53.2(c), contracted municipal professionals are required to submit payment vouchers to the CFO, and an advice copy to the developer/applicant. The vouchers must include the following information:

- a. the name and title of the person providing the service;
- b. the date that the service was provided;
- c. the time spent on providing the service, detailed to quarter-hour increments; and,
- d. the cost of providing the service - i.e., the hourly rate and the cost of any expenses incurred.

In addition, the Division recommends that the payment voucher indicate the nature of the service provided, or the reason for the cost - i.e., site plan review, site inspection, attend meeting, etc.

Besides the voucher information provided by the professional, the CFO is required to provide accounting statements to the developer. The statements must include a listing of all deposits, interest earnings, disbursements, and the cumulative balance of the escrow account. The statements must be provided on a quarterly basis, if monthly charges to the account are \$1,000 or less; or on a monthly basis if the monthly charges exceed \$1,000. The statements should be easy to read and follow, and should be presented in a clear and concise manner.

3) What are the procedures for closing out old escrow accounts, with small balances, where the

municipality is unable to locate the owner of the funds?

The Division was recently advised that such funds should be presumed to be abandoned property, and should be turned over to the State Treasurer/Unclaimed Property Administrator.

The Uniform Unclaimed Property Act provides a comprehensive procedure for the disposition of intangible property presumed abandoned. The presumption of abandonment extends to tangible property that remains unclaimed for more than one year after it became payable or distributable. For more information, CFO's should contact the Unclaimed Property reporting section at (609) 984-5214, or at the following address:

Uniform Unclaimed Property Act
Taxation Building, 6th Floor
50 Barrack Street
P.O. Box 214
Trenton, New Jersey 08646-0214

Information is also available at the Division of Taxations web site:
<http://www.state.nj.us/treasury/taxation/ucpform.htm>

If you have any questions concerning this Notice, please feel free to contact our staff at (609) 292-7842.

Stephen R. Sasala II, Acting Director
Division of Local Government Services

Distribution:
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