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August 26, 1967

Hon. Charles W. Barraud,
Brookhaven Town Supervisor
Brookhaven Town Hall
Patchogue, New York 11772re: Brookhaven Town Attorneys
Fees

Dear Mr. Supervisor:

Since 1960, I have had the privilege of serving as a Special Town Attorney in a number of matters, through three different administrations. The matter of establishing an office of Town Attorney has been a recurrent problem during each of these years, becoming most vexing each election year.

Although it is rather obvious from an analysis of Town Attorney systems in other areas, that independent assignment generally leads to more independent legal advice, and in theory, is the finest method of obtaining the best legal advice and service for the Town, nevertheless, independent attorney assignment has a peculiar inherent difficulty - cost. Just what is a reasonable fee for a municipal assignment? It is in this area that the real difficulty arises. Most advocates of a formal Town Attorney's Office feel that it will cost the Town less for legal services, this belief arises because of a failure to be able to determine the cost of legal services on a per-service basis to the Town.

We offer this suggestion, suitable for immediate implementation and perhaps the ultimate solution to the problem:

1. Convene a meeting of all the attorneys who are now, or who have served as Special Town Attorneys in the past six years, since Brookhaven Town has become a first class Town.
2. Prepare a list of those legal services common to the daily administration of the Town, and by agreement and consensus establish a minimum fee schedule for such services.
3. Prepare a list of those legal services capable of a fixed fee determination and establish a minimum fee schedule for such services.
4. Review the services of an irregular and/or extraordinary nature that have been performed on occasion and which might be required in the future, and determine an agreed method of computing the fees for such services.
5. Establish a standard method of itemized billing for legal services acceptable to the attorneys and the Town and State fiscal authorities.
6. Review the departmental legal needs of the Town and define

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the exact nature of the general duties required of counsel serving each Town Department and an agreed basic retainer fee for such services. (This is the method now utilized by Smithtown with some success particularly with those department which have regular meetings such as the Zoning Board of Appeals and the Planning Board)

7. Prescribe the nature of the supporting evidence to be submitted by counsel when application is made for a fee in excess of the agreed minimum fee. (This is the method used with considerable success by the Courts in condemnation and negligence matters)

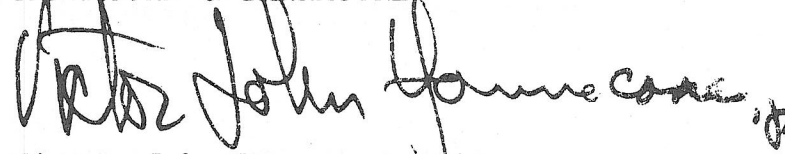
It is our opinion that this program would eliminate the constant embarrassment occasioned the legal profession by accusations made to a large extent by those seeking political advantage, and without any real awareness of the complexity of providing the best legal advice to a municipality as large and complex as Brookhaven Town. The attorneys serving the Town could then operate under a well defined and publicly known fee schedule without any criticism inspired by political ambition. It appears that this proposal would do a great deal to eliminate the claim that the use of independent Town Attorneys on a per-case or per-department basis is a form of political patronage.

We feel that the Brookhaven Town Lawyers Club is a ready vehicle to represent the profession in this matter, and since its executive structure is essentially bi-partisan, and it does represent most of the attorneys resident in Brookhaven Town, it should be a relatively easy matter to arrange the meeting and ultimately establish the fee schedule.

May I respectfully request, in the interests of maintaining a proper image of the Town and the legal profession, particularly those members of the profession who serve the Town, that you consider this proposal at the next Town Board meeting. Thank you very much for your cooperation.

Very truly yours,

YANNACONE & YANNACONE



Victor John Yannacone, Jr.

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cc:

Councilman Robert E. Reid, C.P.A.
Comptroller Everett Dorfman, C.P.A.
Purchasing Director Kurt Behme