

November 17, 2000

Michael M. Foreman  
Clerk of the Circuit Court  
City of Winchester

Council  
City of Winchester

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of the City of Winchester for the period July 1, 1998 through September 30, 2000.

Our primary objectives were to test the accuracy of financial transactions recorded on the Court's financial management system; evaluate the Court's internal controls; and test its compliance with significant state laws, regulations, and policies. However, our audit was more limited than would be necessary to provide assurance on the internal controls or on overall compliance with applicable laws, regulations, and policies.

The results of our tests found the Court properly stated, in all material respects, the amounts recorded and reported in the financial management system; and no material weaknesses in the internal controls. However, we noted noncompliance with state laws, regulations, and policies that the Clerk needs to address as described below.

#### **Collect Taxes on Wills and Administrations Before Qualification**

As noted in the past several audits, the Clerk does not collect taxes before qualifying individuals as an executor or administrator of an estate as required by Section 58.1-1715 of the Code of Virginia. The Clerk waits until the Commissioner of Accounts approves the final inventory rather than collecting taxes and fees based on the estimated estate value at the time of probate. In 4 of 10 wills tested, we found that the Clerk did not collect taxes and fees until 3 to 6 months after probate.

The Clerk has a statutory responsibility to collect taxes at the time of probate using the estimated value of the estate. We have brought this issue to the Clerk's attention for several years and he continues to refuse to change his procedures. If the Clerk does not take immediate corrective action, we recommend the Judge hold him personally liable for any loss of revenue to the Commonwealth.

We discussed these comments with the Clerk on November 17, 2000 and we acknowledge the cooperation extended to us by the court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:whb

cc:     The Honorable J. E. Wetsel, Jr.  
          Edwin F. Daley, City Manager  
          Bruce Haynes, Executive Secretary  
              Compensation Board  
          Don Lucido, Director of Technical Assistance  
              Supreme Court of Virginia  
          Martin Watts, Court Analyst  
              Supreme Court of Virginia  
          Paul Delosh, Technical Assistance  
              Supreme Court of Virginia