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***Via Email***

Ms. Tina Schlemme  
Real Estate and Drainage Clerk  
Auditor's Office  
1215 Edgington Ave., Suite 1  
Eldora, Iowa 50627  
[tschlemme@hardincountyia.gov](mailto:tschlemme@hardincountyia.gov)

Re: Hardin County Drainage District 56

Dear Tina:

On March 12, 2019, you emailed me regarding a proposal to split DD 56 into two separate districts and install a tile north to an open ditch. You provided an Engineer's Report on Improvements and you indicated it showed that the proposal would be beneficial to both the eastside and the westside landowners. Based on the aforementioned, you posed the following question:

*If the District is divided into two, and improvements are installed, who pays for the project, and under what classification?*

Chapter 468 gives the governing bodies of districts fairly broad discretion in deciding these issues. Generally speaking, any inequalities in the value of improvements, contribution of lands, and maintenance between divided sections are to be settled equitably by the Board.

In addition, there are a few sections of Chapter 468 that bear mentioning and provide some additional guidance. Section 468.65 discusses when reclassification may be come necessary when a significant repair, improvement or extension is needed in a district. In this circumstance, the board can consider whether the existing assessments are equitable as a basis for the payment of the repair, improvement or extension. *Id.* If the Board finds the existing assessments are inequitable in any particular for the anticipated repair, improvement or extension, they "shall" order a reclassification pursuant to 468.65. *Id.*

Also relevant is Section 468.188, which discusses public improvements that divide a district. Pursuant to that section, if the public improvement leaves two separate portions of the improvement that are still operable and of benefit to the land on each side of the division made by the public improvement, then the Board may divide the district into two separate units,

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leaving each to perform further work on the improvements in their respective parts. *Id.* However, neither district can be charged for work completed on the opposite side of the new improvement that divides them and may only be charged for the work done in that portion of the district remaining on their side of the division. *Id.* In review of the Engineer's report, it is not clear to me whether the new improvement would actually completely divide the district into two, but the intent of the section is relevant nonetheless.

Based on the overall intent of Chapter 468 to deal with property owners equitably in regard to significant repair, improvement or extension, including the code sections cited above, I believe the Board could choose to order reclassification based on how the districts would exist after the improvement is made. This seems to reach the most equitable result, because the cost for the improvement, and the classifications of both sides, should bear some rationality to the benefit that will ultimately be provided after installation of the improvement.

Please call with questions or concerns.

Very truly yours,

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.

A handwritten signature in cursive script, appearing to read "mcrich", written in black ink.

Michael C. Richards

MRIC/mjw