

**ROBERT H. CYPERSKI**  
**ATTORNEY AND COUNSELOR AT LAW**  
1201-30th Street, NW  
Suite 04-B  
Canton, Ohio 44709  
(330) 492-6659 Telephone  
(330) 492-0943 Telecopier

**REC'D**

JUN 25 2002

**LAW DEPARTMENT  
NORTH CANTON, OH**

June 18, 2002

Mr. Roy Batista  
North Canton Law Director  
145 North Main Street  
North Canton OH 44720

**RE: Well #8 and #9 Raw Waterline Construction**

Dear Mr. Batista:

Please be advised that my office represents Charles Osborne. Mr. Osborne contacted me as a taxpayer regarding the protection of public funds beings used for a contract that was not properly submitted for bid.

It is my understanding that a project known as the Well #8 and #9 Raw Waterline Construction Phase 1 A & 1B, which included waterline installation from the new well field on East Maple Street to the existing well field at Price park on Glenwood Avenue in the City of North Canton was advertised for sealed bids in The Sun Journal on February 1, 2001 and February 8, 2001.

The contract was awarded to Wenger Excavating, Inc. for the approximate amount of \$800,055.00. This project has been completely changed with waterline installation now running from the North Canton water treatment plant to Everhard Road at an additional cost of approximately Four Hundred Thousand Dollars (\$400,000.00).

This modification of the original contract is a clear departure from the general scope and plan of the work. Further, under section 4.05 of North Canton Municipal Charter, "No purchase or contract involving an expenditure in excess of \$10,000.00 or such greater amount as shall be made except with a qualified, responsible bidder submitting the lowest best bid as determined by a Board of Control after advertising for bids in a newspaper of general circulation within the municipality on two successive weeks. The decision of the board of Control as to the qualifications and responsibility of the bidder shall be final, provided the Board of Control acts in good faith. The Board of Control may reserve the right to reject any and all bids."

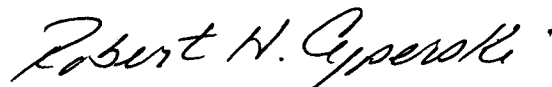
Mr. Roy Batista  
North Canton Law Director  
June 18, 2002  
Page 2 of 2

Therefore, given the facts as set forth above, it is clear that this matter should have been readvertised in order to secure the lowest and best bidder.

We are making a formal demand upon you as the Law Director for the City of North Canton to file suit to have the ordinance awarding this contract and any "change order" be declared invalid and void and to restrain and enjoin the City officials from expending any city money or resources for the implementation of this ordinance. This request is being made pursuant to R.C. 733.58 through R.C. 733.59.

I look forward to hearing from you in the near future that you have agreed to take action against this illegal and invalid ordinance.

Very truly yours,



Robert H. Cyperski  
Attorney at Law

RHC/slb

Sent Via Certified U.S. Mail

CC: Charles Osborne