

No.

02-04-OR

Bill No.

1387-04

AN ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending Ordinance No. 57-03-OR adopting a schedule of recoverable charges, expenses, and fees pursuant to the Act of May 16, 1923, P.L. 207, as amended, 53 P.S. §7101, §7103, and §7106 and repealing any other Ordinance inconsistent herewith.

WHEREAS, the County of Allegheny (hereinafter "County"), through its duly elected Treasurer, is required to collect unpaid delinquent taxes, tax claims, and tax liens (hereinafter collectively referred to as "Delinquent Taxes" or "Tax Claims"); and

WHEREAS, the in-house collection of Delinquent Taxes by the County places a significant demand upon the County's resources, the expense of which is borne by the taxpayers of Allegheny County; and

WHEREAS, there are third-party service providers ("Servicers") who specialize in providing collection and recordkeeping services related to the collection of Delinquent Taxes ("Servicing"); and

WHEREAS, §1, §2, and §3 of the Act of May 16, 1923, P.L. 207, (the Municipal Claims and Lien Act of 1923), as amended, 53 P.S. §7101, §7103, and §7106, respectively, authorize a municipality, including the County, to recover as part of its Delinquent Taxes, among other things, out-of-pocket expenses incurred by a municipality as a result of taxpayers' failure to promptly pay property taxes; and

WHEREAS, by Ordinance No. 57-03-OR, known as the "Tax, Tax Claim, and Tax Lien Attorney Fees and Servicing Charges, Expenses, and Fees Ordinance" the County adopted a schedule of attorney fees, charges, expenses, and fees to be charged and collected in enforcement proceedings initiated by counsel to collect Delinquent Taxes; and

WHEREAS, Ordinance No. 57-03-OR failed to provide for the recovery of Servicing Expenses, which may include but not necessarily be limited to, postage and other out of pocket expenses, that may be incurred by County or charged to the County by Servicers retained by the County in connection with efforts to collect Delinquent Taxes; and

WHEREAS, the County desires to amend Ordinance No. 57-03-OR by exercising all of its legal authority granted under the Municipal Claims and Lien Act to encourage the prompt payment of its taxes by authorizing the recovery of all Servicing Expenses incurred by the County or charged to the County by Servicers retained by the County in connection with efforts to collect Delinquent Taxes by permitting these Servicing Expenses to be passed on to the delinquent taxpayer or property owing Delinquent Taxes.

NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED by the County of Allegheny, Commonwealth of Pennsylvania, as follows:

ARTICLE I. ADD NEW ARTICLE I.A.:

Article I.A. Servicing Expenses Approved:

Section 1. Pursuant to §1, §2, and §3 of the Act of May 16, 1923, as amended, 53 P.S. §7101, §7103, and §7106, the County does hereby authorize the

recovery of Servicing Expenses set forth in Section 3 below that are incurred by the County or charged to the County by Servicers retained by the County in connection with efforts to collect Delinquent Taxes as a result of any taxpayers' failure to promptly pay taxes.

Section 2. Servicing of Delinquent Taxes provided by Servicers retained by the County may result in voluntary payment of the Delinquent Taxes due without the initiation of enforcement proceedings. The County will incur Servicing Expenses in connection with the collection of the County's Delinquent Taxes. It is the intent of this Article I.A. to pass the Servicing Expenses on to the delinquent person or property as part of the Delinquent Taxes due making the County whole on all Delinquent Taxes collected. The recovery of Servicing Expenses established herein shall not be contingent upon the initiation of enforcement proceedings. The Servicing Expenses authorized and established herein are exclusive of attorney fees and expenses, if any, due to legal counsel in enforcement proceedings.

Section 3. Schedule: The following schedule of Servicing Expenses shall constitute reasonable and appropriate Servicing Expenses. The Servicing Expenses shall be added to and become part of each Tax Claim, together with the face, penalties, interest, costs, Attorney Fees, and other charges, expenses, and fees, if any, and shall be payable in full before the discharge or satisfaction of each Tax Claim. The schedule of Servicing Expenses is separate and distinct from any amounts imposed under Article II and III of County Ordinance No. 57-03-OR or

imposed by the Sheriff, Prothonotary, Court, or any other public office in connection with the collection of the County's Tax Claims.

A. Out-of-Pocket Servicing Expense - - Not to exceed 10% of gross collections

1. Gross collections for the purpose of calculating Out-of-Pocket Servicing Expense shall include the face, penalty, interest, and lien costs for each Tax Claim collected. Lien costs shall mean Prothonotary fees for the filing, satisfaction, revival, amendment, and transfer of tax claims. Gross collections shall not include any record costs, attorney fees, or expenses related to enforced collection proceedings.

2. Liability for payment of the Out-of-Pocket Servicing Expenses shall be for those Delinquent Taxes identified in Section 5.A and B below, regardless of whether the taxes are filed as Claims in the Allegheny County Prothonotary's Office.

B. Postage Expense

Actual Cost

Section 4. The Postage Expense authorized in Article I.A. Section 1 and listed in Section 3.A. and B. above, also shall be recoverable from a taxpayer for any mailings sent by the Treasurer of Allegheny County relating to the collection of Tax Claims not yet the responsibility of Servicer to collect, subject to the limitation imposed in Section 5.B., below.

Section 5.

A. Liability for payment of Out-of-Pocket Servicing Expenses authorized in Article I.A. Section 1 and listed in Section 3.B. above, shall accrue as follows:

1. For all unpaid County real estate taxes for tax years 2002 and prior;
2. For all County real estate taxes for tax year 2003 not paid in full by June 30, 2004;
3. For all County real estate taxes for tax years 2004 and thereafter if not paid in full on or before December 31 of the year in which the tax first became payable;
4. For tax bills resulting from additional assessments if:
 - (a) A current year's additional assessment, billed in the current year, is not paid by December 31st of that year or within one hundred twenty (120) days of billing, whichever shall last occur; or
 - (b) A prior year's additional assessment, billed in a later year, is not paid within one hundred twenty (120) days of billing.

B. Liability for payment of the Postage Expense shall accrue (i) on any mailing relating to the 2003 and prior years' Delinquent Taxes and (ii) on any mailing relating to taxes due for tax years 2004 and after following the expiration of the Gross Tax period. The ability to assess and collect the Postage Expense shall not be affected by the fact that the mailing shall also include a statement containing Net or Gross taxes due the County.

Section 6. The Servicing Expenses charged to the County by a Servicer shall be set at the discretion of the Treasurer, pursuant to a Servicing Agreement with

Servicer, but shall not exceed the amounts set by Article I.A., Section 3.A and B, hereof.

ARTICLE II. REVISE ARTICLE V BY ADDING SUBPART D.

Article V. Effective Date and Retroactivity:

D. This Ordinance shall take effect immediately. The Servicing Expenses set forth in Article 1.A. of this Ordinance relate to all unpaid taxes, tax claims, and tax liens in favor of the County for tax years 2003 and prior and to all future County taxes.

ARTICLE III. With the exception of those amendments specifically provided herein, all other provisions of County Ordinance No. 57-03-OR shall be unaffected hereby.

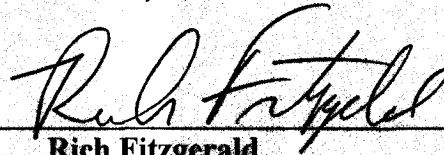
ARTICLE IV. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

ARTICLE V. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

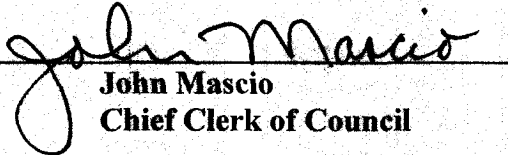
**SPONSORED BY THE COUNTY TREASURER
CO-SPONSORED BY COUNCIL MEMBERS FONTANA & FITZGERALD**

Enacted in Council, this 3rd day of February, 2004


Council Agenda No. 1387-04




Rich Fitzgerald
President of Council

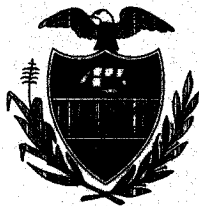
Attest: 
John Mascio
Chief Clerk of Council

Chief Executive Office February 6, 2004

Approved: 
Dan Onorato
Chief Executive

Attest: 
Donna Beltz
Executive's Secretary

OFFICE OF THE TREASURER



JOHN K. WEINSTEIN
TREASURER

County of Allegheny

COURTHOUSE
436 GRANT STREET • PITTSBURGH, PA 15219-2497
PHONE (412) 350-4120 • FAX (412) 350-5649

MEMORANDUM

TO: John Mascio - *Chief Clerk County Council*

FROM: John Weinstein - *County Treasurer*

RE: Request for Agenda Item – Council Meeting of January 20, 2004

DATE: January 6, 2004

Please accept this Memorandum as my official request to have the attached draft Ordinance placed on the upcoming agenda for the next County Council meeting of January 20, 2004.

As you will recall, recently County Council approved County Ordinance No. 57-03-OR, establishing a schedule of attorney fees and expenses related to Sheriff's Sale proceedings initiated against tax delinquent properties in Allegheny County. The Municipal Claim and Tax Lien Law, the Law under which the County collects its delinquent taxes, also provides for the recovery of charges, expenses, and fees relating to the collection of delinquent taxes. In an effort to further reduce the expense of delinquent tax collection for the County and increase collection revenue, the Treasurer is considering employing third-party services providing delinquent tax collection services to the County.

The attached Ordinance amends recently enacted Ordinance No. 57-03-OR permitting the recovery of a servicing expense of an amount not to exceed ten percent (10%) of gross collections by a third-party servicer retained by the Treasurer. The Ordinance also permits the recovery of postage associated with delinquent tax collection notices. The postage expense reimbursement will inure to the benefit of both the Treasurer and the third-party servicer. Once enacted, the entire collection process, including legal services and collection services, **will be at absolutely no cost to the County** and will be exclusively borne by the delinquent taxpayer, eliminating an unnecessary drain upon the County's resources.

Should you have any questions, please feel free to contact me. Thank you for your attention to this matter.

JKW/saz
Attachment

CC: Rich Fitzgerald – President County Council
Wayne Fontana – Vice President County Council