

Council Agenda Report

Date: November 14, 2016

Prepared and Submitted by: Odie Wheeler, Director, Department of Public Works

SUBJECT: Council Policy on charging fees and fines on properties for which tax certificates have been purchased.

Recommendation: That Council consider adopting Resolution 16-015 of the Commissioners of Cambridge, Maryland to Establish an Administrative Standard Operating Procedure for the Reduction or Waiver of Certain Fees and Costs Levied Against Real Property Sold at Tax Sales Where the Citations Are Issued Subsequent to the Date of the Tax Sale, reflecting the direction that Council approved on June 20, 2016 with regard to City fees and fines charged to redeem property tax certificates and including a waiver for non-profits that acquire, rehabilitate, and promote home ownership for low and moderate income individuals.

Discussion:

The adoption of Resolution 16-015 would be consistent with the fees and fines reduction schedule that was approved on June 20, 2016. The resolution was developed as a result of fines being levied against properties with existing code violations and/ or which were under City maintenance. Tax certificate holders are required to clear all fees and fines levied against the property before they can take ownership (redeem the certificate), however, the property owners were not notified that there might be ongoing enforcement action between their acquisition of the tax certificate and when the tax certificate was redeemed. Based on this lack of notice, in June, 2016 Mr. Mike Baugh requested a reduction in fees and fines for a property where he intended to redeem the tax certificate (528 High St.). As a result of this request, Council adopted the schedule and authorized a reduction in fines and fees to \$5,850 to which Mr. Baugh was amenable.

In the action of June 20, 2016:

1. Tax certificate holders will be absolutely held responsible for payments of accrued tax liens once those notifications are delivered (to new tax certificate holders by the County and to current tax certificate holders by the City).

2. For those properties already under a Tax Certificate, City Staff will negotiate a reduction in citations and fees that have accrued since the purchase of the tax certificate, using the following terms:
 - a. Waiver of any citations that have not yet been to court (open cases);
 - b. A \$150 charge for administrative fees on open cases;
 - c. Waiver of half the amount of citation cases where there is an Affidavit Judgement; and
 - d. Hard costs charges for abatements undertaken by the City plus half of the normal administrative fee (to recover direct payments to MDIA).
 - e. Requirement that the waivers of costs be subject to the tax certificate holder agreeing in writing to bring the exterior of the property up to the International Property Maintenance Code within 90 days or pay the full costs of citations and fees. Approved demolition of the structure would qualify as bringing the exterior up to Code.
 - f. Waiver for non-profits of fees and fines accrued after purchase of the tax certificate.

On September 26th, City Council approved a waiver of all fees and fines for a property where Habitat for Humanity Choptank, a not-for-profit origination, held the tax certificate. If Council intends to continue waivers for not-for-profit organizations that buy properties for the purpose of rehabilitation or construction of new housing for low income home buyers, the schedule approved on June 26th, should be amended.

The City attorney has prepared a Resolution that embodies the June 20, 2016 actions of Council and contains (in Section A-8), language that would waive fines and costs for IRS 501©(3) charitable organizations which have as a primary corporate purpose the acquisition and rehabilitation of properties to promote home ownership for low to moderate income individuals. Please note that staff is not recommending Section A-8, but has included it in recognition of the Council's vote granting such to Habitat for Humanity Choptank.

Fiscal Impact;

There are currently 23 properties under Tax Certificates remaining open from the 2015 Tax Sale. Since the issuance of these Tax Certificates in 2015 through current date, the City of Cambridge is owed approx. \$72,163.90 for liens placed on these properties. When utilizing the above methodology to calculate the reduction in citations and fees, the average reduction realized is approx. 52% or \$37,525.20.

RESOLUTION NO. 16-

A RESOLUTION OF THE COMMISSIONERS OF CAMBRIDGE, MARYLAND, TO ESTABLISH AN ADMINISTRATIVE STANDARD OPERATING PROCEDURE FOR THE REDUCTION OR WAIVER OF CERTAIN FEES AND COSTS LEVIED AGAINST REAL PROPERTY SOLD AT TAX SALES WHERE THE CITATIONS ARE ISSUED SUBSEQUENT TO THE DATE OF THE TAX SALE.

WHEREAS, The Commissioners of Cambridge desire to establish an Administrative Standard Operating Procedure No. _____, entitled "WAIVER OF FEES AND COSTS FOR TAX SALE PROPERTIES," by establishing criteria for the granting of a reduction of fines and costs assessed against a property for violations of the property maintenance code after the date the property was sold at a tax sale.

NOW, THEREFORE, BE IT RESOLVED THAT THE COMMISSIONERS OF CAMBRIDGE hereby adopt and establish Administrative Standard Operating Procedure No. _____, entitled "Waiver of Fees and Cots for Tax Sale Properties," which shall read as follows:

ADMINISTRATIVE STANDARD OPERATING PROCEDURE NO. _____

WAIVER OF FEES AND COSTS FOR TAX SALE PROPERTIES

I. Purpose:

This purpose of this Administrative Standard Operating Procedure is to establish criteria for the granting of a reduction of fines and costs assessed against a property for violations of the property maintenance code after the date the property was sold at a tax sale. It is in City's interest that properties come back onto the tax rolls with responsible owners who pay taxes and repair and/or maintain properties. The City has treated these situations inconsistently, sometimes demanding full payment and sometimes negotiating a deal, but not always with the same deal.

II. Effective Date:

This policy and procedure shall be effective from the date of its passage and adoption, and will remain in effect until further written notice to the contrary. This order supersedes all existing policy and criteria now in effect with regard to the reduction in fines and costs assessed against properties sold at tax sale.

III. Policy:

- A. Upon written request, the City Council shall only consider granting a reduction in the amount of fines and costs assessed against properties sold at tax sales, where said assessment was made subsequent to the date of the tax, subject to the following terms and conditions:
1. The tax certificate holder completes all legal requirements and obtains a final court order foreclosing all rights of redemption to the property;
 2. The tax certificate holder agrees to execute a written agreement whereby he/she agree to bring the exterior of the property up to full compliance with the International Property Maintenance Code within 90 days or pay the full costs of citations and fees. The agreement shall provide that the tax certificate holder shall deposit into an escrow account held by City, the total amount of all fines, costs and citations. In the event the exterior of the property is brought into code compliance within 90 days, the fines and costs abated shall be returned to the tax certificate holder. In the event the tax certificate holder fails to bring the exterior of the property is into code compliance within 90 days, all of the funds deposited into escrow shall be retained by City and forfeited by tax certificate holder.
 3. The partial waiver/reduction of fines/costs shall only apply to open cases, (herein defined as cases/citations that have not yet been to court);
 4. A minimum charge of \$150 charge for each citation shall be assessed as an administrative fee on all open cases;
 5. One-half the dollar amount of citation cases shall be waived where there is an Affidavit Judgment; and
 6. None of the hard costs charges for abatements undertaken by the City shall be waived or abated;
 7. One-half of the normal administrative fees (necessary to recover direct payments to MDIA) shall not be waived or abated.
 8. Where the tax certificate holder is an IRS 501(c)(3) charitable organization which primary corporate purpose is to acquire, rehabilitate and promote home ownership for low and moderate income individuals, the City may waive or abate One Hundred Percent (100%) of the fines and costs assessed after the

date of the tax sale at which the 501(c)(3) charitable organization acquired the tax certificate.

B. NOTIFICATION TO FUTURE TAX CERTIFICATE HOLDERS.

1. Prior to each tax sale, the City shall request that the County issue a prominent notice to potential tax certificate holders that the property which is purchased at a tax sale may become subject to citations and fines if the property is not maintained in compliance with the City's Property Maintenance Code. The notice shall provide that all future citations and fines will be the responsibility of the tax certificate holder to clear any new liens before completing the action to foreclose the rights of redemption and obtaining legal title to the property.
2. City shall send the same notice to current holders of tax certificates (getting the list from the County) and publish a notice in the newspaper.
3. Tax certificate holders will be absolutely held responsible for payments of accrued tax liens once those notifications are delivered (to new tax certificate holders by the County and to current tax certificate holders by the City).

Adopted by the Commissioners of Cambridge, this _____ day of October, 2016.

ATTEST:

THE COMMISSIONERS OF CAMBRIDGE

Sandra Tripp-Jones, City Manager

By: _____
Victoria Jackson-Stanley, Mayor

A motion by Commissioner Hanson to defer this to the next meeting to give Mr. Schilling an opportunity to speak to Council was seconded by Commissioner Thomas and approved unanimously.

28. SUBJECT: Properties under Tax Certificates

Recommendation that Council:

- A. Approve a negotiated agreement with Michael Baugh to reduce code violation citations and abatement liens placed on 528 High Street, amounting to a reduction in costs from \$11,189.80 to \$5,339.80, subject to his bringing the exterior of the property up to the International Property Maintenance Code within 90 days or pay the full costs of citations and fees;
- B. Request the County notify potential buyers and buyers of tax certificates of their responsibility to clear any liens that may accrue between the time of purchase of the tax certificate and foreclosure;
- C. Direct staff to notify holders of the already issued tax certificates of responsibility to clear liens accumulated since purchase of the tax certificate and opportunity for tax lien holders only to reduce liens accrued between the time of purchase and the date of the notification; and
- D. Adopt consistent terms of reduction of liens for current tax certificate holders as outlined in the report.

A motion by Commissioner Thomas to accept Recommendation A of the City Manager regarding the negotiated agreement with Michael Baugh with regard to 528 High Street subject to the verbal amendments was seconded by Commissioner Cooke and approved unanimously.

A motion by Commissioner Hanson to adopt recommendations as stated above in Items B, C, and D was seconded by Commissioner Thomas and approved unanimously.

29. SUBJECT: Historic Preservation Commission (HPC) Enforcement

Recommendation that Council:

- A. Authorize the Acting Mayor to send a letter to HPC requesting that HPC agree to not require repairs under § 4.5.6 **Demolition by Neglect** of Dorchester County owned properties acquired for the purpose of sale on condition that the County offer the properties in the Historical District for sale within 60 days of foreclosure, and
- B. Designate a Council representative to present Council's request to HPC.

A motion by Commissioner Thomas to approve the recommendation was seconded by Commissioner Vickers and approved unanimously. Commissioner Cooke volunteered to be the representative.

30. SUBJECT: FY 2017 Edward Byrne Memorial Justice Assistance Grant Application for \$10,729 for Body Cameras

Recommendation that Council:

Council Agenda Report

Date: June 20, 2016

Prepared and Submitted by: Sandra Tripp-Jones, City Manager 

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- B. Request the County notify potential buyers and buyers of tax certificates of their responsibility to clear any liens that may accrue between the time of purchase of the tax certificate and foreclosure;
- C. Direct staff to notify holders of the already issued tax certificates of responsibility to clear liens accumulated since purchase of the tax certificate and opportunity for tax lien holders only to reduce liens accrued between the time of purchase and the date of the notification; and
- D. Adopt consistent terms of reduction of liens for current tax certificate holders as outlined in the report.

Discussion:

Mr. Michael Baugh and his attorney Susan Baugh, Esq. have requested that the City waive costs of liens placed on 528 High Street, for which he holds a Tax Certificate.

The holder of a tax certificate may not be aware of the liens that are placed on the property after the point of purchase of the tax certificate, the holder is responsible for clearing them in order to complete the foreclosure and title transfer. The tax certificate holder must either pay the liens to complete the foreclosure or let the property return to tax sale foregoing what was already paid for the tax certificate. Some plead ignorance and say City should have notified them.

Considerations:

- City is responsible for notifying property owner of record not tax certificate holders. The best way of notification is at notification at the time of the purchase of the tax certificate. The City does not issue tax certificates – the County does. An individual may hold a tax certificate for 2 years before completing the purchase transaction.
- It is in City's interest that properties come back onto the tax rolls with responsible owners who pay taxes and repair and/or maintain properties.
- It is also in the City's interest that tax sale properties be bought and repaired as needed before they become so deteriorated that they must be demolished.
- The City has treated these situations inconsistently, sometimes demanding full payment and sometimes negotiating a deal, but not always with the same deal.
- Actual property owners can accumulate high citations and fines and not want to pay all, pleading hardship or absence. Negotiating reduction in liens for tax certificate holders may create expectations that property owners too can get the costs of liens lowered.

Recommendations:

1. Request the County to issue a prominent notice of the possibility of citations and fines if the property is not maintained which will be the responsibility of the tax certificate holder to clear any new liens before completing the purchase transaction. The next tax sales are in July, 2016.
2. City send the same notice to current holders of tax certificates (getting the list from the County).
3. Tax certificate holders be absolutely held responsible for payments of accrued tax liens once those notifications are delivered (to new tax certificate holders by the County and to current tax certificate holders by the City).
4. For those properties already under a Tax Certificate, City Staff negotiate a reduction in citations and fees that have accrued since the purchase of the tax certificate, using the following terms:
 - a. Waiver of any citations that have not yet been to court (open cases);
 - b. A \$150 charge for administrative fees on open cases;
 - c. Waiver of half the amount of citation cases where there is an Affidavit Judgement; and
 - d. Charge for hard costs of abatements undertaken by the City plus half of the normal administrative fee (to recover direct payments to MDIA).
 - e. Requirement that the waivers of costs be subject to the tax certificate holder agreeing in writing to bring the exterior of the property up to the International Property Maintenance Code within 90 days or pay the full costs of citations

and fees. Approved demolition of the structure would qualify as bringing the exterior up to Code.

5. Confirm that this lien reduction program is for holders of tax certificates who may not have realized that additional costs of liens might accrue before foreclosure and completion of the property purchase transactions.