

Council Agenda Report

Date: December 12, 2016
Prepared by: Odie Wheeler, Director, Department of Public Works
Submitted by: Sandra Tripp-Jones, City Manager *STJ*

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

Recommendation: That Council adopt Resolution 16-015 of the Commissioners of Cambridge, MD to Establish and Administrative Standard Operating Procedure Number 45 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, according to the direction of Council on June 20, 2016 and adding a requirement that staff secure written acknowledgment of responsibility for paying such levies by all future purchasers of tax certificates.

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. 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;
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.

The City attorney has prepared a Resolution establishing an Administrative Standard Operating Procedure Number 45 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(C)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. It also contains more specific language requiring notification of new purchasers of tax certificates of their responsibility for paying any new charges for abatements undertaken by the City after the purchase of a tax certificate.

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. 16-015

A RESOLUTION OF THE COMMISSIONERS OF CAMBRIDGE, MARYLAND, TO ESTABLISH AN ADMINISTRATIVE STANDARD OPERATING PROCEDURE NUMBER 45 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. 16-015, 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 properties for violations of the property maintenance code whereby citations are issued after the date the property was sold at a tax sale, but prior to the foreclosure of all rights of redemption by the Tax Certificate Holder; and

WHEREAS, because tax sale certificate holders are not listed as the owner of record of real property at the office of State Department of Assessment and Taxation, said holders do not receive citations for violations of the property maintenance code, and as such, may be unaware that citations and fines have been issued and levied against the real property until such time as they complete the foreclosure of rights of redemption and attempt to transfer title to the property;

NOW, THEREFORE, BE IT RESOLVED THAT THE COMMISSIONERS OF CAMBRIDGE hereby adopt and establish Administrative Standard Operating Procedure No. 45, entitled "Waiver of Fees and Costs for Tax Sale Properties," for City staff to undertake with regard to properties that may, in the future, be the subject of municipal citations for violations of property maintenance issues, where said citations were issued subsequent to the Tax Sale and issuance of a Tax Certificate, but prior to the foreclosure of the rights of redemption, which ASOP shall read as follows:

ADMINISTRATIVE STANDARD OPERATING PROCEDURE NO. 45

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 where the municipal citation was issued after the date the property was sold at a tax sale, but prior to the foreclosure of all rights of redemption. 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 sale, 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 agrees to bring the exterior of the property up to full compliance with the International Property Maintenance Code within 90 days of the date he/she acquires title to the property, or pay the full costs of citations and fees. The agreement shall provide that on the date of settlement, the tax certificate holder shall deposit into an escrow account held by the City Attorney, 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 from the date the tax certificate holder acquires title, the fines and costs abated shall be returned to the tax certificate holder, and all other funds being held in escrow by the City Attorney shall be paid to the City. In the event the tax certificate holder fails to bring the exterior of the property into code compliance within 90 days of the date he/she acquires title to the property, the tax certificate holder thereby forfeits his/her right to any of the escrow funds and any abatement thereof, and all of the funds deposited into escrow shall be distributed to the City by the City Attorney.
3. The partial waiver/reduction of fines/costs, as provided for herein, shall only apply to open cases, (herein defined as cases/citations that have not yet been concluded by court order, exclusive of Judgment by Affidavit);

4. A minimum charge of \$150 charge for each citation shall be assessed as an administrative fee on all open cases;
5. One-half of the dollar amount of citation cases shall be waived where the City has obtained a Judgment by Affidavit; 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 to low and middle 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. NOTICE REQUIREMENTS.

1. For properties in the future upon which the taxes have not been paid and are brought forward for sale of a Tax Certificate:
 - a. At the time of the notice of the Tax Sale is published, the City shall provide notice in the same newspaper, notification to potential purchasers of Tax Certificates that a property may be subject to existing fines and tax liens for which the purchaser of the Tax Certificate will be responsible.
 - b. At the time of the Tax Sale, the City shall provide to bidders at the Tax Sale a notification form prepared by the City Attorney that acknowledges that the property subject to the Tax Sale may be subject to fines and tax liens for which the purchaser of the Tax Certificate will be responsible. Said form is to be in duplicate and signed by the purchaser of the Tax Certificate with a current address, phone number, and email address for the purposes of any notice under section c below, and a copy of the form be provided to him or her. The notice shall provide that any change of address of the holder of the Tax Certificate must be provided in writing to the City of Cambridge to the person and at the address shown on the form.

- c. At any time between the purchase of the Tax Certificate and the ultimate foreclosure and title transfer of the property, if the City plans to levy a fine or lien against the property for any reason or seeks some action to be taken regarding the property, notice of that intent shall be provided to both the titled owner of the property and the holder of the Tax Certificate at the address noted on the form mentioned in section b above by certified mail with return receipt requested.
 - d. If a subject property needs major work because of a hazardous condition existing on the property, city staff shall provide the appropriate notice to the property owner and Tax Certificate holder and may impose appropriate fines and levies in the event the hazardous condition is not corrected.
 - e. The holder of the Tax Certificate shall be entitled to go on the property of the subject Tax Sale for the purposes of correcting or rectifying any exterior problem identified by the city such as grass needing to be cut, broken windows needing to be repaired or boarded, or hazardous conditions needing to be corrected as the city might be allowed to do by law.
2. For properties that have already been subject to a Tax Sale upon which the taxes have not been paid and a Tax Certificate has been issued:
- a. At any time between the purchase of the Tax Certificate and the ultimate foreclosure and title transfer of the property, if the City plans to levy a fine or lien against the property for any reason, notice of that intent shall be provided to both the titled owner of the property and the holder of the Tax Certificate, if the name and address of the holder of the Tax Certificate is available to the City.
 - b. When city staff is aware of the name and legal address of the holder of the Tax Certificate, all future notices regarding possible fines, levies, or required corrective actions shall be provided to the titled owner of the property and said holder of the Tax Certificate both of whom shall be responsible in full for any fines and levies imposed after proper notice is provided.
 - c. If a subject property needs major work because of a hazardous condition existing on the property, city staff shall provide the appropriate notice to the property owner and Tax Certificate holder and may impose appropriate fines and levies in the event the hazardous condition is not corrected for

which the Tax Certificate holder would be responsible unless s/he corrected the problem identified.

- d. The holder of the Tax Certificate shall be entitled to go on the property of the subject Tax Sale for the purposes of correcting or rectifying any exterior problem identified by the city such as grass needing to be cut, broken windows needing to be repaired or boarded, or hazardous conditions needing to be corrected as the city might be allowed to do by law.
3. Upon the compliance by city staff of the above conditions regarding proper notice and reasonable assessments of fines and levies, if a fine is assessed or cost levied for work done by the city, the city shall not negotiate any reduction or abatement in those costs or fines except in extraordinary circumstances as may be approved by the Commissioners of the City of Cambridge, and the tax certificate holder will be responsible for payments of all accrued tax liens and citations issued subsequent to the aforesaid notifications.

Adopted by the Commissioners of Cambridge, this ____ day of December, 2016.

ATTEST:

THE COMMISSIONERS OF CAMBRIDGE

Sandra Tripp-Jones, City Manager

By: _____
Victoria Jackson-Stanley, Mayor