



Legislation Details (With Text)

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Title: Resolution Denying Tax Refund Pursuant to G.S. 105-381, Concerning the 147 Properties Located in Cardinal Manor

Sponsors:

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Attachments: 1. Letter Requesting Refund of Taxes.pdf, 2. Services Provided to Greensboro Residents.pdf, 3. Cardinal Manor - Owners - Payments -2009-2013.pdf, 4. Resolution Denying Refund of Taxes for 147 Properties with Exhibits A and B attached.pdf

Date	Ver.	Action By	Action	Result
3/3/2015	1	City Council	adopt	Pass

Resolution Denying Tax Refund Pursuant to G.S. 105-381, Concerning the 147 Properties Located in Cardinal Manor

Department: Legal
Council District: 5

Public Hearing: Not Applicable
Advertising Date/By: Not Applicable

Contact 1 and Phone: Tom Carruthers, Ext. 2320
Contact 2 and Phone: Becky Jo Peterson-Buie, Ext. 2320

PURPOSE: City of Greensboro taxpayers, identified in Exhibit A, attached hereto and incorporated herein by reference, through legal counsel, Jeffrey K. Peraldo, submitted a letter alleging the City imposed an unlawful tax on his clients, and demanded a refund of property taxes, in whole or in part, for five tax years from 2009 through 2013. The property owners identified in Exhibit A paid City taxes for the tax years from 2009 through 2013. The letter demanded “an appropriate refund of these taxes and a change in either services policy or tax rates, or some combination thereof, moving forward.” City Council must decide whether legal grounds exist to refund taxes to the taxpayers identified in Exhibit A pursuant to G.S. 105-381(b). The City Attorney reviewed this matter and advises there are no legal grounds to refund these tax payments.

BACKGROUND: The one hundred seventy-four (174) addresses identified in Exhibit A became a part of the City of Greensboro by an involuntary annexation into Area 2008-12, instituted pursuant to North Carolina General Statutes § 160A-49. The aforementioned law provides that upon the effective date of annexation the annexation area and those living within it are entitled to the same privileges and benefits as other parts of the city. It is important to note that the law only entitles residents in the annexed area to receive the same services as residents already in the City of Greensboro. The effective date of the annexation in question was July 1, 2008. Based on records maintained by the City of Greensboro, the taxpayers identified in Exhibit A and other

persons annexed in Area 2008-12 have been receiving the required municipal services within the annexation area in accordance with the law.

The attorney for the taxpayers identified in Exhibit A, indicated in his letter to Mayor Vaughan, that “we are not challenging the annexation; but, we believe the taxes are unlawful” in accordance with North Carolina General Statutes § 105-381. Statutory and case law makes it clear that it is too late to challenge the annexation.

According to North Carolina General Statutes § 105-381(a)(1), a valid defense to a tax refund must include “a tax imposed through clerical error; an illegal tax, or a tax levied for an illegal purpose.” There is no allegation of a clerical error in the present situation. There is an assertion of an “unlawful tax”. North Carolina General Statutes § 160A-58.10 makes plain that newly annexed territory is subject to real and personal city taxes. Therefore, the taxes paid by the taxpayers identified in Exhibit A from 2009 through 2013 are not an illegal tax or taxes levied for an unlawful or illegal purpose.

Since the annexation of Area 2008-12 was legal, and the taxes were properly levied, there is no valid defense to justify refund of taxes. For the above stated reasons, there are no legal grounds for the refund of taxes to the taxpayers identified in Exhibit A for the five tax years from 2009 through 2013. Nevertheless, North Carolina law requires City Council to respond to this request.

Attachments: A copy of the letter from Attorney Jeffrey K. Peraldo, requesting a refund of taxes on behalf of his clients identified in Exhibit A;
Spreadsheet of city/county taxes paid by property owners identified in Exhibit A;
Chart showing city services provided to property owners identified in Exhibit A; and
Resolution denying refund of taxes from 2009 through 2013.

BUDGET IMPACT: None.

RECOMMENDATION / ACTION REQUESTED: The City Attorney recommends that Council approve the attached resolution denying the request from the taxpayers identified on the attached Exhibit A, for a refund of taxes for tax years 2009, 2010, 2011, 2012 and 2013.