

Delaware County Announces Countywide Review of Tax-Exempt Properties, Challenges to Exemptions for Ridley Marina, the Springfield Country Club and the Solid Waste Authority

School Districts Would Have Received Hundreds of Thousands of Dollars if Taxes Properly Levied

MEDIA, PA: The Delaware County Council today announced that the County is reviewing all tax-exempt property designations following the identification of for-profit entities receiving abatements, including the for-profit Ridley Marina, the Springfield Country Club and the Solid Waste Authority in Marple. The County is challenging the exemptions given to each of these organizations. Local school districts would have received hundreds of thousands of dollars if not more if these for-profit businesses had been properly assessed.

"One of the reasons the courts ordered the County to reassess every property is because it was clear that over the two decades since the previous assessment, some properties were being incorrectly assessed, leaving others to pick up more than their fair share of the taxes that were due," said Councilmember Christine Reuther. "Examples like these -- where for-profit companies are being awarded exemptions they don't qualify for -- only increases the burden on middle class homeowners at the same time it deprives school districts of needed funds for education."

The County has asked the Assessor's Office to conduct a community-wide review of all exempt properties in the County over the next two years following confirmation that certain properties were paying significantly lower taxes than they should be given that some or all of the property is being used in a way that no longer qualifies for exemption. The initial identification of the Ridley Marina, the Springfield Country Club and the Solid Waste Authority in Marple came from citizen complaints and government officials. It is expected that as other properties are identified where the ownership or use of the property has changed, their exemptions will be challenged as well.

Under the Pennsylvania Constitution, properties can be exempt for a number of reasons. The most well-known reason for exemption is that the property is owned by a "purely public charity" and used for charitable purposes. In addition, the state Constitution includes a property tax exemption for publicly owned land, but only for "That portion of public property which is actually and regularly used for public purposes". PA. CONST. ART. VIII, § 2(a)(iii). That means, property owned by a municipality, school district or other public entity is not exempt from tax if it is used for the operation of a for-profit business.

Almost two decades ago, the Pennsylvania Supreme Court confirmed this interpretation in a suit brought against the Southeastern Pennsylvania Transportation Authority (SEPTA). In its ruling, the Court held that "the portion of SEPTA's property that is rented to commercial entities is not immune from taxation." SEPTA v. Board of Revision of Taxes, 833 A.2d 710 (Pa. 2003)

According to a recent review, the Ridley Marina, despite being a for-profit business, enjoys a tax abatement usually only available to non-profit businesses. In Erie County, a similarly situated marina -- a privately owned facility operating on public land -- was repeatedly found by state courts to owe the full amount of property taxes due when its exemption was challenged. Although approved by a previous County Council, there appear to be no publicly available minutes from the meetings that reflect any discussion of the issue. If the Marina had been

assessed the full amount due on its current assessment, the local school district would have received millions of dollars in additional tax revenue this year.

The Springfield Country Club has, in return for its exemption, pays an annual "payment in lieu of taxes" or PILOT. However, PILOTS are designed to be used by large non-profit entities that consume significant public resources even as they do not pay local taxes. For-profit entities are not eligible for PILOTS. Similar to the approval of the Ridley Marina exemption, although the PILOT for the golf course was approved by a previous County Council, there appear to be no publicly available minutes from the meetings that reflect any discussion of the issue. If the Springfield Country Club had paid the full amount of taxes due, the local school district would have received almost \$200,000 for the 2021-2022 school year.

Other properties that are having their exemptions challenged include the Solid Waste Authority in Marple. The tax exemption at the Waste Authority has been at issue before, when it was sold by a private operator to a municipal authority. As the Court has stated, after its decision in that case, "the [tax exemption] test continues to be whether the agency actually uses the property for a public purpose." SEPTA v. Board of Revision of Taxes, 833 A.2d 710 (Pa. 2003). While the use of the property by the Solid Waste Authority would be exempt, a few years ago it entered into a lease with a private landscaper who is using the property for storage of equipment. It is no longer being used for a "public purpose".

While the properties at issue are owned by public entities, well drafted leases usually provide that any additional taxes subsequently deemed to be due and owing as a result of the use of the property will be borne by the tenant or the occupants of the property. That is how well-run public property owners avoid incurring a tax.

"Delaware County is not seeking to put further burdens on municipal taxpayers, but it is trying to make sure that properties used for commercial purposes pay their fair share. I hope that the leases in place and the rent paid for the use of the property will be sufficient to pick up any additional tax burden. If not, it is not fair that a public entity can collect the rent from property, which is quite high in some instances, and then deprive the County taxpayers and school district taxpayers of the tax revenue they should be receiving. Delaware County was ordered to undergo a full assessment by the courts because our property tax system was unbalanced and required many to pay more than their fair share and nothing is more unfair than having some for-profit businesses skirt the taxes they should owe," closed Councilmember Reuther. "Any business that isn't paying the taxes shifts the burden to homeowners and that is and should be unacceptable to us all. We are just in the beginning stages of evaluating the business properties in Delaware County and as we identify questionable assessments, we will be challenging them."

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