



Real Property Tax Committee

Tuesday, June 27, 2023 2:30PM
40 McMaster Street, Ballston Spa, NY

Chair: Scott Ostrander

Members: Philip Barrett (vc), Diana Edwards, Jack Lawler, Mo Wright

Agenda

- I. Welcome and Attendance
- II. Approval of the minutes of the May 2, 2023 meeting.
- III. Andrew Jarosh, County Treasurer
 - a. Discussion – Tyler V. Hennapin Supreme Court decision
 - b. Amending the 2023 budget for the sale of tax acquired property in light of the US Supreme Court decision of Tyler vs. Hennapin County
 - c. Authorizing a budget transfer to fund the investigation of two tax delinquent parcels for environmental contamination
- IV. Other Business
- V. Adjournment



SARATOGA COUNTY

AGENDA ITEM REQUEST FORM

TO: Steve Bulger, County Administrator
Ridge Harris, Deputy County Administrator
Michelle Granger, County Attorney
Therese Connolly, Clerk of the Board
Stephanie Hodgson, Director of Budget

CC: John Warmt, Director of Purchasing
Jason Kemper, Director of Planning and Economic Development
Bridget Rider, Deputy Clerk of the Board
Matt Rose, Management Analyst
Tracy Goodson, County Attorney's Office
Audra Hedden, County Administrator's Office

DEPARTMENT: County Treasurer

DATE: 06/19/2023

COMMITTEE: Real Property Tax

This column must be completed prior to submission of the request.

1. Is a Resolution Required:

2. Proposed Resolution Title:

Discussion on Tyler v. Hennepin Supreme Court Decision and the fourth coming In-Rem Moratorium

3. Specific Details on what the resolution will authorize:

The NYS Legislature will be passing a bill that establishes a moratorium on tax foreclosures conducted by taxing authorities within the state until July 1, 2024. This will result in our postponement of a March 2024 auction.

County Attorney's Office
Consulted **Yes**

****Please place in Agenda prior to other Treasurer agenda items.****

4. Is a Budget Amendment needed: YES or NO
If yes, budget lines and impact must be provided.
Any budget amendments must have equal and offsetting entries.

County Administrator's Office
Consulted **Yes**

Please see attachments for impacted budget lines.
(Use ONLY when more than four lines are impacted.)

Revenue

Account Number	Account Name	Amount
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Expense

Account Number	Account Name	Amount
----------------	--------------	--------

Fund Balance (if applicable): (Increase = additional revenue, Decrease = additional expenses)

Amount:

5. Identify Budget Impact (**Required**):

No Budget Impact 

- a. G/L line impacted
- b. Budget year impacted
- c. Details

6. Are there Amendments to the Compensation Schedule?

YES or NO (If yes, provide details)

a. Is a new position being created? Y N

Effective date

Salary and grade

b. Is a new employee being hired? Y N

Effective date of employment

Salary and grade

Appointed position:

Term

c. Is this a reclassification? Y N

Is this position currently vacant? Y N

Is this position in the current year compensation plan? Y N

Human Resources Consulted
N/A

7. Does this item require the awarding of a contract: Y N

a. Type of Solicitation

b. Specification # (BID/RFP/RFQ/OTHER CONTRACT #)

c. If a sole source, appropriate documentation, including an updated letter, has been submitted and approved by Purchasing Department? Y N N/A

d. Vendor information (including contact name):

e. Is the vendor/contractor an LLC, PLLC, or partnership:

f. State of vendor/contractor organization:

g. Commencement date of contract term:

h. Termination of contract date:

i. Contract renewal date and term:

k. Is this a renewal agreement: Y N

l. Vendor/Contractor comment/remarks:

Purchasing Office Consulted
N/A

County Administrator's Office
Consulted Yes

8. Is a grant being accepted: YES or NO
- a. Source of grant funding:
 - b. Agency granting funds:
 - c. Amount of grant:
 - d. Purpose grant will be used for:
 - e. Equipment and/or services being purchased with the grant:
 - f. Time period grant covers:
 - g. Amount of county matching funds:
 - h. Administrative fee to County:

9. Supporting Documentation:

- Marked-up previous resolution
- No Markup, per consultation with County Attorney
- Information summary memo
- Copy of proposal or estimate
- Copy of grant award notification and information
- Other Moratorium on In-Rem Foreclosures and Synopsis

10. Remarks:

****Please place in Agenda prior to other Treasurer agenda items.****

STATE OF NEW YORK

7763

2023-2024 Regular Sessions

IN ASSEMBLY

June 7, 2023

Introduced by M. of A. HUNTER -- read once and referred to the Committee on Ways and Means

AN ACT relating to a temporary in rem foreclosure moratorium; and providing for the repeal of such provisions upon the expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The legislature finds that the United
2 States Supreme Court Case of Tyler v. Hennepin County, Minnesota,
3 decided on May 25, 2023, has created legal uncertainty with regard to
4 how municipalities must conduct their in rem delinquent real property
5 tax lien foreclosures and return any surplus funds thereby derived to
6 the appropriate parties, when necessary. As such, the legislature seeks
7 to find a solution that will provide legal certainty in this process and
8 ensure the rights of property owners and municipalities are adequately
9 protected.

10 § 2. No tax district, as defined in subdivision 6 of section 1102 of
11 the real property tax law or enforcing officer, as defined in subdivi-
12 sion 3 of such section, shall convey to any person title to any tax-del-
13 inquent parcel of real property which has been the subject of an in rem
14 tax foreclosure proceeding in any court of competent jurisdiction
15 against any parcel or parcels of real property located within the
16 geographic boundaries of such tax district until the expiration of the
17 moratorium under this act.

18 § 3. This act shall not apply to:

19 1. properties owned by a tax district which were acquired at any time
20 after May 25, 2023 and prior to July 1, 2023, pursuant to article 11 of
21 the real property tax law, or where the tax district filed the final
22 foreclosure judgement order with the court within such time period. In
23 the event that any tax district has acquired title to any delinquent
24 parcel of real property prior to July 1, 2023 pursuant to an in rem tax

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD11739-05-3

1 foreclosure proceeding under article 11 of the real property tax law,
2 the tax district may auction said parcel or parcels contingent upon the
3 foreclosing tax district holding any and all surplus funds in a segre-
4 gated trust account to be maintained by the chief fiscal officer of such
5 tax district until such time that this moratorium is repealed on June
6 30, 2024; or

7 2. a tax district that has a mechanism by which the municipality
8 offers the return of surplus funds to the delinquent tax property owner
9 and such municipality: (a) on January 1, 1993, was authorized to enforce
10 the collection of delinquent taxes pursuant to a county charter, city
11 charter, administrative code or special law; or (b) adopted a local law,
12 no later than July 1, 1994 providing that the collection of taxes in
13 such county, city or town shall continue to be enforced pursuant to such
14 charter, code or special law, as such charter, code or special law may
15 from time to time be amended; and (c) filed a copy of such local law
16 with the commissioner of taxation and finance no later than August 1,
17 1994.

18 § 4. This act shall take effect immediately and shall expire and be
19 deemed repealed on and after June 30, 2024.

PETITIONER

Geraldine Tyler

RESPONDENT

Hennepin County, Minnesota, et al.

ARGUED

Apr 26, 2023

DECIDED

May 25, 2023

Facts of the case

Geraldine Tyler owned a condominium in Minneapolis. She stopped paying her property taxes and accrued a tax debt of \$15,000. To satisfy the debt, Hennepin County foreclosed on Tyler's property and sold it for \$40,000, retaining the net proceeds from the sale.

Tyler sued the County, arguing that its actions violated her constitutional rights. The district court dismissed Tyler's case for failure to state a claim, and the U.S. Court of Appeals for the Eighth Circuit affirmed.

Question

1. Does taking and selling a home to satisfy a debt to the government, and keeping the surplus value as a windfall, violate the Fifth Amendment's Takings Clause?
2. Is the forfeiture of property worth far more than needed to satisfy a debt a fine within the meaning of the Eighth Amendment?

Conclusion

- UNANIMOUS DECISION FOR TYLER

MAJORITY OPINION BY JOHN G. ROBERTS, JR.

Taking and selling a home to satisfy a debt to the government, and keeping the surplus value as a windfall, violates the Fifth Amendment's Takings Clause.

Taking and selling a home to satisfy a debt to the government, and keeping the surplus value as a windfall, violates the Fifth Amendment's Takings Clause. Chief Justice John Roberts authored the unanimous opinion of the Court holding that Tyler plausibly alleged that Hennepin County's actions violated the Takings Clause and thus that her claim can go forward.

The Takings Clause of the Fifth Amendment, applicable to the States through the Fourteenth Amendment, prohibits the government from taking private property without "just compensation." This does not prevent the government from collecting taxes, or from taking action to enforce the collection of taxes. However, the government may not, as Minnesota purported to do by statute in 1935, extinguish a property owner's interest in property when she falls behind on her property taxes. English law, from which the U.S. Constitution derives much meaning, has long proscribed the taking of more from a taxpayer than she owes. Moreover, Supreme Court precedents and Minnesota law itself, in other contexts, recognize the principle that a taxpayer is entitled to the surplus in excess of the debt owed.

Justice Neil Gorsuch authored a concurring opinion, in which Justice Ketanji Brown Jackson joined, addressing the second question presented, which the majority declined to address. In Justice Gorsuch's view, Hennepin County's actions likely also violate the Eighth Amendment's Excessive Fines Clause.

Cite this page

- APA
- Bluebook
- Chicago
- MLA

"Tyler v. Hennepin County, Minnesota." *Oyez*, www.oyez.org/cases/2022/22-166. Accessed 13 Jun. 2023.



SARATOGA COUNTY

AGENDA ITEM REQUEST FORM

TO: Steve Bulger, County Administrator
Ridge Harris, Deputy County Administrator
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Audra Hedden, County Administrator's Office

DEPARTMENT: County Treasurer



DATE: 06/19/2023

COMMITTEE: Real Property Tax



This column must be completed prior to submission of the request.

1. Is a Resolution Required:

Yes, Other

2. Proposed Resolution Title:

Amending the 2023 Budget for the Sale of Tax Acquired Property to \$0 in light of the US Supreme Court Decision of Tyler vs Hennapin County.

3. Specific Details on what the resolution will authorize:

This budget amendment will reduce budgeted revenue from the Sale of Tax Acquired Property from \$750,000 to \$0 in light of the recent SCOTUS ruling that surplus funds from the auction sale of parcels foreclosed on for delinquent taxes cannot be retained by the county until further guidance and legislation is provided by the New York State Legislature.

County Attorney's Office
Consulted Yes

4. Is a Budget Amendment needed: YES or NO
 If yes, budget lines and impact must be provided.
 Any budget amendments must have equal and offsetting entries.

County Administrator's Office
 Consulted Yes

Please see attachments for impacted budget lines.
 (Use ONLY when more than four lines are impacted.)

Revenue

Account Number	Account Name	Amount
A.90-1051	Gain on Sale of Taxaqqprop	-\$750,000

Expense

Account Number	Account Name	Amount
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Fund Balance (if applicable): (Increase = additional revenue, Decrease = additional expenses)

Decrease A-0599.B Appropriated Fund Balance-Budgetary Amount: \$750,000
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5. Identify Budget Impact (**Required**):

Other

- a. G/L line impacted A.90-1051
- b. Budget year impacted 2023
- c. Details

The budget will be amended to decrease revenue and decrease fund balance in the amount of \$750,000.

6. Are there Amendments to the Compensation Schedule?

YES or NO (If yes, provide details)

a. Is a new position being created? Y N

Effective date

Salary and grade

b. Is a new employee being hired? Y N

Effective date of employment

Salary and grade

Appointed position:

Term

c. Is this a reclassification? Y N

Is this position currently vacant? Y N

Is this position in the current year compensation plan? Y N

Human Resources Consulted
N/A

7. Does this item require the awarding of a contract: Y N

a. Type of Solicitation

b. Specification # (BID/RFP/RFQ/OTHER CONTRACT #)

c. If a sole source, appropriate documentation, including an updated letter, has been submitted and approved by Purchasing Department? Y N N/A

d. Vendor information (including contact name):

e. Is the vendor/contractor an LLC, PLLC, or partnership:

f. State of vendor/contractor organization:

g. Commencement date of contract term:

h. Termination of contract date:

i. Contract renewal date and term:

k. Is this a renewal agreement: Y N

l. Vendor/Contractor comment/remarks:

Purchasing Office Consulted
N/A

County Administrator's Office
Consulted **Yes**

8. Is a grant being accepted: YES or NO
- a. Source of grant funding:
 - b. Agency granting funds:
 - c. Amount of grant:
 - d. Purpose grant will be used for:
 - e. Equipment and/or services being purchased with the grant:
 - f. Time period grant covers:
 - g. Amount of county matching funds:
 - h. Administrative fee to County:

9. Supporting Documentation:

- Marked-up previous resolution
- No Markup, per consultation with County Attorney
- Information summary memo
- Copy of proposal or estimate
- Copy of grant award notification and information
- Other Moratorium on In-Rem Foreclosures and Synopsis

10. Remarks:

7/18/23



SARATOGA COUNTY BOARD OF SUPERVISORS

RESOLUTION XXX - 2023

Introduced by Real Property Tax: Supervisors Ostrander, Barrett, Edwards, Lawler and Wright

TEMPORARILY REVISING PROJECTED REVENUES FROM THE 2023 REAL PROPERTY TAX FORECLOSURE AUCTION AND AMENDING THE 2023 BUDGET

WHEREAS, Saratoga County conducted its 2023 real property tax foreclosure auction pursuant to Article 11 of the Real Property Tax Law to foreclose on 2018 tax liens; and

WHEREAS, the auction of such real property concluded on March 24, 2023 and 2018 tax liens were satisfied, with surplus proceeds placed into a County Treasurer's Office account in accordance with the Real Property Tax Committee Policies and Procedures Manual; and

WHEREAS, on May 25, 2023, the United States Supreme Court issued its decision in *Tyler v. Hennepin County* and held that a taxing jurisdiction's receipt of surplus funds from a tax foreclosure proceeding is unconstitutional in violation of the Takings Clause; and

WHEREAS, New York States current in rem tax foreclosure laws and practices under New York State Real Property Tax Law Article 11 may conflict with the United States Supreme Court ruling in *Tyler v. Hennepin County*; and

WHEREAS, in light of the U.S. Supreme Court's decision, the New York State Legislature passed legislation proposing to implement a state-wide moratorium on the conveyance of tax delinquent parcels acquired for delinquent taxes, and submitted the bill to the Governor; and

WHEREAS, it remains unclear whether the decision of the U.S. Supreme Court in *Tyler v. Hennepin County*, or the pending changes to state law, will impact past auctions, such as the one Saratoga County held in March 2023; and

WHEREAS, a budget amendment is necessary pending forthcoming interpretation or guidance issued by the state legislature, executive state agencies, or by any Court with competent jurisdiction; now, therefore, be it

RESOLVED, that this Board is authorized to amend the 2023 County Budget and account for a reduction in revenue derived from the sale of tax delinquent real property from \$750,000 to \$0, and further reducing the fund balance by \$750,000.00; and it is further

RESOLVED, that the 2023 Saratoga County Budget is amended as follows:

PLANNING

Decrease Revenue:

A. 90-1051	Gain on Sale of Taxaqqprop	\$750,000
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Decrease Reserve:

A-0599.B	Appropriated Fund Balance-Budgetary	\$750,000
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; and it is further

RESOLVED, that this Resolution shall take effect immediately.

BUDGET IMPACT STATEMENT: The budget will be amended to decrease revenue and decrease the fund balance by \$750,000.

July 18, 2023 Regular Meeting

Motion to Adopt:

Second:

AYES:

ABSENT:

NOES:

STATE OF NEW YORK

7763

2023-2024 Regular Sessions

IN ASSEMBLY

June 7, 2023

Introduced by M. of A. HUNTER -- read once and referred to the Committee on Ways and Means

AN ACT relating to a temporary in rem foreclosure moratorium; and providing for the repeal of such provisions upon the expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The legislature finds that the United
2 States Supreme Court Case of Tyler v. Hennepin County, Minnesota,
3 decided on May 25, 2023, has created legal uncertainty with regard to
4 how municipalities must conduct their in rem delinquent real property
5 tax lien foreclosures and return any surplus funds thereby derived to
6 the appropriate parties, when necessary. As such, the legislature seeks
7 to find a solution that will provide legal certainty in this process and
8 ensure the rights of property owners and municipalities are adequately
9 protected.

10 § 2. No tax district, as defined in subdivision 6 of section 1102 of
11 the real property tax law or enforcing officer, as defined in subdivi-
12 sion 3 of such section, shall convey to any person title to any tax-del-
13 inquent parcel of real property which has been the subject of an in rem
14 tax foreclosure proceeding in any court of competent jurisdiction
15 against any parcel or parcels of real property located within the
16 geographic boundaries of such tax district until the expiration of the
17 moratorium under this act.

18 § 3. This act shall not apply to:

19 1. properties owned by a tax district which were acquired at any time
20 after May 25, 2023 and prior to July 1, 2023, pursuant to article 11 of
21 the real property tax law, or where the tax district filed the final
22 foreclosure judgement order with the court within such time period. In
23 the event that any tax district has acquired title to any delinquent
24 parcel of real property prior to July 1, 2023 pursuant to an in rem tax

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD11739-05-3

1 foreclosure proceeding under article 11 of the real property tax law,
2 the tax district may auction said parcel or parcels contingent upon the
3 foreclosing tax district holding any and all surplus funds in a segre-
4 gated trust account to be maintained by the chief fiscal officer of such
5 tax district until such time that this moratorium is repealed on June
6 30, 2024; or

7 2. a tax district that has a mechanism by which the municipality
8 offers the return of surplus funds to the delinquent tax property owner
9 and such municipality: (a) on January 1, 1993, was authorized to enforce
10 the collection of delinquent taxes pursuant to a county charter, city
11 charter, administrative code or special law; or (b) adopted a local law,
12 no later than July 1, 1994 providing that the collection of taxes in
13 such county, city or town shall continue to be enforced pursuant to such
14 charter, code or special law, as such charter, code or special law may
15 from time to time be amended; and (c) filed a copy of such local law
16 with the commissioner of taxation and finance no later than August 1,
17 1994.

18 § 4. This act shall take effect immediately and shall expire and be
19 deemed repealed on and after June 30, 2024.

PETITIONER

Geraldine Tyler

RESPONDENT

Hennepin County, Minnesota, et al.

ARGUED

Apr 26, 2023

DECIDED

May 25, 2023

Facts of the case

Geraldine Tyler owned a condominium in Minneapolis. She stopped paying her property taxes and accrued a tax debt of \$15,000. To satisfy the debt, Hennepin County foreclosed on Tyler's property and sold it for \$40,000, retaining the net proceeds from the sale.

Tyler sued the County, arguing that its actions violated her constitutional rights. The district court dismissed Tyler's case for failure to state a claim, and the U.S. Court of Appeals for the Eighth Circuit affirmed.

Question

1. Does taking and selling a home to satisfy a debt to the government, and keeping the surplus value as a windfall, violate the Fifth Amendment's Takings Clause?
2. Is the forfeiture of property worth far more than needed to satisfy a debt a fine within the meaning of the Eighth Amendment?

Conclusion

- UNANIMOUS DECISION FOR TYLER

MAJORITY OPINION BY JOHN G. ROBERTS, JR.

Taking and selling a home to satisfy a debt to the government, and keeping the surplus value as a windfall, violates the Fifth Amendment's Takings Clause.

Taking and selling a home to satisfy a debt to the government, and keeping the surplus value as a windfall, violates the Fifth Amendment's Takings Clause. Chief Justice John Roberts authored the unanimous opinion of the Court holding that Tyler plausibly alleged that Hennepin County's actions violated the Takings Clause and thus that her claim can go forward.

The Takings Clause of the Fifth Amendment, applicable to the States through the Fourteenth Amendment, prohibits the government from taking private property without "just compensation." This does not prevent the government from collecting taxes, or from taking action to enforce the collection of taxes. However, the government may not, as Minnesota purported to do by statute in 1935, extinguish a property owner's interest in property when she falls behind on her property taxes. English law, from which the U.S. Constitution derives much meaning, has long proscribed the taking of more from a taxpayer than she owes. Moreover, Supreme Court precedents and Minnesota law itself, in other contexts, recognize the principle that a taxpayer is entitled to the surplus in excess of the debt owed.

Justice Neil Gorsuch authored a concurring opinion, in which Justice Ketanji Brown Jackson joined, addressing the second question presented, which the majority declined to address. In Justice Gorsuch's view, Hennepin County's actions likely also violate the Eighth Amendment's Excessive Fines Clause.

Cite this page

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SARATOGA COUNTY

AGENDA ITEM REQUEST FORM

TO: Steve Bulger, County Administrator
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Audra Hedden, County Administrator's Office

DEPARTMENT: County Treasurer



DATE: 06/19/2013

COMMITTEE: Real Property Tax



This column must be completed prior to submission of the request.

1. Is a Resolution Required:

Yes, Other

2. Proposed Resolution Title:

Authorizing Budget Transfer of 50,000 from fund balance for professional services related to environmental studies of tax delinquent parcels

3. Specific Details on what the resolution will authorize:

To pay for environmental testing of two parcels in the towns of Northumberland and Stillwater.

County Attorney's Office
Consulted **Yes**

4. Is a Budget Amendment needed: YES or NO
 If yes, budget lines and impact must be provided.
 Any budget amendments must have equal and offsetting entries.

County Administrator's Office
 Consulted Yes

Please see attachments for impacted budget lines.
 (Use ONLY when more than four lines are impacted.)

Revenue

Account Number	Account Name	Amount

Expense

Account Number	Account Name	Amount
A.16.162-8190	Other Professional Sv	\$50,000

Fund Balance (if applicable): (Increase = additional revenue, Decrease = additional expenses)

Decrease A-0599.B Appropriated Fund Balance-Budgetary	<input type="text" value=""/>
Amount: 50,000.00	

5. Identify Budget Impact (**Required**):

Other

- a. G/L line impacted A.16.162-8190
- b. Budget year impacted 2023
- c. Details

The budget will be amended to increase appropriations and decrease fund balance in the amount of \$50,000.

6. Are there Amendments to the Compensation Schedule?

YES or NO (If yes, provide details)

a. Is a new position being created? Y N

Effective date

Salary and grade

b. Is a new employee being hired? Y N

Effective date of employment

Salary and grade

Appointed position:

Term

c. Is this a reclassification? Y N

Is this position currently vacant? Y N

Is this position in the current year compensation plan? Y N

Human Resources Consulted
N/A

7. Does this item require the awarding of a contract: Y N

a. Type of Solicitation

b. Specification # (BID/RFP/RFQ/OTHER CONTRACT #)

c. If a sole source, appropriate documentation, including an updated letter, has been submitted and approved by Purchasing Department? Y N N/A

d. Vendor information (including contact name):

e. Is the vendor/contractor an LLC, PLLC, or partnership:

f. State of vendor/contractor organization:

g. Commencement date of contract term:

h. Termination of contract date:

i. Contract renewal date and term:

k. Is this a renewal agreement: Y N

l. Vendor/Contractor comment/remarks:

Purchasing Office Consulted
N/A

County Administrator's Office
Consulted Yes

8. Is a grant being accepted: YES or NO

a. Source of grant funding:

b. Agency granting funds:

c. Amount of grant:

d. Purpose grant will be used for:

e. Equipment and/or services being purchased with the grant:

f. Time period grant covers:

g. Amount of county matching funds:

h. Administrative fee to County:

9. Supporting Documentation:

- Marked-up previous resolution
- No Markup, per consultation with County Attorney
- Information summary memo
- Copy of proposal or estimate
- Copy of grant award notification and information
- Other Resolution 24-2023

10. Remarks:

7/18/23



SARATOGA COUNTY BOARD OF SUPERVISORS

RESOLUTION * - 2023**

**Introduced by Real Property Tax: Supervisors Ostrander, Barrett, Edwards,
Lawler and Wright**

AUTHORIZING A BUDGET TRANSFER TO FUND THE INVESTIGATION OF TWO TAX DELINQUENT PARCELS FOR ENVIRONMENTAL CONTAMINATION AND AMENDING THE 2023 BUDGET

WHEREAS, pursuant to General Municipal Law §6-c(2), a County may establish a Capital Reserve Fund for the financing of all or part of the construction or acquisition of specific or type of capital improvements or the acquisition of a specific item or type of equipment; and

WHEREAS, the monies in each such fund must be deposited and secured in a manner as provided by Section 10 of the General Municipal Law; and

WHEREAS, pursuant to Resolution 24-2023, a Capital Reserve Fund known as the “Contaminated Real Property Investigation Reserve Fund” (“Reserve Fund”) was established to finance the cost of the environmental restoration investigation of tax delinquent properties; and

WHEREAS, Resolution 24-2023 authorized funding the Reserve Fund by an amount not to exceed one hundred fifty thousand (\$150,000) dollars from surplus revenues from the County’s 2023 tax foreclosure auction and ten percent (10%) from each subsequent auction; and

WHEREAS, on May 25, 2023, the United States Supreme Court issued its decision in *Tyler v. Hennepin County* and held that a taxing jurisdiction’s receipt of surplus funds from a tax foreclosure proceeding is unconstitutional in violation of the Takings Clause; and

WHEREAS, the Tax Enforcing Officer has identified two properties that require a site investigation to ascertain the extent of any environmental contamination: Tax Parcel #104.-1-37.21 located on Route 32N in the Town of Northumberland (“Perry’s Garage”), and Tax Parcel 243.84-2-6 located on Hudson Avenue in the Town of Stillwater (“Milt’s Garage”); and

WHEREAS, the Tax Enforcing Officer estimates that twenty-five thousand (\$25,000) dollars is needed for each Tax Parcel to conduct a site investigation; and

WHEREAS, this Board’s Real Property Tax Committee and Saratoga County’s Tax Enforcing Officer for the County, recommend a transfer of fifty thousand (\$50,000) dollars from the County’s Fund Balance to the Reserve Fund to conduct site investigations at Perry’s Garage and Milt’s Garage; now, therefore, be it

RESOLVED, that the Tax Enforcing Officer is authorized to transfer fifty thousand (\$50,000) dollars from the County's Fund Balance to the Reserve Fund to conduct site investigations at Perry's Garage and Milt's Garage; and it is further

RESOLVED, that this Resolution shall take effect immediately.

BUDGET IMPACT STATEMENT: The budget will be amended to increase A.16.162-8190 and decrease A-0599.B in the amount of \$50,000.

July 18, 2023 Regular Meeting

Motion to Adopt: Supervisor

Second: Supervisor

AYES ():

NOES ():

ABSENT ():



SARATOGA COUNTY BOARD OF SUPERVISORS

RESOLUTION 24 - 2023

**Introduced by Real Property Tax: Supervisors Ostrander, Barrett, Edwards,
Lawler and Wright**

AUTHORIZING THE ESTABLISHMENT OF A CAPITAL RESERVE FUND TO FINANCE THE INVESTIGATION OF CONTAMINATED REAL PROPERTY TO BE ACQUIRED BY THE COUNTY BY TAX FORECLOSURE, AND AUTHORIZING THE TRANSFER OF FUNDS

WHEREAS, pursuant to Section 6-c of the General Municipal Law, as amended, there is hereby established a Capital Reserve Fund to be known as the Contaminated Real Property Investigation Reserve Fund ("Reserve Fund"), with the source of funding to be revenue realized from tax foreclosure auctions after payment of outstanding taxes due to Saratoga County; and

WHEREAS, the purpose of this Reserve Fund is to finance the cost of environmental restoration investigation projects where, in the context of Real Property Tax Law Article 11 tax foreclosure proceedings, where Saratoga County may, pursuant to Environmental Conservation Law § 56-0508, seek temporary incidents of ownership of parcels with delinquent real property taxes and which parcels have environmental contamination or may be suspected of having environmental contamination; and

WHEREAS, the Reserve Fund shall be funded by surplus revenues from the County's in rem tax foreclosure auctions in an amount sufficient to cover the costs and expenses of investigating parcels with known or anticipated contamination; and

WHEREAS, a transfer of funds not to exceed one hundred thousand (\$100,000) dollars in surplus revenues from the County's 2023 tax foreclosure auction is authorized and represents an amount sufficient to establish the Reserve Fund, and for each subsequent year's tax foreclosure auction ten percent (10%) of the surplus revenues received from each year's tax foreclosure auction shall be transferred to the Reserve Fund; and

WHEREAS, the balance of the Reserve Fund shall not exceed one hundred fifty thousand (\$150,000) dollars at any given time except for interest earned or capital gains realized on funds deposited into the Reserve Fund account; and

WHEREAS, our Real Property Tax Committee, Law and Finance Committee, and County Administrator have recommended that a Reserve Fund be created for financing all or part of the costs and expenses of environmental restoration investigation projects; now, therefore, be it

RESOLVED, that the Saratoga County Board of Supervisors hereby establishes an account to be known as the “Contaminated Real Property Investigation Reserve Fund” for the purposes enumerated in Section 6 of the General Municipal Law; and it is further

RESOLVED, that the Saratoga County Treasurer is hereby directed to deposit and secure the moneys of this Reserve Fund in the manner provided by Section 10 of the General Municipal Law, and may invest the moneys in the Reserve Fund in the manner provided by Section 11 of the General Municipal Law consistent with the investment policies of Saratoga County; and it is further

RESOLVED, that any interest earned or capital gains realized on the moneys so deposited or invested shall accrue to and become part of the Reserve Fund, and the Saratoga County Treasurer shall account for the Reserve Fund in a manner which maintains the separate identity of the Reserve Fund and shows the date and amount of each sum paid into the Reserve Fund, interest earned by the Reserve Fund, capital gains or losses resulting from the sale of investments of the Reserve Fund, and the amount and date each withdrawal from the Reserve Fund and the total assets of the Reserve Fund, showing cash balance and a schedule of investments; and it is further

RESOLVED, that except as otherwise provided by law, expenditures from the Reserve Fund shall be made only for the purpose for which the Reserve Fund is established, and no expenditure shall be made from this Reserve Fund without the approval of the Saratoga County Board of Supervisors and such additional actions or proceedings as may be required by Section 6-c of the General Municipal Law or any other law; and it is further

RESOLVED, that the Saratoga County Treasurer is hereby authorized to transfer and deposit into the Reserve Fund revenue realized from the 2023 tax foreclosure auction after payment of the outstanding taxes due to Saratoga County in the amount of one hundred thousand (\$100,000) dollars, and an amount representing ten percent (10%) of the total revenue received from each subsequent year’s auction; and it is further

RESOLVED, that the funds once available shall be deposited into the Contaminated Real Property Investigation Reserve Fund; and it is further

RESOLVED, that the Clerk of the Board of Supervisors shall forward a copy of this Resolution to the Saratoga County Treasurer; and it is further

RESOLVED, that this Resolution shall take effect immediately.

BUDGET IMPACT STATEMENT: No Budget Impact.

February 23, 2023 Regular Meeting

Motion to Adopt: Supervisor(s): Connolly

Second: Supervisor(s) Edwards

Ayes: (168699): Eric Connolly (11831), Philip C. Barrett (19014.5), Diana Edwards (819), Jean Raymond (1333), Kevin Veitch (8004), Arthur M. Wright (1976), Kevin Tollisen (25662), Mark Hammond (17130), Scott Ostrander (18800), Theodore Kusnierz (16202), Sandra Winney (2075), Tara N. Gaston (14245.5), Matthew E. Veitch (14245.5), John Lant (17361)

Noes: (0):

Abstain: (0)

Absent (66811): Joseph Grasso (4328), Jonathon Schopf (19014.5), Eric Butler (6500), Michael Smith (3525), Thomas Richardson (5163), Willard H. Peck (5242), Thomas N. Wood, III (5808), Edward D. Kinowski (9022), John Lawler (8208)