

Written Response for Legislative Hearing  
March 28, 2019

I am the owner of 2140 Bayard Avenue (08-28-23-44-0053) and am contesting the \$69.95 Delinquent Trash Bill assessment on these grounds:

1. I am not legally obliged to pay the original invoice; I have no written or oral contract with Aspen Waste Systems, Inc., nor have I used its services. The invoice's October 4, 2018 due date occurred before Chapter 220 became effective on October 10, 2018 (Exhibit A).

2. The City of St. Paul has no statutory or common-law authority to enter into a contract with any entity and bill someone else. I am not a party to the City's contract with St. Paul Haulers, LLC, (Exhibit B) and am not liable for the City's commitments to the haulers.

3. The City must issue the original invoice before exercising its assessment authority under Minn. § Stat. 443.29. Section 443.34 clearly states that "The activity [rubbish disposal] herein authorized shall be considered a public utility." Section 443.33 requires that:

"Rates charged and collected, including compensation for work under contract, shall be deposited in a fund separate and distinct from any and all other city funds, to be designated "Rubbish Disposal Fund" which shall be a continuing fund to which shall be credited all receipts, and to which shall be charged all costs, principal or current, incident to such activity."

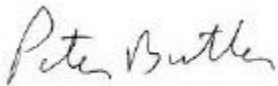
Section 443.29 requires that:

“The rates for rubbish disposal shall be a charge against the premises from which rubbish is collected, and the owner, lessee, or occupant of the premises, or against any or all of them, and any claim for unpaid rates charged or rentals which have been **properly** billed to the occupant of the premises ... may be certified to the county auditor with the taxes against such property served, and shall be collected as other taxes are collected. Payment of delinquent rentals shall be credited to the fund as are **current funds** for that purpose.” (Emphasis added)

The City’s contract with St. Paul Haulers, LLC, clearly states that the haulers are independent contractors and not “agents, representatives or employees of the City” (Section 6.1).

4. Chapter 220 was “suspended in its operation” when the City Council passed Resolution 18-1922 on November 15, 2018 (Exhibit C).

Sincerely,



Peter K. Butler  
2140 Bayard Avenue  
St. Paul, MN 55118

## Exhibit A. Ordinance 18-39 became effective after the Payment Due Date

Details		Reports	
File #:	Ord 18-39	Version: 3	Name: Chapter 220 version 2
Type:	Ordinance	Status:	Passed
		In control:	<a href="#">City Council</a>
		Final action:	9/5/2018
Title:	Creating Chapter 220 of the Saint Paul Legislative Code regulating coordinated collection of certain residential trash.		
Sponsors:	Amy Brendmoen		
Attachments:	1. <a href="#">Misc. comments for July 18 meeting from website</a> , 2. <a href="#">Online comments re Coordinated Collection</a> , 3. <a href="#">Comment rec'd by Council re Coordinated Trash Collection</a>		
History (6)		Text	
Public Comments (25)			
6 records	Group	Export	
Date	Ver.	Action By	Action
9/5/2018	3	Mayor's Office	Signed
			Result
			Action Details
			Meeting Details
			Video
			<a href="#">Action details</a>
			Meeting details
			Not available


**File #: Ord 18-39, Version: 3**

reason held to be invalid by a court of competent jurisdiction, the invalidity shall extend only to the section, subsection, sentence, clause or phrase affected, and shall not affect the validity of the remaining portions of this article.

Section 2

~~This Ordinance shall take effect and be in force beginning October 1, 2018, following its passage, approval and publication.~~

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.

 <p>ASPEN WASTE SYSTEMS INC. 2951 Weeks Avenue S.E. • Minneapolis, MN 55414 612-884-8008 612-884-8010 FAX www.aspenwaste.com</p>	<table border="1"> <tr> <th>Payment Due Date</th> <th>Amount Due</th> <th>Amount Paid</th> </tr> <tr> <td>10/04/2018</td> <td>\$60.83</td> <td></td> </tr> </table>	Payment Due Date	Amount Due	Amount Paid	10/04/2018	\$60.83	
	Payment Due Date	Amount Due	Amount Paid				
10/04/2018	\$60.83						
<p>2138 1 AV 0.378 PETER K BUTLER 2140 BAYARD AVE SAINT PAUL MN 55116-1235</p>	<p>Acct No. 2-119901 3 Statement Date 09/20/2018 Ref #: S21199013-092018</p> <p>Service Address: PETER K BUTLER 2140 BAYARD AVE SAINT PAUL MN 55116</p> <p>Remit To:</p> <p>AWS SERVICE CENTER P.O. BOX 3049 DES MOINES, IA 50316</p> <p>201199013000000009201800060834</p>						

**Exhibit B. Peter K. Butler is not a party to the City's Contract**

**RESIDENTIAL SOLID WASTE, YARD WASTE AND BULKY WASTE  
COLLECTION AGREEMENT**

This Contract is made and entered into this 14<sup>TH</sup> day of Nov., 2017, by and between the City of Saint Paul, a municipal corporation ("City") and St. Paul Haulers, LLC, a Minnesota Limited Liability Company ("Consortium").

**23 Signature Page - City**

In witness hereto, the City and the Consortium have executed this document as of the day and year first above written.

CITY OF SAINT PAUL MINNESOTA,  
A Minnesota Home Rule Charter city

By: Kristin L. Beckmann Date: 11-14-17  
Christopher B. Coleman

Its: Mayor

By: Todd Hurley Date: \_\_\_\_\_  
Todd Hurley

Its: Finance Director

By: Kathy Lantry Date: 11-14-17  
Kathy Lantry

Its: Director of the Department of Public Works

Reviewed and Approved:

Rachel G. Tierney Date: 11/14/17  
Rachel G. Tierney

Deputy City Attorney

**Exhibit C. Chapter 220 was suspended on November 14, 2018**

## Sec. 8.05. - Referendum.

Any ordinance or resolution passed pursuant to subdivisions (5) or (6) of [Section 6.03.3](#) of this Charter may be subjected to referendum by a petition filed within forty-five (45) days after its publication. The petition shall state, at the head of each page or in an attached paper, a description of the ordinance or resolution involved. **Any ordinance or resolution upon which a petition is filed, other than an emergency ordinance, shall be suspended in its operation as soon as the petition is found sufficient.** If the ordinance or resolution is not thereafter entirely repealed, it shall be placed on the ballot at the next election, or at a special election called for that purpose, as the council shall determine. The ordinance or resolution shall not become operative until a majority of those voting on the ordinance or resolution vote in its favor.



## City of Saint Paul

City Hall and Court House  
15 West Kellogg Boulevard  
Phone: 651-266-8560

### Legislation Text

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**File #: RES 18-1922, Version: 1**

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Finding the Petition for a referendum of **Ord 18-39 is legally sufficient** but that the subject matter is not appropriate to submit to the electorate.