

March 13, 2019

Office of Financial Services – Assessments

700 City Hall, 15 West Kellogg Boulevard, Saint Paul, MN 55102-1658

VIA: US Mail and electronic upload to [www.stpaul.gov/disputegarbage](http://www.stpaul.gov/disputegarbage)

RE: 361 SUMMIT AVE. Property ID: 01-28-23-13-0025

I am writing to dispute your claim for charges allegedly due for garbage services at the above property. In September 2018, I requested via certified mail, return receipt requested, that HIGHLAND SANITATION put unused trash carts on hold. They failed and/or refused to do so. To date, and despite the hauler's demands for payment, **NOT ONE PIECE OR BAG OF TRASH HAS BEEN COLLECTED FROM THE ABOVE PROPERTY BY THIS CITY-ASSIGNED HAULER.** This hauler has provided ZERO "Base Level Services."

**A.** Your Invoice and Final Notice cites Minn. Stat Chap. 443.29 as authority for an assessment.

Minn. Stat. Chap. 443.29 states, in part, "The rates for rubbish disposal shall be a charge against the premises **from which rubbish is collected...**"

Minn. Stat. Chap. 443.27 states, in part, "The words 'rubbish disposal' mean the **removal, collection, and disposal** of 'rubbish'..."

Assuming solely for the sake of argument that Minn. Stat. Chap. 443 applies to this scenario:

1. The right to assess charges only arises when the trash hauler has *actually collected* some rubbish. That is not the case here. St. Paul's Coordinated Garbage Collection Program began in October 2018, and since that time HIGHLAND SANITATION has not removed, collected or disposed of any rubbish from this property.
2. Minn. Stat. 443.28 states, in part, "Rates for...rubbish disposal...shall be as nearly as possible just and reasonable, taking into account the character, kind, and quality of service, of rubbish and method of disposition, the number of people served at each place of collection, and all other factors that enter into cost of service...upon facilities now owned and operated by any such city, or hereafter acquired for such use."
  - For decades, residents in our multi-unit building have successfully shared one trash container. As of August 2018, our annual "free market" rubbish disposal cost was \$244.32/year. Now, we are told to pay a private hauler \$1,178.40/year for so-called "service" that includes empty, unused, unnecessary and unwanted trash carts.
  - The resulting \$934.08/year price increase is way beyond just and reasonable.
  - Charges for unnecessary empty trash carts are not just and reasonable.
  - By requiring too many trash carts, the city's new garbage rules fail to take into account the character and kind of rubbish, and those rules fail to consider the number of people served.
  - Unused trash carts are not improvements and are not a benefit to my property.
  - Overly-generous payments to private haulers cover costs of facilities that are not owned and operated by any city.

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**B.** Your Invoice and Final Notice cites the procedure outlined in Minn. Stat Chap. 429 as authority for an assessment, although you fail to identify any part of Chap. 429 as authority to make this assessment.

Minn. Stat. Chapter 429 appears inapplicable to this situation as it pertains to the city's right to calculate and make assessments for expenses incurred when making **improvements**. The collection of garbage, rubbish or trash is not defined in Chapter 429 as an "improvement."

The only reference to rubbish in that statute appears as Minn. Stat. 429.101, Subd. 1(a)(1), pertaining to "rubbish removal from sidewalks." There has been no removal of sidewalk rubbish.

**C.** Your Invoice and Final Notice cites the Saint Paul City Charter as authority for an assessment, although you fail to identify any part of the Charter as authority to make this assessment.

City Charter Sec. 14.01. – Power to levy assessments, states in part, "The city shall have the power to levy assessments to pay all or any part of the cost of **improvements** as are of a local character, but in no case shall the amounts assessed exceed the **benefits** to the property."

City Charter Sec. 14.01.4.(2) – Appeal, states in part, "The only defense to an assessment shall be that the assessment is **fraudulent**, or that it is made upon a demonstrable **mistake** of fact or law, or that the assessment is in an amount in **excess of the actual benefits** to the property."

- Ordinance 18-39 (Chapter 220; the Coordinated Garbage Collection Program) did not become effective until October 10, 2018, 30-days after its publication. Haulers and the city have no authority to charge unwilling property owners for days before October 10<sup>th</sup>.
- Significant parts of this new garbage collection program fly in the face of equity, fiduciary duty, and Minnesota Statutes.
- Unused empty trash carts are not improvements and are not a benefit to my property.
- City-mandated payments to private haulers for unnecessary trash carts should be recognized for what they are – city-sponsored extortion – and eliminated.
- Ordinance 18-39 is the subject of a petition for referendum and is now a central issue in a lawsuit that was filed in Ramsey County District Court in February 2019. If plaintiffs' (petitioners') arguments prevail, ORD 18-39 (Chapter 220) will be suspended and/or repealed. The outcome of this litigation is not known. Therefore, processing of all delinquent garbage bills as assessments against properties should be suspended immediately, pending the final outcome of litigation and a possible referendum.

Based on the information you have provided, I can find no justification for your invoice @ **\$294.60**. If there is some specific law pertaining to your claim that is not stated in your Invoice and Final Notice, or if you have additional information to support your claim, or if you have questions, please contact me.

Sincerely,

Eric Lein (Property Owner)  
361 Summit Avenue, St. Paul, MN 55102

trash.elein@apts.cc