

LEGISLATIVE
HEARING
5/14/2019

93 N. MILTON
99 N. MILTON

Sec. 14.01.4. - Appeal.

(2) 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**. The jurisdiction of the court shall not be affected by an error, act or omission not affecting the substantial rights of any person.

Mistake

- **ORD 18-39 should have been suspended as of 11/14/2018** (date that City Council found 5,541 signatures to be sufficient). Council erred by saying that subject matter is not appropriate for submission to the electorate. Petitioners filed a lawsuit on 02/07/2019. Judge Castro hopes to rule within 30 days after the hearing on 05/09/2019. He seemed to indicate (fairly strongly) that he favors voters' rights to petition for a referendum.
- **ORD 18-40 is currently suspended.** Previous language [now in force] says:
 - 357.05(g)(1) – "...This section shall not preclude abutting property owners from cooperating for arranging for collection services from a licensed hauler, nor other arrangements for reasonable interruption of service."
 - A licensed hauler collects trash @ 93 & 99 N. Milton because ORD 18-39 should have been suspended in November 2018.....and we do not want to go without service for 8 units.
- **MN Stat. 443.28.** "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."
- **Garbage Contract.** Haulers signed 1-day late. Missed the Council's deadline of 11/13/2017. (See documents filed in district court by City Attorney on 05/06/2019 16:29. Exhibit H – RES 17-1776.)

Amount in excess of actual benefits to the property

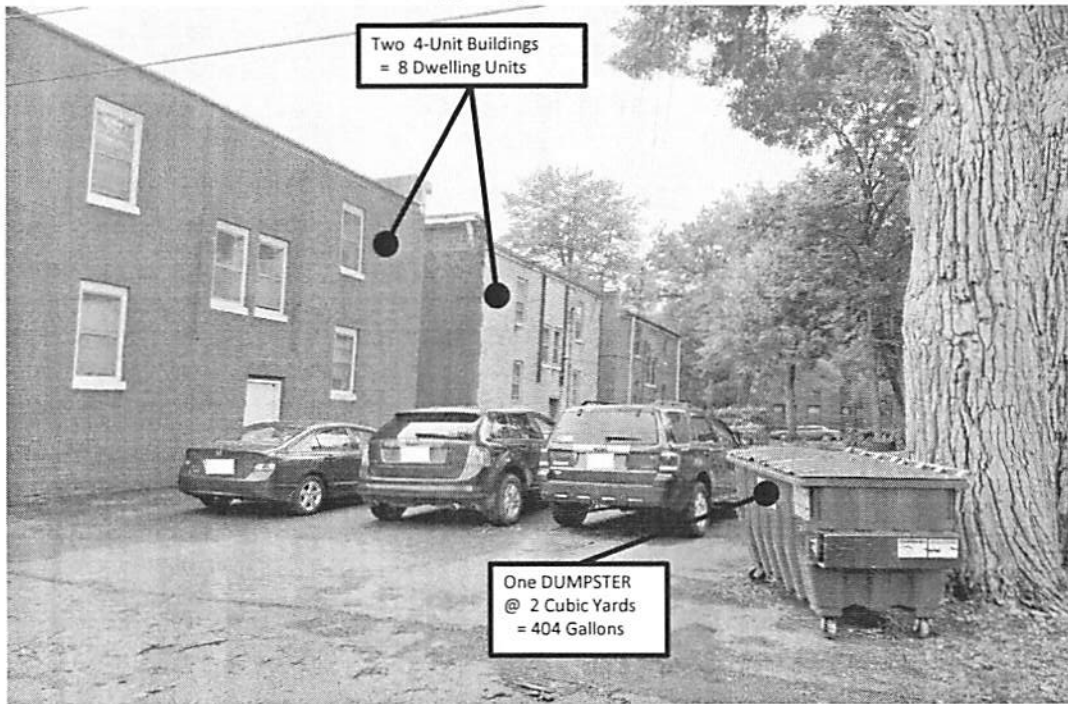
- **Example #1.** 3-Units @ 547-549 [ONE cart]; across alley from 1-family house [ONE cart].
 - The same garbage truck makes ONE stop adjacent to both properties.
 - Each property uses & needs only ONE cart.
 - Yet, the City says my "service" charges (e.g., "benefits") are triple the 1-family's.
- **Example #2.** 1st cart from Waste-Management is city-specified charge. 2nd, 3rd, 4th carts add about 50% of the city-specified charge for each "extra" cart.
 - How is it that extra carts filled at a single-family are granted a 50% discount?
 - Why don't empty carts at a 1-, 2-, 3- or 4-unit property get at least a 50% discount?
- **Example #3.** See page with apartment photos & trash hauling prices.

○ 869-871 – 5-UNITS	\$ 413.28/year = \$ 34.44/mo = \$ 6.89/unit/mo
○ 93-99 – 8-UNITS – FreeMkt	\$ 956.76/year = \$ 79.73/mo = \$ 9.97/unit/mo
○ 580-586-590 – 34-UNITS	\$ 1,588.08/year = \$ 132.34/mo = \$ 3.89/unit/mo
○ 934 – 20-UNITS	\$ 1,817.64/year = \$ 151.47/mo = \$ 7.57/unit/mo
○ 93-99 – 8-UNITS City-\$\$\$	\$ 2,859.36/year = \$ 238.25/mo = \$ 29.78/unit/mo
○ 894-902-908 – 65-UNITS	\$ 3,157.08/year = \$ 263.09/mo = \$ 4.05/unit/mo

Fraudulent * EXAMPLE #4 450 GARAGE = 7 HOURS ONE CAR ← US 99 N. MILTON = 7 HOURS 4 CARS

- The City forces targeted (multi-family & low-waste) citizens to pay private haulers for so-called "service" of unnecessary, unused, and unwanted empty trash carts. From this customer's perspective, these city activities smell a lot like extortion.

St. Paul's new rules will force garbage costs to "skyrocket" while cars compete with trash carts for off-street parking spaces.



Please **Re-negotiate** Saint Paul's Organized Trash Program

CURRENT COST

- Two 4-unit apartment buildings = 8 Residential Dwelling Units
- One 2 Yard Dumpster --> 404 Gallons
- Weekly Pickup (Includes taxes + fees)
- **ANNUAL TOTAL = \$956.76 / YEAR**
- Cost per dwelling unit = \$9.97 / month

CITY'S ORGANIZED TRASH

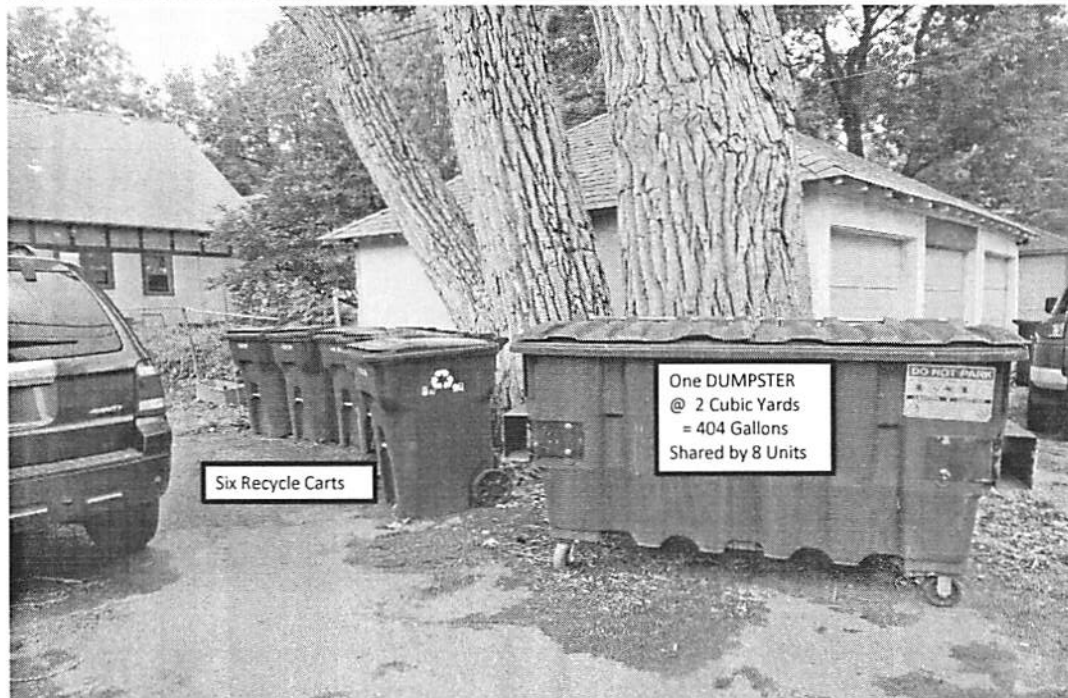
- Same two buildings; Same residents; Same 8 Units
- 8 Carts --> 400 Gallons
(4 small @ 35 Gal + 4 medium @ 65 Gal)
- Weekly Pickup (Includes taxes + fees)
- **ANNUAL TOTAL = \$2,859.36 / YEAR**
- Cost per dwelling unit = \$29.78 / month

Cost Increase

- Mandated by the City's new rules:
No Sharing, No Opt-out & No Dumpsters
- **\$19.81** per month, per unit

Goals:

- Ability to Opt Out
- Ability to Share Containers
- Reduce Excessive Price Increases
- Reduce Excessive Space Requirements
- Make the Program **FAIR TO ALL**





THREE APARTMENT BUILDINGS

10 + 8 + 16 = 34 Units

- 4 Efficiency/Studio
- 21 1-Bedroom
- 9 2-Bedroom

TRASH SERVICE

ONE 6-Cubic Yard Dumpster
Picked up **ONE** time per week

Cost:	1,588.08 / year	132.34 / month
	46.71 /apt/year	3.89 /apt/month

Cost includes taxes & fees @
28% to Ramsey County + 9.75% to State of MN



Other Buildings -- Not pictured

5-Units -- Two 95-gallon carts, weekly pick-up		
	413.28 / year	34.44 / month
	82.66 /apt/year	6.89 /apt/month
8-Units -- One 2-yard dumpster, weekly pick-up		
	956.76 / year	79.73 / month
	119.60 /apt/year	9.97 /apt/month
20-Units -- One 2-yard dumpster, twice weekly pick-up		
	1,817.64 / year	151.47 / month
	90.88 /apt/year	7.57 /apt/month
65-Units -- One 6-yard dumpster, twice weekly pick-up		
	3,157.08 / year	263.09 / month
	48.57 /apt/year	4.05 /apt/month

After Stillwater Country Club spared tab, residents win street assessment fight

By MARY DIVINE, Pioneer Press
PUBLISHED: April 6, 2019 at 4:57 am
UPDATED: April 7, 2019 at 9:39 am

After almost two years of blowback regarding street assessments, Stillwater officials this week announced that they have reached a settlement with residents who live on the south side of West Moore Street.

The residents in 2017 had questioned why their neighbor to the north — the Stillwater Country Club — wasn't being assessed for the street's reconstruction. Carol Gapen and her neighbor, Gwynne Fransen, also claimed that the "benefit" received from the street project did not outweigh the \$7,200 they were assessed.

★ (State law requires that the assessment cannot exceed the benefit to the property owner from a project.

Under the settlement announced Thursday, 23 residents who appealed the assessments will pay half the original amount, said Gapen, an attorney who is retired from practicing in Wisconsin. The city also will pay for depositions, expert reports and mediation costs, she said.

"Nevertheless, they persisted," Gapen said Friday. "You can fight city hall. People shouldn't be afraid to speak up. What the city did was wrong. They never made an actual benefit analysis, but made the assessments based on the cost of the project."

As of 2014, property owners in Stillwater pay 70 percent of the cost of street reconstruction, and the city pays 30 percent. Previously, property owners and the city split the cost.

★ ("Case law is clear," said Alan Kantrud, an attorney who represented the residents in their case against the city. "If you don't test for benefit prior to assessment, you are acting in an arbitrary and capricious manner, and your assessment will not survive judicial scrutiny."

Stillwater's street-assessment policy "arbitrarily levies 70 percent of the cost of public improvements on its citizens without regard for actual benefit," Kantrud

said. "It's not defensible. And a blanket policy of not assessing private golf courses is ludicrous."

Gapen, Fransen and other neighbors were prepared to take the matter to the Minnesota Supreme Court, he said.

"Ours was a case of good government from the get-go," Kantrud said. "While the citizens were upset about their own lack of benefit from the assessments made, they were also upset about the exclusion of the Stillwater Country Club from any assessment."

City officials told the Pioneer Press in 2017 that they had determined that the Stillwater Country Club would receive no benefit from the roadwork. Because the golf course was not assessed, the city planned to pay 100 percent of the country club's cost.

But, Kantrud said, city officials "felt perfectly comfortable" levying assessments against the First Methodist Church of Stillwater and an elder-care center.

Mayor Ted Kozlowski said the city's street-assessment policy is fair.

"The city didn't do anything wrong," he said. "Ultimately, it was in the best interest of the city not to go to trial from a cost standpoint. I felt very confident that we would prevail at trial. What's unfortunate is the costs of going through that were so high, it wasn't worth proving that we were right."

In the future, appraisals will be done before a project is started to prove a benefit to property owners, he said.

Kantrud said he was happy to hear the city will be changing its ways.

"Cities need to inform their decisions to assess," he said. "This case proves that if you don't do your homework and test for benefit, then your assessments are not sustainable. I hope that the city of Stillwater learned that their past practices were not sufficient to meet that burden or that standard."

The Moore Street project was part of a \$2.2 million package that included mill and overlay in the southeast part of the city, the eastern half of the Benson neighborhood and Myrtlewood Court.

<https://www.twincities.com/2019/04/06/after-stillwater-country-club-spared-tab-residents-win-street-assessment-fight/>