

SHERRI BEVAN WALSH
Summit County Prosecuting Attorney
 53 University Avenue, 6th Floor
 Akron, Ohio 44308-1680

10-278

MARY ANN KOVACH
 Chief Counsel

March 12, 2010

CIVIL DIVISION
 (330) 643-2800
 (330) 643-8708 Fax

Richard A. Levin, Ohio Tax Commissioner
 Ohio Department of Taxation
 P.O. Box 530
 Columbus, Ohio 43216-0530

CRIMINAL DIVISION
BRAD GESSNER
 Chief Assistant
MARGARET KANELIS
 Deputy Chief Assistant
 (330) 643-2788
 (330) 643-8277 Fax

Re: Petition for the transfer of funds pursuant to O.R.C §5705.16

Dear Mr. Levin:

VICTIM SERVICES DIVISION
KRISTEN ARAPP
 Director
 (330) 643-2800
 (330) 643-2137 Fax

Pursuant to O.R.C. §5705.16, enclosed please find a copy of the proposed petition for the transfer of funds from Fund No. 55002, the Environmental Services – Water Fund, to the Summit County General Fund for the reasons set forth in said petition. Also enclosed please find a certified copy of Resolution Number 2010-024 declaring the necessity for the transfer of these funds as authorized by O.R.C. §5705.16. We ask that you review and approve said petition and notify us of your approval at your earliest convenience. It is my understanding that you will also notify Summit County Council of your approval of the petition, at which time our office will file the petition with the Summit County Court of Common Pleas.

COMMUNICATIONS
LAURIE CRAMER
 Director
 (330) 643-8386
 (330) 643-2043 Fax

If you have any questions regarding this matter, please feel free to contact me.

CHILD SUPPORT ENFORCEMENT AGENCY
JENNIFER BHEAM
 Director
 175 South Main Street
 P.O. Box 80598
 Akron, OH 44308-0598
 (330) 643-2765
 (330) 643-2745 Fax

Very truly yours,

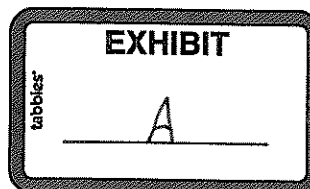
JUVENILE DIVISION
 650 Dan Street
 Akron, OH 44310-3989
 (330) 643-2943
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SHERRI BEVAN WALSH
 Prosecuting Attorney

Corina Staehle Gaffney
CORINA STAEHLE GAFFNEY
 Assistant Prosecuting Attorney

TAX DIVISION
 220 S. Balch Street
 Suite 118
 Akron, OH 44302
 (330) 643-2617
 (330) 643-8540 Fax

CSG/tlp
 Enclosure
 cc: Richard E. Dobbins, Director, Department of Law

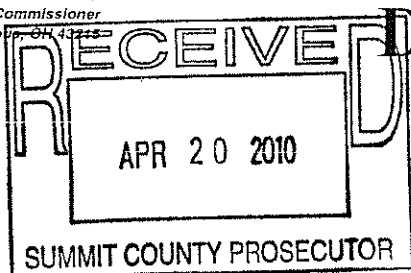


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FINAL DETERMINATION



Date: APR 15 2010

Corina Staehle Gaffney, Esq.
Assistant Prosecuting Attorney
Summit County Prosecuting Attorney's Office
53 University Avenue, 6th Floor
Akron, Ohio 44308-1680

Entry Number: 10-04-0146

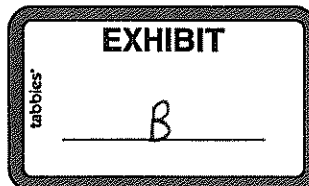
Re: Denial of a Transfer of Funds for Summit County, from the Water Enterprise Fund to the General Fund.

The County Prosecuting Attorney filed an application on April 7, 2010, with the Tax Commissioner on behalf of Summit County, Ohio, for authority to transfer funds from the Water Enterprise Fund to the General Fund of the City pursuant to R.C. §§ 5705.15 and 5705.16. The amount requested to be transferred is One Million Eight Hundred Twenty-Nine Thousand Four Hundred Fifty-Seven Dollars and Thirty-Five Cents (\$1,829,457.35).

The Water Enterprise Fund was established under R.C. § 6103.02 to deposit all moneys collected as rates, charges, or penalties fixed or established in accordance with division (F) of that section to provide for the operation and maintenance of water lines. Since the County "no longer operates a water supply system, and no longer provides water service to customers," the County wishes to dissolve the Water Enterprise Fund and transfer the remaining balance into the General Fund.

Section 5705.16 allows a political subdivision to petition the Tax Commissioner for approval to transfer funds authorized by R.C. § 5705.15. Through R.C. § 5705.15, the Tax Commissioner may approve transfers of funds that are not authorized by R.C. § 5705.14, with certain exceptions.

The unexpended balance in any special fund, other than an improvement fund, established under division (D), (F), or (G) of R.C. § 5705.09 or R.C. § 5705.12, may be transferred pursuant to R.C. § 5705.14(D) to the general fund, if the activity, service, or other undertaking for which the special fund existed is now terminated, but only after payment of all obligations incurred and payable from that fund. The taxing authority must pass a resolution with the affirmative vote of two-thirds of its members. No approval of the court of common pleas is required for a transfer under division (D) of R.C. § 5705.14. Moreover, no transfer of funds pursuant to any division of R.C. § 5705.14 requires the approval of the Tax Commissioner.



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The Water Enterprise Fund was created pursuant to R.C. § 5705.09(F), a special fund for a class of revenue derived from a source other than the general property tax, which the law requires to be used for a particular purpose. Based on the applicant's statements in the Petition and Resolution the conditions of R.C. § 5705.14(D) are satisfied, and the fund transfer in question is, as a result, a candidate for R.C. § 5705.14(D) treatment. Thus, the Tax Commissioner's approval is not required for this transfer involving a terminated activity.

Therefore, the Tax Commissioner finds, after examining County Resolution No. 2010-024, adopted February 8, 2010, and the Petition addressed to the Court of Common Pleas of Summit County, Ohio, that this request for a transfer of funds in the amount of One Million Eight Hundred Twenty-Nine Thousand Four Hundred Fifty-Seven Dollars and Thirty-Five Cents (\$1,829,457.35) does not comply with the provisions of R.C. §§ 5705.15 and 5705.16, and hereby denies the request to file that petition in the Court of Common Pleas of Summit County, Ohio, under those sections.

A copy of this entry will also be mailed to the Clerk of County Council.

THIS IS THE TAX COMMISSIONER'S FINAL DETERMINATION WITH REGARD TO THIS MATTER. UPON EXPIRATION OF THE SIXTY-DAY APPEAL PERIOD PRESCRIBED BY R.C. 5717.02, THIS MATTER WILL BE CONCLUDED AND THE FILE APPROPRIATELY CLOSED.

I CERTIFY THAT THIS IS A TRUE AND ACCURATE COPY OF THE FINAL DETERMINATION RECORDED IN THE TAX COMMISSIONER'S JOURNAL

Richard A. Levin
RICHARD A. LEVIN
TAX COMMISSIONER

/s/ Richard A. Levin

Richard A. Levin
Tax Commissioner

ECS