

### **Taxpayer's Remedies – Request for Refund: Neill J. Pollock**

Note: Prepared by Robert Adden, Attorney with Ruff, Bond, Cobb, Wade, and Bethune, LLC representing the Office of the Tax Collector.

By letter dated January 30, 2019 (copy attached to Board Action Request), attorney Peter N. Carlino, on behalf of his client Neill J. Pollock, requested a refund of interest paid related to tax bills for his property located at 11711 Coddington Ridge Drive, Charlotte, NC 28214 (tax parcel 031-223-61). Mr. Pollock contends that interest charged to his account was due to a clerical error in the billing process.

The clerical error that Mr. Pollock refers to in his request was an error by a closing attorney related to tax parcel 031-223-58, located at 11677 Coddington Ridge Drive owned by Ms. Victoria Koester. When Ms. Koester purchased her house in 2005, the closing attorney used the wrong parcel number on the Deed of Trust. Ms. Koester's property was not updated by Land Records to indicate that she was the new owner, thus it remained in the previous owner's name (Portrait Homes). As a result, from 2007 through 2017, Ms. Koester's mortgage company collected escrow payments from Ms. Koester and submitted those payments to the Office of the Tax Collector referencing the tax bills for Mr. Pollock's property, and in turn, her tax bills went to Portrait Homes. However, since Portrait Homes was in bankruptcy, the tax payments for Ms. Koester's property were not collected.

In September 2018 Ms. Koester discovered that there was a property tax lien on her property at 11677 Coddington Ridge Drive for more than \$24,000. She contacted the Office of the Tax Collector with proof that her mortgage company had been making the tax payments. The Office of the Tax Collector confirmed that her escrow payments had been submitted and applied to Mr. Pollock's tax bills. Mr. Pollock was contacted by the Office of the Tax Collector about the issue and notified that the payments were going to be correctly applied to Ms. Koester's property (the correct parcel).

Pursuant to NCGS 105-394, the Office of the Tax Collector corrected the tax payment issue and applied the payments to Ms. Koester's tax bills. This action resulted in taxes being owed on Mr. Pollock's property dating back to 2007. The tax bills on Mr. Pollock's property for years 2007-2017 totaled \$24,844.09. Mr. Pollock paid that sum on January 31, 2019 and requested that the interest totaling \$9,326.01 be refunded to him on the basis that if there had not been an error in the tax billing process, he would have paid his taxes each year without incurring the interest.

The Office of the Tax Collector recommends that the Board of County Commissioners deny the refund request. First, any "clerical error" in the billing process was due to errors made by Ms. Koester's closing attorney when the wrong tax parcel was included in the closing documents. Second, Mr. Pollock did not have a mortgage on his property, yet his tax bills were being paid each year by a mortgage escrow account. Mr. Pollock did not investigate why someone else was paying his tax bills. Pursuant to NCGS 105-348, an owner of real property is charged with notice of taxes due on the property, even if the owner does not have actual notice.

This unusual circumstance where a mortgage company paid taxes on the wrong parcel went on for 10 years.

Accordingly, the Office of the Tax Collector believes that the request does not meet the clerical error definition in the NCGS 105-381 and recommends that the Board of County Commissioners deny Mr. Pollock's request for a refund and instruct the County Attorney to inform Mr. Pollock of this denial.