

August 31, 2022

To: Charlotte City Council

Thank you for the opportunity to appear before the city council and discuss the below matter. At issue is a late charge for property taxes received after the due date.

Relevant information is as follows:

Description	Date	Confirmation Method
Tax Bill entered for electronic payment:	12/15/2021	MSUFCU Electronic Confirmation #42
Date payment was scheduled to be mailed:	2/08/2022	
Date & time check was actually mailed:	2/08/2022 @ 4:06 PM	USPS Tracking
Due date:	2/14/2022	
Date & time check was delivered:	2/17/2022 @ 8:37 PM	USPS Tracking

On April 11, your city treasurer, Eric Smith, advised me that even though the post office took 9 days to deliver the payment, the General Tax Act required him to charge a penalty. From his email to me:

"Statutorily, we are required to charge the penalty for payments received after the due date."

I then reviewed the General Tax Act and found that section 211.44 (4) also allows for waiving a penalty:

"The governing body of a local property tax collecting unit may waive all or part of the property tax administration fee or the late penalty charge, or both."

The city treasurer advised that after discussions with the city manager and city attorney, they were of the opinion waiving penalty and fees could not be done on a case-by-case basis. I disagree.

Throughout my 31-year career in state government I had considerable experience dealing with legal matters involving statutory authority and discretion. It is my experience that:

1. A person placed in a position of authority by the governing body has the authority to act on behalf of that governing body - with accountability.
2. The statute allowing the ability to waive a penalty allows that person in authority to consider, on a case-by-case basis, the validity of a request to waive penalties, again, with accountability. The underlying test used for decades in our legal system has been "reasonable and fair."
3. That given a valid reason – not an excuse – penalties should be waived, and other exceptions allowed by statute (outside the current topic), given proper cause. This is currently done at all levels of government and in the private sector. Again, a decision to do so requires accountability, and must be defensible to a higher level; the city treasurer reports to the city manager, the city manager reports to the city council, etc.

I look forward to discussing this at the upcoming city council meeting on September 6.

Sincerely,



D. Eric Johnson

3 Attachments – 7 pages

City of Charlotte
2021 Winter Property Tax Bill

BILL # 03083

CITY TREASURER
 CITY OF CHARLOTTE
 111 E. LAWRENCE AVE
 CHARLOTTE, MI 48813

(517) 543-8842

Confirmation #42
Paid 12/15/21 for 2/8/22

Taxable Value: **100,100**
 State Equalized Value: **100,100**
 School District: **CHARLOTTE PUBLIC SCHOOLS**
 % PRE/MBT: **100 %**

JOHNSON, D. ERIC
 851 CHADS WAY
 CHARLOTTE MI 48813

Acct Type: **REAL ESTATE**
 Parcel Number: **23-200-078-900-018-00**
 Property Address: **851 CHADS WAY**
 Assessment Class: **407 - RESIDENTIAL CONDOMINIUM**
 Legal Description:
 UNIT 18, SANSTONE CONDOMINIUMS, SEC 8, T2N, R4W,
 CITY OF CHARLOTTE. 10-3-02
 SPLIT ON 01/27/2003 FROM 200-008-200-082-03;

Bill Pay Support: 517-333-2424

** MORTGAGE COMPANY WILL RECEIVE A COPY IF APPLICABLE **

TAXING AUTHORITY	RATE	AMOUNT
EATON CO JAIL	0.69930	69.99
EATON CO 911	0.94900	94.99
EATON CO EATRAN	0.24970	24.99
EATON CO JUVENIL	0.34960	34.99
EATON CO MED CAR	0.12480	12.49
EATON CO ROAD	1.49850	149.99
CITY FIRE	2.00000	200.20
CHAR SCH OPER	9.00000	EXEMPT
CHAR SCH DEBT	3.79500	379.87
CHAR SCH REC	0.50000	50.05
EATN RESA SCH OP	0.08900	8.90
EATN RESA SP ED	1.33750	133.88
EATN RESA VOC ED	0.44560	44.60
CHAR DIST LIB	1.38850	138.98
BIG THORNAPPLE	0.00000	23.32

Apply to account: 2320007890001800 - City of Charlotte

JOHNSON, D ERIC
 851 CHADS WAY
 CHARLOTTE, MI 48813

DATE 02/08/2022

AMOUNT 000080043

PAY (ONE THOUSAND, THREE HUNDRED EIGHTY DOLLARS AND 67/100)
 TO THE ORDER OF CITY OF CHARLOTTE

****\$1380.67**

MICHIGAN STATE UNIVERSITY*
 FEDERAL CREDIT UNION

Memo: #23-200-078-900-018-00

Signature hidden for your security

⑈000080043⑈ ⑆272479663⑆ 100848084⑈

tion Fee 13.43

charges, payment must be received by
 business on February 14, 2022

Amount Due by 02/14/2022 \$1,380.67

INDEPENDENT BANK
 BOFD RT #072402652
 2/18/2022, 16:44:44, BATCH ID 60165
 IBCDOM01LANGUS, iMagic ID 316050492260165

FOR DEPOSIT ONLY
 CITY OF CHARLOTTE
 CITY TREASURER

FEDERAL RESERVE BANK REGULATION CC

rtion
 emittance

BILL # 03083

Checks payable to: **CITY OF CHARLOTTE**

Parcel Number: **23-200-078-900-018-00**

Property Address: **851 CHADS WAY**

CITY TREASURER
 CITY OF CHARLOTTE
 111 E. LAWRENCE AVE
 CHARLOTTE, MI 48813

2021 Winter Tax Due: **\$1,380.67**



Proof of Payment for Payment ID 42


Subscriber Name	D JOHNSON
Subscriber Address	851 Chads Way Charlotte, MI 48813
Biller Name	CITY OF CHARLOTTE
Biller Address	CITY TREASURER 111 E. LAWRENCE AVE. CHARLOTTE, MI 48813
Amount	\$1,380.67
Paid Date	2/8/2022 4:06:41 PM
Payment Type	Consumer Draft
Account Number	2320007890001800


USPS Tracking Info	Time	Location
2/17/2022 8:37:00 PM	8:37:00 PM	Lansing, MI

Print

Close

Export to:

 CSV

 PDF

Export

☒ ☐

From: johnsonderic1@gmail.com <johnsonderic1@gmail.com>

Sent: Tuesday, July 5, 2022 2:06 PM

To: 'Eric Smith' <esmith@charlottemi.org>

Subject: Previous correspondence

Hello Eric.

I've been traveling so was not able to follow-up as quickly as I planned. This email is a follow-up to previous correspondence regarding a late fee that was assessed because the post office did not deliver the mail in a timely manner. I provided the below proof from the Michigan State University Credit Union that showed the payment was mailed on 2/08/22, and was not delivered until 2/17/22 – nine days later. USPS tracking was used that shows precisely when payment was mailed and when it was delivered – right down to the minute.

Once again, I am requesting you reconsider the reasonableness of this issue. I do not, nor ever have, paid bills late, which can be easily verified.

In your previous correspondence on April 11, you referenced the General Property Tax Act, and in another correspondence later that day you wrote:

"Statutorily, we are required to charge the penalty for payments received after the due date."

I appreciate your reference to the applicable statutory authority, but also ask you to review 211.44 (4) of the General Property Tax Act, which states:

"The governing body of a local property tax collecting unit may waive all or part of the property tax administration fee or the late penalty charge, or both."

So, while you are statutorily "required" to charge a penalty, you also have the statutory authority to waive the penalty. Conditions of waiving a fee are not given, leaving one to surmise that given good cause, a fee may be waived. And, while your tax bill reads "Postmarks are not accepted" it is my belief the intent of that statement was to prevent persons from waiting until the last possible moment to mail their taxes on the due date – which is a reasonable policy. However, this is not a postmark issue. USPS tracking, which is a reliable way to keep track of sending and receiving mail, clearly shows this was mailed on February 8, 2022 at 4:06 PM, and not delivered until February 17, 2022 at 8:37 PM. It was not "postmarked" at the last minute or on the due date. Had it been mailed on February 14, then I would have no argument. But I have third-party written proof this was mailed 6 days before that time.

Eric, I respect that you have a job to do and are doing what you believe is correct. I appreciate your reviewing this again and waiving the late fee as you are authorized to do by the General Property Tax Act. However, if you still maintain that I am responsible for a penalty, even given the above facts, then I respectfully request that you provide me with the information required to have a formal hearing on this manner. Is this something the Property Tax Board of review would take up? What is my recourse?

Thank you.

Eric Johnson
851 Chads Way

Proof of Payment for Payment ID 42

Subscriber Name	D JOHNSON
Subscriber Address	851 Chads Way Charlotte, MI 48813
Billers Name	CITY OF CHARLOTTE
Billers Address	CITY TREASURER 111 E. LAWRENCE AVE. CHARLOTTE, MI 48813
Amount	\$1,380.67
Paid Date	2/8/2022 4:06:41 PM
Payment Type	Consumer Draft
Account Number	2320007890001800

USPS Tracking Info	Time	Location
2/17/2022 8:37:00 PM	8:37:00 PM	Lansing, MI

From: Eric Smith <esmith@charlottemi.org>
Sent: Wednesday, April 20, 2022 1:01 PM
To: johnsonderic1@gmail.com
Subject: Re: FW: Delinquent Tax Notice

Mr. Johnson,

Unfortunately, the City of Charlotte does not have any control over when MSUFCU placed this in the mail, or the postal service delivered the payment. The bill was received at our office with the mail on 2/18/22 resulting in the penalty. It is stated on the bill that post marks are not accepted. Again, we are sorry for the inconvenience this has caused.

Thank you,

Eric E. Smith
Finance Director/Treasurer
City of Charlotte
517-543-8875
esmith@charlottemi.org

On Wed, Apr 20, 2022 at 12:33 PM <johnsonderic1@gmail.com> wrote:
Hello Eric.

Attached please find a proof of payment that I obtained from my credit union; they provide USPS tracking for all payments sent out. It shows the following:

- Payment was mailed at 4:06 PM on 2/08/22. This should have been plenty of time for you to receive it by 2/14.
- Payment was delivered to your office on 2/17/22 at 8:37 PM.

The above indicates it took 9 days for USPS to deliver it to you, which is not a reasonable time frame. Furthermore, case law clearly provides that if the date a payment is mailed/postmarked is documented, and can be verified, that is to be considered the date of payment. Eric, even the IRS accepts a verifiable postmark date as the payment date.

I hope you will reconsider and remove the late payment penalty. I hope you would agree that I should not be penalized because the post office did not deliver this in a timely manner.

Thank you.

Eric Johnson

From: Eric Smith <esmith@charlottemi.org>
Sent: Monday, April 11, 2022 10:20 AM
To: johnsonderic1@gmail.com
Subject: Re: FW: Delinquent Tax Notice

Mr. Johnson,


We receipt the bills received in the mail on the same business day they are received. Unfortunately, we have no way of knowing when the financial institution placed it in the mail. Statutorily, we are required to charge the penalty for payments received after the due date. Again, I apologize for the inconvenience.

Thank you,

Eric E. Smith
Finance Director/Treasurer
City of Charlotte
517-543-8875
esmith@charlottemi.org

On Mon, Apr 11, 2022 at 10:10 AM <johnsonderic1@gmail.com> wrote:
Good morning – and thank you for the quick response.

I see the payment was deposited on 2/18, but I do not believe it was received and deposited on the same day. If you look at the copy of the check, it was written on 2/08 and sent directly by the MSUFCU. See below. I would appreciate your reconsidering. I do not nor ever have paid bills late. Thank you.

JOHNSON, D. ERIC 851 Chads Way Charlotte, MI 48813	74-7966 2724	DATE 02/08/2022	0000080043
MICHIGAN STATE UNIVERSITY FEDERAL CREDIT UNION 3777 WEST RD EAST LANSING, MI 48826 PHONE: 500-678-6566			
PAY (ONE THOUSAND, THREE HUNDRED EIGHTY DOLLARS AND 67/100)			AMOUNT
TO THE ORDER OF CITY OF CHARLOTTE			**\$1380.67
			Signature hidden

From: Eric Smith <esmith@charlottemi.org>

Sent: Monday, April 11, 2022 10:01 AM

To: johnsonderic1@gmail.com

Subject: Re: FW: Delinquent Tax Notice

Mr. Johnson,

The payment for your taxes was received on 2/18/22. The amount received would have been correct if the payment were received by 2/14/22; however it was received after the due date resulting in the penalty of \$41.42. Per the General Property Tax Act, the penalty was assessed, and appropriately receipted. We apologize for the inconvenience.

Thank you,

Eric E. Smith
Finance Director/Treasurer
City of Charlotte
517-543-8875
esmith@charlottemi.org

On Mon, Apr 11, 2022 at 9:40 AM <johnsonderic1@gmail.com> wrote:

Good morning,

I received a delinquent tax notice (see attached) so I contacted the county treasurer. Crystal advised my payment to you was for \$1339.25 and provided the bill breakdown, also attached (see below email thread). However, I confirmed the check was for the correct amount and was deposited on 2/18/22 – also attached.

Looks like someone just entered the information incorrectly.

Please advise.

Thank you!

Eric Johnson

From: Treasurer <Treasurer@eatoncounty.org>

Sent: Monday, April 11, 2022 9:18 AM

To: johnsonderic1@gmail.com

Subject: RE: Delinquent Tax Notice

Hello Eric,

I have attached a billing breakdown. It looks as if the payment you made on 2/18/22 was credited/processed by the city for \$1,339.25 hence the shortage of \$41.42.

The County cannot see payment detail. For that you will want to contact the City of Charlotte.

Sincerely,

Crystal Smith

Eaton County Deputy Treasurer II

From: johnsonderic1@gmail.com <johnsonderic1@gmail.com>

Sent: Saturday, April 9, 2022 5:00 PM

To: Treasurer <Treasurer@eatoncounty.org>

Subject: Delinquent Tax Notice

Hello.

I received the attached notice showing I have delinquent taxes due. I am a little confused, as I checked my property tax notices and payments and find the following:

Due date	Amount	Paid date	Amount
2/15/21	\$ 1582.51	2/12/21	\$ 1582.51
8/31/21	\$ 3581.35	8/31/21	\$ 3581.35
2/15/22	\$ 1380.67	2/12/22	\$ 1380.67

Please advise.

Thank you.

Eric Johnson
851 Chads Way
517.282.1828