



LEGAL DIVISION
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DATE: September 28, 2020
TO: City Council
CC: Diane Wolfe Marlin, Mayor
FROM: James L. Simon, City Attorney

RE: Post-Judgment Interest on Judgment in Carle Foundation Litigation.

As the City Council is well aware, the City of Urbana (“City”), Cunningham Township, Cunningham Township Assessor, and Champaign County (“County”) have been involved in litigation with The Carle Foundation (“Carle”) for many years regarding whether or not certain parcels owned by Carle were exempt from property taxation during particular years. In January 2020, following a lengthy trial, the court entered judgment in favor of Carle and ordered the defendants to refund all property taxes paid by Carle on the parcels and for the property tax years in question. Specifically, the judgment directed the defendants (other than the County) to remit their respective property tax refund amounts to the County which, in turn and along with the taxes it was ordered to refund, would remit those taxes to Carle. The defendants have appealed the court’s decision.

Defendants can be required to pay post-judgment interest on the judgment if it is not paid within a certain period of time as provided by statute. For purposes of this litigation, one of two post-judgment interest statutes apply for determining if and how much post-judgment interest the City must pay to Carle. One statute provides that post-judgment interest commences to run if a judgment is not paid within 30 days after the court enters the judgment. This statute is generally applicable to most judgments and can be found in Section 2-1303 in the Code of Civil Procedure. 735 ILCS 5/2-1303. The second statute provides that post-judgment interest begins to run if a judgment is not paid within 60 days after the court enters the judgment. This second statute specifically applies to judgments entered in cases involving property tax disputes where the property taxpayer prevails in the litigation. This statute can be found in Section 20-178 of the Property Tax Code. 35 ILCS 200/20-178.

The County has tendered to Carle the post-judgment interest it believes was due and owing to Carle. However, a dispute has arisen between the City and the County that involves, in part, which post-judgment interest statute applies. Depending on which statute applies impacts the amount of post-judgment interest that was due and owing to Carle. The City believes that Section 20-178 in the Property Tax Code applies because it tendered to the County the taxes it was obligated to refund to Carle in the manner provided by the court’s judgment order. On the other hand, the County believes that the post-judgment interest statute in the Code of Civil Procedure applies and that the City failed to remit the taxes to the County within the time provided in Section 2-1303 and, therefore, owed post-judgment interest. The County has demanded that the City reimburse the County in the amount of \$19,539.08 and the City has objected.

The County and the City have engaged in extensive discussions in an effort to resolve their dispute. In an effort to avoid litigation between the defendants, the County has proposed a settlement to the other defendants which the County requests the City Council to approve in the case of the City. The County's settlement proposal to the City provides that the City reimburse the County in the amount of \$10,749.49 that represents a reduction in what the County believes would otherwise be due and owing by \$8,792.59.

Mayor Marlin and the City Attorney recommend that the City Council approve the settlement provided for in the County's settlement letter that is attached to the tendered resolution. The primary bases for this recommendation are: (i) failure to reach an agreement will lead to court proceedings between the County and the City; (ii) it would serve neither party's interests to be involved in such proceedings while the entire lawsuit is currently on appeal; and (iii) the cost of such proceedings to the County and the City, respectively, would likely eclipse the difference between what the County believes the City owes and what it has offered the City by way of settlement of the dispute.

ORDINANCE NO. 2020-10-052

AN ORDINANCE SETTLING DISPUTE OVER POST-JUDGMENT INTEREST DUE ON THE CARLE FOUNDATION LITIGATION

WHEREAS, the City of Urbana, Illinois (“Urbana”) and the City of Champaign, Illinois (“Champaign”) are home rule units of local government pursuant to Section 6 of Article VII of the Illinois Constitution of 1970 and the statutes of the State of Illinois; and

WHEREAS, Urbana, along with other units of local government, including Champaign County, have been engaged in ongoing litigation with The Carle Foundation over property tax issues; and

WHEREAS, in January 2020, the Circuit Court entered an order that directed the defendants, including Urbana to pay over property taxes, including those held by Urbana under The Carle Foundation’s protest, to Champaign County for remittance to The Carle Foundation; and

WHEREAS, defendants were also ordered to pay post-judgment interest on the respective property taxes due and owing to The Carle Foundation; and

WHEREAS, Urbana tendered its portion of the property tax proceeds ordered to turned back to Champaign County in a timely manner so that Champaign County can remit the same to The Carle Foundation as provided in the court’s January 2020 order; and

WHEREAS, Urbana reasonably believes that Champaign County did not tender all the property tax proceeds due and owing to The Carle Foundation in a timely manner thereby incurring post-judgment interest due and owing on the said judgment; and

WHEREAS, Champaign County contends that Urbana and one or more other defendants should share prorata, based on the property taxes at issue, in payment of the post-judgment interest to The Carle Foundation; and

WHEREAS, the defendants in the said lawsuit recognize and believe that the cost of litigating the dispute regarding who, if any defendant, should pay the said post-judgment interest and, if so, in what amount, would exceed each taxing body's interest obligation; and

WHEREAS, the defendants in the said lawsuit have reached terms to resolve their differences and dispute over the payment of said post-judgment interest; and

WHEREAS, the City Council, having considered the said terms, deems it appropriate to approve such terms of agreement.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Illinois, resolves as follows:

Section 1.

The terms of settlement shall be and hereby are approved in substantially the form appended hereto.

Section 2.

The Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said any execution of said terms of agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED BY THE CITY COUNCIL this ___ day of _____, 2020.

AYES:

NAYS:

ABSTENTIONS:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ of _____, 2020.

Diane Wolfe Marlin, Mayor

Julia R. Rietz
State's Attorney

Joel Fletcher
Senior Assistant State's Attorney
email: jfletcher@co.champaign.il.us



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**Office of
State's Attorney
Champaign County, Illinois**

July 24, 2020

Frederic Grosser
201 West Springfield, Suite 503
Champaign, Illinois 61820

Jim Simon
City of Urbana Legal Department
400 South Vine Street
Urbana, Illinois 61801

**THIS COMMUNICATION IS BEING MADE AS AN OFFER OF COMPROMISE
SUBJECT TO THE LIMITATIONS ON USE IN ILLINOIS RULE OF
EVIDENCE 408(a)**

Re: Post judgment interest in 2008-L-202

Mr. Grosser and Mr. Simon:

As you know, there has been an ongoing disagreement between the Treasurer's Office and your clients (the City of Urbana, Cunningham Township, the Champaign-Urbana Public Health District) about how to account for post-judgment interest resulting from the February 5, 2020, order in Carle Found. v. Cunningham Twp, et al., 2008-L-202. I understand your clients' position to be that: (1) no post-judgment interest accrued at all because the judgment was paid within 60 days of its entry; and (2) if post-judgment interest were to accrue, your clients should not be responsible for the entire delay from the date of the judgment through the March 23, 2020, date of payment of the judgment.

For the reasons I have previously articulated, post-judgment interest did, in fact, accrue pursuant to 735 ILCS 5/2-1303, as of the day after the judgment, and the argument to the contrary appears to rest on a misapplication of 35 ILCS 200/20-178 to this context. The Treasurer's office believes that the delay between the judgment and payment was

entirely reasonable under the circumstances presented, and allocation of all of the post-judgment interest amongst the taxing districts is fair.

However, in the spirit of intergovernmental cooperation and in an effort to resolve this issue amicably, the Treasurer proposes capping the liability of each non-settling taxing district for post-judgment interest as of 10 days after that district tendered payment to the Treasurer. This approach would adjust each district's share of post-judgment interest as follows:

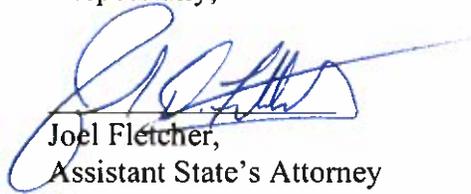
District	A Principal	B Share of total judg- ment	C Pro rata share of Interest	D Days between judgment and payment to Treasurer	E Adjustment for delay in payment + 10 days	F Adjusted share of post- judgment interest
Formula		A / \$5,273, 076.66	B x \$40,692.99		(D + 10) /47	C x E
Urbana	\$2,531,912.24	0.48	\$19,539.08	16	0.55	\$10,746.49
Cunningham Township	\$376,295.85	0.07	\$2,903.92	28	0.81	\$2,352.18
C-U Public Health	\$208,589.71	0.04	\$1,609.71	36	0.98	\$1,577.52

If this approach is followed, a refund would be given to the Champaign-Urbana Mass Transit District reflecting a similar adjustment for post-judgment interest it has already paid.

The Treasurer intends to make the next tax distribution next Friday, July 31, 2020, or shortly thereafter. The Treasurer intends to withhold the entire post-judgment interest amount (corresponding with column C, above) from this distribution, and hold it in a segregated fund for a reasonable period until an agreement on this issue can be formalized, or if an agreement cannot be reached, until the parties can obtain guidance from the Court.

Given the upcoming distribution, I would appreciate having your response at your earliest opportunity after discussing this proposed settlement with your client.

Respectfully,

A handwritten signature in blue ink, appearing to read "Joel Fletcher", is written over a horizontal line. The signature is stylized and extends to the right of the line.

Joel Fletcher,
Assistant State's Attorney

Cc: Ross McNeil