

MEMORANDUM

KENT COUNTY DEPARTMENT OF
PLANNING SERVICES
555 BAY ROAD
DOVER, DELAWARE 19901



TO: Levy Court Commissioners

CC: Michael J. Petit de Mange, AICP, County Administrator
William Pepper, Esquire

FROM: Sarah E. Keifer, AICP, Director, Department of Planning Services
Susan Durham, CPA, Director, Department of Finance

DATE: February 24, 2014

SUBJECT: Collection of Homeowner Association Fees

In May 2012 the members of HARP, the ad hoc committee appointed by Levy Court to give advice on homeowner association concerns, approached the Levy Court with three priorities. The first was better dissemination of information regarding resources for HOAs to which the County responded with a dedicated webpage that is continually updated. The second was assistance with stormwater maintenance which the County is addressing with the development of stormwater maintenance districts. The third concern was and continues to be the collection of HOA annual fees.

The question of HOA fees collection was last discussed at the November 5, 2013 Planning Services Committee meeting. Two alternatives were discussed at that meeting: (1) establishing a billing program similar to that of New Castle County or (2) pursuing enabling legislation to permit the collection of HOA fees on property tax bills. After further investigation into the addition of fees to tax bills, the members of HARP appear to have formed a consensus that a billing program akin to New Castle County's would be the more practical option.

Consequently, staff has developed the attached draft policy establishing the billing program and draft enrollment instructions. Staff envisions that the Department of Planning Services will be primarily responsible for managing enrollment and renewal as well as working directly with the homeowner associations while the Department of Finance will be responsible for the billing process, collection, and disbursement of funds.

The schedule proposed is designed to comport with the billing schedules of many (although not all) of the existing homeowner association budget years and to avoid

conflict with the tax billing season. As drafted, registration for the program would continue through the fall (beginning in 2014), bills would be sent in January and due at the end of February. Delinquent notices would be sent in March, June, and October.

We understand that the collection rate in New Castle County is an average of about 80 percent. It is important to note that this program is for billing exclusively. The decision to pursue legal action or enlist a collections agency for unpaid fees would continue to rest with the homeowner association.

Since posting the question of whether communities would be interested in pursuing such a program on our HOA webpage about a year ago, we have heard from 11 subdivisions representing 1,724 lots that they would be interested in at least considering the billing program.

The draft policy is scheduled for consideration at the March 4, 2014 Planning Services Committee meeting.

Please feel free to contact Ms. Durham or me prior to the meeting with any questions or concerns.

Thank you.

KENT COUNTY LEVY COUNTY POLICY P14-02

SUBMITTED BY: Eric L. Buckson
ADOPTION DATE: _____
EFFECTIVE DATE: _____

Part VI
Homeowner Association Billing

§22-12 Homeowner Association Billing Program.

This Policy establishes guidelines for establishing a homeowner association annual billing program. The term homeowner association shall also encompass maintenance organizations, maintenance corporations, or any other similar entity comprised of residents within a neighborhood

- A. The Departments of Planning Services and Finance shall develop a program offering homeowner associations for which the Board of Directors is under full control of the residents, the opportunity to participate in a County administered annual billing program.
- B. Kent County will print and mail annual association bills, and three follow-up bills on unpaid balances. Bills will be sent to the mailing address contained in the County's tax records. The County only bills for assessments from the time that an association enters the County program. The County will not add any unpaid assessment balances to accounts which existing prior to their entering the County program.
- C. The Department of Finance shall establish specified enrollment dates, renewal dates, billing dates, and remittance dates.
- D. Kent County shall receive payments and post to property owner accounts. The County shall deposit payments into an account set up specifically for the association payments. This account will be separate from all other County accounts.
- E. The Department of Finance shall develop an enrollment form to include, but not be limited to, name of association, number of lots or units within the development, amount of annual dues, percentage of any penalty for unpaid balances, contact name and information for a representative of the Board of Directors' and signatures of the authorized homeowner association representatives. The association shall also furnish a copy of their W-9 form.

- F. The County will not undertake any collections activity for unpaid balances, other than sending three delinquent notices. Kent County will not add any “other” charges to the customer’s assessment bill. This includes but is not limited to any charges incurred by the association for any collection activity. The county will not add any unpaid assessment balances that reside on any parcels when the subdivision first enters the county program. It is the responsibility of the association to bill and collect any such amounts.
- G. The association must resolve any disputes about penalty charges or annual billing amounts. Inquiries received by Kent County will be directed to the association contact. If the association agrees to adjust penalty for a customer, it must send this instruction to the County in writing.
- H. Kent County shall charge participating associations an annual per parcel fee to cover all costs associated with the billing program. The program shall be designed to be self sustaining and shall not be funded by Kent County taxpayers.
- I. This policy shall become effective immediately upon adoption by Levy Court.