



Response to Questions on the FY 2010 County's Line of Business & Schools Program Review Processes Fall 2008

Request By: Supervisor McKay

Question: Through the Department of Tax Administration (DTA) or a contractor working on their behalf, does Fairfax County have authority to collect other fines and fees beyond the ones already being collected (such as grass cutting) and how much could this generate? In addition, does the County have the ability to refer judgments obtained by the County through zoning enforcement actions to the Director of DTA for collection by an outside firm?

Response: Fines or fees could be collected through the Director of DTA if the code section or ordinance imposing such fines/fees contains language that allows such fines or fees to be levied and collected as taxes are levied and collected. Statutes and ordinances containing this language include, but are not limited to, Fairfax County Code, Chapters 19 (the Grass Ordinance) and 46 (Public Health or Safety Menaces), and the Virginia Property Maintenance Code, § 105.9 (Emergency repairs and demolitions of unsafe structures). If such language doesn't appear in some of the County's ordinances where fees or fines are imposed, these ordinances could be amended to provide for the collection of those fines as taxes are collected, if such collection is provided for in the enabling legislation.

Regarding the ability to refer judgments obtained by the County through zoning enforcement actions to the Director of DTA for collection by an outside firm, Title 58.1 of the Code of Virginia (the Tax Code) provides in various sections that "local taxes or *other charges*" and "taxes . . . and *other revenues*" can be collected by the Director of DTA, and that the Director may employ an outside firm to handle the collection who shall have the same powers and perform the same duties as those conferred upon the Director. Therefore, if the judgments entered in zoning enforcement cases can be considered "other charges," or "other revenues" under the Tax Code, then such judgments can be referred to the Director of DTA and collected by an outside firm who could agree to collect such judgments for 20 percent over and above the amount of the judgment to be paid by the judgment debtor.

Because the terms "charges" and "revenues" are not defined in Title 58.1, they are to be given their plain meaning. It is reasonable to argue that "charges" and "revenues" as used in these statutes include judgments owed to the County. The word "revenue" is defined in *Webster's II* as "government income from all sources," and the word "charge" is defined as "to hold financially liable: demand payment from." Assuming this argument is not successful, it is still possible to contract with a firm to collect such judgments, and an arrangement could be made where the law firm would handle the collection on a contingent basis for a certain percentage of the judgment.

The question also asks “how much could this [the collection of grass ordinance costs or zoning enforcement judgments] generate?” The following information from DPWES’ Storm Water Management Division which manages the contract that the County has with Trulawn identifies the grass cutting costs that have been collected.

Year	Violations Received	Violations Value	Violations Collected
FY 2006	0	\$0	\$0
FY 2007	1	\$404	\$0
FY 2008	189	\$56,188	\$14,684
FY 2009	257	\$71,930	\$6,930