


MEMORANDUM

August 2, 2010

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator 
Russ Truell, Assistant City Administrator/CFO

SUBJECT: Waiver of Property Tax for Flood Damaged Property

Purpose

The purpose of this memo is to present a resolution for waiver of property tax, on a prorated basis, for those properties substantially damaged or destroyed by the flood of May 1st and 2nd, 2010.

Background

At the end of the Legislative session, the Tennessee General Assembly amended TCA 67-5-603 by adding a section that gives local governments the authority to prorate property taxes on flood damaged properties for the period that those properties were not usable by the owners.

Williamson County adopted a resolution (copy attached) on July 19 granting property owners the opportunity to apply for such relief on their county taxes. The Williamson County Tax Assessor has indicated that he is including minor damage as well as "substantial damage" in his determination of eligibility. Eligibility will be driven primarily by those who can document damage that has caused them to vacate their property for more than 30 days. The City of Brentwood is considering a similar resolution.

Financial Impact

Undetermined. It is difficult to forecast how many homeowners will qualify for the provisions of the resolution. The County Tax Assessor will review the applications and make a determination of whether the property qualifies for a prorated waiver. As an example, based on an average property tax bill of \$250 and a prorated period of eight months for 50 homes, the estimated maximum financial impact to the City would be \$10,000.

Recommendation

For the sake of consistency of local government policy for our citizens, passage of the proposed resolution is recommended. A two-thirds vote of the Board is required by the State statute.

Property Tax Waiver for Flood Damage

In June, the General Assembly adopted legislation authorizing cities within a federally- declared disaster area in the wake of the May flooding to provide, by 2/3 majority vote, additional tax relief measure to assist qualified owners of flood-damaged real and tangible personal property.

Governing bodies may authorize this additional relief by resolution; however, such a measure must be adopted prior to September 1, 2010. Municipalities that choose to adopt such relief must also notify the county property assessor that they have adopted a resolution approving proration prior to September 1, 2010.

SUMMARY OF LEGISLATION

Prior to enactment of the new law, State law only allowed for the proration of assessments of property damaged in a disaster if the property was not replaced or restored prior to September 1 of that tax year. The legislation enacted would allow a city to grant the county assessor the authority to prorate the annual assessment of qualifying property for the actual period of time the property is destroyed and not replaced or is substantially damaged, regardless of whether that property is restored or replaced by September 1, provided it is longer than 30 days. Neither the prior law nor the new law makes any provision for proration of land values.

HYPOTHETICAL

Assumptions:

One owns a home or business within a federally-declared disaster area and their home or tangible personal property was rendered uninhabitable or unusable as a result of the flood. The owner had the home, business, or equipment repaired and moved back in to the home or business or began using the equipment on August 25. The governing body of the city in which the owner resides or operates a business adopted a resolution by a 2/3 majority vote authorizing the proration of assessments for qualified owners.

Prior law:

While the owner was unable to occupy residence or business or use equipment for more than 30 days, the owner would not be eligible for proration of annual assessment because the home, business, or equipment was repaired or restored prior to September 1.

New law:

The owner would be eligible for proration.

ELIGIBILITY CRITERIA FOR OWNERS:

1. The municipality must be within a county that is included in a federally-declared disaster area.

2. The local governing body of the municipality in which the property is located must adopt an authorizing resolution by a 2/3 majority vote.
3. Affected property must be substantially damaged or unfit for use or occupancy for a period of at least 30 days (real property) or destroyed, damaged and not restored or replaced for a period of at least 30 days (personal property).
4. Damaged property must be replaced or restored by September 1, 2010. (Property not replaced or restored after September 1, 2010, would be covered under prior exception.)
5. Owner must apply for the proration by September 1, 2010, using a form approved by the Director of the Division of Property Assessments.

RESOLUTION 2010-63

A RESOLUTION AUTHORIZING THE PRORATION OF TAX ASSESSMENTS OF CERTAIN REAL PROPERTY DAMAGED BY THE FLOODING DISASTER OF MAY 2010 AS AUTHORIZED BY T.C.A. § 67-5-603(d)

WHEREAS, many City of Franklin citizens suffered severe property damage as a result of the devastating historic flood event occurring in early May, 2010; and

WHEREAS, the Federal Emergency Management Agency declared several counties in Tennessee, including Williamson County, as a major disaster area; and

WHEREAS, pursuant to legislation recently amended by the Tennessee General Assembly, *Tennessee Code Annotated*, Section 67-5-603(d) authorizes a Property Assessor upon receiving an application from a taxpayer prior to September 1, 2010, to prorate the annual real property assessments for structures and improvements that were demolished, destroyed, or substantially damaged by the flood; and

WHEREAS, the statute provides for proration for the actual period the structure or improvement is destroyed or substantially damaged; and

WHEREAS, to qualify for the proration the structure or improvement must be destroyed or damaged and not replaced or restored for a period exceeding 30 days; and

WHEREAS, the City of Franklin Board of Mayor and Aldermen finds it in the best interest of its citizens to authorize proration of those structures and improvements that meet the minimum requirements of the statute:

NOW, THEREFORE, BE IT RESOLVED by a two-thirds (2/3) vote of the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that the proration of annual real property assessments for structures and improvements demolished, destroyed, or substantially damaged in counties that were included in the FEMA declaration be authorized in the City of Franklin, pursuant to the restrictions found in T.C.A. § 67-5-603(d).

BE IT FURTHER RESOLVED that this Resolution shall take effect upon adoption, and shall expire on December 31, 2010.

Adopted and approved this ____ day of _____, 2010.

John Schroer, Mayor

ATTEST:

Eric S. Stuckey, City Administrator/Recorder