

IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

IN THE MATTER OF:

2017 TAX DIGEST FOR  
FULTON COUNTY, GEORGIA

)  
)  
)  
)  
)  
)

CIVIL ACTION  
FILE NO. 2017-CV-297039

**FINAL ORDER AUTHORIZING THE IMMEDIATE AND TEMPORARY  
COLLECTION OF TAXES**

This matter is before the Court on Fulton County's verified Petition for an Order Authorizing the Immediate and Temporary Collection of Taxes ("Petition") pursuant to O.C.G.A. § 48-5-310, submitted by its governing authority, the Board of Commissioners of Fulton County, and on behalf of those municipalities, boards of education, independent school systems and community improvement districts lying wholly or partially within its boundaries, for which the Fulton County Board of Assessors assesses and/or Fulton County Tax Commissioner bills and collects ad valorem property taxes. After considering and hearing oral argument and evidence in support of Fulton County's Petition on November 3, 2017, including any intervenors; and all pleadings and other relevant materials, it is hereby **ORDERED** as follows:

**FINDINGS OF FACT**

The pleadings in this matter and the evidence in the record, including, but not limited to, affidavits and the in judicio statements of counsel, have established by a preponderance of the evidence that the 2017 Tax Digest for Fulton County and for those municipalities, boards of education, independent school systems and community improvement districts lying wholly or partially within its boundaries, that either directly or through the Fulton County Tax Commissioner bills and collects ad valorem property taxes, has not been approved by the

Revenue Commissioner and that Fulton County cannot proceed with billing and collection for 2017 without court intervention, and;

(1) Fulton County and those municipalities lying wholly or partially within Fulton County are authorized to levy and collect ad valorem taxes upon all property located within their jurisdiction. See Ga. Const., Art. IX, Sec. IV, Par. I.

(2) Pursuant to O.C.G.A. § 48-5-359.1, municipalities lying wholly or partially within Fulton County are duly authorized to contract with the appropriate tax officials in Fulton County to prepare the tax digest for such municipalities and/or to bill and collect municipal taxes in the same manner as county taxes. Additionally, the Fulton County Tax Commissioner bills and collects for boards of education, independent school systems and community improvement districts contained within the boundaries of Fulton County.

(3) Unless the Court authorizes the immediate, temporary collection of property taxes for 2017, the governing authority of Fulton County and those municipalities with which the Tax Commissioner of Fulton County has contracted will not be able to pay their debts as they mature.

(4) Unless the Court authorizes the immediate, temporary collection of property taxes for 2017, Fulton County will not be able to pay appropriate salaries of their employees, other government officials, and other persons entitled to receive either compensation by or funds from the county as provided by law.

(5) Unless the Court authorizes the immediate, temporary collection of property taxes for 2017, Fulton County will not be able to maintain an orderly and normal function of County business and governmental affairs.

(6) Unless the Court authorizes the immediate, temporary collection of property taxes for 2017, Fulton County will not be able to bill and collect to maintain an adequate, proper, or

desirable credit rating either to maintain or affect existing or future interest rates on bonded indebtedness or indebtedness on loans incurred or obligated by the county governing authority;

(7) Unless the Court authorizes the immediate, temporary collection of property taxes for 2017, Fulton County will not be able to avoid by practical means the suffering of immediate and irreparable injury, loss, damage, or any other significant matter, because the time frame for the submittal of tax bills will not permit any further modifications to the current Tax Digest.

(8) The Court finds that each of the foregoing paragraphs (1) through (7) applies to each of the boards of education, independent school systems and community improvement districts within Fulton County for which the Fulton County Tax Commissioner bills and collects taxes.

(9) The Court also finds that each of the foregoing paragraphs (1) through (7) applies to the municipalities wholly or partially within the boundaries of Fulton County that directly bill and collect their own property taxes.

(10) The last Fulton County Tax Digest that was approved by the Revenue Commissioner was from 2016.

(11) That the time frame for the submittal of tax bills in order to provide funds to the County and the tax authorities is extremely short and will not permit any modifications or adjustments to the Tax Digest.

Further, this Court finds that billing and collection based on a previous year's tax digest, or some other method of collection, would substantially reduce the efficiency of the collection and billing process by requiring time consuming modifications to the billing software that would require testing and retesting. More importantly, taxpayers will be adversely impacted. The best, least complicated and most taxpayer friendly basis for collection is to use the 2017 Tax Digest.

## CONCLUSIONS OF LAW

(1) State law provides a method whereby this Court may order an immediate, temporary collection of taxes pending approval of the 2017 Fulton County Tax Digest. See O.C.G.A. § 48-5-310. Pursuant to O.C.G.A. § 48-5-310(j), the methods, procedures and conditions for the temporary collection and enforcement of taxes for municipalities are under the same terms and conditions as that for counties.

(2) The conditions provided in O.C.G.A. § 48-5-310(a)(1)(B) and as described in the Findings of Fact portion of this Order have been shown to exist by a preponderance of the evidence. This Court has the power to exercise the authority conferred upon it pursuant to O.C.G.A. § 48-5-310, and order the temporary collection of ad valorem property taxes for 2017 as sought by the governing authority of Fulton County, pending the approval of the 2017 Tax Digest; and,

(3) It having been shown that Fulton County is entitled to a temporary tax collection order for itself and for those entities for which it acts, this Court will exercise the authority conferred by O.C.G.A. § 48-5-310(f)(1) and authorize a reasonable method for billing and collecting ad valorem taxes so as to do substantial justice to all parties under the exigencies of the circumstances.

(4) Accordingly, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

- (1) The governing authority of Fulton County shall bill and collect ad valorem taxes for Fulton County, and for each of the municipalities, boards of education, independent school systems and community improvement districts lying wholly or partially within Fulton County with which the

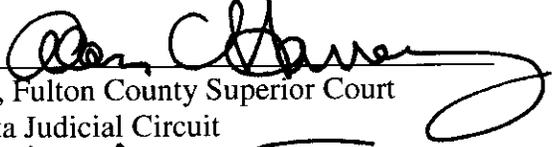
Tax Commissioner has contracted or for which the Tax Commissioner is otherwise authorized or obligated to perform such billing and collection, based on the proposed 2017 tax digest at the millage rates now set or to be set by the respective levying authority, recommending authority or other body with the authority to set such rates, except in the manner provided herein below:

- a. Real and personal property tax parcels and accounts, respectively, for tax year 2017, for which an appeal has been timely filed with respect to the 2017 assessment, shall be billed pursuant to O.C.G.A. § 48-5-311(e)(6)(D)(iii).
  - b. Real and personal property tax parcels and accounts, respectively, for tax year 2017, having appeals pending with respect to any tax year prior to 2017, shall be billed at the full value of the 2017 digest.
  - c. Any appeal pending as of the date of this Order which is resolved prior to the final approval of the 2017 Tax Digest may, nevertheless, be rebilled at the final value established by the resolution of that appeal prior the approval of the 2017 Tax Digest.
- (2) When the State Revenue Commissioner has approved the 2017 Tax Digest for collection or it is otherwise enforceable as a matter of law, rebilling, as necessary, may occur based on the 2017 Tax Digest subject to the provisions of O.C.G.A. § 48-5-311 as to assessments under appeal.
  - (3) Any municipality, school district or community improvement district lying wholly or partially within the boundaries of Fulton County shall be

permitted to bill (either directly or through the Tax Commissioner of Fulton County) for ad valorem taxes on the basis set forth in this Order, at such millage rates as have been or shall be established by such municipality or community improvement district according to law.

- (4) This Order shall proceed and be of full force and effect exactly as if the Tax Digest values used as the basis for the tax billings had been approved by the State Revenue Commissioner or had been made otherwise enforceable as a matter of law.
- (5) The Court shall retain jurisdiction to issue any appropriate order necessary to enforce this Order allowing the immediate temporary collection of taxes for Fulton County and those municipalities, boards of education, independent school systems and community improvement districts lying wholly or partially within Fulton County that either bills and collects property taxes directly or through the Fulton County Tax Commissioner,
- (6) This Order shall expire upon the Georgia Revenue Commissioner's approval of Fulton County's 2017 Tax Digest.

**SO ORDERED**, this 3 day of November, 2017.

  
\_\_\_\_\_  
Judge, Fulton County Superior Court  
Atlanta Judicial Circuit  
*by designator*

PREPARED BY:  
Cheryl Ringer, Esq.  
Office of the County Attorney  
141 Pryor Street, SW  
Suite 4038  
Atlanta, Georgia 30303

COPIED TO:

The Honorable Lynn Riley  
Commissioner of Revenue  
Georgia Department of Revenue  
1800 Century Blvd, N.E., Suite 1500  
Atlanta, Georgia 30345

Jeremy Berry, Esq.  
**City of Atlanta Law Department**  
303 Peachtree Street, N.E.  
Suite 5300  
Atlanta, Georgia 30308

Richard Carothers., Esq.  
Ronald Bennet, Esq.  
**City of Johns Creek**  
Bovis Kyle Burch & Medlin, LLC  
200 Ashford Center North  
Suite 500  
Atlanta, Georgia 30338

Richard P. Lindsey, Esq.  
Lindsey & Lacy, PC  
**City of Chattahoochee Hills, GA**  
2002 Commerce Drive, Suite 300  
Peachtree City, Georgia 30269

Brandon L. Bowen, Esq.  
**City of Mountain Park, Georgia**  
Jenkins, Olson & Bowen PC  
15 South Public Square  
Cartersville, Georgia 30120

Josh Bellinfante, Esq.  
**City of South Fulton**  
999 Peachtree Street, N.E.  
Suite 1120

Atlanta, Georgia 30309

David Kirk, Esq.  
**Downtown Atlanta Community  
Improvement District**  
Troutman Sanders, LLP  
5200 Bank of America Plaza  
600 Peachtree Street, NE  
Atlanta, Georgia 3030

Charles Huddleston, Esq.  
**Atlanta Public Schools & Fulton County  
Schools**  
Nelson Mullins  
201 17th Street, N.W.  
Suite 1700  
Atlanta, Georgia 30363

J. Lynn Rainey, Esq.  
**Counsel for various Fulton County CID's**  
Rainey & Phillips  
358 Roswell Street, Suite 1130  
Marietta, Georgia 30060