

NOTIFICATION TO CLIENTS AND INSTRUCTIONS FOR MINIMIZING DAMAGES

NOTIFICATION

We have recently learned that SHELL, FLEMING, DAVIS & MENGE missed the deadline for filing the 2013 Pensacola Beach tax cases in early December. We wish we could relive the events that led to this problem and correct the error, but it is not possible. We filed the cases on December 13, 2013, but they should have been filed no later than December 6.

As you know, we have filed a new case every tax year, starting with 2004. In 2011 we began filing two cases each year because the Property Appraiser decided to assess the land as well as the improvements and the Tax Collector began including both on the tax bills. We have filed each year because the statute requires that we do this in order to preserve the claims from the prior years. (See, Fla. Stat. Sec. 194.171.) A key part of that statute prohibits the Tax Collector from trying to enforce payment of taxes for the years that are included in the lawsuit, as long as such litigation remains pending. Many of you have chosen not to pay your taxes for this reason. Our cases, 2004 through 2012, ***are still pending*** and the appeal heard by the Florida Supreme Court awaits the Court's final decision.

Because of the statute referenced above, if 2013 taxes are not timely paid by our clients, all of the prior lawsuits for those clients, starting with 2004 (or whatever year they joined in the litigation), will be dismissed. **IF YOU PAY YOUR 2013 TAXES ON TIME, all the cases filed between 2004 and 2012 will remain pending for you. In order to preserve the lawsuits filed between 2004 and 2012, it is imperative that your 2013 taxes be paid no later than close of business on March 31, 2014.**

Please see our responses to concerns you may have:

HOW WILL THIS AFFECT ME, and WHAT DO I NEED TO DO?

- A)** The case we filed challenging the 2013 taxes will likely be dismissed. Therefore, you will have to pay those taxes.
- B)** **IF** the Florida Supreme Court rules against the taxpayers and in favor of the taxing authorities (in other words, if we lose the appeal case), you will not be affected any differently than if we had not missed the 2013 deadline. All unpaid taxes and 12% annual interest for all years your parcel(s) were involved in the lawsuit, including 2013, will be due and collectible by the Tax Collector.
- C)** **IF** the Florida Supreme Court rules in favor of the taxpayers (we win the appeal), because the 2013 deadline was missed, the 2013 case will be dismissed and the 2004 through 2012 cases could potentially be dismissed as to you, negating any claim to refunds for any of those years. **HOWEVER, if you have paid 2013 taxes or do so by March 31, 2014, they are not delinquent, and your claims for all the prior years will be preserved.** Unfortunately, you will likely not be able to get a refund for the 2013 taxes you have paid, but you may be entitled to refunds for any taxes you may have paid during prior years that your parcel(s) were included in the lawsuits.

EXTREMELY IMPORTANT!! IF YOU HAVE NOT YET PAID YOUR TAXES FOR THE 2013 TAX YEAR:

If you have NOT paid your taxes for 2013, WE URGE YOU TO DO SO no later than the close of business on March 31, 2014. That way, your taxes will NOT be delinquent, and your claims for all of the prior years that your parcel(s) were included in the lawsuits will be preserved. If you do not pay your 2013 taxes by March 31, 2014, the prior years' lawsuits could be dismissed, negating any claim (if we win the appeal) to refunds for any of those years. **IF YOU PAY YOUR 2013 TAXES** by March 31, 2014, unfortunately, you will probably not be able to get a refund for the 2013 taxes you have paid, but you may be entitled to refunds (if we win the appeal) for any taxes you may have paid on all prior years that your parcel(s) were included in the lawsuits.

You must direct the person to whom you deliver your payment to apply it to your 2013 taxes. The Tax Collector's office has assured us that if you direct the clerk/cashier there to apply your funds to payment of **ONLY** the 2013 taxes, they "will absolutely apply the payment to the 2013 year as directed with any applicable discount."

You can pay the 2013 taxes on your Pensacola Beach leasehold by visiting the Tax Collector's office in person; by going online to www.escambiataxcollector.com, clicking on "Property Taxes," and following the instructions; or you can call (850) 438-6500.