

Denial of Licenses for Non-Payment of Certain Municipal Charges — Amendment to G.L. c.40, §57

General Laws Chapter 40, §57 provides an important mechanism for cities and towns to deny or revoke certain permits and licenses when an applicant has unpaid local taxes, fees, assessments, betterments or other municipal charges. The statute requires acceptance and the adoption of an implementing ordinance or by-law. The statute sets forth the specific language for such ordinance or by-law. Several years ago, the law was amended to allow a permit or license to be denied if the owner of the property was delinquent, even if the permit applicant was only a lessee or tenant. Sections 37 and 38 of Chapter 218 of the Acts of 2016, the Municipal Modernization Act, amended the statute to provide significant additional flexibility to cities and towns.

Previously, permits and licenses could be denied or revoked only if taxes or other charges were unpaid “for not less than a twelve month period,” greatly limiting a municipality’s ability to require applicants to be current on such obligations. The 2016 revisions eliminated the twelve month waiting period and further allow the municipal treasurer to periodically, rather than annually, certify to permitting or licensing authorities the names of persons, corporations or business enterprises that have outstanding unpaid taxes or other charges.

If a municipality has never accepted G.L. c.40, §57, to utilize the statute it must accept the statute and adopt the implementing ordinance or bylaw. If a municipality has previously accepted the statute, in order to take advantage of this new provision it must amend the implementing ordinance or bylaw. These ordinances and bylaws, required by the statute to take a particular form, are substantially similar. In each, therefore, the following changes will be required, with the underlined language to be inserted and the strike-through language to be deleted:

The Treasurer/Collector shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation or business enterprise (hereinafter referred to as the party), that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges ~~for not less than a twelve (12) month period,~~ and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

Additionally, to ensure that the municipality may utilize the full scope of authority allowed by the statute, please review the applicable ordinance or bylaw to confirm that the following underlined language appears. If it does not so appear, the underlined language should also be included in the ordinance or bylaw revision:

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that....

Please contact Attorney Brian W. Riley by e-mail at briley@k-plaw.com or by phone at 617.556.0007 with any further questions concerning this statute or implementing ordinance or bylaw.

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