

10/8/13

Dear Hamilton County Public Health Board,

I am a resident of Green Township in Hamilton County Ohio at 4230 Boomer Rd. I am appealing to your knowledge of Township and County duties/protocol regarding Home Sewage Treatment Systems as outlined by the Ohio Revised Code Chapters 6117 and 3707 and the MSD Rules and Regulations Section 1216 and 1805.

On 4/14/11 my HSTS which had been functioning perfectly up until that point, was declared to have failed the dye test exacted upon it by the Hamilton County Public Health Inspector. I was informed that it would have to be repaired or replaced by a company on a list of approved sewage companies. I contacted three separate companies to get estimates which ranged from 14K-17K and then contacted the County to inquire about any grants or financial assistance available to me to correct the issues. I was informed that a low interest rate "HIP" loan was my only option. So I went through the red tape to secure the loan and with money in hand contacted the County again to determine my next step. I was then informed that it was not possible to repair or replace my system that I must tie into the city sewer since my septic tank was within 200 ft of an existing sewer line. I was upset and confused why I was not informed of this during any of the multiple calls made prior to this and had already secured the loan for a job that would not be done. I discovered that the costs would increase my original amount by over 12K. I could not secure a loan for the additional funds. I contacted the County again to ask what my options were at this point, specifically; I asked whether the additional 'easement' costs could be assessed to my property taxes or in the form of a lien. I was told by the woman that answered that it was absolutely not an option- that assessing the funds to the property taxes was not something that was permitted. After exhausting all other avenues, desperately trying to mitigate the issue with my septic tank, I contacted the county once again. I explained that I was trying to comply but that the housing market made it impossible to get a home equity loan—there was no equity left in the majority of the homes in my zip code, I alone lost 50% of my home's value in just three years—the HIP loan was only for 15K—surely there was SOMETHING that could be done to make it possible for a property owner to comply with an ordinance and I asked again why the additional funds could not be applied to my property taxes and assessed over a number of years—the same woman I had spoken with before told me that the people that do the work from the sewer to the private property will NOT begin any work without money in hand—and getting the money in full prior to scheduling work was my problem. I didn't know what to do—I had been given two options—fully finance the 25K+ or abandon my property to 'remove the nuisance'.

At that point (February of 2012) I initiated a contract with a real estate agent to begin a short sale process on my home. I was directed to stop paying on my mortgage in order to qualify for the short sale application which would commence 90 days after the date of my final payment which was in March of 2012. Shortly after that time frame was up and the process had begun, I contacted the County once again to let them know my intent to short sale my home. I was told that if I did not comply, the County would issue a warrant for my arrest. This was the same woman that had been so sympathetic in prior phone calls. I really didn't understand the point of issuing a warrant for my arrest when I had not even

been afforded an opportunity to speak with someone other than the woman that answers the phones—I felt I should have been provided an opportunity to be heard and explain that I was not simply a resident that was shirking my duty. The warrant was issued in July of 2012. I called to ask why and what was going to happen if there was a warrant out, should I ‘turn myself in’? She said no but that if I was pulled over they would take me to jail. Pretty stressful considering there was nothing I could do but wait for the real estate agent to move on the short sale. In the interim, the mortgage company initiated a foreclosure on my home which was supposed to have been avoided by the short sale, but apparently the agent I worked with did not follow protocol. I began looking for homes to rent and secured a lease on Ranlyn rd to commence September 1<sup>st</sup>. I moved all of my things over the weekend before in an effort to vacate my home. This was waylaid by contact from my mortgage company’s attorney who had not been made aware of the issue with the septic tank precipitating my failure to pay and it was recommended I break the newly signed lease to pursue a loan modification that could potentially pay for the sewer work. However; the second week in September, while on my way to work at 4 in the morning, several police vehicles laid in wait for me at the Sharonville exit I use to get to work. I was pulled over and cited and ordered to appear in court. I have filed for a continuance while I have been feverishly researching the legal background of what I am going through. And so far, it has raised quite a few issues with how my situation was handled by the County.

According to Section 1216, and 1805 of the MSD Rules and Regulations—The assessment to property taxes IS an option that was intentionally obstructed by the erroneous information given to me by the woman at the HCPH office. This is also supported by the ORC 3707.02, 6117.012, 6117.05. Also ignored for more than two years is the ORC 3718.022 regarding economic impact of compliance on the property owner. Furthermore, when I inquired about my options to remedy the matter outside of what I had already done—no option was provided to me—despite having specifically asked—I was not informed of my right according to the ORC 3718.11 to a hearing in front of the board. My rights were obstructed; they were willfully obstructed by the person with whom I spoke on multiple occasions who provided me with misleading, erroneous or intentionally falsified information.

My research has uncovered compelling evidence suggesting that this scenario is not an uncommon one on Hamilton County roads that have both HSTS and sewer lines available. Specifically, on Boomer rd alone there are 164 HSTS, 93 of which have not passed their most recent inspection. The majority of these homes are nestled between connected homes. An alarming number of homes that were addressed by a previous petition to extend the sewer line from house numbers 5049-5765 have been failing consistently—from the permit records, one home obtained two building/operating permits for two different systems within one year of the other suggesting they were required to replace a newly installed HSTS. From what I can gather, the county cannot pursue the extension of the sewer without a majority approval OR the determination of a property causing a nuisance to which it must be extended in order to abate it. Not surprisingly, house number 5563, which happens to be near perfect center of the original targeted group of 65 homes; was declared a nuisance in the Green Township minutes (resolution #12-1210-K on 5/28/13). Boomer Rd continues to be on the ‘projects book’ despite having failed a petition that addressed 31% of existing HSTS systems. The economic impact is staggering; 35 homes have either been sold, foreclosed, short sold, or experienced some type of economic hardship

(bankruptcy). I have created a website ([www.boomerseptic.yolasite.com](http://www.boomerseptic.yolasite.com)) with the information I have gathered thus far and have delivered letters to the residents on Boomer rd to determine their position on this matter as well as their interpretation of the data. I am not accusing the County of unethical practices, however; there is a preponderance of evidence that is far too coincidental to ignore or deem typical. I appreciate your input on this situation and if you could let me know the most appropriate method to address this matter. Thank you very much for your time taken to look into this matter.

Sincerely

T. Gonnella

513-432-5109

### **Section 1216**

#### **Policy for Levying Sewer Assessments for Local Collector Sewers - Assessment Credit**

B. "Secondary" Assessment Credit. It is the policy of the Board to encourage public sewers and to finance sewer improvements, which provide local sewer service, by levying special assessments on the properties receiving benefit from the sewer improvement, as provided in Ohio Revised Code Chapter 6117. For all properties so specially assessed, it is the policy of this Board that MSD will pay, in the form of a secondary assessment credit, all public improvement project costs exceeding \$12,000. It is the policy of the Board that total actual per-benefit costs of the local public sewer improvement which remains in excess of \$12,000 per benefited property, once the single-family assessment credit has been applied, shall be funded from Metropolitan Sewer District unappropriated funds as a secondary credit. This secondary credit is applicable to all property types as defined by the Hamilton County Auditor and subject to special assessment under the Revised Code.

### **Section 1805 Policy on Management of Requests for Local Sewer Assessment Projects**

#### **MSD RULES AND REGULATIONS SECTION 1805 D**

##### **E.) Financing of Local Public Sewer Improvements.**

All the costs of a local public sewer improvement shall be reported to the Board by MSD. The cost of the aforesaid local public sewer improvement, per Chapter 61 17 ORC, shall be paid in part by Special Assessments against the property or properties abutting on and specially benefited by the local public sewer improvement. It is the policy of the Board to structure the financing of local public sewer improvements in the following manner:

- 1.) The total cost of said special assessment shall be the actual cost of the local public sewer improvement.
- 2.) Actual costs are those defined under Chapter 6117 ORC, et. seq.
- 3.) Total actual cost shall be divided by the number of benefited properties to determine the per-benefit cost.
- 4.) MSD shall apply all applicable assessment credits, per Section J 2J 6 to the total actual per-benefit cost. It is the policy of the Board that total actual per-benefit costs of the public sewer improvement

which remain in excess of \$12,000 per benefited property, once the single family assessment credit has been applied, shall be funded from MSD unappropriated funds as a secondary credit.

5.) Actual costs per benefited property shall apply only to parcels benefited by the local public sewer improvement.

6.) Benefited parcels are determined under Section 1805

7.) MSD shall apprise property owners of their ability to apply to the Board for individual Community Block Development Grant (CDBG) funding. MSD shall apprise the political jurisdiction in which the local public sewer improvement is located of their ability to apply to the Hamilton County Department of Community Development for CDBG funding. The use and award of such funding is subject to the rules and regulations associated with it. The Board will endeavor to secure such CDBG funding where available and applicable.

#### **MSD IMPLEMENTATION - 1805 (F).**

G.) Deferred Assessments. Under Section 6117.061 ORC, the Board of County Commissioners may defer collection of up to 75% of the principal amount of a local public sewer improvement assessment for up to 20 years.

1.) It is the policy of the Board that the ability of a property owner to place the assessed cost of the local public sewer improvement on the property tax duplicate, over 20 years, constitutes, de-facto, a deferment under this chapter of the Revised Code.

2.) Per Chapter 61 17.061 ORC, the decision of the Board in this matter is final and no appeal thereof may be taken.

**MSD IMPLEMENTATION - 1805 (G).** Per 6117.061 ORC, property owners may petition the Board to request a deferment of up to 75% of the special assessment that may be levied by the Board for local public sewer improvements. It is Board policy that the ability to place this special assessment on the property tax duplicate, over 20 years, constitutes, de-facto, a deferment. MSD will report to the Board on all deferment requests received and request the Board to dispose of the same as a part of the project legislation. Decisions of the Board are final, with no avenue of judicial appeal.

#### **ORC 3718.11 Request for hearing**

(A) A property owner may request a hearing with the board of health for any reason described in division (A)(18) of section 3718.02 of the Revised Code. A property owner may appeal the results of the hearing to either of the following:

- (1) The court of common pleas of the county in which the property owner's land is located;
- (2) A sewage treatment system appeals board that is established in accordance with this section.

#### **3718.022 Consideration of economic impact in adopting rules.**

Notwithstanding any provision in this chapter to the contrary, in adopting rules under division (A) of section 3718.02 of the Revised Code, the director of health shall consider the economic impact of the rules on property owners, the state of available technology, and the nature and economics of the available alternatives.

#### **ORC 6117.25 Payment for costs of improvement.**

A) The board of county commissioners may pay the whole or any part of the cost of constructing, maintaining, repairing, or operating any improvement provided for in this chapter, including the payment of a county sanitary engineer and the sanitary engineer's assistants and other necessary

expenses. Insofar as such expenses relate to the construction of a permanent improvement, they may be considered as part of the cost of such improvement and bonds may be issued therefor.

**ORC 3707.02 Proceedings when order of board is neglected or disregarded.**

...shall place such sum against the property upon which the material and labor were expended, which shall, from the date of entry, be a lien upon the property and be paid as other taxes are paid.

**6117.012 Rules for disconnection and reconnection or relocation of improper inflows into sewers.**

(C) A board of county commissioners may use sewer district funds; county general fund moneys; the proceeds of bonds issued under Chapter 133. or 165. of the Revised Code; and, to the extent permitted by their terms, loans, grants, or other moneys from appropriate state or federal funds, for either of the following:

(1) The cost of disconnections, reconnections, relocations, combined sewer overflow prevention, or sewer back-up prevention required by rules adopted pursuant to division (A) of this section, performed by the county or under contract with the county;

(2) Payments to the property owner or a contractor hired by the property owner pursuant to a competitive process established by district rules, for the cost of disconnections, reconnections, relocations, combined sewer overflow prevention, or sewer back-up prevention required by rules adopted pursuant to division (A) of this section after the board, pursuant to its rules, has approved the work to be performed and after the county has received from the property owner a statement releasing the county from all liability in connection with the disconnections, reconnections, relocations, combined sewer overflow prevention, or sewer back-up prevention.

(D) Except as provided in division (E) of this section, the board of county commissioners shall require in its rules regarding disconnections, reconnections, relocations of sewers, combined sewer overflow prevention, or sewer back-up prevention the reimbursement of moneys expended pursuant to division (C) of this section by either of the following methods:

(1) A charge to the property owner in the amount of the payment made pursuant to division (C) of this section for immediate payment or payment in installments with interest as determined by the board not to exceed ten per cent, which payments may be billed as a separate item with the rents charged to that owner for use of the sewers. The board may approve installment payments for a period of not more than fifteen years. If charges are to be paid in installments, the board shall certify to the county auditor information sufficient to identify each subject parcel of property, the total of the charges to be paid in installments, and the total number of installments to be paid. The auditor shall record the information in the sewer improvement record until these charges are paid in full. Charges not paid when due shall be certified to the county auditor, who shall place the charges upon the real property tax list and duplicate against that property. Those charges shall be a lien on the property from the date they are placed on the tax list and duplicate and shall be collected in the same manner as other taxes.

(2) A special assessment levied against the property, payable in the number of years the board determines, not to exceed fifteen years, with interest as determined by the board not to exceed ten per cent. The board shall certify the assessments to the county auditor, stating the amount and time of payment. The auditor shall record the information in the county sewer improvement record, showing separately the assessments to be collected, and shall place the assessments upon the real property tax

list and duplicate for collection. The assessments shall be a lien on the property from the date they are placed on the tax list and duplicate and shall be collected in the same manner as other taxes.