

VILLAGE OF CHATHAM, ILLINOIS

ORDINANCE NO. 04-53

AN ORDINANCE REPEALING ORDINANCE 04-15, "AN ORDINANCE
IMPOSING A SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX AND
AMENDING THE VILLAGE OF CHATHAM CODE OF ORDINANCES"

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF CHATHAM, ILLINOIS
THIS 24 DAY OF AUGUST, 2004

Published in pamphlet form by the authority of the President and
Board of Trustees of the Village of Chatham, Sangamon County,
Illinois, this 24 day of AUGUST, 2004.

STATE OF ILLINOIS)
) ss.
COUNTY OF SANGAMON)

CERTIFICATE

I certify that I am the duly elected and acting Village Clerk of the Village of Chatham, Sangamon County, Illinois.

I further certify that on 8-24, 2004, the corporate authorities of such Village passed and approved Ordinance No. 04-53 entitled:

AN ORDINANCE REPEALING ORDINANCE 04-15, "AN ORDINANCE IMPOSING A SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX AND AMENDING THE VILLAGE OF CHATHAM CODE OF ORDINANCES"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 04-53 including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the Village Hall, commencing on 8-24, 2004, to continue for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Village Clerk.

DATED at Chatham, Illinois, this 24 day of AUGUST, 2004.

(SEAL)



Village Clerk

ORDINANCE NO. 04- 53

AN ORDINANCE REPEALING ORDINANCE 04- 15, AN ORDINANCE AMENDING THE VILLAGE OF CHATHAM CODE OF ORDINANCES BY INCREASING THE SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX FROM 2% TO 6%”

WHEREAS, on 4-13-04, the Village of Chatham adopted Ordinance No. 04-15, “An Ordinance Imposing A Simplified Municipal Telecommunications Tax And Amending The Village Of Chatham Code Of Ordinances”

WHEREAS, it has come to the attention of the Village Attorney that the format of said ordinance does not comport with the format mandated by the Illinois Department of Revenue;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CHATHAM, AS FOLLOWS:

SECTION 1: Ordinance No. 04- 15, “An Ordinance Imposing A Simplified Municipal Telecommunications Tax And Amending The Village Of Chatham Code Of Ordinances”, is hereby repealed.

SECTION 2: Chapter 116 of the Village of Chatham Code of Ordinances is repealed in its entirety.

SECTION 3: The Clerk shall update the next codification of Village Ordinances by instructing the codification company to codify Section 1 of “An Ordinance Changing The Rate Imposed By The Village Of Chatham For The Simplified Municipal Telecommunications Tax”, passed the same date as this Ordinance, as Section 116.1 of the Village of Chatham Code of Ordinances.

SECTION 4: This Ordinance shall be in full force and effect from and after its passage and approval and publication in pamphlet form as required by law.

PASSED this 24 day of AUGUST, 2004.

Thomas J Gray

VILLAGE PRESIDENT

ATTEST:

Pat Shepard

Village Clerk

AYES: 5 HERR McADAMS McARTHY McGRATH KAVANA GH
NAYS: 0

PASSED: 8-24-04

APPROVED: 8-24-04

ABSENT: 1 Boyle



ORDINANCE CERTIFICATE

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

I, the undersigned, do hereby certify that I am the duly qualified and acting Village Clerk of the Village of Chatham, Sangamon County, Illinois.

I do further certify that the ordinance attached hereto is a full, true, and exact copy of Ordinance No. 04-53 adopted by the President and Board of Trustees of said Village on the 24 day of AUGUST, 2004, said Ordinance being entitled:

AN ORDINANCE REPEALING ORDINANCE 04-15, "AN ORDINANCE IMPOSING A SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX AND AMENDING THE VILLAGE OF CHATHAM CODE OF ORDINANCES"

I do further certify that prior to the making of this certificate, the said Ordinance was spread at length upon the permanent records of said Village, where it now appears and remains.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Village this 24 day of AUGUST, 2004.



Village Clerk



VETO MESSAGE

To: Members of the Village Board, Chatham IL

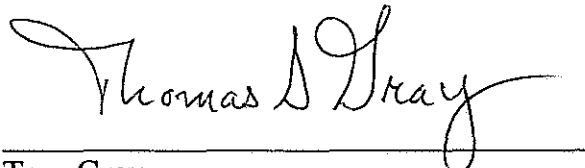
I am hereby vetoing Ordinance No. 04-53, "AN ORDINANCE REPEALING ORDINANCE 04-15, AN ORDINANCE AMENDING THE VILLAGE OF CHATHAM CODE OF ORDINANCES BY INCREASING THE SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX FROM 2% TO 6%"

The reason this ordinance was proposed was to repeal Chapter 116 of our Code of Ordinances, to clear the decks for passage of Ordinance No. 04-054, which would have increased the telecommunications tax from 2% to 6%. As you know, Ordinance No. 04-54 failed to pass.

I have consulted with our village counsel, and while he believes that our telecommunications tax will continue to be 2% under any scenario, he also believes that to make absolutely sure, we should return the Village to the *status quo* as it existed before passage of Ordinance No. 04-53.

I am returning Ordinance No. 04-53 to you for your reconsideration, as required by the Illinois Municipal Code.

Dated September 12, 2004.



Tom Gray





del mccord

From: John Myers [jmyers@springfieldlaw.com]
Sent: Monday, September 13, 2004 11:41 AM
To: Gray, Tom
Cc: Del McCord
Subject: Veto

Tom:

Following up on our conversations, I have discussed the Telecommunications Tax situation with the Department of Revenue. As you know, the Department's position is that our ordinance raising the 2% rate to 6% was invalid. However, the Department will continue to impose the 2% tax until they receive what they consider to be a valid ordinance changing the rate of the tax.

On the other hand, if the Department of Revenue receives from the Village Clerk a copy of an ordinance repealing the 2% tax, they will stop collecting the 2%, and the Village will receive 0%.

Ordinance No. 04-53 was intended as a housekeeping measure to clean up our ordinance book by rescinding Chapter 116 of the Code of Ordinances in anticipation of the passage of Ordinance No. 04-54, the Department-prescribed 6% ordinance. Thus, by its terms, Ordinance No. 04-53 abolishes the 2% rate. While Ordinance No. 04-53 does not instruct the Village Clerk to send a copy of the ordinance to the Department of Revenue, and thus in all likelihood the Department would never receive the ordinance and drop the rate to 0%, prudence dictates that the safest course, so as to avoid any question (such as a taxpayer lawsuit) of the validity of the 2% rate, would be to veto Ordinance No. 04-53.

I'm copying this e-mail to Del and asking him to provide a copy to all trustees along with your veto message.

John

John M. Myers
Rabin, Myers, Hanken & Durr, PC
1300 South Eighth Street
Springfield, IL 62703

217.544.5000
217.544.5017 (fax)

9/13/2004



Illinois Department of Revenue

Legal Services Office 5-500
101 W. Jefferson St.
Springfield, IL 62794

July 22, 2004

Village of Chatham
116 East Mulberry
Chatham, Illinois 62629

Attention: Pat Schad
Village Clerk

Dear Mr. Schad:

This is to acknowledge receipt of the Village of Chatham's Ordinance No. 04-15 increasing the Simplified Municipal Telecommunications Tax to the rate of 6%.

Although this Ordinance only sets forth one Section of the Chapter, we note that the original ordinance adopted to impose the Simplified Municipal Telecommunications Tax appears to have been an attempt to mirror the language of the Simplified Municipal Telecommunications Tax Act (35 ILCS 636/5-1 et seq.). Section 116.2 of the Chapter indicates that the tax imposed by the Village does not reflect the current status of the law. Public Acts 92-878 and 93-286 have made changes to the Act.

The Village may bring its Code into compliance in one of two ways. Enclosed is a sample ordinance that the village may adopt that, rather than restate the language of the Act, imposes the tax "under the provisions of the Simplified Municipal Telecommunications Tax Act". This method has the advantage that, each time the Act is amended, the ordinance does not also need to be amended. In the alternative, the Village may amend the language of the Chapter to reflect the current language of the Act. Keep in mind that, if this method is used, as changes are made to the Act in the future, the Village must update its language to reflect those changes. In order for the Department to administer the tax, the tax imposed by the Village must be the same as the tax imposed under the Act. Please note that, if you use the enclosed ordinance, you will also want to repeal the existing language in the Village Code.

We urge you to make these changes to bring the ordinance into compliance with the Act within 30 days after the date of this letter in order for the Department to begin enforcement as provided below.

With the changes above, the Illinois Department of Revenue shall collect, administer, and enforce this Simplified Municipal Telecommunications Tax effective January 1, 2005, in

accordance with the provisions of the Simplified Municipal Telecommunications Tax Act (35 ILCS 636/5-1 et seq.).

If you have any questions regarding this matter or if I can be of any assistance, please feel free to contact me at the number listed below.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel J. Moore". The signature is written in a cursive style with a large initial "S" and "M".

Samuel J. Moore
Associate Counsel
(217) 782-2844

Enc.

Cc: Cecil Denton, Local Tax Allocation Division

04-15 TELECOM TAX

4-13-04 2% → 6%

4 yes

3 no

NOT ACCEPTED BY
IDR

04-53 REPEALED 04-15

5 YES

0 NO

1 ABSENT (BOYCE)

TOM VETOED 04-53 9-12-04
(BY MEMO)

04-54 2% → 5%

4 YES

2 NO

9-14-04