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MUNICIPAL ORDINANCE - PENNSYLVANIA

City of Reading v. Iezzi

Commonwealth Court of Pennsylvania - October 23, 2013 - A.3d - 2013 WL 5731620

City is a third-class city organized and operating under a home rule charter. Pursuant to the Municipal Waste Planning, Recycling, and Waste Reduction Act (Act 101) and its powers under the Charter, the City adopted an ordinance regulating the collection, transportation, storage and disposal of solid waste and recycling and imposing separate fees for these services on persons owning property located within its borders.

In December 2010, the City filed a tax claim of \$1,405.17 against homeowner for delinquent recycling fees due on his property for the years 1999 through 2008.

Homeowner asserted that the Solid Waste Management Act (SWMA) and (Act 101) preempt the City from imposing recycling fees. Municipalities only have the power expressly granted to them through SWMA and Act 101. SWMA and Act 101 govern recycling and set forth a comprehensive plan for funding local recycling programs. According to homeowner these acts do not authorize a municipality to charge fees not expressly set forth in the statute. Thus, the City is not permitted to charge a fee for recycling.

The court agreed, finding that a careful review of SWMA and Act 101 reveals there is no mechanism for a municipality to charge a fee for its recycling services; rather, fees for recycling are set by the General Assembly.