



Legislation Details (With Text)

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**Title:** Resolution approving and authorizing stipulation with United States of America ("USA") concerning delinquent taxes against various parcels the USA seized in federal-forfeiture action. (City Attorney)

**Sponsors:** THE CHAIR

**Indexes:** AGREEMENTS, LITIGATION, TAXATION

**Attachments:** 1. City Atty Cover Letter.pdf, 2. Fiscal Note.pdf, 3. Agreement.PDF

Date	Ver.	Action By	Action	Result	Tally
8/1/2002	0	COMMON COUNCIL	ADOPTED	Pass	17:0
8/8/2002	0	MAYOR	SIGNED		

020647  
ORIGINAL  
CHAIR

Resolution approving and authorizing stipulation with United States of America ("USA") concerning delinquent taxes against various parcels the USA seized in federal-forfeiture action. (City Attorney)  
Resolution approves and authorizes stipulation among USA, the City, and U.S. Bank ("Bank") pursuant to which the parties agree: to allow the federal court to grant judgment of forfeiture vesting title to certain property in the USA; that the U.S. Marshal will then sell the property; and that, from the proceeds of sale, the City will get paid first for outstanding taxes, the Marshal will get paid second to cover its expenses, Bank will get paid third with proceeds going to pay-down mortgages it has, and, if there are any remaining proceeds after those payments, those proceeds will go to the USA for its Asset Forfeiture Fund.

Whereas, In February of 2001, the USA sent notice to the City that, in the case of United States v. Julian Lopez, et. al. (Criminal No. 99-CR-209) (the "criminal-forfeiture case"), the U.S. District Court for the Eastern District of Wisconsin ordered the forfeiture of various criminal defendants' interests in certain real estate, including: 727, 810, 810-A, 816, and 830 West Madison Street, and 1226 and 1230-1238 South 8<sup>th</sup> Street, Milwaukee, and in certain personal property seized from JL Finishing Company, 816 West National Avenue, Milwaukee, the USA gave notice of its intent to dispose of the real and personal property, and the USA gave notice that, any person claiming an interest in the property had to file a petition with the Court; and

Whereas, On February 26, 2001, the City filed with the Court, "City of Milwaukee's Petition: for Remission or Mitigation of Forfeiture; for Recognition of City's Liens; for Payment in Full; and for Hearing to Adjudicate Validity of City's Interest in Property," in which: City asserted its outstanding property-tax interests in the property; and City demanded payment of its taxes; and

Whereas, 727 West Madison Street and 1230-1238 South 8<sup>th</sup> Street were dismissed from the USA's criminal forfeiture proceeding and then included in separate litigation brought by the USA attempting civil forfeiture of those same parcels (USA v. Certain Real Properties Commonly Known as 727 West Madison Street and 1230-

1238 South 8<sup>th</sup> Street, Case No. 02-C-0221) (the "civil-forfeiture case"); and

Whereas, In the criminal-forfeiture case, the Court did grant to the USA a judgment of forfeiture on (and title to) 830 West Madison Street, and the USA did agree to pay outstanding taxes on that parcel when the USA sells it; and

Whereas, In the civil-forfeiture case, the City and USA agreed that judgment of forfeiture would be granted to the USA on 727 West Madison Street and 1230-1238 South 8<sup>th</sup> Street, that the Marshal would sell those parcels, and that the City would get paid its outstanding taxes; and

Whereas, On January 25, 2002 a hearing took place before the Court (Judge Clevert presiding) in the criminal-forfeiture case with respect to City's above-referenced petition, with the Court encouraging the USA and City to amicably work out a resolution addressing USA payment to City of outstanding tax amounts, but with the Court orally ordering the granting of forfeiture judgment to the USA with the interests of the lien claimants (including City) attaching to the sale proceeds as the claimants' interests may appear, and with the USA being responsible for drafting the Court's order; and

Whereas, In an effort to resolve the criminal-forfeiture case, the USA drafted the "Stipulation and Settlement Agreement" (the "Proposed Stipulation") contained in this file; and

Whereas, The Proposed Stipulation addresses the remaining parcels in the criminal-forfeiture case (i.e. 810, 810 -A, and 816 West Madison Street, and 1226 South 8<sup>th</sup> Street and the personal property seized from JL Finishing Company); and, under the Proposed Stipulation, the USA, City and Bank would agree that: the federal court may grant judgment of forfeiture to the USA so the USA will own the parcels (and personal property), the U.S. Marshal will sell the parcels (and personal property), and, from the proceeds of sale, the City will get paid first to cover outstanding taxes, the Marshal will get paid second to cover its expenses, Bank will get paid third with proceeds going to pay-down mortgages it has, and, if there are remaining proceeds, they will go to the USA for its Asset Forfeiture Fund; and

Whereas, In that Council approval of this resolution does not specifically appropriate money or create any charge against any City funds, under Milwaukee City Charter §4-21, this resolution does not have to be referred to a committee of the Common Council; now, therefore, be it

Resolved, That the Common Council of the City of Milwaukee hereby approves and authorizes the City Attorney's Office to sign the Proposed Stipulation, and the proper City officials, if need be, to take such further acts as may be required to carry out the agreement reflected by the Proposed Stipulation; and, be it

Further Resolved, That the Common Council also approves and authorizes the City Attorney's Office to enter into similar stipulations in the future (and such further acts as may be required by proper City officials) with respect to USA efforts to seize and get property forfeited to it in the City of Milwaukee, so long as such future/similar stipulations provide for sale of the property by the U.S. Marshal, and, from the sale proceeds, the City getting paid first and foremost before the U.S. Marshal, before the USA, and before other creditors; and, be it

Further Resolved, That if the Court does approve and order the Proposed Stipulation, when the USA or U.S. Marshal transmits tax payments to the City on the respective delinquent tax accounts, those funds be deposited into the delinquent tax fund per Milwaukee Code of Ordinances §304-30.

City Attorney

City Attorney  
Gregg C. Hagopian  
7/29/2002  
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