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CITY OF PHILADELPHIA OFFICE OF THE INSPECTOR GENERAL



Investigative Report and Policy Recommendations

Distribution	No.	File Number:	Signature of Investigator Making Report:
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REPORT OF INVESTIGATION

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I. EXECUTIVE SUMMARY

The Office of the Inspector General initiated a review of the process and policies related to commercial and multi-unit residential waste and recycling collection by the Philadelphia Streets Department. 44,000 small commercial and multi-unit rental properties qualify for waste and recycling removal by the city at a cost of less than \$6 a week. Yet, over 19,000 property owners are delinquent in paying their annual Sanitation Code Enforcement (SCE) fees¹, resulting in over \$34,000,000 in outstanding fees and fines owed the city. This debt includes nearly 2,000 property owners who have never paid the SCE fee since its inception in 2010. Yet, they continue to benefit from municipal trash and recycling collection and suffer no repercussions for their delinquency.

The following report provides justification for the city's proposed SCE fee increase² as well as numerous recommendations to improve compliance with the SCE fee and the efficiency and effectiveness of its collection practices.

SCE Fee Does Not Sustain the Costs of Services

Philadelphia's current \$300 SCE fee is very low compared to other cities, with some comparable jurisdictions charging similar properties six times as much for the same services. And while the fee has not increased since its inception over a decade ago, the costs of waste and recycling disposal have skyrocketed over 25%.

Delinquent Property Owners Benefit from Lax Enforcement

When owners of commercial properties fail to pay the SCE fee the consequences outlined in the city's regulations are toothless threats.

- Services **are not** terminated, and sanitation workers continue to collect trash and recycling.
- Suits **are not** brought by the city against violators.
- Liens **are not** filed against the subject premises out of compliance.
- Collection services never resume as they **are not** ever suspended.

If a property falls into arrears, Revenue merely refers the outstanding debt to one of two collection agencies contracted by the city.

Insufficient Penalty Enforcement

The Streets Department deploys a unit called Streets & Walkways Education and Enforcement Program (SWEEP) to write Civil Violation Notices (CVN) against property owners who are out of compliance with their SCE fee yet attempt to continue to utilize city sanitation services. These \$50 fines are a low priority within SWEEP, are issued haphazardly and often in a manner which renders them unenforceable, ultimately leaving thousands of property owners to risk an occasional \$50 fine rather than paying their annual \$300 fee.

¹ The fee is commonly referred to as the SCE fee amongst city departments but is billed to property owners as the Refuse Collection Fee.

² On May 1, 2020 the mayor proposed an increase in the SCE fee from \$300 to \$500 as part of the revised FY21 budget. This report was being drafted prior to that time.

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Lack of Inter-Department Coordination

Successfully enforcing both the SCEs and CVNs requires several city agencies to navigate a labyrinth of stages in a coordinated manner. However, it appears time and resources are often being wasted due to different prioritizations and lack of communications between some departments.


In a city with rising processing costs, commercial property owners should not be permitted to ignore their fees for trash and recycling collection while continuing to reap the benefits of that service. At the same time, the city needs to be diligent in recovering this much needed revenue. Recommend actions include:

- Bring the SCE fee in line with increased costs and reduced revenue for waste removal and recycling.
- Coordinating collection between the Department of Revenue and Law Department to collect SCE fees and CVN fines from the same property owner.
- Filing liens against properties delinquent in paying SCE fees, including combined claims for both unpaid SCE fees and CVN fines against a property owner.
- Stricter and targeted enforcement of CVN violations by SWEEP officers.
- Improved Training of SWEEP Officers.
- Expanding CVN Language to explain the need to pay the SCE, and the potential for further CVNs if the SCE is not paid.
- Providing informative briefings to the Judicial Bench to help judges better understand the financial implications of SCE fee delinquency and CVN fines.
- Providing a limited term Tax Amnesty Program to give delinquent taxpayers an opportunity to pay their outstanding SCE fees and CVN fines.

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II. SANITATION CODE ENFORCEMENT FEE



CITY OF PHILADELPHIA
DEPARTMENT OF REVENUE

PO BOX 966
PHILADELPHIA PA 19105-0966

2019 REFUSE COLLECTION FEE

November 1, 2018

Act #: _____
CPAR: _____
NOTICE NUMBER: _____
Phone: (215) 566-5693

NAME _____
STREET _____
CITY, STATE _____

PROPERTY ADDRESS:

Account Number	Period: Beginning - Ending	Fee Due	Due Date
0200/2018 - 2293/2018	01/01/2019 - 06/30/2019		12/31/2018
0200/2018 - 2293/2018	07/01/2018 - 12/31/2018		07/01/2018

PAYMENT AMOUNTS THAT EXCEED THE CURRENT DUE AMOUNT WILL BE CREDITED TO THE NEXT BILLING PERIOD

IMPORTANT: If you do not pay your 2019 Refuse Collection Fee on time, the Department of Revenue will add interest and penalty to the amount you owe. Also, if this bill becomes delinquent, the Department may assign your account to a private collection agency or to the Law Department for legal action.

The fastest and easiest way to pay is online at www.phila.gov/pay. Paying by check is FREE; fees apply for payments by debit or credit cards.

See the other side of this bill for language support Current Charges:
Total if paid by December 31, 2018: _____

Pay by online at www.phila.gov/pay

DETACH THIS PORTION AND RETURN WITH YOUR PAYMENT IN THE ENCLOSED ENVELOPE

PAYMENT DUE:
ON OR BEFORE: December 31, 2018
AMOUNT ENCLOSED: _____


Make Checks Payable To:
CITY OF PHILADELPHIA

DEPARTMENT OF REVENUE
PO BOX 966
PHILADELPHIA PA 19105-0966

SCARLINE

While most large commercial businesses and multi-unit residential rental properties in Philadelphia must contract for trash and recycling collection with private haulers, some smaller commercial, multi-unit rental and mixed-use rental properties are eligible for these services from the city with payment of the SCE fee. This includes private, inhabited premises with no more than six units that do not exceed the set-out limits and are not otherwise ineligible.^{3,4} In 2010 City Council approved an increase in the annual SCE fee from \$150 to \$300 for properties in this category.

Properties that are eligible for these collection services receive a "Refuse Collection Fee" bill from the Department of Revenue dated November 1st each year. Taxpayers can pay the entire fee or half the fee as the bill covers the first six months of the next calendar year.



CITY OF PHILADELPHIA
DEPARTMENT OF REVENUE

De or Property Owner,

November 1, 2018

Your commercial, multi-unit residential, or mixed-use property is eligible for City trash and recycling services. The fee is \$300 per year. The City of Philadelphia requires most large commercial, multi-unit residential, or mixed-use properties to purchase private trash service. But, some smaller properties like yours are eligible to use the City service, with weekly limits on the amount of trash and recyclables left at the curb.

You must pay the City refuse fee, unless you already use a private hauler. Act within 60 days, to avoid interest and penalties. You have three options:

- Pay the enclosed bill of \$300 in full by December 31, 2018. If necessary, you can pay in two installments. The first installment of \$150.00 is due by December 31, 2018. The second installment is due by July 1, 2019. Pay by the due date or face interest and penalties!
- Participate in private trash service. Fill out and return the enclosed Exemption Form. Include a copy of your current service agreement from a licensed hauler. Show that you have a private trash service contract in place within 60 days of the bill date. Otherwise, you will be responsible for the full fee.
- Qualify to receive City trash and recycling services for a reduced or waived fee. If you meet one of the criteria below, fill out and return the enclosed Exemption Form.
 - Owner-Occupied Property:** the property must be 100% occupied by the owner with no tenants, residential-only (100% discount, \$0 due)
 - House of Worship:** the property must be used for religious purposes only (100% discount, \$0 due)
 - Vacant Property:** the property must be vacant and owner must provide a current Vacant Property license from the Department of License & Inspection (100% discount, \$0 due)
 - Owner-Occupied Duplex:** the owner must live in one unit and have only one other rental unit. The owner must provide a current rental license from the Department of License & Inspection (50% discount, \$150 due). **NOTE:** You can pay in full by December 31, 2018, or in two installments of \$75 each with the same schedule as due dates above.

Contact the Department of Revenue's Refuse Collection Line with questions at (215) 566-5090 or via email at coll@revenue.phila.gov. For online payment options, visit www.phila.gov/pay.

Form must be filled out in English. For translations contact phone call (215) 566-1000

For fees that will be applied, fees continue to be calculated. Please pay fees (215) 566-1000

Donnez votre formulaire d'exemption en français. Pour plus d'informations, appelez (215) 566-1000

PHILADELPHIA, PA 19105-0966 (215) 566-5090

(215) 566-1000

Weekly Set-out Limits

The maximum amount of non-recyclables to set out at the curb weekly is six (6) gallon receptacles or 12 plastic bags, or an equivalent combination of the two. There is no limit on recyclables. If the property owner sets out items, the City will issue a fine.

A second bill is sent in May for the second half of the year if the remaining \$150 balance is still owed. Property owners may opt out of paying the fee if they are able to provide evidence that they are exempt. Exemptions include duplex properties where the owner occupies one of the residences (qualifies for 50% fee reduction), houses of worship, vacant properties (owner must submit a Vacant Property license from the Department of License and Inspection) or if a private hauler is servicing the property (owner must submit a copy of the service contract). Multi-unit premises occupied by the owner, and not rented, are also exempt from the fee.

³ City of Philadelphia, Regulations of the Department of Streets, Title I, Chapter 1.6
⁴ Private 100% owner occupied, and single-family rental properties are not assessed the \$300 SCE fee; they receive trash and recycling services at no charge.
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III. COLLECTION OF REFUSE AND RECYCLING – THE REQUIREMENTS AND THE REALITY

A. Process

The Philadelphia Department of Streets Regulations Governing Municipal and Private Collection of Refuse, Section 7 provides for an annual fee of \$300 for Neighborhood Sanitation and Cleaning Services and spells out the penalties for failure to remit payment.

“A property owner shall have 60 days from the date of the Invoice to demonstrate that private waste hauling service is in place for the property. Failure to demonstrate that private service is in place shall constitute acceptance of City service and make the property owner responsible for the full annual fee.....If an Invoice remains unpaid 30 days after it is due, the Department shall immediately **terminate service** to the property and the property owner shall be liable for interest and penalties..... **When suit is brought** for the recovery of the fee, the person liable therefor shall, in addition, be liable for the costs of collection together with the interest and penalties herein imposed. A claim against the property owner for unpaid liability may be **filed as a lien** against the subject Premises. For any property at which service has been terminated for lack of payment, **collection services shall not be resumed** until all outstanding balances are paid, including any balances for unpaid fees for prior years.” (emphasis added)

B. Practice

In practice, however, when owners fail to pay the SCE fee the consequences outlined in the city’s regulations are toothless threats.

- Services **are not** terminated, and sanitation workers continue to collect trash and recycling.
- Suits **are not** brought by the city against violators.
- Liens **are not** filed against the subject premises out of compliance.
- Collection services never resume as they **are not** ever suspended.

Streets’ officials cite health and public safety concerns for continuing collection, and from a practical standpoint, sanitation workers do not know which properties were billed and which paid their fee. Further frustrating the efforts to enforce this law is the fact that the provisions authorizing a suit for recovery of fees and liens against the property **have never been** exercised by authorities in the city.

IV. REFUSE AND RECYCLING COLLECTION IN OTHER CITIES

As the following policies and fees demonstrate, Philadelphia’s current \$300 annual fee for small commercial properties appears to be a bargain which may be unfairly benefiting landlords and business operators at the expense of the taxpaying public.

A. Comparisons to other cities

1. Multi-Family Residences

Most cities offer trash services to smaller multi-tenant residences for a fee. In Philadelphia up to a six-unit multi-tenant property can receive municipal trash collection for \$300/year. Most other

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jurisdictions that offer the service to multi-tenant properties charge per unit. A six-unit property pays \$1391.76/year in Harrisburg, PA, \$1152/year in Tucson, AZ and \$1751.76/year in Los Angeles, CA. In Phoenix, AZ, the charge for a duplex averages \$619.20/year.

6 Unit Residential Rental Property Per Unit Weekly Cost

Allentown, PA	\$7.21
Memphis, TN	\$6.91
Phoenix, AZ	\$5.95
Los Angeles, CA	\$5.61
Tucson, AZ	\$4.46
Harrisburg, PA	\$3.69
Philadelphia, PA	\$0.96

Duplex Residential Rental Property Per Unit Weekly Cost

Los Angeles, CA	\$8.38
San Francisco, CA	\$6.96
Phoenix, AZ	\$5.95
Scranton, PA	\$5.77
Reading, PA	\$5.25
Harrisburg, PA	\$4.46
Brie, PA	\$4.23
Allentown, PA	\$3.60
Philadelphia, PA	\$2.88

2. Small Businesses

While a few cities offer municipal refuse and recycling collection to small commercial properties, most require that they contract for private trash disposal.

In Philadelphia, the SCE allows businesses to have their garbage and recycling hauled away weekly for \$300 annually, or **less than \$6 a week**. This is an exceptionally low rate, particularly since very few cities even offer this service anymore. Some cities that still do, approach private businesses more creatively. For example, Houston, TX and Tucson, AZ offer small businesses trash collection service based upon the size of the trash container used, also known as a pay as you throw (PAYT) scale that starts at a minimum of \$699.48/year in Houston and \$768/year in Tucson. Other cities limit the amount of refuse that will be collected. Allentown, PA offers collection services to small business with 5 bags or less per week at an annual cost of \$375.00, still more than Philadelphia.

3. Response to increasing costs

Over the last few years, the demand for recyclable materials has plummeted and the costs of disposal have risen significantly. As cities struggle with these changes, many have implemented reduced collection schedules, reducing or eliminating recycling collection, implementing PAYT programs, and increasing collection fees. In the last year, Memphis, San Francisco, San Antonio and Phoenix, among others, raised trash collection fees. Meanwhile Philadelphia continues to collect trash and recycling with no reduction in services, no fee to single-family households, and no fee increase to commercial properties in a decade⁵. From an inflation perspective alone, \$300 in 2010 now equates to nearly \$357.

⁵ While Philadelphia provides municipal trash and recycling services to single-family dwellings at no charge, most cities, including six of the nine largest cities in the nation charge a separate trash removal fee to owners of single-family dwellings.

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Increases to trash fees per unit

Memphis, TN	\$7.16/month in December 2019
San Francisco, CA	\$6.62/month in July 2019
San Antonio, TX	\$4.32/month in October 2018
Phoenix, AZ	\$3.75/mo. in April 2020 and an additional \$3.25/mo. effective January 2021

B. Private Hauler Comparison

Most cities and counties require all commercial businesses and multi-unit residences to contract with private haulers for trash and recycling collection. In Philadelphia, a small rowhouse with 2 to 3 apartments using a 96 gallon can for both trash and recycling with twice per month pick up would pay approximately \$50/pick up, or \$1200/year for private collection. A “mom and pop” style convenience store would pay between \$150-\$300 per month depending upon whether they used 96-gallon containers or a small dumpster. “Mom and Pop” stores that are eligible for the SCE services pay a significantly lower price of only \$25 a month⁶.

V. REVENUE AND COSTS

A. The sale of recyclables used to offset collection and disposal costs

In July 2010, the last time the Sanitation Code Enforcement Fee was increased, the city was generating revenue from the sale of recyclable materials collected by Streets. The city started generating income during the second quarter of FY10, receiving .33/ton for recyclables, by the fourth quarter of FY10 the income rate was \$25.89/ton and rising, reaching a high of \$67.35/ton in the second quarter of FY12. From there the rate declined but stayed positive for income until the second quarter of FY15. At that time the world commodity prices for paper, plastic, and metal dropped sharply. Over the last five years the costs to process recycling have continued to rise, impacted by China’s declining appetite for U.S. recyclables, and their January 2018 ban on the importation of plastic and papers. As a result, for most of FY19 the city sent part of its recycling to the incinerator at a cost of \$67/ton and the rest was recycled at a cost of \$95/ton. In FY20 the city pays on average \$104/ton to process recycling – not including the cost of collection.⁷

Those fees range from \$9.50/month in Chicago, IL to \$35.89-\$107.67/month in San Jose, CA where the fee is based upon the size of the trash container used, also known as a pay as you throw model (PAYT). Four of the ten poorest cities in the nation charge a separate trash removal fee to owners of single-family dwellings. El Paso, TX charges \$19/month, Memphis, TN charges \$29.96/month, and Tucson, AZ charges \$15-\$48 month, based on the size of the container (PAYT). In Pennsylvania, six of the nine largest cities charge single-family properties for trash collection. Those fees range from \$18.33/month in Erie to \$32/month in Harrisburg.

⁶ Quotes provided by Commercial Waste Management Services, June 2019.

⁷ The processing rate (also known as the disposal rate) is based on the contract and market rates and is adjusted monthly.

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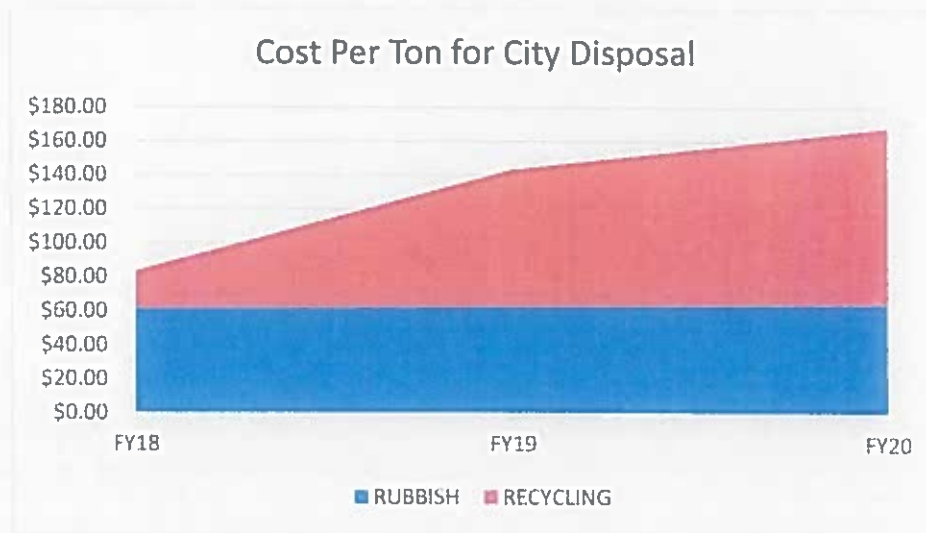
B. Costs to the city over the last ten years

Factoring the revenue generated against what Philadelphia spends on trash and recycling collection, the costs to the city have risen over 25% from FY11 through FY18, the last year for which totals are available.⁸

COSTS TO THE CITY TO COLLECT & PROCESS TRASH & RECYCLING⁹

	RUBBISH	RECYCLING	LESS RECYCLING REVENUE	NET TOTAL
FY11	\$56,118,322	\$9,717,235	\$5,404,145	\$60,431,412
FY12	\$60,845,027	\$10,509,205	\$6,655,916	\$64,698,316
FY13	\$58,969,778	\$10,114,582	\$3,224,493	\$65,859,867
FY14	\$56,303,310	\$12,101,838	\$2,343,676	\$66,061,472
FY15	\$57,899,374	\$13,140,632	\$143,907	\$70,896,099
FY16	\$55,486,192	\$15,286,153	\$0	\$70,772,345
FY17	\$54,815,681	\$12,009,601	\$0	\$66,825,282
FY18	\$61,871,536	\$13,963,261	\$0	\$75,834,797

The total costs of collection for FY19 are not yet available, however the disposal costs per ton for trash and recycling have risen 5.2% and 479% respectively for the period FY18 through FY20. The dramatic increase in recycling disposal has had a significant financial impact on the city and a return to a lower costs level is extremely unlikely.¹⁰



⁸ The revenue collected from the “sale” or disposal of recyclables was deposited in the general fund, and not factored into Streets’ budget.

⁹ The “Rubbish” and “Recycling” totals include all costs of collection and processing.

¹⁰ The financial impact of the COVID-19 crisis is yet to be seen.

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TRASH and RECYCLING COLLECTED IN TONNAGE



VI. SCE FEE PROCESS

SCE collection and enforcement is a lengthy process covering several departments and agencies with varying degrees of responsibility and overlap. For FY14 through FY19, an average of 44,000 SCE accounts were billed each year, with approximately one-third being business and the rest multi-tenant rental. Currently there are **over 19,000 properties delinquent** in paying SCE fees. Almost 2000 properties have accrued 10 years of unpaid principal, interest, and penalties. Many of these properties continue to regularly put out trash and recycling for collection. The fee collection process contributes to a lack of compliance. The chart above shows that as of April 2019 almost **\$34M** in delinquent SCE fees, interest and penalties was owed to the city.

**Data and Research Unit, Dept of Revenue
Commercial Trash Fee - Aging of Receivables**

tax year	#acctsDist	principal	int & penalty	total
2019	15670	2,288,649	206,759	2,495,408
2018	9608	2,576,918	1,096,785	3,673,703
2017	7634	2,084,276	1,533,859	3,618,135
2016	6501	1,769,451	1,796,753	3,566,205
2015	5796	1,565,134	2,018,810	3,583,944
2014	5477	1,463,478	2,334,694	3,798,171
2013	5064	1,359,670	2,406,576	3,766,246
2012	4697	1,250,939	2,548,413	3,799,352
2011	4386	1,152,705	2,704,525	3,857,230
2010	3598	480,134	1,253,920	1,734,055
sums		15,991,354	17,901,094	33,892,448

data source:
TaxReceivables.dbo.RT201904RTBOD190503T0185X600000P700101P191231; TaxReceivables.dbo.RT201904_invalBOApr19

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A. Office of Property Assessment (OPA)

The Office of Property Assessment (OPA) sends the legal description of the properties to Revenue. Refuse liabilities are identified via property codes (Ex. Commercial, duplex), transmitted to Revenue by OPA on a spreadsheet on a monthly basis. Properties whose descriptions had changed would be indicated and would determine whether the property should be added to or removed from SCE fee billings.

B. Department of Revenue

Revenue generates the Sanitation Code Enforcement (SCE) fee bills and sends them to property owners¹¹. The invoices are sent out twice a year, in November for the first six months of the following year and in May for the second six months of the year. Each invoice is \$150. Property owners can pay \$300 for the entire year at once or make two payments of \$150.

Property owners can request a partial or full exemption from paying the fee by submitting a completed exemption form to Revenue. One exemption from the fee is having a private trash hauler collect a property's refuse and recyclables. If a property owner enters into a contract with a private hauler, at the termination of that contract, Revenue will send an invoice for the SCE fee. To continue to qualify for the exemption from paying the fee, the property owner must furnish the new private hauler contract.

While vacant properties should not require trash and recycling collection, they are, by default, included in the SCE billing if the property meets the fee criteria. However, their owners can receive an exemption from paying the SCE fee by furnishing a current copy of their Department of Licenses and Inspection vacant property license.¹² Property owners must reapply for this exemption each year.

The other exemptions available allow the property to continue to qualify for city trash and recycling collection without paying the SCE fee, or by paying a reduced fee. Properties used for religious purposes only can qualify for free services as Houses of Worship upon furnishing a copy of their IRS 501(c)(3) Exemption Letter; owners must reapply for this exemption each year. An owner-occupied duplex, where the property owner resides in one unit and rents the other, qualifies for a 50% fee reduction when they provide a copy of their current Department of Licenses and Inspection rental license. Residential properties that are occupied by the owner with no tenants qualify for a full exemption by completing and submitting the exemption form. These owner-occupied exemptions are good for three years.

¹¹ Originally Streets sent out the invoices. Revenue took over billing and handling of receivables in 2014 or 2015. All outstanding receivables were transferred to Revenue at that time.

¹² The vacant property license is \$160 annually for both residential and commercial properties.

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SCE Fee Exemptions

Type of exemption	Requirements	Documentation required in addition to completed Exemption Form	Property continues to qualify for city trash and recycling collection?	Fee Due	Future requirements to maintain exemption
Private trash service	The owner must purchase private trash service.	The owner must provide a copy of the current service agreement from a licensed hauler.	No	0	Owner must submit new contract at expiration of current contract.
Vacant Property	The property must be vacant.	The owner must provide a current Vacant Property license from the Department of Licenses and Inspection.	No	0	Owner must reapply for exemption each year.
House of Worship	The property must be used for religious purposes only.	The owner must provide a copy of the IRS 501(c)(3) Exemption Letter.	Yes	0	Owner must reapply for exemption each year.
Owner-Occupied Duplex	The owner must live in one unit and have only one other rental unit.	The owner must provide a current rental license from the Department of Licenses and Inspection.	Yes	\$150	Good for three years then owner must reapply for exemption.
Owner-Occupied Property	The property must be 100% occupied by the owner with no tenants. (residential only)	none	Yes	0	Good for three years then owner must reapply for exemption.

C. Office of Administrative Review (OAR)

If a request for an exemption is denied by Revenue, property owners can appeal their SCE invoice to the Office of Administrative Review. On appeal to OAR a hearing is held where OAR may waive or reduce the fee based on documentation submitted or other extenuating circumstances. There are three possible dispositions: liable (full amount due), liable with reduction (reduced amount due), dismissed (nothing due). Accounting Control adjusts the fee after receiving documentation from OAR.

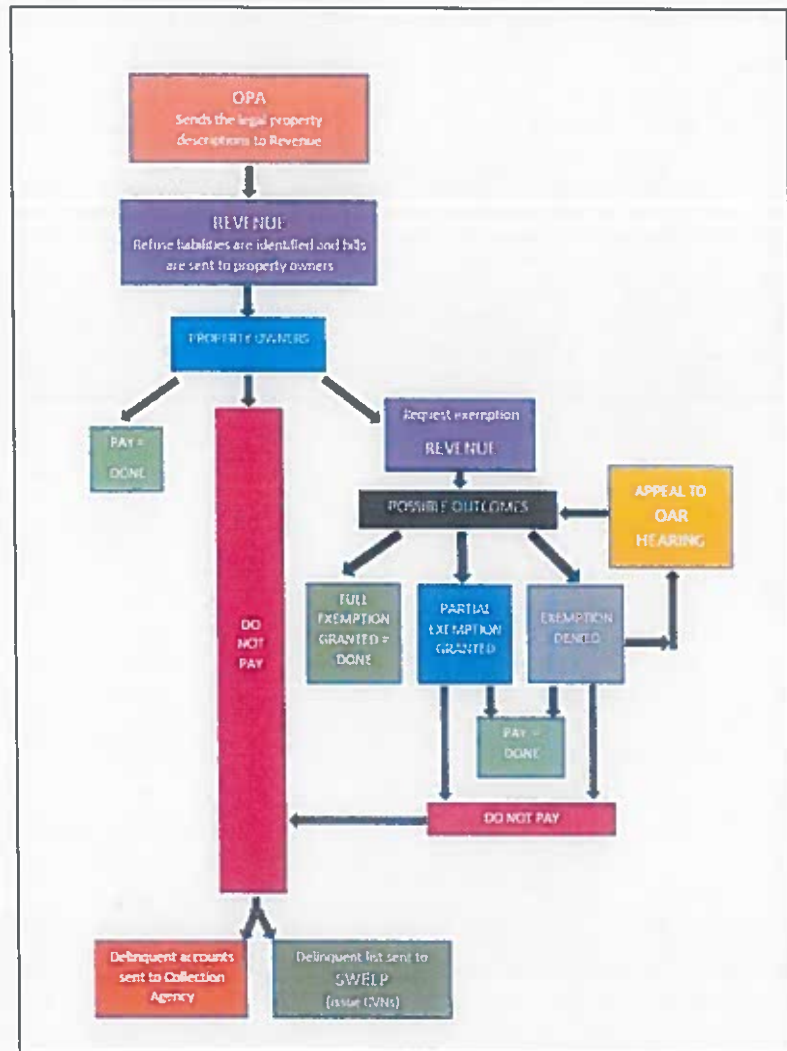
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D. Department of Revenue (post OAR hearing process / post fee due date)

If a property falls into arrears, Revenue refers the outstanding debt to one of two collection agencies contracted by the city. The agencies work on a contingency basis, collecting 13% for lockbox payments and 5% for direct payments. Even with these agencies attempting to recover outstanding taxes, almost 2,000 accounts have never paid their SCE fees and have balances over \$7000 each.¹³ There are over 19,000 total delinquent accounts owing almost \$34M.

Revenue, nor any other city agency, take any additional steps to secure these outstanding debts. Revenue cites a lack of internal resources as the reason there is no enforcement for these accounts. While the city's Law Department (Law) will file lawsuits for liens against debtors for city fees such as real estate taxes and water bills, no mechanism exists for the outstanding SCE fees. Revenue officials claim that outstanding real estate taxes and water bills are able to be pursued because their undertakings have been modernized in a way that processing is done through computers and in conjunction with the courts through the Banner Case Management system. Thus, allowing their limited staff to take on delinquent offenders. Steps to modernize the collection of other agency receivables are currently underway. Licenses and Inspections charges are expected to be completed shortly after the full resumption of departmental operations that were interrupted by the Covid-19 crisis, and work on the recovery of SCE fees has only recently begun with a goal of completing the project by the end of FY21.¹⁴ In order to be effective, Law must support the filing and execution of liens.



¹³ This includes principal, interest, and penalties.

¹⁴ Discussions of modernizing the trash fee collection date back to August 2015.

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VII. CVN PROCESS

When property owners do not pay the assessed SCE fee or obtain an exemption, their properties go on the delinquent list. Revenue transmits this list of delinquent accounts electronically to Streets & Walkways Education and Enforcement Program (SWEEP) on a weekly basis. SWEEP uses this list, which is available via their hand-held electronic devices,¹⁵ to write 10717R7 CVNs against property owners where trash and/or recycling are put out for collection.

A. SWEEP

Under the Sanitation Unit (Sanitation) of Streets, SWEEP has Sanitation Enforcement Officers (SEOs) that are assigned to patrol specific areas of the city. SWEEP was created to educate Philadelphia citizens about their responsibilities under the Sanitation Code. SEOs have a route that they are assigned to patrol each day, based on the trash and recycling schedule.

1. CVNs generally

Some SEOs patrol streets early in the day prior to trash and recycling collection to look for violations. Other SEOs patrol in the afternoon to look for early set-outs, proper placement of receptacles and other citable offenses. SWEEP also investigates noise complaints related to private haulers collecting trash too early in the morning. In cases of non-compliance, SEOs will issue code violation notices (CVNs). CVNs are tickets written against individuals or property owners for violations of the city code and carry fines.

In July 2019 all SEOs received new hand-held electronic devices to issue CVNs.¹⁶ The new equipment has proven to be faster and more efficient than the combination of older electronic devices and paper tickets previously used by SWEEP. The device allows SEOs to print a copy of the CVN to leave at the property. SEOs are able to record time and date stamped photographs and videos which accompany the CVNs. In the recent past when CVNs were handwritten on paper there was no accompanying photograph. For enforcement purposes both the Law Department and Municipal Court Judges prefer CVNs that have photographs to corroborate the violation and those are more likely to result in a judgment. The electronically issued CVNs are also automatically uploaded to the Code Enforcement Unit (CEU) of OAR which is responsible for their enforcement.

¹⁵ Prior to the implementation of the new hand-held electronic devices in July 2019, SWEEP had to carry hard copy lists with them.

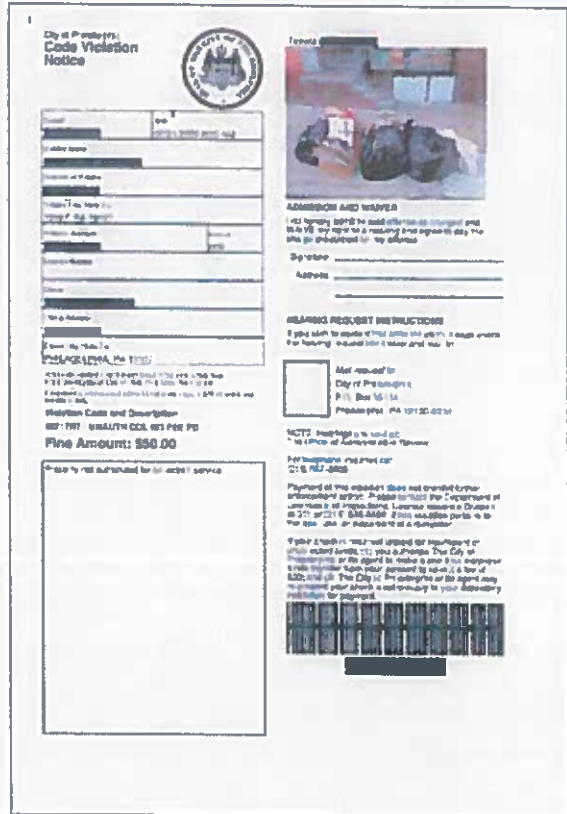
¹⁶ Prior to July 2019, some SWEEP officers had old hand-held electronic devices and others were writing paper citations.

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2. 10717R7 CVNs

If SEOs find that a property is on the SCE delinquent properties list¹⁷ and has trash or recyclables out for collection, they can issue a 10717-R7 CVN - this CVN for putting out trash/recycling without paying the SCE fee carries a \$50 fine. Under the law and department policy, a property may be cited weekly until they are compliant, however the large number of delinquent properties and small number of SEOs make that challenging and the statistics show that this does not happen. Rarely is an offender even cited just twice in a year.

Even though the new hand-held devices make it easier to do a canvass based on SCE delinquency,¹⁸ SWEEP does not treat 10717R7 violations as a primary offense. That is, they do not routinely check properties on the SCE delinquent list for trash and recycling setouts. Usually a 10717R7 CVN is generated only after a property is spotted for a different violation – they will see litter on the sidewalk or set out issues and then look up the property and discover that they are on the delinquent list.



3. Staffing Challenges

SWEEP has a budget allocation for forty-eight SEOs, but currently only staffs thirty-three positions due to recruiting challenges. Streets preference for bilingual SEOs, the outdoor walking/bicycling nature of the job, and potential for conflicts with the public make it a difficult position to fill. Human Resources has worked with local business groups to try to recruit but has found that younger people are not interested in the position. Successful SEOs also usually move on to other positions with the city, leaving more vacancies.

Another staffing challenge is that approximately ten SEO positions are reserved for the Mayor's Youth Development Program and therefore do not increase canvasses or CVNs issued. This is a six-month program that runs from January to July each year. The participants are considered "Field Officers" and are not permitted to patrol on their own or write CVNs. They shadow SEOs to learn the job. Trained graduates of the program are then often hired for permanent positions in the Streets Department outside of SWEEP.

¹⁷ SEOs can see which properties are delinquent on SCE fees on their hand-held devices. In the past SEOs had to carry a paper list of delinquent properties.

¹⁸ SEOs can bring up a specific block on the device and see a red dot at every address that is on the delinquent list.

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With limited staff, various SWEEP efforts constantly compete for resources. In 2019 there was a 45% decline in the number of 10717R7 CVNs written. Streets attributes this to a dire need for replacing the old hand-held devices which were not working at full capacity and the launch of their street cleaning pilot which focused resources on education and enforcement efforts around littering and illegal dumping conditions.

B. OAR

A cited property owner can dispute the CVN through the Office of Administrative Review. If OAR finds in favor of the property owner, then the CVN is dismissed. If OAR finds in favor of the City the CVN remains due.

C. Code Enforcement Unit (CEU)

If the property owner fails to pay the CVN fine, the Code Enforcement Unit will send out delinquency notices and penalties will be added. The regulations call for two late fees. The first is \$25 and is assessed with a delinquency notice to the property owner. The second is \$15 and is sent with a notice of intent to file in Municipal Court. No additional fees ever accrue and there is no interest assessed against delinquent fines. Forty-five days after the notice of intent was sent, CEU will review overdue CVNs and determine whether to refer the CVNs to the Law Department for a Code Enforcement Complaint (CEC).¹⁹ A CEC is a legal claim brought in Municipal Court for the purpose of obtaining a judgment against the debtor. Only Law has the jurisdiction to file a CEC. If CEU decides not to send it to Law, the CVN remains open and due but collection of fines is not actively pursued.

	SCE Fees	10717R7 CVN fines (based on 4 CVNs received over 9 years ²⁰)	Total unpaid SCE balance with late fees and interest:	Total unpaid SCE & CVN balance with late fees & interest:	Total paid	Trash and recycling continues to be collected?
Pay SCE fees	\$300 X 9 years = \$2700	N/A	0	N/A	\$2,700	Yes
Do not pay SCE fees but pay resulting CVNs	\$300 X 9 years = \$2700	\$200	\$6,304	\$6,304	\$200	Yes
Do not pay SCE fees or resulting CVNs	\$300 X 9 years = \$2700	\$200	\$6,304	\$6,664	0	Yes

¹⁹ For a CVN to be considered for filing of a code enforcement complaint (CEC), the individual must first have two fully open tickets, meaning that no partial payments have been made.

²⁰ In the OIG study of properties that had never paid SCE fees, properties that put out trash and recycling received on average four 10717R7 CVNs during the nine-year period.

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It is important to note that CEU will not send 10717R7 CVNs to Law for a CEC in Municipal Court without being accompanied or bundled with another type of CVN written against the same property owner.²¹ For this reason, combined with the lack of enforcement of SCE fees as outlined above, it is currently possible for a property owner to simply ignore SCE fees and any resulting 10717R7 CVNs, continue to benefit from city trash collection and never realize any consequences. As the table below demonstrates the compliance rate for 10717R7 CVNs averages about 25%.

10717R7 ISSUANCE AND PAYMENTS					
YEAR	TICKETS ISSUED	FINE AND PENALTY AMOUNT	AMOUNT PAID	AMOUNT DUE	COMPLIANCE RATE
FY14	22,374	\$1,696,025.00	\$543,882.14	\$917,318.36	32.07%
FY15	13,595	\$1,100,105.00	\$246,677.50	\$767,399.50	22.42%
FY16	14,817	\$1,189,580.00	\$291,853.69	\$696,972.33	24.53%
FY17	11,770	\$925,630.00	\$228,763.40	\$527,267.85	24.71%
FY18	9,165	\$718,045.00	\$173,630.00	\$445,011.50	24.18%

D. Law Department

When CEU sends CVNs to the city's Law Department (Law), Law reviews each CVN individually to decide if they are going to file a Code Enforcement Complaint.²² The number of Law personnel detailed for pursuing these CVNs is limited and therefore Law believes they need to triage cases to identify only the most worthy ones that can be pursued successfully. For example, some CVNs are closed for administrative reasons, such as determining that the CVN is unenforceable because it was written against a person other than the property owner. Some other reasons why Law would not want to file a CEC include the receptacles being kept on the porch, not the sidewalk, or there is no photograph attached to the CVN to substantiate the allegations. Law will also look beyond the alleged incident and research individuals and disqualify CVNs for a CEC for other reasons, such as bankruptcies, as it is unlikely to collect on a judgment against those individuals. Others are sent back to CEU for further collection efforts without a CEC being filed. Currently Law provides no training or feedback to SWEEP regarding the sufficiency of the CVNs they write.

²¹ CEU has a limited number of code enforcement slots (60 per week) so they choose those deemed most likely to succeed in a judgment. Historically the 10717R7 CVNs were not reliably valid due to appeals, exemptions, reclassifications of properties by OPA, and payments made between the issuance of the delinquent list to SWEEP and a CVN's issuance.

²² CEU routinely bundles CVNs written against the same individual when sending them to Law. Law may reject some individual CVNs in the bundle but proceed with filing the remainder of the CVNs as a CEC.

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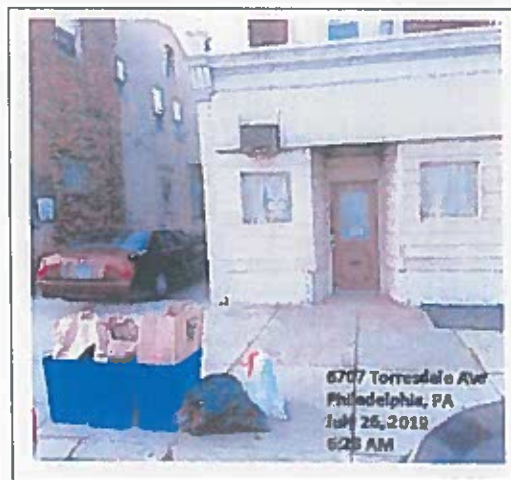
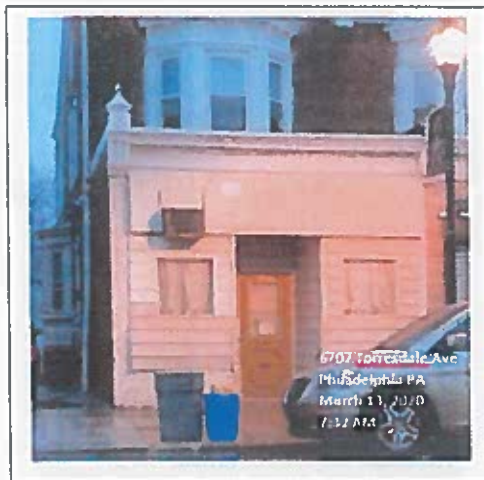
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penalties, and there is never any interest assessed against delinquent judgments. After one year if the judgment has not been satisfied, CEU sends the debt to a collection agency²⁴ where results of successful collection are limited.

VIII. DELINQUENT SCE FEE PROPERTIES STUDY

The Office of the Inspector General conducted a study of 58 of the properties with the largest delinquent SCE balances. In June and July 2019 OIG investigators observed each of the properties on trash day to see if they were placing trash and recyclables for city pick up. 28 of 58 properties were observed doing so. A comparison of these properties to CVN records showed that of the 28, only 8 had received a 10717R7 CVN in 2018-2019. Seven had last received a 10717R7 CVN in 2016-2017, eight had not received a CVN in five years or more, and five had never received a CVN. In February and March 2020 OIG investigators revisited some of the same properties and once again observed trash out for collection.

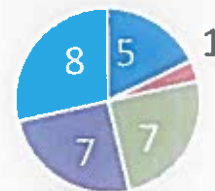
6707 Torresdale Avenue: Multi-Family Residence



This study demonstrates two important points. First, that property owners are using city trash services without paying for them. Second, that haphazard citations may not effectively enforce or encourage compliance.

The data collected suggests that a new strategy may be warranted. Such as a targeted campaign by SWEEP which would quickly yield numerous CVNs, and bring enough attention to the violation that it may encourage owners to address their outstanding fees and fines.

Last CVN received for 28 Properties in OIG Sample



■ no CVNs ■ 2011 ■ 2014-15 ■ 2016-17 ■ 2018-19

²⁴ Revenue and CEU employ different collection agencies to collect delinquent SCE fees and CEC judgments, respectively.

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IX. ANALYSIS & RECOMMENDATIONS

In a city with rising processing costs, commercial property owners should not be permitted to ignore their fees for trash and recycling collection while continuing to reap the benefits of that service. At the same time, the city needs to be diligent in recovering this much needed revenue.

Annual Fee

- Bring the SCE fee in line with increased costs and reduced revenue for waste removal and recycling²⁵

With hard evidence that the cost of collecting and disposing waste and recycling materials has increased and offsetting revenue once generated by recycling has dried up, a request to raise the \$300 SCE fee is justified and appropriate. Over the past decade owners of multi-tenant residential rental and small business properties have received a service that typically costs similar entities hundreds of dollars a month for just \$25. The majority of these properties by their nature produce more trash and recycling than the average single-family residential property and should bear their share of the costs. Taxpayers should not be obligated to disproportionately subsidize municipal services that most private businesses and landlords must contract out.

Fee Collection Process

While the need for an increased annual SCE fee is clear, any value in the additional funds will not be truly realized without attention being paid to improving the fee's collection rate.

- Judgments and Liens

Despite the fact that City of Philadelphia, Regulations of the Department of Streets, section 1.7.9 says that services will be terminated if invoices are not paid within 30 days, services are never terminated. As outlined above, the OIG observed properties that have **never paid** an SCE fee and owe upwards of \$3000²⁶ still receiving services. While it may not be practical from a health and sanitation viewpoint to allow trash and recycling to remain uncollected, there are other remedies available.

While it appears that Revenue is now working on a plan to make the filing of liens more efficient, in order to be successful, Law must pursue these judgments. Law files CECs to recover CVN fees. In those instances, Law seeks a \$300 judgment for each unpaid CVN, and pursues enforcement of no more than 20 CVNs against a property owner in a CEC. If successful, the highest judgment attainable is \$6000. In reality the judgments for CECs are far less when successful and only about 50% of all CECs filed are successful.

²⁵ On May 1, 2020, Mayor Kenney proposed an increase in the annual SCE fee from \$300 to \$500 for qualifying properties.

²⁶ This amount is unpaid principal and does not include interest and penalties.

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Law does not get involved in the SCE collection process. The highest action taken against delinquent property owners is sending the accounts to a collection agency. Collection agencies are often not effective in securing the debt, and even when they do the revenue realized by the city is greatly reduced by the agency's fees.

Section 1.7.10 states, "A claim against the property owner for unpaid liability may be filed as a lien against the subject Premises." Currently the city pursues liens against properties for delinquent property taxes and water bills. The city currently pursues liens and takes properties to sheriff sale for delinquent real estate taxes, L&I fines, and water debt on commercial properties. The SCE fee is a tax assessed against commercial, and multi-family rental properties and should be treated the same. By securing liens against properties, the city will ensure that SCE fees and CVN fines get paid at the time of property transfers like other outstanding taxes.

Law could file combined claims for both unpaid SCE fees and CVN fines against a property owner. Law has said that the low dollar value of delinquent SCE fees makes them cost prohibitive to pursue. However, by targeting the worst offenders and combining SCE fees and CVN fines, larger judgments could be achieved.

- Collection coordination

There is currently no coordination between Revenue and CEU to collect SCE fees and CVN fines from the same property owner. A coordinated effort would be a more efficient process for collecting all unpaid balances from a property owner. The data shows instances where property owners have satisfied CVNs while leaving SCE fees unpaid for years. Some property owners may not understand that unpaid SCE fees leave them open to further CVNs, while other savvy property owners have discovered that it is cheaper to ignore the annual \$300 SCE fee and pay the occasional \$50 CVN fee. Revenue and CEU employ different collection agencies to pursue their respective fees and fines. By the very nature of these fees and fines, the same debtors usually owe both. Cross referencing the databases to collect all debts from the same debtor simultaneously may prove more efficient.

- Greater number of property owners paying for vacant property licenses

With an increased effort to enforce and recover the SCE fee, owners of vacant properties will find that paying the \$160 annual fee to maintain their vacant property status is less expensive than paying the SCE fee for a service that they are not using. Presumably this will generate additional compliance and revenue moving forward.

SWEEP

Along with coordinating collections and filing liens and judgements, there are several opportunities available to the Streets' department to reinforce compliance with the SCE.

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- Stricter enforcement of CVN violations

Providing more consistent and strategic enforcement of SCE fee violations would both increase revenue and further education and awareness of the mandatory nature of the SCE fee. To accomplish this Streets would gain the greatest benefit from having staff focus specifically on violating this fee as a priority SWEEP CVN offense, rather than as a secondary offense as it currently is²⁷. This would be accomplished by assigning SWEEP officers routes with the specific instruction of citing non-SCE payers for placing trash and recycling out for collection. SWEEP would still be able to cite for other issues that they see. Secondly, rather than citing offending properties randomly, a focus should be placed on repeatedly citing the same offending property until the CVNs are paid or the SCE fee(s) are satisfied. The current process of randomly citing a property owner \$50 for failing to pay a \$300 fee provides little incentive to the owner to come into compliance, particularly when there is little evidence an individual property is hit with multiple citations. However, were a property to be cited numerous times, for example six in a year (once every other month), the cost of the tickets and inconvenience alone would certainly make it sensible for the property owner to pay their SCE fee that year and in future years.

- Improved Training

In order to write effective CVNs, which will be pursued by OAR and Law, SWEEP needs training on the legal requirements for writing CVNs and the evidence required for enforcement. Quality color photographs that show trash with property and house number in the background will produce CVNs with a greater probability of being enforced by a judgment at court. The recent implementation of new hand-held electronic devices should assist in this area. We recommend reviewing and revising SEO training to emphasize the importance of the SCE fee and enforcement through the 10717R7 CVN. Additionally, SEOs must be aware that the quality of photographs will often determine whether or not CVNs will be enforced in court and be trained on specifically what a sufficient photograph includes and how to use the equipment to obtain it. It may be effective to have attorneys from Law who regularly try CEC matters speak to SEOs about effective CVNs. Such interactions should be annually done, as to account for SWEEP staffing turnover. An effort should also be made to keep statistics on which SWEEP officers most frequently produce problematic or unenforceable CVNs for more specific training.

- 10717R7 CVN Language

Unlike other common CVNs written by SWEEP that are for high weeds, litter, and trash set out early, the 10717R7 is the direct result of not paying the SCE, but the CVN violation notice fails to clearly explain that. There is a large text box at the bottom of the CVN that automatically populates with a description of the offense, based on the type of citation being written. Currently the 10717R7 CVN says "Property not authorized for collection service." That language should be expanded to explain the need to pay the SCE, and the potential for further CVNs if the SCE is not paid. This should help owners to understand the process and come into compliance. For example:

²⁷ Regularly using Philadelphia's trash and recycling services without paying the SCE fee is a persistent violation which warrants correction more than an individual incident of putting trash out early, yet currently is a lower priority

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Property not authorized for collection service. The Sanitation Code Enforcement Fee required for collection of trash and recycling from commercial properties is currently delinquent. Contact the Department of Revenue at 215-686-5090 to arrange payment or seek an exemption. Failure to pay delinquent SCE fees or secure an exemption will subject property owner to additional Code Violation Notice fines.

- Informative Briefings to the Judicial Bench

Explaining the lengthy process and steps taken by the city to bring SCE fee offenders into compliance may help judges better understand why the fees and CVN fines are being charged. It will also provide an opportunity to show how the continued non-compliance of primarily business owners inflicts further economic damage on the city at the expense of average taxpayers. Judges appear reluctant to enforce CVN fines, under the misperception that single-family residential property owners are being assessed. While that may be true for many CVNs (high weeds, sidewalk not litter free, trash set out early), it is not the case for 10717-R7 CVNs. SCE fees are assessed against commercial, multi-unit residential and mixed-use properties. The property owner receiving revenue from these investment properties is the entity responsible for paying the SCE fee. When these property owners benefit from municipal trash service without paying the SCE fee, they are receiving an unintended subsidy. A session on SCE fees could be presented at the semi-annual Municipal Judges' Conference. Law should distinguish the commercial property aspect of 10717-R7 CVNs when presenting their case to judges.

Tax Amnesty Program

A publicized limited term tax amnesty program could give delinquent taxpayers an opportunity to pay their SCE fees and CVN fines with no or reduced late fees and penalties before Law pursues judgments and liens. This could bring many delinquent accounts into compliance while raising much needed revenue for the city²⁸.

²⁸ This may prove to be an ever-greater incentive and particularly timely now in light of the city's proposal to increase the Annual SCE fee to \$500.

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