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Carteret County solid waste fee lawsuit explained

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CARTERET COUNTY - Carteret County has appealed an Aug. 2024 NC Superior Court ruling, to extend the ongoing Armistead v. Carteret County lawsuit to three different plaintiff classes, to the State Supreme Court. Oral arguments are slated to begin Sept. 10.

Raised by four Wake County residents who were charged county "Green Box" and landfill fees for their properties in Carteret County, the suit alleges the county solid waste fees violate state law.

Who is involved in the suit?

Armistead v. Carteret County, heard by Superior Court Judge Kent Harrell, was raised against Carteret County by four named plaintiffs: George Robert Armistead Jr., Madison Armistead, Greg Rhodes and William Yates. All four are residents of Wake County who, according to the original April 2020 complaint, "owned real property in Carteret County and were unlawfully charged Green Box Fees by defendant."

The case brings into question fees charged from 2017 to 2020. The plaintiffs allege that they were charged solid waste fees despite using private trash collection services.

What are Carteret County's solid waste fees?

Carteret County levies two fees under the term 'solid waste fees.'

The first is the annual use fee, or Green Box, ranging from $157 to $16. This charged the availability of 12 Green Box sites where residents may dispose of waste. The county charged this fee to every owner of all residential households in unincorporated areas of the county, as well two municipalities that do not provide trash service.

The second is a $15 availability fee, referred to as a Landfill Fee, also charged to all county residents, annually, for the availability of the Green Box sites, regardless of whether residents used the sites.

These can be found, itemized under ad valorem taxes, on annual property taxes. The county provides exemptions but receiving one requires taxpayers to, "produce an official statement from a permitted county solid waste collector, certifying that solid waste collection service was provided and paid for during the period billed," per Section 14-57 of county ordinances, according to the county's website

Though not in question in this case, the Carteret County Board of Commissioners also replaced the $157 fee in 2022 with a $98 solid waste fee, "charged to all county residents owning residential or improved commercial properties subject to property taxes." Additionally, the section of the county ordinances that provided exemptions for the fees was repealed on May 20, 2024 as requested by Carteret County's Attorney and Tax Administrator.

Why are the fees considered illegal?

Counsel for the plaintiffs allege the county's solid waste fees violate state law in three ways:

1. The Green Box, or 'use' fee is charged to residents who do not use the convenience sites

2. The landfill, or 'availability' fee is charged to residents who use private contractors for waste disposal

3. The county earns a profit from the solid waste fees, by collecting more from residents than what the county pays to operate the Green Box sites.

In asserting the third potential violation, Plaintiffs highlighted the County yielded net profits of $45,694 in 2020, and $331,678 in 2017, from solid waste fees.

Though not unlawful itself, Carteret County is also member of the Coastal Regional Solid Waste Management Authority, that operates a transfer station in Carteret County and moves waste from that station to the Tuscarora Landfill located in Craven County.

Who are the proposed classes?

Four total classes were raised to the court, and three were approved by Judge Harrell; those three are:

1. "The Green Box / Waste Collection Class," or, people who paid the Green Box fee, but use private waste services.

2. The Landfill Fee / Waste Collection Class," or, people who had paid a Landfill fee, but use private waste services.

3. "The Solid Waste Fee / Cost to Operate Class," or, people who had been charged a Green Box fee, and/or a Landfill fee.

Why is the case going to the Supreme Court?

As the Carolina Journal also reports, an April 28 brief explains that the county appealed the decision by Judge Harrel, asserting, "This case is not properly certifiable as a class action, because the Waste Collection Classes are unascertainable," or, plainly, the members of each class are unclear and difficult to confirm.

Further, it clarifies, "the Landfill Fee / Waste Collection Class does not meet the commonality requirement," because the Superior Court did not assess the private services used by members of that class, and whether those provide the same service as the county. Per state law, the county would not be allowed to charge residents who use a private trash collection service that provides the same service as the county.

Finally, it asserts, "the class action is not the superior method for adjudicating the Green Box Fee / Waste Collection Class or the Cost-to-Operate Class," as the success of just one plaintiff's claim, rather than an entire class, that the county profited from solid waste revenues would be sufficient to reimburse all taxpayers, and because the county already provides a legal method for refunds outside of the court system.

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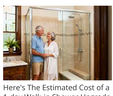
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