

**SOUTH EUCLID MUNICIPAL COURT
1349 South Green Road
South Euclid, Ohio 44121
216-381-2880**

STATE OF OHIO/)	
CITY OF SOUTH EUCLID)	CASE NO: CRB 1700037
Plaintiff)	
)	
V.)	
)	
ANTHONY DATILLO)	NUNC PRO TUNC
Defendant)	JUDGMENT ENTRY AND OPINION

On a prior date, this matter came before this court on the defendant’s motion to dismiss the two charges of Certificate of Occupancy in the within matter pursuant to South Euclid Codified Ordinance 1409.01, misdemeanors of the first degree.

This court dismissed said charges on or about July 19, 2019 and hereby issues a NUNC PRO TUNC Opinion. This court finds that the City of South Euclid lacks the legal authority to withhold an occupancy permit from the defendant where the basis rests on the fact that the defendant has failed to satisfy a tax obligation to another governmental entity – in this instance, Cuyahoga County. Further, where that governmental entity has an adequate remedy at law to collect upon said outstanding tax debt, it is both unreasonable and unnecessary for the City of South Euclid to substitute itself as the collection authority.

Further, this court finds that the City of South Euclid’s enforcement of Codified Ordinance 1409.01 in the within case is unconstitutional as applied because it creates penalties, for actions where under Ohio Revised Code chapters 5707 and 5713 which regulate the payment of property taxes that have no penalty at law.

This court therefore grants the defendants motion to dismiss the within matter.

IT IS SO ORDERED.



Judge Gayle Williams- Byers