



July 8, 2021

Eric Guenther, Village Administrator
Village of Mundelein
300 Plaza Circle
Mundelein, IL 60060

Dear Mr. Guenther:

The Illinois Self Storage Association and its members in Mundelein recently learned about the Village's proposed tax on gross rents paid by self storage tenants (the "Tax"). The following highlights several of our concerns with the Tax:

The Tax Violates the Illinois Constitution.

Illinois tax counsel informs us that the Tax violates at least two provisions of the Illinois Constitution.

A taxpayer classification violates the Uniformity Clause of the Illinois Constitution (Ill. Const. 1970, Art. IX, §2) unless: (i) it is based on a real and substantial difference between the persons taxed and the persons not taxed; and (ii) the classification bears some reasonable relationship to either the object of the legislation or public policy.

Here, there is no real and substantial difference between lessees of self storage space and the lessees of other rental space in the Village. Moreover, there is no rational basis for the Village to tax those using self storage, while excluding similarly situated individuals from taxation.

In addition, home rule municipalities do not have the power to "impose taxes upon or measured by income or earnings or upon occupations," unless the General Assembly explicitly confers that tax power to home rule municipalities. Ill. Const. 1970, Art. VII, § 6(e)(2). The Tax is measured by the gross rental charge, which represents the "income" and "earnings" of a storage owner. Moreover, although the ultimate incidence of the Tax is intended to fall on the tenants, the tax will actually be borne by the owners, if they (i) are required to file tax returns and remit the tax to the Village; (ii) are subject to penalties for failing to remit the Tax due to the Village, not just amounts received; and (iii) can be sued when the tenant fails to pay the Tax.

The Tax Targets Vulnerable Members of Mundelein and Neighboring Communities.

A common misconception with self storage is that it is a discretionary expense for individuals with too much stuff. This misconception misses two key facts.

First, many tenants of self storage are using storage out of necessity, such as a death in the family, a divorce, downsizing, or returning home from college or military service. Furthermore, the 2020 Self Storage Demand Study found that nearly half of self storage tenants have annual household incomes below \$50,000. For these individuals and families, storage is not a luxury that comes out of their discretionary funds.

Second, many tenants renting from storage businesses in the Village are Mundelein residents or residents of nearby communities. Based on our discussions with storage businesses in Mundelein, several hundred or more residents of Mundelein will be burdened with this Tax and the vast majority of the remaining payers of the Tax live within 5 miles of Mundelein.

An additional 5% tax on the rental of self storage space is an unfair burden to place on lower-to-middle income residents of your community, who may already be facing personal and financial difficulties. This cannot be the result that the Village leaders want.

Self Storage Does Not Burden Municipal Services; Village Attempts Bait-and-Switch

The self storage businesses in the Village have been operating for years and provide convenient storage for local residents and businesses. The businesses do not impose any burden on the Village that might be used to justify such a narrowly-targeted tax. In fact, self storage businesses make relatively little use of municipal services when compared to other classes of rental real estate.

For example, self storage does not generate much traffic or place additional strain on local streets. The Self Storage Demand Study shows that only 17% of self storage tenants make weekly visits to their storage space. Other rental properties such as apartments, offices, and retail space, place a much higher burden on municipal services and are not subjected to targeted taxes.

Moreover, when the storage businesses started in Mundelein, the Village knew that they did not generate sales tax. The Village is now engaging in a bait-and-switch with storage businesses that can be expected to discourage other businesses looking at starting a business in the Village. Those businesses may fear that the Village will arbitrarily single out their industry and customers just as the Village has arbitrarily singled out storage businesses and their customers. By driving away existing and future business, the Tax also will reduce the value of those properties and can consequently be expected to adversely affect the Village's future property and sales tax collections.

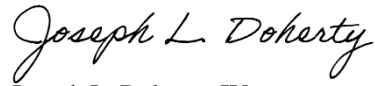
This Tax Would Make Mundelein Stand Out in a Negative Way.

Based on our research, if the Village imposed this Tax, it would be only the second municipality in Lake County with such a tax. Although some municipalities in Cook County impose a similar tax, other municipalities – for example, Wilmette, Oak Lawn, and Evanston – have recently rejected such a tax. Additionally, a 5% tax would place Mundelein among the highest tax municipalities.

It seems that the Village views the Tax as an easy way to plug a budget hole. However, given the legal, constitutional, and equitable concerns with the Tax, the Village may want to consider the potential costs to Mundelein resulting from a protracted legal process and the prospect of having to reimburse taxes collected and remitted under protest. Furthermore, the Village may want to consider whether the dedication of its time and resources would offset the revenue generated from this Tax.

For the reasons discussed above, we ask that the Village abandon consideration of the Tax. I welcome the opportunity to answer any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Joseph L. Doherty". The signature is written in a cursive, flowing style.

Joseph L. Doherty, IV
SVP, Chief Legal & Legislative Officer
Self Storage Association / Illinois Self Storage Association

cc: Steve Lentz, Mayor
Sol Cabachuela, Trustee
Kara Lambert, Trustee
Jenny Ross, Trustee
Kerston Russell, Trustee
Erich Schwenk, Trustee
Tim Wilson, Trustee
Doug Haywood, Finance Director