

It's that time again, our annual certification to the County tax-collecting bodies as to what rate the Library will be levying. You may notice a difference that usually isn't there between columns 7 and 9 and column 11. Columns 7 and 9 have 0.4983 for our second millage, and column 11 has 0.4948. This stems from a difference of opinion between the Branch County Equalization office and the BDL's attorney, Anne Seurnyck at Foster Swift Collins & Smith PC.

Last spring, we submitted millage renewal language for our second millage using the maximum allowed rate from the previous summer's L-4029 (0.4983 mills), and this was the language and rate that was approved by the BDL Board and by the County for the ballot. A few months later, we had an expected Headlee reduction, bringing our maximum allowed rate down to 0.4948. This is the rate the BDL Board approved last July, and the County confirmed this was the rate levied in December 2022.

On our successful August ballot last year, the language on the proposal that the voters approved had a rate of "not to exceed 0.4983 mill", but Anne said it was very common for Headlee reductions to occur after ballot language was certified, and that the BDL Board would just need to levy our Headlee-reduced 0.4948 rate. This is the rate we expected to see in columns 9 and 11 on this year's L-4029 form.

I had numerous calls and emails with the County and Anne about this. From the County's perspective, the voters approved a millage at 0.4983 mills, so that's the rate the County put on the form. However, Anne cites this opinion from the Michigan Attorney General as why this is not correct (OAG No. 7193. 2006 WL 867756. March 30, 2006):

It is my opinion, therefore, that in the case of municipalities seeking authorization to levy "renewed" millages, the millage reduction fraction specified in section 34d of the General Property Tax Act, MCL 211.34d, is calculated on an uninterrupted basis for each succeeding year as if the voter-approved millage it replaces had never expired. Under MCL 211.34d(11), the calculation of the millage reduction fraction does not commence at 1.0 for the first year of the "renewed" millage but with the fraction utilized for the millage levied in the last year of the millage it replaces.

Or, as Anne succinctly put it, our millage keeps getting reduced as if it never expired. An entity cannot "reset" their millage to a prior rate without having a special Headlee Rollback on the ballot approved, something BDL did not do. The Library simply went for a renewal.

The solution to this, according to our attorney, is to levy 0.4948 instead of what the County lists as the maximum allowable millage rate. The first L-4029 form we received had only the 0.4983 rate on it, so I explained our attorney's advice to the Equalization office and asked if they would re-issue the form with the lower rate. They did, and that is the form in this packet, with the lower rate.

Over the course of the conversations with the County equalization office, I learned one other piece of consequential information: our millage end date will not be what we thought it would be.

This confusion goes all the way back to the original 2014 campaign for our second millage, the language for which was not written by Anne. That ballot language said that the millage was for 8 years, but "would commence with the 2014 tax year and end in the 2022 tax year". Of course, 2014-2022 is 9 years, not 8. The County said they always go with the dates on a ballot proposal, not with a description elsewhere in the proposal. So they didn't consider our millage to have expired until last December 31, 2022. They were therefore confused as to why the Library was renewing a year too soon, but nothing along these lines was ever said to me. Therefore, the Library got 9 years on what we thought had been an 8-year millage.

Anne wanted to remove this ambiguity in our ballot measure last year, so she worded things differently: our 2022 ballot language said the renewed millage would be in effect "for a period of eight (8) years, 2022 to 2029, inclusive". Well, the County didn't start our new millage in 2022, because they considered the old one had not yet expired. And, as before, they do not follow the description ("eight (8) years"), only the dates. So when I confirmed all of this with them, they said our renewed millage will indeed end December 31, 2029. So the Library will get only 7 years on what we thought would be an 8-year millage. At least the two together still add up to 16 years... When the Library starts our next renewal ballot measure—less than six years from now—we should finally solve the issue and get our descriptions lining up with the dates.

As for this year's tax rate request, the recommendation is that the BDL Board levies 0.4948 mills.

Submitted by John Rucker