

CITY OF LAKE MARY

**TCI TKR OF CENTRAL FLORIDA, INC.
FRANCHISE FEE AUDIT**

The Internal Audit Division of the Office of the Clerk of the Circuit Court has completed an audit of franchise fees paid to the City by TCI TKR OF CENTRAL FLORIDA, INC. (hereafter TCI). Mr. John C. Litton, the city manager, requested this audit.

PURPOSE

The purpose of the audit was to determine if the amount of franchise fees remitted by TCI to the City was accurate, complete, and in compliance with the requirements of City of Lake Mary Ordinance No. 929 and other applicable city laws. In addition, the audit was performed to determine if the administrative controls are adequate and operating as intended in compliance with applicable laws, regulations, and other City of Lake Mary policies and procedures.

BACKGROUND

On October 6, 1987, the City Commission of the City of Lake Mary, Florida (hereafter CC) enacted Ordinance No. 319 under the home rule power of the City. The ordinance has been updated since 1987 and the ordinance now in effect is Ordinance No. 929. The purpose of the ordinance is to provide the regulations, conditions, and provisions for the installation, operation, and maintenance of Cable Television Systems (CATV) within the City of Lake Mary, Florida.

For the right to use the City streets, easements, and right-of-ways, TCI is required to pay the City five percent (5%) of its gross subscriber revenue. "Gross subscriber revenue shall mean those revenues derived by grantee in connection with basic cable television service in the City, i.e. and non-broadcast signals and non-broadcast services mandated by the FCC, programming supplies on a per program or per channel charge basis, if any, and equipment rented by subscribers."

TCI is also required to provide an accounting of subscription revenues. Section 7 (b) of the ordinance states "Grantee shall file with the City, within 90 days after the expiration of any calendar year during which its franchise is in force, a financial statement certified by a responsible officer of Grantee, showing in detail the gross subscriber revenues, as defined herein, of the Grantee during the preceding calendar year or portion thereof. It shall be the duty of the grantee to pay the City within fifteen (15) days after the time for filing such statement, the sum prescribed above."

Prepared by: Internal Audit Division Clerk of the Circuit Court

The results of the audit are included in the report that follows.

SCOPE

The scope of this audit included a review of records from January 1996 to June 1999. During that time, the City received franchise fees of \$169,302.79.

The audit included:

- Review of the procedures being used to ensure compliance with the CC Ordinance No. 929 and other applicable ordinances and city laws and established policies and procedures, Florida State Statutes, and other applicable government regulations;
- Review of internal controls to ensure that franchise fees are accurately billed to customers at the correct amount and rate, and in a timely manner;
- Review of TCI remittances for accuracy and timeliness;
- Review of the payments reported via the company's billing system reports;
- Review of records being maintained by the City;
- Review of the CC ordinances for conditions and provisions for payment of the franchise fee;
- Interviews of key personnel; and,
- Other such review procedures considered necessary in the circumstances.

Fieldwork began July 27, 1999, and was completed on August 13, 1999. The audit was performed by Bill Carroll and Pat Tindel.

OVERALL EVALUATION

TCl did not remit the full value of the franchise fees due the City. On average, TCl remittances were understated by roughly two percent (2%) for the period tested from January 1996 to June 1999. Consequently, for the period September 1991 through June 1999, we estimate that the company under paid by approximately \$5,319.71. The total amount owed by TCl, including penalties and interest, is \$9,867.13.

For a detailed discussion of the factors contributing to fees owed refer to Finding No. 1 on page 4 of this report.

<p>Prepared by: Internal Audit Division Clerk of the Circuit Court</p>
--

FINDING NO. 1

FINDING

TCI did not submit all of the franchise fees due the City.

As payment to the City for the right to use the City streets, easements, and right-of-ways, TCI is required to pay the City five percent (5%) of its gross subscriber revenue. According to the ordinance, "Gross subscriber revenue shall mean those revenues derived by grantee in connection with basic cable television service in the City, i.e. and non-broadcast signals and non-broadcast services mandated by the FCC, programming supplies on a per program or per channel charge basis, if any, and equipment rented by subscribers."

TCI did not include all sources of revenue in the franchise fee base. For 1996, 1997, and 1998, there is \$76,796.80 in revenue for late charges, unreturned equipment charges, digital charges and a category of revenue referred to as TVRO that is not included in the submittal to the City.

We calculated that on average TCI remittances were understated by about two percent (2%). Consequently, for the period September 1991 to June 1999, we estimate that the company under paid franchise fees by approximately \$5,319.71, not including penalties and interest. The total amount owed by TCI, including penalties and interest, is \$9,867.13. However, by limiting the liability to only the last three years, the amount payable to the City calculates to \$4,529.13.

The following worksheets illustrate the franchise fees owed to the City.

Schedule 1	1996 worksheet of franchise fees
Schedule 2	1997 worksheet of franchise fees
Schedule 3	1998 worksheet of franchise fees
Schedule 4	1999 worksheet of franchise fees
Schedule 5	Summary worksheet for the period Jan. 1996 to June 1999
Schedule 6	Worksheet for calculation of fees owed for 12/30/91 – 6/30/99
Schedule 7	Worksheet for calculation of fees owed for period 3/31/96 to 6/30/99