



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

April 3, 2025

The Honorable Nancy Chambers  
Mayor, City of Forest  
Post Office Box 298  
Forest, Mississippi 39074

Re: City Cleanup and Tax Assessments

Dear Mayor Chambers:

The Office of the Attorney General has received your request for an official opinion.

### **Background**

According to your request, Forest (the “City”) has a piece of property that was struck off to the City following a municipal tax sale, with approximately \$2,500 of cleanup costs along with the taxes from 2018 to present owed. In 2024, the Secretary of State issued a patent to an individual after Scott County forfeited the same property to the State. The individual who purchased the property from the State now asserts that his patent takes precedence over the City’s costs and taxes owed.

### **Question Presented**

Once a county has forfeited a piece of property to the State, and the Secretary of State has issued a patent for the subject property to an individual, how can a municipality collect its cleanup costs and taxes owed on the same piece of property, which has been struck off to the municipality?

### **Brief Response**

Liens imposed on property for cleanup costs and penalties under Mississippi Code Annotated Section 21-19-11 remain enrolled until paid. However, when a municipality does not impose or file a lien on the property prior to an individual’s purchase of the property from the State, and said individual has no actual or constructive notice of a lien, such lien is not binding on the individual. The municipality may still collect cleanup costs and penalties from the previous landowner as a civil debt pursuant to Section 21-19-11(3).

### **Applicable Law and Discussion**

Section 21-19-11 addresses a municipality's authority to clean up property and "authorizes the municipality to assess the costs and penalties associated with the [cleanup] of property as a lien against the property or to collect the debt as a civil debt against the landowner." MS AG Op., *Lawrence* at \*2 (Sept. 20, 2013). If a municipality chooses to place an assessment on the property, such assessment "shall be included with municipal ad valorem taxes and payment shall be enforced in the same manner in which payment is enforced for municipal ad valorem taxes." Miss. Code Ann. § 21-19-11(4)(b)(i). Likewise, "all statutes regulating the collection of other taxes in a municipality shall apply to the enforcement and collection of the assessments levied under the provisions of this section." *Id.* Assessments issued pursuant to these provisions "shall become delinquent at the same time municipal ad valorem taxes become delinquent," and collections of such delinquencies shall also be the same:

All assessments levied under the provisions of this section shall become delinquent at the same time municipal ad valorem taxes become delinquent. Delinquencies shall be collected in the same manner and at the same time delinquent ad valorem taxes are collected and shall bear the same penalties as those provided for delinquent taxes. If the property is sold for the nonpayment of an assessment under this section, it shall be sold in the manner that property is sold for the nonpayment of delinquent ad valorem taxes. If the property is sold for delinquent ad valorem taxes, the assessment under this section shall be added to the delinquent tax and collected at the same time and in the same manner.

Miss. Code Ann. § 21-19-11(4)(b)(ii).

Based on your request and our subsequent telephone conversation, it is our understanding that, here, the City chose to place a cleanup assessment on the subject property with the owed ad valorem taxes. Both the City and Scott County offered the property at their respective tax sales. Because the subject property was not purchased at the City's tax sale, it was struck off to the City. Scott County also struck off the same property to the State after it was not purchased at the county tax sale.<sup>1</sup> An individual then purchased this state-forfeited property.<sup>2</sup>

When property is struck off to a municipality for unpaid municipal taxes but also sold or struck off to an individual for unpaid county taxes, the municipality may redeem the property from the sale of delinquent county taxes by paying the requisite redemption amount to the chancery clerk during the redemption period. Miss. Code Ann. § 21-33-69. Likewise, "[s]uch lands may be

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<sup>1</sup> See Miss. Code Ann. § 27-41-59(1) ("[I]f no person will bid for [the property], the whole amount of taxes and all costs incident to the sale, the tax collector shall strike it off to the state."). The terms "strike off" and "struck off" are synonymous with "sell" and "sold." See Miss. Code Ann. § 27-35-63 (referencing "[l]ands sold to state for taxes").

<sup>2</sup> Section 29-1-39 provides in part:

The Secretary of State with the approval of the Governor may contract to sell any state forfeited tax lands . . . At such time as the purchaser shall have paid the entire purchase money under any contract of sale and shall have complied with all of the other provisions of said contract of sale, the Secretary of State shall issue a state land patent as in other cases of the sale of state lands.

redeemed from the municipal sale for unpaid municipal taxes or special improvement taxes by the owner or other person interested in such lands, including the person to whom such lands were struck off or sold at the sale for state, county, or taxing district taxes.” *Id.* When neither party redeems the property, the law is clear that “title vested in a purchase[r] of municipal taxes is subservient to title which vests in a purchaser at a sale for county taxes.” MS AG Op., *Lawrence* at \*2; *see also* Miss. Code Ann. § 21-33-63 (providing same).

Where a sale of the property does not generate enough revenue to satisfy a lien imposed under Section 21-19-11 for municipal cleanup costs, “the municipality, pursuant to Section 11-7-189(2), should endorse on the judgment roll the extent of the satisfaction of the judgment and should sign an entry showing any amount previously paid. The remainder of the lien would remain enrolled as a lien on the subject property.” MS AG Op., *Lawrence* at \*2. But if a municipality does not impose or file a lien on the property prior to an individual’s purchase of the same property from the State, and said individual had no actual or constructive notice of a lien, such lien is not binding on the individual. *See* MS AG Op., *Williams* at \*1 (Oct. 7, 2011) (providing “the Mississippi Supreme Court has held that the effect of a judgment on third parties commences on the date of its enrollment, rather than the date of rendition.”) (emphasis in original) (citing *Herrington v. Heidelberg*, 244 So. 2d 717 (Miss. 1962)). Nonetheless, a municipality may still collect cleanup costs and penalties from the previous landowner as a civil debt. Miss. Code Ann. § 21-19-11(3); *see also Lawrence* at \*2.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Maggie Kate Bobo

Maggie Kate Bobo  
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