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Lien on Me: Using Liens to Collect Municipal Debt and Expenditures

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Mark R. Heinle

2013 Edition

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Local Government

LIEN ON ME:
USING LIENS TO COLLECT
MUNICIPAL DEBT AND EXPENDITURES

By: Stewart H. Diamond
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ABOUT ANCEL, GLINK AND THE AUTHORS

Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C. is a law firm with offices in Chicago, Wheaton, Waukegan and other Cities in the Chicago Metropolitan Area. Its thirty-five or more attorneys devote nearly all their time to legal problems relating to governmental bodies. The firm has, since the early 1930s, represented many municipalities, townships, schools, park, fire protection and library districts and other special governmental bodies as regular counsel. The firm is often hired as special counsel to governments throughout Illinois. Many of its attorneys have lectured throughout the State and nationally on local governmental law. The lawyers of the firm have written many articles and pamphlets on governmental issues and have taught at area law schools. The firm regularly litigates cases in the State and Federal Courts and before administrative agencies. The law firm has the highest rating granted by the *Martindale-Hubbell Law Directory* and is a listed firm in *Best's Directory of Recommended Insurance Attorneys and Adjusters*. The firm maintains an active website at www.ancelglink.com.

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By

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PREFACE

Municipalities long frustrated by deteriorating properties due to homeowner neglect, late or nonexistent tax and service payments and widely ignored fines are empowered to aggressively fight back. These communities are armed with a host of Illinois laws allowing municipalities to collect fines and charges by placing liens on the property of persons or entities. Statutory lien powers are powerful tools enabling municipalities to recoup expenditures and outstanding debts from deadbeat property owners, but can also be critical in upholding the quality of municipal life, to say nothing of protecting municipal coffers. Liens can be filed and enforced in a variety of situations. Liens can be used where a property owner lags behind in paying for certain services, incurs fines arising from local code violations, or forces a municipality to perform basic caretaking operations to maintain a parcel of privately-owned property. These liens constitute legal claims on the debtor's property as security for the payment of the underlying debt and can go a long way towards ensuring that municipal debts are ultimately collectible. Where a matter is not resolved amicably through voluntary payment spurred by the impending specter of a forced sale or a cloud upon home ownership, the lien property may be sold to satisfy the debt and discharge the lien. This process gives rise to many questions, including:

- What circumstances or types of indebtedness may give rise to municipal liens?;
- What procedures must be followed to file and perfect a lien?;
- What effect does a bankruptcy filing have on a lien property or property with delinquent accounts?;
- How does a municipal lien translate into satisfaction of debts?;
- How does a municipality foreclose on a lien?; and
- What costs may be collected through a lien?

This pamphlet, together with the attached lien chart and forms, explains which liens are available to municipalities to enforce code violations and specific nuisances, how to file and perfect a lien, the priority status of a lien against other claims on property, foreclosure mechanisms and which costs are recoverable in lien proceedings. While there is some room for creativity, these rules govern the lien rights of both home rule and non-home rule municipalities. Home rule units have no power to create liens other than under the same statutory rules that apply to all municipalities. Home rule governments do enjoy enhanced powers in the administrative adjudication judgment lien context, which will be discussed below. Because the requirements of filing a proper lien are highly detailed and are subject to periodic change, you should work with your attorney to verify that the procedures and forms referred to in this pamphlet are still in force.

I. OVERVIEW

Municipal liens are created by statute and the statutory language controls the operation, extent and priority of the lien. With state statutes thus forming a ceiling on municipalities' lien powers, familiarity with and adherence to the statutory powers and procedures becomes critical for effective and successful debt collection. If municipalities take actions which do not follow the statutory procedures, they may be sued for overstepping their powers or may not be able to recover funds spent to remedy problems on private property.

Many municipal liens are subordinate to mortgage liens. In other words, if a property is sold for non-payment of a mortgage or to foreclose your municipal lien, the first dollars generally go to pay off the mortgage, with any leftover funds being applied repay the debt represented by the municipal lien. Where priority status under the statute is unclear, the general rule is "first in time, first in right," which is to say that liens which attach first have priority over subsequent liens attached to the same property. This priority status is critical because there may be multiple creditors in addition to the holder of a mortgage, each entitled to payment, and, where the security (the lien property) must be sold in order to satisfy such debts, the lien with the highest priority will be satisfied before both later encumbrances and before earlier encumbrances by persons failing to properly record the notice of lien. Generally speaking, a lien is only discharged upon payment of the debt or obligation which it secures, whether by voluntary payment by the debtor or foreclosure proceedings. Municipalities must be diligent, as liens generally expire when no action is taken following the running of a limitation period specified in the statute creating the lien. Monies due which are secured by a lien on property do not magically or automatically get paid. Liens are generally paid when property is sold. Buyers are reluctant to purchase properties burdened by liens. Absent a payment under those or other circumstances, however, the municipality must file a lawsuit foreclosing on the real estate, which satisfies the lien through proceeds from the sale of property. The filing of such a suit in and of itself often leads to quick payment.

Various provisions in the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.* ("**Municipal Code**"), allow municipalities to record liens against property which generally will be paid when the encumbered property is sold, transferred, or foreclosed. A lien is a recorded notice that the party against whom the lien is filed is indebted to the person recording the lien, or the "lien holder." Since liens "attach" to the real property owned by the debtor, any prospective purchaser will ordinarily require the lien be satisfied before agreeing to acquire the property. Once a lien is recorded, the lien holder can also bring a lawsuit to foreclose the lien, much like a defaulted mortgage. If successful, the property is sold by court order with the proceeds of the judicial sale, assuming that no prior secured claims exist, first going to satisfy the debt represented by the lien and any remaining balance being returned to the property owner.

If there are other or prior claims, such as mortgages, the court must sort out priorities between the competing claims. Though it is an oversimplification in light of numerous exceptions detailed below, the general rule of thumb dictates that multiple secured claims on the same property are satisfied chronologically, with the first party to perfect its claim being the first party to be paid from any sale proceeds. Since the order in which creditors perfect liens determine payment priorities, municipalities are well-advised to join the race to the recorder's office by recording their notices of liens or judgments as soon as is practicable. The chances of winning such a race may be enhanced by perfecting the lien by mail.

While recording fees and procedures relevant to perfecting liens vary a bit from county to county, Cook County charges a total of \$26.50 to record the first two pages of a notice of lien (and most other documents) and \$2.00 for each additional page. The ability of a municipality to recover its costs associated with perfecting and foreclosing on a lien will be discussed in the context of the specific types of liens, but a municipality may simply contact the relevant county recorder's office,

verify the cost of a given filing, and then mail the notice of lien or other document to be recorded to the recorder's office, together with a check reflecting the filing fee. Municipalities are advised to send two copies of the document to be recorded, one which is retained and catalogued by the recorder's office and the other to be sent back to the municipality, so long as a postage pre-paid self-addressed stamped envelope is enclosed with the filing fee and copies of the recorded document.

II. SPECIFIC TYPES OF LIENS

The Municipal Code specifically provides for demolition liens, water and sewer liens, weed cutting liens, pest extermination liens, Dutch Elm-infected tree removal liens, garbage removal liens, tax liens and judgment liens stemming from home rule administrative adjudications of local ordinance violations. Each type of lien has unique procedural requirements that must be strictly adhered to before the lien becomes judicially enforceable. This pamphlet will assist municipalities in their efforts to protect the public's health and safety, while also preserving their right to recover expenditures related to various enforcement proceedings. The following subsections describe the most common types of liens which a municipality can file.

A. Demolition Liens – 65 ILCS 5/11-31-1

The procedure for tearing down a dangerous and unsafe building¹ and perfecting a lien for the costs is somewhat more complicated than for other kinds of liens, which is likely largely a reflection that the General Assembly deems the demolition or remediation of a home as a drastic proceeding warranting either advance authorization from the court, or in urgent situations, self-help prefaced by stringent notice requirements. Therefore, unlike weed cutting or pest extermination, a court must generally first authorize a municipality's rehabilitation or destruction before any substantive action takes place. An identical procedure may be employed to compel a property owner to remove garbage, debris, and hazardous and noxious materials from a structure. In certain emergency situations, the judicial procedures can be obviated, as discussed more fully below. In a typical case, however, in which the dangerous and unsafe building presents something less than an immediate, urgent hazard, the municipality must secure court authorization before proceeding.

First, a municipality must give 15-day advance written notice to all owner(s) and lien holders of record that they must make the building safe or demolish it. A municipality will want to commission a complete title search to determine who the owners and lien holders are, since a failure to name and serve all the parties with notice of the suit leaves a municipality vulnerable to costly subsequent litigation when an "unnamed" owner sues a municipality for unauthorized destruction of the property. The statute also provides that if owners cannot be identified after a diligent search (*i.e.*, a title search), it will suffice to deliver notice of the 15-day remediation period preceding a demolition lawsuit to the persons who received the most recent tax bill is sufficient. Similarly, the 15-day advance written notice must be given for removing garbage and debris. If no action is taken by the owner or lien holders at the conclusion of the 15-day period, a municipality may then file its petition for a court order authorizing the relevant action, whether demolition, repair or clean-up.

The court will usually expedite the hearing on the petition, and it will take precedence over all other cases. It is not a defense for the owner to assert that the building is boarded up, although the court may order the owner to take that precaution. The court holds a full evidentiary hearing, and, if the owner contests the petition, the process will often involve efforts to settle or negotiate with a municipality over repairs, which may accomplish the desired effect.

¹ Defined as a structure that poses a threat to health and public safety and is beyond repair without substantial reconstruction. Village of Gurnee v. Miller, 23 Ill.App.3d 915 (2nd Dist. 1975).

Once the court grants the order, a municipality may then demolish the structure or remove garbage and debris. The costs of demolition or removal, plus court costs, attorney's fees, and other related enforcement costs become a lien on the property recoverable from the owner or from any previous owner if the property was transferred during the 15-day notice period leading up to the filing of the petition. The municipality shoulders the upfront costs.

The notice of lien must be filed with the recorder of deeds within 180 days of the demolition or removal of debris and contain: (1) "a description of the real estate sufficient for its identification," which is typically a standard legal description, PIN number and street address, (2) the amount of the cost and expense incurred, and (3) the date or dates on which the costs and expenses were incurred. Strict compliance with these steps will expedite and clarify the judicial process which must be undertaken to foreclose on the lien.

Subsection (e) of Section 11-31-1 of the Municipal Code, 65 ILCS 5/11-31-1(e), provides an alternative method of accomplishing the same goal, allowing municipalities to demolish or fix severely dilapidated buildings without first having to secure court permission to do so. The official charged with enforcing a municipal building code may determine that a three-story or smaller residential or commercial building is "open and vacant and an immediate and continuing hazard to the community." Once this determination is made, such official posts a two-foot by two-foot dated sign on the front of the building, which sign declares that the building will be demolished, repaired or enclosed by the municipality unless someone with an interest in the property does so first. Instead of warning of impending demolition or repair, the same sign may state that garbage, debris and other hazardous, noxious or unhealthy substances or materials must be removed from the building, lest they will be removed by municipal officials. Within 30 days of posting this notice on-site, the municipality must send via certified mail, return receipt requested, a *Notice To Remediate* to all parties with a recorded interest in the property, including lienholders and the beneficial owners of a land trust holding title to the property. Much like the sign posted on the deteriorating building itself, a *Notice To Remediate* shall indicate that the municipality will demolish, repair or enclose the building or remove any garbage, debris or other hazardous, noxious or unhealthy substances of action is not taken first by an owner. Upon sending the *Notice to Remediate*, the same should be recorded in the recorder's office of the county hosting the ill-fated building. Finally, the municipality must publish on three consecutive days a detailed notice in a newspaper circulated throughout the municipality where the building is located, containing the PIN and address of the building, a statement that the property is "open and vacant and constitutes an immediate and continuing hazard to the community," and a statement that the municipality will demolish, repair, or enclose the building (or remove any garbage, debris or other hazardous or unhealthy substances) if the owners and lienholders of record do not.

If the building is not demolished or remedied within 30 days of mailing the notice or the last day of publication of the notice (whichever date is later), then the municipality may demolish or fix the building upon a finding that the demolition or repair is necessary to remedy the immediate and continuing hazard. There is no need to secure any further permission. The municipality has 90 days to act on the building, calculated from the expiration of the 30 day period in which the owners or lienholders could have demolished or fixed the property. In the meantime, however, anyone with an interest in the property may bring a complaint requesting a court hearing on the proposed demolition or repair, in which case the municipality cannot proceed with the demolition until the court issues a final order.

The notice of lien must be filed with the recorder of deeds within 180 days of the demolition or removal of debris and contain: (1) "a description of the real estate sufficient for its identification," which is typically a standard legal description, PIN and street address, (2) the amount of the cost and expense incurred, (3) the date or dates on which the costs and expenses were incurred, (4) a statement by the official responsible for enforcing the building code that the building was "open and vacant and constituted an immediate and continuing hazard to the community," (5) a statement by the same official verifying that all notice requirements were complied with, including the posting of an

properly-sized sign on the building, that notice was sent by certified mail to all owners of record and that such notice was published in accordance with the statute, setting forth the name of the publication and dates of publication. Strict compliance with these steps will expedite and clarify the judicial process which must be undertaken to foreclose on the lien.

Regardless of the methodology employed prior to the demolition itself, a perfected demolition lien trumps all other prior liens, except for tax liens. In other words, the municipality is the second creditor in line, behind only the tax collector, regardless of whether pre-existing liens have already been perfected. Since even the mortgage lien is subordinate to the demolition lien, the mortgage company may pay off the lien to protect the property from being sold and the satisfaction of the unpaid mortgage debt from being jeopardized. A unique feature of the demolition lien is that the municipality can foreclose it in the same court proceeding in which the petition for demolition was filed. Another alternative is to wait for a mortgagee or other person with a security interest in the land which remains unpaid to choose to foreclose. At that time, the municipality will appear on a title search as a lien holder of record and will be named as a defendant in the foreclosure action. The municipality may then file a counterclaim for its lien and collect from the proceeds of the foreclosure sale or, more likely, settle out of court with the foreclosing mortgage holder.

B. Water or Sewer Service Liens – 65 ILCS 5/11-139-8

When a water or sewer bill becomes delinquent, those charges become a lien upon the real estate for which the service is supplied. That is the case even if the water or sewer service charge was incurred by a tenant. Most municipal ordinances specifically establish this dual responsibility. The delinquency date is set by ordinance, whether it is a particular date each month, or calculated in terms of a specified period following the billing date, such as a 15- or 30-day period after the billing date. A municipality must clearly establish a precise delinquency date by ordinance in order to file an effective water or sewer service lien.

To perfect the lien, the municipality must send the owner(s) of record a notice of lien containing (1) a copy of each (if more than one) delinquency notice sent to the person who is responsible for paying the charges or other notice that informs the owner that the charges have become delinquent and (2) a notice that the unpaid charges may create a lien on the real estate. Thus, for example, if both the owner and the tenant are responsible for paying the water or sewer bill, as is the case in most municipalities, copies of the delinquency notices must be sent to both the tenant and the landlord so both are aware of a potential lien.

The notice of lien may then be filed in the recorder's office. The recorded notice must also contain, in addition to the items above, (1) a legal description of the property, (2) the amount due, and (3) the date when the amount became delinquent. A municipality must send a copy of the recorded notice of lien to the owner of the property. A municipality may accumulate several delinquency notices over a period of months and file just one notice of lien for the entire amount of the combined delinquencies.

Unlike a demolition lien, the water or sewer lien *does not* enjoy priority over other, earlier-filed liens. If a prior lien holder forecloses on its lien, the municipality's lien will be extinguished except to the extent of any surplus available from the judicial sale following payment of the foreclosing creditor. Also, a water or sewer lien has no special priority in a bankruptcy case. Note, however, that a water or sewer lien *does* have priority over later-filed encumbrances and even in bankruptcy, the court will usually require the debtor to pay all future water or sewer bills, secured by the bankruptcy trustee's provision of an "adequate assurance" of payment, usually in the form of a cash deposit. Municipal utility providers should also be aware that a water or sewer service lien must be filed *before* the debtor's declaration of bankruptcy, since such liens filed after a bankruptcy filing constitute claims against pre-petition debts, which is barred by the Bankruptcy Code's automatic stay provisions. This reality provides an additional incentive for municipalities to perfect

liens in an expeditious manner, as does the fact that a subsequent owner who purchases the encumbered real estate prior to the municipality recording its lien will not be bound to repay the former owner's indebtedness because the new purchaser had no notice of the arrears.

To enforce the lien, the statute provides that a municipality may foreclose on the water or sewer lien in a standard mortgage foreclosure proceeding. Since a municipality's water or sewer lien does not enjoy priority over earlier-filed liens, the statute provides that a municipality may also simply sue the owner in a civil action for the amount due plus reasonable attorneys' fees. A judgment in the civil suit extinguishes the previously filed lien. A judgment in this case may be preferable to a lien since it can be enforced against all of the tenant's or owner's assets. This is because the ordinances or rules of most municipalities make both the tenant and owner liable for charges. A regular civil suit can proceed more quickly and directly by using a wage deduction, garnishment or citation to discover assets. A third alternative is simply to wait for the owner to sell the property, when the lien will appear as an exception to title which the owner will generally be required to clear before the property can be transferred. Also, communities which have a real estate transfer tax may withhold a transfer stamp until both the transfer tax and all outstanding water or sewer bills are paid. Although this requirement has not, to our knowledge, been tested in a court case, we believe that the municipality is likely to prevail.

In short, a water or sewer lien is not the exclusive remedy for non-payment of utility bills. A municipality may shut off water service by following procedures described in state law and by local ordinance. The delinquent customer must be afforded an opportunity for a hearing prior to discontinuing service, so municipalities should send written notice of a hearing, warning of the impending shut-off, prior to terminating service. Where there is a bona fide dispute over the amount of the bill, rather than just a failure to pay, service must not terminate until the customer is afforded an opportunity for a hearing or an appeals process and the dispute is resolved. Absent such due process procedures, a municipality and its officials may find themselves defendants in a federal civil rights lawsuit rather than plaintiffs in a lien foreclosure or contract action.

C. Weed Cutting Liens – 65 ILCS 5/11-20-7

Municipalities are armed with a tool to prevent property owners from transforming their yards into unsightly nuisances by neglecting to trim their weeds. Section 11-20-7 of the Municipal Code grants municipalities the authority to cut the weeds and file a lien to recoup their costs.

Several prerequisites must be satisfied, however, before a municipality may take it upon itself to enter someone's property to cut the weeds. First, the municipality must enact an ordinance defining the term "weed" and establishing how high or overgrown they are permitted to become before becoming a nuisance and an eyesore sufficient to trigger municipal intervention. Once an ordinance is enacted, the municipality may then enforce it as any other code or regulation adopted by the corporate authorities. In addition to typical enforcement powers, however, the Municipal Code grants municipalities limited self-help authority to combat overgrown yards, enabling a municipality to cure the untrimmed weeds nuisance if it is not timely addressed by the property owner.

Upon the finding that a property owner has permitted weeds or other plants to grow in excess of the established height restriction, a municipality should issue a notice of violation to provide the owner with an opportunity to cure the problem on his or her own. A reasonable time period such as seven days should be sufficient to allow an owner to cut overgrown weeds. If the owner ignores the notice of violation and fails to cut the weeds, a municipality may enter the property and cut the weeds or have the weeds cut by an authorized contractor, (if the municipality hires a business to cut the weeds, that business may enforce these lien rights in lieu of the municipality doing so and all of the lien perfection requirements apply equally regardless of the entity enforcing said rights). In the event the owner or occupant notifies a municipality that it may not enter onto the property to cut the

weeds, or if a confrontation occurs when the municipality attempts to do so, a municipality may resort to applying to the Circuit Court for an administrative warrant for permission to enter the subject property.

A municipality's weed-trimming costs become a lien on the property by filing a notice of lien at the recorder of deeds office of the county in which the property is located within 60 days of the date on which the municipality trimmed the weeds, and the notice of lien must contain the following items: (1) a description of the real estate sufficient for identification thereof; (2) the amount of money representing the cost and expense incurred or payable for the service; and (3) the date or dates when such cost and expense was incurred by the municipality.

One other requirement exists before the lien may be perfected. A municipality must also send notice of the lien to the person to whom the prior year's tax bill was sent before the lien may be enforced. In addition to the "notice of lien" which is to be recorded, the notice to the owner must include a copy of the statute granting this authority, a copy of the ordinance implementing the statute, and the location of the weeds which have been cut. The municipality must serve the notice by either personal service or by certified mail. We recommend serving it simultaneously with the filing of the notice of lien.

Perfecting the lien quickly is critical, since the lien is trumped by any bona fide purchaser, mortgagee, judgment creditor or other lienor whose rights in and claim to such real estate arise prior to the filing of the notice, even where such claims arise after the weed-cutting. Tax liens also enjoy priority over weed-cutting liens. The consequences of a prior lien holder, or a tax creditor, foreclosing are the same as that of a water or sewer lien, which is to say, the municipality's lien will be extinguished except to the extent of any surplus available from the judicial sale following payment of the foreclosing creditor.

D. Pest Extermination Lien – 65 ILCS 5/11-20-8

Where spiders, termites, rats and the like infest private property, a municipality is authorized by Section 11-20-8 of the Municipal Code to exterminate these pests and recover its costs in doing so. First, by ordinance, a municipality should define "pests" as:

"Undesirable arthropods (including certain insects, spiders, mites, ticks and related organisms), wood infesting organisms, rats, mice and other obnoxious undesirable animals, but does not include a feral cat, a "companion animal" as that term is defined in the Humane Care for Animals Act (510 ILCS 70/1), "animals" as that term is defined in the Illinois Diseased Animals Act (510 ILCS 50/1), or animals protected by the Wildlife Code (520 ILCS 5/1)." 65 ILCS 5/11-20-8.

The ordinance should further specify that the presence of the foregoing pests constitutes a nuisance. Once such an ordinance is enacted, the municipality may then enforce it as any other code or regulation adopted by the corporate authorities. Because the Municipal Code grants limited self-help authority to cure the nuisance if it is not timely addressed by the property owner, a municipality should issue a notice of violation providing the property owner a reasonable amount of time to exterminate the pests on his or her own (fourteen days appears reasonable). If the owner ignores the notice of violation and fails to take any action, a municipality may enter the property and exterminate the pests and "prevent[] ingress of pests" onto the property. In the event the owner or occupant notifies a municipality that it cannot enter onto the property to exterminate pests, or a confrontation occurs when entry onto the property is attempted, a municipality may resort to applying to the Circuit Court for an administrative warrant for permission to enter onto the subject property.

A municipality's costs in exterminating pests automatically become a lien on the property. However, in order to enforce the lien, the lien must first be perfected by filing a notice of lien with the

recorder of deeds office of the county in which the property is located. As with weed trimming, if a municipality elects to outsource the extermination, the exterminator may follow identical procedures to perfect the lien. The notice of lien, which must be filed within 60 days of the date on which the cost is incurred, must contain the following items: (1) a description of the real estate sufficient for identification thereof; (2) the amount of money representing the cost and expense incurred or payable for the service; and (3) the date or dates when such cost and expense was incurred by a municipality or authorized exterminator.

Unlike the weed cutting lien procedure, a municipality need not send any notification of the lien to the property owner after filing it with the recorder of deeds. Despite this distinction, the priority status of a pest extermination lien vis-à-vis competing liens and claims is identical to that of the weed cutting lien. In other words, the pest extermination lien is trumped by any bona fide purchaser, mortgagee, judgment creditor or other lienor whose rights in and claim to such real estate arise prior to the filing of the notice, even where such claims arise after the extermination. Tax liens, regardless of when they originated, also supersede pest extermination liens. In foreclosure proceedings, the municipality's lien will be satisfied by any surplus available from the judicial sale following payment of creditors enjoying higher priority.

Where a municipality is still not paid for its pest extermination expenditures, it may foreclose the lien, using the same procedures used to foreclose mortgages or mechanics' liens, up to one year after the date of filing notice of the lien. It is important to note this brief window of opportunity to take action to enforce the lien. After such period expires, a municipality still has the right to collect the sum due and owing from the property owner, but the lien shall no longer be of any force with respect to other creditors.

E. Removal of Dutch Elm-Infected Trees Lien – 65 ILCS 5/11-20-12

The Municipal Code enables municipalities to remove elm trees infected with Dutch Elm disease where a property owner refuses to do so. Interestingly, the General Assembly only statutorily authorizes such action in the context of Dutch Elm disease, and not to any of the other insect-borne diseases or other maladies which afflict trees. A municipality must carefully follow the statutory requirements in order to recoup its tree removal expenses. A municipality should enact an ordinance defining Dutch elm disease, providing that it is a nuisance and may be removed by a municipality if the property owner does not act within 30 days of receipt of the notice that affected trees on his or her property must be removed to prevent the spread of the disease.

A municipality must provide the person who received the tax bill for the general taxes on the property in the preceding year with a notice containing a copy of Section of the Municipal Code 11-20-12, the relevant Village ordinance, a property description (address, PIN and legal description) and a specific list of the tree[s] affected by Dutch elm disease. Such notice must either be personally served on the tax bill recipient or sent by registered mail at least 30 days prior to the removal of the diseased trees.

If the owner ignores the notice and fails to take any action with respect to the trees for at least 30 days after receiving the registered mailing or personal service of the notice, a municipality may enter onto the property and remove the diseased trees. In the event the owner or occupant notifies a municipality that it has no permission to enter the property to remove the trees, a municipality may resort to applying to the circuit court for an administrative warrant for permission to enter onto the subject property.

A municipality's costs in removing the trees is recoverable by perfecting the lien via filing a notice of lien with the recorder of deeds office of the county in which the property is located within 60 days of the date on which the cost is incurred, which notice must contain the following items: (1) a description of the real estate sufficient for identification thereof; (2) the amount of money

representing the cost and expense incurred or payable for the service; and (3) the date or dates when such cost and expense was incurred by a municipality or authorized exterminator.

The Dutch Elm tree removal lien is subordinate to competing claims by any bona fide purchaser, mortgagee, judgment creditor or other lienor whose rights in and claim to such real estate arise prior to the filing of the notice, even where such claims arise after the tree removal. Tax liens, regardless of when they originated, also supersede pest extermination liens. In foreclosure proceedings, the municipality's lien will be satisfied by any surplus available from the judicial sale following payment of creditors enjoying higher priority.

F. Unpaid Municipal Tax Liens – 65 ILCS 5/8-3-15

Any and all locally issued taxes of any kind, whether such taxes are authorized by statute or levied under home rule powers, are collectible through a variety of powers, including the power to create and enforce liens to be used for collection when taxes are not paid. Since unpaid real estate taxes create their own lien on property, this statutory provision is to be used for municipal taxes other than real estate taxes, including transfer taxes, hotel/motel taxes, amusement taxes and utility taxes, and the like. A tax lien does not affect the rights of bona fide purchasers, mortgagees, judgment creditors or other lien holders whose interests in the property accrued *before* the tax lien is recorded. The statute authorizing the local tax liens indicates that a municipality should pass an ordinance establishing procedures for tax liens, but that those procedures should mirror the notice and enforcement provisions contained in the Retailers' Occupation Tax Act, 35 ILCS 120/1, *et seq.* The Retailers' Occupation Tax Act, in turn, provides that whenever a tax return remains unpaid, the delinquent taxpayer is liable for the filing fee associated with the filing of the lien and the subsequent filing fee associated with recording a release of the lien once the delinquent taxes are remitted. In addition to being able to recoup its filing fees, a municipality may also collect from the defaulting taxpayer the tax monies owed, interest thereon and a penalty for late payment, which must be established by ordinance. Municipalities have three years from the original due date for the delinquent taxes to file a notice of lien in the office of the recorder in the county in which the property subject to the lien is located. Once the notice of lien is recorded by a municipality, the lien only becomes releasable upon the taxpayer's payment of the back-taxes owed, interest, penalty and filing fees for both the recording of the notice of lien and for the release of the lien. Once the proper amounts are paid in full, a municipality must issue a certificate of complete release of the lien and file the same with the recorder of the county where the lien was originally filed. The release of the lien must contain the following statement:

FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL BE FILED WITH
THE RECORDER OR THE REGISTRAR OF TITLES, IN WHOSE OFFICE, THE LIEN
WAS FILED.

Where the delinquent taxpayer does not pay his or her debt, a municipality can foreclose on the lien within twenty years of the filing of the notice of lien via an action in circuit court in the same manner as for other liens.

G. Judicial and Administrative Adjudication Judgment Liens – 735 ILCS 5/12-101

An organizational note is in order. This section references methods by which municipalities may convert judicial or adjudicative money judgments to liens on the property of the judgment debtor in order to secure payment of such judgments. Unlike tax judgments, which only apply to the specific property that is the subject of the tax delinquency, judicial and adjudicative judgment liens may be placed on any property of the judgment debtor throughout the entire state. Both home rule and non-home rule municipalities are often awarded monetary judgments when they pursue a variety of ordinance violation cases. As will be seen, home rule and non-home rule municipalities

obtain administrative adjudication judgments in different manners, with home rule units benefiting from a more streamlined approach. The administrative adjudication process, as will be explained more fully below, is a method by which a municipality may enforce certain alleged ordinance violations in-house, without the initial use, delays and costs associated with the court system. It is rapidly becoming a much-used method. Once a judgment is obtained, either by court order or through the administrative adjudication process, municipalities have a variety of enforcement options, but securing such judgments through a lien on property of the judgment debtor by attaching and perfecting the lien virtually ensures collection. In turn, the lien of judgment gives rise to several enforcement options which a municipality may employ in order to ensure that it collects on its judgment. While enforcement options abound, in the spirit and context of a pamphlet on securing payment through a debtor's real estate, we will focus on judgment foreclosure proceedings in this pamphlet, which represents a newly authorized judgment enforcement tool. In order to keep the distinct issues separate, we first provide an overview of judgment liens generally, then analyze the different methodologies used to obtain a judgment. Next, we will examine the process of transforming a judgment into a lien of judgment. Finally, we turn to the various commonly-employed options for enforcing a judgment, which differs in certain respects from the enforcement mechanisms attendant to the statutory liens discussed above.

Judgment liens are the most sweeping and broadly applicable municipal debt-securing tool. Unlike the statutes discussed above, which authorize liening a debtor's real estate in response to a limited, highly fact-specific situation, the judgment lien acts as a catch-all, enabling municipalities to collect fines arising out of every imaginable municipal infraction, from parking tickets to nuisances, and everything in between. Coupled with systems of administrative adjudication, this powerful mechanism can be streamlined to greatly enhance municipal collection powers. Due to diverging statutory authorizations for administrative adjudication systems, home rule units enjoy a significant advantage in this context, as will be shown, but even non-home rule units may obtain judgment liens, albeit indirectly, by having their in-house adjudications reduced to judgments by the circuit court, which in turn gives rise to a judgment lien if the proper steps are followed. A judgment, without more, does not constitute a lien against the debtor's real property. Creditors who obtain a judgment but do not act to perfect a lien are simply unsecured creditors with little assurance of payment.

1. Obtaining A Judgment

a. Home Rule Administrative Adjudication – 65 ILCS 5/1-2.1-8

Section 1-2.1-8 of the Municipal Code grants any home rule municipality the authority to secure a judgment lien arising out of unpaid fines and penalties stemming from favorable determinations in local administrative hearings on municipal ordinance violations.

Home rule municipalities are authorized to devise a system of administrative adjudication for code violations. Therefore, a municipality can issue citations for nearly all ordinance violations, save for moving vehicle infractions (e.g. speeding), impose and collect fines, resolve disputes related to alleged violations through hearings, and enforce the final determinations from a hearing officer – all in-house, without resorting to circuit court involvement.

Under Section 1-2.1-8(b) of the Municipal Code, decisions rendered under the general home rule adjudication statute may be enforced with the same authority and by the same means as judgments rendered by courts, without first having to file an action in circuit court seeking a judgment on the hearing officer's decision, removes the expenditure of time, money and resources on court pleadings, filing fees, summons and attorneys' fees in circuit court.

A system of administrative adjudication must be established by enacting an ordinance establishing procedures in accordance with the statutory requirements in 65 ILCS 5/1-2.1-1, *et seq.* An administrative adjudication proceeding is initiated by a Village officer filing a written pleading

consisting of either a notice of violation or a standard citation form. Whichever form the pleading takes, it must advise the defendant of the nature of the offense and contain enough information to allow the defendant to prepare a defense. The defendant must be given notice of the adjudicatory hearing, which should contain the type and nature of the local code violation (with specific reference to a municipality Code section allegedly violated), the date and location of the adjudicatory hearing, the legal authority and jurisdiction under which the hearing is to be held (a reference to Division 2.1 of the Municipal Code), and the penalties for failure to appear at the hearing. The notice of the hearing should be served either personally, by first class mail or, if the defendant cannot be found, posted upon the property where the violation is found at least 15 days prior to the hearing date.

Following the adjudicatory hearing, both a municipality and the defendant may seek administrative review by the circuit court within 35 days of the hearing officer's decision.

The hearing officer's decision becomes final after the defendant's exhaustion of judicial review or upon the expiration of the 35 day window of time in which a defendant may seek judicial review of an adverse decision. At such time, any fine or costs imposed effectively become a final judgment, which can be enforced in the same manner as a judgment entered by a circuit court.

b. Non-Home Rule Administrative Adjudication + Judicial Action – 65 ILCS 5/1-2.2-55

Non-home rule units are also empowered to enact administrative adjudication systems for all municipal ordinance violations except building code and moving traffic violations. While non-home rule administrative adjudication systems are quite similar to home rule administrative adjudication systems, there are some critical distinctions. Except where noted, the procedures, powers and effects of non-home rule administrative adjudication proceedings are identical to those of the home rule administrative adjudication scheme.

A system of administrative adjudication must be established by enacting an ordinance establishing procedures in accordance with the statutory requirements of 65 ILCS 5/1-2.2-1, *et seq.* Following the infraction, the defendant must be given notice of the adjudicatory hearing, together with a copy of a violation report, which should both be sent by first class mail. The hearing must be held between 30 and 40 days after the underlying violation occurred.

As with home rule administrative adjudication systems, once the hearing officer issues his findings of fact, decision and order, either the municipality or the defendant may seek administrative review by the circuit court within 35 days of the hearing officer's decision. The hearing officer's decision becomes final after one party exhausts its judicial review or after the 35 day window of time for judicial review expires. Assuming a favorable determination for the municipality, once the hearing officer's decision becomes final, unlike in the parallel home rule administrative adjudication context, the resulting fine is merely a debt owed to the municipality rather than a judgment, forcing non-home rule municipalities to engage in an extra step before attaining a judgment, which may then be enforced as outlined below.

After the hearing officer's decision becomes final, the non-home rule municipality must rely on the judiciary to give its ruling teeth by filing an action in the circuit court seeking a judgment on the hearing officer's findings, decision and order, enabling subsequent enforcement. In addition to filing a petition for judgment on the administrative findings, decision and order, the non-home rule municipality files certified copies of the findings, decision and order, together with a certified statement that the findings, decision and order was issued pursuant to Division 2.2 of Pamphlet 1 of the Municipal Code and the applicable municipal ordinance. The easiest permissible method of serving the summons and a copy of the filed circuit court petition is by sending them by certified mail, return receipt requested. Should the court find that the administrative order and proceedings were satisfactory, it will render judgment in favor of the municipality for the amount indicated in the administrative order, plus court costs. Where the same individual has been adjudged liable for

multiple code infractions over the course of several administrative hearings, all of the findings, decisions and orders against the individual may be consolidated into a single circuit court judgment proceeding, resulting in a judgment for the cumulative total of the fines.

While the issues of culpability and penalties assessed in the administrative forum are not re-litigated in circuit court, the additional expenditure of time and money associated with a trip to court make enforcement of non-home rule ordinance violations somewhat more unwieldy than that experienced by home rule communities. In fact, non-home rule municipalities may occasionally find it more convenient to forego the administrative adjudication process altogether and head straight to circuit court, in order to streamline the process and obtain the judgment in a single forum. Regardless, once a circuit court judgment is obtained by a non-home rule municipality, either following an administrative adjudication of a local code violation or by direct prosecution in circuit court, or a home rule municipality simply garners a favorable decision from a hearing officer, the resulting judgment must be attached and perfected.

Once entered, final judgments are immediately enforceable against defendants, though enforcement can be delayed by the filing of appeals, post-trial motions, the availability of which depend on whether the case was tried or disposed of by pre-trial motions or a default judgment. Municipal judgment creditors are advised to act quickly to obtain a lien on the judgment and begin enforcement proceedings to avoid evasive action by judgment debtors. Fortunately, converting a judgment into an enforceable judgment lien is a remarkably simple one-step process.

2. Converting A General Judgment Into A Judgment Lien

Once a judgment is obtained via adherence to the procedures described in the foregoing subsection, the municipality may convert the general judgment into a judgment lien, which attaches the debt to particular pieces of property. Unlike the earlier-discussed liens, which can only be imposed upon the debtor's property within the creditor municipality, these liens may be placed on property of the judgment debtor anywhere throughout Illinois, as well as being enforceable against the debtor's property in other states. To convert a judgment into a judgment lien, simply file a certified copy of the judgment or a memorandum of judgment (sample attached), signed by the hearing officer, in the recorder's office in the county where the property to be sold to enforce the judgment is located. At that time, the judgment becomes a lien on the real estate of the defendant/judgment debtor. This should be done immediately upon the entry of a judgment to maximize the collection priority status, regardless of whether the municipality has any intention of taking enforcement action or sitting idly by, letting the judgment lien encumber the property to impede a sale by the judgment debtor. To obtain a judgment or home rule administrative lien against property located in Illinois counties other than the one in which the judgment or home rule administrative decision is rendered, creditors simply record the memorandum of judgment in the county in which the property is located. The vast majority of states (including Illinois) have adopted some version of the Uniform Enforcement of Foreign Judgments Act, which attempts to streamline the practical effects of the constitutional full faith and credit clause by, for our purposes, dictating that final judgments rendered in Illinois may be registered in sister states in which the judgment debtor owns real estate. The procedures for registering the Illinois-based judgment and whether any lien rights are created thereby depend on the laws of the other (non-Illinois) state. Procedural variance necessitates consultation with an attorney to determine whether a local adjudication or judgment from an Illinois court may attach as a lien to a debtor's property outside of Illinois. Within Illinois, in order to determine the amount of a judgment lien, attorneys' fees and court costs should be added to the judgment itself, with that cumulative total being subject to a 9% statutory rate of interest, which accrues from the date that the judgment was entered.

Particularly for municipalities which obtain a judgment lien only to lie in wait for the judgment debtor to attempt to sell his property, it is critical to note that judgments (and, consequently, the lien emanating from such judgments) expire seven years after they are entered. The effectiveness of a judgment may be extended, however, by filing a petition to revive the judgment during the seventh

year following entry of the judgment in the circuit court which rendered the original judgment. Petitions to revive judgments must be filed in the original case in which the judgment was entered and must note the date and amount of the original judgment, court costs expended, accrued interest and any credits to the judgment, reflecting partial payment. Notice of petitions for revival should be served on the judgment debtor by certified or registered mail, return receipt requested, restricted delivery. The notice should be captioned in the same manner as a pleading, using the original case name and number, and state that a petition for revival of a judgment has been filed, which will be granted unless an answer or appearance is filed within 30 days following service of the notice.

Once the revival petition is granted, the judgment creditor must perfect the revived judgment by filing a memorandum of the judgment which revived the original judgment in the county recorder's office. Due to a recent change in the law, reviving a judgment and re-perfecting the associated lien will preserve the priority status of the original judgment lien. Since the judgment can be revived up to 20 years after it is entered, the judgment can effectively be renewed twice, with the three successive seven year periods being tacked together for a maximum duration of 21 years. Regardless of the duration of the judgment, the resulting lien may be enforced in a variety of ways.

3. Enforcing the Judgment Lien

a. Miscellaneous Remedies

A municipality following the procedures detailed in this section has already undertaken a number of steps to secure the debt of the defendant code violator, yet unless the debtor either voluntarily complies with the judgment and pays the fine or otherwise agrees to settle, or happens to be on the cusp of selling the real estate to which the lien has attached, the judgment lien is of limited value unless the municipality is willing to undertake a judicial collection procedure of one manner or another. Some of the methods for enforcing a judgment which are beyond the scope of this pamphlet include wage deduction orders, which create liens that are not discharged until the underlying judgment is satisfied in full; non-wage garnishment, which is backstopped by a garnishment lien that permits the municipal judgment creditor to collect assets or debts that are owed by others to the judgment debtor; a citation to discover and recover the judgment debtor's assets, a useful and flexible tool for recovery; and a levy against real or personal property, enabling the sheriff to seize and sell the judgment debtor's real or personal property and turn the proceeds over to the judgment creditor. In each of these types of actions, creditors are rewarded for moving quickly, since citations, non-wage garnishments and wage deductions are fully satisfied in the order in which they are received. In addition to the foregoing tools for collecting judgments, a new remedy permitting judgment creditors to foreclose on judgments in the same manner as a mortgage foreclosure merits further comment, as it represents a method of recovering monies secured by all variety of municipal statutory liens.

b. Foreclosing on Judgment Lien

A recent amendment has given rise to a new method of enforcing judgments. A judgment lien may now be foreclosed in the same manner as a mortgage foreclosure, which is governed by the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101, *et seq.* Since this is identical to the foreclosure procedure for most of the statutory liens discussed above, the following section simultaneously sets forth the judgment lien and statutory municipal lien foreclosure process.

III. FORECLOSING ON LIENS

Foreclosing on a lien to satisfy a debt will not often be necessary, as the lien encumbers the property, hindering refinancing and conveyances and therefore frequently spurs the debtor to “voluntarily” satisfy municipal debts. While someone can buy lien property and accept the risks that the lien will later be foreclosed, most buyers demand clean title and full satisfaction of the lien prior to closing. Even obstinate debtors usually soften once they are served with a summons indicating an impending foreclosure. Where it becomes necessary to do so, a municipality simply files a complaint in the county in which the lien property is located to foreclose on any of the above liens, naming the debtor as defendant and all parties with an interest in the lien property and “unknown others” in order to ensure that the judgment forecloses the interests of all persons claiming an interest in the property.

The complaint for foreclosure will be insulated from procedural attack so long as it takes the form suggested in 735 ILCS 5/15-1504(a). The foreclosure complaint will be substantially similar to a complaint to foreclose a mortgage, with modifications made as needed where the form references an underlying mortgage. A sample form is attached for reference. A title search of the debtor’s property should be conducted, so that the municipality will discover the identity of pre-existing lien holders and name them as defendants in the complaint. Title companies will issue Minutes of Foreclosure, revealing everyone with a recorded interest in the property. A summons must be personally served upon all named defendants. The recorded underlying memorandum of judgment or certified judgment order should be attached to the complaint, since this constitutes the lien of judgment being foreclosed upon at present. The complaint should also contain information regarding the judgment lien, a note regarding the six-month post-sale redemption period, a request for attorney’s fees and expenses with supporting facts and a request for relief, the latter including requests for a judgment of foreclosure, a judicial sale of the lien real property and recovery of the costs of the foreclosure suit.

Once the foreclosure complaint is filed, a municipality should record a notice of foreclosure against the lien property, which must be executed by a municipal official and state the plaintiff’s (municipality’s) name and case number, the court in which the action is pending, the names of all titleholders of record, a legal description of the property, property address and a copy of the judgment that is the subject of the debt underlying the foreclosure. This recorded notice of foreclosure serves as a *lis pendens* and will prevent non-record creditors from laying claim to foreclosure proceeds. A sample form is attached. The municipality should then file an affidavit with the circuit court clerk stating on information and belief that the existence, names and places of residence of non-record claimants are unknown. A sample affidavit is attached. Since the *lis pendens* and affidavit bar non-record claimants from later asserting their rights, the potential for post-sale litigation is dramatically reduced. In addition to recording the above-noted notice of foreclosure, the municipality should also request the court clerk to publish the notice once per week for three consecutive weeks in a paper generally circulated within the county of the court’s jurisdiction, with the initial publication appearing at least 30 days before a judgment of foreclosure is entered by the court. The published notice must include notice of the pending foreclosure action, the title of the court and case, case number, the municipality’s (plaintiff’s) name, the debtor’s (first named defendant’s) name and “All Non-Record Claimants,” a list of parties served by publication and the date on which the default may be entered against such parties.

Defendants have just 30 days following the service of summons to file a responsive pleading. If the debtor fails to file a responsive pleading, a municipality may move for entry of a default judgment. If the debtor does file an answer to the complaint for foreclosure, but such answer does not dispute the facts in the complaint, a municipality should move for summary judgment. Where the debtor successfully raises a factual issue, the foreclosing municipality will have to present evidence supporting its claim, which will likely consist of documentation of the underlying judgment or lien and

evidence of expenditures (e.g. payroll records or time entries reflecting costs of cutting weeds, correspondence with the debtor requesting payment, and the like). Insofar as a municipality is successful in its complaint for foreclosure, the court issues a judgment of foreclosure, which contains the last date of the redemption period, which, in the context of judgment lien foreclosures, is 6 months following the date of the foreclosure sale but no longer exists when foreclosing the other liens, terms of the foreclosure sale and an order granting a municipality possession of the foreclosed property. The judgment of foreclosure may include attorneys' and filing fees or other costs associated with the foreclosure action, but a municipality's ability to recoup such costs will depend on the type of statutory lien or judgment lien being foreclosed upon and which costs are recoverable thereunder (see accompanying *Municipal Lien Chart*), but frequently will include the original, underlying fine or costs that formed the basis of the lien in the first instance, accrued interest, attorneys' fees and court costs and expenses. Without an express statutory basis for such recovery, though, municipalities will be hard-pressed to obtain a foreclosure judgment which includes such outlays.

Once the foreclosure judgment is entered, the lien is extinguished in light of the impending judicial sale of the formerly liened property. The debtor does, however, have one last opportunity to hold on to his property: he or she may redeem the property by paying the creditor municipality the amount set forth in the foreclosure judgment plus any costs a municipality incurs between the date of the foreclosure judgment and the date of redemption. This pre-sale equitable right of redemption generally expires either seven months from when the debtor has been served with a summons in the foreclosure suit or three months following the entry of a judgment of foreclosure, whichever is later. The equitable right of redemption should not be confused with the post-sale statutory right of redemption which applies only to judgment liens. Where the foreclosure judgment and subsequent judicial sale is premised upon an underlying judgment lien, however, the debtor's ability to recover his or her property from the judicial sale purchaser extends for six months following the date of sale. In such cases, the debtor reclaims his property by paying the officer conducting the sale the amount of the winning bid, plus 10% interest. These funds are then turned over to the judgment creditor, while the debtor receives a certificate of redemption, the recording of which reflects the cancellation of the judicial sale.

In all cases, where the debt remains unpaid at the conclusion of the pre-sale redemption period, the real estate is sold at a foreclosure sale, though a municipality may accept a late payment from the debtor in order to satisfy the debt. A municipality must provide notice of the foreclosure sale, which includes the name, address and telephone number of the person to contact for information regarding the property, including times when the property may be inspected, the common address of the property, a legal description, description of improvements on the property, the time specified in the foreclosure judgment when the property may be inspected prior to sale, the time and place of sale, the terms of the sale, the title and docket number of the foreclosure case and the court in which the foreclosure was filed. A sample form is provided. The notice of sale, which can be given before the equitable redemption period expires, must be published once per week for three consecutive calendar weeks, with the first notice being published within 45 days in advance of the sale and the last notice being published at least seven days prior to the sale. In each instance, the published notice must appear both in the real estate section or classified ads containing real estate, as the case may be, and in the section containing legal notices. Municipalities are well advised to consult 735 ILCS 5/15-1507(c)(2) for publication instructions, as the requirements vary between Cook County and other counties. Together with the publication notice, a municipality must also serve notice of the impending sale to all parties who appeared at the foreclosure proceeding within the time frame established for publishing the notice of foreclosure sale. The foreclosure sale itself will be conducted by public auction. Upon court approval of the sale, the highest bidder takes title to the formerly liened property, and the proceeds from the foreclosure sale necessary to satisfy the debt owed to a municipality and other creditors are paid in order of priority, with any surplus being returned to the debtor. As can be seen from this long and complicated process, there are few situations where the municipality will wish to incur this expense. Nonetheless, in rare cases, a municipality may have no choice but to seek the sale of the property to satisfy its judgment or lien.

In all cases, any error can upset the process, which should be undertaken conscientiously and with care.

IV. CONCLUSION

Statutory municipal liens are particularly useful to municipalities that have chronic problems with properties in serious disrepair, owners whose water or sewer bills are long delinquent, taxpayers whose non-real estate municipal taxes are excessively delinquent and municipal code violators who accrue numerous fines. In such cases, municipal commitment of time, effort and resources to lien proceedings will be rewarded, though at minimum, a rudimentary cost-benefit analysis should be conducted to determine whether a lien is an effective, practical strategy in a given situation. Statutory liens are often a last resort in light of the time and expense involved, but liens are an effective vehicle to recoup Village expenditures on behalf of non-paying property owners or Code violators insofar as the correct procedures are followed to obtain and enforce the lien. Because the statutes involved do change from time to time, you certainly need to both consult and use a lawyer to make certain our suggestions still prevail and the statutes have not changed.

Lien Chart

STATUTORY SECTION	65 ILCS 5/11-139-8	65 ILCS 5/11-20-7	65 ILCS 5/11-20-8
TYPE OF LIEN	Water/Sewer Lien	Weed Cutting Lien	Pest Extermination Lien
EVENT TRIGGERING LIEN	Delinquent payment of water and sewer services	Municipality cuts weeds after property owner refuses or neglects to cut same	Municipality exterminates pests (insects, spiders, rats, etc.) after property owner fails to exterminate same upon reasonable notice
PRIOR NOTICE REQUIRED	Yes, send copy of each delinquency notice and a notice that unpaid bills may create a lien on property; notice must also include description of property, aggregate amount of payment due and date when amount became delinquent	Yes, personal service or certified mailing after weed cutting but before recording notice of lien, containing statute, ordinance, common description of property and location of cut weeds	No
SPECIAL REQUIREMENTS & LIMITATIONS PERIODS	Enact ordinance specifying delinquency date, either calculated by number of days late or by a certain date each month, and disconnection procedures; municipality may permit multiple delinquency notices to accrue and then file single lien; instead of lien procedure, municipality may sue occupant in court for past-due monies and atty's fees and then enforce judgment; 3 rd alternative, which can be used in conjunction w/ above options, is disconnecting service for nonpayment in	Notice of lien filed w/in 60 days of cutting, but only after notifying owner; notice of lien includes property description, cost and date of removal; enact ordinance establishing procedures	Notice of lien filed w/in 60 days; notice of lien includes property description, cost and date of removal; enact ordinance establishing procedures
ATTYS' FEES	Not collectible, unless electing to bring suit instead of liening property	Not collectible	Not collectible
HOW TO COLLECT	1) Sue in circuit ct. to obtain judgment, then foreclose on judgment lien; OR 2) Sue for foreclosure on statutory lien in same manner as mortgage foreclosure, 735 ILCS 5/15-1101, <i>et seq.</i> OR 3) Terminate service for nonpayment in accordance with ordinance procedures, including prior written notice and opportunity for hearing	Sue for foreclosure in same manner as mortgage foreclosure under 735 ILCS 5/15-1101, <i>et seq.</i>	Sue for foreclosure within 1 year after filing notice of lien, 735 ILCS 5/15-1101, <i>et seq.</i>

Lien Chart

Lien Chart

STATUTORY SECTION	65 ILCS 5/11-20-12	65 ILCS 5/8-13-15	65 ILCS 5/11-20-13
TYPE OF LIEN	Removal of Dutch Elm-Infected Trees Lien	Unpaid Municipal Tax Liens	Garbage Removal Lien
EVENT TRIGGERING LIEN	Municipality removes infected elms after property owner refuses or neglects to remove same	Unpaid municipal taxes of all kinds, including both home rule and non-home rule municipalities	Municipality removes garbage & debris after property owner fails to remove same upon reasonable notice
PRIOR NOTICE REQUIRED	Yes, personal service or registered mailing 30 days <i>prior</i> to removing trees, containing statute, ordinance, common description of property and location of cut weeds	No	No
SPECIAL REQUIREMENTS & LIMITATIONS PERIODS	Notice of lien filed w/in 60 days of tree removal and 90 days after notifying owner; notice of lien includes property description, cost and date of removal; enact ordinance establishing procedures	Enact ordinance incorporating by reference notice and enforcement procedures of Retailers' Occupation Tax Act, 35 ILCS 120/1, <i>et seq.</i> ; notice of lien may be filed only after any court reviews of assessments are complete; Notice of lien filed w/in 3 yrs. of due date or end of ct. proceedings challenging assessment	Notice of lien filed w/in 60 days; notice of lien includes property description, cost and date of removal; enact ordinance establishing procedures
ATTYS' FEES	Not collectible	No, but unpaid taxes, penalties, interest and recording costs	Not collectible
HOW TO COLLECT	Sue for foreclosure in same manner as mortgage foreclosure under 735 ILCS 5/15-1101, <i>et seq.</i>	Sue for foreclosure within 20 years after filing notice of lien	Sue for foreclosure within 2 years after filing notice of lien

Lien Chart

STATUTORY SECTION	65 ILCS 5/1-2.1-8 & 735 ILCS 5/12-101	65 ILCS 5/1-2.2-55(b) & 735 ILCS 5/12-101
TYPE OF LIEN	Home Rule Admin. Adjudication: Code Violation Judgment Liens	Non-Home Rule Admin. Adjudication: Code Violation Judgment Liens
EVENT TRIGGERING LIEN	Unpaid fines arising out of violations of any ordinance violation adjudicated administratively, following exhaustion or expiration of judicial review	Unpaid fines arising out of violations of any ordinance violation and adjudicated administratively, following exhaustion or expiration of judicial review; petition circuit court for judgment on administrative decision
PRIOR NOTICE REQUIRED	Yes, notice mailed to defendant setting date for hearing before administrative hearing officer at least 15 days in advance of hearing	Yes, notice mailed to defendant setting date for hearing before administrative hearing officer; hearing must take place b/w 30 and 40 days after infraction
SPECIAL REQUIREMENTS & LIMITATIONS PERIODS	Record certified copy of “judgment,” signed by hearing officer, in county where property to be liened is located; Lien effective for 7 years unless judgment revived; memorandum of judgment granting revival must be recorded to extend lien	Petition circuit court for judgment on hearing officer’s favorable final decision; Send circuit court summons via certified mail to defendant; Once judgment entered by court, follow perfection and revival procedures noted for home rule units
ATTYS’ FEES	Yes, plus court costs and cost of foreclosure proceedings recoverable	Yes, and court costs also recoverable
HOW TO COLLECT	1) Any method of enforcing judgments (735 ILCS 5/12-101, <i>et seq.</i>) 2) Sue to foreclose judgment lien within 7 years in same manner as mortgage foreclosures under 735 ILCS 5/15-1101, <i>et seq.</i>	1) Any method of enforcing judgments (735 ILCS 5/12-101, <i>et seq.</i>) 2) Sue to foreclose judgment lien within 7 years in same manner as mortgage foreclosures under 735 ILCS 5/15-1101, <i>et seq.</i>

Lien Chart

STATUTORY SECTION	65 ILCS 5/11-31-1
TYPE OF LIEN	Demolition Lien
EVENT TRIGGERING LIEN	Municipality demolishes or remediates dangerous, incomplete or abandoned building pursuant to court order; <i>where removal is urgent due to extreme dilapidation, parallel provision calls for building code official to declare building open, vacant & “immediate and continuing hazard” and post 2’x2’ sign giving owner 30 days to fix, then municipality demolishes or fixes</i>
PRIOR NOTICE REQUIRED	Yes, mail to owners and record lien holders (or most recent party on tax roll) notice of intention and demand to demolish or remediate 15 days prior to petitioning court for approval of municipal demolition or remediation; <i>where urgency requires municipality to obviate court, municipality must post 2’x2’ sign on property warning of impending demolition, send by certified mail, return receipt requested, a Notice to Remediate to all owners and lien holders of record, record Notice to Remediate and publish notice for 3 consecutive days stating PIN # and address of property, a statement that property is open and vacant and is an immediate and continuing hazard to community and that municipality will demolish or fix property within 30 days if owners don’t do so first</i>
SPECIAL REQUIREMENTS & LIMITATIONS PERIODS	Notice of lien must be filed within 180 days of demolition or remediation; notice of lien includes legal description & PIN, costs and date of demolition or remediation; <i>if municipality does not go to court first, it has 30 to 120 day window following last published notice to demolish or fix property; notice of lien is same as above, except must also contain statement by building code official that building was open & vacant & constituted an immediate & continuing hazard to community + requisite sign was posted on property, certified mail notice was sent and published, plus dates and name of publication</i>
ATTYS’ FEES	Yes, plus any other costs of enforcement
HOW TO COLLECT	1) Sue for foreclosure in separate proceeding in same manner as mortgage foreclosures, 735 ILCS 5/15-1101, <i>et seq.</i> ; <i>OR</i> 2) Petition ct. to retain jurisdiction over foreclosure; serve notice of petition on everyone getting earlier notice; ct. hearing on petition w/in 15 days of filing

Document No. _____

filed for Record in
Recorder's Office of

County, Illinois,

at _____ M.

Recorder of Deeds

NOTICE OF LIEN

Notice is hereby given that Claimant, Lienville, an Illinois municipal corporation duly organized and existing under the laws of the State of Illinois, by and through its attorney, _____, hereby claims a lien pursuant to ___ ILCS _____ upon the below-described property in the amount of \$_____ for, and on account of, labor, skill, services and materials (collectively, "Work") expended upon real property, which Work has been rendered as follows:

[Demolition, water/sewer services, weed cutting, etc.]

The owner or reputed owner of the lien property is _____ [name].

The lien property is generally known by its common street address as follows:

The property subject to the _____ [specify type] lien is legally described as follows:

[Insert Legal Description]

PIN: _____

The instant lien is occasioned by the liened property owner's [delinquency in payment, neglect of maintenance, etc.], as evidenced by the attached Notice of [Violation, Delinquency], issued on _____, _____.

The claim of lien in the amount of \$_____ reflects the amount of costs and expenses incurred on _____ and _____ [date(s)] by Claimant's provision of the following Work:

[Describe nature of services rendered and itemize costs, including materials and labor]

Such payment as is reflected in the claim of lien was due on _____, _____, and remains unpaid. The amount needed to satisfy the outstanding lien balance is \$_____, which sum is presently due and owing to the Claimant and remains unpaid, after deducting all just credits and offsets.

A copy of this Notice of Lien has been served upon the owner of the liened premises, _____ by [first class mail, certified mail, personal service].

LIENVILLE

By: _____
One of its attorneys

Claimant:
Address of Claimant:

SUBSCRIBED and SWORN to
before me, on _____, _____.

Notary Public

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
_____ COUNTY, ILLINOIS

Lienville,)
)
 Plaintiff,)
) CASE NO. _____
 v.)
)
 Cody Violator,)
)
 Debtor.)

PETITION TO REVIVE JUDGMENT

Petitioner, LIENVILLE, by its attorneys, _____, represents to the Court as follows:

1. On _____, _____, a judgment was rendered and entered by this Court in a case entitled _____, Cause No. _____, in favor of Plaintiff and against Defendant/Debtor for the sum of: \$_____, plus costs.
2. Petitioner is the judgment creditor named in the judgment, and is the bona fide owner of the judgment.
3. The judgment is still in full force and effect, not reversed or set aside, and not wholly paid or satisfied, except as to the sum of \$_____, which partial satisfaction now appears of record; and there is due on said judgment from Defendant to Petitioner the sum of \$_____, plus costs taxed in the sum of \$_____, with post-judgment interest of \$_____ through the date of the instant Petition, for a total amount due on the judgment of \$_____.

WHEREFORE, Petitioner demands that the judgment be revived and that Petitioner have its costs in this action.

By: _____

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
_____ COUNTY, ILLINOIS

Lienville,)
)
 Plaintiff,)
) CASE NO. _____
 v.)
)
 Cody Violator,)
)
 Debtor.)

NOTICE OF REVIVAL OF JUDGMENT PROCEEDINGS

A pleading seeking to revive the judgment entered on _____, _____, in the above-entitled case has been filed pursuant to 735 ILCS 5/12-101 and 735 ILCS 5/2-1602, and the judgment originally entered on _____, _____, will be revived unless you file an answer or otherwise file an appearance in the Office of the Clerk of the Circuit Court within 30 days after service of this Notice, exclusive of the day of service.

Dated this _____ day of _____, _____.

CLERK OF THE CIRCUIT COURT

By: _____

[legal description]

PIN#: _____

Common Address: _____

- h. Statement of current unpaid balance, including, but not necessarily limited to, current unpaid principal balance, per diem post-judgment interest accruing, court costs and any further information:

Judgment: _____

Unpaid Balance: as of _____, 20 __: _____

Per diem: _____

Statutory post-judgment interest rate: _____ 9% _____

Prior court costs: _____

- i. Name of present owner of premises: _____

- j. Names of other persons in addition to said owner, but excluding any nonrecord claimants who are joined as Defendants and whose equitable right to redeem is sought to be barred and whose interest in or lien on mortgaged real estate is hereby sought to be terminated:

[list]; and

Unknown Owners; and

Nonrecord Claimants

- k. Names of persons claimed to be personally liable for deficiency, if a deficiency judgment is prayed for:

[None]

- l. Plaintiff brings this suit as holder of the judgment lien sought to be foreclosed herein.

- m. Plaintiff seeks inclusion in the Judgment Plaintiff's costs and expenses incurred in the prosecution of this suit.

- n. The redemption period will six months from the date of sale pursuant to 735 ILCS 5/12-101.

- o. Name or names of Defendants whose right to possess the lien real estate, after confirmation of a foreclosure sale, is sought to be terminated and facts in support thereof:

[Insert all named Defendants]

4. Plaintiff avers that in addition to the persons designated by name herein, there are other persons who are interested in this action and who have or claim some right title, interest or lien on, to or upon the real estate or some portion thereof, described as tenants in possession; that the name of each such other person interested in this action is unknown to the Plaintiff, and upon diligent inquiry cannot be ascertained, and all such persons are therefore made parties to this action by the name of Unknown Owners.

5. Plaintiff further states that there are no Nonrecord Claimants, of which the Plaintiff has actual notice; that the names and present or last known places of residence of any Nonrecord Claimants against the real estate and premises described in the complaint filed in this cause are unknown to the Plaintiff; that this paragraph is included in this Complaint in order to bar all Nonrecord Claimants from exercising the equitable right to redeem from the judgment lien sought to be foreclosed in this cause without making said Nonrecord Claimants parties to this action.

WHEREFORE, Plaintiff, _____ prays as follows:

- I. For the entry of a judgment of foreclosure;
- II. For the entry of a judgment for costs and expenses of this suit;
- III. For a judicial sale of the property subject to the judgment lien foreclosed upon herein;
- IV. For an order of possession for the purchaser of such real estate at the judicial sale upon the expiration of the redemption period;
- V. For an order of judgment for any funds advanced by Plaintiff prior to expiration of the redemption period for real estate taxes or senior lien payments;
- VI. For such other and further relief as equity may require.

Respectfully submitted,
By: _____
One of Plaintiff's Attorneys

Affiant states nothing further.

SUBSCRIBED and SWORN to

before me, on _____, _____, _____.

Notary Public

Document No. _____
 filed for Record in
 Recorder's Office of

 County, Illinois,
 at _____ M.

 Recorder of Deeds

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
 _____ COUNTY, ILLINOIS

Lienville,)
)
 Plaintiff,)
) CASE NO. _____
 vs.)
)
 Cody Violator, Judgment Debtor;)
)
 _____, _____ [name everyone w/ interest in property];)
 Unknown Owners and Nonrecord Claimants,)
)
 Defendants.)

NOTICE OF FORECLOSURE

The undersigned does hereby certify that the above-entitled cause for foreclosure was filed on _____, _____, and is now pending in said Court and that the property affected by said cause is located at and commonly known as:

The property subject to the foreclosure proceedings is legally described as follows:

[Insert Legal Description]

PIN: _____

Moreover, Plaintiff avers the following:

(i) The names of all Plaintiffs, Defendants and the case name and number are set forth above.

(ii) The Court in which the foreclosure action was brought is set forth above.

(iii) The names of the title holders of record are:

[Judgment Debtor + any other known title holder(s)]

(iv) The common address of the property, legal description and Permanent Index Number are set forth above.

(v) Identification of the judgment lien sought to be foreclosed upon:

i. Judgment Creditor: Lienville

ii. Judgment Debtor: Cody Violator

iii. Date of Judgment: _____, _____

iv. Date and Place of Recording Memorandum of Judgment or Certified Copy of Judgment Order: _____, _____ at the Office of the _____ County Recorder of Deeds, as instrument number _____.

Dated this _____ day of _____, _____.

Respectfully submitted,

By: _____
One of Plaintiff's Attorneys

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
_____ COUNTY, ILLINOIS

Lienville,)
)
Plaintiff,)
) CASE NO. _____
v.)
)
Cody Violator, Judgment Debtor;)
_____, _____ [name everyone w/ interest in property];)
Unknown Owners and Nonrecord Claimants,)
)
Defendants.)

NOTICE OF JUDICIAL SALE

Pursuant to the Judgment of Foreclosure order entered on _____, _____, by Judge _____ of the above-entitled court in the above-entitled case, this Notice of Judicial Sale, having been properly published and served upon each non-defaulting named Defendant in the above-entitled case in accordance with 735 ILCS 5/15-1507, hereby provides public notice of the following:

_____ may be contacted for information regarding the real estate subject to the judicial sale. _____ is reachable at _____ and by telephone at (____) _____.

The real estate subject to the judicial sale is located at _____ and is legally described as follows:

The following improvements are located on the above-referenced real estate:

Prior to the judicial sale, which shall occur on _____, _____ at _____ a/p.m., the real estate may be inspected at the following times: _____ [See Judgment of Foreclosure for Terms]_____.

The terms of the sale shall be as follows: _____ [See Judgment of Foreclosure for Terms]_____.

By: _____
One of Plaintiff's Attorneys