

**Performance Audit 13-06:
Liens on Abatement Process**

December 2013

City Auditor

Stan Sewell, CPA, CGFM, CFE

Internal Auditor

Pam Swinney, CPA





OFFICE OF INTERNAL AUDIT

Stan Sewell, City Auditor

December 31, 2013

To: Mayor Andy Berke
City Council Members

Subject: Liens on Abatement Process (Report #13-06)

Dear Mayor Berke and City Council Members:

The attached report contains the results of our audit of the Liens on Abatement Process. Our audit found errors in recording and releasing liens. In addition, the current processing time to record and release liens exceeded the stated goal of 30 days, requiring on average 72 and 67 days, respectively. We also found the cost to process some liens exceeds the value of the liens recorded. In order to address the noted areas for improvement, we recommended actions to streamline the recording and release processes and decrease inaccuracies.

We thank the management and staff of the City Attorney's Office, and the departments of Economic & Community Development, Finance, and Information Services for their cooperation and assistance during this audit. When we initiated this audit, the City Attorney had already identified this area as being in need of revised and more efficient processes. We are happy to have provided assistance to the City Attorney's Office.

Sincerely,

Stan Sewell, CPA, CGFM, CFE
City Auditor

Attachment

cc: Travis McDonough, Chief of Staff
Jeff Cannon, Chief Operating Officer
Audit Committee Members
Wade Hinton, City Attorney
Donna Williams, Economic & Community Development Administrator
Barry Teague, City Treasurer

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AUDIT PURPOSE

This audit was conducted in accordance with the Office of Internal Audit's 2013 Audit Agenda. The objectives of this audit were to determine if:

- The City Attorney's Office records municipal liens for abatements in compliance with applicable laws, policies and procedures;
- The City Attorney's Office releases municipal liens within 30 days of collection; and,
- The current policies and procedures efficiently and effectively manage the municipal lien for abatements process.

BACKGROUND

City Charter Section 2.7 gives authority to the City to make regulations to secure the general health and safety of the inhabitants, and to prevent and remove nuisances. To accomplish these objectives, the Code Enforcement Division of Economic and Community Development Department enforces property maintenance codes and promotes compliance with housing, vehicle, litter, overgrowth and nuisance ordinances.

When the property owner fails to remedy a cited nuisance, TCA 6-54-113 gives the municipality authority to remedy the nuisance and collect the cost of abatements from property owners. The city can place a municipal lien on the property and collect in the same manner as delinquent property taxes are collected. In addition, the costs are subject to the same penalty and interest as delinquent property taxes. However, the city currently does not assess penalty and interest on delinquent liens.

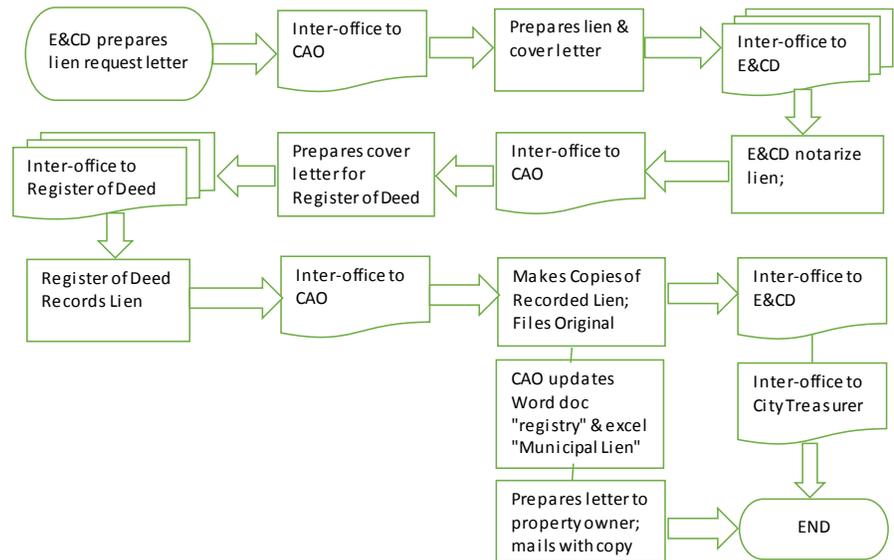
If the property is an owner-occupied residential property, TCA 6-54-113(c)(1)(B) requires the municipality to wait until cumulative charges for remediation equal or exceed \$500 before filing the notice with the register of deeds. Current policy of code enforcement is to abate only unoccupied vacant properties.

Municipal Lien Process

After code enforcement abates the property, the Division prepares and forwards a letter to the City Attorney requesting a lien be placed on the property. As shown in Exhibit 1, the process to record the lien

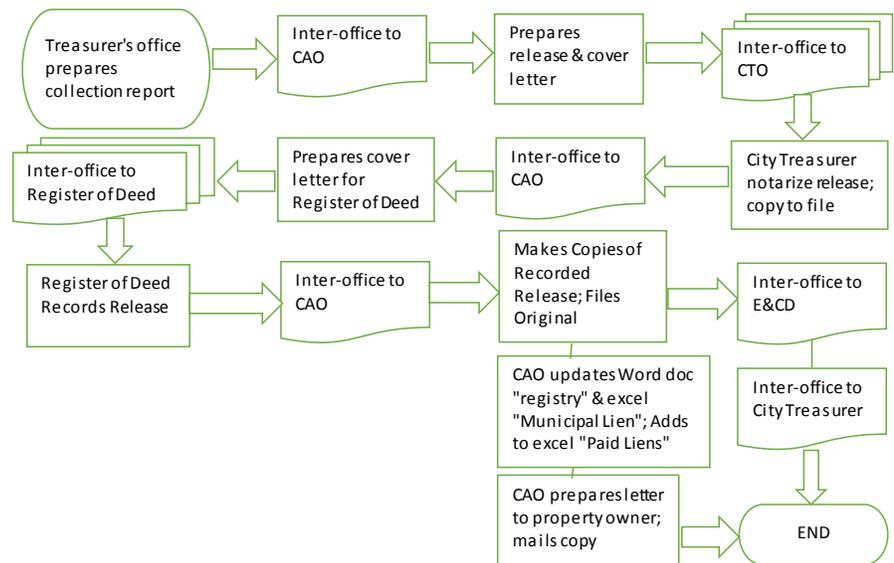
requires multiple communications between the Economic & Community Development department (ECD) and the City Attorney's Office (CAO).

Exhibit 1: Process to Record Lien



The process to release a lien similarly requires multiple communications between the City Treasurer's Office (CTO) and the City Attorney's Office. Typically, the CTO receives payment for the municipal liens. CTO would obtain a copy of the recorded lien and prepare the collection report. The CTO forwards a copy of the collection report to the City Attorney's office, which prompts the release process, as shown in Exhibit 2.

Exhibit 2: Process to Release Lien



Statistical Information

The number of municipal liens recorded and total value per fiscal year are presented in Exhibit 3. As shown, the number of liens recorded has increased 51% over fiscal year 2011, although the value of the liens increased by only 22%. The skewed value of liens during fiscal year 2012 is a result of two demolitions costing (in total) \$245,547.

Exhibit 3: Municipal Lien Statistics

	2011	2012	2013
Number of liens recorded	298	354	450
Total value of liens recorded	213,560	525,158	259,924

Source: Codes Inspection Division Records

The record of outstanding municipal liens is maintained via an excel worksheet and included on the annual property tax bills. The owner notification letter (see Exhibit 1) and the annual property tax bills are the only form of collection efforts.

FINDINGS AND RECOMMENDATIONS

Improvements to the recording and release process will increase efficiency and decrease inaccuracies.

To facilitate the collection of the abatement cost, the City Attorney's Office's stated goal is to record municipal liens within 30 days after a request is received from the Economic & Community Development (ECD) Department. We reviewed a sample of liens recorded and released during fiscal years 2011, 2012 and 2013. Based on the sample reviewed, the average number of days to record and release a municipal lien was 72 and 67 days, respectively. We also found liens that were not recorded, inaccuracies on recorded liens, and paid liens were not released. Improvements to the recording and release processes as recommended below will also reduce the time it takes to record and release the liens.

Municipal Liens were not recorded and inaccuracies were found on several recorded lien documents.

A lien request letter is generated from a template in CityView system, ECD database system. The letter provides the detailed property information needed to file the lien. An administrative assistant in the City Attorney's Office uses the information to manually prepare the municipal lien document. An excel database (Municipal Lien Registry) is used by CAO as an accounts receivable ledger.

We compared the lien request letter and the municipal lien documents to verify the property information was recorded properly. In our sample of liens requested by ECD, we found 3 of the 69 liens (4% of

our sample) were not filed with the Register of Deeds. While confirming with the Register of Deeds that the liens were not recorded, we noted one of the properties had two liens, for the same amount, recorded during the calendar year 2013. The Code Inspector's office confirmed the two liens were not valid for the property in question. Also, our sample included 9 municipal liens (13% of the sample) recorded with an incorrect tax map number.

To reduce errors and increase efficiency, the manual process of creating the municipal lien document could be replaced by using a template in CityView. Ideally, the system would print all municipal lien documents including a cover letter to the Register of Deeds along with an exhibit "A", listing all liens being forwarded on that specific date. In addition, CityView could automatically generate a weekly report (in an excel or csv file format) that includes the date, property owner, abatement amount, tax map number, owner's mailing address, and legal description of property for all liens printed that week. The report would be provided to the City Attorney's Office to track the receipt of all recorded liens as well as provide the data needed to maintain the Municipal Lien database.

Recommendation 1:

We recommend the departments eliminate manual processes, where possible, using templates in CityView. Possible areas include using CityView to generate the cover letter and the municipal lien document(s) as well as a periodic detailed filing report. The ECD department would generate the documents, notarize and forward directly to the register of deeds. The cover letter would instruct the register of deeds to record the lien and return the original(s) to the City Attorney's office.

***Audit Client Response (ECD department):** We concur.*

***Audit Client Response (City Attorney):** We concur. We have initiated discussions with ECD to implement these efficiencies.*

Paid liens were not released and properly reported on the property tax bills.

Typically, lien payments are received by the Treasurer's Office from property owners or Hamilton County back tax sales reports. After completing the collection report, the Treasurer's Office must forward a copy to the City Attorney's Office to initiate the lien release process. Currently, an adequate process for tracking and verifying municipal liens are released and properly reported is not in place.

We reviewed 99 lien payments and found 18 paid liens (18.75% of the sample) had no municipal release recorded with Register of Deeds. We noted 6 release documents were recorded with Hamilton County twice, in error. We also found one property had duplicate liens recorded in January 2013, but we confirmed with ECD Department that only one of the liens was valid. Both liens were paid by the property owner, but one lien has been released.

As noted previously, the accounts receivable ledger is maintained in an excel database and manually updated by the City Attorney's Office. Because the manual system is used to reflect balances due on the annual property tax returns, we traced the 99 payments to verify the database was properly updated. We determined the database had not been properly updated for 21 of the paid liens during our audit period. The most current file dated September 2013, included balances due on 17 liens that were paid.

Recommendation 2:

We recommend City Attorney's Office develop an adequate tracking system to ensure liens are released in a timely manner after payment is received. Possible changes may include developing a standard checklist and generating Oracle revenue reports on a weekly basis to verify copies of collection reports were received and the municipal liens were released.

***Audit Client Response (City Attorney):** We will acquire access to Oracle and will improve the method for tracking lien releases based on audit recommendations.*

Recommendation 3:

We recommend the City Attorney's office update the Municipal Lien Registry to reflect discrepancies noted in the audit.

***Audit Client Response (City Attorney):** The Office of Internal Audit provided our office with specific addresses affected. We have updated the Municipal Lien Registry to reflect payments on affected properties.*

Recommendation 4:

We recommend periodic reconciliation of the accounts receivable ledger to verify additions (using the CityView report) and payments (using the Oracle revenue report) are adequately reflected in the database used to update the property tax bills.

***Audit Client Response (City Attorney):** We will work with ECD to develop weekly reports from CityView to assist in the reconciliation*

process recommended by the audit. We are in the process of acquiring Oracle access for the attorney and administrative assistant responsible for liens. Once these individuals are trained on the system, we will implement a quarterly reconciliation of payments on liens (from Oracle) and new additions to the Municipal Lien Registry (from the CityView Report).

Developing a minimum dollar threshold should reduce overall cost to the City.

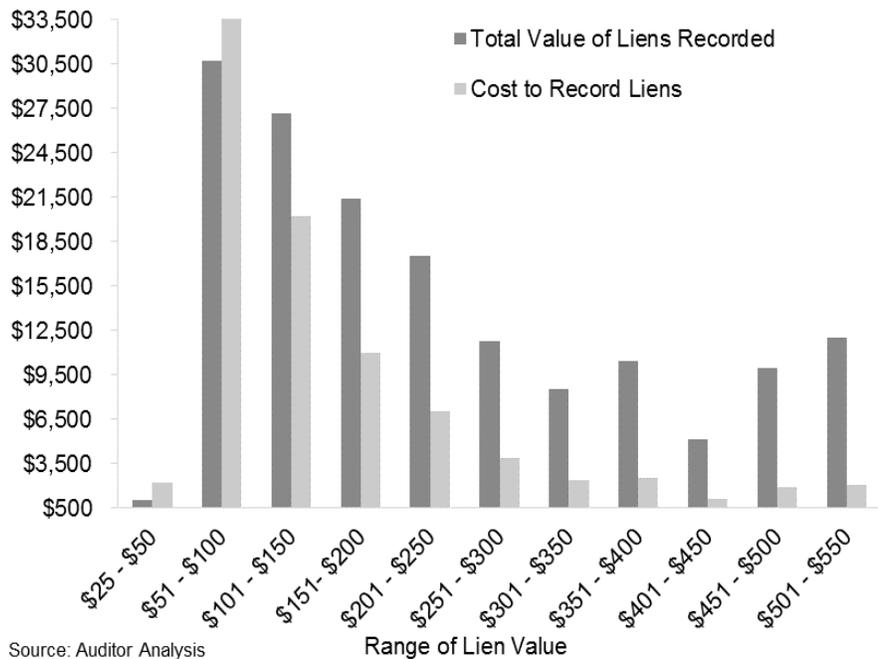
Code Enforcement's policy is to abate unoccupied properties and record municipal liens against the property, regardless of the amount. During the last three fiscal years (2013, 2012 and 2011), the division spent approximately \$1 million and recorded 1,100 municipal liens against abated properties. The average cost per abatement was \$989, ranging from \$25 to \$141,500.

An analysis of the number of liens recorded and the value per lien indicates 36% of the total municipal liens recorded were less than \$100. Of the \$1 million expended over the past three fiscal years, liens of \$100 and less represent only 3% of the total cost.

To determine if the policy to record all abatements is cost beneficial to the City, we compared the municipal lien process cost to the total value of the liens recorded during the last three fiscal years. We interviewed city personnel and considered costs of transactions required to record and release the liens. Our estimated cost was \$90. This cost includes staff wages and benefits, office supply expense and all recording fees.

As shown in Exhibit 4, the cost to record liens valued at \$100 or less exceeds the total amount to be collected. Therefore, even with a 100% collection rate, the recorded liens cost the City an additional \$3,000 to process. Implementing a minimum threshold would reduce overall cost to the City as well as decrease the number of liens recorded each year by an average of 36%.

Exhibit 4: Historical Comparison of Lien Value vs. Cost to Record



Recommendation 5:

We recommend ECD department, in conjunction with the City Attorney’s Office, develop a minimum dollar criteria for recording municipal liens on abatements.

Audit Client Response (ECD): We concur.

Audit Client Response (City Attorney): We concur. However, successful implementation of Recommendation 1 may eliminate the need to set minimum dollar amounts.

Recommendation 6:

We recommend the Code Enforcement Division develop a process to track cost of abatements by property address/tax map number to ensure once the City expends over the minimum criteria a municipal lien is recorded.

Audit Client Response (ECD): We concur.

Compliance with procedures will ensure property owners are notified of municipal liens.

Per City Attorney’s written policies and procedures, a letter requesting payment along with a copy of the recorded lien should be mailed to the property owner. However, the policy does not require a copy of the notification letter be maintained in the file. When copies are not

maintained, management has no means to verify the written procedures were followed by staff.

We selected a random sample of 69 abatements occurring during the three year audit period. The property files were reviewed to verify the liens were recorded and notification was sent to the property owners. Of the 69 property files in the sample, 10 property files were not located (14.4%), and 28 owner notification letters were not found (40.5%). As shown in Exhibit 5, the missing property files and lack of notification letters were found more frequently during fiscal year 2011.

Exhibit 5: Percentage of Owner Notification Letters Missing

	2011	2012	2013
Number of files in sample	22	19	28
File folders not located	8	1	1
Owner letters missing in files	7	3	8
Percentage of letters missing in sample	68%	21%	32%

Source: City Attorney's Property Files

One administrative assistant in the City Attorney's Office is assigned, in addition to other duties, to prepare, track and maintain the municipal liens. Due to time constraints, the administrative assistant stated she does not always have the time to prepare letters to inform property owners of the recorded liens and releases. Additionally, the position experienced several personnel turnovers during the audit period. This coupled with the lack of detailed written policies and procedures could have contributed to copies of the letters not being placed in the file and the missing property records.

Recommendation 7:

We recommend City Attorney's office develop a standard municipal lien checklist to assist staff with tracking the lien process. In addition, we recommend updates to the written policies and procedures, including but not limited to, record retention requirements.

Audit Client Response (City Attorney): We concur.

APPENDIX A: SCOPE, METHODOLOGY AND STANDARDS

Based on the work performed during the preliminary survey and the assessment of risk, the audit covers the municipal lien on abatements process from July 1, 2010 to June 30, 2013. When appropriate, the scope was expanded to meet the audit objectives. Source documentation was obtained from Economic & Community Development Department, Finance Department, City Attorney's Office, and Hamilton County Register of Deeds. Original records as well as copies were used as evidence and verified through physical examination.

We reviewed a random sample of lien requests and lien collections. We verified the lien was recorded as requested by the ECD Department, the property information and cost were recorded properly, the paid lien was released and the City records were updated appropriately. To evaluate the efficiency of the process, we interviewed staff to gain an understanding of the process, reviewed policies and procedures and analyzed the process duration and estimated cost to record and release the liens.

The sample size and selection were statistically generated using a desired confidence level of 95 percent, expected error rate of 5 percent, and a desired precision of 5 percent. Statistical sampling was used in order to infer the conclusions of test work performed on a sample to the population from which it was drawn and to obtain estimates of sampling error involved. When appropriate, judgmental sampling was used to improve the overall efficiency of the audit.

To achieve the audit's objectives, reliance was placed on data maintained by the Code Enforcement Division. We assessed the reliability of the data and conducted sufficient tests of the data. Based on these assessments and tests, we concluded the data was sufficiently reliable to be used in meeting the audit's objectives.

We conducted this performance audit from August 2013 to November 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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