



# Baldwin County Commission

## Legislation Details (With Text)

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**File #:** 23-1104      **Version:** 1

**Type:** Consent      **Status:** Agenda Ready

**File created:** 5/1/2023      **In control:** Baldwin County Commission Regular

**On agenda:** 5/16/2023      **Final action:**

**Title:** Request for Attorney General's Opinion Regarding Proper Notice for a Nuisance on Real Property Previously Sold for Unpaid Taxes

**Indexes:**

**Attachments:** 1. Resolution # 2023-115, 2. AGO Request Letter, 3. Request for Attorney General Opinion Form - Nuisances and Tax Sales, 4. Continuation of Facts, 5. \*Resolution 2023-115-Signed

Date	Ver.	Action By	Action	Result
5/16/2023	1	Baldwin County Commission Regular		

**Meeting Type:** BCC Regular Meeting

**Meeting Date:** 5/16/2023

**Item Status:** New

**From:** Eddie Harper, Building Official, Building Inspection Department

**Submitted by:** Mindy Smith, Permit Administrator, Building Inspection Department

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### **ITEM TITLE**

Request for Attorney General's Opinion Regarding Proper Notice for a Nuisance on Real Property Previously Sold for Unpaid Taxes

### **STAFF RECOMMENDATION**

Adopt Resolution #2023-115 which approves, authorizes, and directs the Attorney for the Baldwin County Commission to request an opinion from the Office of the Attorney General for the State of Alabama regarding nuisance notice requirements when real property is sold for unpaid taxes.

### **BACKGROUND INFORMATION**

**Background:** The Baldwin County Building and Solid Waste Departments have declared a parcel of real property to be a nuisance and health hazard pursuant to Ala. Code §§ 11-53A-20, et seq. and 22-10-1 et seq. The property was sold for delinquent taxes unpaid in the 2016 tax year and the tax sale purchaser has continued to pay the property taxes as they come due. The tax sale purchaser is the "person or persons, firm, association, or corporation last assessed for state taxes." (Quoting Ala. Code § 11-53A-22). The tax sale purchaser has now received a tax deed to the property. The property is not occupied by the tax sale purchaser as the previous occupant is still on the property.

Pursuant to Ala. Code § 11-53A-22, the County provided notice to the tax sale purchaser, as the "person or persons, firm, association, or corporation last assessed for state taxes," that the property is a nuisance and requires abatement. The notice further provided that if the nuisance is not abated, the County will abate said nuisance and that said costs of abatement may be assessed against the

property.

Prior to receiving a tax deed, the tax sale purchaser did not consider itself the owner of the property. The tax sale purchaser does not believe it can legally enter the property in order to abate the nuisance. The tax sale purchaser believes the only way they may enter the property and take action to abate the nuisance is after they have received a tax deed, filed a quiet title and/or ejectment action, and received a judgment in its favor.

**Previous Commission action/date:** N/A

### **FINANCIAL IMPACT**

**Total cost of recommendation:** N/A

**Budget line item(s) to be used:** N/A

**If this is not a budgeted expenditure, does the recommendation create a need for funding?**  
N/A

### **LEGAL IMPACT**

**Is legal review necessary for this staff recommendation and related documents?**  
Yes

**Reviewed/approved by:** County Attorney, Brad Hicks, on March 2, 2023 (MS)

**Additional comments:** N/A

### **ADVERTISING REQUIREMENTS**

**Is advertising required for this recommendation?** N/A

**If the proof of publication affidavit is not attached, list the reason:** N/A

### **FOLLOW UP IMPLEMENTATION**

**For time-sensitive follow up, select deadline date for follow up:** N/A

**Individual(s) responsible for follow up:** County Administration Staff and County Attorney, Brad Hicks

**Action required (list contact persons/addresses if documents are to be mailed or emailed):**  
County Administration Staff to email signed copy of the resolution to:

Brad Hicks, Stone Crosby, P.C. - bhicks@stonecrosby.com

Lauren Collinsworth, Stone Crosby, P.C. - lcollinsworth@stonecrosby.com

Eddie Harper, Building Official - Eddie.Harper@BaldwinCountyAL.gov  
Mindy Smith, Permit Administrator - Mindy.Smith@BaldwinCountyAL.gov

County Attorney to send letter and Request for Attorney General Opinion form to:

Opinions Section  
The Honorable Steve Marshall  
Office of the Attorney General  
Post Office Box 300152  
Montgomery, Alabama 36130-0152

with copies provided to the Commission Chairman and the County Administrator

**Additional instructions/notes:** N/A