



Baldwin County Commission

Legislation Text

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

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

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