

PENN ATTORNEYS

TITLE ALERT

DATE: 04/22/05

RE: Municipal Claims and Tax Liens

Some local tax collectors and municipal authorities have turned the collection and enforcement of delinquent tax and municipal obligations over to collection agencies or law firms ("Collection Agents"), and **by not providing notice of this practice** (by way of a statement on their tax certification, for example) **the taxing authorities do not provide accurate information regarding the status of delinquent taxes or other municipal claims** such as water and sewer charges. Consequently, we have seen a deluge of title claims arising from a scenario where the settlement service provider properly obtained a certification from the local taxing or municipal authority that shows no delinquent or unpaid taxes, even though the taxes have **not** been paid, but have been turned over to a Collection Agent (e.g., Portnoff Law Associates, GLS, Creditech, BMF, Berkheimer, etc.). At some time **after the title is insured without exception for these undisclosed delinquent taxes**, the new owner, our insured, is threatened with judgment and Sheriff Sale by the now enforcing Collection Agent. To demonstrate the widespread nature of this problem, attached is a list of taxing or municipal authorities represented by Portnoff Associates (Exhibit I), just one of the several Collection Agents providing such collection services. **If you have knowledge of other jurisdictions that have availed themselves of this process, please share that information with your servicing Penn Attorneys office.**

Our tradition of obtaining and relying upon Certifications of tax payment/delinquency arose as an accommodation to the parties to the transaction. In many Pennsylvania counties, it is standard practice that receipts be produced at settlement. Receipts or other proof of payment remain the best indicator of tax lien status. However, in order to continue to allow a Certification to serve as an acceptable alternative to a receipt, **title insurance providers and settlement service providers must be fully aware of the practices and relationships between the taxing and municipal authorities and Collection Agents, particularly regarding the property being insured.**

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Municipal Claims and Tax Liens

Once it is established that any tax collector/taxing authority has or does turn delinquent accounts over to a Collection Agent (for example, see the attached Exhibit II), then **it is necessary to confirm with that Collection Agent that there are no delinquencies affecting the subject property.** As discussed above, the Certification from a tax collector or authority may be deficient by not identifying outstanding delinquencies that may now be in the hands of a Collection Agent.

Because of continuing title insurance claims and expected expansion of Collection Agents throughout Pennsylvania, in counties where collection services are being done by agencies or law firms, **we strongly urge our Approved Attorneys to alert the parties to the transaction of these additional lien enforcement possibilities.**

NOTE: If receipts cannot be produced and certification of payment or amount due is obtained from the taxing and municipal authorities in lieu of such receipts, **proof must be provided** that the taxing and municipal authorities have not turned collection of any unpaid amounts over to a collection agency or law firm. Absent such proof, or **if the taxing or municipal authorities have turned collection over to a collection agency or law firm, then additional certification of payment or amount due should be obtained from such collection agency or law firm.**

The “proof” called for in this recommendation may be a statement contained within the tax collector’s certification that no delinquencies for the property in question have been turned over to a collection agency or law firm; or verbal confirmation that no delinquencies have been turned over to a collection agency or law firm is required and must be noted in the title file, including the name and position of the person making the verbal confirmation. Without satisfactory proof that no delinquencies have been turned over to a collection agency or law firm, an additional certification from the Collection Agent that there are no unpaid claims or delinquent taxes must be obtained. Note that any fee charged for this additional certification would be a “pass-through” charge to the interested party.

Pennsylvania Statute Title 53 Section 7147 does allow “private entity collection agencies” to be assigned the taxing authority’s right to collect on tax liens from taxpayers. These collection agencies have all the rights that the levying authority did to collect these delinquent taxes. Specifically, the law states: “Any tax or municipal claim filed or to be filed, under the provisions of this act, and any judgment recovered thereon, may be assigned or transferred to a third party, either absolutely or as collateral security for an amount to be determined by the municipality or other assignor. The lien of such tax or municipal claim assigned shall continue as a tax or municipal claim in favor of the assignee.”

If you have further information about such practices or other questions or comments, please contact your servicing Penn Attorneys office.

Exhibit I

Taxing Authorities and Municipalities Serviced by Portnoff Law Associates (as of 01-06-2005)

School Districts

Aliquippa
Allentown
Big Beaver Falls
East Stroudsburg
Jim Thorpe Area
McKeesport Area
Norristown Area
Northern LeHigh
Panther Valley
Pleasant Valley
Ringgold
Weatherly Area
Wilkesburg
Whitehall-Coplay

Cities

Aliquippa
Allentown
Bethlehem
Coatesville
Easton
Monessen
Reading
Washington

Boroughs

Braddock
East Lansdowne
Forest Hills
Homestead
McKees Rocks
Midland
Modena
North Braddock
Pottstown
Rankin
South Coatesville
Wilkesburg

Townships

Lower Merion
Lower Mount Bethel
Abington
Bethlehem
Caln
Crescent
Nether Providence
New Garden
Rostaver
Upper Pottsgrove
Valley

Authorities

Allentown Downtown Improvement
District Authority
Braddock Water Authority
Wayne Township Municipal Authority

Exhibit II

Allegheny County

Real Estate Website Accounts Receivable Information

A four (4) year tax certification bearing the official seal of the Allegheny County Treasurer's Office that verifies payment can be obtained from the treasurer's Office (412-350-4100). A \$25.00 fee is required from each property certification requested.

In 1997 and 1998, Allegheny County sold certain real estate tax liens to GLS Capital, Inc. For information, contact GLS Capital, Inc. at 412-672-7200.

****PLEASE BE ADVISED** that Allegheny County has appointed Jordan Tax Service, Inc. to collect delinquent/liened Allegheny County real estate taxes that have not been sold to GLS. Pursuant to County Ordinance 02-04-OR, a collection commission of ten percent (10%) plus postage and other collection charges, expenses and fees are recoverable as part of the taxes collected: (1) for tax years 2003 and prior; and (2) for tax years 2004 and after---if not paid-in-full by December 31st of the year the taxes first became due and payable.

For payment amounts or information of any delinquent/liened Allegheny County real estate taxes, please contact Jordan Tax Service, Inc. at (412) 835-5243.