

Landlords, Tenants, and Water Liens

City of Greensboro



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City Departments

Water Resources

Planning

Transportation

Parks and Recreation

Field Operations

Engineering & Inspections

Coliseum

Economic Development

Human Relations

Police

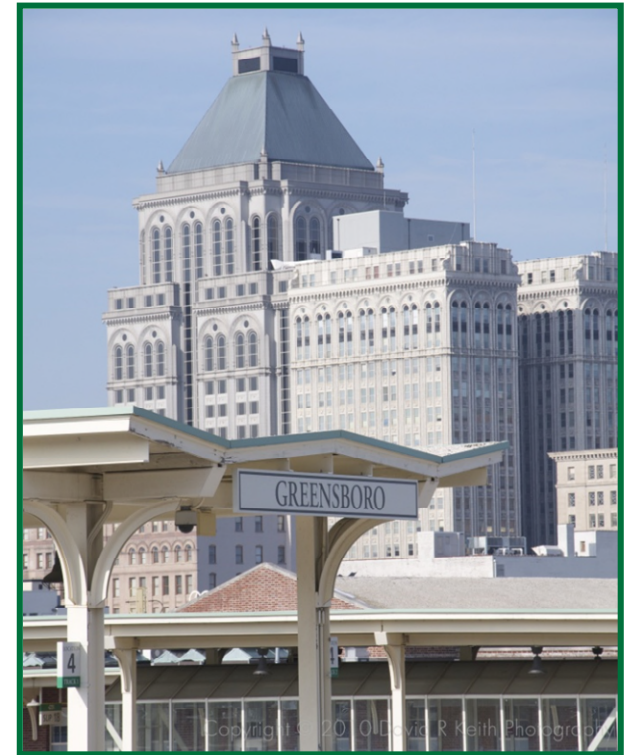
Fire

Libraries

Stormwater

Telecom/IT

Finance/Budget



Greensboro's Water-Sewer Enterprise



Owned by the city = owned by you, the citizens

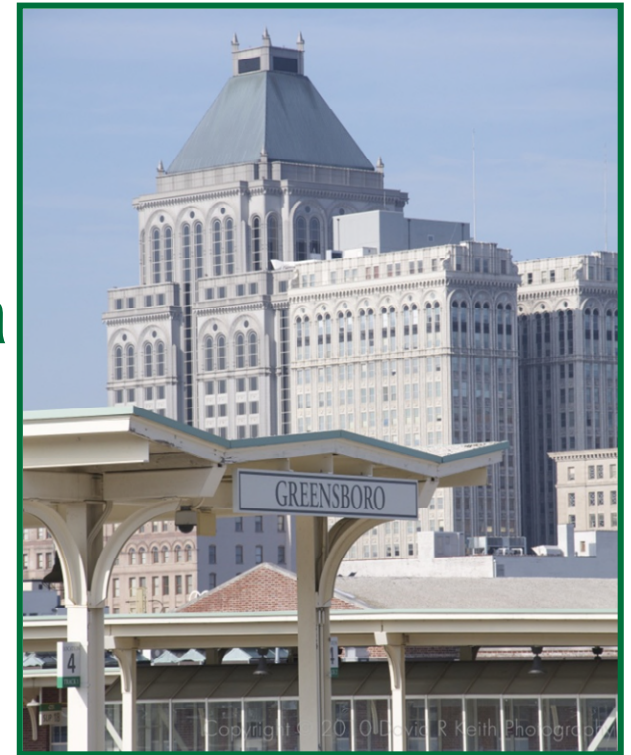
Important asset = well-managed, plan for the future, handle emergencies, provide water to all. City strives to be a good steward of this critical resource.



Authority for City Charter 6.83 Liens

Enabling Authority:

- The State of North Carolina
- The City of Greensboro
- Case Law



North Carolina General Statutes

Article 16 - Public Enterprises

NCGS 160A-312,314

- Allows the city to collect delinquent accounts by any remedy provided by law for collecting debts

§ 160A-314. Authority to fix and enforce rates.

(a) A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished or to be furnished by any public enterprise.



What is a Public Enterprise?

A utility owned by a government entity that provides service to the general public. (160A-311)

- Water-Sewer
- Off-Street Parking
- Transportation
- Solid Waste
- City Electric, City Gas

Funds are segregated from the General Fund



What is a City Charter?

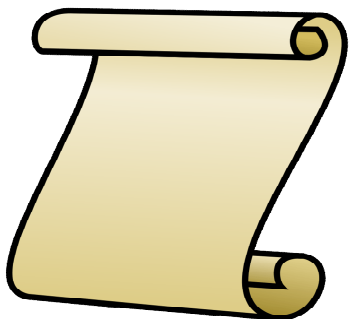
Legal document establishing a city and setting forth its governing system

Greensboro City Charter granted by the North Carolina General Assembly

- Greensboro was founded in 1808
- Original Charter 1870 by the General Assembly
- Current Charter enacted as Chapter 1137 of the General Assembly session laws of 1959
- Greensboro is a municipal corporation



Greensboro's Water-Sewer Enterprise Greensboro City Charter Greensboro Code of Ordinances



City Charter 6.83

Sec. 6.83. - Liens for utility charges.

(a) Except as provided in subsection (b) of this section, when any charge for utility service or for the use of utility facilities is not paid within **ten days** after it becomes due, the same **shall become a lien upon the property served** or in connection with which the service or facility is used. The charge may at any time thereafter be collected, either by suit in the name of the city or by the city tax collector for the city, by the sale of the property upon which the lien attaches at the Guilford County courthouse door, after advertising the sale once a week for four successive weeks in some newspaper published in the city which is qualified to carry legal notices. The sale shall be made **under the same rules and regulations**, and subject to the same costs and penalties and to the same rights of redemption **as are provided by law for the foreclosure of the lien on real estate for taxes.**



City Charter 6.83

Water liens are akin to tax liens.

City Charter 6.83

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City Charter 6.83

Sec. 6.83. - Liens for utility charges.

(b) When any charge for utility service or for the use of utility facilities is for a **rental** property and the tenants of the rental property are individually liable for the charge, the city shall collect any charge that is incurred and becomes past-due after July 1, 2010, pursuant to the provisions of G.S. 160A-314 and any other applicable general or local law. The city shall **not** collect any charge from a tenant that is incurred and becomes past-due after July 1, 2010, under the provisions of subsection (a) of this section.

(S.B. 177, 6-15-2011)



What Happens When the Tenant Fails to Pay?

The unpaid amount is not a lien on the property

But, the unpaid amount cannot be written off!

Why not?





Because the unpaid amount is akin to a tax lien

and

The city has no authority to write-off unpaid taxes

NCGS 105-362



NCGS 105-362

Discharge of lien on real property.

- (a) General Rule. – The tax lien on real property shall continue until the principal amount of the taxes plus penalties, interest, and costs allowed by law have been fully paid.

Water liens are akin to tax liens!

NCGS 105-362 does not give a city authority to write off old taxes or liens

The only authority for writing off an old tax or lien would be found in the settlement provision of NCGS 105-373, which is only applicable to personal property taxes.

So, the portion of NCGS 105 that gives local governments authority to collect taxes on property (the “Machinery Act”) does NOT allow a city to write off taxes on real property.

Liens such as Charter 6.83 liens may never be written off.



Tenant Fails to Pay?

So the Greensboro Collection Department pursues the tenant for the unpaid amount.

Greensboro does not attach the lien to the property, but it does not have the authority to erase records of an unpaid bill.



Tenant Fails to Pay?

- 1. The tenant fails to pay = it is not a lien on the property. (Charter 6.83(b))**
- 2. Collections Department pursues the tenant. (NCGS 160A-314)**
- 3. If the Collections Department does not succeed . . .**

Tenant Fails to Pay?

4. The tenant's unpaid amount is NOT a lien on the property.
5. And so Greensboro does not attach a lien on the property
6. But the unpaid amount remains on record because it is akin to a tax lien and cannot be wiped away.



Unpaid Amount Remains on Record

Case study:

**Jane Doe
123 Main Street**

**What happens when you try to
sell the property?**



A title company will ensure a property title is legitimate and will research the property:

- the true owners**
- outstanding mortgages**
- judgments**
- unpaid taxes**
- liens**
- easements**
- leases**
- encroachments**

Tenant Fails to Pay?

The title company will discover the unpaid lien.

The unpaid lien becomes a cloud on the title.



Who Wants You to Clear Up the Unpaid Amount?

The title company

The closing attorney

The prospective buyer

will require the property owner to clear up the lien before the sale.

Thoughts

What would happen if nobody paid their water bill?

Greensboro citizens own the water system!

We must be good stewards of this asset.

Greensboro is growing!

Water rates are set each year at budget time (July 1)

Expect 2-5% increase in rates each year.

Water bill = funds used to pay loans, capital improvements, operating expenses.

TZO = \$120 million upgrades (NPDES phosphorus, nitrogen).

Outside city rates = 3x inside rates.

Water bill difficult to pay?

Collections Department success?

