

March 1, 2024
City of Fort Smith Board of Directors
SUBJECT: Demolition and Clean-up Remediation Audit

Board of Directors:

A planned 2023 Demolition and Clean-up Remediation Audit was conducted, and the objective of the remediation audit was to evaluate whether City policies and procedures were adhered to and that there are proper internal controls in place to mitigate risk. The objective was also to verify management implemented their corrective action. Verify finance timely and properly filed any liens related to demolition or cleanup costs incurred by the City if the resident did not pay the invoice received by the City. Adjustments, payments, and release of liens were accurate, had supporting documentation, and appropriately released in Munis and the Lien Database

To obtain sufficient evidence to achieve audit objectives and support our conclusions, we performed the following:

- Conducted interviews and process walkthroughs with key individuals.
- Reviewed with key individual's new procedures, new implementations, and changes to the process.
- Refined work plan based on risks, standards, and processes, and developed test plans.
- Performed and issued data request for detailed testing of demolition and cleanup records/accounts.
- Obtained demolition and cleanup report from Neighborhood Service Division (NSD).
- Obtain demolition and cleanup files from NSD.
- Obtain demolition and cleanup files from Tyler Munis.
- Obtain Notice of Liens and Release of Liens from the Finance Department.
- Examined Lien Database system demolition and cleanup accounts.

Background

NSD inspects properties for overgrowth of grass and weeds, trash, debris, graffiti, abandoned vehicles, deteriorated structures and other items affecting the appearance of property and neighborhoods to ensure safe conditions.

When property owners fail to maintain their property according to City municipal code requirements, the City may hire contractors to clean up the property at the owner's expense. In certain situations, structures on the property may pose a threat to the public's health, safety, and welfare. To be considered unsafe, a structure generally has foundation failure, has suffered fire damage, and/or it is not considered structurally sound. NS enforces the City code by requiring property owners to make the needed repairs to the unsafe property. If the structure cannot be repaired, it must be demolished to ensure citizen safety. NS makes every effort to ensure

the responsibility of the repair or demolition is undertaken by the property owner, but if the property owner refuses to take action the City is required to hire a demolition contractor at the owner's expense.

NSD provides the Finance Department documentation to pay the contractor for services provided and to bill the property owner for the expense incurred and maintained in Munis system. The Finance Department prepares a Notice of Lien that is notarized and provided to the Sebastian County Clerk and Recorder to be certified with the County. The Notice of Lien is returned to Finance and the information is entered into the Lien Database. If the property owner pays the invoiced amount, the Finance Department will complete a Lien Release that is notarized and provided to the Sebastian County Clerk and Recorder to be released. The paperwork is returned to the Finance Department and the lien is removed from the Lien Database.

When the property owner fails to pay the invoice, the City Clerk provides the information to the Property Owners Review Board. After the Property Owners Review Board process is complete, the information is submitted to the Board of Directors. If approved, it is certified by the County Tax Collector. The County Tax Collector adds the final invoice amount plus 10% to the property owner's account and the Finance Department adjusts the property owner's account in the Munis system.

The process from when the property clean-up begins until it is certified to the Sebastian County Clerk and Recorder cannot exceed 120 days or the City will be unable to require the property owner to pay the amount invoiced.

Demolition and Clean-up Process

The NSD has the responsibility for managing all property violations and maintaining proper documentation.

The Finance Department has the responsibility for managing the paperwork such as the notice of lien, release of liens, lien database, invoices to property owners, payments to the contractor, property owner account in Munis.

The City Clerk's office has the responsibility for notarizing the notice of liens and the release of liens, requested adjustments, payments, delinquent liens are presented to the Property Owners Appeal Board, presenting the delinquent properties to the Board of Directors, and detailing all the delinquent liens to be submitted to the County Tax Collector to be placed on the tax books.

Effective management of property owner violations requires that reliable and accurate information be maintained, supported, and completed/submitted accurately and timely.

Weaknesses and Deficiencies identified in last audit:

There were processes identified during the audit with control weaknesses and deficiencies and the following were noted for years 2018 through 2020:

1. Notice of Liens – had computer generated signature notarized, incorrect property owner address, not certified to the tax collector timely, not filed with the county or not certified with the county timely, not released in the database, incorrect lien amount, and incorrect invoice number. Additionally, the notarized date was before the Affidavit of Notice notarized date, incorrect work date, lien amount and work date not on the lien, notice of lien was before the work date, no county stamp, could not locate the lien form, duplicate lien numbers, and lien not completed timely.

2. Munis system – contained the incorrect charge code for the property owner account, lien adjusted and certified to the tax collector with a zero balance, not certified to the tax collector or certified timely, transaction moved, and no final disposition identified, lien paid twice and property owner due a refund, property owner paid more than amount owed and due a refund, no documentation to support charge error/write-off.
3. Affidavit of Notice – computer generated signature notarized, computer generated signature in notary signature spot, could not be located, and completed incorrectly.
4. Property Owner – whiteout used on documents notarized, invoice had the incorrect property address and/or incorrect amount, partial payment however remaining amount not certified to tax collector, and incorrect property address on purchase order. Additionally, the property owner was not given proper notification and therefore could not be filed, could not locate folder, pictures/charges were not clearly identified, and property owner not billed for demolition.
5. Folder/Purchase Order – incorrect Environmental Code Services (ESC) on the purchase order, and purchase order did not have the support attached.
6. Sheet documentation – supervisor did not sign Assignment Inspection Report, supervisor did not approve the contractor assignment sheet, assigned contractor does not agree to other documents, and inspector did not sign the contract assignment sheet. Additionally, the checklist and assignment sheet were not in the packet, amounts on contract sheet did not agree to inspector’s checklist sheet, finance sheet had the incorrect address, and contractor did not sign assignment sheet.
7. Clean-up – notice could not be located, notice not posted, and not provided to finance timely.
8. Charges – charges not calculated correctly, contractor amount not documented correctly on finance charge sheet, lien filed without including administrative fee, and landfill charges not included,
9. Release of Lien – lien not released in the database timely, could not locate lien release form, and lien released but not paid and has an unpaid amount in the system. Additionally, the release date doesn’t agree with the database, and there were multiple lien releases for a property.
10. Database – database has the lien released; however, the Munis system has it certified to the Tax Collector fully adjusted and does not reflect a payment, database has the lien released 30 day or more before the Sebastian County Direct Deposit adjustment, information into database not entered correctly, database has lien released before the payment was received or there was not a payment in the Munis system. Additionally, the work date/information was not entered into the database correctly, and the lien number or date was not recorded in the database.
11. Notary – notary did not witness the clerks’ signature (the notary date was after the clerks’ signature date).

Other Findings/Observations to be considered for correction:

1. Some instances of the Finance Sheet not updated for each property owner violation with the accurate photo and postage charges.
2. A notary signature appears to be altered from their original signature on some notary documents.
3. The property owner lien report had some accounts as “active”, and the account was actually “released” before the report was ran. The database should be reviewed to identify why the accounts are not reflecting the correct status.
4. Property owners have adjustments to lien(s) with other liens still outstanding that are before and after the particular adjusted lien.
5. Munis system reflects payment received but not paid in full.
6. Adjustments approved by City Administrator for the majority of the property owners’ liens on the same date for majority of liens on property owner account.
7. Some instances of the Finance sheet were not updated correctly with each violation.
8. Missing original landfill receipts (only copies contained therein).

The recommendations from the 2022 Demolition and Clean-up audit:

IA met with NSD, City Clerk, and Finance Department personnel. Collaboratively, we worked through the findings, discussed the challenges, changes of management/employees within their departments, and changes of the software system in 2019. Additionally, we discussed that the process has not been reviewed or changed for a number of years and what adjustments/changes have been made within the last year since the new Neighborhood Services Supervisor came on board.

Topics discussed during the meeting included the upcoming change from the EnerGov software to the CityView software that has better functionality to handle liens and property owner violations. IA agreed with management that the new processes and recommendations should be incorporated with the new software so that all departments involved worked together at the beginning of the implementation.

Additionally, management agreed that several meetings should be held with the departments to walkthrough and document how the processes were supposed to work for each department, integrate the new requirements for each department and ensure they had the best controls in place.

The departments immediately reviewed and made changes to some of the forms, used the exhibits provided by IA and held training with their staff, and implemented a checklist for each of their departments.

Remediation Testing

NSD submitted to the Finance Department the following:

- In 2022, approximately 284 properties were demolished or cleaned totaling \$69,976.33 and property owners were charged approximately \$114,212.54. Sixty-one Clean-ups tested.
- In 2023, approximately 252 properties were demolished or cleaned totaling \$201,212.82 and property owners were charged approximately \$274,097.76. 140 Clean-ups and 4 Demos tested.

THE FOLLOWING EXCEPTIONS WERE NOTED:

1. A lien was not filed for five property clean-ups: see 1A NSD pg. 1-4; 1A Fin pg. 1-11; 1B-Fin pg. 1-6; 1C-Fin 1-10 & 1D-Fin pg. 1-11
2. One Property owner not billed for clean-up. See 2B-NSD/FIN pg. 1-8
3. Three liens indicated paid in Lien Database but have not been released status. See pg. 3Fin 1-10
4. One clean-up was assigned to contractor, Blue Prince indicated City took owner court 10/18/23. Note stated violation abated 10/17/23 – unknown who abated the property. see 4 NSD pg. 1
5. One Release of Lien filed without the original Lien number. See 5Fin pg. 1
6. One lien had two Release of Lien filed with the court. see 6Fin pg. 1-2
7. One lien did not have a filed date in the Lien Database. See 7Fin pg. 1-2
8. Two instances in Blue Prince where it was noted clean-up assigned to one contractor and cleared by a different contractor. Both were billed by the originally assigned contractor. See 8A-NSD pg. 1-4 & 8B-NSD pg.1-5

Also noted was the use of correction fluid/tape on the notarized lien documents.

CONCLUSION AND RECOMMENDATIONS

IA did not meet with NSD, City Clerk, or the Finance Department personnel to review exceptions due to this being a remediation audit and this also coincided with the departure of the Director of Internal Audit. IA did meet with NSD at the start of testing to determine what, if any, changes were made with the procedures.

Internal Audit continues to recommend that the NSD, City Clerk, and Finance Departments continue with the recommendations previously stated above.

Along with the previous recommendations, a suggestion to have a checklist to follow the entire process through all departments to ensure all the contractors, the City and citizens have been invoiced and/or paid.

In addition, consider creating separate Notice of Lien and Release of Lien documents for the Assistant City Clerk to use, when necessary, vs using correction fluid/tape to change the name on the documents.

IA thanks all involved departments for their patience, time, knowledge, and help with this process.

Management Response regarding separate lien documents (City Clerk):

This is not recommended by the City Clerk. If any change is required on a Lien or Lien Release document, such are noted and returned to the Finance Department for correction.

Assessment of Managements Responses – City Clerk:

This has not been the case; correction tape/fluid has been used to change the Clerk's name to the Assistant Clerk's name on 152 Release if Lien Documents in 2023. Correction tape/fluid should not be used on a legal document. The City Clerk mentioned she was not aware of this and that the staff will be reminded of this as well. Finance inquired with the IT Department to find a solution to be able to switch to the Assistant Clerks name when the Clerk is out of the office. Currently instructed to not use correction tape/fluid, but to line through the information that needs to be changed and initial and date.

Management Response regarding exception (NSD) #1A:

E22-1970 is a railroad/federal property – contractor paid for abatement action and no lien was filed. The other 4 property clean-ups documents were submitted to Finance.

Management Response regarding exception (NSD) #4:

E23-1714 Owner issued a citation and owner abated the property prior to court date – owner was issued one year probation by district court judge.

Management Response regarding exception (NSD) #8:

E23-2188 & E23-0944 The original contractor was injured prior to abatement action, and it had to be reassigned to the other contractor to carry out the abatement work – Blue Prince does not have the capabilities to edit a step that has been established. This will be available in the new program.

Assessment of Managements Responses – NSD:

Management’s response, as presented, sufficiently addresses the issues identified for 1A-NSD and 4-NSD, however 8A & 8B NSD both properties were assigned to Smiling H and noted that they were cleared by MR (Micha Rundell of Cedar Creek Custom Homes). If Micha Rundell cleared the property violations, then they should have been paid to Micha Rundell (Cedar Creek Custom Homes) however they were both paid to Smiling H Professional Services.

Managements Responses – Finance:

1A-Fin E22-1194 was billed (invoice #20997) and paid on 4/6/2023 Receipt #3804617. Lien #2022-27866 – notice and release were filed 5/15/2023 #2023-09322. Lien was entered into the K-database but was not entered into Munis (Unknown reason why).

1B-Fin E22-2446 was not billed and no lien was filed (Unknown reason why).

1C-Fin E22-2532 Invoice was paid 12/9/22 Receipt 3608621. Lien #2022-28181 – notice and release were filed. 1/3/2023 #2023-00018. Lien is not found in the K-database currently but notice and release had to have been done in the K-database at some point because they are at the County. Sharon researched Munis and Laredo to gather data.

1D-Fin E22-0144 Invoice was paid 2/7/2023 Receipt 3704205. Lien #2022-30719 – notice and release were filed 12/30/2022.

2-Fin E22-2446 Correct, this one was not billed, however, Finance may not have received it.

3A-Fin E22-1748 and E22-1026 were released 2022-27283 and 2022-28845 consecutively.

3B-Fin 3b. E22-1773 was billed (invoice #20697) and paid on 10/17/2022 Receipt 3522718. Lien #2022-24198 – notice and release were filed. Lien was in both the K-database and Munis.

5-Fin Finance owns this error.

6-Fin It appears that everyone missed this one from Finance to City Clerk’s office to the County. Release has been filed.

7-Fin Finance owns this error.

Assessment of Managements Responses – Finance:

Management’s response, as presented, sufficiently addresses the issues identified for 1B-Fin; 2-Fin; 4-Fin, 5-Fin, 6-Fin, and 7-Fin.

1A-Fin and 1C-Fin Internal Audit searched on all fields and were not able to find these in the Lien Database.

Assessment of Managements Responses – Finance (continued):

1D-Fin Did not have a Release of Lien filed on 12/30/22. Finance noted on the copy of the property owner invoice that they were processing as of 3/20/24.

3A-Fin and 3B-Fin currently have the cleanup and account status as “Active” vs “Released” in the Lien Database.

