

# Brunswick Sewer District

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## *POLICY ON LIEN-ACQUIRED PROPERTY*

20 AUGUST 2009

- I. Purpose of the Policy.
  - A. This purpose of this policy is to provide general guidelines for the administration and disposition of real property, title to which has been acquired by the District as a consequence of automatic foreclosure of a lien for non-payment of amounts owed to the District.
  - B. Nothing in this policy shall limit or restrict the authority of the Board of Trustees to act, in its sole discretion, in the best interests of the District.
- II. Upon foreclosure.
  - A. Authority for administration of lien-acquired property is delegated to the General Manager, who shall evaluate each property to determine its best use, and recommend to the Board the specific disposition that is in the best interests of the District.
  - B. Unless indicated otherwise by specific circumstances, the District shall refrain from active management or use of the acquired property during the period when prior occupancy continues. If the Board of Trustees, in its sole discretion, deems that circumstances warrant, the District may take possession of the property at any time following foreclosure, to the exclusion of continued occupancy by occupants of the property at the time of lien ripening.
  - C. Given the risk of loss or damage to the lien-acquired property, appropriate kinds and amounts of insurance coverage on the property will be obtained to protect District interests against these risks. The District shall not be obligated in any way to protect the interest in the lien-acquired property of any other party.
  - D. The General Manager shall cause to be prepared a statement of all charges owed to the District by the former property owner for any property served by the District. The statement, which will include charges stated in the lien as well as fees, charges, penalties, and costs of all actions taken by the District in its efforts to collect the amounts owed, will be sent to the former property owner.

- E. The District may, in its sole discretion, provide notice by certified mail to the former property owner, any mortgage holder(s), other lien creditors, and secured parties, that title to the property has shifted to the District as a result of the ripening of its lien. The notice will include a statement of all charges owed to the District, a statement that future costs may be incurred, and the District may, in its sole discretion, request that the former property owner present a written agreement to purchase the property.
- F. In the event the former property owner fails to provide an acceptable agreement or fails to perform in accordance with the agreement, the General Manager shall request and the Board shall make final determination on disposition of the property.

III. Disposition.

- A. Responsibility for the decision as to disposition of all lien-acquired property rests with the Board of Trustees.
- B. The General Manager shall request, and the Board shall provide, a final determination on disposition of each property acquired by lien perfection.
- C. Provisions of this policy notwithstanding, the Board may, in its sole discretion, by any means and on any terms that it deems to be in the best interests of the District,
  - 1. allow the former owner to purchase title to the property;
  - 2. establish title, take possession, and convert the property to District use; or
  - 3. dispose of or cause to have disposed of any lien-acquired property.
- D. The District is not required to administer all acquired property in the same manner.
- E. When it is determined by the Board that an acquired property is to be liquidated, it shall be done subject to the following conditions:
  - 1. The property may be referred to attorneys for the District, directing that the property be liquidated to recover amounts owed, in accordance with all requirements for a public sale.
  - 2. Referral for liquidation is made specifically with the intent that the property will be sold to recover all amounts owed to the District and to such other creditors as may, according to Maine law, be entitled to satisfaction out of the sale.

3. The District may provide, by certified mail, notice to the former property owner, any mortgage holder(s), other lien creditors, and secured parties, that the property has been referred for liquidation. Contact information for the attorneys to whom the referral has been made shall also be provided.
4. Property liquidation specialists may be engaged, if it is in the best interests of the District to do so.
5. Liquidation shall not involve participation by the District in any installment payment plan for the benefit of others. The District shall not finance an acquisition by others at liquidation.
6. If sold, some or all of the proceeds of the sale of the property that are in excess of all amounts payable to the District and by Maine law to other creditors, shall be retained by the Brunswick Sewer District.

*ADOPTION.*

First vote: 11 June 2001

Second vote: 09 July 2001

*AMENDMENT.*

First vote: 16 April 2002

Second vote: 13 May 2002

*AMENDMENT.*

First vote: 14 January 2008

Second vote: 11 February 2008

*AMENDMENT.*

First vote: 13 July 2009

Second vote: 17 August 2009

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OBSERVATIONS ON USE OF THE POLICY. (not an integral part of the Policy)

1. Title by lien occurs at a time in the billing history of an account such that the amounts owed the District, and *generally* other secured creditors as well, are relatively small when compared with the likely market value of the real property. The longer the period involved and the more creditors involved, however, the less favorable this comparison becomes.

A notable exception to this is the high-volume commercial account that can, over the time it takes to effect the lien, have very substantial consumption volumes and billing amounts. It is a rare occurrence, and one for which there is no dependable and effective recourse.

2. The District should consider whether the acquired property is of use to the District. If so, the District may wish to keep and maintain the property as a District asset. The policy allows this option.
3. Referral for liquidation will result in substantial additional outside costs for liquidation, which costs may subsequently be reimbursed from proceeds of the sale of the property at the time of sale.
4. Proceeds from liquidation of the property must be sufficient to cover *District* costs, both liened and additional, as well as amounts owed to *other priority secured creditors*. Payment of these other debts must be made, presumably by the District, before clear title to the property can be provided, such that the sale transaction can then be completed.