



St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043
(504) 278-4228 Fax (504) 278-4209
www.sbpq.net

#21

Guy McInnis
Councilman
at Large

George Cavignac
Councilman
at Large

Ray Lauga, Jr.
Councilman
District A

Nathan Gorbaty
Councilman
District B

Richard "Richie" Lewis
Councilman
District C

Casey W. Hunnicutt
Councilman
District D

**Manuel "Monty"
Montelongo III**
Councilman
District E

Roxanne Adams
Clerk of Council

EXTRACT OF THE OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE PARISH OF ST. BERNARD, STATE OF LOUISIANA, TAKEN AT REGULAR MEETING HELD IN THE COUNCIL CHAMBERS OF THE ST. BERNARD PARISH GOVERNMENT COMPLEX, 8201 WEST JUDGE PEREZ DRIVE, CHALMETTE, LOUISIANA ON TUESDAY, FEBRUARY 3, 2015 AT SEVEN O'CLOCK P.M.

On motion of Mr. Hunnicutt, seconded by Mr. Lauga, it was moved to adopt the following ordinance:

ORDINANCE SBPC #1611-02-15

Summary No. 3193

Introduced by: Administration on 1/20/15
EFC recommended APPROVAL on 1/29/15
Public hearing held on 2/3/15

AN ORDINANCE TO AMEND CHAPTER 14; OFFENSES AND MISCELLANEOUS PROVISIONS TO CREATE A NEW ARTICLE IV; ST. BERNARD PARISH ADJUDICATED PROPERTY PROGRAM TO THE ST. BERNARD PARISH CODE OF ORDINANCES.

ST. BERNARD PARISH COUNCIL DOES HEREBY ORDAIN:

WHEREAS, The Parish Council believes it to be in the best interest of the citizens of St. Bernard Parish and St. Bernard Parish Government to amend Chapter 14; Offenses and Miscellaneous Provisions to create a new article IV; St. Bernard Parish Adjudicated Property Program.

SECTION 1. The Parish Council hereby amend Chapter 14; Offenses and Miscellaneous Provisions to create a new article IV; St. Bernard Parish Adjudicated Property Program to the St. Bernard Parish Code of Ordinances.

SECTION 2. Chapter 14; Offenses and Miscellaneous Provisions, Article IV; St. Bernard Parish Adjudicated Property Program to the St. Bernard Parish Code of Ordinances shall read as attached here to as Attachment "A."

SECTION 3. Effective Date. This Ordinance shall become effective immediately upon authorizing signature by the Parish President. In the event of a presidential veto, this Ordinance shall become effective upon a two-thirds favorable vote of the total membership of the Council pursuant to Sections 2-11 and 2-13 of the St. Bernard Parish Home Rule Charter.

SECTION 4. Severability. If any section, clause, paragraph, provision or portion of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision or portion of this Ordinance, the St. Bernard Parish Council hereby expresses and declares that it would have adopted the remaining portion this Ordinance with the invalid portions omitted.



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Extract #21 continued
February 3, 2015

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The above and foregoing having been submitted to a vote, the vote thereupon resulted as follows:

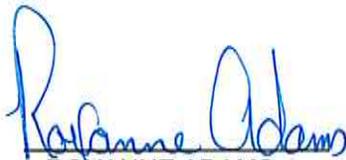
YEAS: Lauga, Gorbaty, Lewis, Hunnicutt, Montelongo, McInnis

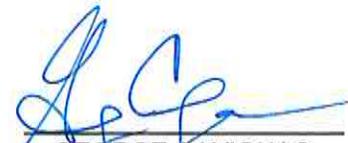
NAYS: None

ABSENT: None

The Council Chair, Mr. Cavnac, cast his vote as **YEA**.

And the motion was declared **adopted** on the 3rd day of February, 2015.

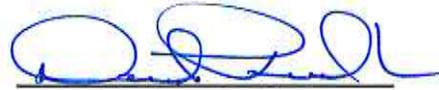

ROXANNE ADAMS
CLERK OF COUNCIL


GEORGE CAVIGNAC
COUNCIL CHAIR

Delivered to the Parish President 2/6/2015 12:15pm
Date and Time

Approved Vetoed

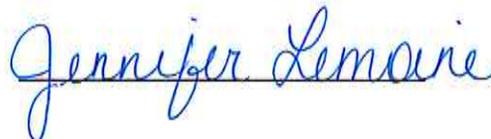
Parish President


David E. Peralta

Returned to Clerk of the Council

2/6/2015 4:00pm
Date and Time

Received by



ORDINANCE SBPC #1611-02-15
SUMMARY NO. 3193
“ATTACHMENT A”

CHAPTER 14 ARTICLE IV: ST. BERNARD PARISH ADJUDICATED PROPERTY PROGRAM

Sec. 14-80 –Definitions.

As used in this article, the following terms shall have the following meanings, to-wit:

Adjoining landowner(s) shall mean the owner(s) of property sharing contiguous boundaries with an adjudicated vacant lot.

Adjoining Maintainer shall mean any applicant to purchase an adjudicated lot under La. R.S. 47:2202(B).

Adjudicated property shall mean immovable property of which tax sale certificate is issued to St. Bernard Parish Government pursuant to R.S. 47:2196.

Adjudicated vacant lot shall include, but not be limited to, any undeveloped immovable property without any building thereon, within which is not being maintained by its owner or an agent of its owner and which is Adjudicated property.

Auctioneer shall mean a real estate auction company licensed in the state of Louisiana.

Department shall mean the St. Bernard Parish Legal Department.

Duly notified means, with respect to a particular person, that an effort meeting the requirements of due process of law has been made to identify and to provide that person with a notice that meets the requirements of R.S. 47:2156, 2157, 2206, 2236 or 2275, or with service of a petition and citation in accordance with R.S. 47:2266, regardless of any of the following:

- (1) Whether the effort resulted in actual notice to the person;
- (2) Whether the one who made the effort was a public official or private party; and
- (3) When, after the tax sale, the effort was made.

Governmental lien means all liens imposed by law upon immovable property in favor of any political subdivision and filed in the mortgage records.

Adjoining Maintainer shall mean any individual who maintains an adjoining Adjudicated property within the meaning of La. R.S. 47:2202(B)

Management Company shall mean the third party contractor designated to conduct the Adjudicated Property Program.

Owner means a person who holds an ownership interest that has not been terminated pursuant to R.S. 47:2121(C).

Statutory imposition means ad valorem taxes and any imposition in addition to ad valorem taxes that are included on the tax bill sent to the tax debtor.

Tax debtor means, as of the date of determination, the person listed on the tax roll in accordance with R.S. 47:2126.

Tax sale party shall mean the tax notice party, the owner of property, including the owner of record at the time of a tax sale, as shown in the conveyance records of the appropriate parish, and any other person holding an interest, such as a mortgage, privilege, or other encumbrance on the property, including a tax sale purchaser, as shown in the mortgage and conveyance records of the St. Bernard parish

All other terms not defined in this article shall have the meanings set forth in R.S. 47:2121 et seq.

Sec. 14-81 Sale or donation of Adjudicated properties.

St. Bernard Council hereby establishes the St. Bernard Parish Adjudicated Property Program, which shall be administered by the Legal Department (hereinafter "the parish or Department"). The Department may contract with a Management Company to administer the sale of Adjudicated properties in the parish.

St. Bernard Parish Council hereby authorizes the public sale of all properties adjudicated to the parish pursuant to La. R.S. 47:2196, for a period exceeding eighteen months. The Parish Council shall approve all properties set for auction by ordinance. The sale of said properties shall be governed by the laws of the State of Louisiana and this ordinance.

Sec. 14-82 Public information and disclosure.

The Department shall provide a list of all properties put for auction to the public at least thirty days before the start of any auction. This shall include but not limited to posting a list of auction properties on the St. Bernard Parish Government website and posting a physical copy of the list in the council chambers.

Sec. 14-83 Minimum bid prices; sale of Adjudicated properties.

Unless otherwise provided by this article, the Department may set a dollar amount as a minimum bid for the public sale of Adjudicated property. The Parish Council however, reserves the right to require an appraisal of Adjudicated property to be sold at public sale. If the council elects to use the appraised value to establish a bidding floor instead of setting a dollar amount minimum bid as allowed by this section, the council shall appoint a licensed appraiser to appraise and value the property. The minimum bid at the first public sale shall be at least two-thirds of the appraised value of the property. If the property fails to sell at the first public sale, the minimum bid at the second sale shall at least be one-third the appraised value of the property.

Sec. 14- 84 Pre-bidding procedures for sale of Adjudicated properties.

(a) *Bid process.*

- a. The Management Company or Department may compile a list of properties being recommended for sale. The list shall be submitted to the Parish Council for approval. The Management Company or Department shall conduct title examinations and send legal notices as required herein on all properties approved by the Parish Council.
 - b. An individual submitting a request for the sale of specific property shall submit an application with deposit to cover authorized expenditures, as detailed below in subsection (c), payable to St. Bernard Parish Government.
 - c. The Management Company or the Department shall send all notices required by law to all interested parties and recommend minimum bid price. Minimum bid price shall conform with state law. The Department shall advertise the bid date and minimum required bid in accordance with Louisiana law.
 - d. The Management Company shall then hold a public auction for all properties approved by the Parish Council.
 - e. If the highest bidder is not the individual who submitted a request for the sale of a specific property and a deposit has been made by that individual, the deposit shall be returned to the individual.
 - f. The bidder shall make a bid deposit before any auction is conducted. The bid deposit shall be determined by the Management Company or the Department.
- (b) The Management Company or the Department are authorized to make expenditures for research and due diligence, including a title examination, which shall be itemized as follows ("Authorized Expenses") but not limited to:
- (1) The schedule of fees are:
 - a. Title Endorsement seven hundred fifty dollars (\$750).
 - b. Settlement Fee five hundred ninety five dollars (\$595).
 - c. Notary Fee ninety five dollars (\$95).
 - d. Affidavit recording Fee two hundred dollars (\$200).
 - e. Actual cost of advertisements and postage.
 - f. Any other fee or cost incurred by the Department and Management Company deemed reasonably necessary to transact the transfer or property.
 - (2) The amounts in Sec. 14-84(b)(1)(a-d) may be adjusted by the Department or Parish Council.
 - (3) The Management Company or the Department shall promptly file any lien or privilege authorized by Louisiana Law to recoup the cost of expense it deems reasonably necessary to transfer the property.
- (c) *Property inspection.* Once an individual has paid the Authorized Expenses or the Parish Council initiates interest in pursuing sale of Adjudicated properties, a physical inspection of the property may be conducted by a representative from the parish. Inspection of property shall serve to verify if property is vacant land or if a structure is present. At the time of the inspection, an attempt shall be made to verbally communicate with any party residing on the property.

- (d) *Title research.* A title abstract shall be conducted by the management company or Management Company or the Department for each property which may include copies of all documents from the public record. If necessary, surrounding properties may be researched to ascertain the physical location and boundaries of subject properties. The Management Company or Department may utilize abstracting services of insured abstractors at its discretion, depending upon qualifications and experience of abstractors. Said title search may include tax certificates obtained from St. Bernard Parish Tax Collector, mortgage certificates obtained from St. Bernard Parish Clerk of Court and any records obtained from St. Bernard Parish Assessor's Office. Copies of surveys and maps of record may also be provided.
- (e) The auctioneer shall be chosen by the Parish President. The auctioneer shall have the responsibility for at least the following obligations which shall be specified in the contract, as well as any other obligations specified in the contract:
- (1) *Preparation of an auction registration.* This shall include the preparation of registration packages, equipment and personnel.
 - (2) *Provide personnel necessary to conduct a professional and orderly auction.* This shall include providing for proper security and providing competent personnel to handle the auction and the attendant record keeping for the auction.
 - (3) *Provide necessary equipment.* This shall include providing computers and audio and video equipment at the auction.
 - (4) *Provide a report to the Department after the auction.* This shall include providing to the Department a list of all Adjudicated properties which were sold and a list of those not sold; a list of all buyers registered at the auction; and a copy of all purchase agreements.
 - (5) *Post-auction duties.* The auctioneer shall ensure that a deposit of at least five hundred dollars (\$500.00), is collected from the highest bidder and the balance collected at closing, all in the form of cash or certified funds; coordinate closings with the closing agency(s); and provide the closing agency(s) with execution copies of the act of sale. The auction deposit may be increased or decreased by the Department.
- (f) The Department shall be responsible for the following obligations which shall be specified, unless these obligations are delegated in a signed agreement between the Management Company and St. Bernard Parish Government, as well as any other obligations specified in the contract:
- (1) *Legal notice.* The Department or Management Company shall also be responsible for providing all tax debtors, mortgagees and other interested parties with timely legal notice of the impending sale, consistent with the requirements of Louisiana law.
 - (2) *Legal advertisement.* The Department or Management Company shall provide any other legal notice or legal advertisement which may be required under Louisiana law.
 - (3) *Approval of tracts.* St. Bernard Parish Council shall approve any adjudicated properties to be sold at the auction. in accordance with La. R.S. 47:2204.
- (g) After the auction, as noted above, the auctioneer will coordinate the closing of the sales with the closing agency(s).
- (h) The Parish President (or his designee) is hereby authorized and directed to sign any and all documents, agreements, contracts or other papers reasonably necessary to accept, transfer

properties or implement the program for the sale of Adjudicated properties, as described herein, and to return all monies, appraiser's fees or deposits heretofore paid in connection with the prior procedure or program.

- (i) The duties and responsibilities of the Management Company shall be designated in a formal signed agreement between St. Bernard Parish and the company.

Sec. 14-85 Notice; sale or donation of Adjudicated property.

- (a) (1) The Management Company or the Department shall send a written notice notifying any tax sale party whose interest will be terminated that the tax sale party has until the later of the following to redeem the property or otherwise challenge in a court of competent jurisdiction the potential sale or donation:
 - a. Sixty (60) days from the date of the notice provided in this subsection, if five (5) years have elapsed from the filing of the tax sale certificate, or six (6) months after the date of the notice provided for in this subsection, if five (5) years have not elapsed since the filing of the tax sale certificate.
 - b. The filing of the sale or donation transferring the property.
- (2) This notice shall constitute a notice of sale. The sending of this notice shall constitute service of the notice of sale under Article VII, Section 25 of the Louisiana Constitution. The notice required by this section shall be sufficient, and it shall not be necessary to determine whether notice of the tax sale or any other notice was given. The written notice shall comply with R.S. 47:2206(A)(2).
- (b) (1) The Management Company or the Department shall cause to be published in the official journal of the Parish of St. Bernard a notice that any tax sale party whose interest the successful bidder or donee intends to be terminated has, to redeem the property, until the later of:
 - a. Sixty (60) days, for property on which a tax sale certificate was filed over five (5) years previous of the first publication, or six (6) months if the tax sale certificate was filed less than five (5) years before the first publication of the notice provided for in this subsection.
 - b. The filing of the sale or donation transferring the property.
- (2) The publication shall comply with R.S. 47:2206(B)(2).
- (c) The Management Company or the Department may file with the recorder of mortgages of St. Bernard Parish a copy of one of the notices that was sent to the tax debtor or the current owner. A transfer, mortgage, lien, privilege, or other encumbrance filed after the filing of the notice shall not affect the property. Pursuant to the provisions of R.S. 47:2206(C), the recorder of mortgages or recorder of conveyances shall cancel, erase, terminate, or release the acts upon the request of the acquiring person.

Sec. 14-85 Sale or donation of Adjudicated property; affidavit.

- (a) Contemporaneously with or subsequent to the filing of the sale or donation of Adjudicated property, the management company, the Department or acquiring person, his successors, or assigns, may file with the recorder of mortgages of St. Bernard Parish an affidavit indicating how the tax sale parties whose interest the acquiring person, his successors, or assigns, intends to be terminated were identified, how the address of each tax sale party was obtained, how the written notice was sent, the

results of sending the written notice, and the dates of publication. The affidavit may also contain a statement of the interest to which the purchaser or donee takes subject. The recorder of mortgages shall index the affidavit only under the names of the owner filing the affidavit and the tax debtor, as mortgagors. The affidavit shall conform to R.S. 47:2208(A).

- (b) With respect to a sale, the filing of the affidavit provided in subsection (a) of this section shall operate as a cancellation, termination, release, or erasure of record of all statutory impositions of all political subdivisions then-due and owing, of all governmental liens, and of all interests, liens, mortgages, privileges, and other encumbrances recorded against the property sold and listed in the affidavit.
- (c) With respect to a donation, the filing of the affidavit provided for in subsection (a) of this section shall operate as a cancellation, termination, release, or erasure of record of all statutory impositions of the donor political subdivision, and all other interests, liens, mortgages, privileges, and other encumbrances recorded against the property donated and listed in the affidavit, except governmental liens and statutory impositions of political subdivisions other than the donee political subdivision.
- (d) Upon filing of the affidavit, the recorder of mortgages or the recorder of conveyances shall treat as canceled, terminated, released, or erased, all those liens, privileges, mortgages or other encumbrances canceled, terminated, released or erased under subsections (b) or (c) of this section, only insofar as they affect the property.

Sec. 14-86 Claim of ownership of Adjudicated property by parish.

- (a) Whenever property or tax sale title to property is adjudicated to St. Bernard Parish, the St. Bernard Parish Council may declare, by ordinance duly enacted, that St. Bernard Parish Council intends to acquire a full ownership interest in the property. The council may, in its sole discretion, acquire full ownership of Adjudicated properties in accordance with R.S. 47:2236 et seq., or any other applicable provision of Louisiana law. Nothing in this section shall limit the authority of St. Bernard Parish to obtain full ownership of any property through any lawful means.
- (b) A copy of the ordinance shall be filed with the recorder of mortgages. The recorder shall index the names of the tax debtor and the Parish of St. Bernard as mortgagees. A transfer, mortgage, lien, privilege, or other encumbrance filed after the filing of the ordinance shall not affect the property. The recorder of mortgages or recorder of conveyances shall cancel, erase, terminate, or release the acts upon the request of the Department.
- (c) (1) In the event the St. Bernard Parish Council intends to acquire full ownership in property as provided in this section, the Department shall, within thirty (30) days after the filing of the instrument and ordinance described in subsection (b) of this section, or as soon thereafter as practical, send a written notice regarding the acquisition to the tax sale parties whose interest the St. Bernard Parish Council intends to be terminated that the party has until the applicable time period set forth below to redeem the property or otherwise challenge in a court of competent jurisdiction the acquisition:
 - a. Sixty (60) days after the date of the notice, if five (5) years have elapsed from the filing of the tax sale certificate.
 - b. Six (6) months after the date of the notice, if five (5) years have not elapsed from the filing of the tax sale certificate.
- (2) If this notice is given after the expiration of the applicable redemptive period, this notice shall constitute a notice of sale. The sending of this notice shall constitute service of the notice of sale

under Article VII, Section 25 of the Constitution of Louisiana. The notice required by this section shall be sufficient, and it shall not be necessary to determine whether notice of the tax sale or any other notice was given. The notice shall be sufficient if it conforms with R.S. 47:2236(C)(2).

- (d) (1) The Department shall cause to be published in the official journal of the Parish of St. Bernard a notice that any tax sale party whose interest the St. Bernard Parish Council intends to be terminated has until the applicable time period set forth below to redeem the property or otherwise challenge in a court of competent jurisdiction the acquisition:
 - a. Sixty (60) days, for property on which a tax sale certificate was filed over five (5) years before the first publication.
 - b. Six (6) months if the tax sale certificate was filed less than five (5) years before the first publication of the notice provided in this subsection.
- (2) The publication shall be sufficient if it is in the form provided for by R.S. 47:2236(D)(2).
- (e) If the property is not redeemed within the time limit set forth in subsection (c) of this section, the ordinance shall become operative, and the Parish of St. Bernard shall acquire full ownership of the property as provided in the ordinance, subject only to such rights as determined by a final judgment rendered in an action filed within the time limits set forth in subsection (c) of this section. The Department shall file a notice in the conveyance records indicating that the Parish of St. Bernard has acquired full ownership of the property in compliance with this section. The notice shall be sufficient if it conforms with R.S. 47:2236(E).
- (f) Contemporaneously with or subsequent to the filing of the notice, the Department may file with the recorder of mortgages an affidavit indicating how the tax sale parties whose interest the St. Bernard Parish Council intends to be terminated were identified, how the address of each tax sale party was obtained, how the written notice was sent, the results of sending the written notice, and the dates of publication. The affidavit may also contain a statement of the interest to which the St. Bernard Parish Council takes subject. The recorder of mortgages shall index the affidavit only under the names of the St. Bernard Parish Council and the tax debtor, as mortgagors. The affidavit shall be sufficient if it is in the form set forth in R.S. 47:2236(F).
- (g) The filing of the affidavit provided in this section with the Recorder of Mortgages of St. Bernard Parish shall operate as a cancellation, termination, release, or erasure of record of all statutory impositions of all political subdivisions then-due and owing, of all governmental liens, and of all interests, liens, mortgages, privileges, and other encumbrances recorded against the property sold and listed in the affidavit.
- (h) Upon filing of the affidavit, the recorder of mortgages or the recorder of conveyances shall treat as canceled, terminated, released, or erased, all those liens, privileges, mortgages, or other encumbrances canceled, terminated, released, or erased under subsection (g) of this section, only insofar as they affect the property.
- (i) St. Bernard Parish Council may acquire Adjudicated property in single parcels or in multiple lots. The ordinance shall identify the Adjudicated property or properties to be acquired.

Sec. 14-87. - Donation of Adjudicated property.

St. Bernard Parish Council may, by ordinance, allow the donation of any identified Adjudicated property to any person to the extent allowed by the Louisiana Constitution. The donated property can be

used only for purposes allowed by the Louisiana Constitution and approved by the St. Bernard Parish Council.

Sec. 14-88 – Sale of Adjudicated property to Adjoining Maintainer.

Pursuant to LA-R.S. 47:2202(B) an adjoining landowner may purchase an Adjudicated property without public bidding at a public meeting of the Parish Council, provided that the adjoining landowner has maintained the Adjudicated property for a period of 1 (one) year prior to sale. All requirements of La. R.S. 47:2202(B) must be met for any sales under this section. Any applicant who wishes to purchase a property under this section must deliver an application and a seven hundred and fifty dollar (\$750) deposit to the Department.

Applicant shall have the burden of proving to the Parish Council that applicant has maintained the property as required by LA R.S. 47:2202(B) and has met the qualifications listed in Sec. 14-89.. The Parish shall not hold any property in reserve unless the applicant can show they have maintained the property for at least six months. Once an ordinance is passed authorizing the sale of a property it shall be sold at public auction regardless of any adjoining landowner.

Sec. 14-89 - Adjoining Maintainer qualifications.

- (a) The Adjoining Maintainer shall prove:
 - 1. The Adjudicated property has been maintained in good condition by the adjacent landowner for one year.
 - 2. With regard to the adjoining property, applicant must have cut the grass and kept the grass lower than 8 inches in the height for at least one year prior to sale.
 - 3. With regard to the adjoining property, the applicant must have kept the adjudicated property he or she seeks to purchase free of debris for at least a year prior to sale.
 - 4. The Adjudicated property must have no present code violations.
 - 5. St. Bernard Parish Government must have not placed a grass lien against the Adjudicated property for one year.
 - 6. The Adjudicated property must be adjacent to property owned, in whole or in part, by the grass cutter.
 - 7. The Adjoining Maintainer's property shall be in full compliance with all applicable ordinances, parish regulations, and free of any grass lien or other outstanding fees.
- (b) Adjoining Maintainer must place an application for an adjoining property before the ordinance to sell the property in an auction is adopted. Any application submitted after the adoption of an ordinance to sell an Adjudicated property is null and void.