



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider,**  
Attorney General

March 5, 1976

ATTORNEY GENERAL OPINION NO. 76-84

Robert J. Bednar, Attorney  
City of Atchison  
515 Kansas Avenue  
Atchison, Kansas 66002

RE: K.S.A. 79-2914

Synopsis: Termination of real estate tax liens in condemnation proceedings can be accomplished under Court order where tax liens exceed award proceeds.

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Dear Mr. Bednar:

Your letter of February 18, 1976 states that the Community Development Division for the City of Atchison, Kansas is acquiring property in North Atchison for re-development. Such property has existing against it certain real estate tax liens for delinquent taxes, and you ask what becomes of these tax liens when the property is acquired by the City through condemnation procedure? You ask how these delinquent real estate tax liens can be completely extinguished. You cite Kansas Home Development v. Kansas Turnpike Authority, 181 Kan. 925, 929.

You are correct in your conclusion that condemnation does not extinguish liens. It is a general rule that lienholders cannot prevent condemnation, but their liens are preserved by being transferred from the land to the proceeds of the condemnation award.

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You say that you expect that the tax liens to exceed the amount the City will pay for the land through condemnation, so that, if the whole proceeds are insufficient to pay the whole tax due, how shall it be handled?

It is our suggestion that the Court, in making its order of distribution, simply follow KSA 79-2914, directing the whole proceeds of condemnation be distributed to the County Treasurer and directing the County Treasurer and County Clerk to follow that statute in dividing and charging the "unrealized tax" to the several funds in proper proportion, according to the tax levies of the years for the tax owed by said lands condemned. This would dispose of the proceeds from the condemnation award, and it would also dispose of the unrealized tax.

Very truly yours,



CURT T. SCHNEIDER  
ATTORNEY GENERAL

CTS:CJM:gw