In the Missouri Court of Appeals
Eastern District

DIVISION FOUR

WMAC 2013, LLC, Appellant, v. ANTHONY BEST LLC, RESIDENT TENANT OCCUPANT, ST. LOUIS COUNTY CLEAN ENERGY DEVELOPMENT BOARD, CITY OF PINE LAWN, MISSOURI, AND ST. LOUIS COUNTY, MISSOURI, Defendants, and THE METROPOLITAN ST. LOUIS SEWER DISTRICT, Defendant/Respondent.	)	ED113868 Filed: November 10, 2026

Appeal from the Circuit Court of St. Louis County
The Honorable Heather R. Cunningham, Judge

Introduction

Appellant WMAC 2013, LLC acquired title[1] to 6128 Bircher Street in St. Louis County (Property) through a delinquent tax sale in August 2023 that was conducted pursuant to

[1] Appellant WMAC received its title to the Property from its related company WMAC 2014, LLC, by way of a special warranty deed. WMAC 2014, LLC had acquired title in the form of a collector's deed through a Chapter 140 foreclosure and sale.

Chapter 140 RSMo. (2024), which is legislation originally passed in 1933 as the Jones-Munger Act to create a comprehensive *administrative* scheme to deal with tax delinquent real estate through the administrative foreclosure and sale of the properties in order to return them to a productive footing.

In December 2023, WMAC sued a number of entities including the Metropolitan St. Louis Sewer District (MSD) and Anthony Best, LLC, the former owner of the Property, seeking to quiet title in the Property and to declare null and void MSD's claimed lien on the Property for Best's unpaid sewer bills. The trial court entered its judgment quieting WMAC's title but denying its prayer with respect to the MSD lien; instead declaring section 140.160.1's three-year "limitation of actions" provision inapplicable such that the lien remained a viable encumbrance on WMAC's Property.

We affirm in part and reverse and remand in part. We affirm the trial court's decision quieting WMAC's fee simple title to the Property. We reverse that portion of the judgment declaring that MSD's lien continues to be a valid encumbrance on the Property because we hold that the three-year limitations provision applies to sewer district liens. We remand for further proceedings because the record below fails to establish how much, if any, of MSD's claimed lien survives application of section 140.160.1. The remand is to give the parties the opportunity to develop additional proof and for the trial court to apply section 140.160.1 and the holdings of this case to that proof.

Our rationale is straight-forward. In plain and ordinary language, the Missouri legislature through section 249.255 put MSD liens on par with tax liens both in terms of their priority and in terms of the mandatory enforcement procedures outlined in Chapter 140: "Should a public sewer district … place a lien upon a customer's property for unpaid sewer

charges, the lien shall have priority as and be enforced in the same manner as taxes levied for state and county purposes."[2] This enforcement mandate necessarily directs that MSD liens shall be enforced according to Chapter 140, including its three-year "limitation of actions" outlined in section 140.160.1, because that chapter governs the enforcement of state and county tax liens.

Background

In response to WMAC's quiet title and declaratory judgment action, MSD pleaded the viability and priority of its lien as an affirmative defense upon which it carried the burden of proof under Rule 55.08. MSD relied on the 2021 decision in *Eclipse Property Development LLC v. Ammari*, 635 S.W.3d 205 (Mo. App. 2021), to claim that because section 249.255 gave its liens the same *priority* as state and county tax liens, its lien survived the tax sale and remained on the Property in perpetuity until paid or released.

At trial, WMAC adduced its collector's deed and asserted that section 249.255's enforcement mandate and section 140.160.1's "limitation of actions" provision rendered MSD's lien expired. For its part, MSD called its billing and collections supervisor Melissa Colvin who testified that on November 8, 2019, MSD recorded with the St. Louis County recorder of deed's office a "notice of lien" on the Property for $550.11 in delinquent sewer

[2] The version of section 249.255 at issue in this appeal was in effect from 2000 through August 28, 2024 when the legislature enacted substantial amendments to section 249.255 and to multiple sections of Chapter 140. In 2026, the legislature eliminated the enforcement provision from section 249.255. That provision forms the basis of our holding here that section 140.160.1's three-year limitations period applies to MSD liens. Thus, the holding of this opinion in that regard would have no application going forward on cases subject to the 2026 version of section 249.255. Moreover, the 2026 version of section 249.255, when read together with the 2026 version of section 140.420(2), would seem to "bar[] and forever foreclose[]" all non-tax liens such as MSD liens.

service charges by Anthony Best LLC. Ms. Colvin testified that as of the time of trial the total lien amount was $3,699.69, and that the lien had not been released. She testified she did not know the specific composition and timing of the charges or the amount of the lien when WMAC received the collector's deed.

After quieting title to the Property in favor of WMAC, the trial court declared WMAC's title "subject to a lien in favor of MSD" as of the date of the collector's deed, August 24, 2023. The court held (1) that MSD's lien arose automatically upon the nonpayment of sewer charges and that it survived the tax sale, (2) that the three-year "limitation of actions" set forth in section 140.160.1 did not apply to MSD's lien, and (3) that MSD liens are perpetual because they "do not expire until paid or released," citing *Rottjakob v. Leachman*, 521 S.W.2d 397 (Mo. banc 1975). The court declined to apply section 140.380, finding no evidence that MSD was a "special improvement district." WMAC moved to amend the judgment and for a new trial, both of which the trial court denied. This appeal follows.

Standard of Review

In a court-tried case, we will affirm the judgment unless it is unsupported by substantial evidence, is against the weight of the evidence, or erroneously declares or applies the law. *Murphy v. Carron*, 536 S.W.2d 30, 32 (Mo. banc 1976). Whether MSD's lien remained viable turns on the construction of section 249.255.1 and its interaction with Chapter 140. Statutory interpretation is a question of law that we review de novo. *Finnegan v. Old Republic Title Co. of St. Louis, Inc.*, 246 S.W.3d 928, 930 (Mo. banc 2008). To the extent our decision rests on the sufficiency of MSD's proof in support of its affirmative defense regarding its lien, we view the evidence and the reasonable inferences drawn from it in the light most favorable to the judgment. *Ivie v. Smith*, 439 S.W.3d 189, 199–200 (Mo. banc 2014).

Discussion

WMAC brings four points on appeal. We consider points one and two together because both points claim the court misapplied section 249.255.1's lien enforcement mandate and section 140.160.1's "limitation of actions" provision. Point three claims there was no substantial evidence to support the finding that MSD had a viable lien. And point four invokes section 140.380 in claiming that since MSD is a "special improvement district," its failure to redeem the Property as that section permits leaves its lien void. Given our disposition of points one and two and our order remanding the matter for further proceedings, we need not reach points three and four.

The overarching question here is whether MSD's lien remained alive and enforceable at the time of the Bircher Street Property's tax sale. Since the trial court relied amply on the *Eclipse* decision, we begin there.

Eclipse

In 2018, after buying a residential property at a tax sale, Eclipse filed a declaratory judgment action to quiet title against a group of entities but Eclipse did not sue the Northeast Public Sewer District at that time though the district had an outstanding 2015 bill on the property of which Eclipse was apparently unaware. 635 S.W.3d at 216, 218. A year later, the district billed Eclipse for those charges. *Id.* at 210. The district then filed a lien on the property for those charges after Eclipse added the district as a defendant in the quiet title action. *Id.* The district claimed that its lien not only survived the tax sale but outranked the collector's deed. *Id.* at 212.

The *Eclipse* court examined Chapter 140 and held that because section 249.255.1 grants sewer district liens the same priority as state and county tax liens, the district's lien survived

the Chapter 140 tax sale. *Id.* at 218-20. This is a *priority* question. Critically, while the court referenced section 249.255.1's "enforcement mandate," the issue of *enforcement* was not addressed or decided by the court and Chapter 140 is, in the main, a lien enforcement statute. *Id.* at 217, 220.

We find that MSD and the trial court have misconstrued *Eclipse* in that they have read it far beyond its holding. The *Eclipse* court relied only on the priority language of section 249.255 in reaching its key holding that since the sewer district lien was on par with tax liens, the tax sale in *Eclipse* did not extinguish the lien. We fully agree with and reaffirm *Eclipse* in that regard. But, this case presents a different question. Section 249.255's *enforcement mandate* was not before the *Eclipse* court and that mandate drives our disposition here.

Chapter 140

Before the Missouri legislature adopted the Jones-Munger Act in 1933, codifying it in Chapter 140, the enforcement of delinquent real estate taxes liens was done through judicial foreclosure lawsuits. *McMullin v. Carter*, 639 S.W.2d 815, 817 (Mo. banc 1982). Chapter 140 sought to eliminate litigation in favor of an administrative foreclosure and property sale scheme. See *Eclipse*, 635 S.W.3d at 217-18 (reviewing sections 140.330, .405, .420, .440 and .460). Thus, for almost 100 years, the enforcement of state and county real estate tax liens has been done pursuant to Chapter 140.

Section 249.255.1 then provided that sewer district liens "shall have priority as and be enforced in the same manner as taxes levied for state and county purposes." Section 249.255.1. This provision does two things relevant to this appeal: (1) it gives sewer district liens the same *priority* as state and county tax liens, and (2) it directs that sewer district liens are to be

enforced in the same manner as tax liens which necessarily invokes Chapter 140's tax lien enforcement scheme.

But finding *Eclipse* inapplicable to this case does not end our inquiry. It continues with a look at Chapter 140 which, across over 70 statutory sections, created a mandatory statutory scheme for the collection and enforcement of state and county real estate taxes and tax liens. Sections 140.010 - 140.722; *State ex rel. McGhee v. Baumann*, 160 S.W.2d 697, 699–700 (Mo. 1942).

Chapter 140's tax lien enforcement proceedings commence when the collector of revenue receives from state, county, or other governmental entities "land delinquent lists" containing delinquent properties within each collector's jurisdiction. Section 140.030. Those properties are then added to the Back Tax Book, sections 140.050 and 140.060, after which the collector offers each of those properties for sale at auction for at least the amount of the delinquent taxes encumbering each property. Sections 140.010 and 140.150. The sale is not final, however, because for one year the property's original owner among others retains the right to redeem the property by paying off the tax debt and costs. Section 140.340. If no redemption occurs on a timely basis, the tax sale purchaser receives a collector's deed evidencing fee simple title. Section 140.420. At that point, the new owner may file a quiet title action against any known lien-holders. Section 140.330.

After construing section 249.255.1 and Chapter 140 *in pari materia* as we must, *State ex rel. Director of Revenue v. Gaertner*, 32 S.W.3d 564, 566 (Mo. banc 2000), we conclude that sewer district liens, like state and county tax liens, are not perpetual and instead are subject to section 140.160.1's three-year statute of limitations.

"Initial Proceedings" under section 140.160.1

Section 140.160.1 provides that "No proceedings for the sale of land and lots for delinquent taxes (…) shall be valid unless initial proceedings shall be commenced within three years after delinquency." We interpret "initial proceedings" in this section to refer to the "land delinquent list[s]" referenced in section 140.030 which the various tax collectors — state, county, or other governmental entities — must submit to the county collector for eventual inclusion in the Back Tax Book. Such "initial proceedings" are required to stop the running of section 140.160.1's three-year "limitation of actions" provision.

Turning to the circumstances of this case, we note that our record is silent on whether MSD engaged in any of Chapter 140's enforcement mechanisms much less submitted a "land delinquent list" that included the Bircher Street Property. In fact, Ms. Colvin conceded that MSD took no action to enforce its lien within Chapter 140 or without. While MSD filed a notice of a $550.11 lien on the Property with the St. Louis County recorder of deeds on November 6, 2019, such a filing does not constitute "initial proceedings" for a tax sale because section 140.030 requires the submission of delinquent properties on a "land delinquent list" to the county collector. Thus, MSD has failed to demonstrate on this record that it satisfied the "initial proceedings" language of section 140.160.1.

Yet, MSD requests that this court interpret section 249.255 — the very statute that put its liens on par in terms of priority with state and county tax liens — as though it freed sewer liens from the very time constraint that binds the enforcement of such tax liens. The plain language of section 249.255 did no such thing. In granting sewer liens parity with tax liens, the legislature could have gone further and made them perpetual. It knows how to do so; e.g., in

section 67.1521.5 RSMo, the legislature granted perpetual-lien status to "community-improvement-district assessments."

And Missouri law has never treated tax liens as perpetual. Before the Jones-Munger Act, a tax lien expired unless suit was commenced within five years of delinquency. *McGhee*, 160 S.W.2d at 700. And sewer districts are no strangers to having their liens time-barred. In *Jennings Sewer District of St. Louis County v. Pitcairn*, 187 S.W.2d 750, 753-55 (Mo. App. 1945), this court held that a five-year statute of limitations barred the sewer district's action to enforce a lien for sewer taxes.

Next, we address several additional arguments put forth by MSD, all of which we find unpersuasive. We reject MSD's claim that section 249.255.1's enforcement mandate is actually not a mandate. MSD's argues that the phrase "shall have priority as and be enforced in the same manner as taxes" is not an enforcement mandate and that a sewer district *may* enforce its lien like a tax lien, but is not required to.

This argument fails. *Webster's Third New International Dictionary* defines "shall" to mean: "used to express a command or exhortation" or "used in laws, regulations or directives to express what is mandatory." *Shall*, Webster's New Int'l Dictionary at 2085 (3d ed. 2002). Caselaw consistently supports that the word "shall" imposes a mandatory duty. *Am. Fed'n of State, Cnty. & Mun. Emps., AFL-CIO, Council 61 v. State*, 653 S.W.3d 111, 120 (Mo. banc 2022); see also, *State ex rel. Robison v. Lindley-Myers*, 551 S.W.3d 468, 474 (Mo. banc 2018) (quoted in *Eclipse*, 635 S.W.3d at 220). Not only is MSD's assertion in this regard belied by the plain language of the statute, but it seeks to grant to MSD's lien a perpetual enforcement window that not even tax liens enjoy. Section 140.160.1.

We turn next to MSD's claim that WMAC's quiet title action was not the appropriate legal vehicle to remove MSD's lien from the Property. We disagree. Section 140.330 sanctions a quiet title action by the new owner against "all parties who have, or claim to have, or appear of record in the county where such land or lot is situated, to have any interest in, or lien upon, such lands or lots, shall be made defendants in such suit, and no outstanding unrecorded deed, mortgage, lease or claim shall be of any effect as against the title or right of the complainant as fixed and declared by the decree made in such cause." WMAC chose, and the trial court adjudicated, the correct legal vehicle for this case.

We next turn to the trial court's and MSD's reliance on *Rottjakob v. Leachman*, 521 S.W.2d 397 (Mo. banc 1975) for its holding that MSD's lien remained viable because it was not removed in any of the three ways *Rottjakob* recognizes — full payment, sale and recovery of proceeds, or release "as provided by law." *Id.* at 401-02. We disagree.

Rottjakob construed section 137.085(2) which states: "2. … a lien is hereby vested in favor of the state on all real property for all taxes thereon, … and said lien shall be enforced as provided by law; said lien shall continue to be enforced until all taxes, forfeitures, back taxes and costs shall be fully paid or the land sold or released as provided by law." The trial court's error in this instance is akin to its fundamental error in misconstruing and misapplying section 249.255 in conjunction with section 140.160.1. To the extent that it is determined upon remand that some or all of MSD's lien has expired by application of section 140.160.1's three-year limitations period, we hold that that satisfies the "released as provided by law" method of removing MSD's lien.

Finally, we consider MSD's Wastewater Ordinance No. 16396 upon which MSD relies heavily. That ordinance provides that wastewater charges "constitute a charge and lien against

the property served, whether or not recorded" and that "the amount of the lien grows as the user continues not to pay." We do not quarrel with MSD's authority under its ordinances to create a lien on the Property. *St. Louis Investment Properties, Inc. v. MSD*, 873 S.W.2d 303, 306 (Mo. App. 1994) (holding MSD can create liens by ordinance, but cannot reprioritize their liens as superior to that of other lien holders in the absence of express legislative authority).

But, MSD seeks to extend that authority to make its liens perpetual and not subject to section 249.255.1's enforcement mandate. This we cannot do. *St. Louis Inv. Props.*, 873 S.W.2d at 307 (despite its constitutional origins, MSD's status parallels a municipality; its ordinances only govern as far as they do not conflict with state law.)

Conclusion

We affirm the judgment insofar as it quieted WMAC's title in 6128 Bircher Street. We reverse and remand for further proceedings that part of the judgment declaring MSD's lien viable and attached to the Property. The remand is for further proceedings consistent with our interpretation of section 249.255.1, Chapter 140 generally, and section 140.160.1 specifically, to give the parties the opportunity to develop an additional record and for the trial court to make the factual determinations and conclusions of law relevant to the application of section 140.160.1's three-year limitations provision.



James M. Dowd, Judge

Rebeca Navarro-McKelvey, Presiding Judge concurs and
Gary M. Gaertner, Jr., Judge dissents in a separate opinion.

In the Missouri Court of Appeals
Eastern District

DIVISION FOUR

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Appeal from the Circuit Court of St. Louis County
The Honorable Heather R. Cunningham, Judge

Dissenting Opinion

I respectfully dissent. The plain language of Section 140.160.1[1] addresses the validity of an administrative tax sale conducted under the Jones-Munger Act. Because the

[1] All references to Section 140.160 are to RSMo. 2016, effective August 28, 2013 to the present.

plain language of Section 140.160.1 provides a three-year limitations period for only the enforcement of tax liens—not other liens, and for only one method of such enforcement—an administrative tax sale, I would not find that Metropolitan St. Louis Sewer District (MSD) liens for unpaid sewer bills are subject to a three-year statute of limitations under this section.

The key provision governing MSD's unpaid sewer bill liens in this case is Section 249.255.1, RSMo. 2016,[2] which provided that a public sewer district's "lien shall have priority as and be enforced in the same manner as taxes levied for state and county purposes." It is important to note at the outset that the Missouri General Assembly amended Section 249.255.1 in 2024, removing both the priority and enforcement language, now providing simply that MSD's liens "once properly recorded, shall have priority above all liens except for those taxes levied for state and county purposes." The impact of our decision in this case is therefore limited to MSD's unpaid sewer bill liens in place prior to August 28, 2024.[3]

I do not find the language of the former version of Section 249.255.1, requiring an unpaid sewer bill lien to "be enforced in the same manner as taxes," as straightforward as

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[2] All references to Section 249.255 here are to RSMo. 2016, effective from August 28, 2000, to August 27, 2024, unless otherwise indicated. All other statutory references are to the current versions, in effect at all times relevant to this appeal.

[3] Additionally, the 2024 amendment, contained in H.B. 2062, is subject to a constitutional challenge for violating the procedural single-subject rule. A trial court has declared the bill unconstitutional, and an appeal is pending in the Western District of our Court of Appeals. *Calzone v. State of Missouri*, No. WD88723. As relevant here, the Missouri General Assembly passed an additional amendment containing the identical language quoted above, effective August 28, 2026. Thus, if the 2024 amendment is invalidated, our opinion is limited to MSD sewer liens in place prior to August 28, 2026.

my friends in the majority do. While I agree it directs us to Chapter 140, it seems to me that actually applying the full tax enforcement mechanism mandated by Chapter 140 to unpaid sewer bill liens is unworkable. As outlined by the majority, Chapter 140 provides an extensive procedure, beginning with receipt of "land delinquent lists," continuing to an administrative auction conducted by the Collector of Revenue, and culminating in a final sale only after a one-year redemption period. I cannot imagine the Missouri General Assembly contemplated MSD commencing a similar procedure and conducting its own sales of land, nor is there any historical indication MSD has ever done so. While the majority implies the whole of Chapter 140 is imputed to MSD by virtue of this one phrase in Section 249.255.1, *see* maj. op. at 9, I would find the plain language of Chapter 140 does not permit such a conclusion.

Beginning with the statute of limitations in Section 140.160.1, the plain language clearly relates only to sales conducted for unpaid taxes and special assessments:

> No proceedings for the sale of land and lots for *delinquent taxes pursuant to this chapter or unpaid special assessments*, relating to the collection of *delinquent and back taxes and unpaid special assessments* and providing for foreclosure sale and redemption of land and lots therefor, shall be valid unless initial proceedings therefor shall be commenced within three years after *delinquency of such taxes and unpaid special assessments*[.] …

(emphasis added). "Delinquent taxes" and "unpaid special assessments[4]" are repeated three times in this section. The language could not be any clearer that it applies only to sales of land for *those particular tax debts*. Moreover, regarding the sale, the statute

[4] Special assessments are also taxes. *See Zweig v. Metro. St. Louis Sewer Dist.*, 412 S.W.3d 223, 229 (Mo. banc 2013) (noting MSD's ability to levy special assessments).

plainly says the sales to which it refers both relate to the collection of those two types of tax debt, and provide for "foreclosure sale and redemption of land," which again indicates that we are dealing only with unpaid taxes.[5] There is no redemption period provided in Chapter 140 for any other type of lien, including unpaid sewer bill liens. Finally, the three-year period itself is tied to the delinquency of taxes and unpaid special assessments in Section 140.160.1. The plain language of the statute clearly establishes the date that the three-year period begins to run is the date that *taxes and special assessments* become delinquent—not sewer bill payments.

Apart from this language tied to unpaid taxes, Section 140.160.1 goes on to "provide[] further, that in suits or actions to collect *delinquent drainage and/or levee assessments* on real estate such suits or actions shall be commenced within three years after delinquency" (emphasis added). The Missouri General Assembly here specifically added additional categories of tax assessments with their own three-year limitation period for enforcement in this section. Again, the Missouri General Assembly did not mention unpaid sewer bill liens, which they could have. The canon of statutory interpretation *expressio unius est exclusion alterius* instructs that "when a statute … enumerates the subjects or things on which it is to operate, it is to be construed as excluding from its effect all those not expressly mentioned." *State ex rel. Joyce v. Mullen*, 503 S.W.3d 330,

[5] Moreover, the Jones-Munger Act provides one specific method of collecting delinquent taxes, not the only method. Chapter 141 provides for judicial foreclosures for unpaid taxes, which a county could undertake to pursue rather than the administrative method provided in Chapter 140. I do not believe the majority intends nor that Section 249.255.1 RSMo. 2016 contemplates that MSD could also elect to enforce its liens for unpaid sewer bills under Chapter 141.

338 (Mo. App. E.D. 2016) (citing *Greenbriar Hills Country Club v. Dir. of Revenue*, 935 S.W.2d 36, 38 (Mo. banc 1996)). I simply cannot read the plain language of Section 140.160.1 and find any support for the notion that the three-year statute of limitations applies to unpaid sewer bill liens.

Beyond the statute of limitations, the majority notes that "the record is silent on whether MSD engaged in any of Chapter 140's enforcement mechanisms much less submitted a 'land delinquent list' that included the Bircher Street Property." Maj. op. at 9 (citing Section 140.030, noting it "requires the submission of delinquent properties on a 'land delinquent list' to the county collector"). However, the plain language of Section 140.030, requiring creation of a land delinquent list, similarly does not apply to MSD:

> Whenever any *collector* shall be unable to collect *any taxes specified on the tax book*, having diligently endeavored and used all lawful means to collect the same, he shall make lists thereof, … to be called the "land delinquent list," in which shall be stated the *taxes* on lands and town lots where *taxes* have not been collected, with a full description of said lands and lots, and *the amount of taxes* due thereon, set opposite each tract of land or town lot ….

(emphasis added). This section plainly applies to collectors who collect taxes; it does not include the MSD billing department or require a list for delinquent sewer bills.

As noted above, the only basis for reading unpaid sewer bill liens into Chapter 140 is Section 249.255.1's directive that MSD's unpaid sewer bill liens "shall … be enforced in the same manner as taxes," but even this directive does not transform MSD's liens into delinquent taxes or tax liens, such that we can apply an entire statutory scheme addressing delinquent taxes to them. *See Eclipse Prop. Development, LLC v. Ammari*, 635 S.W.3d 205, 220 (Mo. App. E.D. 2021) (noting while Section 249.255.1 allows

unpaid sewer charges to be treated "*like a tax* for purposes of priority," it "does not transform unpaid sewer fees into an actual tax"). Though MSD's unpaid sewer bill liens have elevated priority, they do not become tax liens, and therefore the plain language of Section 140.160.1 cannot be applied to them. The language simply does not permit us to consider unpaid sewer bill liens as tax liens when the Missouri General Assembly neither specified as much in Section 249.255.1, nor chose to include MSD or unpaid sewer bills anywhere in the text of Chapter 140, as it did with drainage and levee assessments.

In practice, it seems Section 249.255.1 means that MSD's unpaid sewer bill liens prior to August 28, 2024 are not extinguished by a tax sale, and MSD can seek payment for such liens when the property transfers ownership at a tax sale. *See St. Louis Inv. Props., Inc. v. Metro. St. Louis Sewer Dist.*, 873 S.W.2d 303, 307 (Mo. App. E.D. 1994) (noting MSD has pursued collection of delinquent service charges by lien "[f]rom its inception"). The enforcement action for MSD's unpaid sewer bill liens is "in the same manner" as the enforcement of tax liens in that the enforcement action takes place as part of the tax sale, when the new owner must remove the encumbrances on the land that are not extinguished by the sale.[6]

This interpretation avoids the strain required by the majority's interpretation, to require reading "unpaid sewer bills" into the words "delinquent taxes" in Chapter 140, and "MSD billing department" into instances of the word "collector" in Chapter 140 as well. My interpretation allows Section 140.160.1's focus to remain on the validity of the

[6] In this light, I do not perceive a danger that MSD's liens are therefore "perpetual," in that they will be dealt with upon the sale of the property.

tax sale, as provided in the plain language. A tax sale is invalid regarding any delinquent taxes older than three years, but the sale is perfectly valid regarding other liens, unless a limit is provided elsewhere. Here, I find no statutory time limit on MSD's sewer liens.[7]

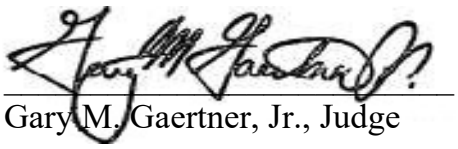
Finally, on a practical note, unpaid sewer bills are usually significantly lower than unpaid taxes. The notion that MSD could afford to create the administrative process needed to publish lists of delinquent land and conduct auctions for three years' worth of unpaid sewer bills, given the relatively small amount MSD would collect by doing so, further illustrates the unworkable nature of applying Chapter 140 to MSD.

Public utilities like MSD perform important functions that greatly benefit the public, and in this case, to preserve public health and sanitation. Public utilities are created by statute and governed according to statute. The Missouri General Assembly has chosen, for whatever reason, not to explicitly impose a statute of limitations for MSD's unpaid sewer bill liens. Perhaps it is due to the acknowledgement of MSD's limited enforcement options, and the fact that the other option in Section 249.255.2 RSMo. 2016—disconnecting sewer service—may be undesirable given the potential impact on public health. However, not being privy to the debates of the Missouri General Assembly,

[7] Though the majority notes that this Court previously held that sewer taxes were subject to a five-year statute of limitations, *Jennings Sewer District of St. Louis County v. Pitcairn*, 187 S.W.2d 750, 751 (Mo. App. 1945), this case supports my view of the language here. The statute of limitations applied there was actually a prior version of Section 140.160.1, and it applied because the sewer tax there was a *tax*, levied pursuant to a now-repealed law enacted for the establishment of sewer districts. *See Jennings*, 187 S.W.2d at 751. As such, the sewer tax there fell under the plain language of the statute of limitations for enforcing tax liens. The situation here, involving liens for unpaid sewer bills, is wholly distinct.

I cannot assume either way, but am constrained by the limits of the plain statutory language enacted by the Missouri General Assembly. The fact that they amended Section 249.255.1 in 2024 and 2026 to now permit unpaid sewer bill liens to be discharged at a tax sale demonstrates the Missouri General Assembly clearly knows how to limit and address any concerns with enforcement of MSD's liens for unpaid sewer bills.

For the foregoing reasons, I would affirm the judgment of the trial court, and therefore respectfully dissent.



Gary M. Gaertner, Jr., Judge