November 17, 2015

City of St. Joseph, Tennessee
Ms. Joan Nelson
City Manager
409 North Main Street
St. Joseph, Tennessee 38481

VIA ELECTRONIC MAIL

Dear Ms. Nelson:

You have asked about the legality of requiring the owner of rental property to sign an agreement making the owner responsible for city utility payments left unpaid by the tenant. In formulating this response, the advice of MTAS Legal Consultant Elisha Hodge was consulted.

Please be advised that you could '**voluntarily**' get an owner to sign an agreement to pay the bill of a tenant that has vacated the premises and left you with an unpaid utility bill – **but** you wouldn't be able to legally pursue collection against the owner if he/she ultimately decided not to cover the unpaid bill. Additionally, you would not be able to discontinue the owner's services, if he/she did not adhere to the terms of the agreement.

This is so as there is no specific statutory authorization to file a lien to collect delinquent utility bills except in a very limited circumstance. So number one, you can't ultimately force the owner to pay, if he doesn't, by placing a lien on the property.

Secondly, you can't refuse to provide service to a future tenant or the owner. So you don't have that leverage to get the bill paid. This is so as the Sixth Circuit of Appeals ruled that refusing to provide service to an address where a previous user had become delinquent violates the equal protection clause of the Fourteenth Amendment. See *Craft v. Memphis, Light, Gas and Water Division*, 534 F. 2d 684, 690 (6th Cir. 1976).

So the city can't view unpaid utility bills as an obligation of the property, but rather it is a personal obligation of the tenant or owner who incurred the charges. Thus the only remedy left is to sue the actual customer for his/her debt or send it to collection.

Please let me know if you have any questions or require any additional assistance on this matter.

Very truly yours,

Jeffrey J. Broughton
Municipal Management Consultant

Cc: Elisha Hodge

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