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In AL: Enforcement of Fire Dues Lien "Burns" Mortgagees

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An amendment to the Alabama Constitution allows Jefferson County fire districts to assess fire dues. In *Chase Home Finance, LLC v. First Properties, LLC* and *Chase Home Finance, LLC v. Special Assets, LLC* (“Chase”), two properties were foreclosed upon for delinquent fire dues and sold to the respective defendants, in accordance with the constitutional amendment. Chase held a mortgage on both properties, but did not receive actual notice of the fire dues foreclosure sales. Rather, constructive notice was provided by publication in a local newspaper. Chase filed a motion for summary judgment, which the court granted, finding that Chase’s due process rights were violated. Chase held mortgages on both properties that were duly recorded prior to the foreclosure sales and Chase was readily identifiable, yet it received no actual notice. The court found that the fire districts should have undertaken reasonable efforts to identify the mortgagees and provide actual notice of the sale. Rather than invalidate the sales, the court allowed for an extension of the statutory redemption period for Chase’s benefit only.

JPMorgan Chase Bank, National Association as Trustee v. First Properties, LLC likewise involved a dispute over title to property that was sold for delinquent fire dues assessments. In October 1998, the Forestdale Fire District foreclosed on property, was the high bidder at the sale, and recorded its foreclosure deed. Following the foreclosure sale, the former owner, Ruthia Cullen, attempted to enter into a mortgage on the property with First Franklin Financial Corporation. Even though the fire district foreclosure deed was of record, First Franklin relied on an affidavit from Cullen that the dues were current, and then went forward with making the mortgage loan to Cullen. First Franklin subsequently assigned the

mortgage to JPMorgan. However, before JPMorgan recorded its assignment, the fire district sold its interest to First Properties via a quit claim deed. Both JPMorgan and First Properties moved for summary judgment. The court ruled in favor of First Properties, finding that both JP Morgan and First Franklin took their alleged interest in the property with constructive notice of the recorded fire dues foreclosure deed. First Properties was found to hold title to the property, free and clear of any claims from JPMorgan.

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