The plaintiff rested its case upon Western Reserve Steel, supra, arguing that the city could not collect from it an indebtedness of the previous owner. The court disagreed. The court noted first that Western Reserve was distinguishable on its facts because in that case the municipality had not certified nonpayment to the county auditor prior to transfer. The court went on to state that unlike the water charges considered in Western Reserve, which were by the language of the enabling statute an indebtedness of the user, municipal sewerage charges were, by virtue of the language of the statute, "a lien upon the property served by such connection." Thus, the court concluded, the sewerage charges were more than an indebtedness of the user; such charges were an indebtedness of the property.

In reaching that conclusion, the court also considered the language of G.C. 5671 (presently R.C. 5719.01), which now states: "[t]axes charged on any tax duplicate, except those upon real estate, shall be a lien on real property of the person charged therewith from the date of the filing of a notice of such lien as provided by law" (emphasis added). The Union Properties court reasoned that since, in its view, municipal sewerage charges, imposed under the authority of G.C. 5671 (presently R.C. 729.49), were in the nature of a tax on real property, such charges were excepted from the notice of lien requirement of G.C. 5671 (R.C. 5719.01).

As is discussed in greater detail infra, a lien for non-real estate taxes may be created under R.C. 5719.04. Under R.C.5719.01, the lien of the state for real property taxes attaches to all property on the first day of January annually. Thus, with respect to your hypothetical example, one might conclude that a lien for unpaid sewerage charges would attach to the property each year on that date. However, under R.C. 729.49, a more specific and thus controlling statute, the lien attaches as soon as the charges are incurred. In the language of that statute, the charges themselves "shall constitute a lien upon the property served." I differentiate between the lien for municipal sewerage charges and real property tax liens generally on the basis that the attachment provisions of R.C. 5719.01 assume a valid tax levy for each given year. A lien for the upcoming tax obligation attaches automatically at the start of the year and continues until paid. See State ex rel. Summit Board of Education v. Medina County Board of Education, 45 Ohio St. 2d 210, 343 N.E.2d 110 (1976); State ex rel. Donahey v. Roose, 90 Ohio St. 345, 107 N.E. 760 (1914). Thus, there is no manner in which an intervening purchaser can escape from the liability. Such a system comports with the underlying obligation of the land itself for the real property tax. Since Union Properties concludes that municipal sewerage charges are an obligation of the land, a similar "automatic" lien mechanism must operate to insure an automatic and continuing liability upon the land for the payment of such charges.

Thus, in your hypothetical example, if municipal sewerage charges are incurred while "A" owns the property, the land itself is subject to a lien at the instant that the charges are incurred. Thus, even if "B" acquires and records his interest before the charges are certified to the county auditor, the land itself remains subject to liability for the charges. Thus, "B" would not escape the encumbrance.

The fifth statute to which your request makes reference is R.C. 735.29. That section relates to charges for village-operated utilities. It provides, in pertinent part, as follows:

> For the purpose of paying the expenses of conducting and managing such water works, plants, and public utilities or of making necessary additions thereto and extensions and repairs thereon, the board may assess a water, light, power, gas, or utility rent, . . .upon all tenements and premises supplied therewith. When such rents are not paid the board may certify them to the county auditor to be placed on the duplicate and collected as other village taxes. . . . (Emphasis added.)

This statutory provision has been the source of no less than four opinions of my predecessors. In 1912 Op. Att'y Gen. No. 357, vol. I, p. 243, it was concluded that G.C. 3958 (presently R.C. 743.04) authorized only the charge of "rentals" for municipal water, and that such "rentals" were in no sense a tax. The syllabus of the opinion states: "[s]uch rentals are in no sense a tax and there is no authority to certify such rents to auditor for collection."

The section was next considered in 1929 Op. Att'y Gen. No. 1203, vol. III, p. 1788. That opinion was requested by the Bureau of Inspection and Supervision of Public Offices, which agency made specific references to 1912 Op. No. 357. 1929 Op. No. 1203 concluded that, under G.C. 3958, there was no authority for a city to certify unpaid water rentals to the county auditor for collection with other city taxes. The opinion noted, however, that village utility charges, including water rentals, could be certified to the auditor under G.C. 4361 (presently R.C. 735.29). Thus, the opinion effectively concluded that, while a village may certify water rentals to the county auditor for collection, a city may not. In "affirming" 1912 Op. No. 357, my predecessor went on to state:

> The ruling of the Attorney General to which you refer undoubtedly has been followed since the time of its pronouncement. There are many decisions to the effect that administrative interpretations of a statute, if acquiesced in for a long period of time, will be given great weight.
>
> In view of the foregoing, I would be reluctant to undertake to reverse said opinion. In fact, I am inclined to the belief that the opinion rendered was sound.
>
> In passing, it should be noted that Section 3958, General Code, hereinbefore referred to, which refers to the collection of the water rent in the same manner as other city taxes, in the use of such language has reference to the situation which is set forth in the second sentence of said section. In other words, the manner of collection, above mentioned, has reference to a situation wherein more than one tenant or water taker is supplied with one hydrant or from the same pipe and the assessment for such service is not paid when due.
>
> From the foregoing, it will be observed that Section 3958, General Code, is not of general application in so far as the method of collection in the manner of "other city taxes" is concerned. In other words, there are no provisions for the collection in the manner provided for other city taxes except in those cases wherein more than one tenant or water taker is supplied with one hydrant, etc., as mentioned in said section. It therefore would seem rather absurd that the Legislature would contemplate the certification in the one instance and not make such requirement in others, which is another argument for my conclusion above stated.

Id. at 1789-90.

In 1934, further analysis of the situation was requested, again by the Bureau of Inspection and Supervision of Public Offices. In 1934 Op. Att'y Gen. No. 2636, vol. I, p. 612, 1912 Op. No. 357 and 1929 Op. No. 1203 were approved and followed. The opinion concluded:

> There are no statutes in Ohio authorizing either a city to certify its delinquent water rental accounts to the county auditor to be collected in the manner of real estate taxes, nor is there any language authorizing a county auditor to enter such rental accounts upon the tax list and duplicate of real estate taxes when so certified.

Id. at 613.

In 1936 Op. Att'y Gen. No. 6214, vol. III, p. 1546, there followed a plea from the Prosecuting Attorney of Paulding County for reconsideration. In his request, the Prosecuting Attorney remarked:

> Since the later opinion [1934 Op. Att'y Gen. No. 2636] was rendered many persons of the Village of Paulding have been advised that they do not have to pay the County Treasurer the amounts certified against them as taxes for delinquent light and water rentals, and consequently have not paid this part of their taxes, . . .

Id. at 1547. In that opinion, my predecessor insured the solvency of waterworks of the Village of Paulding by pointing out that a village could, under G.C. 4361 (presently R.C. 735.29), certify unpaid water and light rentals to the county auditor for collection. The opinion, in reaching that conclusion, again took note that cities could not certify delinquent water rentals to the county auditor for collection.

While I am not unmindful of the historical tradition of this office in opining that a city does not enjoy the same right to collect unpaid water bills as does a village, I confess a distinct reluctance to blindly follow that precedent. There is room for criticism of the aforementioned opinions, and I am hard put to ignore the final phrase of R.C. 743.04 which states that unpaid water rentals "shall be collected in the same manner as other city taxes." It is a cardinal rule of statutory construction that all parts of a statute are to be given meaning. Accordingly, it could well be said that unpaid rentals are to be collected under the provisions of R.C. 5719.04, just as village charges are collected. Moreover, in response to the 1929 opinion, wherein the "absurdity" of certifying only unpaid charges where "more than one tenant or water taker is supplied with one hydrant, etc." is discussed, I find it equally troublesome to conclude that although a city may impose a charge which may be "collected in the same manner as other city taxes," the charge cannot be enforced by a tax lien.

Nonetheless, I choose to follow my predecessors for two reasons. First, there is a line of cases supporting the view adopted by the opinions. Most notable of these is Hohly v. State ex rel. Summit Superior Co., 128 Ohio St. 257, 257, 191 N.E. 1, 1 (1934), wherein the Ohio Supreme Court states: "neither Sections 3957 and 3958, General Code, [G.C. 3958 being the present R.C. 743.04]. . .create nor authorize the creation of a lien upon real property for charges for water supplied by such city to the premises of defendant in error." In accord with Hohly are Northern Savings & Loan Co. v. Demario, 18 Ohio Law Abs. 385 (Ct. App. Lorain County 1935), and Akron v. Citizens Savings & Loan Co., 17 Ohio Law Abs. 159 (Ct. App. Summit County 1934). The second reason in support of my decision to follow the precedent laid down by the previous occupants of this office is that for a period in excess of half a century the General Assembly has chosen to ignore this distinction between villages and cities. On the basis of this inaction, I must conclude that the legislative branch of our government embraces this concept, and supports the view that a village may certify unpaid water charges to the county auditor for collection where a city may not.

In response to your hypothetical example, then, the purchaser "B" need not be concerned with the point at which a lien attaches to the property for unpaid city water charges, since a tax lien is not authorized by R.C. 743.04.

Having discussed in detail the first question of your request, namely the point at which government-operated utility liens attach to the property supplied with service, I turn to the second portion of your request which concerns the right of such utilities to refuse service to properties where the charges are delinquent. In Mansfield v. Humphreys Manufacturing Co., 82 Ohio St. 216, 92 N.E. 233 (1910), the Ohio Supreme Court held that a municipal regulation which authorized the director of public service to turn off water to any property for which the water bill remains unpaid was a valid and enforceable regulation. Interestingly enough, the

court found that the director had such authority under G.C. 3958 (presently R.C. 743.04), which has been held not to allow certification of nonpayment to the county auditor for collection. In any event, it would appear that, with respect to all of the statutes to which you have made reference, the public body or official setting rates may adopt reasonable procedures, pursuant to the general authority found in those statutes to operate utilities in an efficient manner, to refuse service to the user who incurred the utility charges. Indeed, R.C. 6119.06(V) specifically authorizes the trustees of a regional water and sewer district to refuse service if any "rentals or other charges, including penalties for late payment, are not paid by the user thereof."

With respect to the specific question raised by your request, as to when the utility may refuse services to a subsequent purchaser, the Ohio Supreme Court has taken the position that the utility may not refuse services to such purchaser unless, prior to the recording of his interest, a lien for unpaid charges had attached to the property. Western Reserve, supra. While Western Reserve was decided under what is currently R.C. 735.29, the principle declared therein would appear to be valid with respect to any of the statutes to which you refer. Therefore, the hypothetical example you pose may be resolved with respect to the various statutes in question by referring to my earlier discussion as to when the utility lien attaches. Any purchaser who, like the purchaser in your hypothetical, has acquired and recorded his interest prior to attachment of the lien may not be refused service.

Accordingly, it is my opinion, and you are so advised, that:

1. Where charges made by a board of county commissioners for county refuse disposal service under R.C. 343.08 go unpaid, a lien will attach to the property served when such delinquent charges are certified to the county auditor and placed upon the tax duplicate. Where a subsequent purchaser has acquired and recorded his interest prior to the attachment of the lien, he takes the property free of the encumbrance.

2. Where charges made by a board of county commissioners for county sewerage and disposal services under R.C. 6117.02 go unpaid, a lien will attach to the property served when such delinquent charges are certified to the county auditor and placed upon the tax duplicate. Where a subsequent purchaser has acquired and recorded his interest prior to the attachment of the lien, he takes the property free of the encumbrance.

3. Where charges made by the board of trustees of a regional water and sewer district under R.C. 6119.09(V) go unpaid, a lien will attach to the property served when such delinquent charges are certified to the county auditor. Where a subsequent purchaser has acquired and recorded his interest prior to attachment of the lien, he takes the property free of encumbrance.

4. Charges made by the legislative authority of a municipal corporation for the operation of a municipal sewerage works under R.C. 729.49 are a lien against the property served as soon as the charges are incurred, and remain a lien until such time as they are paid. Such charges are in the nature of an obligation of the land itself, and a subsequent purchaser of the land takes the property subject to the obligation for any unpaid charges. Until such charges are paid, continued sewerage service may be refused.

5. Where charges made by a board of public affairs of a village for utility charges under R.C. 735.29 go unpaid, a lien will attach to the property served when such delinquent charge is

certified to the county auditor, and when such charge is included on the delinquent tax list delivered by the county auditor to the county recorder on the first day of December, annually, in accordance with R.C. 5719.04. Where a subsequent purchaser has acquired and recorded his interest prior to attachment of the lien, he takes the property free of the encumbrance.

6. Where charges made by the director of public service of a city for municipal water service under R.C. 743.04 go unpaid, the city may not certify such unpaid rental charge to the county auditor for collection with other city taxes, and the county auditor may not place such unpaid rental charge upon the tax duplicate for collection. Such charges can never be the source of a tax lien. (1912 Op. Att'y Gen. No. 357, vol. I, p. 243; 1929 Op. Att'y Gen. No. 1203, vol. III, p. 1788; 1934 Op. Att'y Gen. No. 2636, vol. I, p. 612; 1936 Op. Att'y Gen. No. 6214, vol. III, p. 1546 approved and followed.)

7. A government-operated utility may not refuse services to a purchaser of real property for the non-payment of utility charges by a prior owner of the property where the purchaser has acquired and recorded his interest prior to the time a lien for such unpaid utility charges attaches to the real property.