

UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF
ARKANSAS, FORT SMITH DIVISION

In re Sherman Wilson Hicks, Jr. and Dianna Lynn Hicks, Debtors

In re Sherman Wilson Hicks, Jr. and Dianna Lynn Hicks, No. 2:25-bk-71560 (Bankr. W.D. Ark. Feb. 26, 2026) ·
No. 2:25-bk-71560 · Decided February 26, 2026

SUMMARY

The United States Bankruptcy Court for the Western District of Arkansas denied the debtors’ motion under 11 U.S.C. § 522(f) to avoid the City of Fort Smith’s lien for costs incurred to remove a dead tree from their property. The court held that the lien arose as a statutory clean-up lien under Arkansas Code Annotated § 14-54-903, rather than as a judicial lien, because it arose automatically upon the occurrence of statutory conditions and did not require a hearing or adjudication. Accordingly, the lien was not avoidable under § 522(f).

CASE DETAILS

COURT	United States Bankruptcy Court for the Western District of Arkansas, Fort Smith Division
WRITING FOR THE COURT	Bianca M. Rucker
JURISDICTION	United States Bankruptcy Court for the Western District of Arkansas, Fort Smith Division
DECIDED	February 26, 2026
DOCKET	2:25-bk-71560
DISPOSITION	other
PROCEDURAL POSTURE	Chapter 13 debtors moved under 11 U.S.C. § 522(f) to avoid the City of Fort Smith's lien for costs incurred in removing a dead tree from the debtors' property. Following an agreed stipulation of facts and a hearing on the parties' legal arguments, the bankruptcy court denied the motion.
STANDARD OF REVIEW	The debtors bore the burden of proving by a preponderance of the evidence every element necessary to establish entitlement to lien avoidance under 11 U.S.C. § 522(f).
PRECEDENTIAL VALUE	Unpublished bankruptcy court order; precedential status is unknown in the provided metadata.

PARTIES

Sherman Wilson Hicks, Jr. and Dianna Lynn Hicks, Debtors v. City of Fort Smith

TOPICS

chapter 13

bankruptcy exemptions

bankruptcy

statutory interpretation

municipal law

PRACTICE AREAS

Bankruptcy

Municipal law

Real estate liens

Statutory interpretation

QUESTIONS PRESENTED

1. Whether the City of Fort Smith's lien for costs incurred in abating a municipal code violation was a judicial lien avoidable under 11 U.S.C. § 522(f), or a statutory lien not subject to avoidance.
2. Whether Arkansas Code Annotated section 14-54-903 required a hearing or provided an appeal right before the City's clean-up lien arose under the facts of this case.
3. Whether the enforcement mechanisms in Arkansas Code Annotated section 14-54-904 converted the City's statutory lien into a judicial lien.

HOLDINGS

1. The City's lien was a statutory clean-up lien rather than a judicial lien because it arose by operation of Arkansas Code Annotated section 14-54-903 after the statutory conditions occurred and was limited to the City's abatement and related costs.
2. Arkansas Code Annotated section 14-54-903(f) made a public hearing permissive, not mandatory, when the property owner's name and address were known; therefore, no hearing was required before the City's lien arose in this case.
3. The appeal provision in Arkansas Code Annotated section 14-54-903(h)(1) did not apply because no governing-body determination was made or required when the City proceeded without a hearing.
4. The foreclosure and tax-collection enforcement mechanisms in Arkansas Code Annotated section 14-54-904 did not transform the City's statutory lien into a judicial lien.

KEY QUOTATIONS

“A statutory lien is limited and quantified; if certain events or circumstances occur as articulated in the statute, a lien arises that is statutory in nature and unavoidable.”

“The Court finds that the City’s lien is statutory rather than judicial. Therefore, the lien is not subject to avoidance under § 522(f).”

FACTUAL BACKGROUND

The debtors owned real property in Fort Smith, Arkansas, where a city inspector found a dead tree and dead limbs in violation of a municipal property-maintenance ordinance. After the debtors received written notice and

failed to correct the violation within seven days, the City hired a contractor to remove the tree and incurred \$1,914.01 in abatement and administrative costs. The City recorded a lien against the property on December 16, 2024, and the debtors sought to avoid it as a judicial lien under § 522(f).

PROCEDURAL HISTORY

The debtors filed an original motion to avoid lien on January 17, 2026, and amended it on January 20. The City responded on February 10. The parties then filed an agreed stipulation of facts and jointly requested resolution without further evidence. After a February 18 hearing, the court took the matter under advisement and denied the amended motion.

DISPOSITION

other

CASES CITED

- In re Ballinger, 502 B.R. 558, 562 (Bankr. E.D. Ark. 2013)
- In re Leaks, 552 B.R. 741, 747, 750 (Bankr. E.D. Ark. 2016)
- Potter v. City of Tontitown, 264 S.W.3d 473, 480 (Ark. 2007)
- Weas v. Montgomery, 23 S.W.2d 969, 970 (Ark. 1930)
- Taylor v. City of Fort Smith, 441 S.W.3d 36, 39 (Ark. Ct. App. 2014)
- Claussen v. Brookings County (In re Claussen), 118 B.R. 1009, 1016 (Bankr. D.S.D. 1990)
- In re Shippy, 646 B.R. 516, 520 (Bankr. W.D. Wash. 2022)
- In re Schick, 418 F.3d 321, 322 (3d Cir. 2005)
- In re Newton, 402 B.R. 771, 774 (Bankr. W.D. Ky. 2009)

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