

Policy Number – Section 80	Last Update:
Effective Date: 3-27-18	March 27, 2018
Resolution No. 109-18	
Title: CAYUGA COUNTY POLICY AND PROCEDURES FOR THE SALE AND DISPOSITION OF REAL PROPERTY ACQUIRED THROUGH TAX FORECLOSURE	

PURPOSE

The county annually forecloses on tax delinquent parcels of real property following the procedures provided for under Article 11 of New York State Real Property Tax Law (RPTL). This policy is intended to illustrate and clearly define the process of disposing of the property acquired by the county through the tax foreclosure process.

As the tax enforcing officer for the county, the County Treasurer initiates and implements the foreclosure process pursuant to Article 11 of RPTL, while it is the job of the County Real Property Tax Services Director to oversee and facilitate the sale of the properties acquired through this process. The steps below illustrate the process as well as the duties and responsibilities of specific county officials.

I. OVERVIEW OF PROCESS & DUTIES

- a. Overview of foreclosure of tax lien by proceeding in rem. To assist the public and county officials in understanding the timeline involved in the tax foreclosure process, two exhibits are provided with sample timelines. This information is for illustrative purposes only.

Exhibit A is a sample timeline for the taxpayer notification process by property type.

Exhibit B is a sample timeline for the administrative/legal process for real property tax foreclosures.

- b. Sale Authority – The sale of tax foreclosed real property shall be done by public auction unless the County Legislature adopts a resolution approving a negotiated sale of a particular parcel prior to the auction. The sale by public auction pursuant to this policy shall be executed in due course by the County Director of Real Property Tax Services (RPTS) without having to come to this legislature for authority or to approve the transfers resulting from public auction.
- c. Tax Foreclosed Real Property Review Group– shall be comprised of:

County Administrator
County Attorney
County Director of Real Property Tax Services

II. RPTS DUTIES AND RESPONSIBILITIES PRIOR TO AUCTION OF REAL PROPERTY

- a. County Treasurer to Deliver Papers & Information to RPTS – The applicable records and documents relative to the acquisition of county-owned property shall be delivered to the RPTS offices by the tax enforcing officer or other officer holding same upon filing of the deed conveying title to the County of Cayuga. Said records shall include, but not be limited to a) title reports, b) itemized computation of total

delinquent tax, interest, penalty and fees for each individual parcel, c) electronic copies of documentation of all parties given notice together with addresses of same, and d) any/all other pertinent data relating to the subject parcel so acquired by the County of Cayuga.

- b. RFP for Auction Services - The Real Property Director shall issue a Request for Proposal (RFP) from time to time, but not less than every six years, to determine who should act as auctioneer. The RFP process will be conducted in accordance with County purchasing and procurement guidelines.

III. REQUEST TO PURCHASE REAL PROPERTY

- a. Request by the Immediate Previous Owner(s) to Purchase – a request may be made by the immediate previous owner(s) or designated agent, listed in the tax foreclosure, to repurchase the property resulting in removal of the parcel from the auction. Such request is to be made to the Real Property Director, or designee, who has responsibility for disposing of said property once a deed has been issued to the County of Cayuga. The Real Property Director will instruct the immediate previous owner(s) of the steps required to request consideration of the Legislature to purchase said parcel. These steps will include, but may not be limited to a) providing a re-dated title report to the date of filing of the deed issued to the County of Cayuga, b) providing written consent from all holders of mortgages, liens, judgments, or other encumbrances that said have been satisfied or otherwise reinstated, c) deposit with the County Treasurer an amount not less than all accumulated taxes, interest, penalties, and fees specifically provided for by local law or NYS Real Property Tax Law, plus a foreclosure fee of \$400 (four hundred dollars), which sums must be paid by money order, bank check or other equivalent. If immediate previous owner(s) or designee completes all steps as directed by RPTS, said purchase request shall be forwarded to the County Legislature for consideration pursuant to the Legislature’s Rules of Order. If the Legislature does not consider the request of the immediate previous owner(s) to purchase said parcel, then the immediate previous owner(s) may contact the Legislator for the district in which the parcel is located to request further action.
- b. Request to purchase by party other than the immediate previous owner(s) – any party other than the immediate previous owner(s) may also submit a request to purchase any parcel acquired by the County as a result of the tax foreclosure process which is scheduled to be auctioned in the current year. Such request is to be made to the Real Property Director, or designee, who has responsibility for disposing of said property once a deed has been issued to the County of Cayuga. The Real Property Director will instruct the interested party of the steps required to request consideration of the Legislature to purchase said parcel. These steps will include, but may not be limited to a) providing a re-dated title report to the date of filing of the deed issued to the County of Cayuga, b) deposit with the County Treasurer an amount not less than all accumulated taxes, interest, penalties, and fees specifically provided for by local law or NYS Real Property Tax Law, plus a foreclosure fee of \$400 (four hundred dollars), which sums must be paid by money order, bank check or other equivalent, c) state the nature and reason for the request to purchase the parcel outside of the county auction process. If the interested party completes all steps as directed by RPTS, said purchase request shall be forwarded to the County Legislature for consideration pursuant to the Legislature’s Rules of Order. If the Legislature does not consider the request of the interested party to purchase said parcel, then the interested party may contact the Legislator for the district in which the parcel is located to request further action.

- c. Request to purchase by multiple parties – at any time during this entire process, if there is any dispute as to who should be allowed to make a request to purchase the property e.g. if more than one person wants to purchase outside of the auction process, the matter shall be referred to the “Tax Foreclosed Real Property Review Group” to make recommendations to the County Legislature on such matters. Said review group may require that notice be given to other parties of their intent to recommend or consider a certain party’s purchase or require any proposed purchaser to take steps necessary to be fair to all parties. The recommendation of the Tax Foreclosed Real Property Review Group shall be submitted to the Legislature for consideration.
- d. Timeline for ALL requests to purchase property outside of the auction as detailed in sub-paragraphs a, b and c of Section III – all requests to purchase any parcel of property acquired by the County as a result of the tax foreclosure process and is scheduled to be auctioned in the current year, is subject to the following timeline: written requests, together with all required documentation, shall be submitted to the Real Property Director within the deadlines required to present the request to the legislature in resolution form.

IV. AUCTION OF REAL PROPERTY

- a. Auction – the sale of real property shall be done by public auction unless the County Legislature adopts a resolution approving a negotiated sale of a particular parcel. The goal should be to hold the auction within approximately 60 days after all of the steps have been satisfied as outlined in sub-paragraph a. of Section II (County Treasurer to Deliver Papers & Information to RPTS) of this policy. All fees payable to the auctioneer will be collected in full from a “buyer’s premium”. The amount of the buyer’s premium will be determined and set in accord with the accepted proposal for auction services or negotiated as needed.
- b. Auction Procedure, Terms of Sale & Bidder Certification – also referred to as the “bid package,” this shall provide the parameters for registering to bid at the auction, the terms of sale, bidder certification and process for completion of the sale. It shall be printed in the auction catalog and/or handed out to persons registering as bidders. All bidders must complete the form and comply with the terms contained therein to be eligible to bid in the auction. The said document may be amended with the consent of the “Tax Foreclosed Real Property Review Group.”
- c. Parties Not Eligible to Purchase at Auction – the following parties are not eligible to purchase at the auction sale: (a) any immediate previous owner of the properties being offered for sale at the time they were foreclosed; (b) anyone acting on behalf of, as agent of, or as a representative of the said immediate previous owner(s); (c) an officer or stockholder, or director, or employee, or spouse, of a Corporation or Limited Liability Company or General or Limited partner of a partnership which owned any of the properties being offered for sale when they were foreclosed; (d) anyone who owns property in the County of Cayuga which is currently tax delinquent, either individually or jointly with others, or has ownership interest through an entity of any kind; (e) anyone acting on behalf of, as agent of, or representative of, any of the persons or entities set forth in sub-paragraph (c) or (d) above; and (f) any of the following officials or anyone acting on behalf of or for the benefit of same including members of the households of: County Treasurer, County Administrator, County Attorney, County Legislators, Clerk

of the County Legislature, and Real Property Director, or any county employee of the county offices of Treasurer, Administrator, Attorney, Legislature, Clerk of the Legislature, and Real Property.

V. RPTS DUTIES AFTER AUCTION

- a. Transfer of Title – The expense of all filing costs shall be incurred by the grantee. The buyer(s)/grantee(s) shall sign the usual documents necessary and customary to file a deed, e.g., Real Property Transfer Report (RP-5217), Combined Real Estate Transfer Tax Return (TP-584), Acknowledgment of Receipt of Lead Paint Notice (if applicable) and notice required in an Agricultural District regarding smells and dusts and such in agricultural areas (if applicable). Deeds issued pursuant to this resolution shall be executed by the Chair of the Legislature, or, if he/she is not available, the Deputy Chair of the Legislature. Deeds issued by the County shall be immediately filed by the Real Property Director or designee, in the office of the Cayuga County Clerk after all papers are in order as described.
- b. Report to County Legislature – The list of successful bidders shall be maintained by the Auctioneer, and a copy of such list shall be immediately forwarded to the Real Property Director and the County Treasurer after the completion of the auction. Upon successful closing all auction sales, the Real Property Director shall prepare and submit a report to the Clerk of the County Legislature to be distributed to all Legislators.

EXHIBITS

- A Sample Timeline for Tax Delinquent, Lien and Foreclosure Notices to Property Owners of:
 - A-1: Residential & Agricultural Parcels
 - A-2: Commercial, Industrial & Vacant Land Parcels
- B Timeline for the Administrative/Legal Process for Real Property Tax Foreclosures

EXHIBIT A-1

Sample Timeline for Tax Delinquent, Lien and Foreclosure Notices to Property Owners of:
Residential & Agricultural Parcels

YEAR 1	
Timing	Action
January	County/Town real property tax bills issued.
March	Town Receiver of Taxes sends delinquent notices/postcards for current year unpaid taxes.
April	Town turns all current year delinquent taxes over to the county for enforcement and collection.
May	County sends notices on current year delinquent amounts due.
October	County mails notice of pending lien to be filed with the County Clerk in November (10 months after the original lien date of January 1, YEAR 1).
November	County Treasurer files list of delinquent taxes which has the effect of a notice of pendency.
December	County sends notices on all delinquent amounts due including prior year(s) liens filed.
YEAR 2	
January	County/Town real property tax bills issued.
March	Town Receiver of Taxes sends delinquent notices/postcards for current year unpaid taxes.
April	Town turns all current year delinquent taxes over to the county for enforcement and collection.
May	County sends notices on current year delinquent amounts due.
October	County mails notice of pending lien to be filed with the County Clerk in November (10 months after the original lien date of January 1, YEAR 2).
November	County Treasurer files list of delinquent taxes which has the effect of a notice of pendency.
December	County sends notices on all delinquent amounts due including prior year(s) liens filed.
YEAR 3	
January	County/Town real property tax bills issued.
March	Town Receiver of Taxes sends delinquent notices/postcards for current year unpaid taxes.
April	Town turns all current year delinquent taxes over to the county for enforcement and collection.
May	County sends notices on current year delinquent amounts due.
June	County orders title search reports on YEAR 1 delinquent parcels.
October	County mails notice of pending lien to be filed with the County Clerk in November (10 months after the original lien date of January 1, YEAR 3).
November	County Treasurer files list of delinquent taxes which has the effect of a notice of pendency.
November	County mails tax foreclosure legal pleadings to all owners and lienors for YEAR 1 tax liens and prior. This notice of tax foreclosure includes a last day to pay the County Treasurer not less than 75 days after mailing.
Nov-Dec	County publishes notice in local newspaper of all tax foreclosure properties including the owner name, tax map number and municipality.
December	County sends notices on all delinquent amounts due including prior year(s) liens filed.
YEAR 4	
January	County/Town real property tax bills issued.
Jan-Feb	Parcels posted if all attempts to deliver the tax foreclosure legal pleading to all owners failed.
March	Town Receiver of Taxes sends delinquent notices/postcards for current year unpaid taxes.
Mar-Apr	County submits Application for Judgment to Supreme Court.
April	Town turns all current year delinquent taxes over to the county for enforcement and collection.
Spring	Prior to auction, the auctioneer posts all parcels to be included in the auction.
Spring	Auctioneer advertises in local newspapers information about the upcoming auction.
Spring	County and auctioneer post all auction parcels online and make catalog available.

EXHIBIT A-2

Sample Timeline for Tax Delinquent, Lien and Foreclosure Notices to Property Owners of:
Commercial, Industrial and Vacant Land Parcels

YEAR 1	
Timing	Action
January	County/Town real property tax bills issued.
March	Town Receiver of Taxes sends delinquent notices/postcards for current year unpaid taxes.
April	Town turns all current year delinquent taxes over to the county for enforcement and collection.
May	County sends notices on current year delinquent amounts due.
October	County mails notice of pending lien to be filed with the County Clerk in November (10 months after the original lien date of January 1, YEAR 1).
November	County Treasurer files list of delinquent taxes which has the effect of a notice of pendency.
December	County sends notices on all delinquent amounts due including prior year(s) liens filed.
YEAR 2	
January	County/Town real property tax bills issued.
March	Town Receiver of Taxes sends delinquent notices/postcards for current year unpaid taxes.
April	Town turns all current year delinquent taxes over to the county for enforcement and collection.
May	County sends notices on current year delinquent amounts due.
June	County orders title search reports on YEAR 1 delinquent parcels.
October	County mails notice of pending lien to be filed with the County Clerk in November (10 months after the original lien date of January 1, YEAR 2).
November	County Treasurer files list of delinquent taxes which has the effect of a notice of pendency.
November	County mails tax foreclosure legal pleadings to all owners and lienors for YEAR 1 tax liens and prior. This notice of tax foreclosure includes a last day to pay the County Treasurer not less than 75 days after mailing.
Nov-Dec	County publishes notice in local newspaper of all tax foreclosure properties including the owner name, tax map number and municipality.
December	County sends notices on all delinquent amounts due including prior year(s) liens filed.
YEAR 3	
January	County/Town real property tax bills issued.
Jan-Feb	Parcels posted if all attempts to deliver the tax foreclosure legal pleading to all owners failed.
March	Town Receiver of Taxes sends delinquent notices/postcards for current year unpaid taxes.
Mar-Apr	County submits Application for Judgment to Supreme Court.
April	Town turns all current year delinquent taxes over to the county for enforcement and collection.
Spring	Prior to auction, the auctioneer posts all parcels to be included in the auction.
Spring	Auctioneer advertises in local newspapers information about the upcoming auction.
Spring	County and auctioneer post all auction parcels online and make catalog available.

EXHIBIT B

Timeline of the Administrative/Legal Process for Real Property Tax Foreclosures *(For illustrative purposes only, actual dates may vary)*

November (annually) - County Treasurer executes and files the List of Delinquent Taxes in the County Clerk's office, Treasurer's office and County Attorney's office (ten months after the lien date or as soon thereafter as is practicable per Section 1122 of NY Real Property Tax Law). The list is then required to be filed with the state board for identification of state owned lands on the list (per Section 1176 of NYS RPTL).

May (of the year prior to auction) - County Treasurer makes a list of current tax delinquent parcels that will be included in the current year foreclosure action and mails a notice to those delinquent parcel owners.

June (of the year prior to auction) – County Treasurer begins process to have title company prepare title searches of tax delinquent parcels and prepare original schedule "A" of those parcels.

July to November (of the year prior to auction) – Tax Foreclosure Attorney examines title to tax delinquent parcels and notes all parties requiring notice on each parcel

October/November (of the year prior to auction) – County Treasurer prepares envelopes and labels for all owners and lienors of the parcels to be foreclosed on.

October/November (of the year prior to auction) – Tax Foreclosure Attorney prepares necessary legal pleadings to begin foreclosure action.

November (of the year prior to auction) – County Treasurer begins the tax foreclosure action by filing legal pleadings in the office of the County Clerk per Section 1123 of NY RPTL.

November (of the year prior to auction) – County Treasurer arranges for copying of the tax foreclosure legal pleadings to be mailed to owners and lienors.

November (of the year prior to auction) – County Treasurer and Tax Foreclosure Attorney prepare for the mailing of the tax foreclosure pleadings and verifying the inclusion of all owners and lienors.

November (of the year prior to auction) – County Treasurer mails all tax foreclosure legal pleadings to owners and lienors by first class and certified US Mail at all addresses reasonably ascertainable from the public record and maintain a record of the mailings. Treasurer also posts those pleadings in the Treasurer's office, the County Clerk's office and the entrance of the County Court House, and arranges for the statutory required newspapers publications of those pleadings per Sections 1124 & 1125 of NY RPTL.

November (of the year prior to auction) – County Treasurer provides the Department of Planning & Development with the list of parcels requiring environmental inspection before taking judgment against them which is referred to as the Pre-Foreclosure Investigation per County Resolution 251-05 and Tax Foreclosure Environmental Guidelines adopted 5/24/05.

December (of the year prior to auction) – Tax Foreclosure Attorney prepares and mails notice of tax foreclosure correspondence to the IRS pursuant to federal requirement.

December – February (prior to auction) - County Environmental Engineer makes inspection of properties for environmental clearance or removal from tax foreclosure action per County Resolution 251-05 and Tax Foreclosure Environmental Guidelines adopted 5/24/05.

January (year of the auction) – County Treasurer provides US Postal Service with a list of all owners and lienors whose certified and regular mailings were both returned as undeliverable in order to obtain an alternative address. If any alternative addresses are found then the Treasurer follows statutory mailing requirements utilizing those addresses per Section 1125 of NY RPTL.

January (year of the auction) – If no alternative address is obtained in the case of an owner, the Treasurer causes a copy of the tax foreclosure documents to be posted on the property in the manner provided in Section 1125 of the NY RPTL. In the case of lienors, the Treasurer causes a copy of the tax foreclosure pleadings to be posted in his/her office and the County Clerk's office.

February (year of the auction) – A foreclosure advisory review group comprised of the County Director of Real Property, County Director of Planning and Development, the County Environmental Engineer, and the Tax Foreclosure Attorney meet to discuss result of the Environmental Engineer's inspection and then by majority vote, advise the County Treasurer which properties to foreclose upon without special action, which pose a risk too great to permit foreclosure, and which will be foreclosed upon only by following the procedure set forth to allow for and to take advantage of the "temporary incidents of ownership" process afforded by NY Environmental Conservation Law Section 56-0508.

March (year of the auction) – Tax foreclosure attorney prepares motion papers for default judgment and takes Supreme Court judgment in March/April against those defaulted tax delinquent parcels.

April (year of the auction) – the County Treasurer's Office prepares, executes and records deed from the County of Cayuga to the County of Cayuga per latest Supreme Court Judgment of Foreclosure.

April/May (year of the auction) – the Director of Real Property Tax Services arranges for public auction of parcels acquired by the county through tax foreclosure action (immediately preceding November) to have an auction in June.

Any time prior to final judgment – the County Treasurer may withdraw tax delinquent properties because: 1. Legal impediment 2. Tax has been cancelled 3. Lien has been stayed by bankruptcy 4. Exposure to liability is greater than the value of the property 5. Owner paid tax or entered into an installment contract 6. Property is not yet subject to inclusion in the action 7. Tax lien has been sold. For procedure to withdraw and/or reinstate a property, see Section 1138 of NY RPTL.

3-18-WM-8

RESOLUTION NO. 109-18 3-27-18

RPS rev policy sale tax foreclosed propertyV2

UPDATING CAYUGA COUNTY POLICY AND PROCEDURES FOR THE SALE AND DISPOSITION OF REAL PROPERTY ACQUIRED THROUGH TAX FORECLOSURE, SECTION 80 – UPDATED MARCH – 2018

WHEREAS, annually, Cayuga County acquires real property through the tax foreclosure process, and pursuant to resolution 88-01 procedures for disposition and auction of these properties were established; and

WHEREAS, periodically, the County has deemed it necessary to update and clarify these procedures (Resolutions 188-02, 382-04, 517-11, 176-16) for the same; and

WHEREAS, it has been deemed appropriate to review, update and formally adopt the Policy on the Sale and Disposition of Real Property Acquired through Tax Foreclosure, including clarifying language related to the amount required to be placed on deposit with the County Treasurer for requests to purchase property as referenced in Sections III (a) and III (b) of the attached policy; now therefore be it

RESOLVED, that the County Legislature does hereby adopt the attached updated Policy on the Sale and Disposition of Real Property Acquired through Tax Foreclosure, and be it further

RESOLVED, that the Policy be numbered Section 80 in the County Policy manual and distributed by the Clerk of the Legislature; and be it further

RESOLVED, that this resolution will take effect immediately upon adoption.

I HEREBY CERTIFY, THAT I HAVE COMPARED THE FOREGOING COPY OF A RESOLUTION DULY PASSED AND ADOPTED BY THE LEGISLATURE OF CAYUGA COUNTY AT A MEETING HELD ON THE 27TH DAY OF MARCH 2018 WITH THE ORIGINAL RESOLUTION, AND THAT THE SAME IS A TRUE AND CORRECT COPY AND TRANSCRIPT THEREOF, AND THE WHOLE THEREOF.

3-28-18 - 7:40AM


CLERK, CAYUGA COUNTY LEGISLATURE