

Disposition Plan for Real Property Acquired by Albany County Through the “In Rem” Delinquent Tax Lien Foreclosure Process

Legal Authority

Section 1166 of the Real Property Tax Law provides that “Whenever any tax district shall become vested with the title to real property by virtue of a foreclosure proceeding brought pursuant to the provisions of this article, such tax district is hereby authorized to sell and convey the real property so acquired, either with or without advertising for bids, notwithstanding the provisions of any general, special or local law.”

This section further provides that “No such sale shall be effective unless and until such sale has been approved and confirmed by a majority vote of the governing body of the tax district *** ”.

Statement of intent, Policy and Plan

It is the intent, policy and plan of Albany County to sell and convey all properties title to which has been acquired by it through the “In Rem” delinquent tax lien foreclosure process in accordance with the following provisions, which it has determined in its sole judgment and discretion will best effectuate the benefit to the community that will result from such disposition.

Disposition Plan Provisions

The County will henceforth sell and convey all properties acquired by it through the “in rem” delinquent tax lien foreclosure process in the following preferential order subject to the conditions thereunder stated:

Properties which will be discretionally conveyed by the County to itself for its stated governmental purposes. The list of properties acquired by the County through the “in rem” delinquent tax lien foreclosure process proposed for sale and conveyance to the County shall first be reviewed for conservation use purposes and received approval for transfer from the Legislative Conservation and Improvement Committee. Properties shall be listed based on lien year and locality. This review will be undertaken by the staff of the County Department of Economic Development, Conservation and Planning. Such list will also be forwarded to the County legislators for review. All such conveyances shall be made for nominal consideration, payment of which shall be deemed to have been waived.

- Properties which will be discretionally conveyed by the County back to their immediate former owner(s) upon a showing of hardship. The sale price for reacquisition of these properties shall be the amount of their outstanding delinquent tax liability

(inclusive of interest, penalties and legal charges) prior to foreclosure and all current taxes levied (inclusive of interest, penalties and legal charges) prior to the date of reacquisition. The full amount of the sale price and closing costs must be submitted to the County in escrow as a prerequisite to its requesting approval of the County Legislature for the reacquisition and will be refunded only in the event such approval is not granted. The recipient of the property is required to close within 60 days of certified legislation approving the reacquisition. The Deed back shall provide that any and all liens upon and other interests in the property which were extinguished as the result of its foreclosure, except to the extent they were subsequently reduced, discharged, satisfied and/or otherwise terminated of record, upon the recording of said Deed shall be deemed reinstated and restored to the full extent they existed at the time they were so extinguished.

- Properties which will be discretionally conveyed by the County to individuals or entities who own abutting or adjacent parcels. The sale price for these properties shall be the appraised value or an amount equal to the extinguished tax liability. The recipient of the property is required to close within 60 days of certified legislation approving the conveyance.

- Properties which will be discretionally conveyed by the County to other municipal corporations for use for a governmental purpose. The amount to be paid for the property shall be its assessed value, outstanding tax liability (inclusive of interest, penalties and legal charges) prior to its foreclosure, or some other amount which reflects the benefit to the community stemming from the proposed use of the property. A Deed provision requiring that the property be used for a stated governmental purpose or open space preservation or conservation purpose and providing that the County shall have a right of reacquisition through reverter in the event the property is at any time not or no longer being so used may be required.

- Properties which will be conveyed by the County to not-for-profit/non-profit entities for use for a public purpose. The amount to be paid for the property shall be its assessed value, outstanding delinquent tax liability (inclusive of interest, penalties and legal charges) prior to foreclosure, or some other amount which reflects the benefit to the community stemming from the proposed use of the property. A Deed provision requiring that the property be used for a stated public purpose and providing that the County shall have a right of reacquisition through reverter in the event the property is at any time not or no longer being so used may be required.

- Properties which will be discretionally conveyed by the County to individuals or entities for economic development purposes.

A. The amount to be paid for these properties shall be either its appraised value or outstanding delinquent tax liability (inclusive of interest, penalties and legal charges). A deed provision requiring a stated economic development purpose and providing that the County shall have a right of reacquisition through reverter in the event the property is not or is no longer being so used may be required. Public notification of the availability

of the property proposed for private sale shall be made through all appropriate means (newspaper, website, etc.) prior to authorization of sale by the County Legislature. The recipient of the property is required to close within 90 days of certified legislation approving transfer.

B. If they have been withdrawn from foreclosure, these properties shall be conditionally offered for sale via sealed bid for either its appraised value, outstanding delinquent tax liability (inclusive of interest, penalties [, etc.] and legal charges) prior to foreclosure, or an amount which reflects the benefit to the community stemming from the proposed use of the property with disclosure of the reasons for their withdrawal. It shall be the bidder's responsibility to research all information in the County's property file in this regard. Upon bid approval by the County Legislature, the full amount of the sale price and closing costs must be submitted to the County in escrow prior to and as a prerequisite to the completion of the foreclosure process. A signed statement by the bidder acknowledging receipt of full disclosure regarding the condition of the property in so far as known to the County will be required at that time. The County shall not be liable for any conditions known or unknown on these properties, and the purchaser will be required to execute a release, hold harmless, and indemnification agreement in this regard at the closing on the sale. Deed title will be transferred directly to the successful bidder pursuant to assignment without recourse.

○ Properties which will be discretionally conveyed by the County to the Albany County Land Bank Corporation.

A. The sale price for the conveyance of such properties shall be \$1.00 payment of which consideration shall be waived by the County. (The Albany County Land Bank will be responsible for payment to the County of budgeted revenues based on current year adopted budget. This payment will be remitted to the County by October 1 of said calendar year.)

B. The Land Bank is prohibited from conveying a property acquired from Albany County back to the property's immediate former owner(s) for less consideration than the amount of the delinquent taxes (inclusive of interest, penalties and legal charges) owed on the property at the time of its foreclosure. If the Land Bank wishes to sell a property back to its immediate former owner(s) for less than the amount of the delinquent taxes (inclusive of interest, penalties and legal charges) owed on the property at the time of its foreclosure by the County, the Land Bank must provide the County with a compelling reason for doing so and obtain the prior written authorization of the County Legislature in the form of a resolution in this regard. The Deed back shall provide that any and all liens upon and other interests in the property which were extinguished as the result of its foreclosure by the County, except to the extent they were subsequently reduced, discharged, satisfied and/or otherwise terminated of record, shall by Deed provision be deemed reinstated and restored to the full extent they existed at the time they were so extinguished. The foregoing requirements shall be included in every Deed from the

County to the Land Bank and provide that the County shall have a right of reacquisition through reverter in the event these requirements are not met.

C. County employees and members of the Albany County Legislature who are involved with the negotiation or preparation of the sale and closing process of properties title to which has been acquired by thd County through the “In Rem” delinquent tax lien foreclosure process, have access to knowledge or information about a parcel conveyed by the County to the Land Bank or about the present or proposed use of nearby parcels through his or her County position, which knowledge or information is not accessible to the general public, or who have the authority to appoint employees who have any of the foregoing powers or access to the foregoing information, are specifically precluded from purchasing properties conveyed to the Land Bank by the County during and for two (2) years after the termination of their County employment.

D. Properties which have received EnergizeNY benefit loan financing from the Energy Improvement Corporation for energy efficiency or renewable energy upgrades shall not be conveyed to the Albany County Land Bank Corporation unless that loan inclusive of interest has been completely repaid.

General Proviso.

All County sales and conveyances of properties title to which has been acquired by the County through the “In Rem” delinquent tax lien foreclosure process,, including those to the Land Bank, are discretionary and the County Executive and/or County Legislature may for any reason reject any sale request. All such County property sales and conveyances, including those to the Land Bank, are subject to such additional requirements and/or conditions as the County Legislature may discretionarily choose to impose in connection with them. All such County property sales and conveyances, including those to the Land Bank, must be approved by the County Legislature.

Closing Procedure

The County will provide the necessary Deeds, transfer tax statements (TP584), and Real Property Transfer Reports (RP5217). The County will pro-rate any current real property taxes which are owed on the property as of the closing date.

If the approved preferred buyer (including the Land Bank) fails to close on a property sale within the required period of time, only the County Legislature can grant an extension. There is no right to an extension.

If the approved preferred buyer fails to timely close on the property, any deposit made will be forfeited and the approved buyer may be held liable for any costs or expenses incurred by the County on re-sale of the property.

Sale and Conveyance of County owned surplus real property

County owned surplus real property which was not acquired by the "In Rem" delinquent tax lien foreclosure process will continue to be disposed of pursuant to provisions of County Local Law #2 of 1998, which authorizes the County Executive to sell and convey surplus real property owned by the County subject to County legislative approval.