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## *MVLC Presents*

# Protecting your client's interest in real property:

## Navigating in rem tax foreclosure and transfer of property after death

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DATE: SEPTEMBER 27, 2023

PRESENTER: HANNAH R. JAHN, ASSISTANT CITY ATTORNEY, MILWAUKEE CITY ATTORNEY'S OFFICE

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## In Rem Tax Foreclosure Intro

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- Definition - A judicial process in circuit court in which clear legal title to properties that are tax delinquent (usually after three years) is transferred to City or County ownership after the court issues a judgment determining that the tax was owed, proper notice was given, and the owner did not redeem.
    - Process: Wis. Stat. § 75.521
    - Property taxes are a lien on property and are not owed by the person in their personal capacity (unless the City has filed a suit for in personam judgment).
    - Property taxes and interest owed may not be reduced through negotiation or settlement.
    - Numbers from City of Milwaukee – 2/3 of properties included in the City's foreclosure petitions in 2022 and 2023 have been redeemed.
    - The purpose is collection.
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## Collection phases

- Year 0 – Tax Bill Issued in December
  - In Milwaukee, 10 interest-free installments
- Year 1 - City collection letters
  - Delinquent tax bill reminders sent February, April, June, August, and October
  - October – “Serious concern” letter notifying owner of collection activity
- Year 2 - Kohn Law Firm collection
  - Payment plan is an option – all delinquent taxes must be paid over a one-year period. The earlier the taxpayer starts the payment plan, the more time they will have to pay.
  - If current on the payment plan, property will not be foreclosed.

## Collection phases

- Year 3 – In rem petition filed in Circuit Court
  - Pre-foreclosure letter mailed two months before petition filed – see photo
  - Three petitions per year; filed in March, June, and August



### Office of the City Treasurer

City Hall, Room 122 • 230 East Wells Street • Milwaukee, Wisconsin 53202  
 Telephone: (414) 255-2202 • TTY: (414) 255-8025 • FAX: (414) 255-3158

February 23, 2023

Re: Taxkey Number:  
 Property Address:

Dear Taxpayer:

Your property, noted above, is tax delinquent and is scheduled to be included in the City's next in-rem tax foreclosure action.

Your current situation is that the outstanding 2020 delinquent taxes and the prior years' delinquent taxes on your tax delinquent account must be paid in full on or before **April 28, 2023** in order to avoid tax foreclosure. Failure to pay the outstanding delinquent property taxes will result in the City acquiring your property through a Milwaukee County Circuit Court foreclosure judgment procedure.

The amount due to avoid the tax foreclosure action is highlighted on the attached printout. Payment may be made by cashier's check, certified check, personal check, money order, draft or an on-line payment, or taken over the phone.

Any payments received after April 28, 2023 will be applied to the delinquent property taxes outstanding, but your tax delinquent property will not be removed from the tax foreclosure action.

Respectfully,

*Margarita Gutierrez*

MARGARITA GUTIERREZ  
 Tax Billing and Collection Manager  
 and Special Deputy City Treasurer

MG/om

Enclosure

AN ALTA STOCKHOLDERS' AGREEMENT BY OR BEHALF OF THE BOARD OF DIRECTORS OF THE CITY OF MILWAUKEE

## Case Procedure - Filing

- **Notice by certified mail and publication**
  - Notice to parties with recorded interest, per a title search.
  - Name of owner is not on CCAP.
  - Foreclosure is invalid if necessary persons or entities not notified.
  - Find property data
    - City Assessor Property Record Site
      - <https://assessments.milwaukee.gov/default.asp>
    - Milwaukee County Register of Deeds – Laredo (paid subscription)
    - City Treasurer Tax Payment Site – pre-foreclosure, only.
      - <https://milwaukee.muniselfservice.com/citizens/RealEstate/Default.aspx?mode=new>

Case 2023CV003162 Document 2 Filed 05-03-2023 Page 1 of 3

FILED  
05-03-2023  
Anna Maria Hodges  
Clerk of Circuit Court  
2023CV003162  
Honorable Thomas J.  
McAdams-07  
Branch 7

<u>STATE OF WISCONSIN</u>	<u>CIRCUIT COURT</u>	<u>MILWAUKEE COUNTY</u>
IN THE MATTER OF THE FORECLOSURE OF TAX LIENS PURSUANT TO SEC. 75.521, WISCONSIN STATUTES, BY THE CITY OF MILWAUKEE, A MUNICIPAL CORPORATION		PETITION Case No.
List of Tax Liens for 2023 No.2		CODE NO. 30405

## Case Procedure - deadlines

- **Statutory redemption period of 8 weeks**
  - Date included in publication
  - Payment in full
  - City allows payment up to day before judgment hearing date
- **Answer deadline – 30 days after redemption date**
  - Defenses – Wis. Stat. § 75.521(7)
  - City must remove the property for improper notice or due to a bankruptcy filing

**Wis. Stat. § 75.521(7)** RIGHT OF PERSON HAVING AN INTEREST IN OR LIEN UPON PARCELS DESCRIBED IN LIST OF TAX LIENS, TO ANSWER PETITION.

(a) Every person having any right, title or interest in or lien upon any parcel described in such list of tax liens, may serve a duly verified answer upon the county treasurer for such county, setting forth in detail, the nature and amount of that person's interest and objecting to the proposed foreclosure upon one or more of the following grounds only:

1. That the lands in which such person is interested, described in such list of tax liens, were not liable to taxation, special assessment, special charge or special tax at the time the tax, special assessment, special charge or special tax for the nonpayment of which the tax lien arises, was levied.
2. That the tax, special assessment, special charge or special tax for the nonpayment of which said tax lien arises, was in fact paid before the last day of the redemption period provided by law.
3. That the tax lien is barred by the statute of limitations.

## Case Procedure – Court Hearing

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- **Circuit court judgment hearing**
  - City sends notice of hearing.
  - Property owners may appear.
    - Hearings are in person, unless someone makes a special request for Zoom. Call judge’s clerk to set this up.
    - No statutory right to an extension; however, courts have discretion to adjourn judgment hearing.
  - Do not bring money to courthouse.
  - Do not wait until day of hearing to pay at the City Treasurer.
  - If given an extension, do not wait until next court date to pay.

## Case Procedure - Judgment

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- **Judgment**
  - Unlike mortgage foreclosure, the property is immediately transferred to the City or County and is not sent to public auction/sheriff’s sale.
  - All other liens are extinguished.
  - **Title transfer recorded with Register of Deeds**
  - **Department of City Development manages, lists, and sells**
  - City Real Estate

### Wis. Stat. § 75.521(8)

DUTY OF THE COURT TO ENTER JUDGMENT IN DEFAULT CASES. In the event of the failure to redeem or answer by any person having the right to redeem or answer as hereinabove provided, such person and all persons claiming under and through that person, from and after the date of the filing of the list of tax liens in the office of the clerk of the circuit court of the county, shall be forever barred and foreclosed of all right, title and interest and equity of redemption in and to the parcel described in such list of the tax liens...

## How to avoid foreclosure (pre-petition)

### MAKE PARTIAL PAYMENTS

- Do not give up if you cannot pay timely. Pay in partial payments.
- Pay earliest owed first.
  - Do not put instructions on your check as to which year to pay. If you have a prior year delinquent, you may include a separate note asking the treasurer to apply your payment to the delinquent tax first.
  - *Escrow checks will be applied in full to the current taxes due and then to any delinquent taxes payable on your account.*
- Pay first year owed upon receipt of pre-foreclosure letter

### AVOID EXTRA CHARGES ON YOUR TAX BILL

- Property taxes
- Delinquent City Services charges like unpaid water and sewer bills
- Reinspection fees from DNS
- Interest accrues at 18% per year and is not indicated on your bill.
- Check for unpaid taxes when you buy or inherit property
  - If you purchased the property through a quit-claim deed, any liens on the property at the time of sale, owed by the prior owner, will still be attached to the land.
  - When purchasing property, it is best to have a title company do a title search.
  - Contact the City of Milwaukee or County of Milwaukee to ask about property tax status. Record the deed and be sure the City and County have your mailing address immediately.
  - Check CCAP for judgments against the former owner. If those judgments were docketed, they are liens against the property you are purchasing.

## Resources pre-foreclosure

### PREVENT DNS FEES FOR CODE VIOLATIONS

- [Compliance Loan Program](#)
- [STRONG Homes Loan Program](#)
- [Vacant Building Registration](#)

APPLY FOR WISCONSIN HELP FOR HOMEOWNERS GRANT ONLINE OR THROUGH SDC  
[Wisconsin Help for Homeowners](#)

SET UP ELECTRONIC FUNDS TRANSFER  
[With City Treasurer](#)

### NONPROFIT CREDIT COUNSELING AGENCIES – GENERAL FINANCIAL COUNSELING

- [Consumer Credit Counseling Service](#)
- [GreenPath, Inc.](#)
- [Housing Resources, Inc. \(HRI\)](#)
- [Metropolitan Milwaukee Fair Housing Council](#)
- [Take Root Milwaukee](#)
  - **Habitat for Humanity** – \$3000 maximum payment for delinquent taxes
    - Trina Vanderveer [tvanderveer@milwaukeehabitat.org](mailto:tvanderveer@milwaukeehabitat.org) 414-316-5604
  - No website to link, but verified program exists on 9/25/23

## Resources pre-foreclosure, cont.

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### REDUCE EXPENSES BY APPLYING FOR INCOME TAX CREDITS

1. School Property Tax Credit for Owner-Occupants
  - a) Claim the credit by filling in the section labeled "School Property Tax Credit" on your state income tax return. For individuals earning income that requires them to file a state income tax return.
2. Veterans and Surviving Spouses Property Tax Credits
  - a) Covers amount of property tax bill.
  - b) For eligibility, check out your local veterans service office. [Milwaukee County](#)
3. Homestead Income Tax Credit
  - a) For households earning less than \$24,680 for the income tax year and meet other conditions.
  - b) Apply when filling out income tax return.

## What to do if you think your property assessment is too high

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- First, property is assessed at fair market value, or the price it would likely receive in an arm's-length transaction between a seller who is willing but not obligated to sell and buyer who is willing but not obligated to buy. The probable sale price is estimated using recent, arm's-length sale of similar property in the neighborhood. Recently, the City of Milwaukee has revalued properties in 2020, 2022, and will be revaluing in 2024.
- It is too late to challenge your assessment after you receive your tax bill.
- If you redeem your property, your next opportunity to object to your assessment is the following year.
- You will receive notice of assessment in April in City of Milwaukee. Objections are due the third Monday in May.

## What can the client do once the foreclosure process has started, if the client owns the property?

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- **Check for proper notice**
- **Apply for help with Wisconsin Help for Homeowners**
  - You must be the owner
  - Must be owner-occupied residence
  - Cannot apply after judgment (vacate process)
  - Cannot have received WHH benefits for another property already.
- **Sell property or obtain a loan**
- **Consult with an attorney regarding Chapter 13 bankruptcy**
  - Pros – halts foreclosure and may last up to 5 years
  - Cons
    - Attorney fee ~ \$3500
    - Interest still accrues at 12%
    - May not be affordable
    - Must continue to pay current bills
    - If the bankruptcy is dismissed, the owner ends up in same or worse financial position.
- **Appear at court to ask for extension**
  - Notify the court of the situation such as:
    - payment to be made in the near future,
    - probate issues,
    - pending sale of the property,
    - Pending receipt of grant or loan.
  - Typically, 30 day extension
  - No payment plans accepted

## FAQ: What can client do once foreclosure process is underway if client is a tenant in the property?

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- Continue paying rent to landlord until City acquires property
- If property is foreclosed, Department of City Development may sign a lease with you.
- Department of City Development may consider selling the property to you. Contact DCD or your local alderperson.

## FAQ: What can client do if foreclosure process is underway, and client lives in property but it is titled in a deceased parent's name?

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- MVLC will be doing some in-depth property transfer and estate planning trainings in the next two sessions. Please stay tuned!
- Anyone may pay the taxes to redeem the property and allow time for transfer to the heir.
  
- Be sure the mailing address (if different from the property address) is up to date with the Treasurer.
  - Change your mailing address with the City Treasurer (will not change ownership of property):
    - <https://city.milwaukee.gov/Information-and-Services/Address>
  
- Determine whether probate is necessary.
  - Open a probate case before the default judgment hearing if the property value exceeds \$50,000.
  - Transfer the property through a Transfer by Affidavit if probate is not required.
  - (Transfer allows the new owner to access right to sell, apply for a loan, apply for a grant, receive all notices, but will not halt in rem foreclosure.)

## FAQ: What are some other resources to help individuals navigating tax foreclosure?

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### **Wisconsin Help for Homeowners** - Apply online or through SDC

- Up to \$10,000 as a grant to pay for tax bills, mortgage debt, or utilities.
- Up to \$40,000 as an interest-free, forgivable loan, forgiven after one year if the person does not sell, transfer, or refinance.
- Eligibility criteria apply.

**Milwaukee Habitat for Humanity** – grant capped at \$3000



## Options for after entry of judgment of foreclosure

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- Application to Vacate - City of Milwaukee - MCO 304-50
  - Deadline is 90 days from judgment
  - New expansion of right to apply for heirs
  - Nonrefundable application fee of \$1,670
  - Must pay all taxes, fees, penalties, and interest, as well as any other debt owed to City departments, and any outstanding taxes owed on other properties in the City.
  - Takeaway: costly, but allows more time to redeem property.
- Request surplus proceeds (if any) under Wis. Stat. § 75.36.
  - New state law provides right to surplus proceeds if the property sold for a surplus and if City or County can locate former owner within 5 years of foreclosure.
  - *Tyler v. Hennepin County* – SCOTUS
- City Ordinance prohibits sale of property to people who were tax delinquent or whose property was foreclosed. MCO 304-49-9.

## Contact Information

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Presenter: Assistant City Attorney Hannah R. Jahn, Milwaukee City Attorney's Office

- 414-286-5975
- [hjahn@Milwaukee.gov](mailto:hjahn@Milwaukee.gov)

City of Milwaukee Treasurer – Tax Enforcement Division

- 414-286-2260

Milwaukee County Treasurer (Suburban Municipalities)

- [Website link](#)
- 414-278-4033