

## **Jefferson County, Wisconsin Real Estate Tax Foreclosure Policy**

### **Definition**

The legal process by which ownership interest in real property is terminated due to delinquent property tax payments. This process typically results in the sale of the property by competitive bidding, public auction or other methods allowed by law which are determined to be in the best interests of the County, with the proceeds being applied to the delinquent property taxes and interest.

### **Policy**

This policy provides guidance to Administration and staff on dealing with the various issues related to tax foreclosures, such as setting minimum bids, allowing the repurchase of land by former owners and the eviction process.

### **Procedure**

The Treasurer will send out a letter to the property owner that the County is starting the process of foreclosing on the property.

The first step in the foreclosure process is to establish a list of properties that meet the criteria for foreclosure. Properties are able to be foreclosed on after 2 years of being tax delinquent. For example, if the Treasurer issues a tax certificate for the 2016 delinquent taxes on September 1, 2017, then delinquent taxes from 2014 or earlier would be subject to a tax foreclosure action. (s. 75.20, Wis. Stats.) (Tax certificates shall be void 11 years following December 31<sup>st</sup> of the year in which such certificates were dated.) (s. 75.521 (3)(a)4, Wis. Stats.)

Administration will determine if there are any properties that should not be foreclosed on. For example, if the property owner is making payments that are greater than the amount of delinquent taxes and interest each year, a decision not to commence a foreclosure action on that property may be appropriate.

Administration will send a listing to the municipalities where the properties are located informing them that the County is starting the foreclosure process and requesting that they inform the county of any issues with the property. (i.e. zoning issues, environmental issues, bankruptcy etc.)

Administration will send a listing of the properties to the title company to conduct a title search.

Administration will conduct a search to determine if any properties are the subject of a bankruptcy petition. If any property is the subject of a bankruptcy petition, the county is stayed from proceeding on the foreclosure until the bankruptcy petition is dismissed or the property owner is granted a discharge.

### Commence Legal Action Pursuant to § 75.521, Wis. Stats.:

After the title search is completed and the title letters are received from the title company, a petition, notice and list of delinquent tax parcels is drafted and filed with the Clerk of Courts. These 3 documents are published as a class 3 notice in the County's official newspaper and are sent out by certified mail with return receipt requested to property owners and all lien holders.

The property owner has eight weeks from the first publication of the notice to redeem the property by paying the delinquent taxes and interest for the delinquent tax years. If full payment is received, a redemption certificate is filed with the Clerk of Courts.

After the redemption date has expired, any person having any right, title or interest in or lien upon the property may serve an answer (such as disputing the foreclosure) to the Treasurer, which has to be filed with the Clerk of Courts within 30 days.

If there is an answer, Corporation Counsel will appear in court and represent the County's interests.

If there is no answer, an affidavit of default and judgement are filed with the Clerk of Courts, recorded with the Register of Deeds and sent to the Finance Director for sending notice to municipal clerks informing them of the tax exempt status of the properties.

On a foreclosed property, notices will be sent out to the occupants for payment of rent to be sent to the County in the future. A determination will need to be made on how much rent should be paid. Anyone living on the property when the county takes title will be given a 5 day notice to pay rent and expenses (gas, water, sewer etc.) and enter into a month to month rental agreement to continue to pay rent and expenses, as well as to perform general maintenance on the property (snow removal, lawn care, etc.) or vacate the premises. If the tenants agree to pay rent and continue to reside on the property, the property will be advertised as tenant occupied and inform prospective purchasers they could have a rental unit with tenants, or upon request of the prospective purchaser, the county will commence eviction proceedings.

If requested by the former property owner, the Finance Committee may allow the repurchase of the foreclosed property by the former property owner by payment of (1) all delinquent taxes together with interest thereon to the date of payment; (2) specific costs attributable to the property including special assessments, interest and foreclosure costs; and (3) an additional sum equal to 125 percent of the foregoing year's taxes. (Ordinance 2002-12).

The Finance Committee may offer sale of the land to the municipality where the foreclosed property is located, at the cost of the delinquent taxes and interest. If any property is sold to the municipality, it shall be approved by County Board action. Notice may be given to any other state and local agencies that may be interested in the property.

Administration will place the property for sale by publication of a Class 3 notice under Chapter 985 Wis. Stats.(Wis. Stat. s. 75.69) at a minimum bid of the property's appraised

value which the Finance Committee has determined will be equal to the estimated fair market value of the property as indicated in the official property record maintained by the Jefferson County Treasurer. (Resolution No. 2002-16).

If the property does not sell at a minimum bid of the appraised value, administration will place the property for sale at a minimum bid of the total delinquent taxes and interest for no less than 20 days which will include publication of a Class 1 notice under Chapter 985 Wis. Stats. (Wis. Stat. s. 75.69). If the minimum bid is less than the appraised value, the Finance Committee must approve the sale. (Wis. Stat. s. 75.69)

If the property does not sell at the minimum of the total delinquent taxes and interest, administration will place the property for sale at a minimum bid of the total delinquent taxes for no less than 20 days using any method of advertising deemed appropriate for that particular parcel of property.

If the property does not sell for an amount equal to or greater than the delinquent taxes, administration will bring forward to the Finance Committee for discussion on how to dispose of the property.

Administration has the authority to accept bids following the guidelines in this policy.

If due to the condition of the property or other circumstances affecting property value, receiving a minimum bid equal to or greater than the established fair market value is unlikely, the Finance Committee may determine the appraised value using such other information as the Committee has available. (Resolution No. 2002-16).

Exceptions to this policy may be made on a case by case basis by the Finance Committee provided that any exception is in compliance with Wisconsin Law.

Methods of selling and advertising tax delinquent properties shall be as required by state law. Other methods of selling and advertising tax delinquent properties shall be at the discretion of Administration which may include, but are not limited to, placing a "For Sale" sign on the property, notifying adjoining landowners that the property is for sale, listing on the Wisconsin Surplus website and using the services of a real estate agent.

Jefferson County reserves the right to reject any bid or refuse to sell any tax delinquent parcel of property to anyone who has delinquent real estate taxes owing to Jefferson County or who has any ownership interest in a company or corporation that has delinquent real estate taxes owing to Jefferson County.

The attached *Procedure for Foreclosing and Selling Tax Delinquent Properties* may be used as a guide for County staff for the disposition of tax foreclosure properties.

## **Administration**

This policy is for use in guiding financing decisions of the County, and can be interpreted by the Finance Committee as part of overall discussions related to foreclosed properties. It is

administered by the Finance Committee in conjunction with the County's other fiscal policies. It may be amended or revised from time to time as determined by the Finance Committee.

## Procedure for Foreclosing and Selling Tax Delinquent Properties

- 1) The Treasurer will send out a letter to the property owners notifying them that the County is starting the process of foreclosing on their property and will forward a list of tax foreclosure properties to the Corporation Counsel Office and request that foreclosure proceedings commence – August 15<sup>th</sup>
- 2) Corporation Counsel Office completes review of properties and makes a determination on what properties the County should commence a foreclosure action on – September 1<sup>st</sup>
- 3) Corporation Counsel Office commences legal action on all properties determined to be appropriate for tax foreclosure. This requires a Class 3 notice to be published in the County's official newspaper with copies sent by certified mail with return receipt requested to property owners and all lien holders - October 1<sup>st</sup>
- 4) The Sheriff personally serves owners of occupied properties who have not responded to the foreclosure action copies of the petition for foreclosure and related documents and directs them to contact the Corporation Counsel Office – November 1<sup>st</sup>
- 5) Property owners have eight weeks from the first publication of the notice to redeem the property by paying the delinquent taxes and interest for the delinquent tax years. If full payment is received, a redemption certificate is filed with the Clerk of Courts and the case is dismissed – redemption period ends on November 26<sup>th</sup>
- 6) After the redemption period expires, any person having any right, title or interest in or lien upon the property may serve an answer (such as disputing the foreclosure) to the Treasurer, which has to be filed with the Clerk of Courts within 30 days – an answer must be served on the County on or before December 26<sup>th</sup>
- 7) If no answer is received, the County submits a default judgment to the Court and files with the Clerk of Courts – December 27<sup>th</sup>
- 8) County notifies all former owners who are living in the foreclosed properties that they will need to either leave or start paying rent – January 7<sup>th</sup>

- 9) The property will be published for sale at a minimum bid of the property's assessed value for no less than 20 days – February 1<sup>st</sup>
- 10) If the property does not sell at a minimum bid of the estimated fair market value, the property will be published for sale at a minimum of the total delinquent taxes and interest for no less than 20 days – March 1<sup>st</sup>
- 11) If the property does not sell at the minimum of the total delinquent taxes and interest, the property will be published for sale at a minimum of the delinquent taxes for no less than 20 days – April 1<sup>st</sup>
- 12) If the County has an acceptable bid for the property, the former owners will be notified that they need to vacate the property – May 1<sup>st</sup>
- 13) If the former owners have not vacated the property, the Sheriff will serve them with the notification to vacate and inform them that they have 10 days to vacate the property – June 1<sup>st</sup>
- 14) Former owners contact the Corporation Counsel Office stating that they were not aware of the foreclosure action until they were personally served with the notification to vacate by the Sheriff – June 2<sup>nd</sup>
- 15) Former owners request the Finance Committee to grant them permission to repurchase the foreclosed property and the Finance Committee allows 30 to 60 days to repurchase – June 11<sup>th</sup>
- 16) Former owner repurchases property – on or before August 11<sup>th</sup>

Policy Approved by the Finance Committee on November 5, 2020