



# Informational Guideline Release

Bureau of Municipal Finance Law  
Informational Guideline Release (IGR) No. 21-22  
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## **LAND OF LOW VALUE POST AFFIDAVIT PROCESS AND DEEDS IN LIEU OF FORECLOSURE**

**(G.L. c. 60, § 79; G.L. c. 60, § 77C)**

This Informational Guideline Release (IGR) informs local officials of the administrative foreclosure process following the receipt of a Commissioner of Revenue's affidavit pursuant to a Land of Low Value tax title foreclosure application and how communities may accept title from the owners of properties on which there are municipal liens as an alternative to tax taking and foreclosure proceedings.

### Topical Index Key:

Administrative Foreclosure  
Taxes

### Distribution:

Assessors  
Collectors  
Treasurers

**LAND OF LOW VALUE POST AFFIDAVIT PROCESS AND  
DEEDS IN LIEU OF FORECLOSURE**

**(G.L. c. 60, § 79; G.L. c. 60, § 77C)**

**SUMMARY:**

Communities sometimes find that tax bills for small, undesirable parcels of land go unpaid for various reasons. The normal foreclosure process for taking ownership of a parcel for nonpayment of taxes is long, complex and expensive. The Land of Low Value foreclosure procedure is an alternative to seeking a foreclosure decree from Land Court under [G.L. c. 60, § 79](#).

This Informational Guideline Release (IGR) informs local officials of the administrative foreclosure process required after receipt of a Commissioner of Revenue's affidavit pursuant to the Land of Low Value tax title foreclosure application. For more information concerning the Land of Low Value application and Commissioner of Revenue's affidavit, please see the Division of Local Services' [guidance](#). Additionally, this IGR describes when communities may accept title from the owners of properties on which there are municipal liens as an alternative to tax taking and foreclosure proceedings using the deed in lieu of foreclosure process.

**GUIDELINES:**

**I. LAND OF LOW VALUE ADMINISTRATIVE FORECLOSURE PROCESS**

**A. Recording**

Commissioner of Revenue's affidavit for each parcel and the application statement (which is deemed to be incorporated into the affidavit in full) must be recorded before any parcel can be sold.

**B. Public Auction**

The treasurer may sell all included parcels at public auction, severally or together, to the highest bidder. The auction can only be held after a newspaper advertisement and public posting in at least one place at least 14 days before the auction and with notice of the time and place of the same. The advertisement and public notice should also lay out the rules of the sale and requirements of any interested parties. It is also recommended to place an announcement with a local newspaper explaining the process separate from the legal ad.

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**KENNETH WOODLAND, CHIEF**

**C. Amount Received**

A minimum bid should be set on each parcel to be sold to ensure the city or town recovers all outstanding amounts owed. To that end, the treasurer may reject any bid which is deemed inadequate. Should an adequate bid be received, the treasurer must subsequently record the deed to the accepted bidder within 15 days after the execution of the deed (or 60 days after the auction if the deed is to the municipality, as described below). The expense of such recording must be paid by such purchaser.

The person who purchases the land must pay the treasurer within 10 days or the sale is void and the city or town is deemed to be the purchaser of the land. If the city or town becomes the purchaser, the treasurer must execute a deed to it and must include the fact that no bid or no bid deemed adequate was made at the sale or that the purchaser failed to pay. The treasurer subsequently records such a deed within 60 days.

If there is no bid or no bid deemed adequate at the first auction, and if the auction has been adjourned and held again one or more times, the treasurer then and there must make a public declaration of that fact and if no bid or adequate bid is made the treasurer must give public notice that they are purchasing the parcel(s) for the city or town.

If the amount received is more than the taxes, interest and applicable charges, the balance must be deposited with the treasurer. The balance must be paid to the person entitled if demanded within five years. Otherwise the balance is kept by the city or town.

A \$50.00 legal fee for the proceedings must be added to the applicable tax title account of the land being sold at auction and must be included in an amount due for redemption should the redemption be made prior to the sale. Payments must be in the form of cash or certified check.

**D. Redemption**

The treasurer should serve the notice of the sale to the assessed owner(s). Upon receipt of the service of the notice and the subsequent failure to redeem or bring proceedings, the prior owner cannot redeem after foreclosure by a land of low value sale. [G.L. c. 60, § 80A](#). A statement of the same should be contained in the treasurer's deed.

Any challenge to land sold and recorded pursuant to [G.L. c. 60, § 79](#) or [G.L. c. 60, § 80](#) must be brought within 20 years. All title defects are cleared after 20 years.

**E. Procedure Following City or Town Purchase**

Assessors are to remove the parcel from the tax roll beginning in the fiscal year after the title is transferred to the municipality.

Any taxes inadvertently assessed for the fiscal year or any municipal charges billed after the title is transferred to the municipality should be certified by the collector or billing department to the treasurer and accounting officer and transferred to the tax possession account pending a final disposition of the property.

## **II. LAND OF LOW VALUE RECOMMENDED BEST PRACTICES**

### **A. Recording**

The registry of deeds should require the Land of Low Value application statements to be filed with the Commissioner of Revenue's affidavit, into which it is deemed to be incorporated. Additionally, the registry of deeds may charge per application.

### **B. Title**

[G.L. c. 60, § 79](#) and [G.L. c. 60, § 80](#) state that title received pursuant to those statutes is absolute upon a timely recording in the proper registry of deeds. Title can additionally be established by the purchaser pursuant to [G.L. c. 60, § 80B](#). Town counsel or a tax title attorney may desire to explain the type of title being conveyed at the start of the auction and the treasurer may wish to inform purchasers and potential purchasers about any other relevant information concerning title.

### **C. Mailing and Registration Ahead of Auction Sale**

In addition to the service of the notice of sale, mentioned above, sent to the assessed owners of the parcel, treasurers should consider sending notice of the sale to abutters who often times are purchasers of such land. Although not statutorily required, such notice should be sent several weeks in advance of the sale.

Additionally, the treasurer should consider requiring any person who wishes to attend the auction to register ahead of time unless walk-in bidders will be permitted. This will assist the treasurer in planning logistics for the auction.

Persons who register ahead of time may also be required to make a deposit. This may limit the overall number of bidders and encourage only serious participants. Deposits and final payments must be in the form of cash or certified check.

### **D. Auctioneer**

There is no prohibition against hiring an auctioneer to conduct the auction with the costs of such being charged to the land being sold. The auctioneer may conduct the auction in accordance with their own rules and procedures, but only to the extent consistent with auction rules set by the Treasurer.

### **E. Set Out Rules of the Auction**

The treasurer should consider publishing auction rules, rules of conduct and a description of the process and give a copy of the same to auction attendees. This could include: how many parcels are available for sale, a short description of the same, the order in which the parcels will be sold, whether a deposit is required to participate in the auction, how to get such a deposit back following the auction, whether such a deposit will be charged against any winning bids, how to use a placard and how a winning bid is determined, how and

when bids are counted, the number of bids allowed if any, the minimum increment of a subsequent bid and acceptable bid amounts are round hundred dollar figures. A police detail may also be considered.

The auction rules, rules of conduct and a description of the process should be reviewed once the auction is called to order. Additionally, another person may be required to assist during the auction to record the bids and other relevant details.

**F. Minimum Bid**

Whether the auction is being conducted by an auctioneer or the treasurer, a minimum bid should be set on each parcel sold to ensure the city or town recovers all outstanding amounts owed.

It may also be beneficial to inform bidders that the minimum bid includes taxes, interest, the \$50.00 legal cost mentioned above, any auction costs and the cost for the recording of the deed.

**G. Bidders and Agents**

The person bidding, and, if required, registered for the auction, is the person who should get the deed. The treasurer should decide ahead of the auction whether or not they will allow agents to bid on behalf of another.

Employees and elected officials of the city or town should be approved by counsel before participating in an auction.

**H. Attachments**

ATTACHMENT 1 Sample Owner Letter (certified mail)  
ATTACHMENT 2 Sample Abutter Letter  
ATTACHMENT 3 Sample Ad/Legal Notice  
ATTACHMENT 4 Sample Minimum Bid Form (Alternate Method)  
ATTACHMENT 5 Sample Bidder Registration Form  
ATTACHMENT 6 Sample Settlement Form

**I. Timeline**

The successful implementation of the post affidavit land of low value land sale process may take at least six to eight weeks.

**III. DEED IN LIEU OF FORECLOSURE**

Communities may accept title from the owners of properties on which there are municipal liens as an alternative to tax taking and foreclosure proceedings. Properties accepted under this option are then treated as if a tax title foreclosure has been completed. [G.L. c. 60, § 77C.](#)

**A. Title Acceptance**

Acceptance of title to the parcel is by majority vote of the municipal legislative body, i.e., town meeting or town/city council. The vote should specifically state that the acceptance is under [G.L. c. 60, § 77C](#).

**B. Eligible Property**

Liens for outstanding real estate taxes or other municipal liens must exist on the parcel at the time title is accepted, but the parcel does not have to be in tax title.

Title to the parcel may be accepted, however, subject only to municipal liens. This means that all other liens or encumbrances, such as mortgages, mechanics or other liens, will ordinarily have to be cleared before the municipality may accept the deed. Alternatively, the deed may be accepted if all mortgagees, lien holders and others with interests in the parcel convey their interests to the municipality.

To protect the municipality, all parties with interests in the parcel will have to be identified and, therefore, a title examination may be required. Municipal counsel should be consulted regarding any proposed transaction.

Municipalities should adopt policies regarding the circumstances under which they will accept title to a parcel.

Acceptance should generally be limited to parcels with a current fair cash value of at least the amount owed unless a parcel is being acquired for a public use or enforcement of personal liability against the assessed owner is unlikely or impossible. The assessed owner of a parcel that is worth less than the amount outstanding will otherwise realize a windfall since acceptance discharges the owner from personal liability and the municipality cannot recover any deficiency as would be the case after an ordinary tax title foreclosure.

**C. Joint Grantors**

All persons or entities with interests in the property must act jointly as grantors to the municipality under the deed.

**D. “Foreclosure” Procedure**

Procedures should be established to immediately record the deed and promptly notify the assessors, collector, treasurer and accounting officer so that the “foreclosure by deed” process may be completed. Departments that bill for services, such as water or sewer, should also be notified of the change in ownership.

Assessors are to remove the parcel from the tax roll beginning in the fiscal year after the title is transferred to the municipality.

All municipal taxes and charges outstanding as of the date the deed is recorded are deemed paid in full at that time. This includes the full amount of taxes assessed for the current fiscal year, as well as all accrued interest and collection costs, owed as of that date.

After title is transferred to the municipality, any taxes inadvertently assessed for the fiscal year or any municipal charges billed should be certified by the collector or billing department to the treasurer and accounting officer and transferred to the tax possession account pending a final disposition of the property.

**E. Parcel Disposition**

The property may be converted to municipal use or transferred for private use. Any transfer to a third party is governed by the same requirements that apply to the disposition of parcels acquired by tax title foreclosure in land court. The property may be sold (1) at a public auction by the tax possession custodian appointed by the selectmen or mayor, [G.L. c. 60, § 77B](#), or (2) under any other procedure authorized by law for the disposition of municipal property. [G.L. c. 40, § 3](#) and [G.L. c. 30B](#). If not auctioned by the tax possession custodian, the disposition must comply with the Uniform Procurement Act.

Grantors are permanently barred from reacquiring any interest in the parcel from the municipality.

## ATTACHMENT 1 Sample Owner Letter

DATE

NAME

ADDRESS

Dear Property Owner:

Please be advised that on DATE, your property located at ADDRESS, being parcel \_\_\_\_\_, will be auctioned by the City/Town of \_\_\_\_\_ pursuant to Massachusetts General Laws Chapter 60, §79, Land of Low Value: Sales Without Foreclosures. To prevent this action, the delinquent real estate taxes in the amount of \$\_\_\_\_\_, must be received by **TIME** on **DATE**. Payment must be in the form of cash, bank check or money order, personal checks will **not** be accepted.

Should you have any questions pertaining to this matter, please contact this office at \_\_\_\_\_ prior to the auction date. All sales at auction are final and absolute.

Cordially,

NAME

Treasurer Collector



**ATTACHMENT 2 Sample Abutter Letter**

**CITY/TOWN OF \_\_\_\_\_  
OFFICE OF THE TREASURER COLLECTOR**

DATE

NAME  
ADDRESS

Dear Property Owner:

Please be advised that you are a direct abutter of a parcel of land being auctioned by the City/Town of \_\_\_\_\_ pursuant to Massachusetts General Laws Chapter 60, §79, Land of Low Value: Sales Without Foreclosures. The auction is scheduled for DATE and LOCATION. The parcel to be auctioned is parcel \_\_\_\_\_ on the City/Town Assessors' maps. A map denoting the parcel for sale has been attached to this letter for your convenience. Should you desire more information pertaining to the parcel, it is recommended that you visit the Assessors' Office at Town Hall or the online property assessment and GIS databases at WEBSITE.

If you are interested in purchasing the parcel at the auction, you would need to pre-register on DATE at the Treasurer's Office at Town Hall from TIME. You will need to provide photo identification and a \_\_\_\_\_ deposit in cash, money order or certified check per parcel upon which you wish to offer a bid. Should you be the highest bidder, and your bid is deemed adequate, you will be required to pay the balance of the purchase price within ten (10) days by cash, certified check or money order. Personal checks will not be accepted.

Should you have any questions pertaining to this matter, please contact this office at \_\_\_\_\_ prior to the auction date.

Cordially,

NAME  
Treasurer Collector

### ATTACHMENT 3 Sample Ad/Legal Notice

LEGAL NOTICE  
CITY/TOWN OF \_\_\_\_\_  
OFFICE OF THE TREASURER

SALE OF LOW VALUE PARCELS  
M.G.L. CHAPTER 60, SECTION 79

Date and Time  
TOWN HALL  
Location

Notice is hereby given that on Date and Time at Location, pursuant to the provisions of General Laws, Chapter 60, Section 79, Name, the Treasurer for the City/Town of \_\_\_\_\_, intends to sell the hereinafter described parcels of land at public auction, said sale having been approved by the Commissioner of Revenue for the Commonwealth of Massachusetts pursuant to M.G.L., Chapter 60, Section 79.

Parcel No. 1 5,000 SF of land, more or less, situated on CANAL STREET and shown as Map M04, Block 03, Lot 07 on the City/Town Assessors' map. Tax taking is dated DATE and recorded with the \_\_\_\_\_ County Registry of Deeds at Book 15967, Page 271. Assessed owner: NAME.

Parcel No. 2 5,000 SF of land, more or less, situated on CANAL STREET and shown as Map M04, Block 03, Lot 10 on the City/Town Assessors' map. Tax taking is dated DATE and recorded with the \_\_\_\_\_ County Registry of Deeds at Book 15967, Page 272. Assessed owner: NAME.

Sale will be made to the highest bidder at an open and competitive auction; however, the Treasurer may reject any and all bids at the sale or any adjournment thereof which the treasurer, in their sole discretion, deems inadequate. The highest bidder on a parcel will be required to make a deposit of \$500 on the day of the auction. This deposit must be in the form of cash, certified check, money order or bank check. No personal checks will be accepted. The remainder of the purchase price must be paid within ten (10) days by cash, certified check, money order or bank check. Failure to pay the remainder of the purchase price within ten (10) days will result in the forfeiture of your deposit to the City/Town of \_\_\_\_\_.

If you wish to obtain further information about any parcel listed, you are encouraged to examine the maps and records at the City/Town Assessors' Office. The auction sale may be subject to additional terms and conditions.

Name  
Treasurer Collector

## ATTACHMENT 4 Sample Minimum Bid Form

Parcel ID: \_\_\_\_\_

Parcel Location: \_\_\_\_\_

Tax Title Balance \_\_\_\_\_

Tax Title Interest \_\_\_\_\_

Tax Title Fees \_\_\_\_\_

Tax Title Sub-Total \_\_\_\_\_

Statutory Legal Fee \_\_\_\_\_ \$50.00

Proportionate Auction Costs: \_\_\_\_\_

**Minimum Acceptable** \_\_\_\_\_  
**Bid:** \_\_\_\_\_

### ATTACHMENT 5 Sample Bidder Registration Form

Placard #			Parcel ID:			
<b>Bidder Information</b>						
Name:						
Address:						
Mailing (if different)						
Are you currently employed by the City/Town of					?	
					Yes or No	
Are you a current or past elected official of the City/Town of					?	
					Yes or No	
Were you employed by the City/Town of					in the last 12 months?	
					Yes or No	
If answer to either question is yes, in what department?						
Are you bidding on behalf of a past or present City/Town of					employee/official?	
					Yes or No	
Are you an abutter of the parcel you are seeking to purchase?						
					Yes or No	
I certify that the above information is correct and that I understand that if I am the successful bidder, my \$XX.XX deposit will be non-refundable if I do not pay the the balance of the purchase price within 10 calendar days.						
<i>Signature</i>						
<b>Deposit Information</b>						
Amount:			Cash	Money Order	Bank Check	
			Circle one			
<b>Auction Results</b>						
	Deposit Returned					
			Bidder's Signature for Return of Deposit			
	<i>or</i>					
	Deposit Retained as Downpayment, Balance Due					
					\$	

**ATTACHMENT 6 Sample Settlement Form**

Parcel ID: \_\_\_\_\_  
Parcel Location: \_\_\_\_\_

Bidder's Name: \_\_\_\_\_  
Bidder's Address: \_\_\_\_\_  
\_\_\_\_\_

Bid Amount: \_\_\_\_\_  
Deed Recording Fee: \_\_\_\_\_  
Deed Prep Fee: \_\_\_\_\_  
Current Year Taxes \_\_\_\_\_

Sub-Total \_\_\_\_\_  
\_\_\_\_\_

*less* Deposit \_\_\_\_\_

**Balance Due by** \_\_\_\_\_  
**XX/XX/XX** \_\_\_\_\_  
\_\_\_\_\_

Bidder's Signature(s) \_\_\_\_\_  
\_\_\_\_\_

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*Internal Use:*

Winning Bid Amount: \_\_\_\_\_  
Outstanding Tax \_\_\_\_\_  
Amount \_\_\_\_\_

Difference Due Owner: \_\_\_\_\_  
\_\_\_\_\_