

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
LINDA ULISS BURKE
VINCENT D. MOSCHELLA
Deputy City Attorneys



THOMAS O. GARTNER
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
SUSAN E. LAPPEN
JAN A. SMOKOWICZ
PATRICIA A. FRICKER
HEIDI WICK SPOERL
KURT A. BEHLING
GREGG C. HAGOPIAN
ELLEN H. TANGEN
MELANIE R. SWANK
JAY A. UNORA
DONALD L. SCHRIEFER
EDWARD M. EHRlich
LEONARD A. TOKUS
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
KATHRYN Z. BLOCK
ELOISA DE LEÓN
ADAM B. STEPHENS
KEVIN P. SULLIVAN
THOMAS D. MILLER
JARELY M. RUIZ
ROBIN A. PEDERSON
CHRISTINE M. QUINN
MARGARET C. DAUN
JEREMY R. MCKENZIE
MARY L. SCHANNING
PETER J. BLOCK
NICHOLAS P. DESIATO
Assistant City Attorneys

December 10, 2012

Mr. Spencer Coggs
City Treasurer
City of Milwaukee
200 East Wells Street, Room 103
Milwaukee, WI 53221

Re: Internal Protocol, Vacant or Abandoned Residential Parcels

Dear Mr. Coggs:

Introduction

We received your November 27, 2012 letter asking about Common Council Resolution File No. 100862, expedited property-tax foreclosure (or “fast-tracking”), and the internal protocol developed under Common Council Resolution File No. 030680. With your letter, you sent to us the current protocol form for fast-tracking¹.

Your Questions & Our Brief Answers

In your letter, you asked the following questions.

1. *“How can our two offices move forward in assuring compliance with CCFN 100862, while not violating the constitutional mandate and placing the City’s in rem foreclosure process at risk?”*

Brief Answer. Follow the protocol, and use the protocol form, thereby documenting an articulated rational basis for expedited tax foreclosure (fast-tracking).

2. *“Should the current Internal Protocol/Questionnaire for Community Improvement In Rem Foreclosure Actions . . . be modified to include the factors listed in CCFN 100862 that may be considered as evidence of abandonment? Or should a new,*

¹ The current protocol form says “Doc. No. 78183 – Revised 05/17/2011.” While the “78183” refers to a document from our office, our office did not revise the form in 2011.

shorter protocol form be created that specifically addresses only abandoned tax delinquent parcels?"

Brief Answer. As explained below, we believe the current protocol form would have been broad enough to address vacant or abandoned residential parcels for fast-tracking, but, to respect the legislative direction of each of Resolutions 091517 and 100862 calling for modification of the form, we **attach** a modified protocol form to specifically address vacant or abandoned residential properties. See form §4.A. The **attached** form is in "redline" (tracked changes) form so you can see the changes we made.

Background

To provide context and background, please be aware of the following Council resolutions and 2003 City Attorney opinion.

1. **February 10, 2003 City Attorney Opinion to City Treasurer.** Our office opined that "so long as the City can articulate a solid, rational basis for fast-tracking certain parcels for in rem foreclosure, we can defend that under an attempted Uniformity-Clause attack" under Wisconsin Constitution Art. VIII, §1.
2. **Resolution 030680, adopted September 23, 2003.** Resolution 030680 relied on the above 2003 City Attorney opinion, and directed the City Attorney to establish, with assistance from City departments, a protocol for fast-tracking tax-delinquent parcels "to achieve community improvement and other benefits in the City's interests," like blight elimination, nuisance elimination, and brownfield redevelopment.

As you know, in response to Resolution 030680, a protocol was developed – including the protocol form that you transmitted to us by your November 27, 2012 letter - and that protocol has been in place, and has been successfully used, for almost a decade. Thus, the existing protocol is grounded in the 2003 City Attorney opinion, and the protocol form itself amounts to documentation of an explained, rational basis for fast-tracking particular parcels.

2. **Resolution 091517, adopted April 13, 2010.** Resolution 091517 directed that the protocol "be modified" for fast-tracking "tax delinquent residential properties that are found to be vacant or to be abandoned by the owner or owners or by persons having control of the property" "to advance community preservation and improvement objectives."

In the resolution, the Council articulated that “[v]acant and abandoned properties contribute to neighborhood blight, depress neighborhood property values, foster arson, drug, gang and other criminal activity, and are likely to deteriorate if left vacant or abandoned over time,” that it is in the City’s interest “to redevelop and return vacant and abandoned properties to occupancy and especially occupancy by owners at the earliest possible time,” and that “[a]cquisition by the City of vacant and abandoned tax delinquent properties in an expedited process will assist in preventing deterioration of the properties and of the neighborhood.”

Two letters in the Council file for this resolution also recognize benefits. An April 12, 2010 letter from Alderman Bauman stated that “this resolution will be a valuable tool to allow the City to foreclose on tax-delinquent properties in a quicker fashion. With the ability to foreclose sooner, the City hopes to foreclose on properties that are in better shape and have a higher value, while at the same time reducing the blighting impact on the surrounding neighborhood.” An April 12, 2010 letter from DCD Commissioner Marcoux and DNS Commissioner Dahlberg to Alderman Bauman states that “the ability to accelerate the in rem process for key properties that are abandoned and blighting and for which the owner has abdicated or ignored their responsibilities could be a useful tool in our efforts.”

The Council resolved “that the Protocol and procedures adopted as a result of the Resolution in File # 030680, *are modified* to provide that residential properties determined to be vacant or abandoned be placed in in rem foreclosure filings at the earliest lawful time following tax delinquency,” and directed DNS, DCD, and alderpersons to coordinate efforts to identify the parcels for referral to the Treasurer and City Attorney for tax foreclosure, and listed the following factors to consider, among others, “as evidence of abandonment” - “inability to locate the owner of record, tax delinquency of more than one year, physical evidence that the property is not occupied, and evidence that the property is subject to mortgage foreclosure proceedings that have not resulted in a sheriff’s sale or other transfer of ownership.” Emphasis added.

Despite the language in Resolution 091517 about the protocol actually being modified, however, we understand that the language of the protocol form itself from 2003 was never actually modified in response to this resolution.

3. **Resolution 100862, adopted November 5, 2010.** Resolution 100862 indicates that Resolution 091517 “*modified*” the 2003 protocol “to provide that residential properties determined to be vacant or abandoned be placed in in rem foreclosure filings at the earliest lawful time following tax delinquency.” Emphasis added. However, as indicated above – despite the language of Resolution 091517, the actual language of the protocol form was never modified.

Resolution 100862, like Resolution 091517, recognized problems associated with “vacant properties and properties that, though occupied, have been effectively abandoned by owners” and benefits associated with City acquisition, and expedited tax foreclosure.

Resolution 100862, like Resolution 091517, also directed “that the Protocol and procedures adopted as a result of Resolution File No. 030680 and File No. 091517, *are modified* to provide that residential properties determined to be vacant or abandoned be placed in in rem foreclosure filings on a regular basis, and on an expedited basis, if needed, through four foreclosure filings during 2011 . . .” Emphasis added. And, like 091517, this resolution also directed DNS, DCD and alderpersons to coordinate efforts to identify the parcels for referral for tax-foreclosure “at the earliest possible time,” listing the same factors to consider “as evidence of abandonment...”

Despite the language in Resolution 100862 about the protocol actually being modified, however, as was the case with Resolution 091517, we understand that the language of the protocol form itself from 2003 was never actually modified.

A Revised Protocol Form in Response to 091517 and 100862

In our 2003 opinion, we discussed “the importance of ensuring good interdepartmental coordination and communication with respect to fast-tracking” and we said that the “left hand must be coordinated with the right hand, and both hands need to know that a rational basis must exist to fast-track. Requests to fast-track a certain parcel should proceed through appropriate communication channels, and should be accompanied by a rational reason for fast-tracking...Logistics need to be worked out.”

By the 2003 Council Resolution (030680), our office was directed to adopt the protocol to coordinate the communications and the logistics associated with fast-tracking. We did so and we drafted the original protocol form.

While both of Resolution 091517 and 100862 purport to modify the protocol, to the best of our knowledge, prior to receiving your November 27, 2012 letter, our office had not been contacted to revise the protocol form itself after or as a result of those resolutions. We thank you for calling this matter to our attention.

Harmonizing and respecting each of Resolutions 030680, 091517 and 100862, and the legislative intent evidenced thereby, as discussed, we now **attach** a revised, redlined, protocol form that addresses (§4.A.) vacant or abandoned residential parcels. Per §§ 10 and 11 of the form, an alderperson or department may request fast-tracking. We are copying DNS Commissioner Dahlberg and DCD Commissioner Marcoux on this letter to let them know about the revised form. Again, Resolutions 091517 and 100862 both require DNS and DCD to coordinate efforts to identify and refer for expedited tax foreclosure vacant or abandoned residential parcels. Per form §§ 10 and 11, any of DCD, DNS or an alderperson could be the requestor.

The Old Protocol Form (Now Superseded)

The revised protocol form, **attached**, supersedes the form that you sent to us. While we modified the protocol form, we believe that the now superseded form was broad enough to accommodate the intent behind Resolutions 091517 and 100862. For example, § 4C of the superseded form (still in the modified form at § 4D) was stopping or reducing blight or nuisance, and § 4E (still in the modified form at § 4F) was "other." Either or both of those subsections could have been used in the circumstance of a department or alderperson wanting to fast-track a vacant or abandoned parcel. Both of those subsections called for an explanation, and many of the reasons articulated in Resolution 091517 and/or 100862 could have been used for the explanation, along with particulars of the parcel (e.g. inability to locate the owner, physical evidence that the property is not occupied, etc.) to document the vacancy or abandonment giving rise to the request to fast-track.

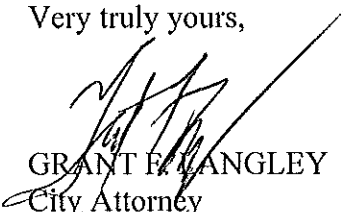
However, to respect and give effect to each of Resolutions 030680, 091517 and 100862, and the language in 091517 and 100862 about modification, we have, as indicated, attached a revised protocol form.

*** **


Mr. Spencer Coggs
December 10, 2012
Page 6

We hope you found this helpful. Please call if you have questions or comments.

Very truly yours,



GRANT E. LANGLEY
City Attorney



GREGG C. HAGOPIAN
Assistant City Attorney

GCH:lmc
Attachment

c: Bob Bauman
Art Dahlberg
Rocky Marcoux
Jim Owczarski
Kevin Sullivan
Jay Unora
Linda Burke
Jim Klajbor

1060-2012-2743:187048

INTERNAL PROTOCOL / QUESTIONNAIRE FOR COMMUNITY IMPROVEMENT *IN REM* FORECLOSURE ACTIONS

Formatted: Font: Italic

The following is the City Attorney's protocol under Common Council Resolution File No.'s 030680, 091517 and 100862. It is intended to assist in determining whether Community Improvement *In Rem* Foreclosure Actions should be undertaken for particular parcels. Complete sections 1 through 11, print out form, sign, and deliver to the Office of the City Attorney with required print-outs.

Deleted: (passed September 23, 2003)

Formatted: Font: Italic

Deleted:

SHERPONE - RETURN TO THE CITY ATTORNEY

An alderperson or department wishing the City to acquire a parcel that is tax delinquent by means of a "Community Improvement *In Rem* Property Tax Foreclosure Action" (a/k/a "fast-track in rem") shall report the following information to the City Attorney:

Deleted: (Complete sections 1 to 9, print out form, sign, and deliver to the Office of the City Attorney with required print outs.)

Formatted: Font: Italic

Deleted: formerly known as

1. IDENTIFICATION OF THE SUBJECT PARCEL

- A. Address:
- B. Tax key number:
- C. Most recent assessed value: \$ For levy year:
- D. Who is the owner of record:
- E. Attach printout from Assessor's website at:
<http://assessments.milwaukee.gov/>

2. IDENTIFICATION OF THE YEARS THAT THE PARCEL IS TAX DELINQUENT

- A. Identify specific years that are delinquent:
- B. Specify payout information for the parcel from the City Treasurer's website. What is the total amount due, with interest and penalties, as of the month of this request?
Total amount due: \$ as of
- C. Attach payout statement from Treasurer's website at:
http://itmdapps.ci.mil.wi.us/taxAccountBalance/index_AddressSearch.jsp
- D. Check the Office of the City Treasurer's "listing of delinquent tax accounts" at <http://www.city.milwaukee.gov/DelinquentTaxAccount11810.htm>. What is listed as the "enforcement status?"

An enforcement status of "7_" means the owner is in bankruptcy and *in rem* foreclosure may be prohibited by an "automatic stay."

Formatted: Font: Italic

Deleted: 5

Deleted: Doc. No. 78183-Revised
05/17/2011

INTERNAL PROTOCOL / QUESTIONNAIRE FOR COMMUNITY IMPROVEMENT *IN REM* FORECLOSURE ACTIONS

Formatted: Font: Italic

3. CONFIRM THAT THE PARCEL IS ELIGIBLE FOR *IN REM* FORECLOSURE

Formatted: Font: Italic

Per Wis. Stat. § 75.521(3)(a)2., the City may not commence an *in rem* foreclosure action unless one year has elapsed from the date of the delinquency that the City seeks to foreclose. For example, the tax bill for year 2012, property taxes gets mailed in December of 2012, and is payable in 2013 (Wis. Stat. § 74.87). *Example:* If the owner fails to elect the installment payment plan and fails to pay the full amount due by January 31, 2013, a tax certificate will be issued by the City Treasurer, effective as of February 1, 2013, for the 2012 tax levy year delinquency. Add one year to that, to get to February 1, 2014, as the earliest date that the parcel would be eligible for *in rem* foreclosure on the 2012 tax levy year delinquency.

Formatted: Font: Italic

Deleted: 03

Deleted: 03

Deleted: 04

Deleted: 04

Deleted: 04

Deleted: 03

Deleted: 05

Formatted: Font: Italic

Deleted: 03

- Yes, the parcel is eligible for in rem foreclosure.
- No, the parcel is not yet eligible for in rem foreclosure.

4. REASON TO FORECLOSE

Explain why you want the City to bring an *in rem* foreclosure action at this time against this parcel. A rational reason must be articulated. Explain particulars.

Formatted: Font: Italic

A. Acquire vacant or abandoned residential parcel (reduce blight, prevent or minimize deterioration, advance community preservation and improvement objectives, and objectives of Resolution File No's. 091517 and 100862)? Yes No

Formatted: Bullets and Numbering

Deleted: or vacant or abandoned residential structure?

If yes, explain. In your explanation, include evidence of vacancy, abandonment or effective abandonment, such as inability to locate owner, physical evidence that property is not occupied, abandoned or effectively abandoned, etc.

Formatted: Indent: Left: 1"

Deleted: or

B. Acquire for purposes of a Wis. Stat. § 75.106 deal? Yes No

Formatted: Bullets and Numbering

1. Has the Common Council approved the § 75.106 deal? Yes No
Wis. Stat. § 75.106_2)(g) requires the Common Council to approve the 75.106 assignment contract.
2. If the Common Council has approved the 75.106 deal:
 - (a) the Common Council file No. is
 - (b) that file was passed by the Council on
 - (c) a certified copy of that resolution is attached hereto: Yes No

Deleted: 5

Deleted: Doc. No. 78183-Revised 05/17/2011

INTERNAL PROTOCOL / QUESTIONNAIRE FOR COMMUNITY IMPROVEMENT *IN REM* FORECLOSURE ACTIONS

Formatted: Font: Italic

C. Acquire as an alternative to having to acquire via eminent domain? Yes No

If yes, explain:

Formatted: Bullets and Numbering

Deleted: condemnation

D. Acquire to stop or reduce blight or nuisance? Yes No

If yes, explain:

Formatted: Bullets and Numbering

E. Acquire as part of a City-development deal or to assist a private party with a development deal? Yes No

If yes, explain:

Formatted: Bullets and Numbering

F. Other? Yes No

If yes, explain:

Formatted: Bullets and Numbering

5. ENVIRONMENTAL CONCERNS

A. Is the parcel on the "do not acquire list?" Yes No

If so, why?

B. Has a Phase I been done? Yes No.

If yes, what is the past use that gave rise to the concern?

C. Do we have results of any Phase II testing? Yes No

If yes, explain:

D. Are there aboveground containers with unidentified substances? Wis. Stat. § 292.11 (9)(e)2.c.

Yes No

Deleted: 5

Deleted: Doc. No. 78183-Revised
05/17/2011

INTERNAL PROTOCOL / QUESTIONNAIRE FOR COMMUNITY IMPROVEMENT *IN REM* FORECLOSURE ACTIONS

Formatted: Font: Italic

- E. Has DCD reported any unusual conditions? Milw. Code of Ordinances § 304-55.
 Yes No

If yes, explain:

- F. If the property is on the DNA list and a Phase I suggests an environmental problem or recommends environmental testing, unless a 75.106 deal is involved, the City Attorney will require that the proposed acquisition be approved by a ¾ vote of the Common Council as a condition to acquiring via "Community Improvement *In Rem*" without further testing being done. Milw. Code of Ordinances § 308-22.

Formatted: Font: Italic

1. Does this apply in this case? Yes No

2. Is acquisition under the "safeharbor" (i.e. the municipal-liability exemption under Wis. Stat. § 292.11 (9)(e)1m.a.) contemplated? Yes No

Deleted: s

If yes, explain:

- G. Cost Recovery Action under Wis. Stat. § 292.33.

Deleted: f

If, for example, City does foreclose on tax-delinquent property by taking advantage of the municipal-liability exemption (safeharbor) under § 292.11 (9)(e)1m, the City can recover certain restricted costs from certain restricted persons who possessed or controlled the hazardous substance or caused the discharge.

Is this contemplated? Yes No

If yes, explain:

- H. Insurance Archaeology. Is insurance archaeology being considered (was there a policy affecting the parcel at one time that still covers environmental matters)? WI Supreme Court decision in *Johnson Controls, Inc. v. Employers Insurance of Wausau, et al. (July 11, 2003)* (rethinking the old *Edgerton Sand and Gravel* decision – *City of Edgerton v. General Casualty Co. (1994)*).

Yes No

If yes, explain:

Deleted: s

Deleted: Doc. No. 78183-Revised
05/17/2011

INTERNAL PROTOCOL / QUESTIONNAIRE FOR COMMUNITY IMPROVEMENT *IN REM* FORECLOSURE ACTIONS

Formatted: Font: Italic

6. APPLICABLE LEASE

- A. Is the property currently being leased? Yes No
- B. If so, to whom: and is it the current intent to keep the tenants on after their leasehold interest is effectively terminated by the *in rem* foreclosure action? See Milwaukee Code of Ordinances § 308-1-2-m (DCD maintenance, repair, leasing of *in rem* parcels).

Formatted: Font: Italic

Yes No

If yes, explain:

Deleted: See Milwaukee Code of Ordinances § 304-59. (DCD maintenance, repair, leasing of *in rem* parcels).

7. MORTGAGE FORECLOSURE

If you are aware of a pending or completed mortgage foreclosure affecting the parcel, provide the circuit court case number of the foreclosure action and explain:

Formatted: Font: Arial Rounded MT Bold, Not Bold, Underline

Formatted: Indent: Left: 0.5"

Deleted: C

Deleted: C

Formatted: Font: Not Bold

Formatted: Font: Arial Rounded MT Bold, Not Bold, Underline

Formatted: Bullets and Numbering

Formatted: Font: Italic

8. TIMING AND COSTS

- A. Is there an upcoming *in rem* foreclosure action that the City Treasurer is already planning on filing in which this parcel could be included (or piggy-backed)?

Yes No

If yes, the *in rem* file number is:

Deleted: <sp>

Formatted: Font: Italic

- B. If timing of the desired transaction/acquisition does not allow for "piggybacking" this parcel into a contemplated *in rem* action that the City Treasurer would otherwise routinely bring, the department requesting the commencement of a special *in rem* foreclosure action will be responsible for paying for the following costs of bringing that action (requestor may call the City Treasurer for cost estimates):

Deleted:

Deleted:

Formatted: Font: Italic

Formatted: Font: Italic

- filing fee
- guardian ad litem fee
- publication costs
- title report
- document production / duplicating
- postage and lettershop costs associated with mailing the required notices by certified mail

- C. (1) Is a special *in rem* foreclosure action contemplated? Yes No
- (2) If yes, does the requesting department have the funds available to directly pay the costs listed in B above that will be incurred?

Formatted: Font: Italic

Deleted: 5

Deleted: Doc. No. 78183-Revised 05/17/2011

INTERNAL PROTOCOL / QUESTIONNAIRE FOR COMMUNITY IMPROVEMENT *IN REM* FORECLOSURE ACTIONS

Formatted: Font: Italic

Yes No

(3) If a special *in rem* foreclosure action is contemplated, indicate your preference on when that foreclosure action should be commenced:

Deleted: And i

Formatted: Font: Italic

9. RECEIVERSHIP

Formatted: Bullets and Numbering

Is court-ordered receivership desired or contemplated? Yes No

If yes, explain. In your explanation, include the primary purpose of the receiver (e.g.: collect taxes [*in personam* receiver]; or appoint receiver to abate a nuisance; other).

Formatted: Font: Italic

10. ~~CONTACT PERSON FOR ALDERPERSON OR DEPARTMENT WANNING THIS~~ REQUEST FOR AN *IN REM* FORECLOSURE ACTION

Formatted: Indent: Left: 0", Hanging: 0.5", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Tab after: 0.25" + Indent at: 0.25", Tabs: Not at 0.25"

Aldersperson or department:

Contact person: Name:

Phone:

E-mail:

Fax:

Deleted: ¶

Formatted: Font: Italic

11. REQUESTOR'S SIGNATURE (ALDERPERSON OR DEPARTMENT HEAD)

Formatted: Bullets and Numbering

Requestor's Signature:

Requestor's Name:

Requestor's Title:

Date of Request:

Deleted: 5

Deleted: Doc. No. 78183-Revised 05/17/2011

INTERNAL PROTOCOL / QUESTIONNAIRE FOR COMMUNITY IMPROVEMENT *IN REM* FORECLOSURE ACTIONS

Formatted: Font: Italic

STEP TWO - CITY ATTORNEY REVIEW

Upon receipt of this document, as completed by the requesting alderperson or department, the City Attorney shall review the request and make a determination as to whether or not a community improvement *in rem* property tax foreclosure action is warranted.

Deleted: then

Formatted: Font: Italic

- A. **Rational Reason** In the City Attorney's discretion and experience, does the articulated explanation for bringing an *in rem* foreclosure action constitute a sound, rational basis for bringing a "community improvement *in rem* property tax foreclosure action?"

Formatted: Font: Italic

Formatted: Font: Italic

Yes No

- B. **Collection Attorney/*In Personam* Suit** Make inquiry of the City's outside collection attorney to ascertain the status of any *in personam* collection efforts against the owners of record.

Deleted:

Deleted:

Formatted: Font: Italic

Formatted: Font: Italic

- (1) What is the status of the collection efforts at the collection attorney?

- (2) Has the collection attorney already started an action? Yes No.

If yes, what is the Milwaukee County Court case number?

- (3) Has the collection attorney taken a judgment? Yes No.

If yes, when (what is the date of the judgment)?

For what years:

and for what amount:

- (4) Has the collection attorney collected on the judgment? (For example, if the collection attorney has collected the entire tax debt already, the foreclosure action cannot be commenced on the tax liens that have been paid and satisfied).

Yes No

- (5) Did the collection attorney not bring an action and refer matter back to the City Treasurer? Yes No. If yes, why?

Deleted: 5

Deleted: Doc. No. 78183-Revised
05/17/2011

INTERNAL PROTOCOL / QUESTIONNAIRE FOR COMMUNITY IMPROVEMENT *IN REM* FORECLOSURE ACTIONS

Formatted: Font: Italic

STEP THREE - CITY ATTORNEY COMMUNICATION TO CITY TREASURER

If the City Attorney determines that a defensible, rational basis exists, and that commencement of an *in rem* foreclosure action is advisable in light of information obtained under STEP ONE and STEP TWO above, then the City Attorney shall forward the underlying alderperson or department report with the required print outs to the City Treasurer with an accompanying notation that the City Attorney has reviewed and approved the same in accordance with this protocol so that a "community improvement *in rem* action" may be initiated against the subject parcel. If, on the other hand, the City Attorney does not approve the commencement of the "community improvement *in rem* action," the City Attorney shall inform the requesting alderperson or department.

Formatted: Font: Italic

Formatted: Font: Italic

Formatted: Font: Italic

Formatted: Font: Italic

Formatted: Font: Italic

- The City Attorney approves an *in rem* foreclosure action be taken against the parcel as requested (any comments made are on page 8).
- The City Attorney disapproves an *in rem* foreclosure action against the parcel requested and will return this form to the requesting department (any comments made are on page 8).

Reviewer's Signature:

Reviewer's Name:

Reviewer's Title:

Date Review Completed:

City Attorney Comments:

STEP FOUR - COMMENCEMENT OF *IN REM* FORECLOSURE ACTION, IF APPROVED

Formatted: Font: Italic

1. The City Treasurer, with assistance from the City Attorney, and after receipt of the City Attorney's approval of *in rem* foreclosure action per STEP THREE above, shall then proceed to foreclose against the parcel.
2. The City Attorney, the City Treasurer, and the requesting alderperson or department shall coordinate with respect to expense and staffing associated with the particular *in rem* foreclosure action.

Formatted: Font: Italic

Deleted: 5

Deleted: Doc. No. 78183-Revised
05/17/2011

INTERNAL PROTOCOL / QUESTIONNAIRE FOR COMMUNITY IMPROVEMENT *IN REM* FORECLOSURE ACTIONS

Formatted: Font: Italic

DISCLAIMER

This is an internal City of Milwaukee form.

Notwithstanding anything to the contrary contained in this protocol, the City does not waive any rights, remedies, or protections to which it is entitled under law or at equity, including, but not limited to, "safe harbor" and other statutory protections. For example, even if "safe harbor" protection under Wis. Stat. § 292.11 may not now be contemplated because the City does not, at this time, believe there are adverse environmental conditions at or affecting the subject parcel, if, after foreclosure, environmental problems are discovered, the City retains and does not waive any protection to which it is entitled. Likewise, and for sake of illustration, the City retains all rights it has to collect the tax debt (or otherwise) owed to it, all rights of eminent domain, all police power rights, all cost-recovery rights, etc.

The requesting alderperson or department must realize that if it is discovered that the owner of record has filed a bankruptcy action, there may be an "automatic stay" in place that prohibits or restricts collection actions – including *in rem* property tax foreclosure.

Formatted: Font: Italic

Deleted: 5

Deleted: Doc. No. 78183-Revised
05/17/2011