

CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
Deputy City Attorney

THOMAS E. HAYES
PATRICK B. McDONNELL
LINDA ULISS BURKE
Special Deputy City Attorneys



OFFICE OF CITY ATTORNEY
800 CITY HALL
200 EAST WELLS STREET
MILWAUKEE, WISCONSIN 53202-3551
TELEPHONE (414) 286-2601
TDD 286-2025
FAX (414) 286-8550

BEVERLY A. TEMPLE
THOMAS O. GARTNER
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
HAZEL MOSLEY
HARRY A. STEIN
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
MICHAEL G. TOBIN
DAVID J. STANOSZ
SUSAN E. LAPPEN
DAVID R. HALBROOKS
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

Assistant City Attorneys

February 6, 2003

Ms. Kathleen M. Marquardt, Staff Assistant
City Clerk's Office
City Hall, Room 205

Re: **File Numbers 021524, 021525 and 021526**

Dear Ms. Marquardt:

The persons described in Exhibit A have submitted requests to the Common Council for the vacation of the City's *In Rem* Judgments regarding the properties described therein. You have requested a report concerning these requests.

Our position is that the City took all steps required of it under law to foreclose against the properties at issue. Those steps included allowing the property owner a statutory right of redemption which right was not exercised. Due to the failure to redeem, the City foreclosed against the parcel, and thereby acquired fee simple title foreclosing any interest which the former owner had in the parcel.

Under City Ordinance sec. 304-49-6-c-6, when a timely request for vacation is submitted to the City the final determination with respect to whether property should be returned to the former owner is to be made by the Common Council. If the Common Council so grants approval, the City Attorney's Office may enter into a stipulation providing for all City and County taxes, assessments and charges (including: interest and penalties through the date of the order to vacate the *In Rem*

Kathleen Marquardt
February 6, 2003
Page Two

judgment; administrative and overhead costs of the City Treasurer's Office, the City Attorney's Office, and the Department of City Development; and the cost of repairs made to the property by the City subsequent to the date of the entry of the *In Rem* judgment) to be paid by cash or cashier's check to the City Treasurer's Office. Payment must be made within 45 days of the date of the resolution of the Common Council approving the return. See, City Ordinance secs. 304-49-6-c-6 through c-9.

In light of the above, and concerning the particular properties at issue, SO LONG AS THE WRITTEN REQUESTS FOR VACATION WERE SUBMITTED TO THE CITY WITHIN 45 DAYS OF THE RESPECTIVE *IN REM* FORECLOSURE JUDGMENTS, this office has no objection to the Common Council and/or the Judiciary and Legislation Committee, in its or their discretion, determining that the parcels should be returned to the former owners in accordance with the above-referenced ordinance.

Please call if you have questions or comments.

Very truly yours,



BEVERLY A. TEMPLE
Assistant City Attorney

BAT:wt:63660
Enclosure

c: Ronald D. Leonhardt, City Clerk

EXHIBIT A

1. File No. 021524
Requestor: Thomas Jeffry Morgan
Parcel Address: 504-506 East Center Street
Tax Key No. 321-1791-7
Foreclosure Action: 2002, No. 5, In Rem
Case No. 02-CV-007609
Date of City Acquisition: 12/9/02
Acq. plus 45 days = 1/23/03
Date of Requestor's Request: 1/21/03

2. File No. 021525
Requestor: Krystyna Odoner
Parcel Address: 2731 South 43rd Street
Tax Key No. 512-0800-300-7
Foreclosure Action: 2002, No. 5 In Rem
Case No. 02-CV-007609
Date of City Acquisition: 12/9/02
Acq. plus 45 days = 1/23/03
Date of Requestor's Request: 1/21/03

3. File No. 021526
Requestor: Alan E. Bingham
Parcel Address: 2916 West Hayes
Tax Key No. 495-0150-2
Foreclosure Action: 2002, No. 5 In Rem
Case No. 02-CV-007609
Date of City Acquisition: 12/9/02
Acq. plus 45 days = 1/23/03
Date of Requestor's Request: 1/17/03