

Procedure and guidelines to sell neighborhood tax-foreclosed property to former owner-occupant in lieu of vacation of foreclosure judgment

The Common Council's Judiciary-Legislation ("Jud/Leg") Committee has, on occasion, recommended that the City sell, under MCO 304-49, a neighborhood tax-foreclosed property to a former owner-occupant who is seeking vacation of the foreclosure under MCO 304-50. The Department of City Development ("DCD") recommends the following procedure and guidelines for those cases in which Jud/Leg recommends and the former owner-occupant pursues purchase of the property rather than vacation of the tax-foreclosure judgment.

- 1) In accordance with MCO 304-50, the former owner-occupant ("owner") must submit to the City Treasurer ("Treasurer") an application to vacate *in rem* tax foreclosure judgment and the non-refundable fee of \$1,370.
- 2) A hearing is held before the Common Council Jud/Leg Committee under MCO 304-50-9. The committee determines whether to: (a) recommend to the Council that the vacation of judgment under MCO 304-50 be approved, or (b) recommend to the Council that the vacation of judgment under MCO 304-50 be disapproved, or (c) hold the request to vacate, and recommend to the former owner-occupant that he or she work with DCD to purchase the property under MCO 304-49, despite the former owner's violation of the general buyer policy in MCO 304-49-9-e.
- 3) Should Jud/Leg recommend that the owner pursue purchase of the property, per item 2(c), the Committee shall notify the owner of the following:
 - a. If the sale under MCO 304-49 is consummated, any creditors that had placed liens on the property prior to tax foreclosure may, depending on the circumstances, be able to sue the owner directly for repayment. For example, even though property-tax foreclosure eliminates the mortgage lien under Wis. Stat. 75-521, the lender/noteowner may still be able to sue the notemaker/owner personally for default under the note.
 - b. The sale price for the property will be calculated as follows:
 - i. All foreclosure-eligible property taxes that would have been payable to the City had the City not foreclosed, together with interest and penalty that would have been applied to such taxes, calculated through the date the offer to purchase is accepted.
 - ii. All outstanding special charges due the City of Milwaukee.
 - iii. The amount of the City's expenses incurred during the City's period of ownership.
 - iv. Customary closing costs.
 - v. A \$500 sales processing fee.
- 4) Should the committee recommend, and the former owner choose to pursue, purchase of the property under MCO 304-49:
 - a. The owner will be referred to Treasurer to enter into an installment plan to pay current levy year taxes, and to enter into a payment plan to pay the balance of prior years' delinquent taxes not subject to foreclosure. These arrangements must be made within 30 days of the Jud/Leg meeting.
 - b. The owner will be referred to the Dept. of City Development (DCD) to complete an offer to purchase for the property.

- 5) Upon receipt of the offer, DCD staff will perform standard buyer checks, and require the owner to submit the following:
 - a. Evidence of the buyer's financial ability to pay the full sales price at closing. Such evidence will be verified by DCD.
 - b. Evidence that the buyer has entered into payment arrangements with the Treasurer per item 4a above.

- 6) The buyer's offer to purchase may be rejected for any of the following reasons:
 - a. Buyer fails to submit the offer and provide supporting documentation (5a and 5b) within 45 days of the Jud/Leg meeting.
 - b. Financial information cannot be verified.
 - c. Financial information does not indicate that buyer has ability to pay the full sales price at closing.
 - d. Buyer fails to pass standard buyer checks other than MCO 304-49-9-a and MCO 304-49-9-e.

- 7) If the buyer's offer is accepted, DCD shall introduce a resolution to the Common Council, to be heard by the Zoning, Neighborhoods and Development Committee, recommending the sale of the property. The resolution will include the following clauses:
 - a. Council authorizes the sale despite the violation by the buyer of the general buyer policies in MCO 304-49-9-a and 304-49-9-e.
 - b. Council recognizes that, if the property is sold under MCO 304-49, the judgment will not be vacated under MCO 304-50.
 - c. Sale must close within 30 days of the date the resolution is certified.
 - d. If the sale does not close within 30 days, the offer shall be deemed to be rejected. The buyer's original request to vacate the in rem tax foreclosure judgment shall be heard by Jud/Leg, should the buyer so desire, and the next scheduled Jud/Leg meeting.

- 8) The following information will be submitted to the file accompanying the resolution authorizing sale of the property to the owner:
 - a. Offer to purchase
 - b. Final calculation of purchase price
 - c. Letter from DCD indicating that:
 - i. Buyer has shown ability to pay full sales price at closing, and that buyer's information has been verified by DCD.
 - ii. Buyer has passed standard buyer checks.
 - d. Letter from Treasurer indicating that buyer has entered into tax payment arrangements described in 4a above, and that payments are current.

The "due diligence checklist" and land disposition report will not be required.

- 9) Upon closing, sale proceeds will be distributed as required by MCO 304-49-12.

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