

PROCEDURAL POLICY FOR DISPOSITION OF FORECLOSED PROPERTY

PURPOSE OF POLICY: The policy establishes a definitive process for the Town and Board of Selectmen to use to determine the appropriate public use or disposition of property acquired through tax lien foreclosure. The process also provides the tax payer an opportunity, after tax lien foreclosure to attempt to redeem his property by quitclaim deed, while ensuring the Town's ability to sell/dispose of the property by public bid, to sell/dispose of the property by public sale to one or more abutters, or retain the property.

POLICY: The procedures identified in this policy are presented in chronological order.

1. The Town Treasurer shall annually prepare two warrant articles for adoption at Town meeting that authorize the Board of Selectmen to hold or dispose of all tax titles acquired by tax lien foreclosure and that allow the Board authority to waive foreclosure. Following is recommended language for the warrant articles:

The Town Treasurer has the authority to waive foreclosure of any tax lien during the 1994 calendar year, said waiver requiring approval of the Board of Selectmen. The Board of Selectmen shall grant said approval only in circumstances where foreclosures would prove injurious to the Town of York, such as, but not limited to, the presence of hazardous waste upon the property, or the presence on the property of one or more substandard structure(s) for which the cost of removal or repair would exceed the value of the property.

(Amendment adopted at November 2, 1993 General Referendum).

To see if the Town will vote to authorize the Board of Selectmen to make one of the following decisions for each tax lien acquired property:

1. To dispose of the property by allowing the immediate former owner or their immediate heirs, one generation, to buy back title to the property from the Town. Buy back of the property shall require: payment of all taxes due plus interest to date of redemption and lien costs; payment of all other costs; and an amount determined by the Selectmen up to ten (10) percent of the then current assessed valuation as set by the Tax Assessor; and satisfaction of all other conditions established by the Selectmen.
2. To dispose of the property by public sealed bid auction.

3. To dispose of the property by conducting a limited public sale among the parties who own property which directly abut this property.
4. To hold Town title to the property.

The decision of the Selectmen to use any of the above options shall adhere to the Selectmen Procedural Policy for the Disposition of Foreclosed Property.

2. The Town Treasurer shall annually prepare a notice identifying all property acquired by automatic tax lien foreclosure and shall provide the Board of Selectmen, Town Manager, Town Assessor, Town Clerk/Tax Collector and Planning Department a copy of this notice. This notice shall be provided within one month of the date of foreclosure.

3. The Town Assessor shall provide the following information for all tax lien foreclosure property to the Board of Selectmen and Planning Department within two weeks of receiving the notice prepared by the Town Treasurer: map and lot number of the parcel, a map identifying location of the parcel, and a photocopy of the tax card of record.

4. The Planning Department shall conduct an analysis of all property acquired by tax lien foreclosure and identify potential and preferred uses of each parcel. The analysis shall consider potential short and long term public uses of the property and will result in a recommendation to the Town Manager regarding the retention or disposition of the property. The Planning Department shall consult with appropriate Town Departments and Boards/Commissions in conducting this analysis. The Planning Department analysis and recommendation shall be completed within four months of the receipt of information supplied by the Tax Assessor.

5. Town Attorney, concurrent with the Planning Department analysis, may review and determine, if requested by the Planning Department, the Town's position and cost to acquiring "quiet title" of selected properties identified on the Town Treasurer's annual notice list. The review shall be limited to those selected parcels which the Town may want to retain ownership of, and will be done to make information available to the Selectmen regarding the cost and potential concerns involved with obtaining "quiet title".

6. The Planning Department shall provide notice of commencing its analysis by using the following methods: post notice in Town Hall; publish this notice in a newspaper with local circulation; send notice by certified registered return receipt letter to the former immediate property owner(s) and mortgage holder(s); and send this notice to the York and Kittery Water Districts. The notice shall identify the purpose of this analysis, a schedule to complete the analysis and

the opportunity for the tax payer to potentially reclaim his property by paying all taxes and costs owed and satisfying all conditions established by the Selectmen.

7. The Town Manager shall review the analysis and recommendation prepared by the Planning Department and information regarding determination of title which Town Attorney may provide and recommend a specific action for each property to the Selectmen. This recommendation shall consider granting the York and Kittery Water Districts a preferential bid to purchase tax acquired property within their respective watersheds. The Selectmen shall adopt one of the actions authorized in the warrant article adopted by the Legislative Body for each tax lien acquired property, or shall seek other authorization from the Legislative Body.

8. The Selectmen, acting at a regular Selectmen meeting, shall use the following standards to govern the disposition of tax lien acquired parcels by the method of allowing the immediate former owner or their immediate heirs, one generation, to buy back the property:

- a) The former owner shall pay all taxes, interest due on said taxes to the date of redemption, lien costs and filing costs, for all years which taxes are outstanding;
- b) The former owner shall pay all other costs due;
- c) The former owner may be required to pay an administrative fee based on the Town's direct and indirect costs for redeeming the property. These costs may include, but are not limited to, staff time spent researching the property and developing conditions, if any, mailing expenses and third party expenses.

The Selectmen shall have the discretionary authority to determine the amount of the administrative fee to assess.

- d) The Selectmen may assess an amount up to ten (10) percent of the then current assessed valuation as set by the Tax Assessor unless the redemption occurs within six (6) months of foreclosure by the Town.
- e) The former owner shall satisfy all other conditions established by the Selectmen. By way of example only, these conditions may be the need to eliminate a non-conforming use, to connect a property to public services, or to eliminate a hazardous condition. If redemption occurs within six (6) month of foreclosure, only conditions that correct or eliminate a hazardous situation or non-conforming use can be required.

The former owner shall comply with terms of the buy back established by the Selectmen within 60 days of the Selectmen action to allow the buy back, unless other conditions are stipulated by the Selectmen.

- g) The Selectmen shall issue only a quit claim deed to convey title to tax acquired property which a former owner buys back.

9. The Selectmen, acting at a regular meeting, shall act to use the following standards to govern the disposition of a tax lien acquired property by the method of disposal by public sealed bid:

- a) The Selectmen shall solicit public bids for the disposal of the property. Public notice of the bid procedure shall be provided as follows: post notice in Town Hall a minimum of 14 days prior to the sale; publish notice in at least 2 newspapers of local circulation a minimum of 14 days prior to the sale; and sending notice by certified registered return receipt letter to the former owner(s) and mortgage holder(s) a minimum of 45 days prior to the sale. The notice shall describe the time, date and place of the public sale, and all bid terms.
- b) An immediate former owner or their immediate heirs, one generation, may buy back the property within 30 days following notification, provided all cost and conditions which may be established by the Selectmen in conformance with clause 8, above, of this policy are satisfied.
- c) The Selectmen shall open and act upon all bids received. The Selectmen shall ensure the bidder has the ability to satisfy all bid conditions within 60 calendar days. The Selectmen shall reserve the right to accept or reject any and all bids submitted and to act in the best interests of the Town.
- d) The Selectmen shall issue a quit claim deed to convey title to any property which is disposed of by public sealed bid auction, unless the Selectmen specifically act to "quiet title" prior to the public notice of the sale.

10. The Selectmen, voting at a regular meeting, shall act to use the following standards to govern the disposition of a tax lien acquired property by the method of conducting a limited public sale among parties who directly abut this property. This limited method of sale is primarily used to address public concerns which may be harmed if the property were made available for sale to all members of the public. By way of example only, harm to public concerns could include: a lot which does not conform to present minimum lot size standards, where this situation could be addressed by requiring merger with an abutting property(ies); the abutting lots are non-conforming in size and the addition of this land could make one or more abutting lots conforming; or the soils on the lot are too poor for on-site septage disposal. The Selectmen shall ensure fairness in considering the bids of all abutters and that all sales demonstrably satisfy the public good.

- a) The Selectmen shall establish terms for the sale of the parcel which address the public concerns identified in the Planning Department analysis and recognized by the Selectmen. The Selectmen shall state these terms, which may include terms other than price, in a request for bid proposal.
 - b) The request for proposal for the limited sale to abutters shall be provided by certified registered return receipt letter a minimum of 45 days prior to the sale to all parties who directly abut the parcel. The request for proposal shall describe the time, date and place of sale and the bid terms. The bid terms shall specifically identify the criteria Selectmen shall use to award a bid. The request for proposal shall request all bidders to describe why they believe their proposal should be considered, particularly for bidders who may not satisfy all preferred terms identified in the request for proposal.
 - c) The Selectmen shall open and act upon all bids received in response to the request for proposals. The Selectmen shall ensure the successful bidder has the ability to satisfy all bid conditions within 60 calendar days. The Selectmen shall reserve the right to accept or reject any and all bids submitted and to act in the best interests of the Town. Selectmen specifically have the authority to award the bid to the abutter who they determine best meets terms they have identified and to choose among competing bids from abutters. Notwithstanding bid award criteria identified in the request for proposal, nothing in this policy shall be construed to preclude the Selectmen from awarding the bid based on special circumstances described in a respondent's bid proposal. The Selectmen may alternately accept bids from more than one abutter and to permit each abutter to purchase only a portion of the property, provided this property is merged with the bidder's property.
 - d) The Selectmen shall issue a quit claim deed to convey title to any property which is disposed of by the method of limited public sale to abutters. The Selectmen may act to "quiet title", but such action shall be reserved for sales which may be better accomplished when a warranty deed is required.
11. The Selectmen, voting at a regular meeting, shall use the following standards to govern a decision to hold Town title to a property. A Selectmen decision to retain Town title to a property will mostly reflect a determination that the public interest would best be served by keeping this property in public ownership. By way of example only, a compelling public interest may include: the use of the property to serve as a site for a public facility; a significant natural resource, such as a wetland, which could be harmed if this property is developed; and providing needed open space.

- a) The Selectmen will consult with Town Attorney to determine potential need to obtain "quiet title" to the property. "Quiet title" will usually be pursued only when the Town desires to use the property for a specific public purpose, such as a site for a public building.
- b) Property retained by the Town shall be recorded as Town owned land by the Assessor's Office following its acceptance by the Selectmen.

Adopted at Selectmen's Meeting June 18, 1990.

Amended at Selectmen's Meeting September 10, 1990.

Amended at Selectmen's Meeting July 27, 1993.

Amendment approved at November 2, 1993 General Referendum -

(Adopted at Sel. Mtg. 2/22/94)

Amendment at Selectmen's Meeting May 14, 1996