

Don't Drop the Baton

Successfully Collecting Tax Titles

The First Leg –
Getting off to a Clean Start

May 13, 2015



Real Estate Tax Collection is like a Relay Race

First Leg: Assessment of the Real Estate Tax

Assessors Office runs the first leg of the race by:

- keeping tax map current
- keeping property owners' addresses current
- assessing the property as shown on the Assessors Maps



Real Estate Tax Collection is like a Relay Race

Second Leg: Real Estate Tax/Taking

Collectors Office runs the second leg of the race by:

- issuing timely bills
- chasing returned mail (with the Assessors Office)
- conducting timely and accurate Tax Takings



Real Estate Tax Collection is like a Relay Race

Third Leg: Collection Activity

Treasurer's Office runs the third leg of the race by:

- contacting taxpayer or mortgage holder
- enforcing G.L. c 60, § 93 and
G.L. c 40, § 57
- negotiating Installment Agreements



Real Estate Tax Collection is like a Relay Race

Fourth Leg: Foreclosing Tax Title

Tax Title Attorney runs the fourth leg of the race by:

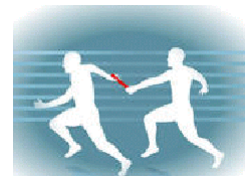
- filing Petitions to Foreclose at Land Court
- negotiating Deeds in Lieu
- coordinating Tax Possession Sales



In Order to Run a Good Race It's Important to Get Off to a Clean Start

Keep the Tax Map Current

- “there is no statutory definition of the lot or parcel of land that is the lawful unit for the creation of a tax.” *City of Boston v. Boston Port Development*
- Subdivisions/Form A Plans
- Avoid Twilight Zone Parcels & Maps



In Order to Run a Good Race It's Important to Get Off to a Clean Start

Keep Property Owner Names & Addresses Current

- Taxes must be assessed to the Owner as of January 1st. (G.L. c. 59, § 11)
- Assessors can have title exams done and then create a lien to recover the cost (G.L. c. 59, § 12F)
- Affidavits of Address (G.L. c. 59, § 57D)



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Owners Unknown

- Can only assess Owner Unknown with DOR Permission (G.L. c. 59, § 11)
- “cannot by reasonable diligence ascertain the name of the person appearing of record”
- Assessors can have title exams done and then create a lien to recover the cost (G.L. c. 59, § 12F)



In Order to Run a Good Race It's Important to Get Off to a Clean Start

Assess the Property as Shown on the Tax Map

Main Street

Lot 100 5,000 sf	Lot 101 5,000 sf
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- Make sure the Tax Map reflects what's on the ground

Baked Goods I

The process
Municipalities use
today to foreclose Tax
Titles was created in
1915 and remains
essentially
unchanged.

SENATE DOCKET, NO. 896 FILED ON: 1/15/2015 No. 1463

SENATE

The Commonwealth of Massachusetts

PRESENTED BY:
Sal N. DiDomenico

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:
The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:
An Act relative to the improvement in the process for collecting delinquent property taxes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Sal N. DiDomenico	Middlesex and Suffolk
Joseph W. McGonagle, Jr.	28th Middlesex
Kevin G. Honan	17th Suffolk
Michelle M. DuBois	10th Plymouth

Highlights of S. 1463

- Major changes to Assignments of Tax Titles
(G.L. c. 60, § 2C & 52)
- Major changes to Demand provisions
(G.L. c. 60, § 16)
- Major changes to Notice of Tax Taking
(G.L. c. 60, § 53)
- Major changes to Installment Agreements,
& Time Before Foreclosure
(G.L. c. 60, § 62A & 6A)

Baked Goods II

HOUSE DOCKET, NO. 2009 FILED ON: 1/16/2015 No. 2594

HOUSE

The Commonwealth of Massachusetts

PRESENTED BY:
David Paul Linsky

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:
The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:
An Act relative to the collection of personal property taxes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
David Paul Linsky	5th Middlesex
Angelo J. Pappalardo, Jr.	12th Hampden
Elizabeth A. Poirier	14th Bristol
Richard J. Ross	Norfolk, Bristol and Middlesex
Brian M. Ashe	2nd Hampden

Personal Property
Taxes are really
unsecured
Receivables.

Highlights of H. 2594

- Would add new Section 37C to Chapter 60
- Personal Property Taxes would have force & effect of UCC Art. 9 unperfected security interest upon assessment.
- Security Interest would become perfected after demand (c. 60 § 16) and filing of Financing Statement by Collector with Secretary of the Commonwealth.

Baked Goods III

Forrestall Enterprises, Inc v. Bd. Of Assessors of The Town of Westborough

- Forrestall Enterprises was the assessed owner of approx. 5 acre parcel on which a 240 kw solar photovoltaic system was installed.
- Forrestall also owned 4 other properties in Westborough either individually or through wholly owned corporations.

Forrestall Enterprises, Inc v. Bd. Of Assessors of The Town of Westborough

- ATB ruled that the Chapter 59, Section 5, Clause Forty-Fifth exemption applied even if the parcels were not contiguous.
- Relied on the “plain meaning of Clause Forty-Fifth” and overruled DOR’s long standing interpretation – calling it “an illusory distinction”.

Forrestall Enterprises, Inc v. Bd. Of Assessors of The Town of Westborough

- “While there may be potential instances where a net metering credit could be sold, the Board need not reach that issue, because [Forrestall] is using its solar panels as a source of electricity for taxable property of its sole owner.”
- Unfortunately, this is the real illusory distinction.

Questions & Answers

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