

Don't Drop the Baton

Successfully Collecting Taxes
Takes A Team Effort

May 11, 2016



Plymouth County Collectors, Treasurers &
Assessors Associations Joint Meeting

MATTHEW J. THOMAS, Esq.
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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



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



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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' names & addresses current



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

Keep Property Owners' 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)



Real Estate Tax Collection is like a Relay Race

First Leg: Assessment of the Real Estate Tax

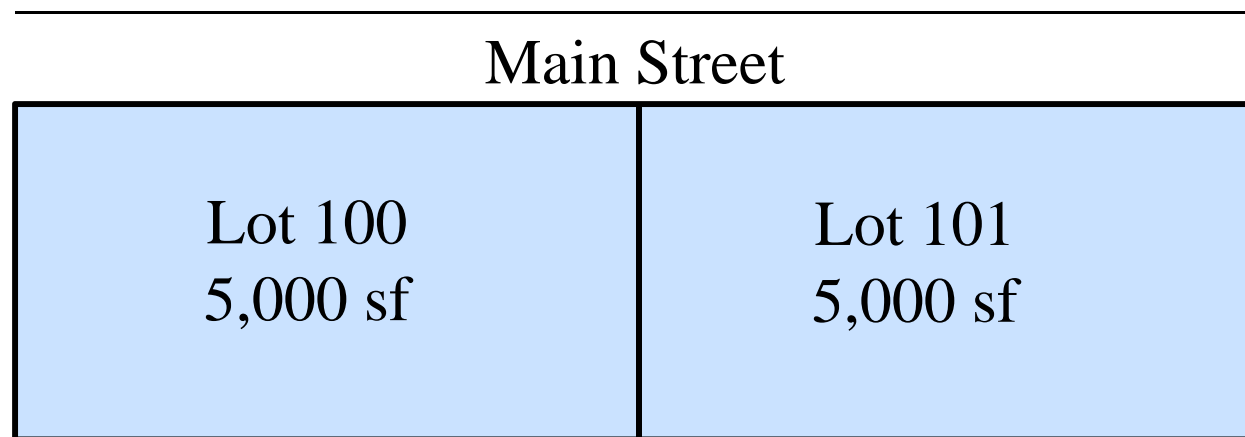
Assessors Office runs the first leg of the race by:

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



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



- Make sure the Tax Map reflects what's on the ground

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



In Order to Run a Good Race It's Also Important to Run a Clean 2nd Leg

- while the failure to receive a tax bill will not invalidate the tax, it could jeopardize the interest.
- the Tax Taking creates the right to foreclosure in the Land Court and so the Court will carefully review it
- try to minimize Takings & Subsequent Certifications



Real Estate Tax Collection is like a Relay Race

Third Leg: Collection Activity

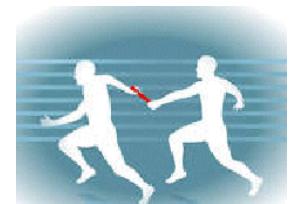
Treasurer's Office runs the third leg of the race by:

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



Offsetting Payments v. Withholding Permits

- Pursuant to G.L. c.60, § 93 a municipality may offset payments due to a person or business who is past due on a municipal payment – but there are limitations
- Pursuant to G.L. c.40, § 57 a municipality may deny, revoke or withhold a permit, license or approval – but there are limitations



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



Negotiating Installment Agreements

- Treasurers have always negotiated Installment Agreements, but in 2004 the ability to do so became statutory with the enactment of G.L. c.60, § 62A
- Agreements should facilitate collection and must be in writing
- The Land Court looks favorably on 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:

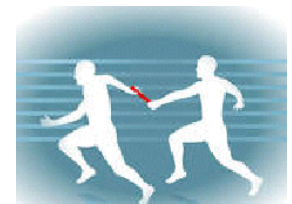
- filing Petitions to Foreclose at Land Court



It's Tax Collection, Not Property Acquisition

“The purpose of those provisions is not to provide municipalities with a method of acquiring property for municipal purposes without paying the owner of the property fair compensation as in eminent domain proceedings.”

Town of Lynnfield v. Owners Unknown



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



Just A Quick Review

Assessment

Taking

Notice of
Filing Petition

Decree

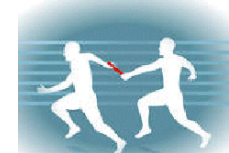


Municipal
Lien Cert.

Instrument
of
Redemption

Withdrawal

Vacation of
Judgement



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Real Estate Tax Collection is like a Relay Race

- While some may think Tax Collection is a Relay Race, its relay more of a Relay Race with hurdles.
- Let's look at some of them....



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)



Rollback & Conveyance Taxes

- Chapter 394 of the Acts of 2006 made uniform the penalties/repayments under Chapters 61, 61A & 61B
- now greater of either:
 - Repayment of most recent five (5) years of deferred tax plus 5%; or
 - Conveyance Tax (see Chapter 61A);
 - But not both



Revised & Omitted

- Revised - when the mistake resulted in the tax on the parcel or account being underassessed (G.L. c. 59 § 76)
- Omitted - when the mistake resulted in the entire parcel or account being omitted from the annual Commitment (G.L. c. 59 § 75)
- Adds to the Commitment
- Must be done by June 20th



Reassessments

- Assessors may reassess a tax to the person to whom it ought at first to have been assessed (G.L. c. 59 § 77)
- There is no time period within which it must be done
- Does not add to the Commitment



Supplemental Taxes (G.L. c. 59 § 2D)

- Applies automatically unless specifically rejected by a municipality.
- Two requirements:
 - Temporary or Permanent Certificate of Occupancy issued during the fiscal year
 - Improvements made after Assessment Date increase value by >50%
- Pro-rata (& possible Pro-forma)



Questions & Answers

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