

# Don't Drop The Baton -



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Successfully Collecting Real Estate Tax  
is a Team Effort !

MATTHEW J. THOMAS, ESQ.

Attorney at Law

Successfully collecting Real Estate Tax is really like running a relay race.

Just like a relay race, collecting Real Estate Tax takes a team effort.

Our Team includes the Assessor's Staff, the Collector's Staff, and the Treasurer's Staff.



There are four “legs” to our Relay Race.

The first two legs of the race are run by the Assessor’s Office and the Collector’s Office.

The last two legs are run by the Treasurer’s Office and the Tax Title Attorney.



# There are two goals for this presentation:

- To help folks understand what their office must do to run a clean leg of the race.
- To help folks understand how running their leg affects the entire race.





# First Leg: Assessment of the Real Estate Tax.

The Assessor's Office runs a clean first leg of the race by:

- Keeping the Assessors' Maps current;
- Keeping Property Owner's names and addresses current;
- Validly 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.

Keeping the Assessors' Maps current:

- “there is no statutory definition of the lot or parcel of land that is the lawful unit for the creation of the tax.” *City of Boston v. Boston Port Development.*
- Assessors have much discretion.



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

Keeping the Assessors' Maps current:

- Recorded Subdivision/ANR Plans
  - Apportionment After Assessment - G.L. c 59, § 78A
- Avoid “twilight zone” parcels & maps.



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

Keeping Property Owner's names & addresses current:

- Taxes must be assessed to Owner as of January 1<sup>st</sup> (G.L. c. 59, § 11);
- Affidavits of Address (G.L. c 59, § 57D).





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

Keeping Property Owner's names & addresses current:

- Owners Unknown (G.L. c. 59, § 11);
  - “cannot by reasonable diligence ascertain the name of the person appearing as of record;
  - Supporting documentation.



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

Keeping Property Owner's names & addresses current:

- Assessors can have title exams done and then place a lien on the property to recover the cost (G.L. c 59, § 12F);
- Don't change the name of the Assessed Owner midyear – use “Care of” Bills.



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

## Validly Assess the Property as Shown on Tax Maps:



- Tax Map should reflect what's on the ground.



Congratulations! You ran a clean first leg – now its time to pass the baton.



The baton is passed from the Assessors to the Collector through the issuance of a “Commitment” and “Warrant to Collect Tax”.



# So...what's a "Commitment" ?

The Assessors  
establish the real  
estate tax liability for  
individual taxpayers

12/19/2014 14:22 dberube CITY OF FALL RIVER TAX COMMITMENT BOOK P 4 transaction

REAL ESTATE FOR FISCAL 2015 TAX YEAR 07/01/2014 TO 06/30/2015

PROPERTY/OWNER	CLASS	OWNER OF RECORD	VALUES	CHARGE	TAX	INSTALLMENTS
I10-0020	112	1672881	LAND 146,300	RES RE TAX	5,658.41	1 1,376.22
119-125 WADE STREET LLC,			BUILDING 296,300	COMM PRESE	65.26	2 1,376.22
C/O NE GOOD LIVING LLC			TOTAL VALUE 432,600			3 1,485.62
3 AUTUMN DRIVE			DEFERMENT 0	TOTAL TAX	5,723.67	4 1,485.61
WESTWOOD, MA 02090			EXEMPTION 0	NET PRELIM	2,752.44	
			NET VALUE 432,600	NET ACTUAL	2,971.23	
LOC: 119 WADE ST						
BILL NO BOOK/PAGE DEED DATE ACRES						
13 8442-73 03/31/2014 .000						
CURR OWNER: 1672881 - 119-125 WADE STREET L						
PRELIM BILLED 2,752.44	ADJ	.00	ABT	.00	OVER BILLED	.00
S13-0008	400	1407317	LAND 104,400	COM RE TAX	7,110.98	1 1,710.80
12 TONE REALTY TRUST			BUILDING 148,300	COMM PRESE	106.66	2 1,710.79
7 OREGON ST			TOTAL VALUE 252,700	SEWER LIEN	612.46	3 2,649.97
FALL RIVER, MA 02721			DEFERMENT 0	WATER LIEN	89.75	4 1,898.02
			EXEMPTION 0	S/LIEN INT	42.94	
			NET VALUE 252,700	WLIEN INT	6.79	
LOC: 7 OREGON ST						
BILL NO BOOK/PAGE DEED DATE SQ FT						
14 4139-310 10/01/2001 17340						
CURR OWNER: 1407317 - 12 TONE REALTY TRUST						
PRELIM BILLED 3,421.59	ADJ	.00	ABT	.00	OVER BILLED	.00

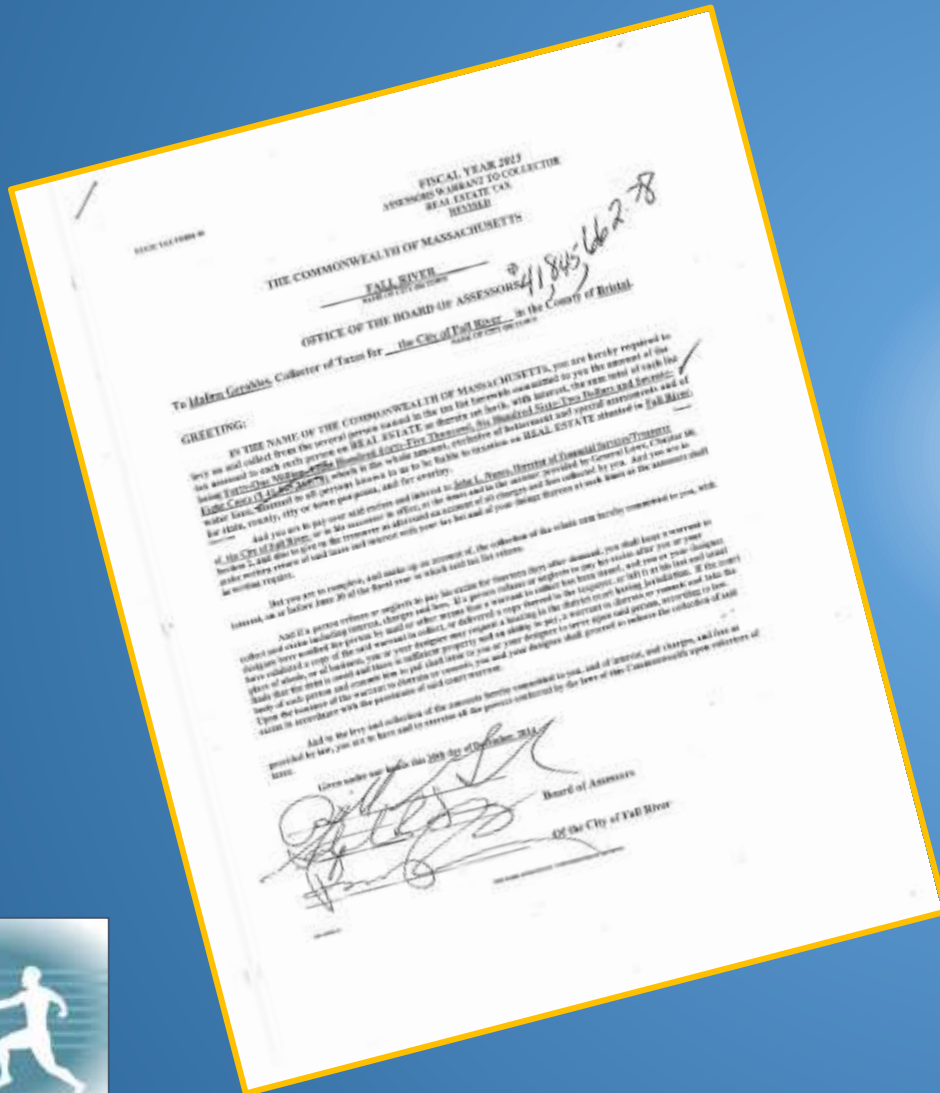
S13-0008 400 1407317  
12 TONE REALTY TRUST  
7 OREGON ST  
FALL RIVER, MA 02721  
  
LOC: 7 OREGON ST  
BILL NO BOOK/PAGE DEED DATE SQ FT  
14 4139-310 10/01/2001 17340  
CURR OWNER: 1407317 - 12 TONE REALTY TRUST  
PRELIM BILLED 3,421.59

LAND	104,400	COM RE TAX	7,110.98	1	1,710.80	
BUILDING	148,300	COMM PRESE	106.66	2	1,710.79	.00
TOTAL VALUE	252,700	SEWER LIEN	612.46	3	2,649.97	11,653.97
DEFERMENT	0	WATER LIEN	89.75	4	1,898.02	11,653.96
EXEMPTION	0	S/LIEN INT	42.94			12,929.44
NET VALUE	252,700	WLIEN INT	6.79			12,929.43
		TOTAL TAX	7,969.58			
		NET PRELIM	3,421.59			.00
		NET ACTUAL	4,547.99			8,851.84
		ADJ	.00	ABT	.00	OVER BILLED .00
						8,851.84
						9,820.64
						9,820.63

LOC: 1190 DAVOL ST			NET VALUE	1,307,500	NET ACTUAL	19,641.27
BILL NO BOOK/PAGE DEED DATE ACRES						
16 39-153 04/27/2011 3.300						
CURR OWNER: 1639168 - 1244 DAVOL REALTY ASS						
PRELIM BILLED 17,703.68	ADJ	.00	ABT	.00	OVER BILLED	.00



# And...What's a “Warrant To Collect” ?



- A “Warrant to Collect” is an authorization from the Assessors to the Collector to collect the committed tax from the respective taxpayer.
- An automatic lien securing collection is created.



## Second Leg: Collection of the Real Estate Tax.

The Collector's Office runs a clean second leg of the race by:

- Issuing & Collecting timely Tax Bills;
- Chasing returned mail (with the Assessor's Office);
- Conducting timely & accurate Tax Takings & Subsequent Certifications.





# In Order to Run a Good Race, It's Important to Run a Clean 2<sup>nd</sup> Leg of the Race.

## Issuing & Collecting timely Tax Bills :

- Tax Bills can include other municipal charges.
- The Collector is responsible for ensuring that the tax bills are accurate and sending them to the proper assessed owner. G.L. c. 60 § 3.





# In Order to Run a Good Race, It's Important to Run a Clean 2<sup>nd</sup> Leg of the Race.

## Issuing & Collecting Tax Bills timely:

- Municipalities can deny, revoke or suspend permits, approvals or licenses where there are taxes or municipal charges more than one day past due. G.L. c. 40, § 57.
- Municipalities must accept the provisions of Section 57.



# What does a Municipal Lien Certificate do?

- The Collector may issue a “certificate” of all taxes and other assessments, including water rates and charges that constitute liens on the parcel of real estate. G.L. c. 60, § 23.
- If MLC is recorded it will release the “automatic lien” that was created by the commitment for all taxes and municipal charges not shown in it (except Tax Title).



# How can a Collector satisfy a Commitment ?

- The taxpayer is granted an exemption or an abatement;
- The Collector collects the full amount of the commitment;
- The Collector either “takes” or “subsequently certifies” the outstanding tax amount.



# In Order to Run a Good Race, It's Important to Run a Clean 2<sup>nd</sup> Leg of the Race.

## Conducting timely & accurate Tax Takings & Subsequent Certifications

- A Tax Taking is really just the perfection of the lien that was created by the commitment.
- The effect of the Tax Taking is similar to that of a mortgage.





# What is an Instrument of Taking ?

Tax Title Number

Property Description

Assessed Owner

Date of Taking

Recording Information

Amount Taken

Bk: 08789 Pg: 136

This instrument must be filed for record or registration within 60 days from its date

STATE FORM 301  
Revised 3/2009  
TTH 201500001

COMMONWEALTH OF MASSACHUSETTS  
CITY OF FALL RIVER  
Office of the Collector of Taxes

INSTRUMENT OF TAKING

I, IDALINA GERALDES, Collector of Taxes for the CITY OF FALL RIVER, acting under General Laws Chapter 60, Sections 53 and 54, hereby take for the city the real property described below:

DESCRIPTION OF PROPERTY

PROPERTY: LAND & BUILDING  
CONTAINING: 17340.00 SF (more or less)  
LOCATION: 7 OREGON ST  
PARCEL ID: S13-0008  
REGISTRY: 4139-310  
LAND COURT:  
RECORDED AT: BRISTOL COUNTY REGISTRY OF DEEDS

2015 AUG15463  
Bk: 08789 Pg: 136 Doc: TAKE  
Page: 1 of 1 09/25/2015 08:33 AM

This land is taken because taxes, as defined in Chapter 60, Section 43, assessed on the property to:

12 TONE REALTY TRUST

for the fiscal year 2015 were not paid within fourteen (14) days after a demand for payment was made on 12 TONE REALTY TRUST on May 15, 2015. After notice of intention to take the land was given as required by law, they remain unpaid along with interest and incidental expenses and costs to the date of taking as follows:

Fiscal Year 2015 TAXES REMAINING UNPAID . . . . .	\$7,969.58
INTEREST to date of taking . . . . .	\$749.82
INCIDENTAL EXPENSES AND COSTS to Date of Taking . . . . .	\$66.00
TOTAL FOR WHICH LAND IS TAKEN . . . . .	\$8,785.40

Executed as a sealed instrument on August 28, 2015

IDALINA GERALDES

THE COMMONWEALTH OF MASSACHUSETTS

Bristol ss. DATE: SEP - 8 2015

On this 8th day of September, 2015 before me, the undersigned Notary Public, personally appeared IDALINA GERALDES proved to me through satisfactory evidence of identification which were personally known, to be the person whose is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose, as Collector of Taxes for the CITY OF FALL RIVER

Alison M. Bouchard  
Notary Public  
March 4 2016

My commission expires

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

ATTEST BR. COUNTY PR. DIST.  
Bernard J McDonald III Register



# What is a Tax Title Account ?

T #	ASSESSED OWNER(S) PROPERTY LOCATION AND DESCRIPTION	UNPAID TAXES AND ASSESSMENTS	RECORD OF CHARGES AND FEES	AMOUNT TAKEN TITLE ACCOUNT
201500001	12 TONE REALTY TRUST 7 OREGON ST FALL RIVER, MA 02721	COMMERCIAL REAL COMM PRESERVATI SEWER LIEN SEWER LIEN COMM WATER LIEN WATER LIEN COMM	7,110.98 INTEREST 106.66 DEMAND FEE - RE 612.46 ADVERTISEMENT C 42.94 PREPARATION OF 89.75 POSTING FEE 6.79 RECORDING FEE	749.82 10.00 41.00 10.00 5.00 75.00
	S13-0008 7 OREGON ST	LAND & BUILDING		8,785.40 8,860.40

- The Takings Register lists all of the new Tax Title Accounts

809-0034 VESTAL ST	LAND					
201500003	AIMCO FALL RIVER II C/O AIMCO/TTA MS 235 37 COURTNEY STREET FALL RIVER, MA 02720	RESIDENTIAL REA COMM PRESERVATI	2,885.45 23.66	INTEREST DEMAND FEE - RE ADVERTISEMENT C PREPARATION OF POSTING FEE RECORDING FEE	292.04 10.00 41.00 10.00 5.00 75.00	3,257.15 3,332.15
U03-0017 COURTNEY ST	LAND					
201500004	ALBERMARZ DOROTHY MCMAHON HELEN 43 BOGLE ST FALL RIVER, MA 02723	RESIDENTIAL REA COMM PRESERVATI	48.33 1.98	INTEREST PREPARATION OF POSTING FEE RECORDING FEE	.06 10.00 5.00 75.00	65.37 140.37
J16-0100 43 BOGLE ST NOB: MCMAHON HELEN	LAND & BUILDING					
201500005	ALIX DANIEL 177 NASHUA ST FALL RIVER, MA 02721	RESIDENTIAL REA	505.38	INTEREST ADVERTISEMENT C PREPARATION OF POSTING FEE RECORDING FEE	32.12 41.00 10.00 5.00 75.00	593.50 668.50
I17-4806 177 NASHUA ST 6	BUILDING					



# What is a Subsequent Certification ?

- An Instrument of Taking also creates a “coat hook” of sorts on which a municipality can “hang” unpaid taxes from subsequent years.
- Only need to send Demand Bill – no need to publish.
- Only municipalities can do this pursuant to G.L. c. 60, §61.





Congratulations! You ran a clean second leg –  
now its time to pass the baton.



The baton is passed from the Collector to the  
Treasurer through the recording of the Instrument of  
Taking and the creation of the Tax Title Account.



## Third Leg: Collection of the Tax Title Account.

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

- Contacting the Taxpayer and the Mortgage Holder (if any) to collect Tax Title;
- Enforcing G.L. c. 60 § 93 & G.L. c. 40 § 57;
- Negotiating Installment Agreements.



# To Run a Clean Third Leg of the Race, the Treasurer's Office First Verifies the Tax Title Account

- Reconcile the Tax Title Account balance before and after the Taking or SubCert.
- Review the Interest Calculation to insure that the correct Interest Date was entered during the Taking or SubCert Process.



# To Run a Clean Third Leg of the Race, the Treasurer's Office Then Creates a Tax Title File

- Verify Recording or Registration Information & Date & enter in MUNIS;
- Create a label for each new Tax Title File;
- Place copy of Taking, Long Detail Report, Relevant Portion of Assessors Map & Property Card in new Tax Title File.



# Initial Contact with Taxpayer After the Taking

- The Treasurer's Office sends a letter to Taxpayer explaining the effect of the Taking and includes a copy of the Long Detail Report;
- The Treasurer's Office will also cause a Title Rundown to be completed to determine if there are any mortgages on the property.





# Before Releasing Checks for Tax Refunds or Vendor Payments the Treasurer's Office Enforces G.L. c. 60, § 93.

- If Taxes or Municipal Charges are due, the Treasurer's Office offsets the amount of the refund or vendor payment and applies it to the outstanding amount ;
- Must be in the same name.



## Chapter 40, Section 57 Has a Much Broader Reach.

- If Taxes or Municipal Charges are more than 1 day past due, the municipality will deny and may revoke or suspend permits, licenses and approvals;
- “The intent of this broad language is to eliminate the necessity that the delinquent taxpayer be the same legal entity as the person holding the permit or license. *DOR 10/2/1995*”



# The Treasurer's Office Negotiates Installment Agreements with Taxpayers to Facilitate Collection of Tax Titles.

- Should include all parcels owned by Taxpayer in Tax Title;
- 30% Down Payment with 12 Monthly Installments (with certain exceptions);
- Interest continues to accrue at 16%.





When the Taxpayer  
pays the Tax Title  
Balance  
the Treasurer  
records an  
Instrument of  
Redemption to  
release the Tax  
Title.



Bk: 06848 Pg: 116

THIS INSTRUMENT SHOULD BE FILED AT ONCE FOR  
RECORD OR REGISTRATION.

STATE FORM 441 INSTRUMENT OF REDEMPTION  
TITLE IN MUNICIPALITY  
TAX TITLE NUMBER: 201500001  
THE COMMONWEALTH OF MASSACHUSETTS  
CITY OF FALL RIVER  
OFFICE OF THE TREASURER

The CITY OF FALL RIVER  
holder of a tax title under a taking for  
non-payment of the 2015 taxes assessed to  
12 TONE REALTY TRUST  
7 OREGON ST


on land described in the instrument of taking conveying said title, dated  
August 28, 2015 and recorded with  
BRISTOL COUNTY REGISTRY OF DEEDS , Book/Page 8769/136  
Document No. . Certificate of Title No. . does hereby  
PURSUANT TO General Laws, Chapter 60, Section 62, acknowledge satisfaction of  
the tax title account secured by such instrument of taking.

DESCRIPTION OF LAND

PROPERTY: LAND & BUILDING CONTAINING: 17340.000 SF (more or less)  
LOCATION: 7 OREGON ST  
ASSESSORS: S13-0008  
REGISTRY: 4139-310  
LAND COURT: -  
RECORDED AT: BRISTOL COUNTY REGISTRY OF DEEDS  
REDEEMER: KENNETH GOLDBERG

Witness the execution of this instrument this 9th day of December, 2015

CITY OF FALL RIVER


By  , Treasurer

THE COMMONWEALTH OF MASSACHUSETTS December 9, 2015

BRISTOL , ss.

Then personally appeared the above named JOHN L. NUNES-TREASURER  
Treasurer of the CITY OF FALL RIVER , and acknowledged  
the foregoing instrument to be the free act and deed of said town.

Before me,

My commission expires February 19, 2021 

INES DA SILVA PAULINO LEITE  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires February 19, 2021

ATTEST: BR. COUNTY, F.R. DIST., Bernard J McDonald III

Tax Title Number  
Must Match Taking

Recording Info for  
Taking Must Match

Description  
Must Match Taking



# Treasurer's Certificates

- Pursuant to G.L. c. 60, § 60 a person paying someone else's taxes can request a Treasurer's Certificate.
- A Treasurer's Certificate must be recorded within thirty days.
- Creates a lien to secure repayment – not priority like a Tax Title.



# What's a Long Detail Report ?

Tax Title Number

Taxpayer at Taking

Must Match Takings Register

Tax Title Total

Summary of Payments Made on Tax Title



10/27/2017 16:45 mfaunce		CITY OF FALL RIVER LONG TITLE DETAIL REPORT		munis A/S/2017 10/27/2017	
INTEREST DATE: 10/27/2017					
YEAR/TITLE		ASSESSED OWNER NAME AND ADDRESS		PROPERTY DESCRIPTION	
2015 201500015 STATUS: ACTIVE		ARRUDA JOSE F ARRUDA LUCIA A 554 PENN ST FALL RIVER, MA 02724		B07-0035 554 PENN ST LAND & BUILDING ACRS: .000 SF: 9540 BOOK/PAGE: 1952-108 CERT/DOC 1 LENDER: ATTY:	
				MISC TITLE DATA	
				PAPERS: 07/24/2015 THE HERALD NEWS POSTED: 07/24/2015 THE FALL RIVER PUBLIC LIBRARY FALL RIVER GOVERNMENT CENTER	
				DMD DATE: 05/15/2015 RCD DATE: 09/29/2015 TKE DATE: 08/28/2015 BOOK/PAGE 8789/148 CERT DOC INT PCT 16.00	
2015		RES RE-TT 1,117.52 TT-CPA 10.62 SLIEN-TT 1,031.17 SLINT-TT 101.64 WLIEN-TT 528.53 WLINT-TT 51.67 ADVERTISEM 41.00		PREPINS-TT 10.00 POSTFEE-TT 5.00 RECFFEE-TT 75.00 INT TO TAK 207.00 LEGAL FEE 200.00 INSTREDFEE 80.00	
2016		RES RE-TT 2,336.18 TT-CPA 14.50 SLIEN-TT 1,171.41 SLINT-TT 133.92		WLIEN-TT 687.45 WLINT-TT 76.98 DEMAND-TT 10.00 INT TO TAK 254.86	
2017		RES RE-TT 2,381.40 TT-CPA 14.72 SAN HH FEE 370.00 SAN HH FEE 46.54 SLIEN-TT 350.18		SLINT-TT 46.32 WLIEN-TT 189.30 WLINT-TT 23.91 DEMAND-TT 10.00 INT TO TAK 205.47	
TOTAL TITLE:		11,782.39		PRIN PAID ABATEMENTS	
				ADVERTISEM .00 DEMAND-TT .00 INSTREDFEE .00 INT TO TAK .00 LEGAL FEE .00 POSTFEE-TT .00 PREPINS-TT .00 RECFFEE-TT .00 RES RE-TT .00 SAN HH FEE .00 SAN HH FEE .00 SLIEN-TT .00 SLINT-TT .00 TT-CPA .00 WLIEN-TT .00 WLINT-TT .00	
				.00 .00	
TOT PRIN PD:		.00			
INTEREST DUE:		2,376.76			
TOTAL DUE:		14,159.15			
PER DIEM:		4.99			

Description

Taking Date & Recording Info

SubCert Dates

Current Balance

Congratulations! You ran a clean third leg – now its time to pass the baton.



The baton is passed from the Treasurer to the Tax Title Attorney when a Tax Title is Assigned to be Foreclosed.

## Fourth Leg: Prosecution of Tax Lien Case.

The Tax Title Attorney runs a clean fourth leg of the race by:

- Filing a Petition to Foreclose at the Land Court;
- Zealously Prosecuting the Petition to Foreclose;
- Obtaining Payoffs, Decrees of Foreclosure or Deeds in Lieu of Foreclosure.





# Foreclosing a Tax Lien at the Land Court

This is really when we learn just how clean the 1<sup>st</sup> three legs of the race were run:

- If there was an error in the Assessment the Land Court will dismiss the case;
- If there was an error on the Tax Bill the Land Court will dismiss the case;
- If the Taxpayer never had the opportunity for an Installment Agreement the case will be delayed.



# Foreclosing a Tax Lien at the Land Court.

File Petition to Foreclose Right  
of Redemption  
G.L. c. 60 § 65



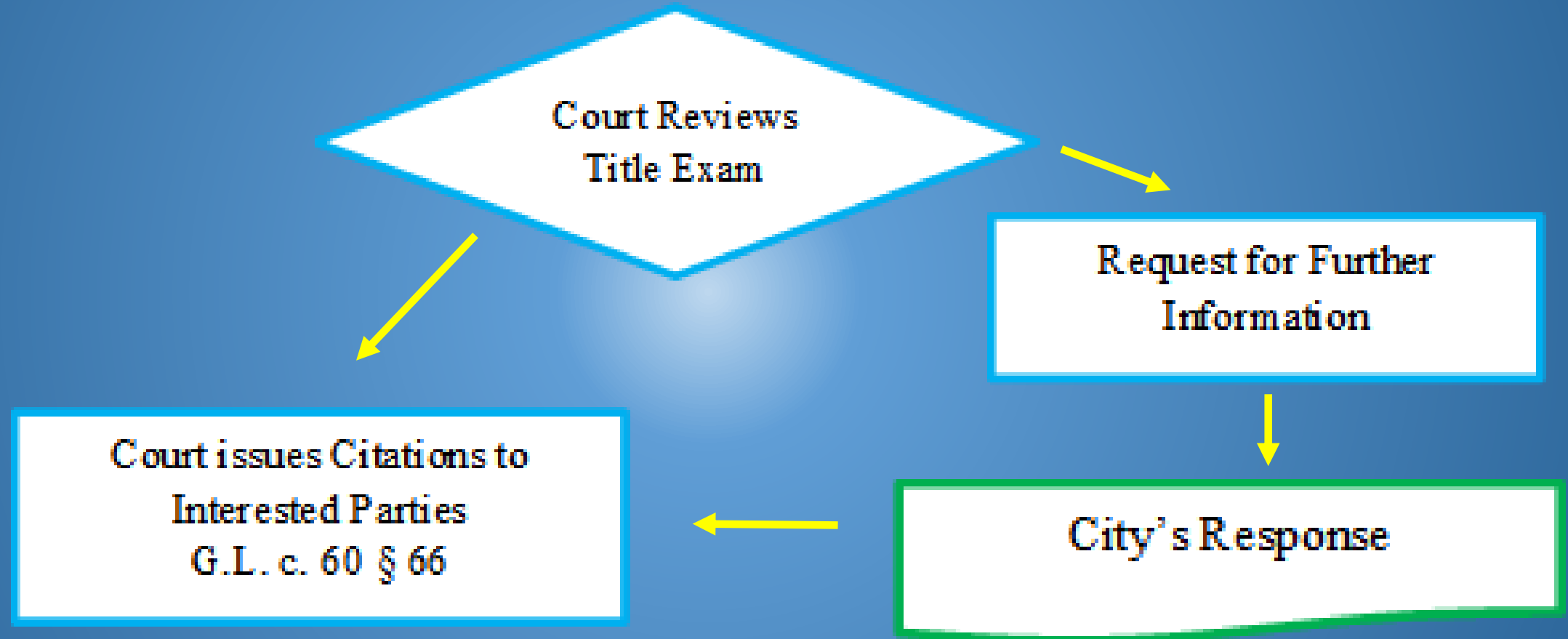
Land Court docket's Petition,  
assigns Docket # & Refers for  
Title Exam



Land Court Title Examiner  
files Title Exam w/in 60  
days or re-referred  
G.L. c. 60 § 66



# Foreclosing a Tax Lien at the Land Court.



# Foreclosing a Tax Lien at the Land Court.

Court issues Citations to  
Interested Parties  
G.L. c. 60 § 66

City Requests Default  
G.L. c. 60 § 67

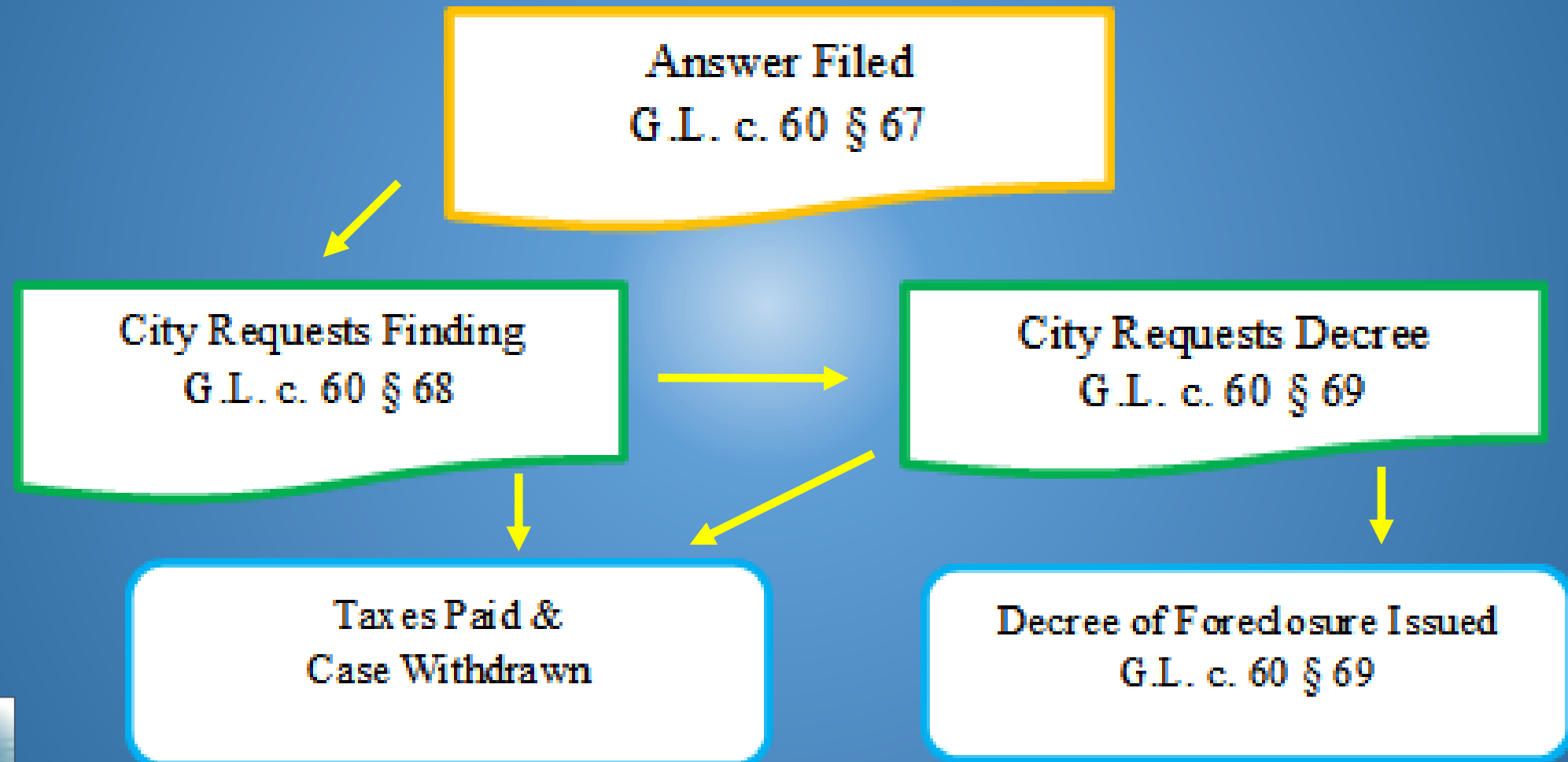
Answer Filed  
G.L. c. 60 § 67

Default Enters & Decree of  
Foreclosure Issued  
G.L. c. 60 § 69





# Foreclosing a Tax Lien at the Land Court.



# Important Documents in The Tax Lien Process

Taking  
↓  
Instrument  
of  
Redemption

Notice of Filing  
Petition  
↓  
Withdrawal

Decree  
↓  
Vacation  
of  
Decree



# What's a "Tax Possession" ?

- When the Land Court issues the Decree of Foreclosure the City becomes the owner free and clear of all liens.
- Custodian of Tax Possessions
  - G.L. c. 60, § 77B.
- The value of the Tax Possession is the total of the taxes, interest and charges when the Tax Title was foreclosed.



# Don't Drop The Baton -

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## Questions & Answers

MATTHEW J. THOMAS, ESQ.

Attorney at Law