

Don't Drop The Baton -



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 remind Assessors what their office must do to run a clean leg of the race.
- To help Assessors 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 1st (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;
 - Preserve supporting documentation & Annual Vote.



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

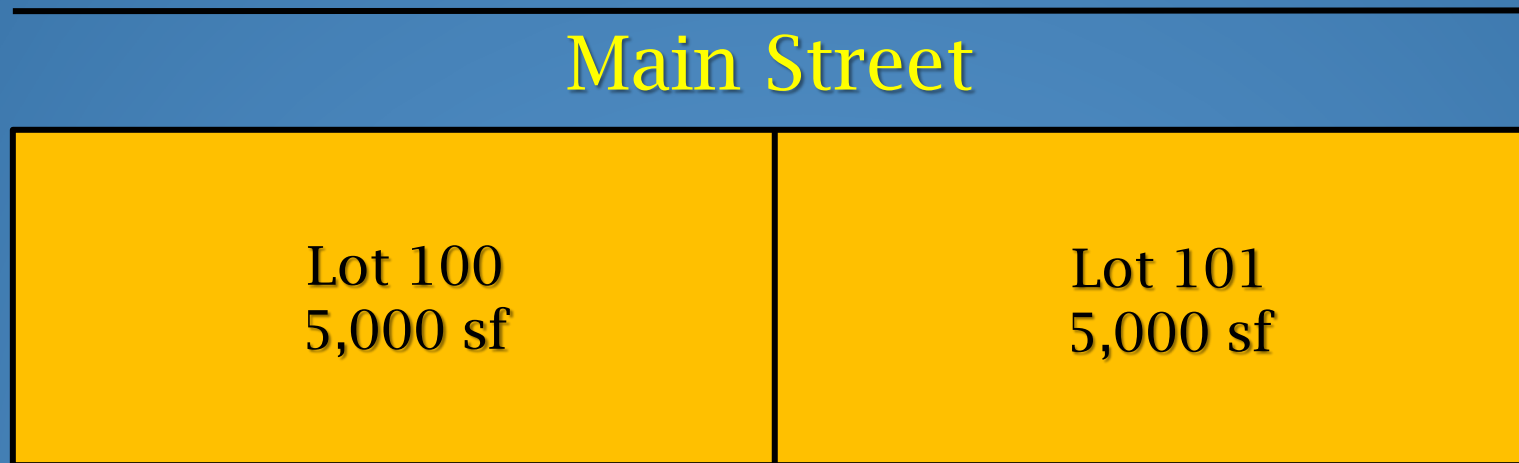
Keeping Property Owner's names & addresses current:

- 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”.

The Assessors
establish the real
estate tax liability for
individual taxpayers

PROPERTY/OWNER	CLASS	OWNER OF RECORD	*-----	VALUES	*-----*	CHARGE	TAX	INSTALLMENTS	
T10-0020	112	1672881	LAND	146,300		RES RE TAX	5,658.41	1	1,376.22
119-125 WADE STREET LLC,			BUILDING	286,300		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			DEPERMENT	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			DEPERMENT	0		WATER LIEN	89.75	4	1,898.02
			EXEMPTION	0		S/LIEN INT	42.94		
			NET VALUE	252,700		WLIEN INT	6.79		

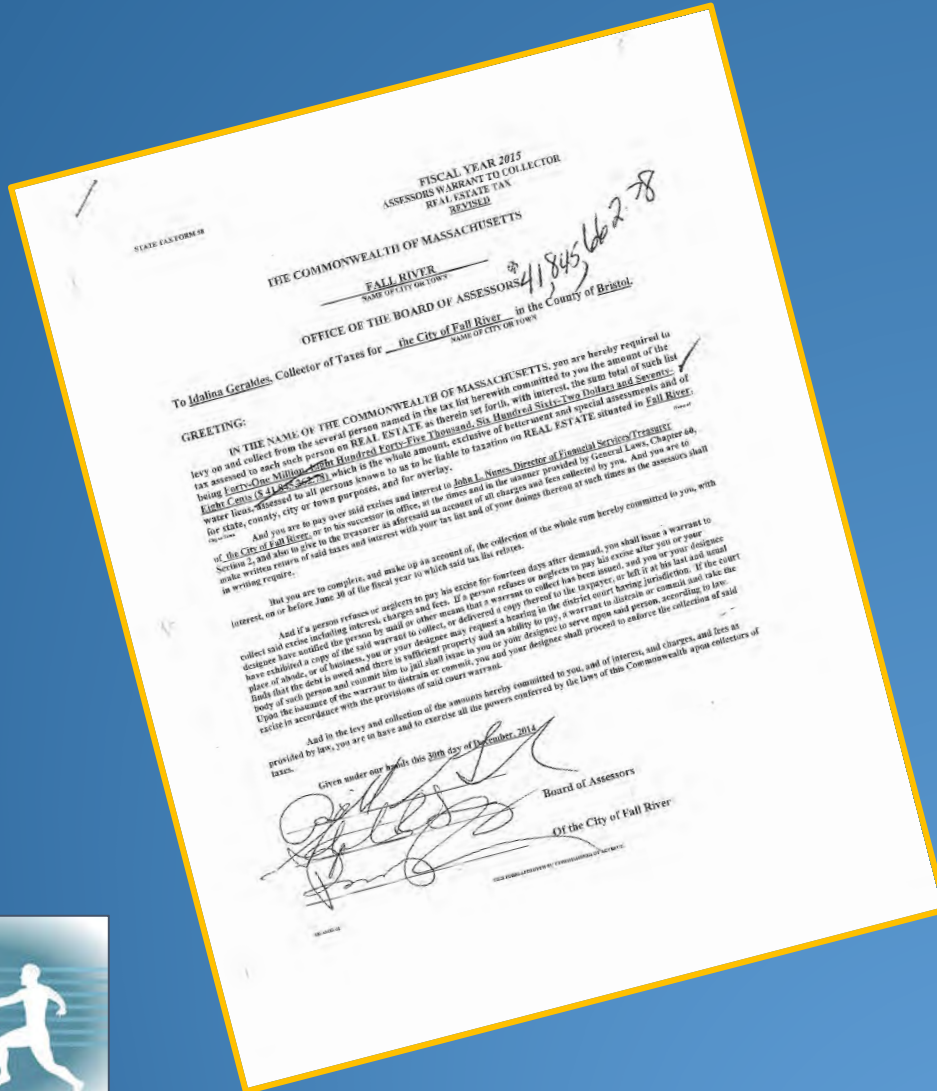
S13-0008		400	1407317	LAND	104,400	COM RE TAX	7,110.98	1	1,710.80	
12 TONE REALTY TRUST				BUILDING	148,300	COMM PRESE	106.66	2	1,710.79	.00
7 OREGON ST				TOTAL VALUE	252,700	SEWER LIEN	612.46	3	2,649.97	11,653.97
FALL RIVER, MA 02721				DEFERMENT	0	WATER LIEN	89.75	4	1,898.02	11,653.96
				EXEMPTION	0	S/LIEN INT	42.94			12,929.44
				NET VALUE	252,700	WLIEN INT	6.79			12,929.43
LOC: 7 OREGON ST						TOTAL TAX	7,969.58			
BILL NO	BOOK/PAGE	DEED DATE	SQ FT			NET PRELIM	3,421.59			.00
14	4139-310	10/01/2001	17340			NET ACTUAL	4,547.99			8,851.84
CURR OWNER: 1407317 - 12 TONE REALTY TRUST										8,851.84
PRELIM BILLED		3,421.59	ADJ	.00	ABT	.00	OVER BILLED	.00		9,820.64

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



The 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 2nd 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 2nd 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 2nd 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
TT# 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 00015403
Bk: 08789 Pg: 136 Doc: TAKE
Page: 1 of 1 09/29/2015 08:53 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

THE COMMONWEALTH OF MASSACHUSETTS

ss. *Bristol* 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. Boush
Notary Public
March 4 2016

My commission expires

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

ATTEST: BR. COUNTY, F.R. 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

S09-0034 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	282.04 10.00 41.00 10.00 5.00 75.00	3,257.15 3,332.15
U03-0017 COURTNEY ST	LAND					
201500004	ALBERNAZ 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					

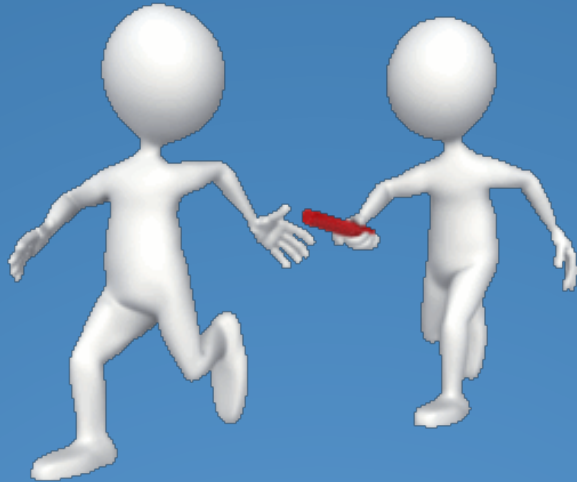


What is a Subsequent Certification ?

- 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.



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: 08849 Pg: 115

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 8789/136
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 
Notary Public

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 better way to solution	
INTEREST DATE: 10/27/2017				P 1 ttingrnt	
YEAR/TITLE		PROPERTY DESCRIPTION		MISC TITLE DATA	
ASSESSED OWNER NAME AND ADDRESS					
2015 201500015 STATUS: ACTIVE		B07-0035		PAPERS: 07/24/2015	
ARRUDA JOSE F		554 PENN ST		THE HERALD NEWS	
ARRUDA LUCIA A		LAND & BUILDING		DMD DATE: 05/15/2015	
554 PENN ST		ACRES: .000 SF: 9540		RCD DATE: 09/29/2015	
FALL RIVER, MA 02724		BOOK/PAGE: 1952-108		TKE DATE: 08/28/2015	
		CERT/DOC :		BOOK/PAGE 8789/148	
		LENDER: ATTY:		CERT	
				DOC	
				INT PCT 16.00	
2015		RES RE-TT		TAKEN AMT: 3,179.15	
		TT-CPA		FEE AMT: 280.00	
		SLIEN-TT		TOTAL AMT: 3,459.15	
		SLINT-TT			
		WLIEN-TT			
		WLINT-TT			
		ADVERTISEM			
2016		RES RE-TT		TAKEN AMT: 4,685.40	
		TT-CPA		DMD DATE: 05/13/2016	
		SLIEN-TT		TKE DATE: 06/07/2016	
		SLINT-TT			
2017		RES RE-TT		TAKEN AMT: 3,637.84	
		TT-CPA		DMD DATE: 05/17/2017	
		SAN HH FEE		TKE DATE: 06/06/2017	
		SAN HH FEE			
		SLIEN-TT			
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	
		RECFEE-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					

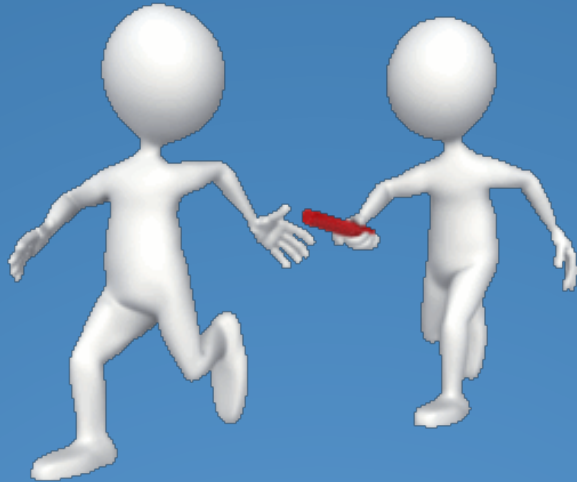
Description

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 1st 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



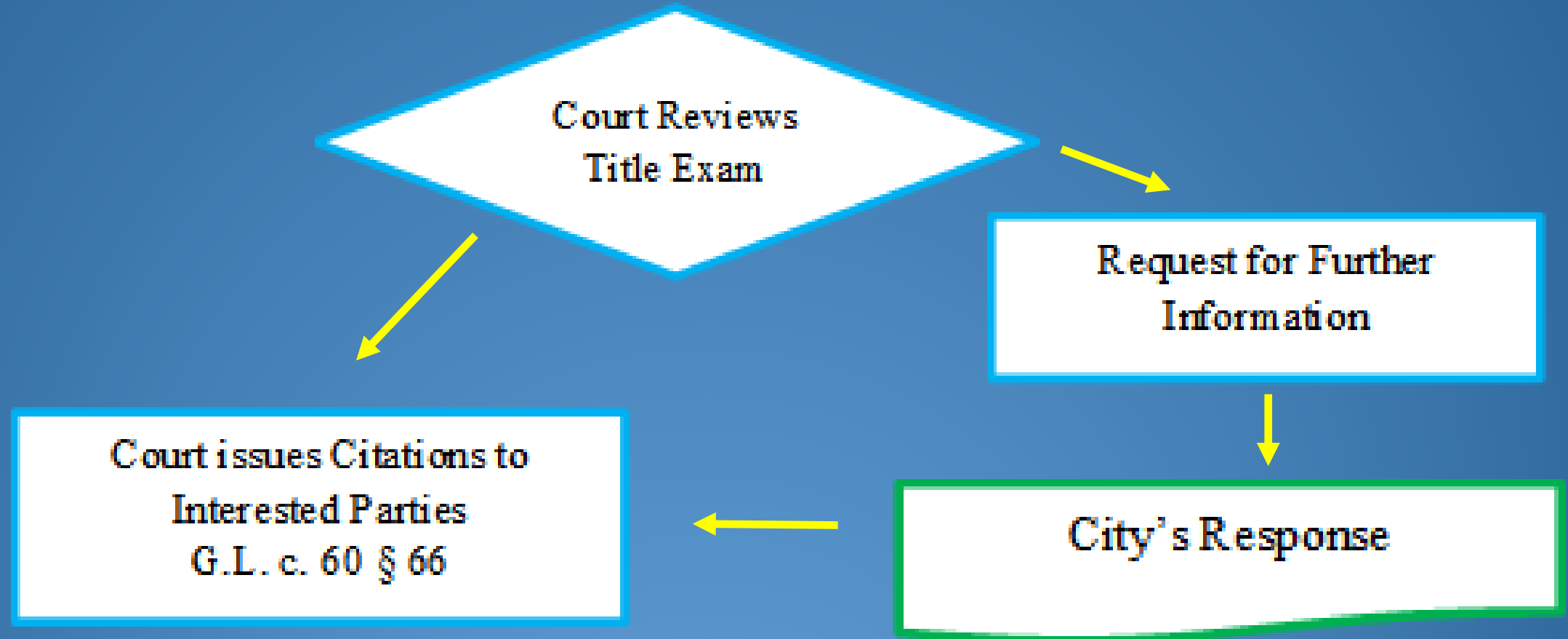
Land Court docket's Petition,
assigns Docket # & Refers for
Title Exam



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

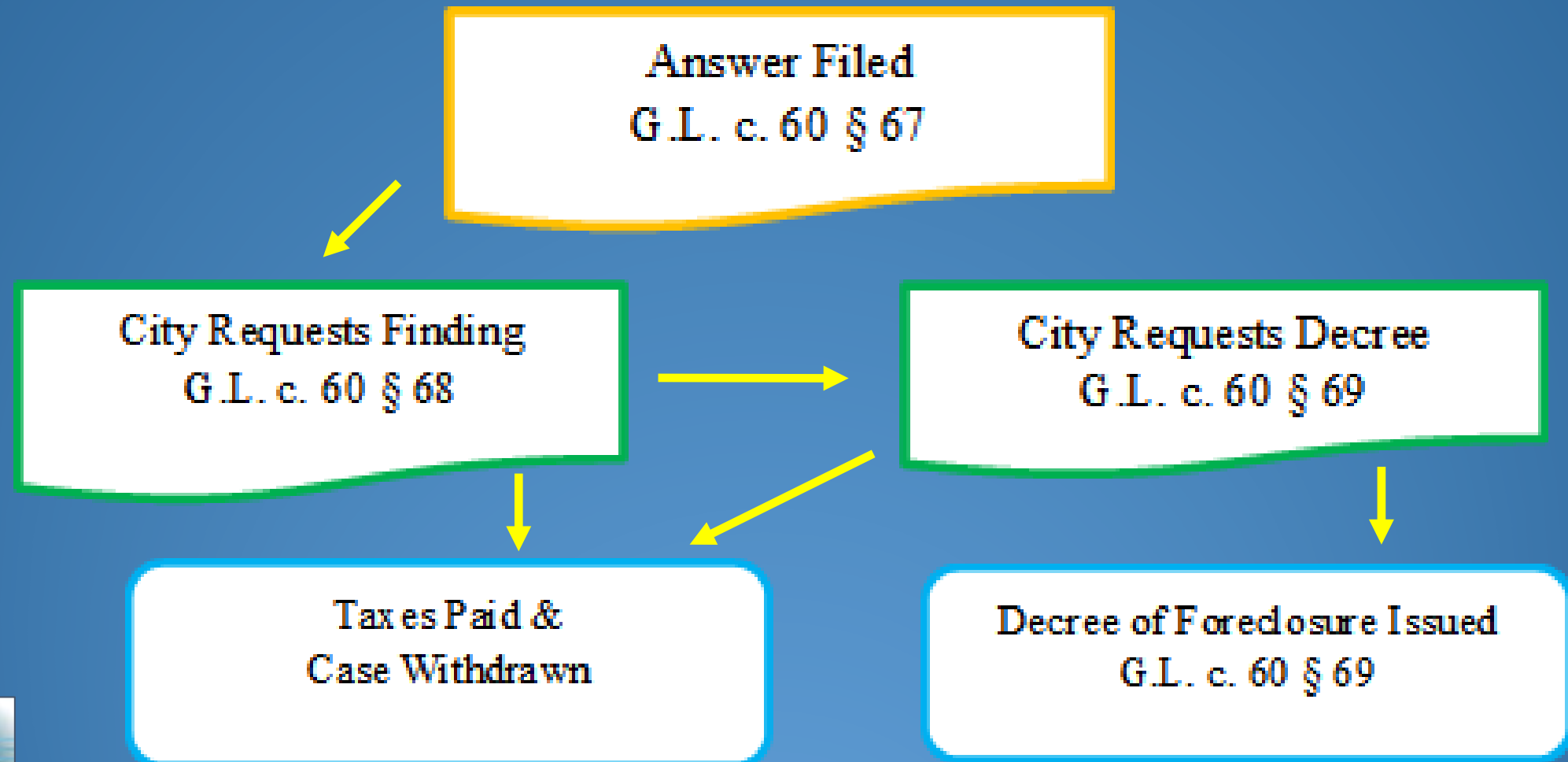
City Requests Default
G.L. c. 60 § 67

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.



Pending Legislation

- Let's take a brief look at the various Senate & House Bills that have been filed this year regarding the Tax Title Collection Process.
- Senate Bill # 921
- Senate Bill # 1876
- House Bill # 2883
 - House Bill # 2937
- Senate Bill # 1774
- Senate Bill # 1953
- House Bill # 2907



Don't Drop The Baton -



Questions & Answers

MATTHEW J. THOMAS, Esq.

Attorney at Law