

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 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 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;
 - Supporting documentation.



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

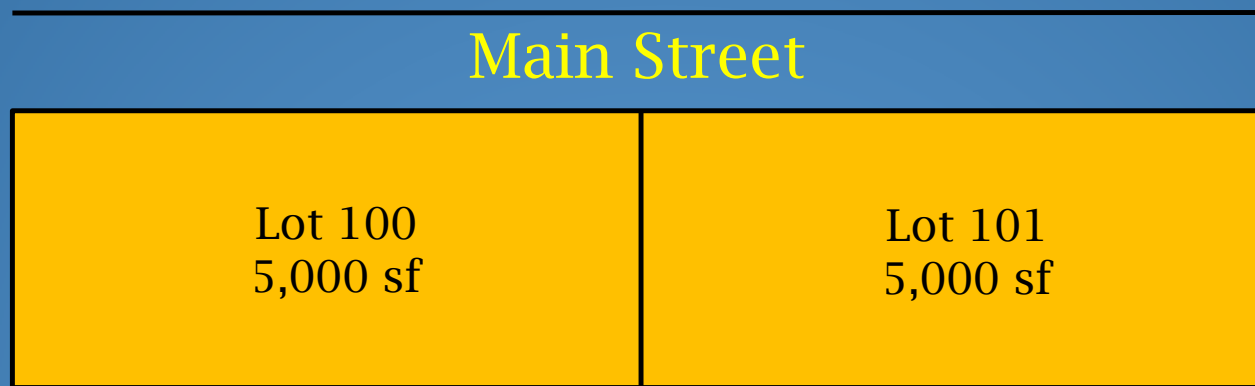
Keeping Property Owner's names & addresses current:

- 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”.

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.

REALTY TAX FORM 10
FISCAL YEAR 2015
ASSESSORS WARRANT TO COLLECTOR
REAL ESTATE TAX
REVISED

THE COMMONWEALTH OF MASSACHUSETTS
FALL RIVER
CITY OF FALL RIVER
OFFICE OF THE BOARD OF ASSESSORS
In the County of Bristol
To Melina Corbridge, Collector of Taxes for the City of Fall River

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, you are hereby required to levy and collect from the several persons named by the list hereto committed to you the amount of the tax assessed to each such person on REAL ESTATE as therein set forth with interest, the sum total of such list being Eighteen Thousand Six Hundred Sixty Two Dollars and Sixty Cents (\$18,662.78), which is the whole amount, exclusive of interest, assessed to said persons, and of water fees, assessed to all persons known to us to be liable to taxation on REAL ESTATE situated in Fall River for state, county, city or town purposes, and for arrears.

And you are to pay over said taxes and interest to John J. Niles, Director of Financial Services Treasury of the City of Fall River, or to his successor in office, as the times and in the manner provided by General Laws, Chapter 41A, Section 24 and also to give to the treasurer an abstract an account of all charges and fees collected by you. And you are to make written returns of said taxes and interest with your tax list and of your duty thereat as such times as the assessors shall in writing require.

And you are to complete, and make up an account of the collection of the whole sum hereby committed to you, with interest, on or before the 20th day of the month of October in which said tax list returns.

And if a person refuses or neglects to pay his or her share after demand, you shall have a warrant to collect said amount including interest, charges and fees. If a person refuses or neglects to pay his or her share or your designee have notified the person by mail or other means that a warrant is being issued to the District Court having jurisdiction, and that the person or your designee property and is going to pay a warrant to district court person according to law, place or date, or of business, you or your designee shall have a warrant to district court person according to law, body of such person and commit him to jail and liable to you or your designee shall proceed to enforce the collection of said taxes in accordance with the provisions of said court warrant.

And in the levy and collection of the amounts hereby committed to you, and of interest and charges, and fees as provided by law, you are to have and to exercise all the powers conferred by the laws of this Commonwealth upon collectors of taxes.

Given under our hands this 20th day of December, 2014.
[Signature]
Board of Assessors
Of the City of Fall River



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 ?

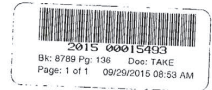
Tax Title Number

STATE FORM 301
Revised 3/2009
TTH# 201500001

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

Property Description

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



Recording Information

Assessed Owner

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

Amount Taken

Date of Taking

Idalina Geraldes
IDALINA GERALDES
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. Bouchard
Notary Public
March 4 2016



My commission expires

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE
ATTEST: BR. COUNTY REGISTRAR
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	8,785.40 8,860.40
S13-0008	LAND & BUILDING 7 OREGON ST				

- 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 INTEREST 23.66 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 INTEREST 1.98 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: 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:	17349.000 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,
February 19, 2021 
My commission expires 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 ?

10/27/2017 16:45
mfaunce

CITY OF FALL RIVER
LONG TITLE DETAIL REPORT

INTEREST DATE: 10/27/2017

munis
a tyler erp solution

2015 201500015 STATUS: ACTIVE

ARRUDA JOSE F
ARRUDA LUCIA A
554 PENN ST
FALL RIVER, MA 02724

B07-0035
554 PENN ST
LAND & BUILDING
ACRES: .000 SF: 9540
BOOK/PAGE: 1952-108
CERT/DOC :
LENDER: ATTY:

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

YEAR/TITLE	ASSESSED OWNER NAME AND ADDRESS	PROPERTY DESCRIPTION	MISC TITLE DATA	TAKEN AMT:	DMD DATE:
2015	RES RE-TT	1,117.52	PREPINS-TT	3,179.15	
	TT-CPA	10.62	POSTFEE-TT	280.00	
	SLIEN-TT	1,031.17	REC-FEE-TT	3,459.15	
	SLINT-TT	101.64	INT TO TAK		
	WLIEN-TT	528.53	LEGAL FEE		
	WLINT-TT	51.67	INSTREDFEE		
	ADVERTISEM	41.00			
2016	RES RE-TT	2,336.18	WLIEN-TT	4,685.40	
	TT-CPA	14.60	WLINT-TT	76.98	05/13/2016
	SLIEN-TT	1,171.41	DEMAND-TT	10.00	06/07/2016
	SLINT-TT	133.92	INT TO TAK	254.86	
2017	RES RE-TT	2,381.40	SLINT-TT	46.32	05/17/2017
	TT-CPA	14.72	WLIEN-TT	189.30	06/06/2017
	SAN HH FEE	370.00	WLINT-TT	23.91	
	SAN HH FEE	46.54	DEMAND-TT	10.00	
	SLIEN-TT	350.18	INT TO TAK	205.47	

TOTAL TITLE: 11,782.39

	PRIN PAID	ABATEMENTS
ADVERTISEM	.00	.00
DEMAND-TT	.00	.00
INSTREDFEE	.00	.00
INT TO TAK	.00	.00
LEGAL FEE	.00	.00
POSTFEE-TT	.00	.00
PREPINS-TT	.00	.00
REC-FEE-TT	.00	.00
RES RE-TT	.00	.00
SAN HH FEE	.00	.00
SAN HH FEE	.00	.00
SLIEN-TT	.00	.00
SLINT-TT	.00	.00
TT-CPA	.00	.00
WLIEN-TT	.00	.00
WLINT-TT	.00	.00
TOT PRIN PD:	.00	.00
INTEREST DUE:	2,376.76	
TOTAL DUE:	14,159.15	
PRR DIEM:	4.99	

Tax Title Number

Taxpayer at Taking

Must Match Takings Register

Tax Title Total

Summary of Payments Made on Tax Title

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



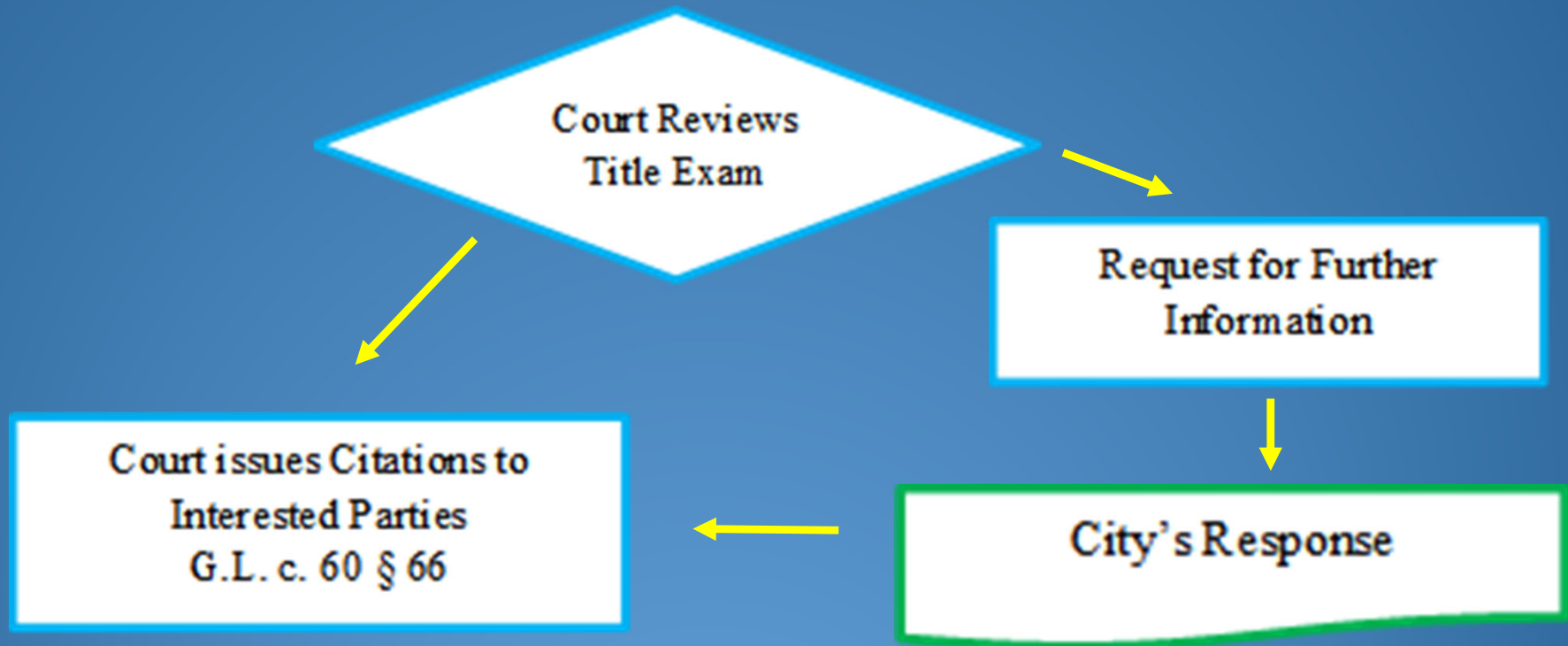
Land Court docket's Petition,
assigns Docket # & Refers for
Title Exam



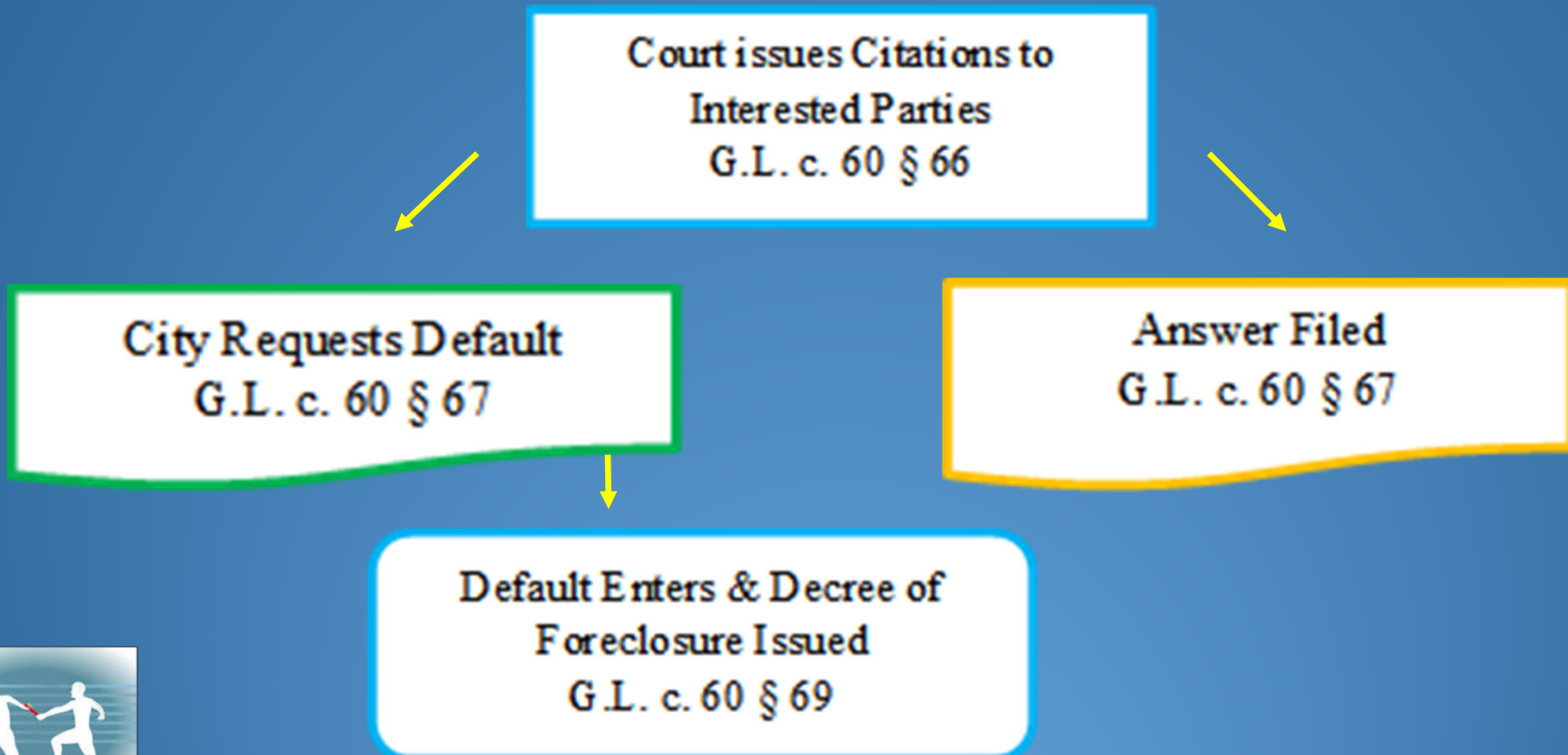
Land Court Title Examiner
files Title Exam w/in 60
days or re-referred
G.L. c. 60 § 66



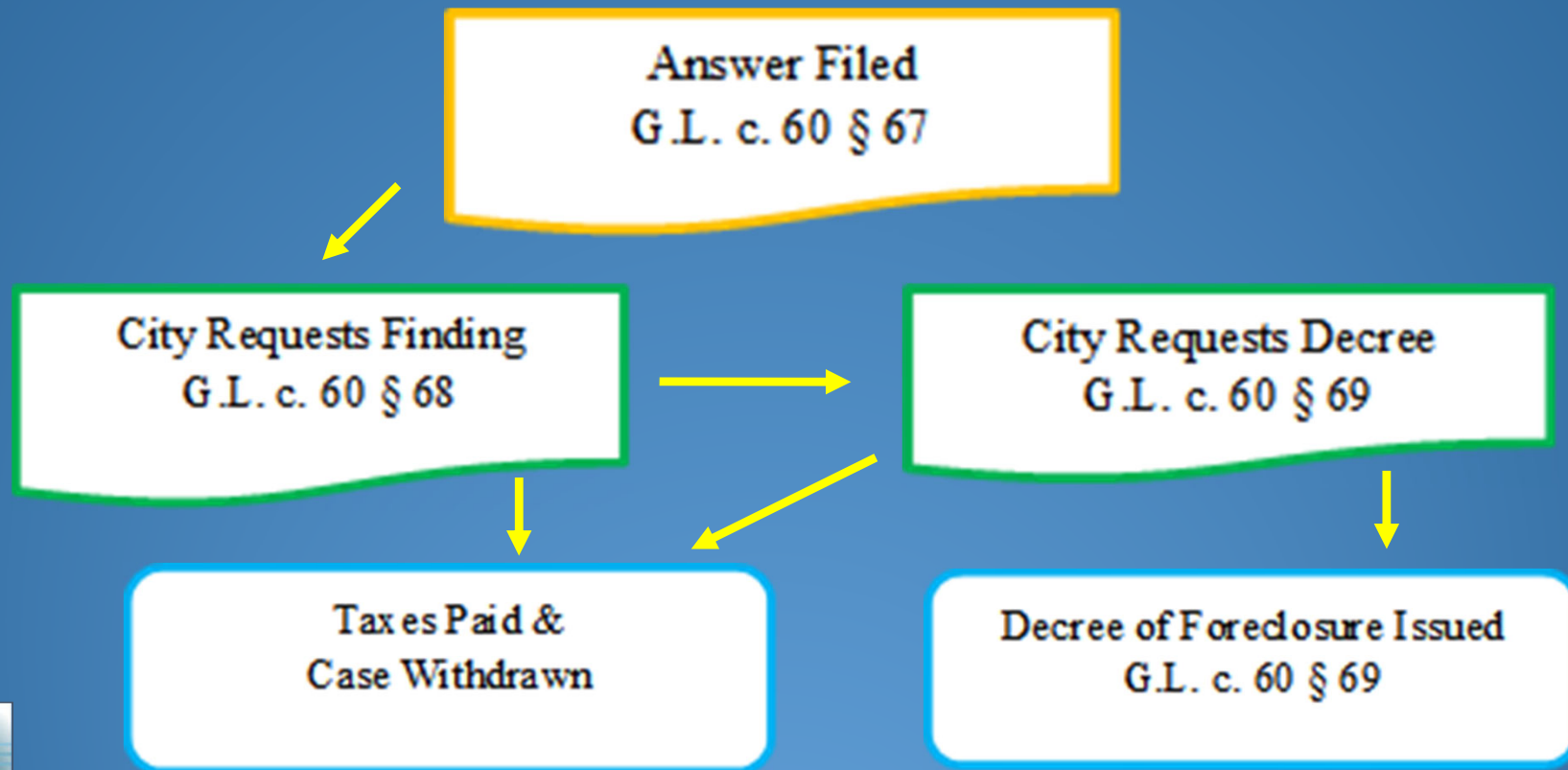
Foreclosing a Tax Lien at the Land Court.



Foreclosing a Tax Lien at the Land Court.



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, but the owner may be entitled to the surplus sales proceeds, if sold.
- 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.



Disposition of Tax Possessions - Post Chapter 140 Challenges

- Need for pre-Decree planning on the part of the municipality - 14 days to decide whether to sell or retain.
- Need to have an Independent Appraiser already retained.
- Need to hire a Real Estate Broker to list property for one year.



Disposition of Tax Possessions – Post Chapter 140 Challenges

- Ability to only sell at Auction for a minimum bid of $\frac{2}{3}$ of “Highest & Best Use Value” as determined in the Appraisal.
- Former Owner, or any mortgagee or lienholder can contest the value.
 - Right to file in the Superior Court



Disposition of Tax Possessions – Post Chapter 140 Challenges

- Post Retention/Sale Procedures
 - Accounting to former owner and all mortgagees or lienholders.
 - Former Owner, or any mortgagee or lienholder can contest the sales price.
 - Surplus Funds escrow



Disposition of Tax Possessions – Post Chapter 140 Challenges

- Post Retention/Sale Procedures
 - If no one claims the surplus, it's turned over the State Treasurer under Chapter 200A.
 - What happens if municipality accepted Chapter 200A, § 9A (Tailings retention)?
 - But there are some things a municipality can do....



Disposition of Tax Possessions – Post Chapter 140 Challenges

- Some Suggestions.....
 - Appoint a Custodian of Tax Possessions
 - Use Mutual Releases with every Deed In Lieu of Foreclosure.
 - Contact your State Representative and State Senator now and begin to advocate for changes.



Don't Drop The Baton -



Questions & Answers

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