

Chapter 164 Real Property, Sale of

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Article I - Property No Longer Needed for County Purposes

[Adopted 3-20-2003 by L.L. No. 4-2003]

§164-1 Purpose

The purpose of this article is to establish the policy and procedures in the County of Sullivan for the sale of parcels of real property no longer needed for County purposes in lieu of County Law §215.

§ 164-2 Definitions

When used in this article, the following definitions apply:

ASSESSED VALUE

The amount of the town's official assessed value, not including exemptions, on the latest assessment roll.

COUNTY

The County of Sullivan, a political subdivision of the State of New York.

LEGISLATURE

The Sullivan County Legislature.

PERSON

Any individual, group, association, partnership, corporation or other legal entity.

§164-3 Legislative intent.

- A. This subject is presently regulated by County Law §215 which requires, except for property which the county acquired by tax title or accepted for welfare assistance, or lands purchased or acquired for highways or canals or pursuant to §850 of the

County Law, that upon a determination of the County Legislature that County property is no longer necessary for public use, such governing body, by resolution adopted by the affirmative vote of two-thirds of the total membership taken by roll call and entered into the minutes, may sell and convey all of the right, title and interest of the County therein; and that such property may be sold or leased only to the highest responsible bidder after public advertising; and, if leased, the term may not exceed five years.

- B. Occasions arise where it is in the best interest of the County to dispose of real and/or personal property to a specific third party without the necessity of complying with the requirements of County Law §215. In order to accommodate this need, the Sullivan County Legislature hereby provides for the modification of the provisions of County Law §215 so that in the future, conveyances of property no longer necessary for public use shall be simplified, obviating the necessity of adopting a local law subject to permissive referendum.

§164-4 Sale By Resolution.

When the County Legislature shall determine that any County-owned real or personal property is no longer necessary for public use, such Board, by resolution adopted by the affirmative vote of two-thirds of the total membership of the Board taken by roll call and entered in the minutes, may sell, lease or otherwise convey all the right, title and interest of the County therein and declare the terms governing said transaction. The documents of conveyance shall be approved by the County Attorney and executed by the Chairman of the Legislature. A contract of sale preceding the conveyance shall be desirable but not mandatory, and the absence of a contract shall not negate or otherwise impair the conveyance itself once there has been execution and delivery. A resolution authorizing a conveyance shall not be deemed to be a contract, nor to be contractual in nature, and may be rescinded and revoked by subsequent resolution of the Legislature at any time prior to the actual consummation of the conveyance. Property sold, leased or otherwise conveyed pursuant to this provision may be made to the highest responsible bidder after public advertisement in the discretion of the Board.

- A. The income and proceeds of the lease or sale of any County property no longer necessary for public use may be applied toward the payment of the cost of new sites and buildings or expended for other lawful County purposes.
- B. Nothing herein shall be construed to authorize the sale or lease of any County property where such disposition is prohibited or restricted by law.
- C. All other provisions of County Law § 215 and other statutes not the subject of this legislation shall remain in full force and effect.
- D. The County may take back a purchase money note and mortgage as part of the consideration for the purchase price, upon resolution of the Legislature.
- E. Property may be sold if authorized by local law subject to permissive referendum in lieu of by resolution, in the discretion of the Legislature by a majority vote.

Article II - Property Acquired for Delinquent Property Taxes **[Adopted 3-19-2009 by L.L. No. 2-2009]**

Editor's Note: This article also superseded former Article II, Property Acquired for Delinquent Property Taxes, adopted 4-15-2003 by L.L. No. 5-2003.

§164-5 Purpose.

The purpose of this article is to establish the policy and procedures in the County of Sullivan for the sale of parcels of real property not redeemed for delinquent real property taxes, in accordance with New York State Real Property Tax Law Article 11.

§ 164-6 Definitions.

When used in this article, the following definitions apply:

ASSESSED VALUE

The amount of the Town's official assessed value of real property, not including exemptions, on the latest assessment roll.

COUNTY

The County of Sullivan, a political subdivision of the State of New York.

DELINQUENT TAX

An unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of a municipal corporation or special district, plus all applicable charges, relating to any parcel which is included in the return of unpaid delinquent taxes prepared pursuant to Real Property Tax Law or such other general, special or local law.

ENFORCING OFFICER

The Sullivan County Treasurer.

LEGISLATURE

The Sullivan County Legislature.

PERSON

Any individual, group, association, partnership, corporation or other legal entity.

REAL PROPERTY ADVISORY BOARD (RPAB)

An advisory board whose membership shall consist of the County Treasurer, the Director of Real Property Tax Services, the County Manager and the County Attorney, or their designees. The RPAB shall hear and discuss real property matters and tax foreclosure matters for the purpose of advising the Sullivan County Legislature's Management and Budget or Executive Committee and shall perform all duties requested by said Committee pursuant to this article. The role of the RPAB shall be advisory only and shall not circumvent formal action by the Legislature.

MANAGEMENT AND BUDGET OR EXECUTIVE COMMITTEE

The duly designated standing committees as defined in the Sullivan County Code,[1] which shall have jurisdiction of real property matters, regardless of its title by the Chairman of the Legislature, from time to time. [1] Editor's Note: See The Administrative Code, § A2-9(8).

§164-7 Taking title to parcels.

- A. When the appropriate Court executes a judgment pursuant to Real Property Tax Law Article 11 awarding title to one or more parcels of real property to the County, then the County shall take possession of any such parcel, unless:
 - i. Such parcel has been withdrawn from the proceeding; or
 - ii. The County as a matter of law is not permitted to take possession of such parcel;
 - iii. The Real Property Committee, consistent with applicable law and after considering the recommendation of the RPAB, determines that it would not be in the County's interest to take title to the parcel; or
 - iv. Such parcel is included in a tax installment agreement in good standing.
- B. Upon execution by the Enforcing Officer of a deed to such parcel or parcels, pursuant to Real Property Tax Law Article 11, the County, or other named grantee, shall be seized of an estate in fee simple absolute, and absentees and nonresidents, except as specifically exempted by law, who may otherwise have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel shall be barred and forever foreclosed of any such right, title, interest, claim, lien or equity of redemption. Upon the execution of the judgment of foreclosure by the Court, the execution and/or recording of the deed by the Enforcing Officer shall be ministerial.
- C. The County may retain title to one or more properties for public use, by resolution of the Legislature, or it may sell or release its interest in such parcels as set forth herein.
- D. The judgment may include a provision granting title to all personal property deemed abandoned on the realty.
- E. Nothing contained herein shall be construed to preclude any such person from filing a claim pursuant to §1135 or §1197 of the NYS Real Property Tax Law for a share of any surplus that may be attributable to the sale of such parcel.

§164-8 Sale of property acquired by County.

- A. Public auction.
 - (1) Within a reasonable time after the Court renders judgment in favor of the County, authorizing the Enforcing Officer to convey title to the County, the County Legislature shall approve a date for a public auction. Such auction or auctions shall be conducted on behalf of the County by the Enforcing Officer. The County Legislature may authorize the Enforcing Officer and the County Manager to execute a contract from

time to time with an auction company to assist with the conduct of the auction. Decisions regarding the sale of specific properties at such auction shall be made by the Enforcing Officer. All parcels, except those sold through a release of the County's interest pursuant to § 164-8(B) herein, or through a private sale pursuant to § 164-8(C) herein, or retained for public use, or retained by the County of Sullivan for future determination, or conveyed to another municipality for public use, shall be subject to a public auction. Public notice of such auction shall be made at such times, places and manner in the discretion of the Enforcing Officer who may seek the advice of the RPAB, the County Legislature and/or the auction company, if any, hired by the County to assist the Enforcing Officer in the conduct of the auction.

- (2) The terms of sale for the annual public auction shall be prepared, and modified from time to time, by the Enforcing Officer, who may seek the advice of the RPAB, the County Legislature and/or the auction company, if any, hired by the County to assist the Enforcing Officer in the conduct of the auction. Bids made at such auction shall be subject to final approval by resolution of the Legislature, and any bid may be rejected by resolution of the Legislature in its sole discretion.
- (3) The Enforcing Officer may conduct more than one public auction annually.

B. In the event there are any unsold parcels after all unredeemed parcels have been offered for sale at public auction, then and in that event, the Enforcing Officer may: a) entertain offers for any unsold parcels by private sale pursuant to Section C hereinbelow, subject to the review and recommendation of the RPAB and approval by resolution of the County Legislature; b) determine to include said unsold parcels in a subsequent public auction; or c) retain one or more specific parcels for public use subject to the review and recommendation of the RPAB and approval by resolution of the County Legislature. Release of County's interest; repurchase program.

- (1) After the expiration of the redemption period, the Legislature may, prior to the public auction, permit the previous owner of record to repurchase the parcel through a release of the County's interest. The purchase price of such parcel shall be the total of the outstanding real property taxes, assessments, charges, interest, fees and penalties due and owing at the time of the sale; plus an additional 10% of the delinquent taxes, to be paid to the County's auctioneer, if any, pursuant to contract;; plus an additional amount of 10% of the total taxes due to be paid to the County in consideration therefore, plus other costs and surcharges, if any. The repurchase program shall take place annually, following the execution of the judgment of foreclosure by the Court, and ending at 5:00 p.m. approximately two weeks prior to the scheduled public auction, on a date to be determined by the Enforcing Officer. This program shall be available to each former record owner at the time the County commenced its foreclosure proceeding (by the filing of the in rem pleadings); however, each said owner must file a written application with the Enforcing Officer, along with payment in full, in an amount to

be calculated by the Enforcing Officer and received by the Enforcing Officer no later than 5:00 p.m. approximately two weeks prior to the scheduled public auction, on a date to be determined by the Enforcing Officer. Payment must be made with guaranteed funds - bank/cashier's check, attorney's IOLA check, money order, cash or credit card. Personal checks are not an acceptable method of payment.

- (2) If the release of the County's interest is made upon and after the expiration of the redemption period but before the judgment is executed, then the Enforcing Officer shall evidence the release by canceling and discharging the delinquent liens.
- (3) If the release is made after the judgment, the County Attorney shall effect the release of the County's interest by preparing and submitting to the Court which executed the judgment an order discontinuing the in rem tax foreclosure action as to said property, canceling the notice of pendency of such action as to said property, and vacating and setting aside the judgment of foreclosure and the deed, if any, executed pursuant to such judgment of foreclosure as to said parcels. The entry of such order shall restore all parties, including owners, mortgagees, lienors, receivers, administrators and encumbrancers, to the status each held prior to the time the County acquired judgment to said property, as if the judgment had never been rendered, and shall render said property liable for all taxes, deficiencies, liens, penalties, interest and other charges which shall accrue subsequent to those paid in order to obtain the release provided for in this section or which were, for whatever reason, omitted from the payment made to obtain such release. The deed and other documents of conveyance shall be recorded by the Sullivan County Clerk even if executed only by a representative of the County but not the grantee.
- (4) Prior to reacquisition, if the property lies within a Village, then the party reacquiring the property must demonstrate written certification and documentation that all outstanding Village taxes have been paid in full or are subject to an installment agreement in good standing.
- (5) The Legislature reserves the right to not conduct a repurchase program in any particular year, or to change the terms of the program in any particular year, by the adoption of a resolution prior to the commencement of the program that year.
- (6) After the Court renders judgment in favor of the County, the Enforcing Officer shall provide notice of the repurchase program to the former owner by regular first class mail at the address contained in the most recent tax roll. Notwithstanding this article, the repurchase program shall be deemed discretionary in that it is not required by state law; therefore, failure of the Enforcing Officer to mail the notice, or for the recipient to receive it, shall not give rise to a cause of action against the County.

C. Private sale

- (1) Anything above to the contrary notwithstanding, a private sale may be authorized on a case-by-case basis by resolution of the Legislature after considering the recommendation of the Enforcing Officer and RPAB. Pursuant to §1166(2) of the Real Property Tax Law, any such private sale agreements must be approved by a resolution of the Legislature.
- (2) The purchase price shall be determined by an appraisal prepared by a licensed New York State appraiser that establishes the full value of the property as of the date of the transfer of title. The cost of any such appraisal shall be borne by the prospective purchaser.
- (3) The Legislature retains sole discretion to approve a private sale, or not, in the best interest of the County, keeping in mind that it is otherwise the policy of the County, as expressed herein above, that real property not retained for public use shall be sold at public auction. The following are examples of criteria to be used to approve a private sale, but this list is not intended to be exhaustive:
 - a. Sale of property to promote economic development, where selection of a particular use would be in the best interests of the County.
 - b. Sale to a local government for public use.
 - c. Sale to a contiguous owner, but only if one or more of the following conditions exist:
 - i. To provide access to a landlocked property.
 - ii. To resolve a problem created by an encroachment, shared well or septic system, or common driveway, etc.
 - iii. If the parcel cannot be otherwise improved under existing zoning regulations.
- (4) The Legislature may engage the services of a real estate broker and/or its auction company, if any, to assist the County with the sale of parcels.
- (5) Prior to consummation of the private sale, if the property lies within a Village, then the party acquiring the property must demonstrate written certification and documentation that all outstanding Village taxes have been paid in full.
- (6) In addition to the sales price, the purchaser shall pay to the County of Sullivan all other lawful charges and fees.
- (7) This Subsection C (“Private Sale”) shall not apply to properties sold pursuant to the repurchase program, parcels retained for public use or conveyed to another municipality for public use, or parcels remaining unsold after conducting a public auction.

D. Retain Parcels for Public Use

- (1) Anything above to the contrary notwithstanding, where the enforcing officer has been notified that the tax district intends to retain tax-foreclosed property for a public use, the transfer of said tax-foreclosed property shall be authorized on a case-by-case basis by resolution of the Legislature after considering the recommendation of the Enforcing Officer and RPAB.

(2) For purposes of this subdivision, if the tax district intends to retain tax-foreclosed property for a public use, the property shall be deemed to have been sold on the date that the Enforcing Officer conveyed said property to the County after the filing of the Judgment of Foreclosure. The enforcing officer shall determine the existence and amount of a surplus relative to such property by an appraisal prepared by a licensed New York state appraiser that establishes the full value of the property as of the date of the transfer of title.

§164-9 Conveyance of subject parcels.

- A. The County shall convey all parcels to be conveyed to a third party by the terms of this article by quitclaim deed. All sales may include a concurrent sale of the personality acquired by the County and authorized by the judgment. All sales shall include costs in the nature of a surcharge \$20 plus a search fee and other expenses of foreclosure (\$250 or more) per parcel, in the discretion of the Enforcing Officer.
- B. The County of Sullivan shall not be liable for any physical condition of the property notwithstanding the County's ownership thereof.
- C. The Legislature shall have final approval over all conveyances covered by this legislation.
- D. If a parcel is sold at public auction and the former owner is the grantee therein, or regains ownership of the parcel within thirty-six (36) months subsequent to the date of the auction, then all liens that were of record when the County took title shall be reinstated.