

10 Things to Know About Your City's Tax Foreclosed Property

Texas City Attorney Association

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By Leann D. Guzman

Everything I Know About Tax Lien Transfers

10 Things You Should Know...

1. Why the City can Foreclose

- City may levy property taxes
- Tax lien attaches Jan. 1 [Tex. Tax Code Ann. § 32.07(a)]
- Delinquency date: the next Feb. 1
- All real property is subject to seizure and sale for the nonpayment of taxes [Tex. Const. Art. VIII, § 15]

10 Things You Should Know...

2. How the Foreclosure Works

- Taxing units file lawsuit
 - City can recover the cost if outside counsel used
- The property is sold by an officer of the court in the same manner as all foreclosures (1st Tuesday) after a judgment forecloses the tax lien
 - Minimum Bid: Lesser of (i) judgment amount or (ii) adjudged value

10 Things You Should Know...

3. Effect of Sale

- Property is either sold to a buyer at the courthouse steps or is struck off
- Sheriff's Deed to purchaser/taxing entity filed of record
- Sale extinguishes the tax lien for the taxes, penalties, and interest **included in the judgment**
- Sale extinguishes all inferior liens
 - Including other City liens (*Saturn Capital Corp. v. City of Houston*, 246 S.W.3d 242 (2007))

10 Things You Should Know...

4. Surviving Rights

- Tax Code says [Tex. Tax Code Ann. §32.05 (c)]...
 - Restrictive covenant (pre-Jan 1)
 - Recorded lien under the restrictive covenant
 - Easements of record (pre-Jan 1)
 - Claim for last expenses
- Taxes owed to entities not a party & not served with citation for lawsuit

10 Things You Should Know...

5. Right of Redemption

- Right of Redemption
 - 2 years for residential, mineral interests, agricultural from date of Sheriff's Deed
 - 180 days for everything else
 - Who can redeem
- Amount varies [Tex. Tax Code Ann. §34.21]
 - Individual v. taxing unit
 - Timing
 - Premium is paid

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6. Post-judgment Taxes Must Be Paid

- Tax suit only includes amounts in judgment
- Taxes accrue from the date of judgment to the date the property is sold
- New owner is responsible

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7. Mineral Estate May Not Be Included

- If mineral estate severed, that tax account is separate
- If estate is whole, the minerals come with it
- If property is struck off to the taxing unit, the taxing unit may not sever the mineral estate before resale [Atty. Gen. Op. GA-1072 (July 30, 2014)]

10 Things You Should Know...

8. What Happens if No One Buys at Foreclosure Sale

- Property struck off
- Property becomes eligible for resale
- Some taxing units handle, some tax attorneys handle

10 Things You Should Know...

9. Resale Methods

- Public Sale by Sheriff
 - 1st 6 mo: With resolution by purchasing tax unit, sale for any amount [Tex. Tax Code Ann. § 34.05(a)-(b)]
 - After 6 mo: Any taxing unit can do same

10 Things You Should Know...

9. Resale Methods

- Direct sale [Tex. Tax Code Ann. § 34.05]
 - Sales price no less than adjudged value or judgment amt
 - other taxing units' approval not required
 - Sales price less than: other taxing units must approve
 - Sales price for Appraisal District value: If all taxing units agree and the amount due is higher than the value
 - THIS EXTINGUISHES POST JUDGMENT TAXES (deed must say so)

10 Things You Should Know...

9. Resale Methods

- Direct sale for urban redevelopment
 - If purchasing tax unit is a City, with ILA, sales price may be less than required [Tex. Tax Code Ann. § 34.051]
- Sealed bid [Tex. Tax Code Ann. § 34.05(a) and Tex. Loc. Govt. Code §272.001]
- Listing with Real Estate Broker [Tex. Loc. Govt. Code §253.014
 - Highest cash offer]

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10. Resale Proceeds

Tax Code says [Tex. Tax Code Ann. § 34.06]...


- (1) Purchasing taxing unit reimbursement
- (2) Cost of advertising tax sale
- (3) Any attorney ad litem fees
- (4) Court costs
- (5) Sheriff's fees and commissions
- (6) Expenses awarded in judgment
- (7) To each taxing unit pro rata

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