



COUNTY OF ERIE

MICHAEL P. KEARNS
COUNTY CLERK

March 20, 2025

The Honorable Erie County Legislature
92 Franklin Street – Fourth Floor
Buffalo, New York 14202

Re: COMM. 3E-3/COMM. 4E-17 & Erie County Foreclosure Policy

Dear Honorable Members:

I write to follow up on the discussion had with this Honorable Body and the Western New York Law Center regarding COMM. 3E-3 (now amended as COMM. 4E-17), concerning approval to contact the New York State Legislature on introducing a bill to amend the Erie County Tax Act's 18% penalty rate.

At the Finance & Management Committee meeting on February 13, 2025, Legislator Vinal indicated that Erie County had a foreclosure policy and that she had seen it. However, she was unable to provide it to us.

Then, during a Code Enforcement Officer panel presented by the Western New York Law Center attended by myself and Legislative Chair Tim Meyers on March 19, 2025, a representative from the Legislature recommended that the foreclosure policy be requested from Real Property via the Freedom of Information Law ("FOIL").

The Clerk's Office submitted the FOIL request on March 19, 2025 and received a quick response on March 20, 2025 with the attached policy that had been filed with this Honorable Body on February 2, 2023.

As the policy shows, in January 2023 there were over 10,000 properties eligible for foreclosure. Out of those properties, only 1,600 were selected for the 2023 In Rem foreclosure proceeding.

The Clerk's Office believes this policy is contributing to the lack of inventory in Erie County and perpetual charging of 18% to residents who should be facing foreclosure under the Erie County Tax Act. We would like to discuss this matter with Real Property at a future Committee meeting.

Thank you for your consideration of this matter, and we look forward to attending the next Finance & Committee meeting to discuss our two resolutions (COMM. 4E-17) on the Erie County Tax Act and a potential pre-foreclosure payment plan.

Very truly yours,



MICHAEL P. KEARNS
Erie County Clerk

MPK/wal

Encl.



County of Erie

MARK C. POLONCARZ
COUNTY EXECUTIVE

DEPARTMENT OF REAL PROPERTY TAX SERVICES

SCOTT A. BYLEWSKI
DIRECTOR REAL PROPERTY
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February 2, 2023

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

RE: In Rem Process

Dear Honorable Members:

This correspondence sets forth the policy of selecting properties subject to the In Rem proceedings.

The objective of the In Rem proceeding is twofold: to collect revenue due to the County and return parcels to the active tax rolls. The County of Erie's Department of Real Property Tax Services (DRPTS) works with eligible residents to enter into payment plans whenever possible. The goal is not to remove residents from their homes.

The County's In Rem foreclosure is governed by Article 11 of the Erie County Tax Act ("ECTA") described as the "In Rem provisions", which provides for In Rem foreclosure upon any tax lien certificate that has been due and outstanding for a period of 2 years. To successfully foreclose upon a subject tax lien certificate, the County is required to meet each of the notice requirements as set forth in the In Rem provisions.

Looking at the most recent numbers available, there were 373,363 parcels in the County as of December 31, 2021.¹ As of January 2023, 10,415 of these parcels are eligible for foreclosure in that they have tax lien certificates that have been due and outstanding for the required 2-year period.

From the list of parcels with tax lien certificates eligible for foreclosure, DRPTS removes parcels that are currently the subject of other In Rem foreclosure proceedings, have been redeemed, or involve any legal or environmental impediments to sale (e.g., parcels that are brownfields, land locked, or otherwise in need of remediation or undesirably situated). As of January 2023, the list was reduced to 5,026 parcels in this regard.

Finally, due to budgetary constraints, a total of 1600 out of the aforesaid 5,026 parcels are selected to be subject to the 2023 In Rem foreclosure proceeding. DRPTS used a threshold amount of \$3,850 due in arrears to arrive at the list of 1600 parcels. Please note that typically, the threshold amount due for inclusion in the In Rem will not be lower than the legal expense incurred to foreclose upon and auction any given parcel.

Enclosed please find a graphic illustrating the aforesaid.

Please contact me should your Honorable Body require further information.

Sincerely yours,



Scott A. Bylewski, Esq.
Director of Real Property Tax Services

SAB
Enclosure

¹ At the time of writing, parcel / deed transactions from the 2022 calendar year are still being processed. The total number of parcels in Erie County as of 12/31/22 will be available after the tentative roll date for each municipality, which for most in Erie County, is May 1, 2023.

IN REM SELECTION

01

01

PARCELS IN ERIE COUNTY (AS OF
12/2021) - 373,363

02

PARCELS WITH TAX LIEN CERTIFICATES
THAT HAVE BEEN DUE AND OUTSTANDING
FOR THE REQUIRED 2-YEAR PERIOD (AS
OF 1/2023) - 10,415

03

PARCELS THAT DO NOT HAVE
EXISTING/PENDING IN REM FORECLOSURE,
REDEMPTIONS, OR LEGAL/ENVIRONMENTAL
IMPEDIMENTS TO SALE- 5,026

02

03

04

04

PARCELS THAT OWE MORE THAN \$3,850 IN
ARREARS - 1,600