

## **CHAPTER 9**

### **REAL PROPERTY FORECLOSURE**

I. GENERAL INFORMATION.....	1
II. COLLECTING DELINQUENT TAXES .....	2
Efforts to Collect Delinquent Taxes .....	2
Processing Returned Statements .....	2
III. ESTABLISHING A FORECLOSURE LIST FOR THE CERTIFICATE OF DELINQUENCY .....	4
Legal Description and Property Address .....	4
Special Assessments .....	4
IV. CERTIFICATES OF DELINQUENCY .....	5
County Held Certificates of Delinquency .....	5
Senior Citizen/Disabled Person Property Tax Deferral .....	5
Foreclosure Action Calendar of Deadlines .....	6
Prosecuting Attorney (RCW 84.64.040).....	6
V. PREPARATION OF THE CERTIFICATE OF DELINQUENCY .....	7
Title Search .....	7
Preparation of Certificate .....	7
Irrigation Foreclosure.....	9
Establishing the Minimum Bid .....	9
Foreclosure Costs.....	10
Other Documents .....	10
Proofreading for Accuracy.....	10
VI. NOTIFICATION OF TAXPAYER/OWNER.....	11
The Collection Log .....	11
Listing of Properties in Foreclosure.....	12
Notices to Taxpayer/Owner .....	13
Senior Citizen & Disabled Persons .....	13
Title Reports.....	13
Certificate of Delinquency and Notice of Summons .....	13
VII. PREPARATION FOR SALE.....	16
Processing Redemptions .....	16
Order of Sale .....	16
Bids in Excess of Taxes and Interest Due.....	16
VIII. NOTIFICATION OF FORECLOSURE SALE .....	17
Legal Publication of Notice of Sale .....	17
Posting of Sale .....	18
Records to Establish.....	19
Terms of Sale .....	19
IX. PROCEEDING WITH SALE.....	20
Registering Bidders.....	20
Public Auction .....	20
Auctioneer.....	20
Minimum Bid Sheet.....	21

Acceptance of Bid.....	22
County as Bidder: .....	22
X. PROCEDURE FOLLOWING SALE .....	23
Permanent Records .....	23
Transfer of Title .....	24
Distribution of Proceeds After Sale .....	24
Redemptions .....	25
Redemption - Minors and Incompetent Persons - After Sale .....	25
Changes to the Tax Roll.....	26
Properties Withheld From Foreclosure.....	26
XI. EXHIBITS .....	27
EXHIBIT 1 – Foreclosure Sale (Year) .....	28
EXHIBIT 2 – Attorney General’s Opinion Regarding Foreclosure Costs .....	41
EXHIBIT 3– Certificate of Delinquency .....	47
EXHIBIT 4 -- Bid Specifications For Title Search .....	51
EXHIBIT 5 – Notice Of Application For Judgment.....	52
EXHIBIT 6– Petition for Leave to Maintain Tax Foreclosure Action .....	57
EXHIBIT 7 – Order Granting Leave to Maintain Tax Foreclosure Action.....	60
EXHIBIT 8 – Collection Log .....	62
EXHIBIT 9 – Affidavit of Publication .....	63
EXHIBIT 10 – Affidavit of Attempted Service.....	65
EXHIBIT 11 – Affidavit of Service.....	67
EXHIBIT 12 – Title Company Letter of Engagement.....	69
EXHIBIT 13 – Letter From Title Company .....	72
EXHIBIT 14 – Letter re Notice and Summons .....	73
EXHIBIT 15 – Notification to Prosecuting Attorney .....	74
EXHIBIT 16 – Newspaper Certification of Foreclosure Advertising .....	76
EXHIBIT 17 – Minimum Bid Sheet.....	77
EXHIBIT 18 – Foreclosure Costs.....	79
EXHIBIT 19 – Foreclosure Costs.....	81
EXHIBIT 20 – Foreclosure Costs.....	82
EXHIBIT 21 – Opening Statement At Sale.....	84
EXHIBIT 22 – Alternate Terms of Sale .....	86
EXHIBIT 23 – Manual Prepared Receipt.....	87
EXHIBIT 24 – Tax Deed.....	88
EXHIBIT 25 – Tax Cause.....	90
EXHIBIT 26 – Note of Issue .....	91
EXHIBIT 27 – Motion for Default .....	92
EXHIBIT 28 – Order of Default .....	95
EXHIBIT 29 – Findings of Fact And Conclusions of Law .....	96
EXHIBIT 30 – Auctioneer Services Agreement .....	100

## I. GENERAL INFORMATION

The information in this chapter outlines the procedures necessary for a county treasurer to foreclose on property for delinquent taxes not satisfied. Forms and examples included at the end of the chapter, in Section XI, are suggested formats only and will vary from county to county. Examples of fee schedules are also included for information only.

The full year tax become delinquent if the first half is not paid by April 30 of the year in which it is levied. If property taxes remain unpaid, the county treasurer is required to start foreclosure action on property that has a tax year three years or more delinquent. (RCW 84.64.050) This action is called filing of the Certificates of Delinquency (COD).

Junior taxing districts base their budgets on 100 percent collections. When taxes are delinquent, cash flow is affected, and many districts are required to issue interest-bearing warrants.

County treasurers have various methods to minimize delinquencies:

- Mailing delinquent tax statements
- Contact Real Estate Contract holders
- Press releases published in local newspapers
- Radio and local television station press releases
- Information posted on the County's website
- Pre-foreclosure letters or post cards ~~notices~~ mailed
- Phone calls or emails

It is the responsibility of the county treasurer to notify all taxpayers at least once a year of all taxes due, current, or delinquent, along with any interest, penalties, costs, or assessments, and collect on them. (RCW 84.56.050). This is considered their annual notice also referred to as the annual statement. Some county treasurers send second half statements. Each treasurer should determine what they can afford and what works for their county.

## **II. COLLECTING DELINQUENT TAXES**

### **Efforts to Collect Delinquent Taxes**

The county treasurer should attempt to collect delinquent taxes so that properties get paid before the start of foreclosure. The following actions may be taken prior to filing the Certificates of Delinquency:

1. Phone calls to owners or taxpayers of record.
2. Personal visits to property.
3. Use news media in locating property owners who cannot be contacted.
4. Use the internet to locate property owners.
5. Contact family members of property owners to get more information on the circumstances or location of the owner.
6. Locate other funding sources, if available, for distressed taxpayers either through other agencies or private endowments, i.e., churches, civic organizations, special interest groups, etc. Do they qualify for a senior exemption or deferral program?

### **Processing Returned Statements**

1. Check for accuracy of address. Good resources are telephone books, internet, excise affidavits, Assessor parcel information, Polk Directory, or phone the taxpayer.
2. Review because mail returned by post office. Is property or address now “Vacant”, “Forwarding time expired”, “Unable to forward”, “Moved left no address”, “Deceased”, “Vacation”.
3. Real and Personal Property Rolls: Does the taxpayers own other property with a different address? If it’s a personal property account, does the taxpayer’s tax identification number or UBI have a different address? Check with Assessor to see if an updated Personal Property Affidavit was returned.
4. Check the original Real Estate Excise Tax Affidavit: Was the buyer’s previous address used in error? Check for street address in box 4. If a title company processed the excise, call the title company.
5. Was the property sold on contract? Contact contract seller for information.
6. Receipts: Check receipt of last payment; copy of checks for phone numbers or addresses; online payments for address, phone numbers, or email address; third party or bank may have the information.
7. Maps: Check maps to see if a street address may be found or contact neighbors who may have forwarded address.
- 8.
9. Voting Records

- 10. Department of Licensing
- 11. Auditor records
- 12. Relatives or lienholders
- 13. Building permits

### **III. ESTABLISHING A FORECLOSURE LIST FOR THE CERTIFICATES OF DELINQUENCY**

A list of properties with taxes three or more years delinquent shall be prepared by the county treasurer listing the assessed owner of the property per the tax rolls.

1. The address as shown on the tax records is used for the certificate of delinquency. Various types of research should be conducted to find the correct mailing addresses of property owners whose tax statements have been returned.

#### **Legal Description and Property Address**

The legal description used for the preliminary foreclosure list and the certificate of delinquency should be taken from the tax rolls.

The property situs address from the tax rolls should be used as well. In most cases vacant property will not have a situs address. However, if research shows the property may have a situs address, contact the appropriate agency to get this information and update the tax rolls.

#### **Special Assessments**

Any special assessments collected by the county treasurer should be researched from assessment rolls, such as LIDs, ULIDs, dikes and drains, etc. City assessments and outstanding service charges may be requested from city treasurers, for informational purposes, and can be announced at the foreclosure sale. (RCW 35.49.130)

## IV. CERTIFICATES OF DELINQUENCY

### **County Held Certificates of Delinquency**

After the expiration of three years from the date of delinquency, when any property remains on the tax rolls for which no certificate of delinquency has been issued, the county treasurer shall proceed to issue certificates of delinquency on the property to the county for all years' taxes, interest, and costs: PROVIDED, That the county treasurer, with the consent of the county legislative authority, may elect to issue a certificate for fewer than all years' taxes, interest, and costs to a minimum of the taxes, interest, and costs for the earliest year.

The county treasurer may include in the certificate of delinquency any assessments which are due on the property and are the responsibility of the county treasurer to collect.

The treasurer shall file the certificates when completed with the clerk of the court at no cost to the treasurer, and the treasurer shall thereupon, with legal assistance from the county prosecuting attorney, proceed to foreclose in the name of the county, the tax liens embraced in such certificates. (RCW 84.56.050).

The treasurer must be careful not to violate the three-year waiting period; therefore, the precise date of delinquency becomes crucial.

For example, it is 2022 and you are foreclosing on the full year of 2019 and prior taxes, and you plan on filing your COD on June 1, 2022, if the first half of 2019 taxes were paid it makes the due date for the second half tax October 31, 2019, therefore, this property would not qualify because the due date is now less than three years delinquent at this point. Various delinquency dates will occur on such things as omitted value, compensating taxes, and the certification of personal property taxes to real property. These items would be considered subject to foreclosure the following year after three full years delinquent if that date is after the date, you file the COD.

### **Senior Citizen/Disabled Person Property Tax Deferral**

A claimant may defer payment of special assessments and/or real property taxes on his property under RCW 84.38 or receive an exemption under RCW 84.36.381 through 84.36.389 on up to eighty percent of the amount of his equity value in said property if the following conditions are met:

1. The claimant must have owned, at the time of filing, the residence, which must be their primary ~~resident~~, residence, on which the special assessment and/or real property taxes have been imposed. The residence must be occupied by the owner for more than six months each year. For purposes of this subsection, a residence owned by a marital community or owned by co-tenants shall be deemed to be owned by each spouse or co-tenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life, or a revocable trust does not satisfy the ownership requirement.

2. The claimant must meet all qualifications and maintain adequate fire and casualty insurance. You may defer taxes and special assessments in an amount up to eighty percent of the equity.
3. In the case of special assessment deferral, the claimant must have opted for payment of such special assessments on the installment method if such method was available.
4. Under provisions of RCW 84.38.140 the Department of Revenue is to collect deferred special assessments and/or real property taxes plus interest. If the department is unable to collect, the amount deferred with interest shall be collected by the county treasurer in the manner provided for in chapter 84.56 RCW (Refer to Senior Citizen Section, Chapter 7, pages 23, 24, and 25)

If the claimant is applying to stop the county treasurer from foreclosing for unpaid taxes, the applicant must apply within 30 days of receiving the foreclosure notice.

When any deferred special assessment and/or real property taxes together with interest are collected, the monies shall be deposited in the state general fund, and a lien on the property is granted to the state by the individual in the amount of the taxes and interest. It is important if you are aware that a particular taxpayer may qualify for the Senior Citizen Exemption/Tax Deferral program that you immediately refer them to the Assessor's Office who administers the program.

The county treasurer **may not sell property** that is eligible for deferral of taxes under chapter 84.38 RCW but must require the owner of the property to file a declaration to defer taxes under chapter 84.38 RCW.

### **Foreclosure Action Calendar of Deadlines**

The perfection of a foreclosure action for the collection of delinquent property taxes for county held certificates of delinquency demands timely action on the part of the county treasurer. In addition to giving sufficient notice to the property owner about certain procedures, a carefully prepared calendar of deadlines should be prepared before commencing action in the foreclosure procedure. (See Exhibit 1)

### **Prosecuting Attorney (RCW 84.64.040).**

Upon request, the prosecuting attorney must assist the county treasurer in accordance with RCW 84.64.040 and RCW 84.64.050.



## **V. PREPARATION OF CERTIFICATE OF DELINQUENCY (COD)**

### **Title Search**

The treasurer must request a title search to obtain the following information (RCW 84.64.050): (See Exhibit 4)

1. Verification of the record title holder(s).
2. The correct legal description of the property.
3. Any person with a recorded interest and lienholders.
4. Easements after the year being foreclosed upon.
5. Any useful information: addresses, maps, and deeds (including vesting deeds).

Some treasurers feel it is important to order the title reports before filing the certificate of delinquency. If you have questions about this timeline, consult with your prosecuting attorney to determine if title searches should be ordered before or after the filing date of the certificate of delinquency. However, RCW 84.64.050 does state the notice must include the legal description on the tax rolls, year or years assessed, amount of taxes and interest due, name of owner or reputed owner, and street address if any. Title reports are ordered to determine the full legal description of property being sold and record title holder. Therefore, when property is sold at a tax sale, you will use the legal description from the title report for deeding purposes.

### **Preparation of Certificate**

When research of necessary information has been completed, the certificate can be prepared. There is no specified form for the certificate other than it may be in book form. The form can be hand prepared or a computer printout. Neither format nor content are specified but it is suggested that the following information be contained in the certificate. (See Exhibit 3).

1. A description of the property as described on the tax rolls.
2. The year or years for which taxes are assessed.
3. The amount of taxes, interest, and costs due. (Special assessments may also be included.)
4. The name of the owner, or reputed owner.
5. The local street address, if any.
6. The tax parcel number, account number, lot number or other identifying number used on the tax rolls.

The timing and filing of the certificate of delinquency with the superior court should be coordinated with the prosecuting attorney as various legal documents are required. Some of the legal documents required include the following: (See Exhibit 7A).

1. Certificate of Delinquency
2. Complaint and Application for Judgment
3. Motion and Affidavit for Publication of Notice and Summons
4. Order of Publication of Notice and Summons
5. Notice of Application for Judgment Foreclosing Tax Liens and Summons

## **Irrigation Foreclosure**

Treasurers with irrigation districts should be aware that in 1988 the laws on foreclosure on delinquent assessments were changed COMPLETELY. (Chapter 87.03 RCW)

The foreclosure process is the same as real property foreclosure with a few exceptions listed below:

1. Each irrigation district's foreclosure is a separate action of that district even if you combine one or more districts with your real property sale.
2. At an irrigation sale, the property goes to the district if no one bids on it at sale. The district must pay the county treasurer for the cost of foreclosure.
3. The taxes and assessments are set aside when the district receives the Treasurer's Deed, and the property becomes exempt property while it is owned by the district.
4. If the district sells any property it has acquired under this chapter, then it shall not provide a deed to the purchaser until the purchaser pays all taxes and assessments due at the time the district acquired title.
5. Any excess amount from the sale goes to the Treasurer's Trust Fund, and if it is not claimed within three years, it goes to the district's expense fund.
6. The county prosecuting attorney is not required to assist with an irrigation district foreclosure; however, the cost of any legal expenses can be recovered in the foreclosure cost, so you may be able to include his time and expenses.
7. The county treasurer MAY, through an interlocal cooperation agreement, (Chapter 39.34 RCW) foreclose for an irrigation district in the county that he is not treasurer for. Great care should be given this agreement.
8. Remember, the law states: "After thirty-six calendar months from the month of the date of delinquency, the treasurer SHALL prepare Certificates of Delinquency and proceed to foreclose."
9. If property is subject to real property foreclosure, it is best to add the irrigation assessments to the minimum bid amount in your real estate foreclosure action.
10. As in all foreclosure action, follow the advice of your legal counsel.

## **Establishing the Minimum Bid**

In addition to taxes due costs must include:

1. Interest and penalties on delinquent taxes.
2. Publication costs.
3. A fee for the treasurer's deed shall be charged per RCW 84.64.215.
4. The fee for services rendered to and including judgments by the county clerk.
5. The fee for the recording of the treasurer's deed by the county auditor. (RCW 84.64.215)
6. Other applicable foreclosure costs as defined below.

## **Foreclosure Costs**

The treasurer must ascertain the amount of costs accrued during the foreclosure proceeding and include these costs as a part of the redemption fee or minimum bid. (RCW 84.64.050) (See Exhibits 18 through 20)

The purpose of charging costs in a tax foreclosure action is to make the treasurer “WHOLE” as if all taxes in the foreclosure process had been paid in a timely manner. The funds collected are deposited to the treasurer’s O&M Fund. Any expenses as listed below are paid out of the same fund.

Some counties have a onetime fee that is added on at the time the COD is filed, others charge for each event or activity, such as each time a certified letter is mailed, or the title reports are ordered. You may also add pre-collection costs to properties that qualify for tax foreclosure prior to filing the COD. Example: Some counties send out pre-collection notices prior to filing the COD and may add a cost for doing so.

Costs may include filing fees, service, publication, title search, notice fees, sale expenses, postage staff time, phone calls, and any reasonable office operations costs, including supplies and equipment such as a computer, which, by accepted accounting records, can be traced to the delinquent taxpayer and property. (RCW 84.64.050, 84.64.060, 84.64.070, 84.64.080).

1. Cost of title search per parcel
2. Cost of publication
3. Statutory fees (per parcel)
4. Any additional fees contained on the fee schedule, such as certified mailing fee, cost of personal service, etc.
5. Any prosecuting attorney time cannot be considered a cost.

## **Other Documents**

There are other documents the prosecuting attorney may want to have filed such as Soldier’s and Sailor Civil Relief Act, (also known as the Servicemembers Civil Relief Act) 50 USC 560, a petition for leave to maintain tax foreclosure action, an order granting leave to maintain tax foreclosure action, and/or lis pen dens. (See Exhibits 5 and 6)

## **Proofreading for Accuracy**

Diligent proofreading of all foreclosure lists, documents, publications, and the certificate itself, cannot be stressed enough. It is a good practice to proofread in teams of two, switching and proofreading twice. Errors can cause the treasurer to have to re-file, republish, or remove items from the foreclosure sale. Errors discovered after the sale can result in the rescission of the sale and other legal ramifications.

## **VI. NOTIFICATION OF TAXPAYER/OWNER**

While tax statements are mailed to each taxpayer in the county, those taxpayers with delinquent taxes of three or more years, if the treasurer chooses to do so, may be mailed a special notice that foreclosure of real property is imminent. (See Exhibit 1)

### **The Collection Log**

It is vital that all records relating to the proceedings of a foreclosure be retained by the county treasurer. These records include: (See Exhibit 8)

1. The primary list of delinquent parcels.
2. Copies of tax statements showing delinquent tax years and amounts owing.
3. Copies of any special assessment statements showing delinquent assessment years and amounts owing.
4. Copies of any personal property tax statements certified to the real estate involved showing delinquent tax years and amounts owing.
5. All correspondence with the taxpayer/owners.
6. Daily logs of all contacts (written or oral) with the reputed owners. See Exhibit 10 for example of Foreclosure History Record.
7. Copies of publications.
8. Notice and Summons. (See Exhibit 7)
9. All other legal documents.
10. Minimum bid sheet.
11. Affidavits of publication. (See Exhibit 12)
12. Affidavits of service. (See Exhibits 13 and 14)
13. Certified letter proof receipt from the U.S. Postal Service.
14. Maps.
15. Title Reports.
16. Any other records or memos relating in any way to the parcels on foreclosure.

NOTE: The daily log should consist of a listing of any contacts related to the property including the taxpayers/owners/lienholders/interest holders. The log should include the time, date, and nature of the contact. (Exhibit 8 for example of Foreclosure History Record)

## **Listings of Properties in Foreclosure**

Once the April 30<sup>th</sup> tax payments have been processed, a list of real property subject to foreclosure should be secured. This listing should be audited thoroughly. Items of particular concern on the listing include: (RCW 84.64.050)

1. Building on the parcel.
2. Any Special Assessments, particularly those for drainage, weed control or demolition.
3. Certification of personal property tax.
4. Any half-year taxes.
5. Taxpayers 61 years or older or disabled persons who qualify for foreclosure exclusion when qualifying special exemptions or deferrals.
6. Determining whether the property is Torrens property. (RCW 65.12.005 and 65.12.800) Torrens is a governmental system for registering lands in which records of all transactions, conveyances, etc., are noted and available to the public.

The treasurer should quickly proceed to investigate all properties on the list of delinquency to exclude:

1. Exempt public property except:
  - a. Tax arising prior to transfer to the public body (RCW 84.60.050 and 84.60.070).
  - b. Private property over which public easements exist. Add to the description words such as "subject to easement of state or municipal corporations excepted from tax foreclosure. (RCW 84.36.210)
  - c. Contracts by private citizens to acquire public land. (RCW 84.40.230)
  - d. Leasehold interests in public property are taxed as personal property and are not subject to real property tax foreclosure. (RCW 84.04.080 and 84.04.090)
2. Property subject to stay of proceedings under 11 U.S.C. §362 due to a pending Bankruptcy.

Some of the items mentioned above may make it necessary for the treasurer to omit certain parcels from the foreclosure proceedings. In addition, all parcels which were held over from the previous year's foreclosure sale, because of irregularities, must be checked to ensure that such irregularities do not still exist. For example, an incorrect legal description would be enough to keep a property out of foreclosure.

It is recommended that the county treasurer ask all title companies located in the county to submit bids for processing title reports for the county. At the same time, the treasurer should request that the title company furnish the name(s) of the property owner and name(s) of any interest holder/lienholder. (RCW 84.64.050) The treasurer will then award the bid to the title company with the best bid. Such title search shall be included in the costs of foreclosure. (See Exhibits 3 and 12)

## **Notices to Taxpayer/Owner**

After the listing has been audited, the treasurer may send a notice to property owners included in the county's foreclosure action. The notice includes a date deadline for taxpayers to pay on property before any additional costs are added. If at any time mail is returned on parcels subject to foreclosure, an effort to search for correct addresses must be made. Please refer to Section II Collecting Delinquencies – Processing Returned Statements for methods of research. It is recommended that the second notice and exclusion form be sent by certified mail. (See Exhibit 1)

## **Senior Citizen & Disabled Persons**

A senior citizen or disabled person, who would have qualified for deferral or exemption of special assessments and/or property taxes but has not yet applied, must apply within thirty days of receiving notice that a certificate of delinquency is to be issued. For good cause shown, the Department of Revenue may extend the filing period. Once the exemptions or deferrals are applied, the owner should have the opportunity to pay any residual taxes or assessments due with applicable interest and penalty removed. If this procedure will remove the property from the foreclosure process many treasurers may also remove any applicable foreclosure costs applied to the property, but it is not required if you have already filed the COD. The county treasurer **may not sell property** that is eligible for deferral of taxes under chapter [84.38](#) RCW but must require the owner of the property to file a declaration to defer taxes under chapter [84.38](#) RCW.

## **Title Reports**

Once all title reports are completed, the listing on each parcel should be compared to the corresponding title report. From the title report, the correct legal description of the property and the record title holder is determined.

If a title report lists a lienholder, a mortgage company, or anyone else as having ownership interest in a property, the treasurer must notify these parties. (RCW 84.64.050) In some cases, these contacts will result in the taxes being paid. (See Exhibit 13)

## **Certificate of Delinquency and Notice of Summons**

Through the information collected from title reports, tax statements and assessor's records, the certificate of delinquency and notice and summons are prepared. The certificate of delinquency should be prepared and filed with the county clerk's office. At the time of filing, the clerk's office will assign a cause number that will be used throughout the entire foreclosure proceeding.

If a taxpayer should choose to redeem his property after this point in the foreclosure procedure, all taxes, "interest" which means interest and penalties unless the context requires otherwise, and costs must be paid. (See Exhibit 1) For exception to this procedure, see RCW 84.64.050.

A file is kept on general foreclosure steps. All affidavits or letters filed with the clerk's office are prepared in duplicate and one copy should always be maintained with the office foreclosure files.

Treasurers may choose to notify all recorded ownerships, lienholders, and interested parties in two ways per RCW 84.64.050 (a) and (b). They may do a personal service (RCW 84.64.050 (a)), or a publication in a local newspaper and mailing of the notice via certified mail (RCW 84.64.050 (b)). Most treasurers choose option (b) (see below). Once the cause number is assigned, the notice and summons are prepared for publication in a newspaper of general circulation. Arrangements should be made with a local newspaper and the notice and summons, and certificate of delinquency are published. The notice and summons are filed with the clerk's office. (See Exhibit 7) (RCW 84.64.050)

The notice and summons are served on the owner and to every person named in the title report who has an ownership, interest, or lien in the property (RCW 84.64.050(b)). (See Exhibit 14)

- 84.64.050(b): The notice and summons are published at least once in the newspaper, and both the notice and summons and a cover letter are mailed to the property owner(s) and lienholder(s) by certified mail. Return receipts and cover letters may be filed with the county clerk.

Parties that should be notified via certified mail may include:

- Owners of record on tax rolls
- Owners of record on title report, if different from tax rolls
- Taxpayer of record, if different from ownership
- Lienholders
- Heirs and Devisees of, if owner deceased
- Personal Representative, executor, or administrator of an estate of the deceased, if known
- Any registered agent of an incorporation, corporation, LLC, or company with a legal interest
- Attorneys for clients who have a judgment, if judgment is recent
- Neighbors that may be affected, per title report, that show irregular fence lines or encumbrances from a survey of record
- Jane or John Does, if title report shows a possible interest if owner was unknown to be married at the time of attaining ownership
- Occupant of any property that has a market improvement
- Trustee of a Deed of Trust, if a "Notice of Trustee Sale" has been recorded against said property

or



- 84.64.050(a): If the mailing address is not available, but the property is occupied, a copy of the notice and summons, along with a cover letter is served on the occupant. You may request the local Sheriff's office to perform this service. For proof of service, an affidavit of service may be filed with the county clerk; (See Exhibit 14)

or

- If no mailing address is available and the property is unoccupied, the notice and summons may be posted to some fixture or timber on the property. You may request the local Sheriff's office to perform this posting. An affidavit of attempted service may be filed with the county clerk. (See Exhibit 13) This is an option for property unoccupied, but not required.

Some treasurer's offices also choose to post a notice of sale on any property that has a market improvement. This is done after the order of sale is issued. This action is not required, but some treasurers choose this action to notify any unknown party that may be on the property.

After the newspaper has published the notice and summons, the treasurer will be sent an affidavit of publication. This affidavit may be filed with the county clerk. An affidavit of mailing notices may also be filed with the county clerk.

Accuracy is important throughout the entire foreclosure procedure. All material prepared for foreclosure must be proofread including the published notice and summons. If errors are discovered in the published notice and summons, the meaning of the legal notice is changed. If time permits, the legal notice should be republished correcting errors or the accounts with errors shall be pulled from foreclosure action.

## **VII. PREPARATION FOR SALE**

### **Processing Redemptions**

Persons owning a recorded interest in lands or lots upon which there is a certificate for delinquent taxes, may in person or by agent, pay the taxes, interest, and costs due to the county treasurer at any time prior to the close of business the day before the sale by payment prescribed by the county treasurer. Payment should be in the form of certified funds, such as cash, cashier's check, or money order. (RCW 84.64.070) Anyone having an apparent pecuniary interest in the property that pays the taxes, interest, and costs must be issued a certificate of redemption or a taxpayer's receipt showing payment. Only parties listed on the title report as recorded owners, lienholders or interest holders have a right to redeem a parcel from the tax foreclosure proceedings. If paying by agent, the agent shall provide notarized documentation of the agency relationship. (RCW 84.64.060) (See Exhibit 1)

A list of all redemptions is forwarded to the prosecuting attorney to be filed in superior court when asking for the judgment and order of sale. (See Exhibit 15)

### **Order of Sale**

Upon receiving the order of sale, the treasurer shall proceed to sell delinquent properties to the highest and best bidder. The acceptable minimum bid shall be the total amount of taxes, interest, and costs. Payment should be in the form of certified funds, such as cash, cashier's check, or money order. If payment is not made in a timely fashion as specified in the Opening Statement, the bidding on the parcel will be re-sold and the defaulted bidder will be excluded from bidding. All sales shall be made at a location in the county on a date and time as the county treasurer may direct, continuing day to day (except Saturdays, Sundays, and legal holidays), during the same hours until all lots or tracts are sold. (RCW 84.64.080)

No county officer or employee shall directly or indirectly be a purchaser of such property at such sale. (RCW 84.64.080)

### **Bids in Excess of Taxes and Interest Due**

If real property has not been redeemed prior to the close of business the day before the sale and the property owner wants to retain the property, the owner must then bid for the property during public auction. If the highest amount bid for the property is in excess of the entire amount of the taxes and interest due, the excess shall be refunded, upon application, to the record owner of the property following payment of all water and sewer liens. The record owner of the property is the person who held title on the date of issuance of the certificate of delinquency. Assignments of interests, deeds or other documents executed or recorded after filing the certificate of delinquency shall not affect the payment of excess funds to the record owner. (RCW 84.64.070, 84.64.080) (See Exhibit 1).

## VIII. NOTIFICATION OF FORECLOSURE SALE

### Legal Publication of Notice of Sale

RCW 84.64.080 requires the following before the foreclosure sale to take place.

1. "After first giving notice of the time and place where such sale is to take place for ten days successively by posting notice thereof in three public places in the county."
2. That the sale be on a date and time as the county treasurer may direct, and shall continue from day to day (Saturdays, Sundays, or legal holidays excepted) during the same hours until all the lots or tracts are sold.

As the court approvingly holds, the treasurer may additionally give notice of the sale in excess of the statutory requirements by publishing such notice in the newspaper. This published notice is discretionary and can range from a brief announcement of the sale to a complete publication of the Notice of Sale itself. It is suggested that a onetime publication of the Notice of Sale in a newspaper of general circulation, together with an accompanying Affidavit of Publication, will be sufficient. The costs of such publications are recoverable as a cost of sale. (AGO 1976, No. 16) (Exhibits 2 and 16)

Following is a sample of a notice of tax judgment sale: (RCW 84.64.080)

Public notice is hereby given that pursuant to the real property tax Judgment and Order of Sale entered by the \_\_\_\_\_ County Superior Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in proceedings for foreclosure of tax liens upon real property, as provided by law, I shall on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ a.m. at the Courthouse in \_\_\_\_\_, \_\_\_\_\_ County, Washington, sell the lands or lots described on the Minimum Bid Sheet (a copy of which is provided free of charge at my office at the county courthouse) to the highest and best bidder for cash, to satisfy the full amount of taxes, delinquent interest and costs adjudged to be due thereon as follow, to-wit:

- Name of Assessed
- Description/ Subdivision
- Section or Lot
- TWP or Range Block
- Amount of Judgment

In lieu of the sale procedure specified in RCW 84.64.080, the county treasurer may conduct a public auction sale by electronic media as provided in RCW 36.16.145. (RCW 84.64.225)

The following is the notice of public auction sale by electronic media and must be in the following form: (RCW 84.64.225)

### TAX JUDGMENT SALE BY ELECTRONIC MEDIA

Public notice is hereby given that pursuant to a tax judgment of the superior court of the county of . . . . . in the state of Washington, and an order of sale duly issued by the court, entered the . . . . day of . . . . ., . . . ., in proceedings for foreclosure of tax liens, I shall on the . . . . day of . . . . ., . . . ., commencing at . . . . o'clock . . ., at . . [specify web site address] . . . ., sell the property to the highest and best bidder to satisfy the full amount of taxes, interest, and costs adjudged to be due. Prospective bidders must deposit . . . . to participate in bidding. A deposit paid by a winning bidder will be applied to the balance due. However, a winning bidder who does not comply with the terms of sale will forfeit the deposit. Deposits paid by nonwinning bidders will be refunded within ten business days of the close of the sale. Payment of deposits and a winning bid must be made by electronic funds transfer.

In witness whereof, I have affixed my hand and seal this . . . . day of . . . . ., . . . .

Treasurer of . . . . . county.

If the county treasurer chooses to conduct the sale via electronic media, the following must also be completed:

At least 14 days prior to the beginning of the public auction; public notice must be published once a week for two successive weeks in a newspaper of general circulation in the county; and post notice of the sale in a conspicuous place in the county courthouse and on the county's internet web site.

### **Posting of Sale**

Notices of sale must be posted in three public places in the county, one of which shall be in the office of the treasurer. (RCW 84.64.080) (The treasurer is reminded that the other two places should be places other than the courthouse.) The treasurer is well advised to periodically inspect the public postings for vandalism, defacing, etc. An effort by the treasurer should be sufficient, so long as there is absolute compliance with the duty to begin the posting more than ten days prior to the sale, counting all Sundays and holidays.

## **Records to Establish**

- Affidavit of Posting
- Minimum Bid Sheet (See Exhibit 20)
- List of Foreclosure Costs (See Exhibits 21 through 24)

## **Terms of Sale**

Opening Statement of Sale (See Exhibit 21 & 22 for two samples of different approaches.)

## **IX. PROCEEDING WITH SALE**

### **Registering Bidders**

Many counties are now requiring bidders to register for the sale to be a qualifying bidder and assign a bid number. The registration typically includes the bidder's name, address, phone numbers and any other pertinent information. At the time of registration, the bidder is given a copy of the opening statement and is asked to sign that they have read and received the opening statement. This does not replace the actual reading of the opening statement at the beginning of the auction.

### **Public Auction**

The first action by the sale officer will be to announce the sale by reading the opening statement. (See Exhibits 21 & 22) The opening statement should be designed for courtroom use should it ever be needed in testimony. Once the opening statement has been read aloud, the sale officer will sign and date the form for retention in the collection file.

The bidding begins after the opening statement has been signed and the minimum bid sheets have been distributed. The sale should be an auction sale. The highest and best bid is awarded the opportunity to buy the property by paying cash for the property either by the end of the sale or within a specific time set by the treasurer, following the purchase. (RCW 84.64.080) This allows the property to be resold should the highest bidder be unable to pay for the property. Some counties now require each bidder to pay for their purchase before the sale proceeds to the next property. In this case, bidders can do so by depositing funds with the sale cashiers or by coming forward with cash or cashier's check for each purchase.

If the county treasurer chooses to use electronic media as means for the auction, the county treasurer should submit an opening statement; minimum bid amounts; property information, which includes legal descriptions; and any other information the treasurer may deem necessary to post on the third party's website to conduct the auction.

### **Auctioneer**

Although the duties of the officer conducting the sale are ministerial in nature, calling for an observance on their part of all statutory requirements relating to the sale is mandatory. RCW 84.64.080 directs the county treasurer to proceed to sell said property. Some treasurers feel it is their right and duty to take on the role of auctioneer at the sale. Others contract for a professional auctioneer. If the county treasurer chooses to use electronic media as means to conduct the auction, the treasurer may choose a company as a third-party electronic auctioneer to conduct the auction. Auctioneer Contract attached as a reference under (Exhibit 33)

## **Minimum Bid Sheet**

As an aid to the bidders at such sale, it is suggested that the treasurer prepare a minimum bid sheet which notes the parcel number and legal description of the property, in addition to the amount of the minimum bid. Some counties also include the parcel situs address on the minimum bid sheet for reference purposes. This could eliminate the necessity for the sale officer to read each legal description, a process which invites technical errors or omissions. (See Exhibit 17)

If the treasurer cannot set up to print electronic receipts for each sale, then receipts for each parcel should be prepared in advance. The parcel number, the legal description, and the additional costs not included in the minimum bid should be typed on the form. (See Exhibit 17)

### **Acceptance of Bid**

The acceptance of a bid is at the time the sale officer deems the property sold.

### **County as Bidder:**

If no person submits a minimum bid for the property offered for sale, the county becomes the winning bidder by default RCW 84.64.200 and the property then become **Tax Title Property**. The county then holds the property in trust for the taxing districts and any future sales are held according to the Tax Title Statutes. **RCW 36.35**



## **X. PROCEDURE FOLLOWING SALE**

### **Permanent Records**

The books and records belonging to the office of the county treasurer, and certified by the treasurer, shall be deemed prima facie evidence to prove the issuance of any certificate, the sale of any land or lot for taxes, the redemption of the same, or payment of taxes thereon. (RCW 84.64.130)

It is vitally important that all records relating to the proceedings of a foreclosure be retained by the county treasurer. These records include: (See Exhibit 25)

1. The primary list of delinquent parcels.
2. Copies of tax statements showing delinquent tax years and amounts owing.
3. Copies of any special assessment statements showing delinquent assessment years and amounts owing.
4. Copies of any personal property tax statements certified to the real estate involved showing delinquent tax years and amounts owing.
5. All correspondence with the taxpayer/owners.
6. Daily logs of all contacts (written or oral) with the reputed owners.
7. Copies of publications.
8. Notice and Summons.
9. Title Reports.
10. All other legal documents.
11. Minimum bid sheet.
12. Affidavits of publication.
13. Affidavits of service.
14. Certified letter proof receipt from the U.S. Postal Service.
15. Any other records or memos relating in any way to the parcels on foreclosure.

NOTE: The daily log should consist of a listing of any contacts with the taxpayers/owners, including the time, date and nature of the contact. (See Exhibit 8)

All notes, letters, logs, copies of recordings, or any other relevant item, no matter how trivial, must be retained within a file and dated with the year of the foreclosure. These notes and records may be kept indefinitely.

## **Transfer of Title**

- Within 30 days, treasurer's deeds are prepared for each individual parcel, using the name/address slip turned in at the time payment is made to the foreclosure cashier at the sale. The deeds are sequentially numbered, starting with the next available number after the last foreclosure or tax title sale. All deeds are proofread for accuracy. (See Exhibit 24)
- Excise sales tax affidavits are prepared for each deed in the usual manner.
- Deeds are executed, the affidavits are signed by the designated person, and the recording fees are extracted and paid over to the account of the county auditor.
- Deeds are taken to the auditor's office and recorded.
- For the properties not purchased by any individual at the foreclosure sale (properties "sold to the county" as tax title property), a deed is prepared. The deed must be carefully proofread.
- The deed to the county is recorded with instructions to return the deed to the county treasurer's office.
- All parcels sold to the county becomes tax title property held in trust and shall have the taxes canceled for all years owing, be classified with an exempt status, and the taxpayer's name will be replaced with the county's name. All such exempt property is posted to the exempt roll. (RCW 36.35.100) NOTE: It is important that the name change be executed as soon as possible to preclude the possibility of any next-year tax statements being mailed to the previous owners.
- Such exempt property becomes "tax title property" (RCW 36.35.100) and is subject to further sales under the provisions of RCW 36.35.120. (See Treasurer's Procedures Manual, Chapter 4, General Revenue Section, page 5.)
- Tax title properties are also exempt from special assessments.

## **Distribution of Proceeds After Sale**

RCW 84.64.080 provides for the disposition of excess or surplus funds from the foreclosure action. If the highest amount bid for any such separate unit tract or lot is in excess of the minimum bid due upon the whole property included in the certificate of delinquency, the excess shall be refunded following payment of all recorded qualifying liens which may include water-sewer district liens. This distribution is upon application from the record owner of the property. The record owner of the property is the person who held title on the date of issuance of the certificate of delinquency.

If the property sold is part of an estate, some treasurers distribute the excess proceeds to the probate court. If the property is a part of an estate or a property where the owner died without a will, heirs may come forward to claim. It is important to verify who qualifies as a legal heir and make sure there aren't more potential heirs. Some treasurers will require an Affidavit of Successor form completed. ALWAYS involve your legal counsel.

Assignments of interests, deeds, or other documents executed or recorded after filing the certificate of delinquency shall not affect the payment of excess funds to the record owner.

In the event no claim for the excess is received by the county treasurer within three years after the date of the sale he or she shall at expiration of the three-year period deposit such excess in the current expense fund of the county which shall extinguish all claims by any owner to the excess funds. The county treasurer should use due diligence and care in attempting to get these surplus funds to the record owner by sending him an application for foreclosure surplus, together with the appropriate explanatory letter. It is recommended that this application be sent by certified mail. (See Exhibit 1)

If any dispute arises concerning the party entitled to make claim to the surplus, the county prosecuting attorney should be consulted. The treasurer, with the assistance of their prosecuting attorney, may also open an interpleader action with the courts. Once the surplus is paid to the courts for an interpleader action, the surplus is considered paid out. It is now up to the parties disputing who should get the surplus, to show cause with the courts, and the courts will decide who gets the funds.

The proceeds from the sale of the property are to be distributed as follows:

1. Taxes to the taxing districts.
2. Interest and penalties to current expense.
3. Costs of foreclosure to treasurer's O & M.
4. Treasurer's deed fee to treasurer's O & M.
5. Recording fee to county auditor.
6. Water and sewer liens to the assessment district. (RCW 84.64.080)
7. Excess proceeds above costs and taxes due to treasurer's suspense, trust, or applicable fund.

There may be other qualifying liens that will claim proceeds. An Examples is Internal Revenue Service, Division of Child Support, Office of Financial Recovery, Dept. Labor & Industries, and judgements in favor of a municipality for Abatement.

## **Redemptions**

The county treasurer may file a certificate of redemption with the county clerk for all parcels upon which certificates of delinquency were issued but were subsequently redeemed. The treasurer must make appropriate entries on the tax roll posting the payment.

## **Redemption - Minors and Incompetent Persons - After Sale**

If the real property of persons adjudicated to be legally incompetent or minors is sold for nonpayment of taxes, the same may be redeemed at any time within three years from the date of sale, upon the terms specified in RCW 84.64.070. Payment of interest must be made at the statutory rate, per annum, charged on delinquent general real and personal property taxes on the amount for which the same was sold, from and after the date of the sale. In addition, the person redeeming the property shall pay the reasonable value of all improvements made in good faith on the property, less the value of the use thereof. Redemption may be made by the

specified persons themselves or by any person in their behalf. While the statutory direction is straightforward enough, the treasurer should refer all such redemptions to the prosecuting attorney to assure their legal validity.

### **Changes to the Tax Roll**

The treasurer must inform those having custody of the assessment rolls and the tax rolls to make appropriate changes in ownership of those properties sold in the foreclosure sale. In this regard, the treasurer should be sure of the listing as desired by the new owner of record.

### **Properties Withheld from Foreclosure**

Whenever certain parcels have been withheld from the tax foreclosure or sale for various procedural or technical errors, the treasurer can elect to either renew the processes as to those parcels in the current year, or simply wait until the next year and a new foreclosure action. If the option to wait is selected, a statement of reason to withhold should be filed with the county clerk or maintained in the treasurer's files under the foreclosure case number.

## **XI. EXHIBITS**

**The following pages contain suggested forms and exhibits for informational purposes only.**

## **EXHIBIT 1 – Foreclosure Sale (Year)**

### Suggested Format

#### **January**

- Send overplus letters (#5) from last sale and record payments in certificate.
- Prepare current year calendar.
- Order current year foreclosure stamps (2).
- Order current year extract.
- Draft current year delinquency letters.
- Type first letter of delinquency and send to printer.
- Receive statements, begin sorting and stamping.

#### **February**

- Have statements and letters prepared to mail in February with letter #1 and declaration to defer delinquent taxes.
- Go over schedule with prosecuting attorney's office.
- Mail statements, letter #1, and declaration to defer delinquent taxes.
- Prepare title search bid sheet and send to purchasing.
- Start research on returned statements.

#### **March**

- Order extract for the title company.
- When bid comes back from purchasing, send "taxpayer unknown" to title company.

#### **April**

- Make up files as title searches come back.

#### **May**

- Order updated current year extract to be in office by a certain deadline, with statements.
- Send letter of delinquency (#2) with declaration to defer delinquent taxes to all outstanding accounts. Send statements.

#### **June**

- Extract to the title company for full searches. As searches come back, begin making up files and update files from last year.

#### **July**

- Take off all returned declarations to defer delinquent taxes, which have been returned.
- Make extract (INL) for addresses to be assigned and send to engineer's office. (Set deadline)
- Order certificate of delinquency - original and three copies.
- As title searches come in from the title company, send letter #3 to new record owner. Send statement and fee amounts.
- Certificate from systems - begin adding names from searches.
- Preliminary certificate to council for approval. Final to be brought up prior to filing - specify preliminary only.

**August**

- Final parcels to the title company for searches.
- Send letters to city engineers to be addressed on extract - to be returned by (deadline).
- "Wanted list" (no finds) to be published by (deadline).
- Send delinquency letter #4 - adjoining owners.
- Order alpha list for notice and summons for (deadline).
- Send certificate (three copies) to binders.
- Take completed certificate to executive who sends to council for approval - returned by (deadline).
- Send corrected and completed alpha list to prosecutor for typing of notice and summons.
- Deadline for final searches.
- Deadline for city addresses.

**September**

- File certificate and notice and summons.
- Take filed notice and summons to printers for copies to mail.
- Deliver prepared publication to newspaper.
- Begin preparing certified notice and summons for mailing.
- Mail notice and summons.
- Take corrected notice and summons to newspaper for publication (set date).
- Check newspaper for publication.
- Prepare foreclosure list from published notice and summons positive.
- Mail copy of published notice and summons to city treasurers with two copies of letter, both copies to be signed and returned.
- Mail foreclosure list (include Department of Revenue, title companies, etc.).
- Set last day to personally serve notice and summons.

**October**

- File proof of publication.
- File city treasurer's returned notices.

**November**

- Get resolution from Council/Board of County Commissioners for sale.
- Take notice of sale to newspaper for publication.
- Call sheriff's office for a deputy for foreclosure sale.
- File motion for default, judgment, and order of sale.
- Post notice of sale. Distribute copies for public posting - treasurer's office, courthouse lobby, city hall, federal building, etc.
- Confirm hearing room for conduct of sale.
- Check published notice of sale.
- Prepare terms and conditions of sale.
- Prepare tax statements for parcel sheets and, also, LID and personal property statements.

**December**

- Make new list for sale.
- Foreclosure sale (more than 85 days from date of publication).
- Begin typing deeds (use parcels sheets for information).
- Prepare omit list.
- File treasurer's return of sale.
- Put T notes on all parcels in sale and type cards for file. Close accounts and put in files.

**OUTGOING CORRESPONDENCE IN SEQUENCE**

Letter #1 -- Foreclosure letter to send with statement and declaration to defer delinquent taxes.

Letter #2 -- Reminder of title search and summons and notice (statements).

Letter #3 -- New record owner - send statement and costs.

Letter #4 -- Adjoining owner letter - send map.

Letter #5 -- Overplus letter - send application.



**LETTER #1**

**PROPERTY SUBJECT TO FORECLOSURE**

February 14, 20\_\_

Per RCW 84.64.050

Dear Taxpayer:

The enclosed tax statement(s) indicate that you have unpaid taxes for 20\_\_ and prior years. A revision to the Washington State property tax laws, which became effective May 1, 1983, reduced the allowable delinquency period from five years to three years before foreclosure action is taken. Therefore, action to foreclose on your property and sell it at public auction will be initiated after May 1, 20\_\_.

After we have filed the Certificate of Delinquency, which is the legal document for foreclosure (filed in September), you will be required to pay ALL the taxes (BOTH DELINQUENT AND CURRENT), interest, and foreclosure costs, bringing your account current, to redeem your property.

Your prompt payment of delinquent taxes and interest will save you money and prevent other problems associated with foreclosing on your property.

Also enclosed is a declaration to defer delinquent taxes for those senior citizens/disabled persons who qualify, along with special information and instructions. The application should be filled out, notarized, and returned to this office no later than July 1, 20\_\_. This declaration to defer delinquent taxes must be filled out EVERY YEAR to keep our files current.

Sincerely,

County Treasurer

Enclosures

PAYMENT OF THE 20\_\_ AND PRIOR YEARS TAXES AND INTEREST WILL STOP FORECLOSURE ACTION.

**SENIOR CITIZEN AND DISABLED PERSONS**  
**SPECIAL ASSESSMENT AND PROPERTY TAX DEFERRAL**

**Information and Instructions**

**Filing Period**

The claim for deferral of special assessments and/or property taxes must be filed with the county assessor no later than thirty days before the tax or assessment is due or thirty days after receiving notice that a certificate of delinquency is to be issued. For good cause shown, the Department of Revenue may extend the filing period.

**Exemption Requirement**

To be eligible for the deferral, the claimant must be receiving the exemption provided for in RCW 84.36.381 through RCW 84.36.389.

**Ownership**

At the time of application, the person making the claim must own the property upon which the deferral is claimed, either as a fee owner or contract purchaser, the ownership requirement is satisfied if the owner has transferred the property under a revocable trust and is able to revoke the trust and take ownership.

A share interest in cooperative housing, lease for life, or a life estate retained in a property does not satisfy the ownership requirement. If there are joint tenants, the deferral only applies to the taxes (or special assessments) attributable to the share interest of the person qualifying for the claim.

A residence owned by a marital community or owned by cotenants shall be deemed to be owned by each spouse or cotenant.

When two or more individuals of a household file or seek to file a declaration to defer, they may determine between them as to who the claimant shall be.

**Special Assessment**

Special assessment shall mean the charge or obligation imposed by a city, town, county, or other municipal corporation upon property specially benefited by a local improvement. The term does not include the charge or obligation for services specially benefiting property not involving the construction of permanent improvements to real property, e.g., mosquito control, weed control, etc.

Included shall be assessments for physical construction of and/or addition to property or buildings in Local Improvement Districts created for improvement of roads, sewers, water drainage, power, utilities, water, flood control, or irrigation.

**Insurance Requirement**

The claimant must also have and keep in force, fire, and casualty insurance in sufficient amount to protect the interest of the state of Washington and shall designate the state as a loss payee upon said policy.

**Deferral Amount**

For a claimant who meets the specified qualifications, deferred payment of special assessments and/or property taxes may be granted up to 80 percent of the amount of his equity value in said property.

**Lien**

Whenever any special assessments or real property taxes are deferred, the amount deferred, plus interest, shall become a lien in favor of the state upon the property. The interest is 8 percent per annum.

**Signing the Claim**

The claim may be signed by the person entitled to the deferral, by his or her attorney in fact, or by the holder of a mortgage or contract, or a duly authorized agent or guardian or other person charged with the care of the person or his/her property.

If any residence is under mortgage, deed of trust or purchase contract whereby the explicit wording or terms of the mortgage, deed of trust, or purchase contract requires the accumulation of reserves out of which the holder of the mortgage, deed of trust, or purchase contract is required to pay real property taxes, said holder of his authorized agent shall cosign the declaration to defer either before a notary public or the county assessor or his deputy in the county in which the real property is located.

**Renewal of Deferral**

Declarations to defer property taxes and special assessments for all years following the first year may be made by filing a renewal form with the county assessor no later than thirty days before the tax is due. This action will affirm the continued eligibility of the claimant.

The county assessor will send forms in January to claimants who have been granted deferral of taxes for the previous year.

**Change of Ownership**

When a person who is qualified for this deferral timely files his claim but thereafter dies or sells the property prior to the time the taxes to which the deferral applies are paid, his heirs or other new owners of the property will become liable for payment of all deferred taxes, plus interest charges. The deferral would continue for a surviving spouse who could also qualify for the deferral.

**When Payable**

The amount deferred, plus interest, shall become due and payable upon occurrence of any of the following:

- a. Upon transfer or conveyance of the property;
- b. Upon the death of the claimant, unless any surviving spouse qualifies and elects to continue the deferral;
- c. At such time that the claimant ceases to reside permanently in the residence; or
- d. Upon failure of the claimant to have or keep in force fire and casualty insurance in sufficient amount to protect the interest of the state.

**Appeal on Denial of Claim**

If the applicant does not meet the qualifications as provided by law, the claim for deferral or renewal of deferral shall be denied. Such denial may be appealed to the County Board of Equalization on or before July 1.

**LETTER #2**

**Reminder of Title Search and Summons and Notices**

May 18, 20\_\_

Dear Taxpayer:

The enclosed tax statements indicate that you have unpaid taxes for 20\_\_ and prior years still owing. This letter is to remind you of the following:

1. We will be sending the above-mentioned parcels for Title Search shortly. This will add approximately \$300 per parcel to your account, so you should contact us and make some arrangements for payment if you have not already done so. At this point, payment of the 20\_\_ and prior year's taxes and interest will stop the foreclosure action.
2. We will be filing our Certificate of Delinquency, which is the legal document for foreclosure, the first of September. After the filing, to redeem your parcels from foreclosure, you will be required to pay ALL the taxes (BOTH DELINQUENT AND CURRENT), interest, and foreclosure costs to redeem the property.

If you are 61 years of age or older and presently receiving or are eligible and have applied for deferral of delinquent taxes, you may have your property removed from foreclosure without payment of taxes at this time. However, included is a form, which explains the NEW procedures to be followed.

If you have any questions, please do not hesitate to call me at \_\_\_\_\_.

Sincerely,

County Treasurer

Enclosures

**LETTER #3**  
**New Record Owner (Attach Statement and Costs)**

July 23, 20\_\_

RE: Account No. \_\_\_\_\_

Dear \_\_\_\_\_:

Enclosed you will find a real estate tax statement on the above-mentioned account with 20\_\_ and prior years taxes owing for land in \_\_\_\_\_ County. The name and address on our tax rolls for this parcel indicate a party other than yourself to whom the statement has been sent.

We have recently had a title search on this property to determine the record owner and the results indicate that you are the actual owner of record.

What needs to be done to take this parcel out of foreclosure is the payment of the 20\_\_ taxes and interest, plus the costs for the search and an administrative fee.

Attached to the statement is a tape showing what must be paid to redeem this property.

THE COSTS FOR THE TITLE SEARCH AND THE ADMINISTRATIVE FEE HAVE NOW BECOME A LIEN AGAINST THE REAL PROPERTY IN ACCORDANCE WITH RCW 84.64.030 AND MUST BE COLLECTED WHEN THE PROPERTY IS REDEEMED.

After the filing of our Certificate of Delinquency the first part of September, you will be required to pay ALL the taxes (BOTH DELINQUENT AND CURRENT), the interest, and the foreclosure costs to redeem the property.

If you have any questions regarding this matter or desire further information, please feel free to call me at \_\_\_\_\_.

Sincerely,

County Treasurer

Enclosure

**LETTER #4**  
**Adjoining Owner Letter (Attach Map)**

August 5, 20\_\_

RE: Account No. \_\_\_\_\_

Dear \_\_\_\_\_:

I am writing regarding the above account number, which represents property presently in foreclosure for nonpayment of the 20\_\_ real estate taxes.

As an adjacent property owner, we are informing you of the potential opportunity of acquiring this parcel by deed from the record owner or by acquiring it in our tax foreclosure sale which will be held in December. Enclosed is a map of the property for your reference.

If we have a good address for the record owner, we will be happy to give it to you so that you can make your own arrangements. If the parcel goes to the foreclosure sale auction, you will have an opportunity to bid on it.

It is our experience that if arrangements are made before the sale between the two parties involved, this is the most efficient way in which to acquire the property. If the parcel goes to the foreclosure sale, the bidding becomes very competitive.

If you have any questions regarding this matter, please feel free to contact me at \_\_\_\_\_.

Sincerely,

County Treasurer

Enclosure

**LETTER #5**  
**Excess Proceeds Letter (Enclose Application)**

January 4, 20\_\_

RE: Account No. \_\_\_\_\_

Dear \_\_\_\_\_:

This is to inform you that the above-mentioned property was sold in our foreclosure sale of December \_\_, 20\_\_. A title search of the property indicates that you were the record owner at the time of the sale and may apply for the funds in excess of the taxes, interest, and costs. In this case, the excess funds amount is \$\_\_\_\_\_.

Enclosed is an application for you to sign and have notarized and returned to me if you are, indeed, interested in doing so.

Our next step, after receiving the application from you, is to send it to the prosecuting attorney's office for approval. We will then mail you a check.

If you have any questions concerning this matter, please do not hesitate to call me at \_\_\_\_\_.

Sincerely,

County Treasurer

Enclosure



## APPLICATION FOR FORECLOSURE SALE EXCESS

\_\_\_\_\_ COUNTY

Directions: Treasurer completes Sections 4 and 9.

Applicant fills out and/or swears to Sections 1, 2, 3, 5, 6, 7, and 8.

1. I, \_\_\_\_\_, hereby state:
2. I am of legal age and reside at \_\_\_\_\_  
\_\_\_\_\_
3. I was record owner as of the date of the foreclosure sale shown herein of the property listed and described herein, which was sold for delinquent taxes.
4. Parcel Number \_\_\_\_\_ County  
Account Number \_\_\_\_\_ Superior Court No. \_\_\_\_\_  
Title Insurance Co. No. \_\_\_\_\_ Treasurer's Initials \_\_\_\_\_  
Title Insurance Co. \_\_\_\_\_ Foreclosure Sale Date \_\_\_\_\_

## LEGAL DESCRIPTION:

Final Sale Amount \$ \_\_\_\_\_

Taxes, Interest, Costs, and Fees \$ \_\_\_\_\_

FORECLOSURE SALE EXCESS \$ \_\_\_\_\_

5. The foreclosure sale excess is due me in accordance with Chapter 84.64 RCW.
6. I hereby make the required application for sale excess.
7. I will hold \_\_\_\_\_ County harmless from any and all claims arising out of this application and payment.

**EXHIBIT 1 -- CONTINUED**

8. Signed \_\_\_\_\_

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Washington, residing at

\_\_\_\_\_  
in \_\_\_\_\_ County.

-----  
**FOR OFFICE USE ONLY**

9. Date \_\_\_\_\_

Approved by \_\_\_\_\_  
County Treasurer

\_\_\_\_\_  
Prosecuting Attorney or Deputy

Check Number \_\_\_\_\_

Misc. Receipt No. \_\_\_\_\_

## EXHIBIT 2 – Attorney General's Opinion Regarding Foreclosure Costs

Exhibit 2



OFFICE OF THE ATTORNEY GENERAL  
SLADE GORTON ATTORNEY GENERAL  
TEMPLE OF JUSTICE OLYMPIA, WASHINGTON 98504

OFFICES AND OFFICERS--COUNTY--TREASURER--TAXATION--FUND-  
ING COSTS OF PROPERTY TAX FORECLOSURES.

All reasonably necessary costs of foreclosure, distraint and sale of property for delinquent taxes that can be traced by a reliable accounting method to the particular taxpayer and property involved may be (1) charged against the revolving fund created by RCW 82.56.020 and (2) recovered as costs of foreclosure or costs of distraint against the taxpayer or other party against whom that statute authorizes the charging of "costs."

-----  
September 22, 1976

Honorable Robert E. Schillberg  
Prosecuting Attorney  
Snohomish County Court House  
Everett, Washington 98201

Cite as:  
AGO 1976 No. 16

Dear Sir:

By letter previously acknowledged you have requested an opinion of this office on two questions which we paraphrase as follows:

(1) May a county treasurer make expenditures from the operation and maintenance fund created by RCW 84.56.020 to defray office operation costs incurred by foreclosure, distraint, and sale of real or personal property for delinquent taxes?

(2) If the answer to question (1) is affirmative, may the county treasurer seek to recover such office operation costs from the delinquent taxpayer?

We answer both questions in the affirmative for the reasons, and subject to the qualifications, set forth in our analysis.

### ANALYSIS

Your questions involve the Title 34 RCW procedures under which a county treasurer proceeds against persons who are

delinquent in the payment of real or personal property taxes. An overview of those procedures is set forth immediately below to provide a framework for our analysis of those questions.

RCW 84.56.070 provides that in the event of delinquency in the payment of personal property taxes the treasurer shall distrain and sell the personal property involved. RCW 84.64.030 provides that in the event of a delinquency in the payment of real property taxes an action shall be brought to foreclose the county's tax lien against the realty.

If the treasurer distrains personal property for delinquency in the payment of taxes, the taxpayer, to regain possession of the personalty, must pay the taxes, interest and "accruing costs of distraint" prior to sale thereof. RCW 84.56.070. Where the treasurer has provided a taxpayer with notice and summons in an action to foreclose a tax lien against real property, the delinquent taxpayer, in order to redeem the realty, must pay the taxes, interest and "costs accrued in foreclosure" prior to sale thereof. RCW 84.64.030.

In carrying out his duties regarding the distraint of personalty and foreclosure against realty, the treasurer has a comprehensive range of duties. Among other things he records tax liens, provides notice to delinquent taxpayers, seizes personalty, conducts title searches with respect to realty, and performs other administrative tasks necessary to carry out such duties. The treasurer is vested with broad discretion in carrying out those duties. See, Metzger v. Quick, 46 Wn. 2d 477, 282 P. 2d 812 (1955).

Question (1):

The portion of RCW 84.56.020 that is relevant to your question regarding which costs of the county treasurer may be defrayed from the operation and maintenance fund reads as follows:

" . . . All collections of interest on delinquent taxes shall be credited to the county current expense fund; but the cost of foreclosure and sale of real property, and the fees and costs of distraint and sale of personal property, for delinquent taxes, shall, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and shall be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint and sale for delinquent taxes without regard to budget limitations."

Honorable Robert E. Schillberg -3-

AGO 1976 No. 16

You have asked whether the broad range of office operation expenses traceable to the treasurer's foreclosure and distraint duties constitute "costs of foreclosure and sale of real property" or "costs of distraint and sale of personal property" within the meaning of this statute.<sup>1</sup> The above-quoted language clearly and unambiguously provides that certain fees and costs, when collected, shall be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint and sale for delinquent taxes without regard to budget limitations.

It is well settled that where the language of a statute is clear and unambiguous on its face, there is no room for construction; see, e.g., Snow's Mobile Homes, Inc. v. Morgan, 80 Wn. 2d 283, 494 P. 2d 216 (1972). Also, words of a statute will be understood in their usual and ordinary sense in the absence of any special statutory definition. City of Kent v. Lamb, 1 Wn. App. 737, 463 P. 2d 661 (Ct. App. Div. 1, 1969).

Accordingly, since the term "cost" within the phrase "cost of further disclosure, distraint and sale for delinquent taxes" is not defined in the statute, that term should be given the ordinary meaning it will receive in everyday usage. Webster's Third New International Dictionary provides a definition of "cost" as follows:

" . . . whatever must be given . . . or foregone to . . . accomplish a result . . ."  
Webster's Third New International Dictionary  
(1971 ed.), p. 515.

There is an alternative reason for concluding that the term "cost" should be given a broad interpretation. The Washington

<sup>1</sup> We will assume, throughout our analysis of both questions herein, that the treasurer can identify, through use of accepted accounting methods, those portions of the various indicated office expenditures which are made for the purpose of carrying out the distraint and foreclosure duties. Accord, RCW 43.09.210 which provides that separate accounts are to be maintained for the various legislatively-designated funds and that expenditures are to be charged and payments are to be credited only to the appropriate funds. Thus it is clear that the legislature intended that the various designated funds pay their own way such that expenditures which can be identified with a particular program should be charged to the fund created therefor. See, AGO 63-64 No. 76, copy enclosed, at p. 5.

Honorable Robert E. Schillberg -4-

AGO 1976 No. 16

Supreme Court has held that in the absence of explicit restraints, a broad range of discretion will be read into statutory provisions which govern the actions of independent elective officials.

"The individuals holding these offices are required by law to perform certain definite governmental duties. It is a well recognized rule that a general grant of power or statutory direction to perform official duties, unaccompanied by definite directions as to how the power is to be exercised or the duty performed, implies the right and duty to employ the means and methods necessary to comply with the statutory requirements. 2 Lewis' Sutherland Statutory Construction 942, § 508; Throop on Public Officers, 515, § 542." State ex rel. Taylor v. Superior Court, 2 Wn. 2d 575, 585, 98 P. 2d 985 (1940).

Because the legislature has not placed a limitation in RCW 84.56.020 upon the extent of expenditures allowed, it follows, under the foregoing rule, that the defraying of reasonably necessary expenditures which are within the general purposes of the statute should be sustained.

Faced with the above-excerpted language of chapter 84.56 RCW and guided by the principles of construction cited above, this office, in a March 31, 1964, letter opinion to the Lewis county prosecutor, copy enclosed, advised that expenditures from the revolving fund for an automobile might be permissible in appropriate circumstances. In that opinion, at page 2, we concluded:

"... Consequently, if an expenditure out of this particular fund is reasonably necessary for the carrying out of specific statutory purposes for which the fund exists, its propriety should be sustained. . . ."

In the instant situation it would appear that all of the office operations expenditures you have mentioned in your letter requesting our opinion are reasonably necessary to

---

2 By way of introduction to your specific questions you have advised us in your letter as follows:

"Various county treasurers are, in addition to charging routinely taxable costs of filing fee, service, publication fees, as well as title search fees and notice fees (84.64.030), also charging as cost of foreclosure and sale the costs of office operation in connection

enable the treasurer to perform his duties of foreclosure, distraint or sale in collecting delinquent property taxes. For these reasons, we conclude that, as a general rule, all such expenditures incurred and directly traceable under a reliable accounting method to the performance of such duties may be defrayed from the revolving fund established by RCW 82.56.020.<sup>3</sup>

Question (2):

The issue raised by your second question is whether the term "cost" within the references to "cost of distraint and sale" and "costs of foreclosure and sale" discussed above should be given the same meaning throughout chapter 84.56 RCW and chapter 84.64 RCW. Your particular question is whether such expenditures are recoverable from the taxpayer seeking to recover distrained personalty or seeking to redeem realty from foreclosure.

RCW 84.56.070 provides that the taxpayer seeking to regain possession of distrained property must pay taxes and interest thereon "together with all accruing costs." RCW 84.64.030 provides that in addition to taxes and interest required to be paid by a person seeking to redeem realty against which foreclosure proceedings have been instituted, "costs accrued in foreclosing" against the realty shall be part of the redemption price required to be paid.

The relevant provisions of chapters 84.56 RCW and 84.64 RCW all relate to the same officer in the same governmental entity

2 Cont'd:

with the foreclosure process.

"Office operation costs expended from the operation and maintenance fund have included capital items such as filing cabinets used for foreclosure activities, CRT (Cathode Ray Terminal), and other computer costs (essentially, an electronic filing cabinet), insofar as those uses relate to foreclosure or in some counties even automobiles used in the foreclosure process and may logically include non-capital items such as salaries of personnel and indirect maintenance costs (such as heat, light), insofar as an accounting system can allocate such to the function of foreclosure."

- 3 To the extent that any statements in other portions of the above-cited 1964 letter opinion might be read as being inconsistent with this present conclusion, the earlier opinion is hereby modified

Honorable Robert E. Schillberg -6- AGO 1976 No. 16

performing the same function - i.e., the county treasurer distraining personalty and foreclosing upon realty. It is clear that these laws in pari materia and should be construed with reference to each other. See, e.g., City of Tacoma v. Perkins, 42 Wn. 2d 80, 253 P. 2d 957 (1953).

Buttressing the conclusion that the statutes should be read in pari materia is the specific provision of RCW 84.56.020 which states that the enumerated "costs . . . shall, when collected. . ." go to the revolving fund to defray costs of further foreclosure. Clearly, since such "costs" could not be collected but for the authorization provided in Title 84 RCW, all provisions relating to "costs" in chapters 84.56 and 84.64 RCW authorizing the charging of such costs to delinquent taxpayers and other interested parties must be read to reference the same "costs" as are referenced in RCW 84.56.020. Therefore, "costs" should be given its ordinary meaning in its usage throughout both chapters.

Thus, it is our opinion that a county treasurer may include as "costs of distraint" or "costs of foreclosure" those reasonable office operation costs which can be traced to the delinquent taxpayer and property.

#### Summary

Under the analysis set forth above, it is therefore our opinion that all reasonably necessary costs of foreclosure, distraint and sale of property for delinquent taxes that can be traced by a reliable accounting method to the particular taxpayer and property may be (1) charged against the revolving fund created by RCW 82.56.020 and (2) recovered as costs of foreclosure or costs of distraint against the taxpayer or other party against whom the statute authorizes the charging of "costs."

We trust that the foregoing will be of assistance to you.

Very truly yours,

SLADE GORTON  
Attorney General



*[Signature]*  
JOHN R. WASBERG  
Assistant Attorney General

JRW:lj  
Enc.



**EXHIBIT 3– Certificate of Delinquency**

CAUSE NO. 3063

(YEAR)

CERTIFICATE OF DELINQUENCY

(BOOK FORM)

\* \* \* \* \*

ISSUED TO: \_\_\_\_\_ COUNTY

FOR: (YEAR) TAXES

CERTIFICATE OF DELINQUENCY

ISSUED TO \_\_\_\_\_ COUNTY FOR THE YEAR 20\_\_

\* \* \* \* \*

STATE OF WASHINGTON            )  
  ) ss.  
COUNTY \_\_\_\_\_ )

No. 3063

THIS IS TO CERTIFY that I have this day, as Treasurer of \_\_\_\_\_ County,  
issued to said County, this Certificate of Delinquency for taxes, interest, and costs due and  
delinquent July 31, 20\_\_, in the sum set opposite each description of the real property situated in  
\_\_\_\_\_ County, State of Washington, and described as follows, TO WIT:

**EXHIBIT 3 -- CONTINUED**

PARCEL NO.	84 TAX	83 TAX	82 TAX	81 TAX	CERT AMT
143043-039-0	531.24	446.59	355.85	356.02	
				(Int) 135.29	
				(Penalty)	
				(Costs) <u>2.00</u>	
					<b><u>493.31</u></b>

OAKBROOK 5th ADD  
L39 Ease of Record  
7902 - 89th Avenue SW

REPUTED OWNER: JOHN JAMES

-----

PARCEL NO.	84 TAX	83 TAX	82 TAX	81 TAX	CERT AMT
200414-005-0	507.29	426.46	339.83	339.87	
				(Int.) 129.15	
				(Penalty)	
				(Costs) <u>2.00</u>	
					<b><u>471.02</u></b>

SEAHAWKS 3rd ADD  
154  
2244 Dome Road

REPUTED OWNER: WILSON DOLE

-----

PARCEL NO.	84 TAX	83 TAX	82 TAX	81 TAX	CERT AMT
200628-002-0	287.20	241.43	133.98	134.32	
				(Int.) 51.04	
				(Penalty)	
				(Costs) <u>2.00</u>	
					<b><u>187.36</u></b>

(Etc.)

(Following pages will be a complete listing of each parcel to be foreclosed. The remaining parcels have been omitted for purposes of this example only.)

which several sums shall bear interest at the rate of twelve (12%) percent per annum with an additional penalty of eleven (11%) plus added costs as required by law.

IN WITNESS WHEREOF, Witness my hand and seal as Treasurer of said County, in said State, this 31st day of July, 20\_\_.

\_\_\_\_\_  
Treasurer of \_\_\_\_\_ County  
State of Washington



## **EXHIBIT 4 -- Bid Specifications For Title Search**

ON PROPERTIES WITH DELINQUENT TAXES TO BE FORECLOSED UPON IN 20\_\_

### FULL TITLE SEARCH:

1. Determine the record titleholder.
2. Determine the legal description of the property and if it is the same as what appears on the tax rolls.
3. Determine the lienholder.
4. Attach copies of all recorded documents relating to property under search.
5. Show any record title contract purchaser(s).
6. Show any easements.
7. Show any and all lienholders.
8. Show any and all judgment creditors.
9. Indicate tax account number and title number on face page of each search.
10. Attach parcel map, outlining each property in red wherever possible.

NOTE: ANY PARCELS OF THREE OR MORE WITH ONE OWNER SHALL BE TREATED AS A SINGLE PARCEL AND BILLED ACCORDINGLY.

AN EXTRACT INDICATING ALL PARCELS TO BE SEARCHED WILL BE TURNED OVER TO THE TITLE COMPANY (COMPANIES) ON \_\_\_\_\_.

ALL TITLE SEARCHES MUST BE COMPLETED AND RETURNED TO THE TREASURER'S OFFICE WITHIN \_\_\_\_\_ WORKING DAYS (DEADLINE IS \_\_\_\_\_).

NOTE: PRIOR SEARCHES OBTAINED WITHIN THE PAST YEAR TO BE UPDATED BY THE TITLE COMPANY FOR A LESSER CHARGE. TREASURER WILL SUPPLY THE TITLE COMPANY WITH PROPER IDENTIFICATION OF THESE PRIOR SEARCHES.

APPROXIMATE NUMBER OF PARCELS TO BE SEARCHED - \_\_\_\_\_.

## **EXHIBIT 5 – Notice Of Application For Judgment**

CAUSE NO. 441

20\_\_

NOTICE OF APPLICATION FOR JUDGMENT

FORECLOSING TAX LIENS AND SUMMONS

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF \_\_\_\_\_

_____ COUNTY, a political subdivision	)	
of the State of Washington,	)	
	)	
Plaintiff,	)	
vs.	)	NO. 441
	)	
WILLIAM M. HAMILTON, JR.; JAMES B. CANTRELL,	)	NOTICE OF APPLICATION
C/O JEANNE CANTRELL; EVERETT L. MINARD, JR.;	)	FOR JUDGMENT
JOHN R. JONES, SR.; VELMA FLOYD; HOLLYWOOD	)	FORECLOSING
PRODUCTIONS, INC. C/O CHRIS PALZER; KAREN	)	TAX LIENS AND
LINDERMAN; ROGER R. CARIVEAU; STANLEY F	)	SUMMONS
TAYLOR; HAROLD L. MYERS; RICHARD A	)	
DAVENPORT; C. ASSOCIATES; ERIC B. GESSELL.	)	
	)	
Defendants.	)	

YOU AND EACH OF YOU, and all other persons or parties unknown claiming any right, title, estate, lien or interest in or to the real property described in this notice and summons of foreclosure of tax liens, are hereby notified that \_\_\_\_\_ County, a duly organized and existing county of the State of Washington, is the owner and holder of Certificate of Delinquency No. 441 dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_; that said Certificate was issued to \_\_\_\_\_ County on that date by the Treasurer of \_\_\_\_\_ County, pursuant to law, for real property taxes and interest due, unpaid and delinquent for three or more years for which no certificate of delinquency had previously been issued; that the descriptions of the several lots, tracts and parcels of real property included and described in said Certificate of Delinquency, the names of the several reputed owners as appear on the rolls of the \_\_\_\_\_ County Treasurer, the amounts of 20\_\_ delinquent taxes on each of said lots, tracts and parcels of said real property, including interest thereon at 12% per annum on the balance of unpaid taxes, computed on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the years for which the same are due and unpaid as they appear and are set forth and described in said Certificate of Delinquency. (See this Certificate on file and the publication to follow hereafter.)

## EXHIBIT 5—CONTINUED

YOU ARE FURTHER NOTIFIED that the plaintiff, \_\_\_\_\_ County, will apply to the Superior Court of the State of Washington,, in and for the County of \_\_\_\_\_, for judgment foreclosing its lien for taxes against the lots, parcels and tracts of real property in this notice and summons hereinafter described, and you and each of you, are summoned to appear in the above-entitled Court within thirty (30) days after the date of the first publication of this summons, exclusive of the date of the first publication of this summons, which day of said first publication will be the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, and defend this action or pay the amount due, plus allowable costs (e.g., title search and advertising), and in case of your failure to do so, judgment will be rendered in this action foreclosing the lien of such taxes and interest against the several amounts shown to be due against each of said lots, parcels and tracts, as described in Certificate of Delinquency No. \_\_\_\_\_, filed herein, plus allowable costs (e.g., title search and advertising). You may redeem your property by payment of delinquent taxes, interest and costs; however there is no right of redemption after the close of business on the day before the sale date, according to RCW 84.64.070.

The property is all located in \_\_\_\_\_ County, Washington, and as described in said certificate and on the tax rolls, is as follows:

Delinquent taxes for the year 20\_\_ with cost and interest to \_\_\_\_\_.

All pleadings and process in this action and proceedings may be served upon



**EXHIBIT 5—CONTINUED**

\_\_\_\_\_, Treasurer of \_\_\_\_\_ County, Washington, at his office in the \_\_\_\_\_ County Courthouse, \_\_\_\_\_, Washington, or upon \_\_\_\_\_, \_\_\_\_\_ County Prosecuting Attorney, at his office in the \_\_\_\_\_ County Courthouse, \_\_\_\_\_, \_\_\_\_\_ County, Washington.

DATED at \_\_\_\_\_, Washington, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_ County, a duly organized and existing County of the State of Washington, Plaintiff

\_\_\_\_\_  
County Treasurer

\_\_\_\_\_  
Prosecuting Attorney and Attorney for Plaintiff,  
\_\_\_\_\_ County Courthouse

August 15, 20\_\_

Don Johnson  
Prosecuting Attorney  
Building

RE: General 20\_\_ Certificate of Delinquency

Dear Mr. Johnson:

Please be advised that the publication of the general 20\_\_ Certificate of Delinquency is scheduled for August 29, 20\_\_, in the \_\_\_\_\_ County Herald.

Very truly yours,

County Treasurer

## EXHIBIT 6– Petition for Leave to Maintain Tax Foreclosure Action

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF \_\_\_\_\_

_____ COUNTY, a political	)	
subdivision of the State of Washington,	)	
	)	
Plaintiff,	)	NO. _____
	)	
vs.	)	PETITION FOR LEAVE
	)	TO MAINTAIN TAX
JOHN DOE, et al.,	)	FORECLOSURE ACTION
	)	
Defendants	)	
_____	)	

COMES NOW THE PETITIONER, \_\_\_\_\_, Treasurer of \_\_\_\_\_ County, Washington, who prays to the court on behalf of \_\_\_\_\_ County, Washington, a political subdivision, that the said petitioner, as the tax collecting officer of \_\_\_\_\_ County, be granted leave of court to maintain an action of foreclosure of tax liens upon the real property set forth and described in Certificate of Delinquency No. 3063, heretofore issued \_\_\_\_\_ County and filed with the Clerk of \_\_\_\_\_ County Superior Court on or about the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Said petitioner prays that this court grant leave to foreclosure upon said real property for delinquent taxes pursuant to Title 50 U.S.C.A., App., Sec. 560, Subsection (2), which states as follows:

"No sale of such property shall be made to enforce the collection of such taxes or assessments, or any proceeding or action for such purpose commenced, except upon leave of court granted upon application made therefore by the collector of taxes or other officer whose duty it is to enforce the collection of taxes or assessments. The court, thereon, unless in its opinion the ability of the person in military service to pay such taxes or assessment is not materially affected by reasons of such service, may stay such proceedings or such sale as provided in this Act, for a period extending not more than six months after the termination of the period of military service of such person."

Petitioner \_\_\_\_\_, further states to the court that the tax foreclosure proceeding which it is desired to maintain on behalf of \_\_\_\_\_ County is an in rem proceeding, and that as tax collection officer he has no way of ascertaining whether or not any of the persons named as defendant therein are in the military service or whether any of the said taxes are within the class protected by Title 50, U.S.C.A., App. Section 560, Subsection (1), which subsection reads as follows:

"The provisions of this section shall apply when any taxes or assessments, whether general or special (other than taxes on income), whether falling due prior to or during the period of military service, in respect of personal property, money or credits, or real property owned and occupied for dwelling, professional, business or agricultural purposes by a person in military service or his dependents at the commencement of his period of military service and still so occupied by his dependents or employees are not paid."

WHEREFORE, petitioner prays that this court enter an order granting said \_\_\_\_\_, acting as the \_\_\_\_\_ County Treasurer, leave to maintain an action of foreclosure of tax liens upon real property embraced in Certificate of Delinquency No. \_\_\_\_\_ for delinquent taxes, subject to rights of persons in military service to appear and continue the hearing of this matter.

\_\_\_\_\_  
Deputy Prosecuting Attorney

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

\_\_\_\_\_, being first duly sworn, on oath, deposes and says:  
That he is the petitioner herein named; that he has read the foregoing, knows the contents thereof, and believes the same to be true.

\_\_\_\_\_  
SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Washington, residing  
at \_\_\_\_\_.

## EXHIBIT 7 – Order Granting Leave to Maintain Tax Foreclosure Action

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF \_\_\_\_\_

_____ COUNTY, a political subdivision	)	
of the State of Washington,	)	
	)	
Plaintiffs,	)	NO. _____
	)	
vs.	)	ORDER GRANTING LEAVE
	)	TO MAINTAIN TAX
JOHN DOE, et al.,	)	FORECLOSURE ACTION
	)	
Defendants	)	
_____	)	

THIS MATTER having come on regularly for hearing on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, on the petition of \_\_\_\_\_, \_\_\_\_\_ County Treasurer, for leave to maintain a general tax foreclosure action upon the real property embraced in Certificate of Delinquency No. \_\_\_\_ which has heretofore been issued to \_\_\_\_\_ County and filed with the \_\_\_\_\_ County Clerk on or about the \_\_\_\_ day of \_\_\_\_\_, 20\_\_; and

IT FURTHER APPEARING TO THE COURT that Title 50, U.S.C.A., App., Section 560, Subsections (1) and (2) provide as follows:

"(1) The provisions of this section shall apply when any taxes or assessments, whether general or special (other than taxes on income), whether falling due prior to or during the period of military service, in respect of personal property, money, credits or real property owned and occupied for dwelling, professional, business or agricultural purposes by a person in military service or his dependents at the commencement of his period of military service and still so occupies by his dependents or employees are not paid."

"(2) No sale of such property shall be made to enforce the collection of such tax or assessment, or any proceeding or action for such purpose commenced, except upon leave of court granted upon application made therefore by the collector of taxes or other officer whose duty it is to enforce the collection of taxes or assessments. The court thereupon, unless in its opinion the ability of the person in military service to pay such taxes or assessments is not materially affected by reason of such service, may stay such proceedings or such sale, as provided in this Act, for a period extending not more than six months after the termination of the period of military service of such person."

**EXHIBIT 7 -- CONTINUED**

IT FURTHER APPEARING TO THE COURT that \_\_\_\_\_, acting as the tax collecting officer of \_\_\_\_\_ County, has no way of ascertaining whether or not any of the persons named as defendants therein are in the military service or whether or not any of the property sought to be foreclosed upon is within the class protected by Title 50, U.S.C.A. App. Section 560, Subsection (1); NOW THEREFORE,

IT IS HEREBY ORDERED that \_\_\_\_\_, acting as \_\_\_\_\_ County Treasurer be, and he is hereby granted leave to maintain an action of foreclosure of tax liens upon real property embraced in Certificate of delinquency No. \_\_\_\_\_, which has heretofore been issued to \_\_\_\_\_ County, subject to the right of persons in military service to appear and continue the hearing of this matter.

DONE IN OPEN COURT this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
JUDGE

Presented by:

\_\_\_\_\_  
Prosecuting Attorney  
Exhibit 10

Parcel No. \_\_\_\_\_

## EXHIBIT 8 – Collection Log

<u>Date/Initials</u>	<u>Entry</u>
2/24/ RAB	Form 4.21 enclosed with tax statement.
4/30/ MBH	Only 20__ taxes paid - no return address on envelope or money order for John Doe.
7/31/ VC	Included in Certificate of Delinquency for 20__.
8/29/ VC	Sent form 4.33L with Notice and Summons by certified mail to add on tax roll - 7902 - 89th Avenue SW, to John Doe.
9/15/ VC	Title insurance ordered.
9/17/ RAB	John Doe called at 11:35 a.m. Said "I'm trying to borrow the money. If I can't by the sale, go ahead and sell it." I advised that he can't redeem the property on the day of the sale or after and told him that 11/28 will be the sale date. Asked him if his property was mortgaged and he said "no."
9/29/ VC	Title search shows "John Doe" at 7902 - 89th Avenue SW.
11/8/ VC	John Doe paid 20__ taxes and interest and costs. Property removed from sale.

CLOSE



## EXHIBIT 9 – Affidavit of Publication

STATE OF WASHINGTON                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

John Foster, being first duly sworn, on oath, says that he is the Chief Clerk of the (name of newspaper), a daily newspaper published in \_\_\_\_\_, \_\_\_\_\_ County, Washington, and of general circulation in said State, and having a daily circulation of over \_\_\_\_\_ copies. That said newspaper is now and at all times hereinafter mentioned was a legal newspaper as defined by the laws of this State, duly approved by the Superior Court of \_\_\_\_\_ County, Washington.

That the advertisement of which the attached is a printed copy as it was published in the regular issues (and not in supplement form) of said newspaper, was published for one day on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

That the full amount of the fee charged for said publication was the sum of \$\_\_\_\_\_.

\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Washington, residing

at \_\_\_\_\_,  
County, Washington

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_ County, a political subdivision )  
of the State of Washington, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
 )  
JOHN DOE, et al. )  
Defendants )  
\_\_\_\_\_ )

NO. \_\_\_\_\_

AFFIDAVIT OF PUBLICATION

## EXHIBIT 10 – Affidavit of Attempted Service

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF \_\_\_\_\_

_____ COUNTY, a political subdivision of the State of Washington,	)	
	)	
	)	
Plaintiff,	)	NO. _____
	)	
vs.	)	AFFIDAVIT OF ATTEMPTED
	)	SERVICE
JOHN DOE, et al.,	)	
	)	
Defendants	)	
_____	)	
STATE OF WASHINGTON	)	
	) ss.	
COUNTY OF _____	)	

JOHN JONES, being first duly sworn on oath, deposes and says:

I am now and at all times herein mentioned was a citizen of the United States and a resident of the State of Washington, an employee of the \_\_\_\_\_ County Treasurer, over the age of eighteen years, not a party to or interested in the above entitled action, and competent to be a witness herein.

That the Office of the \_\_\_\_\_ County Treasurer has no mailing address for Bonnie Martin as the reputed owner of the following described real property:

Parcel No. 183083-033-0     Puget Sound Estates  
6th Add L54  
71153 Puget Sound Dr.

That on \_\_\_\_\_, 20\_\_, I went to the location of the above-described property and could not locate the whereabouts of Bonnie Martin or any occupant thereof, leaving a copy of the Notice and Summons affixed to the front door of the residence, which appeared to be vacant.

**EXHIBIT 10—CONTINUED**

I have conducted a diligent search to discover the whereabouts of Bonnie Martin and have been unable to attempt any personal service.

\_\_\_\_\_

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Washington, residing  
at \_\_\_\_\_

## EXHIBIT 11 – Affidavit of Service

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF \_\_\_\_\_

_____ COUNTY, a political subdivision	)	
of the State of Washington,	)	
	)	
Plaintiff,	)	NO. _____
	)	
vs.	)	AFFIDAVIT OF SERVICE
	)	
JOHN DOE, et al.,	)	
	)	
Defendants	)	
_____	)	

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

RALPH DAVIDSON, being first duly sworn on oath, deposes and says:

I am now and at all times herein mentioned was a citizen of the United States and a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above entitled action, and competent to be a witness herein.

That on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at the hour of \_\_\_\_\_ I did personally serve a true copy of the Notice of Application for Judgment Foreclosing Tax Liens upon the person of Wilson R. Gai, Jr. in \_\_\_\_\_ County, Washington.

That on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at the hour of \_\_\_\_\_ I did personally serve a true copy of the Notice of Application for Judgment Foreclosing Tax Liens and Summons in the above entitled cause on the defendant, Herman Melville, at 412 Market Street, \_\_\_\_\_, Washington, the house of his usual abode, by leaving said copy of the Notice and Summons with Cindy Melville, a person of suitable age and discretion then resident therein.

\_\_\_\_\_  
SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Washington, residing  
at \_\_\_\_\_

<u>Parcel No.</u>	<u>Name, Location, and Description</u>
283700-107-0	Herman Melville, 412 Market St., Moby Dick Addition, Lot 4, Block 52
2895000-081-0	Gibbs, Rebecca, Formerly 2321 S. Hosmer, Catlins Addition, Lot 11, Block 6

DATED at \_\_\_\_\_, Washington this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Prosecuting Attorney

## EXHIBIT 12 – Title Company Letter of Engagement

September 15, 20\_\_

Title Insurance Company  
1001 Market Street  
\_\_\_\_\_, Washington 98885

RE: "Record Title Holder" Searches

Dear \_\_\_\_\_:

Pursuant to RCW 84.64.050, the \_\_\_\_\_ County Treasurer does hereby place an order for a title search of each parcel of real property listed in the enclosed copy of the (name of newspaper) publication. According to this statute you are to accomplish the following:

- (1) Determine the legal description of the property to be sold (including street addresses); and
- (2) Determine the "record title holder" of said property to see if it is different from what appears upon the tax rolls.

Please submit your bill with an itemization for the cost of each individual parcel. You should be advised that these tasks must be completed prior to \_\_\_\_\_, unless this office grants a written extension.

Should any title search involve a questionable title status, please specially contact this office so we can serve notice on all potential parties and thereby protect the validity of the proceedings.

Very truly yours,

\_\_\_\_\_  
County Treasurer

Encl. - Newspaper publication

Certificate No. \_\_\_\_\_

**TAX FORECLOSURE CERTIFICATE**

Refer to Tax Account No. \_\_\_\_\_

\_\_\_\_\_ County Treasurer

Dear Sir:

Pursuant to the provisions of RCW 84.64.050 (as amended) and according to a title search of the official records of \_\_\_\_\_ County, Washington, the (name of title company), hereinafter referred to as "the company" certifies as follows:

1. Based upon information from the treasurer's rolls supplied to the company by the \_\_\_\_\_ County Treasurer, the legal description of the property to be sold is:

(Legal description of property)

2. We find (no) (the following) discrepancy between the above description from the treasurer's rolls and the record title legal description:
3. The record title holder of said property on the date hereof is:

\_\_\_\_\_ Doc. No. \_\_\_\_\_

Excise Tax Receipt No. \_\_\_\_\_

4. The record purchasers (if any) named in the executory real estate contracts to convey said property on the date hereof is:

\_\_\_\_\_ Doc. No. \_\_\_\_\_

Excise Tax Receipt No. \_\_\_\_\_

5. Mortgagee(s) (If any)

\_\_\_\_\_ Doc. No. \_\_\_\_\_



6. Lienholder(s) (If any)

\_\_\_\_\_ Doc. No. \_\_\_\_\_

7. Easements (If any)

\_\_\_\_\_ Doc. No. \_\_\_\_\_

This certificate may be relied upon for the purpose of determining the legal description, the record title holder, and the contract purchasers as requested by the \_\_\_\_\_ County Treasurer's office, pursuant to the provisions of RCW 84.64.050 (as amended). It does not purport to show all encumbrances and no representation is made as to the sufficiency of the title of the above parties. Liability of the company for this title search is limited to the charge made therefore.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ a.m. (p.m.)

\_\_\_\_\_  
Authorized Signatory

Charge           \$ \_\_\_\_\_  
Sales Tax       \$ \_\_\_\_\_

## EXHIBIT 13 – Letter From Title Company

TO: County Managers  
Local Claims Administrators  
Washington-Alaska

FROM: Evelyn B. Dennis

RE: Notice of Tax Foreclosure

The United States Supreme Court has held in Mennonite Board of Mission v. Adams (decided 6/21/83) that a mortgagee was entitled to actual notice of a tax foreclosure in order to comply with due process of the 14th Amendment. Indiana statute tended that it did not receive adequate notice of tax sale to redeem after sale. The United State Supreme Court reversed Court of Appeals of Indiana.

The Indiana statute permitted published and posted notice of tax sale prior to the tax sale. The tax sale is followed by a two-year period which owner or mortgagee may redeem the property. In Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 30b, the U.S. Supreme Court recognized that in order to comply with due process clause of 14th Amendment, the State must "provide notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections."

It would appear that RCW 84.64.030 is deficient as actual notice is given only to the owner of the property.

It would also appear that Alaska Statute Sec. 29.53.240, which also provides for notice by mail to the last known owner.

Evelyn B. Dennis  
Assistant Counsel  
Washington/Alaska  
Transamerica Title Services

## EXHIBIT 14 – Letter re Notice and Summons

August 29, 20\_\_

Herman Melville  
412 Market Street  
\_\_\_\_\_, Washington 98885

Dear Mr. Melville:

283700-107-0 412 Market Street  
Moby Dick Addition, Lot 4, Block  
52 20\_\_

You are hereby served with a copy of the Notice of Application for Judgment Foreclosing Tax Liens and Summons pursuant to RCW 84.64.050. Please read it carefully and consult with your attorney or inquire at this office if you are in doubt as to the effect of this document upon you and your property as follows:

Parcel No.

If the real property taxes which are delinquent for \_\_\_\_\_ upon this property are not paid before the day of the sale, the property will be sold to the highest and best bidder for cash. If you wish to redeem the property by payment before the day of the sale, be advised that the \_\_\_\_\_ County Treasurer can accept only cash or a cashier's check for payment of the taxes. Be also advised that you cannot redeem your property upon or after the day of the sale.

Very truly yours,

\_\_\_\_\_  
County Treasurer

Encl. - Notice and Summons

## **EXHIBIT 15 – Notification to Prosecuting Attorney**

August 1, 20\_\_

Don Johnson  
Prosecuting Attorney  
Building

RE: General 20\_\_ Certificate of Delinquency

Dear Mr. Johnson:

This is the notification by the county treasurer that the original of the attached copy of the general 20\_\_ Certificate of Delinquency (as issued in book form) was filed with the County Clerk under cause number \_\_\_\_\_ on July 31, 20\_\_. Please take appropriate legal action to secure a final Judgment and Order of Sale.

Also find attached a listing of the names of the reputed property owners for the caption of the initial Notice pleading.

Very truly yours,

County Treasurer

Attachments

The following are reputed property owners who have not yet paid the third year delinquency and who are named in the general 20\_\_ Certificate of Delinquency:

John James; Wilson Dole; Alberta E. Johnsen; Allen Kraymer; Elizabeth Andersen; Janabea H. Gamill; Harry F. Bushel and A. Stephens; Matilda Sison; R. C. Magnusen; Albert C. Bolten; Booker T. Sheilds; Security Finance Corp.; Eva Mae Bork; Harvest House Missions; Peggy V. Sandburg; Otto H. Patton; Dan Hatfeld; Richard H. Schaw; Wanda M. Devota; Joseph E. Brian; Calvin J. Barker; Alberta Edtil; Harold L. Cower; Melvin L. Petter; George and Bonnie Buoy; Stanley E. Luca; Dolly M. Bison; C. M. Beck; Lillian Chapman; Robert H. Avett; Walter G. Thoms; Virginia T. Boff; Bruce M. Segman; William E. Saunders; Ezell and Barbara Smithe; G. R. and Geraldine E. Nilson; Rebecca Gibbs; Cedarview Contracting Corp.

## EXHIBIT 16 – Newspaper Certification of Foreclosure Advertising

STATE OF WASHINGTON                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

John Foster, being first duly sworn, on oath, says that he is the Chief Clerk of the (name of newspaper), a daily newspaper published in \_\_\_\_\_ County, \_\_\_\_\_, Washington, and of general circulation in said State, and having a daily circulation of over \_\_\_\_\_ copies. That said newspaper is now and at all times hereinafter mentioned was a legal newspaper as defined by the laws of this State, July approved by the Superior Court of \_\_\_\_\_ County, Washington.

That the advertisement of which the attached is a printed copy as it was published in the regular issues (and not in supplement form) of said newspaper, was published for 1 day on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

That the full amount of the fee charged for said publication was the sum of \$\_\_\_\_\_.

\_\_\_\_\_

SUBSCRIBED AND SWORN TO before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Washington, residing  
at \_\_\_\_\_,  
County, Washington.

## EXHIBIT 17 – Minimum Bid Sheet

### MINIMUM BID SHEET

The properties will be sold at public auction with the following minimum bid amounts. The terms of the sale are contained in the Opening Statement at Sale, copies of which may be obtained in advance at the \_\_\_\_\_ County Treasurer's Office, address.

248947-163-0	Candy Jones 4715 Sycamore S.W., _____ Liptons 1st Add., L4B57	\$1,436.77
248395-060-1	Herman Sherman 3815 Wylie S.W., _____ Jeffries 5th Add., L7B42	599.50
348146-320-0	John and Jane Doe 7902 - 89th Avenue S.W., _____ Oakbrook 5th Add., L39 Ease	504.69
402000-010-0	Wilson Hilton 2244 Dome Road, _____ Seahawks 3rd Add., L54	188.01

## MINIMUM BID SHEET

The properties will be sold at public auction with the following minimum bid amounts. The terms of the sale are contained in the Opening Statement at Sale, copies of which may be obtained in advance at the \_\_\_\_\_ County Treasurer's Office, address.

Item 4	Parcel 32304-0407
Legal:	Tyler ptn of Lts 11 & 12 lyg N of Hwy, Blk 4, exc Hwy
Minimum Bid: \$180.72	Size: Small triangle near road
<hr/>	
Item 53	Parcel 18412-2502
Legal:	Medical Lake Elijah L. Smith L4-5, Block F
Minimum Bid: \$190.81	Size: May be partially under water
<hr/>	
Item 69	Parcel 30413-0406
Legal:	Clearview Lot 32, Block 44
Minimum Bid: \$186.07	Size: 25' by 100' lot
<hr/>	
Item 86	Parcel 11611-9002 11 26 41
Legal:	N 30 ft of W 1350 ft of N 1/2 of NE 1/4
Minimum Bid: \$186.90	Size: 30' strip 1350' long
<hr/>	
Item 91	Parcel 14321-9095 14 23 42
Legal:	Ptn of Tr 28A, Block 1, Aspen Meadows Survey as Recorded under Auditor's File 7902160055 lying in NE ¼
Minimum Bid: \$190.54	Size: Approx. .20 acre, 20' long
<hr/>	

*Note This list would continue until all parcels are listed.*



## EXHIBIT 18 – Foreclosure Costs

### FORECLOSURE COSTS

(If a parcel is entered into a Phase, the parcel is charged for the entire Phase.)

PHASE I (5-1-__ to 5-15-__)		Cost	Cost	
Cost \$11.00 per parcel		Time (Hrs.)	Time	Material
				Total
1. Foreclosure Roll				153.00
2. Figure Dates for Sale	37-1/2	315.98		315.98
3. Sale Pamphlet	36	307.44	25.00	332.44
4. Check Supplies	20	170.80	50.00	220.80
5. Letters				200.00
6. Type Foreclose Papers	36	307.44		307.44
7. Special Handling	73	623.42		623.42
8. Deeds, Duplicates, Return of Sales			63.91	<u>63.91</u>
				<b><u>2,216.99</u></b>

### PHASE II (5-16-\_\_ to 5-31-\_\_)

Cost \$21.00 per parcel

1. Special Handling	56	420.00		420.00
2. Certificate of Sale			930.00	<u>930.00</u>
				<b><u>1,350.00</u></b>

### PHASE III (6-1-\_\_ to 6-11-\_\_)

Cost \$93.00 per parcel

1. Check Computer Lists	75 ½	644.77		644.77
2. Special Handling Fore- closure Accounts	33	281.82		281.82
3. Advertising	28	239.12	*2,000.00	2,239.12
4. Certified Letters	15-1/2	132.37	530.00	662.37
			3,500.00	<u>3,500.00</u>
*Estimate based on previous years.				<b><u>7,328.08</u></b>

### PHASE IV (6-12-\_\_ to 10-7-\_\_)

No payments will be accepted after 10-7-\_\_. Sale 10-8-\_\_

Cost \$162.63 per parcel

1. Research	480	3,840.00	50.00	<u>3,890.00</u>
-------------	-----	----------	-------	-----------------

## PHASE I FORECLOSURE PROCEEDINGS

## PHASE I COST \$11.00

	Time (Hrs.)	Cost Time	Cost Material	Total
<u>Foreclosure Roll</u>			153.00	153.00
<u>Figure Dates for Sale (Set Up)</u>	37-1/2	315.98		315.98
- Filing in Court				
- Court Acting Initiated				
- Type Certificates of Delinquency. Interest calculated to date of filing				
- Letter Notification of Summons				
- 30 days before decree can be filed				
- No less than 10 days after decree				
- Date for Tax judgment Sale				
When to type				
When to research				
When to post notice on sale				
Bids for title search				
Prepare material for Tax Foreclosure Certificates				
Letter to incorporated towns				
- Order supplies				
- Printing				
- Order all tax statements for Foreclosure				
<u>Sale Pamphlet</u>	36	307.44	25.00	332.44
Subject Properties				
Publications				
Title Reports				
Date of Sale				
Obtainable Lists				
Deadline				
Research				
Bidding and Cost				
How paid				
When Payment is made				
Redemption				
Liens and Assessments				

*This Itemization of Costs continues for each activity and phase of Foreclosure to support costs applied*

## EXHIBIT 19 – Foreclosure Costs

Monies collected will go directly into the county O & M Fund to reimburse expenditures and salaries directly related to collection.

Cost of running computer printout of parcels subject to foreclosure.

Cost of programming and producing computerized collection letter.

Envelopes & Postage.

Staff time for preparation.

Divide total costs to date by the number of parcels on listing to determine first costs - \$7.00 per parcel.

Research time on returned mail - staff salaries, plus benefits.

Programming and production time to produce Certificates of delinquency.

Add \$.50 per parcel for fee after filing Certificates with prosecutor's office.

Reduce accrued costs to date by the collections received to compute new total, add new costs and divide by remaining parcels - increase costs to \$15.00 per parcel.

Prepare alpha listing of taxpayers for prosecutor's office - computer time.

Listing to newspaper for official listing of parcels subject to foreclosure.

Continued staff time for working foreclosure.

Reduce accrued costs to date by collection received and compute new total by adding additional costs and divide by remaining parcels - increase costs to \$22.50 per parcel.

Send out certified mailing with copy of newspaper and cover letter.

Cost of printing cover letter.

Envelopes & Postage.

Staff preparation time.

Reduce accrued costs to date by collections received and compute new total by adding additional costs and divide by remaining parcels - increase costs to \$30.00 per parcel.

Research returned mail.

Prepare listing for title company, and deliver for research.

Same process to arrive at new costs - increase costs to \$135.00 per parcel.

Hire a member of the assessor's staff, either current or retired, to map out parcels and research prior to actual posting of properties. Ten working days before the sale, a staff member from the treasurer's office and from the assessor's office will complete posting of properties - a flat \$50.00 per parcel will be added to the costs at this time, plus any other costs that have accrued during the period prior to this increase.

All parcels taken to auction will have a final \$100 added to the above costs. The justification for this final cost:

Final advertising

Preparation time for minimum bid, opening statement and additional receipts and documents pertinent to the sale.

Treasurer's time at auction.

Deed and excise tax preparation and filing costs.

## **EXHIBIT 20 – Foreclosure Costs**

### **FORECLOSURE COSTS**

The following foreclosure costs are yet another example of one county's fees:

Courtesy reminder	\$ 3.50
Certificate of Delinquency	11.50
Title search	54.00
Notice and Summons	10.00
Advertising	10.00
Judgment	5.00
Notice of Sale	5.00
Sale	50.00

In addition, personal inspection and personal service mileage costs were added when applicable.

Exhibit 24

INDIVIDUAL TIME TICKET

INDIVIDUAL TIME TICKET

NAME \_\_\_\_\_ DATE \_\_\_\_\_

A. M.

START \_\_\_\_\_

STOP \_\_\_\_\_

P. M.

START \_\_\_\_\_

STOP \_\_\_\_\_

TOTAL HOURS WORKED \_\_\_\_\_

OVERTIME

START \_\_\_\_\_

STOP \_\_\_\_\_

TOTAL HOURS WORKED \_\_\_\_\_

NAME \_\_\_\_\_ DATE \_\_\_\_\_

A. M.

START \_\_\_\_\_

STOP \_\_\_\_\_

P. M.

START \_\_\_\_\_

STOP \_\_\_\_\_

TOTAL HOURS WORKED \_\_\_\_\_

OVERTIME

START \_\_\_\_\_

STOP \_\_\_\_\_

TOTAL HOURS WORKED \_\_\_\_\_

INDIVIDUAL TIME TICKET

INDIVIDUAL TIME TICKET

NAME \_\_\_\_\_ DATE \_\_\_\_\_

A. M.

START \_\_\_\_\_

STOP \_\_\_\_\_

P. M.

START \_\_\_\_\_

STOP \_\_\_\_\_

TOTAL HOURS WORKED \_\_\_\_\_

OVERTIME

START \_\_\_\_\_

STOP \_\_\_\_\_

TOTAL HOURS WORKED \_\_\_\_\_

NAME \_\_\_\_\_ DATE \_\_\_\_\_

A. M.

START \_\_\_\_\_

STOP \_\_\_\_\_

P. M.

START \_\_\_\_\_

STOP \_\_\_\_\_

TOTAL HOURS WORKED \_\_\_\_\_

OVERTIME

START \_\_\_\_\_

STOP \_\_\_\_\_

TOTAL HOURS WORKED \_\_\_\_\_

## **EXHIBIT 21 – Opening Statement At Sale**

### **OPENING STATEMENT AT SALE**

I am about to sell the legally described parcels of real property set forth on the Minimum Bid Sheet pursuant to the Judgment and Order of Sale of the \_\_\_\_\_ County Superior Court dated \_\_\_\_\_, 20\_\_, under Cause Number \_\_\_\_\_.

#### **Terms of the Sale**

s The sale will be made by auction to the highest and best bidder for cash. This is a cash sale for the full amount of the final bid plus other fees. Cash, certified bank check or warrant from a government agency will only be accepted at the office of the \_\_\_\_\_ County Treasurer. Any other form of payment, not specified above, will not be accepted.

Bidders are advised that the Tax Deed does not warrant clear title. The parcels are offered on a “where is”, “as is” basis and the County makes no representation of warranty expressed or implied, as to the condition of title to any property nor the physical condition of any property or its fitness for any use or purpose. . . . If a winning bid is accepted and bidder defaults by not rendering full payment within one hour after the close of the sale, the sale shall be reconvened, and the parcel(s) will be rebid starting at the original minimum bid. The defaulting bidder shall be excluded from bidding on the property. If no bidder bids the minimum bid amount on any parcel, that parcel shall be announced as sold to the County for said amount, it will not be offered again at this auction.

A Treasurer's Tax Deed will be issued within thirty (30) days of this sale and forwarded to the County Auditor's office for recording. .

#### **Qualified Bidders**

No person who is a county employee or officer may bid at this sale, nor may such person bid as an agent or allow any agent to bid on his or her behalf.

#### **Competing Liens**

These sales may be subject to all special assessment liens of other taxing districts and competing federal liens not extinguished by this sale, whether known or unknown. City LID liens, where known, will be announced.

#### **Redemption Rights**

No one claiming any right, title, interest or estate in the property may redeem at this time or hereafter; EXCEPT, the real property of any minor or a person adjudicated to be legally incompetent may be redeemed at any time within three (3) years after the date of the Treasurer's Tax Deed.

#### **Excess Proceeds**

Any proceeds from any sale in excess of the minimum bid will be held by the county treasurer up to three (3) years, to be refunded upon proper application of claim by the record owner.

**Name and Address on Deed**

If you intend to bid on any parcel, please list in advance your name, address and zip code exactly as it should appear on your receipt and your deed. This list will expedite this sale if you are the successful bidder by presenting such list to my assistant at the time of payment.

**County as Bidder**

If no other bidder bids the minimum bid amount on any parcel, that parcel shall be announced as sold to the county for said amount.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Sale Officer

\_\_\_\_\_  
Witnessed

## **EXHIBIT 22 – Alternate Terms of Sale**

Rose A Bowman, Lewis County Treasurer

### **Terms of Sale – Read At Sale Opening & Given to Each Bidder (they sign for it)**

The parcels are offered on a “where is” and “as is” basis, and the County makes no representation of warranty, expressed or implied, nor any guaranty of warranty, express or implied, as to the condition of title to any property nor the physical condition of any property or its fitness for any use or purposes. Bidders are further advised that certain properties may be subject to easements or use restrictions set forth in the Covenants, Rights, and Restrictions of certain plats, as well as in zoning or other land use controls. Certain parcels may be designated as “open space”, “open area”, “permanent open area”, “common area”, “drainage”, “storm water retention”, or similar designations, and are subject to open space restrictions, which include, but are not limited to prohibitions on placing improvements on such parcels. Bidders are further advised that Lewis County does not warrant or make any express or implied representations regarding the physical condition of any parcel including, but not limited to, whether the parcel is contaminated with hazardous waste or contamination from any source, or whether the parcel is subject to restrictions based on the Lewis County critical areas ordinance or other applicable land use laws or regulations. For any property purchased, it shall be the buyer’s sole responsibility to make a determination whether any such contamination exists or whether the property is restricted in any manner.

These sales may be subject to all special assessment liens of other taxing districts and competing Federal, state or city liens not extinguished by this sale, whether known or unknown. Liens, where known, will be announced.

1. All sales are to the highest bidder for **CASH OR CASHIER’S CHECK PAYABLE TO THE LEWIS COUNTY TREASURER.** Bids must be in increments of \$5.00 or more. A stop payment on a cashiers check will void the sale and that individual will be excluded from bidding in future sales.
2. The bidder must be prepared to cover the successful bid at the time the parcel is announced sold. Failure to do so will trigger an immediate resale of the parcel and the defaulting bidder will be excluded from further participation in the auction.
  - Bidders may deposit money with the cashiers to cover potential bids or be prepared to pay when the successful bid is awarded.
  - Any excess cash at the end of the sale will be returned.
  - If the deposited funds are in the form of a cashier’s check and the individual did not purchase any parcels, the check will be returned at the end of the sale.
  - When the deposited funds are in the form of a cashier’s check and the individual did purchase parcels, any overpayment will be returned with your Treasurer’s deed.
3. No person who is a county employee or officer may bid at this sale, nor may such person bid as an agent or allow any agent to bid on his or her behalf.
4. Except, the real property of any minor or insane person may be redeemed at any time within three (3) years after the date of the Treasurer’s deed is issued.
5. A treasurer’s deed will be issued within thirty (30) days of sale.
6. The owner of record has up to three (3) years to make proper action of claim to any proceeds of sale in excess of the minimum bid. If any parcel ownership is in the jurisdiction of the court (such as probate) excess proceeds will be remitted to the court on behalf of the record owner.
7. Only individuals who complete and sign a bidder registration form are eligible to bid. This registration may be completed at any time before the sale.
8. All bidders will be issued a bidders number. Only bids from bidders who hold up their number will be recognized.
9. Any attendee attempting to interrupt the sale in any way will be removed from the premises and not allowed to return.



## EXHIBIT 23 – Manual Prepared Receipt

IN PAYMENT OF PROPERTY PURCHASED

FROM \_\_\_\_\_ COUNTY AT SALE HELD \_\_\_\_\_

<u>Real Property Account Number</u>	<u>Amount</u>	
	\$	
	\$	

SURPLUS \_\_\_\_\_

\_\_\_\_\_ DEED COST \_\_\_\_\_

DEED NO. ☐ \_\_\_\_\_ REC. FEE \_\_\_\_\_

\_\_\_\_\_ TOTAL ☐ \_\_\_\_\_

\_\_\_\_\_ County Treasurer

By \_\_\_\_\_  
DEPUTY

(Three Copies)

## EXHIBIT 24 – Tax Deed

Exhibit 27

### TAX DEED

STATE OF WASHINGTON, }  
County of \_\_\_\_\_ } ss.

Treasurer's Record  
Deed No. \_\_\_\_\_

THIS INDENTURE made this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19\_\_\_\_,  
between \_\_\_\_\_, as Treasurer of \_\_\_\_\_ County,  
State of Washington, party of the first part and \_\_\_\_\_  
\_\_\_\_\_ part \_\_\_\_\_ of the second part:

WITNESSETH, That, whereas, at a public sale of real property held on the \_\_\_\_\_  
day of \_\_\_\_\_, A.D., 19\_\_\_\_, pursuant to a real property tax judgment entered in  
the Superior Court of the County of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, A.D.,  
19\_\_\_\_, in proceedings to foreclose tax liens upon real property and an order of sale duly issued by said  
court, \_\_\_\_\_  
duly purchased in compliance with the laws of the State of Washington, the following described real  
property, to-wit:

\_\_\_\_\_

and that said \_\_\_\_\_ has complied with the laws of the  
State of Washington necessary to entitle \_\_\_\_\_ to a deed for said real property.

Now, therefore, know ye, that I, \_\_\_\_\_ County  
Treasurer of said \_\_\_\_\_ County, State of Washington, in consideration of the promises and by virtue of  
the statutes of the State of Washington, in such cases provided, do hereby grant and convey unto  
\_\_\_\_\_ heirs and assigns,  
forever the said real property hereinbefore described.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 19\_\_\_\_

\_\_\_\_\_  
County Treasurer.

EXHIBIT 24- TAX Deed

STATE OF WASHINGTON, }  
County of | } ss.

Exhibit 27 (cont.)

THIS IS TO CERTIFY, That on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19\_\_\_\_,  
before me \_\_\_\_\_ of \_\_\_\_\_ County, personally appeared

\_\_\_\_\_ to me known to be the Treasurer of \_\_\_\_\_ County, Washington, and the person described in and who  
executed the foregoing instrument, and \_\_\_\_\_ acknowledged to me that \_\_\_\_\_ signed, sealed  
and executed the same, as Treasurer of said County, as \_\_\_\_\_ free and voluntary act and deed and for  
the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and  
year in this certificate first above written.

\_\_\_\_\_  
of \_\_\_\_\_ County, Washington

No. \_\_\_\_\_

**TAX DEED**

FROM

County Treasurer, \_\_\_\_\_ County,

TO

State of Washington, } ss.  
County of \_\_\_\_\_

This is to certify that this instrument  
was filed for record in the office of the  
Auditor of \_\_\_\_\_ County at the re-  
quest of \_\_\_\_\_

\_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_  
o'clock \_\_\_\_\_ M., and recorded in  
Volume \_\_\_\_\_ Records of \_\_\_\_\_  
of said County on Page \_\_\_\_\_

County Auditor.

BY

Deputy.

Recorded \_\_\_\_\_

## **EXHIBIT 25 – Tax Cause**

### **TAX FORECLOSURE SALE**

TAX CAUSE NO. \_\_\_\_\_

1. General certificate of delinquency. (See Exhibit 5)
2. Petition for leave to maintain tax foreclosure action. (See Exhibit 8)
3. Notice of application for judgment foreclosing tax liens and summons. (See Exhibit 7)
4. Order granting leave to maintain tax foreclosure action. (See Exhibit 9)
5. Order for publication of summons.
6. Affidavit of publication. (See Exhibit 12)
7. Return of service upon corporation.
8. Affidavit of mailing.
9. Affidavit of service. (See Exhibit 14)
10. Motion for dismissal. (See Exhibit 29)
11. Order of dismissal.
12. Motion for default. (See Exhibit 30)
13. Order for default. (See Exhibit 31)
14. Findings of fact and conclusions of law. (See Exhibit 32)
15. Judgment and order of sale.
16. Notice of tax judgment sale. (See Exhibit 33)
17. Affidavit of posting.
18. Affidavit of publication. (See Exhibit 12)
19. Motion of dismissal after judgment - before sale.
20. Order of dismissal after judgment - before sale.
21. Second affidavit of county treasurer.
22. Treasurer's return on tax sale.

## EXHIBIT 26 – Note of Issue

IN THE SUPERIOR COURT, \_\_\_\_\_ COUNTY, WASHINGTON

### NOTE OF ISSUE

-----  
No. \_\_\_\_\_ Department \_\_\_\_\_  
-----  
-----

-----Plaintiff

vs.

JOHN DOE, et al., \_\_\_\_\_  
-----

-----Defendant

-----Plaintiff's Attorney

----- Defendant's Attorney  
-----

Nature of Cause

Certificate of Delinquency - Foreclosure

Jury Trial Yes \_\_\_\_ 6 Jurors \_\_\_\_ 12 Jurors \_\_\_\_ No X

Time required to try Cause \_\_\_\_\_ days \_\_\_\_\_ 10 minutes

ABOVE INFORMATION MUST BE COMPLETED  
-----

To the Clerk:

Please place on the Motion docket, which is to be called the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Attorney for \_\_\_\_\_

Due and sufficient service of foregoing acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Attorneys for

Assigned to Department No. \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Docket Clerk

## EXHIBIT 27 – Motion for Default

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF \_\_\_\_\_

_____ COUNTY, a political subdivision	)	
of the State of Washington,	)	
	)	
Plaintiff,	)	NO. _____
	)	
vs.	)	MOTION FOR DEFAULT
	)	
JOHN DOE, et al.,	)	
	)	
Defendant	)	
_____	)	

COMES NOW Plaintiff \_\_\_\_\_ County, by and through its attorneys, \_\_\_\_\_, \_\_\_\_\_ County Prosecuting Attorney and \_\_\_\_\_, his deputy, and moves the court for an order of default against all remaining defendants to this action and all persons unknown having or claiming to have an interest in the said real property; EXCEPT, that an order of default is not requested against those persons listed in the subjoined affidavit who have redeemed their property by payment.

THIS MOTION is based upon the files herein and upon the affidavit of \_\_\_\_\_, \_\_\_\_\_ County Treasurer, subjoined hereto.

\_\_\_\_\_  
Prosecuting Attorney

**EXHIBIT 27 -- CONTINUED**

STATE OF WASHINGTON                    )  
  ) ss.                    \_\_\_\_\_  
  )  
COUNTY OF \_\_\_\_\_                )                    \_\_\_\_\_ COUNTY TREASURER

\_\_\_\_\_, \_\_\_\_\_ County Treasurer, being first duly sworn, on oath, deposes and says:

He/She is the duly authorized and elected Treasurer for the plaintiff in the above entitled action.

on \_\_\_\_\_, 20\_\_, more than three years from the original date of delinquency of real property taxes for the year 20\_\_ and prior years, the Treasurer of \_\_\_\_\_ County, Washington, issued to \_\_\_\_\_ County, Washington, Certificate of Delinquency No. \_\_\_\_\_ upon certain parcels of real property described therein.

This Certificate of Delinquency is in one general book form and sets forth the delinquent and unpaid taxes and interest due on each parcel of real property.

The above mentioned real property remained on the tax rolls of \_\_\_\_\_ County, and no Certificate of Delinquency had theretofore been issued on the property for the taxes set forth in the Certificate of Delinquency.

On \_\_\_\_\_, 20\_\_, the \_\_\_\_\_ County Treasurer filed the Certificate of Delinquency in the office of the \_\_\_\_\_ County Superior Court Clerk.

On \_\_\_\_\_, 20\_\_, the \_\_\_\_\_ County Treasurer filed an action asking for foreclosure of the tax liens upon the real property set forth in the Certificate of Delinquency together with an affidavit showing the basis for service of Notice of Application for Judgment Foreclosing Tax Liens and Summons.

On \_\_\_\_\_, 20\_\_, and \_\_\_\_\_, 20\_\_, the \_\_\_\_\_ County Treasurer published the aforesaid Notice and Summons and the Notice of Amendments, respectively, pursuant to RCW 84.64.050 by publication once in a newspaper of general circulation in the area of the property as is demonstrated by the Affidavit of Publication on file herein. Additionally, copies of the Notice and Summons were sent by certified mail, if a mailing address was available, or served upon the occupant of the property (as applicable), to the named defendants in order to inform said defendants of this foreclosure action: EXCEPT for other defendants as were personally served pursuant to RCW 84.64.050.

The Notice and Summons was directed to the defendants named as owners, to all unknown owners, and to all unknown persons having or claiming to have an interest in the several parcels of real property described in the Certificate of Delinquency, and further set forth

**EXHIBIT 27 -- CONTINUED**

the title of this court, the description of the real property, including the local street address, and the amount of 19\_\_ delinquent taxes due on each parcel of real property set forth in the Certificate of Delinquency, including interest thereon computed through \_\_\_\_\_, 20\_\_.

The Notice and Summons directed the defendants to appear within thirty (30) days after the date of publication thereof and defend this action or pay the amount due, and that in case of their failure to do so, judgment would be rendered foreclosing the lien of such taxes and interest against the several parcels of real property described therein.

The Notice and Summons set forth that all process might be served upon the Treasurer of \_\_\_\_\_ County, or upon the attorney for the plaintiff, the Prosecuting Attorney for \_\_\_\_\_ County.

On \_\_\_\_\_, 20\_\_, the \_\_\_\_\_ County Treasurer mailed a copy of the Notice and Summons as published to the treasurer of each city or town within which any property is situated that is to be foreclosed herein.

On \_\_\_\_\_, 20\_\_, the \_\_\_\_\_ County Treasurer ordered title searches by \_\_\_\_\_ Title Insurance Company pursuant to RCW 84.64.050.

The following names parties have made a timely redemption of their property with the \_\_\_\_\_ County Treasurer and are no longer defendants in this action:

DOLLY M. BISON; C. M. BECK; LILLIAN CHAPMAN; ROBERT H. AVETT; WALTER G. THOMAS; VIRGINIA T. BOFFMAN; BRUCE M. SEGMAN; WILLIAM E. SAUNDERS; EZELL AND BARBARA SMITHE; G. R. AND GERALDINE E. NILSON; REBECCA GIBB; CEDARVIEW CONTRACTING CORP.

That all defendants in this action, except as shown above, have not appeared herein and are, therefore, in default.

\_\_\_\_\_  
\_\_\_\_\_  
County Treasurer

SUBSCRIBED AND SWORN TO before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Washington, residing  
at \_\_\_\_\_.



## EXHIBIT 28 – Order of Default

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF \_\_\_\_\_

_____ COUNTY, a political subdivision	)	
of the State of Washington,	)	
	)	
Plaintiff,	)	NO. _____
	)	
vs.	)	ORDER OF DEFAULT
	)	
JOHN DOE, et al.,	)	
	)	
Defendant	)	
_____	)	

THIS MATTER having come regularly before the above entitled court upon the motion of plaintiff supported by the affidavit of \_\_\_\_\_, \_\_\_\_\_ County Treasurer, for default and the court being fully advised in the premises; Now, therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that an order of default be entered against the several parcels of real property described in the Notice and Summons in this action, and against all persons known or having or claiming to have an interest in said real property; EXCEPT for those persons who have redeemed their property and are no longer defendants in this action.

DONE IN OPEN COURT this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
JUDGE

## EXHIBIT 29 – Findings of Fact And Conclusions of Law

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF \_\_\_\_\_

_____ COUNTY, a political subdivision of the State of Washington,	)	
	)	
	)	
Plaintiff,	)	NO. _____
	)	
vs.	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
JOHN DOE, et al.,	)	
	)	
_____	)	

THIS MATTER having come on regularly for hearing on this 7th day of November, 20\_\_, upon application of plaintiff \_\_\_\_\_ County appearing by \_\_\_\_\_, Deputy Prosecuting Attorney and the defendants not appearing in person or by counsel, and the default of certain of the defendants herein having been entered hereto before, and the court having considered the affidavits, examined the files herein, and being fully advised in the premises, now makes the following

### FINDINGS OF FACT

#### I.

Plaintiff \_\_\_\_\_ County is and was at all times herein mentioned a duly organized and existing county in the State of Washington.

#### II.

On July 31, 20\_\_, more than three years from the date of delinquency of general property taxes for the year 20\_\_, the Treasurer of \_\_\_\_\_ County, Washington, issued Certificate of Delinquency No. \_\_\_\_\_ to \_\_\_\_\_ County, Washington.

#### III.

On July 31, 20\_\_, the Treasurer of \_\_\_\_\_ County filed Certificate of Delinquency No. \_\_\_\_\_ with the clerk of this court.

#### IV.

Certificate of Delinquency No. \_\_\_\_\_ is in general book form and described certain parcels of real property situated in \_\_\_\_\_ County and set forth the names of the several owners and reputed owners thereof according to the tax rolls of the Treasurer of \_\_\_\_\_

**EXHIBIT29 -- CONTINUED**

County and also set forth the amount of taxes due, unpaid and delinquent against such of the several parcels for the year 20\_\_ and prior years.

**V.**

The property described in the Certificate of Delinquency was subject to taxation at the time it was assessed, and was assessed as required by law.

**VI.**

The taxes set forth in the Certificate of Delinquency were paid at any time before the issuance of the Certificate, except for those items which were not included in the Notice of Application for Judgment Foreclosing Tax Liens and Summons herein.

**VII.**

Thereafter, the Treasurer of \_\_\_\_\_ County, Washington, petitioned the court for leave to maintain an action of foreclosure of tax liens upon real property embraced in Certificate of Delinquency No. \_\_\_\_\_ for delinquent taxes.

**VIII**

In compliance with Title 50, U.S.C.A. App. Section 560, this court on August 22, 20\_\_, granted leave to \_\_\_\_\_ County to maintain this tax foreclosure action.

**IX.**

The aforesaid Notice and Summons was thereupon served upon the defendants herein by publication in the (name of newspaper), a newspaper of general circulation in \_\_\_\_\_ County and the area of the property herein on August 29, 20\_\_. On September 5, 20\_\_, a correction of clerical errors was published which did not change the notice of the date of appearance or, in the alternative, default for failure to appear.

**X.**

The aforesaid Notice and Summons was directed to the defendants named as owners, to all unknown owners and to all unknown persons having or claiming to have an interest in the several parcels of real property set forth and described fully in Certificate of Delinquency No. \_\_\_\_\_.

**XI.**

The aforesaid Notice and Summons set forth the title of this court, the description of the aforesaid real property, the names of the known owners thereof according to the rolls of the \_\_\_\_\_ County Treasurer, the amount due on each parcel of real property for the taxes of the year 20\_\_ and prior years, including interest thereon computer to July 31, 20\_\_, the name of the owner and holder of the Certificate of Delinquency, the date, a direction to the defendants to appear within 30 days after the date of the publication and defend this action or pay the amounts due and that in case of their failure to do so, judgment would be rendered foreclosing the lien of

## **EXHIBIT 29 -- CONTINUED**

the taxes and interest against the several parcels of real property described, and that process should be served upon the Treasurer of \_\_\_\_\_ County, or upon the Prosecuting Attorney for \_\_\_\_\_ County.

### **XII.**

More than 30 days have elapsed since the date of the publication of the Notice and Summons, exclusive of the date of the publication. None of the defendants have served or filed any pleadings, and all have failed or neglected to appear and defend this action or pay any of the several amounts due for taxes and interest upon the several parcels of real property described in the Notice and Summons except as shown to have been redeemed with the \_\_\_\_\_ County Treasurer.

### **XIII.**

This court, on November 7, 20\_\_, entered an Order of default in this cause against each and all of the defendants who, pursuant to a title search by \_\_\_\_\_ Title Insurance Company, are record title holders, except those defendants who have discharged the lien of said taxes by payment.

### **XIV.**

Plaintiff \_\_\_\_\_ County should have judgment of foreclosure of its tax liens upon each of the parcels of real property described in the Notice and Summons except for those items already redeemed, for the delinquent taxes and interest as set forth in the Notice and Summons, together with interest thereon from July 31, 20\_\_, at the rate of 12 percent per annum until the date of sale and for accrued costs herein.

DONE IN OPEN COURT THIS 7th day of November 20\_\_.

\_\_\_\_\_  
JUDGE

From the foregoing FINDINGS OF FACT, the court makes the following:

## **CONCLUSIONS OF LAW**

### **I.**

The court has jurisdiction of the parties and subject matter of this action.

### **II.**

All the proceedings taken in this action by plaintiff \_\_\_\_\_ County have been regular and have been taken according to the revenue laws of the State of Washington.

**EXHIBIT 29 -- CONTINUED**

**III.**

\_\_\_\_\_ County has a valid and subsisting lien upon the several parcels of real property described in Certificate of Delinquency No. \_\_\_\_\_ for taxes and interest upon the several parcels set forth herein.

**IV.**

The aforesaid liens are prior and paramount to all other liens and claims against said real property.

**V.**

Plaintiff \_\_\_\_\_ County is entitled to a judgment foreclosing its liens for taxes for the year 20\_\_ and prior years, and for interest thereon, upon the several parcels of real property as set forth in Certificate of Delinquency No. \_\_\_\_\_ (except for those items already redeemed) with interest thereon from July 31, 20\_\_, at the rate of 12 percent per annum, and accrued costs, and is further entitled to an order of sale of the said real property.

**VI.**

Each and all of the defendants, known and unknown, and all persons having or claiming to have an interest in or claim against the several parcels of real property herein described (except those redeemed because of payment listed in Certificate of Delinquency No. \_\_\_\_\_ on file herein) should be forever barred and foreclosed of all right, title and interest in and to the said several parcels of real property, and of all right and equity of redemption therein from and after the sale thereof under this decree.

DONE IN OPEN COURT this 7th day of November 20 \_\_\_\_\_.

\_\_\_\_\_  
JUDGE

Presented by:

\_\_\_\_\_  
Prosecuting Attorney

**NOTICE OF THE TAX JUDGMENT SALE**

Public notice is hereby given that pursuant to the real property tax Judgment and Order of Sale entered by the \_\_\_\_\_ County Superior Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, in proceedings for foreclosure of tax liens upon real property, as provided by law, I shall on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ a.m., at the Courthouse in \_\_\_\_\_, \_\_\_\_\_ County, Washington, sell the lands or lots described on the Minimum Bid Sheet (a copy of which is provided free of charge at my office at \_\_\_\_\_), to the highest and best bidder for cash, to satisfy the full amount of taxes, interest and costs adjudged to be due thereon (as listed in the Minimum Bid Sheet).

## EXHIBIT 30 – Auctioneer Services Agreement

### SAMPLE AGREEMENT FOR AUCTIONEER SERVICES

This agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the \_\_\_\_\_ County Treasurer and \_\_\_\_\_ Company, as Auctioneer (the "Auctioneer").

WITNESSETH:

1. Auction Items. \_\_\_\_\_ County Treasurer employs the Auctioneer to sell at public auction certain properties that have been included in tax foreclosure proceedings. \_\_\_\_\_ County Treasurer will be ordered by the \_\_\_\_\_ County Superior Court on \_\_\_\_\_, 20\_\_\_\_ to sell these remaining properties on \_\_\_\_\_, 20\_\_\_\_, if they are not redeemed prior to sale. Said properties may be redeemed at any time prior to 4:30 p.m. on \_\_\_\_\_, 20\_\_\_\_.
2. Place of Auction. The auction shall be held at \_\_\_\_\_ (*insert street address of location*).
3. Time of Auction. The date and time of the auction shall be Friday, \_\_\_\_\_, 20\_\_\_\_ at 9:00 a.m. Auctioneer will be available from 8:30 a.m. to close of auction or when all properties are sold.
4. Call for Bids. The terms of this contract shall include the call for bids by the Auctioneer. The guidelines are set forth by the \_\_\_\_\_ County Treasurer and shall be provided to the Auctioneer by the \_\_\_\_\_ County Treasurer prior to the date of the auction.
5. Best Efforts. The Auctioneer shall conduct the auction sale to the best of his efforts and abilities.
6. Disputed bids. The Auctioneer may resubmit disputed bids to competitive bidding.
7. Warranties. The Auctioneer is prohibited from giving warranties on any properties sold.
8. Ownership. The Auctioneer understands that all parcels offered by sale at the auction are the property of \_\_\_\_\_ County.
9. No credit shall be given. Payment shall be made in full by cash, cashier's check or money order immediately following the successful bid.
10. Retainage. The Auctioneer may obtain payment of monies owed to him from the proceeds of the sale the same day as the sale. The rate bid is \_\_\_\_% of all sales or \$\_\_\_\_\_ minimum, whichever is greater.
11. Conditions of Sale. See Section IV – Specifications for Annual \_\_\_\_\_ County Tax Foreclosure Auctioneer Services, attached as Exhibit A.
12. Expenses. \_\_\_\_\_ County Treasurer shall pay all costs associated with the following:
  - a. Any legal notifications.
  - b. Advertising for the auction.
  - c. Fliers and lists.

**EXHIBIT 30-- CONTINUED**

Auctioneer shall pay all his own costs including:

- a. Salaries, expenses and taxes of his employees.
- b. Taxes on his business.
- c. Expenses associated with equipment and transportation and use thereof.
- d. Other business related expenses whether attributable to this auction or not.

Integration. This contract includes this main document and all referenced attachments.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ COUNTY TREASURER

\_\_\_\_\_ AUCTION COMPANY

By: \_\_\_\_\_  
Treasurer

By: \_\_\_\_\_

**EXHIBIT A**  
**SPECIFICATIONS FOR ANNUAL \_\_\_\_\_ COUNTY TAX FORECLOSURE**

**AUCTIONEER SERVICES**

**INTENT:**

The \_\_\_\_\_ County Treasurer's Office intends to retain an auction company for Friday, \_\_\_\_\_, 20\_\_\_\_ that will perform professionally and in the best interest of \_\_\_\_\_ County. Registration will begin at 8:30 a.m. and the auction will begin at 9:00 a.m.

**SPECIFICATIONS:**

Specifications are to be met or exceeded.

**EXCEPTIONS:**

The Auctioneer must list any exceptions (major or minor) to the specifications. The Auctioneer must prove "an equal" in writing with literature. This information must be in the proposal package and cannot be supplied at a later date.

**GENERAL SPECIFICATIONS:**

- A. Accessibility: The Auctioneer will be accessible to the \_\_\_\_\_ County Treasurer for conference/consultation as is necessary and reasonable.

EXCEPTIONS: \_\_\_\_\_

- B. Duties/Behavior: The Auctioneer will be aware of not only the duties to be performed as outlined in this proposal package, but that the firm, in effect, will be acting as a representative for \_\_\_\_\_ County. The Auctioneer will conduct the auction in a professional manner and maintain a spirit of goodwill, diplomacy, and tact.

EXCEPTIONS: \_\_\_\_\_

- C. Primary: The Auctioneer must be the primary auctioneer and have a background in auctions with sales in excess of \$50,000.

EXCEPTIONS: \_\_\_\_\_

- D. Staff: The Auctioneer will conduct the sale in an organized and secure manner. The \_\_\_\_\_ County Tax Foreclosure Deputy will coordinate the auction including the mechanics and other staff as determined by the \_\_\_\_\_ County Treasurer. The \_\_\_\_\_ County Cashier/Deputy will be the sole person responsible for receipting all money for properties sold at auction.

EXCEPTIONS: \_\_\_\_\_



## EXHIBIT 30 -- CONTINUED

- E. Co-mingling: As the Tax Foreclosure auction will be exclusive, lots for sale will not be co-mingled with other property of any kind, nor combined with any other auction or sale.

EXCEPTIONS: \_\_\_\_\_

- F. Custody: To facilitate the sale of the property, the Auctioneer staff will be available to work with the \_\_\_\_\_ County Treasurer's Office personnel during the hours of 8:00 a.m. to the closing of the auction or when all properties are sold.

EXCEPTIONS: \_\_\_\_\_

- G. Auction Site: The \_\_\_\_\_ County Commissioner's Hearing Room, located at 1 NE 6<sup>th</sup> St, Room B102, Coupeville, is the designated site for the auction.

EXCEPTIONS: \_\_\_\_\_

- H. Setup prior to auction day: The Tax Foreclosure Deputy will be responsible for the preparation of all documents, bid cards, recordkeeping, and other pertinent information on all tax foreclosure properties that will be offered for auction. There are no exceptions to this rule.

EXCEPTIONS: \_\_\_\_\_

- I. Tax Foreclosure Process: All questions regarding the properties being auctioned off or the tax foreclosure process should always be directed to the Tax Foreclosure Deputy in our office. The Auctioneer may not give any advice regarding these properties and it is the expectation of the \_\_\_\_\_ County Treasurer that the Auctioneer will forward all questions to our office.

EXCEPTIONS: \_\_\_\_\_

### **INVENTORY OF AUCTION PROPERTY:**

- A. The Auctioneer will receive an updated minimum bid list of the auction property from the Tax Foreclosure Deputy at 8:30 a.m. the day of the auction.

EXCEPTIONS: \_\_\_\_\_

- B. Prior to taking control of the auction property, the Tax Foreclosure Deputy will review with the Auctioneer the guidelines and any other information the Tax Foreclosure Deputy deems necessary for the Auctioneer to conduct the auction.

EXCEPTIONS: \_\_\_\_\_

- C. Mismanagement of property under this contract may affect future eligibility to receive request for proposals and void the auction contract.

EXCEPTIONS: \_\_\_\_\_

## EXHIBIT 30 CONTINUED

- D. It is the responsibility of the Auctioneer to maintain the integrity once the property is available for sale. Misrepresentation of any property, either whole or in part such as co-mingling from different owners or presenting inaccurate property information, may result in, at the discretion of the \_\_\_\_\_ County Treasurer, the immediate termination of the contract regardless of the auction schedule.

EXCEPTIONS: \_\_\_\_\_

### AUCTION CATALOGUE:

- A. Description: The Tax Foreclosure Deputy will prepare descriptions for catalogue. The catalogue of descriptions will be referred to as the minimum bid list. The Auctioneer is responsible for all items as described in the minimum bid list and will, within reason, bear responsibility for correct descriptions.

EXCEPTIONS: \_\_\_\_\_

- B. Draft: The \_\_\_\_\_ County Treasurer will review and approve the updated minimum bid list within five (5) days of the auction.

EXCEPTIONS: \_\_\_\_\_

- C. Official Seal: The \_\_\_\_\_ County Treasurer's name and official seal will appear on the cover of the minimum bid list.

EXCEPTIONS: \_\_\_\_\_

- D. Availability: The minimum bid list will be available to preview the morning of the auction. Auction information will be available by mail upon request, e-mail, and in the Treasurer's office for potential bidders beginning November 14, 2005. The minimum bid list will be updated daily to the date of the auction.

EXCEPTIONS: \_\_\_\_\_

### PROFICIENCY:

The Auctioneer must have a working knowledge of real property to be auctioned.

EXCEPTIONS: \_\_\_\_\_

### ADVERTISEMENTS:

The \_\_\_\_\_ County Treasurer's Office will advertise the auction in \_\_\_\_\_ (*insert name of newspaper*) on \_\_\_\_\_, 20\_\_\_\_, and in the \_\_\_\_\_ (*insert name of newspaper*) (per RCW 84.64.050). At least one week prior to the auction, the \_\_\_\_\_ County Treasurer's Office will place a publication notice of sale in a newspaper of general circulation in the county in which the property is to be sold per RCW 84.64.080.

The \_\_\_\_\_ County Treasurer's Office reserves the right to issue press releases and is responsible for all costs for advertising it chooses.

## EXHIBIT 30 CONTINUED

### **PREVIEW:**

The preview of tax foreclosure properties will be from \_\_\_\_\_, 20\_\_\_\_ in the office of the \_\_\_\_\_ County Treasurer through the day before the auction, \_\_\_\_\_, 20\_\_\_\_. On the date of the auction, \_\_\_\_\_, 20\_\_\_\_, all previewing will take place at the auction site location beginning at 8:30 a.m. The \_\_\_\_\_ County Treasurer will be present at this event.

EXCEPTIONS:

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### **AUCTION DATE AND TIME:**

The auction date has been set for Friday, \_\_\_\_\_, 20\_\_\_\_. Additional previewing will begin at 8:30 a.m. and the auction will begin at 9 a.m. The \_\_\_\_\_ County Treasurer will be present at this event.

EXCEPTIONS:

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### **WITHDRAW OF PROPERTIES:**

The \_\_\_\_\_ County Treasurer's Office reserves the right to withdraw any parcel/property at any time prior to sale day.

EXCEPTIONS:

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### **BID/PURCHASE RESTRICTIONS:**

Property/parcels from the Tax Foreclosure auction may not be bid on or purchased by the Auctioneer, the Auctioneer's employees or family members. Any breach of this requirement will result in contract termination.

EXCEPTIONS:

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### **REFUNDS OF SALE(S):**

All sales of property sold will be final. The \_\_\_\_\_ County Treasurer will issue no refunds. The bidder is solely responsible for any purchase he/she may make from the auction.

EXCEPTIONS:

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## EXHIBIT 30 -- CONTINUED

### SECURITY PROCEDURES:

The \_\_\_\_\_ County Sheriff's office will provide a Sheriff's Deputy to attend the sale, who will provide security measures for transporting, safekeeping, and removal of auction items. The \_\_\_\_\_ County Treasurer's Office will provide a cashier to handle the payment transactions.

EXCEPTIONS: \_\_\_\_\_

### POST AUCTION:

- A. Settlement Sheets: The Tax Foreclosure Deputy will provide a detailed worksheet, which will list the bidder's number, bidder's name, item number, parcel number, tax account number, minimum bid amount, sale price, and a summary of total sales.

EXCEPTIONS: \_\_\_\_\_

- A. Registered Bidders List: The Tax Foreclosure Deputy will have on file a list of all registered bidders by name, address, telephone number, and any other information deemed pertinent by the \_\_\_\_\_ County Treasurer. All bidder information provided will become the property of the \_\_\_\_\_ County Treasurer.

EXCEPTIONS: \_\_\_\_\_

- B. Unsold Property: \_\_\_\_\_ County will be responsible for unsold property. If a property does not sell to a private bidder at the auction, the property will be deemed sold to \_\_\_\_\_ County and the Auctioneer will name \_\_\_\_\_ County as the successful bidder. The Auctioneer will not receive a percentage of the sales for the parcels that are sold to \_\_\_\_\_ County.

EXCEPTIONS: \_\_\_\_\_

- C. \_\_\_\_\_ County Audit: All auction records, proceeds, and accounting procedures are subject to financial examination by the \_\_\_\_\_ County Treasurer or other authorized state agency.

EXCEPTIONS: \_\_\_\_\_

- D. Fees: The Auctioneer will be paid a fixed percentage of the sale proceeds. No additional charges of any kind will be incurred or assumed by \_\_\_\_\_ County. The Auctioneer's accommodations, per diem, and all other related costs are the responsibility of the Auctioneer.

EXCEPTIONS: \_\_\_\_\_

## EXHIBIT 30 CONTINUED

E. Payment Collection: All sales must be concluded at the close of each bid. The \_\_\_\_\_ County Treasurer's Cashier/Deputy will collect payments from successful bidders in the form of cash, cashier's check or money order.

EXCEPTIONS: \_\_\_\_\_

### **CONCLUSION OF AUCTION:**

The \_\_\_\_\_ County Treasurer's Office will not be responsible for any lost or stolen items during or after the sale. All sales must be concluded at the close of each bid. The bidder must be prepared to cover the successful bid at the time the property is announced sold. Failure to do so will trigger an immediate resale of the property to the previous bidder and the defaulting bidder will be excluded from further participation in the auction. All payments must be made in full by cash, cashier's check or money order.