

## ERIE COUNTY IN REM 170 TAX LIEN FORECLOSURE INFORMATION

If you received a Petition and Notice of Foreclosure of Tax Liens by the County of Erie by Action In Rem (“Notice”), you should contact an attorney to ascertain your rights. If you are unable to afford an attorney, Legal Aid (716-853-9555), Western New York Law Center (716-855-0203), Volunteer Lawyers Project (716-847-0662) or Center for Elder Law and Justice (716-853-3087) may be able to help. Additionally, the Bar Association of Erie County (716-852-3100) maintains a Lawyer Referral Service.

Note - The information contained in this notice pertains to the Erie County In Rem Tax Lien Foreclosure, only. The offices of Lippes Mathias LLP and/or Erie County Real Property Tax Services make no representations concerning the City of Buffalo In Rem Foreclosure and/or City of Buffalo Tax Department.

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### Summary: In Rem 170

**If you received a Petition and Notice of Foreclosure of Tax Liens by the County of Erie by Action In Rem** (“Notice”) you are the titled owner, a presumptive lienor and/or you otherwise have an interest in the property listed at the bottom of the Notice.

**The property listed in the Notice is subject to the In Rem 170 Tax Lien Foreclosure Proceeding.**

**If the property is not redeemed from In Rem 170, your interest in the property will be extinguished and the property can and will be sold at public auction.**

In Rem 170 was commenced by Erie County on May 9, 2022 upon the filing of the List of Delinquent Taxes (“List”) at the Erie County Clerk’s Office. The filing of such List constitutes and has the same force and effect as the filing of both an individual Notice of Pendency of a tax foreclosure action and an individual complaint by the County against the owners of the real property proceeded against and described in the List. The List is available for viewing at the Erie County Clerk’s Office, the Erie County Clerk’s Office online, the Erie County Office of Real Property Tax Services, and the Erie County Office of Real Property Tax Services online.



Erie County is entitled to foreclose upon tax lien certificates when the same have been outstanding, unredeemed and unpaid for a period of two (2) or more years. The property owners of the parcels set forth on the List have failed to pay taxes, as evidenced by the existence of tax lien certificates for the years enumerated on such List up to and including year 2019, prior to the expiration of the applicable redemption period as prescribed by law. As such, those liens are subject to In Rem Foreclosure Proceeding.

The Notice, mailed to each titled owner, presumptive lienor and/or other interested party, provides legal notice of the In Rem 170 tax lien foreclosure proceeding and includes information concerning the **RIGHT OF REDEMPTION**, the **LAST DAY OF REDEMPTION** and **SERVICE OF ANSWER**.

First, the **RIGHT OF REDEMPTION** sets forth your right to redeem the property from In Rem 170 to avoid Judgment of Foreclosure and Sale and/or public auction.

Second, the **LAST DAY OF REDEMPTION** provides the date by which payment of the outstanding tax lien certificates must be received in order to avoid Judgment of Foreclosure and Sale and/or public auction. In order to avoid Judgment of Foreclosure and Sale and/or public auction, payment must be received by **July 6, 2022**.

Payment of the 2019 *and prior* tax lien certificates along with a statutory foreclosure fee of \$500.00 must be received by the Erie County Office of Real Property Tax Services on or before **July 6, 2022**.

Payment must be made payable to the Director of Real Property Tax Services, Rath Building, 95 Franklin Street, Room 100, Buffalo, New York, 14202, by CASH, CERTIFIED CHECK, BANK CHECK or MONEY ORDER. Payments will be accepted in-person or via mail. Additionally, payments may be made online at <https://paytax.erie.gov/>.

Payoff amounts and payment history can be found online at <http://www2.erie.gov/ecrpts/index.php?q=real-property-parcel-search> or by contacting the Erie County Office of Real Property Tax Services at (716) 858-8333 or [Sara.Hart@erie.gov](mailto:Sara.Hart@erie.gov).

**Should the property remain unredeemed, Judgment of Foreclosure and Sale will issue and the property will be offered and/or sold at public auction.** The bid proceeds from the sale of the property will be used to satisfy the outstanding taxes, liens and/or assessments. In the event the property, though offered, is not sold at the next scheduled public auction it will be eligible to be sold at a future In Rem auction.

Please note that while timely payment of the 2019 and prior Tax Lien Certificates will redeem the property from In Rem 170 and prevent the sale of the property at the next scheduled public auction, failure to pay any outstanding 2020-2022 County taxes will render the property eligible for future In Rem Foreclosure proceeding(s) and will result in the accumulation of additional interest and statutory fees.



Third, SERVICE OF ANSWER provides the deadline by which a verified Answer must be filed and served. The Answer must set forth in detail any defense to the foreclosure proceeding and must contain reference to the serial number(s) of the subject property. The Answer must be filed in the office of the County Clerk and served upon the attorneys for In Rem 170, Margaret A. Hurley, Esq. and/or Jennifer C. Persico, Esq., Lippes Mathias, LLP, 50 Fountain Plaza, Suite 1700, Buffalo, New York, 14202, (716) 884-3135, on or before **July 26, 2022**.

If you received a Notice in the mail and you are not the property owner, our records indicate that you may have interest in and/or lien (i.e. mortgage/judgment) against the property. Should the outstanding tax liens on the subject property remain unpaid, your interest and/or lien may be extinguished. In order to protect your interest and understand your rights, we recommend that you contact an attorney. Please note that paying the outstanding tax liens of the subject property does not make you the titled owner. If you do not own the subject property and have no interest in the property, you are not required to take action.

**Neither the Erie County Office of Real Property Tax Services and/or the attorneys of Lippes Mathias LLP are able to provide legal advice.** Whether you are the titled owner of the subject property, presumptive lienor and/or otherwise have an interest in the property, **you should contact an attorney as soon as possible to ascertain your rights.**

If you are unable to afford an attorney, Legal Aid (716-853-9555), Western New York Law Center (716-855-0203), Volunteer Lawyers Project (716-847-0662) or Center for Elder Law and Justice (716-853-3087) may be able to help. Additionally, the Bar Association of Erie County (716-852-3100) maintains a Lawyer Referral Service.

The attorneys for Erie County in connection to Erie County In Rem 170 are Lippes Mathias, LLP, Attn: Margaret A. Hurley, Esq. and/or Jennifer C. Persico, Esq., located at 50 Fountain Plaza, Suite 1700, Buffalo, New York, 14202.

To obtain further information, please call the Lippes Mathias, LLP In Rem 170 Foreclosure hotline at (716) 884-3135 and leave a detailed message that includes the subject property address and/or serial number located at the bottom of the Notice. A representative of Lippes Mathias, LLP will return your call as soon as possible. Due to large call volume, please refrain from leaving multiple messages.



## FAQ FOR ERIE COUNTY IN REM 170 PETITION AND NOTICE

### What if I previously submitted a Hardship Declaration?

The stay provisions of the New York State Covid-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (CEEFPFA) and/or the Covid-19 Emergency Protect Our Small Businesses Act of 2021 (CEPOSBA) expired on January 15, 2022, and new tax lien foreclosures may be commenced without a municipality having to provide notice of the CEEFPFA and/or CEPOSBA.

Accordingly, if you previously submitted a hardship declaration form in connection to an Erie County In Rem tax lien Foreclosure proceeding relative to Erie County 2019 and prior taxes, there is no longer a stay of the proceeding(s), and the County may proceed with tax lien foreclosure at this time.

### When will the Erie County In Rem Auction be scheduled?

The Erie County In Rem Auction is anticipated to be held in Fall 2022.

### I received a letter in the mail stating my property is going to be foreclosed on, what do I do?

Pay the outstanding taxes.

Seek legal advice as to how to respond to the notice.

Do not ignore the notice or your property will be sold at public auction.

### What property taxes are due?

All taxes through 2022 are due now.

### What taxes must be paid in order to avoid sale of my property?

All taxes from 2019 and prior (including interest and \$500.00 foreclosure fee) must be paid in order to avoid sale of the property.

### I want to pay my taxes but I don't know how much they are?

The amount of taxes that are owed can be found online at <http://www2.erie.gov/ecrpts/index.php?q=real-property-parcel-search> or by contacting Erie County Real Property Tax Services at (716)-858-8333 or [Sara.Hart@erie.gov](mailto:Sara.Hart@erie.gov) for the most accurate amount that is due. Please keep in the mind that monthly interest will continue to accrue and will be applied on the 1<sup>st</sup> of each month.



How do I pay my taxes?

Pay by cash, certified check or money order payable to the Erie County Department of Real Property Tax Services via mail or hand delivery to: 1<sup>st</sup> Floor, Rath Building, 95 Franklin Street, Buffalo, New York 14202. Additionally, for a limited time payments may be made online at <https://paytax.erie.gov/>.

The Foreclosure Fee of \$500 should be issued as a separate check.

When is the last date by which I must pay the outstanding taxes?

The redemption date is July 6, 2022. All 2019 and prior taxes plus foreclosure fee must be paid by this date in order to avoid foreclosure.

What if I do not pay the taxes or otherwise respond to the Notice I received?

The subject property will be sold at public auction.

What if I only pay the minimum amount to avoid sale of the property?

While payment of the 2019 and prior liens, plus interest and statutory fee will redeem the property from In Rem 170, failure to pay any outstanding 2020-2022 County taxes will render the property eligible for future Erie County In Rem proceedings and you will be required to pay additional interest and fees in order to avoid future foreclosure and sale of your property.

Are payment plans available?

Payment plans may be available to certain property owners upon substantial down payment. Payment plans are determined on a case by case basis by the Erie County Department of Real Property Tax Services. The Erie County Department of Real Property Tax Services can be reached at (716)-858-8333 or by email at [Sara.Hart@erie.gov](mailto:Sara.Hart@erie.gov)

What do I do if I cannot pay the taxes?

Contact a lawyer as soon as possible for legal advice. Your lawyer may contact Lippes Mathias, LLP at (716) 884-3135.

What if I cannot afford a lawyer?

The following may be able to assist you if you do not have your own attorney or cannot afford one:

Legal Aid (716) 853-9555;

Western New York Law Center (716) 855-0203 ext. 118;

Volunteer Lawyers Project (716) 847-0662;



Center for Elder Law and Justice (716) 853-3087; and/or

The Bar Association of Erie County maintains a Lawyer Referral Service which can be reached at (716) 852-3100.

What if I do not own the property?

If you received a Notice of In Rem Foreclosure and the Petition and Notice of Foreclosure in the mail and you are not the owner of the subject property, our records indicate that you may have interest in and/or lien (i.e. mortgage/judgment) against the property. Should the outstanding tax liens on the subject property remain unpaid, your interest and/or lien may be extinguished. In order to protect your interest and understand your rights, we recommend that you contact an attorney. Please note that paying the back taxes of the subject property does not make you the titled owner. If you do not own the property and have no interest in the property, you are not required to take action.

What if I did not own the property at the time the delinquent taxes were due?

The tax liens remain outstanding and enforceable against the subject property regardless of whether or not you owned the subject property at the time the tax liens accrued. We suggest that you contact the attorney who handled your closing for more information.

Is there a list of properties that are included in the Erie County In Rem proceeding?

The List of Delinquent Taxes is on file with the Erie County Clerk's Office, the Erie County Clerk's Office online, the Department of Real Property Tax Services and the Department of Real Property Tax Services online.

Should you have any additional questions, please call the Lippes Mathias, LLP In Rem hotline at (716)-884-3135 and leave a detailed message including the property address and/or serial number located at the bottom of the Notice. Please note that the attorneys and/or representatives of Lippes Mathias, LLP and/or the County of Erie are prohibited from providing legal advice and recommend you contact your own attorney to determine your legal rights. Due to large call volume, please refrain from leaving multiple messages. Thank you.



## FAQ FOR ERIE COUNTY IN REM NOTICE OF SURPLUS

### Why did I receive the Notice of Surplus?

The subject property was recently sold at an Erie County In Rem Foreclosure Auction. According to public records, you were the tax delinquent property owner.

### What are Surplus Monies?

Surplus Monies are auction proceeds left over after the property taxes and other municipal liens were paid. As the prior owner of the subject property you may be entitled to some or all of these monies.

### Where is the money?

The Surplus Monies from the sale of the property were deposited with the Erie County Comptroller's Office.

### How much money is there?

The amount of Surplus Money available after the Erie County In Rem Foreclosure Auction can be found online at the Erie County Comptroller's Website <https://www4.erie.gov/comptroller/> or by calling the Erie County Comptroller's office at (716) 858-8400

### How do I claim the money?

You must file a Notice of Claim in the Erie County Clerk's Office and then commence a legal proceeding. Our office cannot provide you with legal advice and therefore cannot assist you with the legal process. We recommend that you consult with your own attorney.

### Who else is eligible to claim the money?

Any entity with a judgment or lien against the property prior to sale is also eligible to put in a claim for the Surplus Money.

### How can I get the money?

An application for Surplus Money is a legal proceeding. We cannot provide you with legal advice and suggest you contact your own attorney or, if you cannot afford one, there is a list of attorneys that may be able to help you at the bottom of this page.



Will I get all of the surplus money?

There is no guarantee that you will get all of the surplus money. There may be additional lienors who are also entitled to some of the Surplus Money. This issue will be decided by a judge.

Do I need to use a Lawyer?

Yes, you should retain a lawyer to assist you with this matter.

Can we recommend any Lawyers?

The following may be able to assist you if you do not have your own attorney or cannot afford one:

Legal Aid (716) 853-9555;

Western New York Law Center (716) 855-0203 ext. 118;

Volunteer Lawyers Project (716) 847-0662;

Center for Elder Law and Justice (716) 853-3087; and/or

The Bar Association of Erie County maintains a Lawyer Referral Service which can be reached at (716) 852-3100.