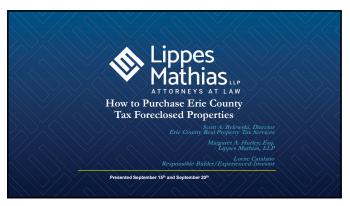
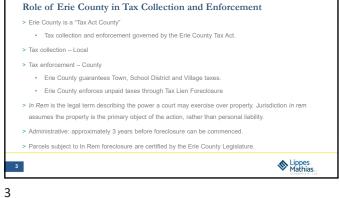
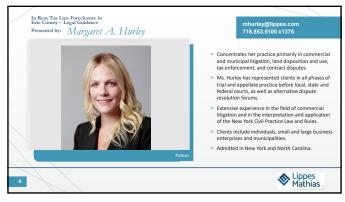
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In Rem Tax Lien Foreclosure in Erie County Role of Erie County in Tax Collection and Enforcement – Scott A. Bylewski, Esq., Director, Erie County Real Property Tax Services 2. Legal Guidance – Margaret A. Hurley, Esq., Partner, Lippes Mathias, LLP 1. The In Rem Proceeding 2. Tax Lien Foreclosure Public Auction 3. COVID-19 Considerations in Tax Lien Foreclosure Proceedings 4. Relief for Residential Homeowners 3. Responsible Bidder/Experienced Investor Guidance - Lorne Catalano, Nickel City Real Estate

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In Rem Proceeding

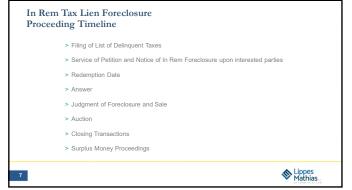
In Rem Foreclosure is the preferred method of tax lien foreclosure.

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In Rem Foreclosure is the prediction of the county to plead or establish by proof the various steps, procedures and notices for the assessment and levy of the taxes, assessments or other lawful charges and the lien thereof shall be presumed to be valid. Any answering defendant alleging any jurisdictional defect or invalidity of the tax... must particularly specify in his answer such jurisdictional defect or invalidity and must affirmatively establish such defense. ECTA §11-18.0.



In Rem Tax Lien Foreclosure
Commencement

> List of Delinquent Taxes contains:

• Brief description of each parcel;

• Name of the last owner as it appears on the latest tax roll;

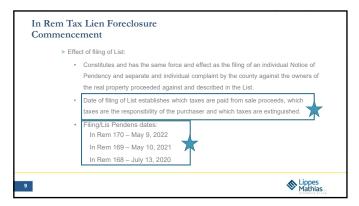
• Statement of the amount due upon lien(s); and

• Verification stating that the last known owners and their last known addresses were ascertained from current records and tax rolls of the county.

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Petition and Notice of In Rem
Foreclosure

> Provides notice of foreclosure and information relative to redemption and answer.

> Public notice of foreclosure

• Filed at County Clerk's Office

• Publication – 6 weeks

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Petition and Notice of In Rem
Foreclosure (continued)

> Personal notice of foreclosure

• Posting

• Department of Real Property Tax Services ("DRPTS");

• Erie County Hall; and

• 3 places within each city, town or village in which the proceeding applies.

• Mailing

• Last known address of each owner as the same appears upon the current records and tax rolls of DRPTS; and

• Any person who has filed a Declaration of Interest (ECTA §11-14.0).

Petition and Notice of In Rem
Foreclosure (continued)

> Notification method

• Mailing requirement:

• Notion mailed via regular mail to property owner, and via certified mail to anyone who has submitted a Declaration of Interest.

• In practice, County mails via regular and certified mail to anyone with a recorded interest in the subject property.

> Proof of filing, publication, posting and mailing made via affidavits.

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Redemption > Redemption: Each person having any right, title, interest in or lien upon parcel may redeem such parcel by paying sums before expiration of the redemption period set forth in the Notice. • ECTA §11-10.0: Redemption (or answer) by deadline established in Petition and Notice • Collective Statement of Redemption – operates to cancel Notice of Pendency

Answer

> Each person having any right, title, interest in or lien upon parcel may submit verified answer.

> Summary judgment striking answer and for Judgment of Foreclosure and Sale – payment as a complete defense.

> Unsuccessful answer – party is in same position as if he/she did not answer or redeem.

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Judgment of Foreclosure and Sale Determines: Priorities, rights, claims and demands of the parties; and Whether there has been conformity with the In Rem provisions of the ECTA. Directs: Sale of lands Frie County does not take title to subject properties. Distribution of proceeds of sale – payment of liens in inverse order as far as sale proceeds suffice. Cancellation of taxes/assessments remaining after proceeds of sale have been applied.

In Rem Proceeding: Statute of Limitations

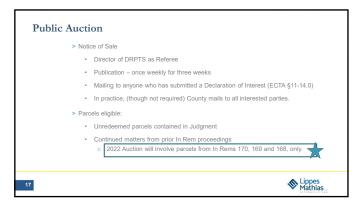
> Statute of Limitations – Two (2) Years

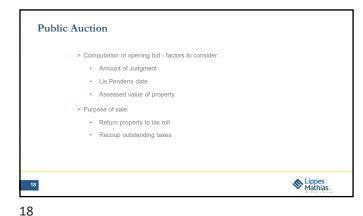
• ECTA provides that the Referee's Deed is conclusive evidence of the validity of the In Rem proceeding.

• To challenge the sale, an action must be commenced and a notice of pendency filed within 2 years of the Referee's Deed.

• If no such action is commenced, the presumption that the Referee's Deed is valid becomes conclusive, and any challenge to the sale is time barred.

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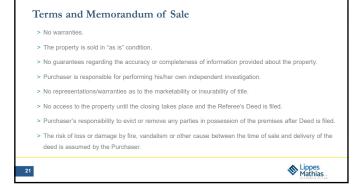


Tax Lien Foreclosure Auction: Terms and Memorandum of Sale > Purchaser agrees to the following terms of sale: • 20% (or \$500 minimum) deposit via certified funds or cash. • Balance of the bid due within 30 days (November 7, 2022) at closing. • Distribution of Proceeds • All taxes, assessments, water and sewer rates which are liens upon the property, but which have become such subsequent to the filing of the Lis Pendens are paid in reverse chronological order. • All taxes/assessments that have accrued prior to the filing of the Lis Pendens are extinguished if they are not paid by the bid proceeds. All taxes/ assessments that have accrued after the filing of the Lis Pendens that are unpaid by the bid proceeds are the responsibility of the purchaser.

Tax Lien Foreclosure Auction:
Terms and Memorandum of Sale

- County performs a Tax Search
- "[t]he Referee will exercise due diligence in ascertaining the taxes, assessments, water, sewer and other municipal liens against the property as of the date of the sale, but makes no guarantees or warranties as to that information. Any liens or other encumbrances which are not disclosed to the Referee or the County's closing attorney prior to the closing date or are discovered after the closing date become the sole responsibility of the purchaser."

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Terms and Memorandum of Sale (continued)

> Distribution of Proceeds

• Governed by Judgment of Foreclosure and Sale

• Taxes paid in reverse chronological order:

• Pre-Lis Pendens liens are extinguished if not paid by bid proceeds.

• Post-Lis Pendens liens, to the extent not paid by bid proceeds, are the responsibility of the purchaser.

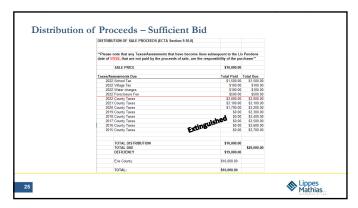
• Lis Pendens dates:

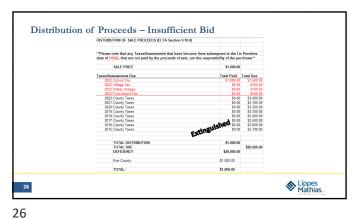
In Rem 170 – May 9, 2022

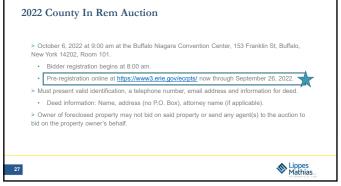
In Rem 169 – May 10, 2021

In Rem 168 – July 13, 2020

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2022 County In Rem Auction

> Successful bidders are required to deposit 20% of the purchase price (or \$500, whichever is greater) immediately.

> Please provide the In Rem number, serial number, and address of the property when paying your deposit.

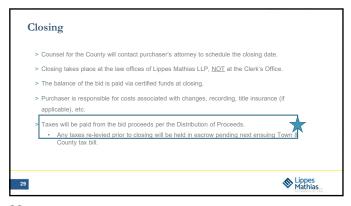
> Payments must be made in cash or certified funds. Certified checks should be made payable to Scott A. Bylewski, as Referee.

> Bidders may not leave the auction to go to the bank.

> Be prepared – do your research.

Read and understand the Terms of Sale.

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Closing

There is a \$75 fee should purchaser desire to change the name of the entity taking title prior to closing.

If you are the successful bidder and you desire to retain an attorney to handle your closing, please do so immediately as the County is not responsible for purchaser-related delays.

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Surplus Money - County application for Order directing deposit with Comptroller - Notice - Application for surplus moneys: - Filing of Notice of Claim - Notice of application to interested parties - Court appointment of referee - Hearing on notice

The Land Bank - BENLIC

As a New York State Land Bank, the Buffalo Erie Niagara Land Improvement Corporation (BENLIC)'s objective is to return vacant and abandoned properties to productive use.

BENLIC works in partnership with Erie County municipalities to identify and acquire specific vacant and abandoned properties via In Rem auction. These properties are multiple years' tax delinquent, often the source of resident complaint, and are generally in need of substantial repairs.

As a New York State Land Bank, BENLIC uses its legal preferred bid or "Super Bid" at tax auctions.

By doing so, BENLIC can supersede any other bidder and acquire property.

After acquisition, properties are rehabbed or stabilized and sold.

For more information on BENLIC, visit www.benlic.org

For list of properties scheduled to be struck to BENLIC, visit https://www3.erie.gov/ecrpts/

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COVID-19 Considerations

- > In Rem foreclosure is distinguishable from new mortgage foreclosures in that there has been no "default" during the COVID-19 pandemic.
- > Broadened relief for tax delinquent property owners:
- Postponement of commencement and/or auction.
- Payment plans with reduced down payments and extended terms to pre-screened residential, owner-occupied property owners.
- · Additional time to make payments prior to auction
- · Acceptance of payments online.
- > Health precautions
 - Limit in-person contact

 - Virtual appearancesStipulated conditional orders
 - Auction measures





COVID-19 Considerations

- The New York State Homeowner Assistance Fund (HAF) is a federally funded program dedicated to assisting homeowners who are at risk of default, foreclosure, or displacement because of a financial hardship caused by the COVID-19 pandemic.
- The East Buffalo Homeowner Assistance Fund (BEHAF) is a New York State funded program dedicated to assisting homeowners who are at risk of default, foreclosure, or displacement because of a financial hardship.
- > NYS HAF or BEHAF funds can be used to pay County tax arrears.
- > NYS HAF or BEHAF funding is contingent upon program eligibility and availability of funds.
- > For more information on HAF, visit https://hcr.ny.gov/homeowners
- > For more information on BEHAF, visit http://www.wnylc.com/

Frequently Asked Questions

https://www3.erie.gov/ecrpts/.

https://www3.erie.gov/ecrpts/

rpts@erie.gov.

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Relief for Residential Homeowners

- > Cooperation with Legal Service Agencies
- Information sharing a two-way street WNY Foreclosure Assistance Legal Agencies
- (http://www2.erie.gov/ecrpts/index.php?q=legal-assistance)
- > Installment Payment Plans

 - Forbearance agreement
 Owner occupied, residential property, with no default on prior agreement
 - Down-payment (about 20%)



> To recommend a property for inclusion in future In Rem proceeding, email ec-

> FAQ and list of properties for sale under "Auction & Foreclosure" online at

> The County will not provide additional information on the properties.

> Opening bids will not be made available before the auction.

> Bidder pre-registration open through September 26, 2022:

Lippes Mathias

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